

~~((These fees shall be certified to the state treasurer and deposited to the credit of))~~ For vehicles previously registered in any other state or country, the inspection fee shall be fifteen dollars and shall be deposited in the motor vehicle fund. For all other vehicles requiring a physical examination, the inspection fee shall be twenty dollars and shall be deposited in the motor vehicle fund.

Passed the Senate April 10, 1989.

Passed the House April 4, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.

CHAPTER 111

[Senate Bill No. 5440]

TOW TRUCKS—REGISTRATION, PERMITS, AND IMPOUND PROCEDURES

AN ACT Relating to tow trucks; amending RCW 46.55.020, 46.55.030, 46.55.040, 46.55.060, 46.55.080, 46.55.100, 46.55.110, 46.55.120, 46.55.130, 46.55.140, 46.55.150, 46.55.180, 46.55.200, and 46.55.240; reenacting and amending RCW 46.55.010 and 46.63.020; adding new sections to chapter 46.55 RCW; creating a new section; recodifying RCW 46.61.567; repealing RCW 46.61.563; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 377, Laws of 1985 as amended by section 1, chapter 311, Laws of 1987 and by section 739, chapter 330, Laws of 1987 and RCW 46.55.010 are each reenacted and amended to read as follows:

The definitions set forth in this section apply throughout this chapter:

(1) "Abandoned vehicle" means a vehicle that a registered tow truck operator has impounded and held in ~~((his))~~ the operator's possession for ninety-six consecutive hours.

(2) "Abandoned vehicle report" means the document prescribed by the state that the towing operator forwards to the department after a vehicle has become abandoned.

(3) "Impound" means to take and hold a vehicle in legal custody. There are two types of impounds—public and private.

(a) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(b) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

(4) "Junk vehicle" means a ~~((motor))~~ vehicle certified under RCW 46.55.230 as meeting all the following requirements:

(a) Is three years old or older;

(b) Is extensively damaged, such damage including but not limited to any of the following: A broken window or windshield or missing wheels, tires, motor, or transmission;

(c) Is apparently inoperable;

(d) Is without a valid, current registration plate;

(e) Has a fair market value equal only to the value of the scrap in it.

(5) "Master log" means the document or an electronic facsimile prepared by the department and the Washington state patrol in which an operator records transactions involving impounded vehicles.

(6) "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

~~((6))~~ (7) "Residential property" means property that has no more than four living units located on it.

~~((7))~~ (8) "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the state patrol.

~~((8))~~ (9) "Tow truck number" means the number issued by the department to tow trucks used by a registered tow truck operator in the state of Washington.

~~((9))~~ (10) "Tow truck permit" means the permit issued annually by the department that has the classification of service the tow truck may provide stamped upon it.

~~((10))~~ (11) "Tow truck service" means the transporting upon the public streets and highways of this state of vehicles, together with personal effects and cargo, by a tow truck of a registered operator.

~~((11))~~ (12) "Unauthorized vehicle" means a vehicle that is subject to impoundment after being left unattended in one of the following public or private locations for the indicated period of time:

Subject to removal after:

(a) Public locations:

(i) Constituting an accident or a traffic hazard as defined in RCW ~~((46.61.565))~~ 46.55.113 Immediately

(ii) On a highway and tagged as described in RCW ~~((46.52.170))~~ 46.55.085 24 hours

(iii) In a publicly owned or controlled parking facility, properly posted under RCW 46.55.070 Immediately

(b) Private locations:

(i) On residential property Immediately

(ii) On private, nonresidential property, properly posted under RCW 46.55.070 Immediately

- (iii) On private, nonresidential property,
not posted 24 hours

Sec. 2. Section 2, chapter 377, Laws of 1985 and RCW 46.55.020 are each amended to read as follows:

A person (~~(who engages)~~) shall not engage in or offer(~~(s)~~) to engage in the activities of a registered tow truck operator (~~(shall not do so)~~) without (~~(first obtaining)~~) a current registration certificate from the department of licensing authorizing him to engage in such activities. Any person engaging in or offering to engage in the activities of a registered tow truck operator without the registration certificate required by this chapter is guilty of a gross misdemeanor.

A registered operator who engages in a business practice that is prohibited under this chapter may be issued a notice of traffic infraction under chapter 46.63 RCW and is also subject to the civil penalties that may be imposed by the department under this chapter. A person found to have committed an offense that is a traffic infraction under this chapter is subject to a monetary penalty of at least two hundred fifty dollars. All traffic infractions issued under this chapter shall be under the jurisdiction of the district court in whose jurisdiction they were issued.

