

Washington Supreme Court says \$30 tab initiative is unconstitutional

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Tim Eyman, a career anti-tax initiative promoter, poses for a photo with the expired car registration tabs on his SUV, Tuesday, Nov. 26, 2019, in a parking garage in Seattle. (Ted S. Warren)

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Tab fees start with \$30, go up from there

Washington residents pay a wide range of taxes and fees when registering their vehicle that depend on where they live and what they drive. In Spokane County, the standard fee starts at \$68.25, which includes:

- \$30 license fee
- \$25 base weight fee (vehicles less than 4,000 pounds)
- \$8 service fee (kept by the subagent if registered there, used for the state ferry system if registered at a county or state office.)
- \$4.50 filing fee
- \$0.50 Dept. of Licensing fee

- \$0.25 license service fee of state computer system

For a vehicle that weighs between 4,000 and 6,000 pounds, such as a medium sized SUV, the owner pays an extra \$20, or \$88.25

For a vehicle that weighs more than 6,000 pounds, the owner would pay another \$20, or \$108.25

The city of Spokane has a Transportation Benefit District, so vehicle owners in the city pay an extra \$20 fee for road repair and maintenance. Depending on the vehicle weight, the fee would be between \$88.25 and \$128.25.

Had the initiative been upheld, car tabs would not actually have been reduced to \$30, because the various service fees would have remained. The weight fees and benefit district fees would have been eliminated, so all car tab fees would have been \$43.25.

Don't expect your license tabs to go down to \$30 any time soon.

A ballot measure to lower car tab fees and some other taxes for vehicles is unconstitutional, the Washington Supreme Court said Thursday.

The proposal contained too many subjects and was not accurately described in the ballot title, a majority of the unanimous court said.

The ballot measure, which passed with support from 53% of the voters last November, calls for reducing most vehicle taxes and fees. A group of local governments and transit agencies sued, contending the proposal was misleading because the \$30 tabs it promotes won't exist and was an example of illegal "logrolling" by including more than one topic.

But supporters said voters knew what they were doing and the reductions should take effect.

The reduction in taxes and fees, which would have taken effect last December when the election was certified, was put on hold as the challenge worked its way through the courts.

Under the state Constitution, an initiative title must give voters a clear idea of what the measure contains and what it will do, and must stick to a single topic. I-976 didn't do that, the main opinion written by Justice Steven Gonzalez said.

The title described "limiting vehicle taxes and fees." While that's a general title, which allows some related subjects to be joined, one section deals with requiring Sound Transit to retire or refinance bonds for its system. That "is an unconstitutional second subject," Gonzalez wrote.

Tim Eyman, who drafted the initiative and has sponsored numerous ballot measures over the past two decades, claimed he was following the directions the court handed down on one of his previous initiatives.

“I was following the road map,” he said during a hastily called news conference on the steps of the Supreme Court building. “The only way you can get rid of the tax is to get rid of the bonds.”

Voters have passed a \$30 tab initiative three times, so they weren’t confused about what it would do, he added.

Eyman and state Rep. Jim Walsh, R-Aberdeen, said Gov. Jay Inslee should call a special session so the Legislature could draft and pass a bill to accomplish what the initiative attempted. After Eyman’s first \$30 car tab initiative was ruled unconstitutional, then-Gov. Gary Locke called a special session in 2000 and portions of it were approved overwhelmingly.

Inslee, who has resisted calling a special session to address the projected revenue shortfall from the COVID-19 pandemic, said earlier in the day he was “open to the subject of car tab reform and working with the Legislature on it.” Spokesman Mike Faulk said that comment was in the context of the regular session, which starts in January.

Until the governor and the Legislature take action to follow “the will of the people,” Eyman said motorists should refuse to pay to renew their license tabs.

“My car tabs are zero until they’re \$30,” said Eyman, who added that he’s been stopped twice for expired tabs and let off with a warning.

Gonzalez wrote that the ballot title was deceptive because it was worded in such a way that voters might have assumed that taxes and fees they had already approved would remain in place. But the initiative actually would have repealed them, and the state’s argument that future legislation could create a new mechanism for approving such taxes was not convincing, he wrote.

“The ballot statement of an initiative concerns the effect of the initiative. It is not the place for truisms about legislative power,” he wrote.

In arguments before the state Supreme Court in June, an attorney for the state said the initiative should go into effect because the ballot title correctly told voters it was about reducing vehicle taxes and fees.

In that hearing, justices zeroed in on the ballot title, questioning whether it truly delivers the promised \$30 fees to renew a car tab when tabs would cost at least \$43.25.

Deputy Attorney General Alan Copsey argued voters have seen the phrase \$30 car tabs so often that they realized it was a political slogan – something akin to “a chicken in every pot” – for lower car tabs.

In a footnote to the main opinion, Gonzalez dismissed that argument: “While ballot titles may not be promises they must be accurate. To the extent the State argues that \$43.25 can be understood as \$30.00, the argument is not well taken,” he wrote.

Eyman and Walsh criticized Attorney General Bob Ferguson, whose staff defended the initiative in court.

“He has failed the people of Washington,” Walsh said.

Ferguson, however, said that while he was disappointed in the ruling, his legal team worked hard to defend the measure and were successful in King County Superior Court. But they knew it was a difficult case, just the latest in a long string of initiatives Eyman has written that were struck down by the courts.

The language in the ballot title was pulled directly from the initiative and requested by Eyman, Ferguson said in a news release.

“He should look in the mirror and apologize to voters for once again sending them an initiative that failed to survive a legal challenge and deliver on its promises,” Ferguson said.

Several Spokane-area legislators were doubtful that a special session will be called over the court’s decision. Senate Republicans have been asking for a special session since June to address the projected budget shortfall from the effects of the pandemic on the state economy, Minority Leader Mark Schoesler, of Ritzville, said. The car tab decision isn’t likely to change the governor’s mind regardless of the precedent set by Locke in 2000, he said.

“Jay Inslee is no Gary Locke,” Schoesler said, noting the previous decision was made when Democrats and Republicans were tied in the House. Now Democrats hold majorities in both chambers.

If Democrats wouldn’t make changes to the car tab system when “times were flush” with rising revenue totals, why would they do it when revenue is falling, he added.

If Inslee doesn’t agree to call a special session, the Legislature has the power under the state Constitution to call itself into session, with a supermajority of both chambers agreeing to the call. But that has never happened before and seemed unlikely Thursday.

Rep. Marcus Riccelli, D-Spokane, a member of the House Transportation Committee, said lawmakers need to consider changes to car tab fees. He and other committee

members are holding “listening sessions” with groups around the state to hear their ideas.

“People think that car tabs aren’t the right place to pay for transportation,” he said. “We are going to look at these fees.”

But that’s likely to happen next year in discussions over the 2021-23 Transportation Budget, not in a special session, he said.

Senate Majority Leader Andy Billig, D-Spokane, said new ways to pay for transportation projects is “a discussion we absolutely will have” in next year’s session. But he discounted Eyman’s call for legislators to follow “the will of the people” by going into special session to pass legislation based on the initiative struck down by the court.

In his 3rd Legislative District, which covers much of the city of Spokane from the lower South Hill through downtown and up to Hillyard, voters turned down I-976 by some 1,200 votes. He believes they objected to cuts in mass transit, major road projects and maintenance the measure would have forced.

“The will of the voters in my district is not to have I-976 in place,” he said.