
**Public Safety & Emergency Preparedness
Committee**

HB 2693

Brief Description: Compensating auto theft victims for towing and impound fees.

Sponsors: Representatives Sells and Simpson.

Brief Summary of Bill

- Requires offenders convicted of Taking a Motor Vehicle without Permission to pay a \$100 legal financial obligation fine to be deposited into an Auto Theft Victim Compensation Account.
- Authorizes registered owners of a stolen vehicle to apply to receive funds from the Department of Licensing's Auto Theft Victim Compensation Account for towing and impound fees.

Hearing Date: 1/29/10

Staff: Yvonne Walker (786-7841).

Background:

A motor vehicle can be impounded for a number of ways, such as under the following circumstances:

- if the vehicle's driver is arrested for certain offenses or taken into custody;
- when the officer finds the vehicle unattended upon a highway where the vehicle is an obstruction to traffic or jeopardizes public safety;
- when the vehicle is stolen;
- when the vehicle is illegally parked; and
- upon a determination that a person is operating the vehicle without a valid driver's license.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Once a vehicle is impounded, the impounding tow truck operator is required to notify the legal and registered owners of the vehicle. This notice must be sent by first-class mail within 24 hours of impoundment and must inform the owner the identity of the person or agency authorizing the impound. The notification must also include the name of the impounding tow company, its address, and telephone number.

When a vehicle is impounded, the impounding towing operator must notify the legal and registered owners of the impoundment, the right of redemption, and the opportunity for a hearing to contest the validity of the impoundment or the amount of towing and storage charges. An impounded vehicle may be redeemed only by the owner of the vehicle or a person who has permission of the owner, and upon payment of all costs associated with the impound.

The district or municipal court where the vehicle was impounded has jurisdiction over the hearings. If an impound is found proper, the impound costs and the court costs must be assessed against the person or persons requesting the hearing. If, however, the impound is found to be in violation of the impound chapter, the person or agency that authorized the impound is responsible for costs associated with the impound, the filing fee, and reasonable damages for loss of use of the vehicle. Where the impound arose from a violation of the law surrounding driving with a suspended, revoked, or invalidated license and the impound was found to be improper, the law enforcement officer and the government employing the officer are not liable for damages if the officer relied in good faith and without gross negligence on the department's records.

Generally, the registered owner seeking to redeem his or her stolen vehicle is responsible for all costs incurred for the towing and the impoundment of the vehicle.

Taking a Motor Vehicle Without Permission. A person is guilty of Taking a Motor Vehicle without permission in the first degree if the person intentionally takes a motor vehicle without permission and he or she:

- alters the vehicle to change its appearance or identification numbers;
- removes parts from the vehicle with the intent to sell the parts;
- exports or attempts to export the vehicle out-of-state or out of the country for profit;
- intends to sell the vehicle; or
- is engaged in a conspiracy that has as its objective the theft of motor vehicles for sale to others for profit or engages in a conspiracy and solicits a juvenile to participate in the theft of the vehicle.

Taking a Motor Vehicle without permission in the first degree is ranked as a seriousness level V, class B felony offense under the Sentencing Reform Act.

Taking a Motor Vehicle without permission in the second degree occurs when a person intentionally takes a motor vehicle without permission or voluntarily rides in a vehicle knowing it was taken without permission. Taking a Motor Vehicle without permission in the second degree is a seriousness level I, class C felony offense.

Motor Vehicle Theft. A person is guilty of Motor Vehicle Theft if the person commits theft of any motor vehicle regardless of the value of the vehicle. Motor Vehicle Theft is a seriousness level II, class B felony offense for adult offenders and a category B offense for juvenile offenders.

Legal Financial Obligation. When a defendant is convicted of a crime, the court may impose financial obligations as part of the judgment and sentence. Financial obligations that may be imposed on a defendant include: victim restitution; crime victims' compensation fees; court costs; court-appointed attorneys' fees and costs of defense; fines; and other costs associated with the offense or sentence.

Summary of Bill:

An Auto Theft Victim Compensation Account (Account) is created in the custody of the State Treasurer. The owner of a stolen vehicle may apply for compensation costs for the cost incurred for towing and impound fees due to his or her stolen vehicle.

Any person convicted of a Taking a Motor Vehicle in the first or second degree offense must pay a legal financial obligation fee of \$100. The fee must be paid by the offender after he or she has paid all other legal financial obligations in his or her sentence. The county clerk must transmit all fees collected to be deposited into the Account created in the custody of the State Treasurer.

The registered owner of a stolen vehicle may apply to the Department of Licensing (DOL) for compensation of the costs incurred for the vehicle towing and impound, if the registered owner has filed a police report with a law enforcement agency. Expenditures from the Account may only be used for compensating auto theft victims for towing and impound fees resulting from the theft of a motor vehicle. The DOL must evaluate the deposits made to the Account quarterly and make adjustments subject to the availability of funds.

The registered owner still has the right to seek a civil action or restitution in a criminal action against the person responsible for the theft of the vehicle. If the registered owner received any funds from the Account, then any restitution or award given to the registered owner for costs incurred for the towing and impounding of the vehicle must be used to reimburse the DOL, up to the full amount of the compensation provided.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.