Sec. 3. Section 3, chapter 377, Laws of 1985 as amended by section 2, chapter 311, Laws of 1987 and RCW 46.55.030 are each amended to read as follows:

(1) Application for licensing as a registered tow truck operator shall be made on forms furnished by the department, shall be accompanied by an inspection certification from the Washington state patrol, shall be signed by the applicant or (~~(his)~~) an agent, and shall include the following information:

(a) The name and address of the person, firm, partnership, association, or corporation under whose name the business is to be conducted;

(b) The names and addresses of all persons having an interest in the business, or if the owner is a corporation, the names and addresses of the officers of the corporation;

(c) The names and addresses of all employees who serve as tow truck drivers;

(d) Proof of minimum insurance required by subsection (3) of this section;

(e) The vehicle license and vehicle identification numbers of all tow trucks of which the applicant is the registered owner;

(~~(f)~~) (f) Any other information the department may require; and

(~~((f))~~) (g) A certificate of approval from (~~(the chief of police if the applicant's principal place of business is located in a city or town having a population over five thousand persons or, in all other instances, from a member of)~~) the Washington state patrol(~~(:)~~) certifying that:

(i) The applicant has an established place of business and that mail is received at the address shown on the application;

(ii) The address of any storage locations where vehicles may be stored is correctly stated on the application;

(iii) The place of business has an office area that is accessible to the public without entering the storage area; and

~~((iii))~~ (iv) The place of business has adequate and secure storage facilities, as defined in this chapter and the rules of the department, where vehicles and their contents can be properly stored and protected.

(2) Before issuing a registration certificate to an applicant the department shall require the applicant to file with the department a surety bond in the amount of five thousand dollars running to the state and executed by a surety company authorized to do business in this state. The bond shall be approved as to form by the attorney general and conditioned that the operator shall conduct his business in conformity with the provisions of this chapter pertaining to abandoned or unauthorized vehicles, and to compensate any person, company, or the state for failure to comply with this chapter or the rules adopted hereunder, or for fraud, negligence, or misrepresentation in the handling of these vehicles. Any person injured by the tow truck operator's failure to fully perform duties imposed by this chapter and the rules adopted hereunder, or an ordinance or resolution adopted by a city, town, or county is entitled to recover actual damages, including reasonable attorney's fees against the surety and the tow truck operator. Successive recoveries against the bond shall be permitted, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. As a condition of authority to do business, the operator shall keep the bond in full force and effect. Failure to maintain the penalty value of the bond or cancellation of the bond by the surety automatically cancels the operator's registration.

(3) Before the department may issue a registration certificate to an applicant, the applicant shall provide proof of minimum insurance requirements of:

(a) One hundred thousand dollars for liability for bodily injury or property damage per occurrence; and

(b) Fifty thousand dollars of legal liability per occurrence, to protect against vehicle damage, including but not limited to fire and theft, from the time a vehicle comes into the custody of an operator until it is redeemed or sold.

Cancellation of or failure to maintain the insurance required by (a) and (b) of this subsection automatically cancels the operator's registration.

(4) The fee for each original registration and annual renewal is one hundred dollars per company, plus fifty dollars per truck. The department shall forward the registration fee to the state treasurer for deposit in the motor vehicle fund.

(5) The applicant must submit an inspection certificate from the state patrol before the department may issue or renew an operator's registration certificate or tow truck permits.

(6) Upon approval of the application, the department shall issue a registration certificate to the registered operator to be displayed prominently at the operator's place of business.

NEW SECTION. Sec. 4. A new section is added to chapter 46.55 RCW to read as follows:

(1) No registered tow truck operator may:

(a) Ask for or receive any compensation, gratuity, reward, or promise thereof from a person having control or possession of private property or from an agent of the person authorized to sign an impound authorization, for or on account of the impounding of a vehicle;

(b) Be beneficially interested in a contract, agreement, or understanding that may be made by or between a person having control or possession of private property and an agent of the person authorized to sign an impound authorization;

(c) Have a financial, equitable, or ownership interest in a firm, partnership, association, or corporation whose functions include acting as an agent or a representative of a property owner for the purpose of signing impound authorizations.

(2) This section does not prohibit the registered tow truck operator from collecting the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle as provide by RCW 46.55.120.

