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H.B. 403
135th General Assembly

Bill Analysis

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Version: As Reported by House Civil Justice

Primary Sponsor: Rep. Cutrona

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SUMMARY

- Establishes a process for a motor vehicle owner to file a civil action to dispute a towing service or storage facility's charges related to the towing and storage of that owner's motor vehicle, cargo, or personal property after a motor vehicle accident, similar to the process used by insurance companies under current law.
- Also authorizes a towing service or storage facility to file a civil action against a motor vehicle owner if all of the following apply:
 - The motor vehicle, cargo, or personal property was removed, towed, or stored after a motor vehicle accident;
 - The motor vehicle owner has not paid the bill or filed a civil action to dispute the charges within 45 days of the owner receiving the bill sent by the towing service or storage facility; and
 - The towing service or storage facility is not attempting to take title to the motor vehicle until after any final judgments are entered for the current civil action.
- Requires a motor vehicle owner to pay the undisputed amount and to post a bond for the disputed amount of the towing service or storage facility's charges.
- Requires the bond amount to be used to pay the remaining disputed amount of the bill or to be returned, depending on the civil action's outcome.
- Requires the court to determine the reasonableness of the amount charged by the towing service or storage facility if that amount is in dispute.

DETAILED ANALYSIS

Civil actions related to towing

The bill establishes a process for a motor vehicle owner or lienholder (hereinafter, owner) to file a civil action for either of the following after a motor vehicle accident:

1. The recovery of the motor vehicle or cargo or personal property that was removed, towed, or stored; or
2. Objecting to the amount billed by the towing service or storage facility for the removal, towing, or storage.¹

The process established is similar to the current process used by insurance companies to dispute these types of charges on behalf of their customers. Under the bill, the owner may file the action on his or her own behalf or on behalf of a third party for whom the owner commercially transports the cargo that is the subject of the civil action.²

Similarly, the bill authorizes a towing service or storage facility to commence a civil action against a motor vehicle owner if all of the following apply:

1. The motor vehicle, cargo, or personal property was removed, towed, or stored after a motor vehicle accident;
2. The motor vehicle owner has not paid the amount billed or commenced the civil action described above to dispute the charges within 45 days of the owner receiving the bill from the towing service or storage facility; and
3. The towing service or storage facility is not seeking title to the motor vehicle, in accordance with current law procedures, until judgment is entered in the current civil action.³

The motor vehicle owner, towing service, or storage facility may file the action in the municipal or county court with territorial jurisdiction over the location from which the motor vehicle, cargo, or personal property was removed, towed, or stored. Regardless of who files the civil action, if the owner objects to the billed amount, the owner must include in the owner's complaint, answer, or objection the amount of the bill that is undisputed and the owner's reasons for objecting to the remainder. The owner must also post a bond equal to the disputed amount. After receipt of payment for the undisputed amount, within two business days, the towing service or storage facility must release the subject motor vehicle, cargo, or personal property.⁴

¹ R.C. 4513.71(B)(1).

² R.C. 4513.71(B)(2).

³ R.C. 4513.71(C).

⁴ R.C. 4513.71(D), (E), and (F).

If the billed amount is in dispute, the court must make a determination on the reasonableness of the amount charged by the towing service or storage facility. If the amount is reasonable, the court must order the owner to pay the remaining amount of the bill. If the court determines the amount is unreasonable, it must determine a reasonable amount and order the owner to pay any remaining amount not already paid. Any money owed by the motor vehicle owner must be paid from the bond posted by the owner. Any of the bond left after payment must be returned to that owner. The court also may require either party to pay or refund any additional amounts or may impose any monetary penalties on either party, if appropriate.⁵

Nothing in the civil action process created by the bill creates, implies, or grants additional insurance coverage beyond what a motor vehicle owner's liability policy, proof of financial responsibility, or other insurance policy specifies. For example, if an insurance policy specifies that the insurance company will reimburse an owner \$100 for towing and storage after a motor vehicle accident, but then a court specifies that the towing service or storage facility's bill of \$150 is fair, the insurance company is not obligated to cover the additional \$50 beyond the policy limits.⁶

HISTORY

Action	Date
Introduced	02-07-24
Reported, H. Civil Justice	05-01-24

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⁵ R.C. 4513.71(G) and (H).

⁶ R.C. 4513.71(I).