(3) A violation of this section is a gross misdemeanor.

Sec. 5. Section 4, chapter 377, Laws of 1985 and RCW 46.55.040 are each amended to read as follows:

(1) A registered operator shall apply for and keep current a tow truck permit for each tow truck of which the operator is the registered owner. Application for a tow truck permit shall be accompanied by a report from the Washington state patrol covering a physical inspection of each tow truck (~~(to be)~~) capable of being used by the applicant.

(2) Upon receipt of the fee provided in RCW 46.55.030(4) and a satisfactory inspection report from the state patrol, the department shall issue each tow truck an annual tow truck permit or decal. The class of the tow truck, determined according to RCW 46.55.050, shall be stamped on the permit or decal. The permit or decal shall be displayed on the passenger side of the truck's front windshield.

(3) A tow truck number from the department shall be affixed in a permanent manner to each tow truck.

(4) The Washington state patrol shall conduct annual inspections of tow truck operators' equipment and facilities during the operators' normal business hours. Unscheduled inspections may be conducted without notice

at the operator's place of business by an inspector to determine the fitness of a tow truck or facilities. At the time of the inspection, the operator shall provide a paper copy of the master log referred to in RCW 46.55.080.

(5) If at the time of the annual or subsequent inspections the equipment does not meet the requirements of this chapter, and the deficiency is a safety related deficiency, or the equipment is necessary to the truck's performance, the inspector shall cause the registered tow truck operator to remove that equipment from service as a tow truck until such time as the equipment has been satisfactorily repaired. A red tag shall be placed on the windshield of a tow truck taken out of service, and the tow truck shall not provide tow truck service until the Washington state patrol recertifies the truck and removes the tag.

Sec. 6. Section 6, chapter 377, Laws of 1985 as amended by section 3, chapter 311, Laws of 1987 and RCW 46.55.060 are each amended to read as follows:

(1) The address that the tow truck operator lists on his or her application shall be the business location of the firm where its files are kept. Each separate business location requires a separate registration under this chapter. The application shall also list all locations of secure areas for vehicle storage and redemption.

(2) Before an additional lot may be used for vehicle storage, it must be inspected and approved by the state patrol. The lot must also be inspected and approved on an annual basis for continued use.

(3) Each business location must have a sign displaying the firm's name that is readable from the street.

(4) At the business locations listed where vehicles may be redeemed, the registered operator shall post in a conspicuous and accessible location:

(a) All pertinent licenses and permits to operate as a registered tow truck operator;

(b) The current towing and storage charges itemized on a form approved by the department;

(c) The vehicle redemption procedure and rights;

(d) Information supplied by the department as to where complaints regarding either equipment or service are to be directed;

(e) Information concerning the acceptance of commercially reasonable tender as defined in RCW 46.55.120(1)(b).

~~((3)) Ten days before the effective date of any change in an operator's fee schedule, the registered tow truck operator shall file the revised fee schedule with the department.~~

~~((4))~~ (5) The department shall adopt rules concerning fencing and security requirements of storage areas, which may provide for modifications or exemptions where needed to achieve compliance with local zoning laws.

~~((5))~~ (6) On any day when the registered tow truck operator holds the towing services open for business, the business office shall remain open

with personnel present who are able to release impounded vehicles in accordance with this chapter and the rules adopted under it. The normal business hours of a towing service shall be from 8:00 a.m. to 5:00 p.m. on weekdays, excluding Saturdays, Sundays, and holidays.

~~((6))~~ (7) A registered tow truck operator shall maintain personnel who can be contacted twenty-four hours a day to release impounded vehicles within a reasonable time.

~~((7) Towing contracts with private property owners shall be in written form and state the hours of authorization to impound, the persons empowered to authorize such impounds, and the present charge of a private impound for the classes of tow trucks to be used in such impound, and shall be retained in the files of the registered tow truck operator for three years.~~

~~(8) Any fee that is charged for the storage of a vehicle shall be calculated on a twenty-four hour basis, and shall be charged to the nearest half day from the time the vehicle arrived at the secure storage area.~~

~~(9) All billing invoices that are provided to the redeemer of the vehicle shall be itemized so that the individual fees are clearly discernable.))~~

(8) A registered operator shall provide access to a telephone for any person redeeming a vehicle, at the time of redemption.

NEW SECTION. Sec. 7. A new section is added to chapter 46.55 RCW to read as follows:

(1) An operator shall file a fee schedule with the department. All filed fees must be adequate to cover the costs of service provided. No fees may exceed those filed with the department. At least ten days before the effective date of any change in an operator's fee schedule, the registered tow truck operator shall file the revised fee schedule with the department.

(2) Towing contracts with private property owners shall be in written form and state the hours of authorization to impound, the persons empowered to authorize the impounds, and the present charge of a private impound for the classes of tow trucks to be used in the impound, and must be retained in the files of the registered tow truck operator for three years.

(3) A fee that is charged for tow truck service must be calculated on an hourly basis, and after the first hour must be charged to the nearest quarter hour.

(4) A fee that is charged for the storage of a vehicle must be calculated on a twenty-four hour basis and must be charged to the nearest half day from the time the vehicle arrived at the secure storage area.

(5) All billing invoices that are provided to the redeemer of the vehicle must be itemized so that the individual fees are clearly discernable.

Sec. 8. Section 8, chapter 377, Laws of 1985 as amended by section 5, chapter 311, Laws of 1987 and RCW 46.55.080 are each amended to read as follows:

(1) If a vehicle is in violation of the time restrictions of RCW 46.55.010(12), it may be impounded by a registered tow truck operator at

the direction of a law enforcement officer or other public official with jurisdiction if the vehicle is on public property, or at the direction of the property owner or ~~((his))~~ an agent if it is on private property. A law enforcement officer may also direct the impoundment of a vehicle pursuant to a writ or court order.

(2) The person requesting a private impound or a law enforcement officer or public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator, employee, or his or her agent may not serve as an agent of a property owner for the purposes of signing an impound authorization or, independent of the property owner, identify a vehicle for impound.

(3) In the case of a private impound, the impound authorization shall include the following statement: "A person authorizing this impound, if the impound is found in violation of chapter 46.55 RCW, may be held liable for the costs incurred by the vehicle owner."

(4) A registered tow truck operator shall record and keep in the operator's files the date and time that a vehicle is put in the operator's custody and released. The operator shall make an entry into a master log regarding transactions relating to impounded vehicles. The operator shall make this master log available, upon request, to representatives of the department or the state patrol.

(5) A person who engages in or offers to engage in the activities of a registered tow truck operator may not be associated in any way with a person or business whose main activity is authorizing the impounding of vehicles.

Sec. 9. Section 10, chapter 377, Laws of 1985 as amended by section 8, chapter 311, Laws of 1987 and RCW 46.55.100 are each amended to read as follows:

(1) At the time of impoundment the registered tow truck operator providing the towing service shall give immediate notification, by telephone or radio, to a law enforcement agency having jurisdiction who shall maintain a log of such reports~~((, unless the impoundment was requested by that))~~. A law enforcement agency shall immediately provide to a requesting operator the name and address of the legal and registered owners of the vehicle, the vehicle identification number, and any other necessary, pertinent information. The initial notice of impoundment shall be followed by a written notice within twenty-four hours. In the case of a vehicle from another state, time requirements of this subsection do not apply until the requesting law enforcement agency in this state receives the information.

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle in the operator's possession after the ninety-six hour abandonment period. Such report need not be sent when the

impoundment is pursuant to a writ, court order, or police hold. The owner notification and abandonment process shall be initiated by the registered tow truck operator immediately following notification by a court or law enforcement officer that the writ, court order, or police hold is no longer in effect.

(3) Following the submittal of an abandoned vehicle report, the department shall provide the registered tow truck operator with owner information within seventy-two hours.

(4) Within fifteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle to the crime information center of the Washington state patrol.

(5) If the operator sends an abandoned vehicle report to the department and the department finds no owner information, an operator may proceed with an inspection of the vehicle to determine whether owner identification is within the vehicle.

(6) If the operator finds no owner identification, the operator shall immediately notify the appropriate law enforcement agency, which shall search the vehicle for the vehicle identification number and check the necessary records to determine the vehicle's owners.

Sec. 10. Section 11, chapter 377, Laws of 1985 as amended by section 9, chapter 311, Laws of 1987 and RCW 46.55.110 are each amended to read as follows:

(1) ~~((In the case of))~~ When an unauthorized vehicle is impounded ~~((from public property, the law enforcement agency or other public official directing the impoundment, or in the case of a vehicle impounded from private property)),~~ the impounding towing operator~~(;)~~ shall notify the legal and registered owners of the impoundment of the unauthorized vehicle. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, as provided by the law enforcement agency, and shall inform the owners of the identity of the person or agency authorizing the impound. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120.

(2) In the case of an abandoned vehicle, within twenty-four hours after receiving information on the vehicle owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners.

(3) No notices need be sent to the legal or registered owners of an impounded vehicle if the vehicle has been redeemed.

Sec. 11. Section 12, chapter 377, Laws of 1985 as amended by section 12, chapter 311, Laws of 1987 and RCW 46.55.120 are each amended to read as follows:

(1) Vehicles impounded by registered tow truck operators pursuant to RCW 46.55.080, 46.55.085, or 46.55.113 may be redeemed only under the following circumstances:

(a) Only the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified by the operator to have the permission of the registered owner of the vehicle, or one who has purchased a vehicle from the registered owner who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle.

(b) The vehicle shall be released upon the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle. Commercially reasonable tender shall include, without limitation, cash, major bank credit cards, or personal checks drawn on in-state banks if accompanied by two pieces of valid identification, one of which may be required by the operator to have a photograph. Any person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

(2) (a) The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, the name of the person or agency authorizing the impound, and a copy of the towing and storage invoice. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

(b) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in the district court for the jurisdiction in which the vehicle was impounded to contest the validity of the impoundment or the amount of towing and storage charges. The district court has jurisdiction to determine the issues involving all impoundments including those authorized by the state or its agents. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the district court within ten days of the date the opportunity was provided for in subsection (2)(a) of this section. If the hearing request is not

received by the district court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the district court shall proceed to hear and determine the validity of the impoundment.

(3)(a) The district court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, ~~((and))~~ the registered and legal owners of the vehicle, and the person or agency authorizing the impound in writing of the hearing date and time.

(b) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper.

(c) At the conclusion of the hearing, the district court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees.

(d) If the impoundment is found proper, the impoundment, towing, and storage fees as permitted under this chapter together with court costs shall be assessed against the person or persons requesting the hearing, unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent.

(e) If the impoundment is determined to be ~~((invalid))~~ in violation of this chapter, then the registered and legal owners of the vehicle shall bear no impoundment, towing, or storage fees, and any bond or other security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment shall be liable for any towing, storage, or other impoundment fees permitted under this chapter. The court shall enter judgment against the person or agency authorizing the impound for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment for reasonable damages for loss of the use of the vehicle during the time the same was impounded, for not less than fifty dollars per day, against the person or agency authorizing the impound. If any judgment entered is not paid within fifteen days of notice in writing of its entry, the court shall award reasonable attorneys' fees and costs against the defendant in any action to enforce the judgment. Notice of entry of judgment may be made by registered or certified mail, and proof of mailing may be made by affidavit of the party mailing the notice. Notice of the entry of the judgment shall read essentially as follows:

TO:

YOU ARE HEREBY NOTIFIED JUDGMENT was entered against you in the Court located at in the sum of \$....., in an action entitled, Case No. YOU ARE FURTHER NOTIFIED that attorneys fees

and costs will be awarded against you under RCW . . . if the judgment is not paid within 15 days of the date of this notice.

DATED this . . . day of . . ., 19

Signature

Typed name and address
of party mailing notice

(4) Any impounded abandoned vehicle not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(2) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle may be redeemed at any time before the start of the auction upon payment of towing and storage fees.

Sec. 12. Section 13, chapter 377, Laws of 1985 as amended by section 13, chapter 311, Laws of 1987 and RCW 46.55.130 are each amended to read as follows:

(1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW 46.55.110(2) to the registered and legal owners, the vehicle remains unclaimed and has not been listed as a stolen vehicle, then the registered tow truck operator having custody of the vehicle shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days and no more than ten days before the date of the auction. The notice shall contain a description of the vehicle including the make, model, year, and license number and a notification that a three-hour public viewing period will be available before the auction. The auction shall be held during daylight hours of a normal business day.

(2) The following procedures are required in any public auction of such abandoned vehicles:

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

(c) The open bid process, including all written bids, shall be used so that everyone knows the dollar value that must be exceeded;

(d) The highest two bids received shall be recorded in written form and shall include the name, address, and telephone number of each such bidder;

(e) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;

(f) The successful bidder shall apply for title within fifteen days;

(g) The registered tow truck operator shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location, the operator shall post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted;

~~((g))~~ (h) All surplus moneys derived from the auction after satisfaction of the registered tow truck operator's lien shall be remitted within thirty days to the department for deposit in the state motor vehicle fund. A report identifying the vehicles resulting in any surplus shall accompany the remitted funds. If the director subsequently receives a valid claim from the registered vehicle owner of record as determined by the department within one year from the date of the auction, the surplus moneys shall be remitted to such owner;

~~((h))~~ (i) If an operator receives no bid, or if the operator is the successful bidder at auction, the operator shall, within thirty days sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor by use of the abandoned vehicle report-affidavit of sale, or the operator shall apply for title to the vehicle.

(3) In no case may an operator hold a vehicle for longer than ninety days without holding an auction on the vehicle, except for vehicles that are under a police or judicial hold.

(4) (a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(2).

(b) The failure of the registered tow truck operator to comply with the time limits provided in this chapter limits the accumulation of storage charges to five days except where delay is unavoidable. Providing incorrect or incomplete identifying information to the department in the abandoned vehicle report shall be considered a failure to comply with these time limits if correct information is available.

Sec. 13. Section 14, chapter 377, Laws of 1985 as amended by section 14, chapter 311, Laws of 1987 and RCW 46.55.140 are each amended to read as follows:

(1) A registered tow truck operator who has a valid and signed impoundment authorization has a lien upon the impounded vehicle for services provided in the towing and storage of the vehicle, unless the impoundment is determined to have been invalid. The lien does not apply to personal property in or upon the vehicle that is not permanently attached to or is not an integral part of the vehicle. The registered tow truck operator also has a deficiency claim against the registered owner of the vehicle for services provided in the towing and storage of the vehicle not to exceed the sum of three hundred dollars less the amount bid at auction, and for vehicles of over ten thousand pounds gross vehicle weight, the operator has a deficiency claim of

one thousand dollars less the amount bid at auction, unless the impound is determined to be invalid. In no case may the cost of the auction or a buyer's fee be added to the amount charged for the vehicle at the auction, the vehicle's lien, or the overage due. A registered owner who has completed and filed with the department the seller's report as provided for by RCW 46.12-.101 is relieved of liability under this section.

(2) Any person who tows, removes, or otherwise disturbs any vehicle parked, stalled, or otherwise left on privately owned or controlled property, and any person owning or controlling the private property, or either of them, are liable to the owner or operator of a vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of the vehicle which does not comply with the requirements of this chapter.

Sec. 14. Section 15, chapter 377, Laws of 1985 as amended by section 15, chapter 311, Laws of 1987 and RCW 46.55.150 are each amended to read as follows:

The registered tow truck operator shall keep a transaction file on each vehicle. The transaction file shall contain as a minimum those of the following items that are required at the time the vehicle is redeemed or becomes abandoned and is sold at a public auction:

(1) A signed impoundment authorization as required by RCW 46.55.080;

(2) A record of the twenty-four hour written impound notice to a law enforcement agency;

(3) A copy of the impoundment notification to registered and legal owners, sent within twenty-four hours of impoundment, that advises the owners of the address of the impounding firm, a twenty-four hour telephone number, and the name of the person or agency under whose authority the vehicle was impounded;

(4) A copy of the abandoned vehicle report that was sent to and returned by the department;

(5) A copy and proof of mailing of the notice of custody and sale sent by the registered tow truck operator to the owners advising them they have fifteen days to redeem the vehicle before it is sold at public auction;

(6) A copy of the published notice of public auction;

(7) A copy of the affidavit of sale showing the sales date, purchaser, amount of the lien, and sale price;

(8) A record of the two highest bid offers on the vehicle, with the names, addresses, and telephone numbers of the two bidders;

(9) A copy of the notice of opportunity for hearing given to those who redeem vehicles;

(10) An itemized invoice of charges against the vehicle.

The transaction file shall be kept for a minimum of three years.

Sec. 15. Section 18, chapter 377, Laws of 1985 as amended by section 742, chapter 330, Laws of 1987 and RCW 46.55.180 are each amended to read as follows:

The director or the chief of the state patrol may use a hearing officer or administrative law judge for presiding over a hearing regarding ~~((infrac-tions by registered tow truck operators of))~~ licensing provisions under this chapter~~((; chapter 46.37 RCW;))~~ or rules adopted ~~((thereunder))~~ under it.

Sec. 16. Section 20, chapter 377, Laws of 1985 and RCW 46.55.200 are each amended to read as follows:

A registered tow truck operator's license may be denied, suspended, or revoked, or the licensee may be ordered to pay a monetary penalty of a civil nature, not to exceed one thousand dollars per violation, or the licensee may be subjected to any combination of license and monetary penalty, whenever the director has reason to believe the licensee has committed, or is at the time committing, a violation of this chapter or rules adopted under it or any other statute or rule relating to the title or disposition of vehicles or vehicle hulks, including but not limited to:

(1) Towing any abandoned vehicle without first obtaining and having in ~~((his))~~ the operator's possession at all times while transporting it, appropriate evidence of ownership or an impound authorization properly executed by the private person or public official having control over the property on which the unauthorized vehicle was found;

(2) Forging the signature of the registered or legal owner on a certificate of title, or forging the signature of any authorized person on documents pertaining to unauthorized or abandoned vehicles or automobile hulks;

(3) Failing to comply with the statutes and rules relating to the processing and sale of abandoned vehicles;

(4) Failing to accept bids on any abandoned vehicle offered at public sale;

(5) Failing to transmit to the state surplus funds derived from the sale of an abandoned vehicle;

(6) Selling, disposing of, or having in his possession, without notifying law enforcement officials, a vehicle that he knows or has reason to know has been stolen or illegally appropriated without the consent of the owner;

(7) Failing to comply with the statutes and rules relating to the transfer of ownership of vehicles or other procedures after public sale; or

(8) Failing to pay any civil monetary penalty assessed by the director pursuant to this section within ten days after the assessment becomes final.

All orders by the director made under this chapter are subject to the Administrative Procedure Act, chapter ~~((34.04))~~ 34.05 RCW.

Sec. 17. Section 24, chapter 377, Laws of 1985 as amended by section 20, chapter 311, Laws of 1987 and RCW 46.55.240 are each amended to read as follows:

(1) A city, town, or county that adopts an ordinance or resolution concerning unauthorized, abandoned, or impounded vehicles shall include the applicable provisions of this chapter.

(a) A city, town, or county may, by ordinance, authorize other impound situations that may arise locally upon the public right-of-way or other publicly owned or controlled property.

(b) A city, town, or county ordinance shall contain language that establishes a written form of authorization to impound, which may include a law enforcement notice of infraction or citation, clearly denoting the agency's authorization to impound.

(c) A city, town, or county may, by ordinance, provide for release of an impounded vehicle by means of a promissory note in lieu of immediate payment, if at the time of redemption the legal or registered owner requests a hearing on the validity of the impoundment. If the municipal ordinance directs the release of an impounded vehicle before the payment of the impoundment charges, the municipality is responsible for the payment of those charges to the registered tow truck operator within thirty days of the hearing date.

~~((c))~~ (d) The hearing specified in RCW 46.55.120(2) and in this section may be conducted by an administrative hearings officer instead of in the district court. A decision made by an administrative hearing officer may be appealed to the district court for final judgment.

(2) A city, town, or county may adopt an ordinance establishing procedures for the abatement and removal as public nuisances of unauthorized junk vehicles or parts thereof from private property. Costs of removal may be assessed against the registered owner of the vehicle if the identity of the owner can be determined, unless the owner in the transfer of ownership of the vehicle has complied with RCW 46.12.101, or the costs may be assessed against the owner of the property on which the vehicle is stored.

(3) Ordinances pertaining to public nuisances shall contain:

(a) A provision requiring notice to the last registered owner of record and the property owner of record that a hearing may be requested and that if no hearing is requested, the vehicle will be removed;

(b) A provision requiring that if a request for a hearing is received, a notice giving the time, location, and date of the hearing on the question of abatement and removal of the vehicle or part thereof as a public nuisance shall be mailed, by certified mail, with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition that identification numbers are not available to determine ownership;

(c) A provision that the ordinance shall not apply to (i) a vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property

or (ii) a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130;

(d) A provision that the owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the local agency shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the owner;

(e) A provision that after notice has been given of the intent of the city, town, or county to dispose of the vehicle and after a hearing, if requested, has been held, the vehicle or part thereof shall be removed at the request of a law enforcement officer with notice to the Washington state patrol and the department of licensing that the vehicle has been wrecked. The city, town, or county may operate such a disposal site when its governing body determines that commercial channels of disposition are not available or are inadequate, and it may make final disposition of such vehicles or parts, or may transfer such vehicle or parts to another governmental body provided such disposal shall be only as scrap.

(4) A registered disposer under contract to a city or county for the impounding of vehicles shall comply with any administrative regulations adopted by the city or county on the handling and disposing of vehicles.

NEW SECTION. Sec. 18. A new section is added to chapter 46.55 RCW to read as follows:

This chapter does not apply to the state department of transportation to the extent that it may remove vehicles that are traffic hazards from bridges and the mountain passes without prior authorization. If such a vehicle is removed, the department shall immediately notify the appropriate local law enforcement agency, and the vehicle shall be processed in accordance with RCW 46.55.110.

NEW SECTION. Sec. 19. The department of licensing and the Washington state patrol shall conduct a study of the fees charged for registration of tow truck operators and tow trucks and the costs of administering the tow truck operator program in the department and the Washington state patrol to determine what fees would be necessary to defray the program costs. The department and the state patrol shall report the study findings to the legislative transportation committee by December 1, 1989.

Sec. 20. Section 3, chapter 186, Laws of 1986 as amended by section 2, chapter 181, Laws of 1987, by section 55, chapter 244, Laws of 1987, by section 6, chapter 247, Laws of 1987 and by section 11, chapter 388, Laws

of 1987 and RCW 46.63.020 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

~~((8) RCW 46.16.011 relating to permitting unauthorized persons to drive;))~~

(9) RCW 46.16.381(8) relating to unauthorized acquisition of a special decal, license plate, or card for disabled persons' parking;

(10) RCW 46.20.021 relating to driving without a valid driver's license;

(11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(12) RCW 46.20.342 relating to driving with a suspended or revoked license;

(13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(14) RCW 46.20.416 relating to driving while in a suspended or revoked status;

(15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(17) Chapter 46.29 RCW relating to financial responsibility;

- (18) RCW 46.44.180 relating to operation of mobile home pilot vehicles;
- (19) RCW 46.48.175 relating to the transportation of dangerous articles;
- (20) RCW 46.52.010 relating to duty on striking an unattended car or other property;
- (21) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (22) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (23) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (24) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (25) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (26) Section 4 of this act relating to prohibited practices by tow truck operators;
- (27) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- ~~((27))~~ (28) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- ~~((28))~~ (29) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- ~~((29))~~ (30) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- ~~((30))~~ (31) RCW 46.61.500 relating to reckless driving;
- ~~((31))~~ (32) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;
- ~~((32))~~ (33) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- ~~((33))~~ (34) RCW 46.61.522 relating to vehicular assault;
- ~~((34))~~ (35) RCW 46.61.525 relating to negligent driving;
- ~~((35))~~ (36) RCW 46.61.530 relating to racing of vehicles on highways;
- ~~((36))~~ (37) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- ~~((37))~~ (38) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- ~~((38))~~ (39) RCW 46.64.020 relating to nonappearance after a written promise;
- ~~((39))~~ (40) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((40))~~ (41) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((41))~~ (42) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;

~~((42))~~ (43) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((43))~~ (44) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((44))~~ (45) Chapter 46.82 RCW relating to driver's training schools;

~~((45))~~ (46) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

~~((46))~~ (47) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

NEW SECTION. Sec. 21. Section 2, chapter 167, Laws of 1977 ex. sess., section 743, chapter 330, Laws of 1987 and RCW 46.61.563 are each repealed.

NEW SECTION. Sec. 22. RCW 46.61.567 is recodified as a section in chapter 46.55 RCW.

Passed the Senate April 11, 1989.

Passed the House April 6, 1989.

Approved by the Governor April 20, 1989.

Filed in Office of Secretary of State April 20, 1989.

CHAPTER 112

[Substitute Senate Bill No. 5641]

VESSEL RETAIL INSTALLMENT SALES CONTRACTS—SERVICE CHARGES

AN ACT Relating to service charges on vessel retail installment contracts; and amending RCW 63.14.130 and 63.14.135.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 13, chapter 236, Laws of 1963 as last amended by section 1, chapter 318, Laws of 1987 and RCW 63.14.130 are each amended to read as follows:

The service charge shall be inclusive of all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments thereunder and no other fee, expense or charge whatsoever shall be taken, received, reserved or contracted therefor from the buyer.

(1) Except as provided in subsections (2) and (3) of this section, the service charge, in a retail installment contract, shall not exceed the highest of the following: