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H.B. 403*
135th General Assembly

Bill Analysis

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Version: As Reported by Senate Judiciary

Primary Sponsor: Rep. Cutrona

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SUMMARY

Civil actions related to towing

- Establishes a process for a commercial 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 commercial 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 commercial motor vehicle, cargo, or personal property was removed, towed, or stored after a motor vehicle accident;
 - The 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.

* This analysis was prepared before the report of the Senate Judiciary Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

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- Requires the court to determine the reasonableness of the amount charged by the towing service or storage facility if that amount is in dispute.

Window tinting

- Expands a law enforcement exemption to certain window tinting regulations and prohibitions.

Transportation network company background checks

- Requires a transportation network company to conduct annual background checks on its authorized drivers.
- Requires the company to terminate the authorization for a driver to work for the company if the background check reveals that the driver has committed a disqualifying offense.

Emission control system tampering

- Allows a motor vehicle dealer to sell a motor vehicle with an emission system that has been tampered with to another motor vehicle dealer through a motor vehicle auction under certain circumstances.

DETAILED ANALYSIS

Civil actions related to towing

The bill establishes a process for a person who holds a certificate of title to or leases a commercial motor vehicle (hereinafter, owner) to file a civil action for either of the following after a motor vehicle accident:

1. The recovery of the commercial 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. For purposes of the bill, a motor vehicle owner does not include a lienholder or leasing company.² 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.³

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

¹ R.C. 4513.71(B)(1).

² R.C. 4513.71(A)(2).

³ R.C. 4513.71(B)(2).

1. The commercial motor vehicle, cargo, or personal property was removed, towed, or stored after a motor vehicle accident;
2. The 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 commercial motor vehicle, in accordance with current law procedures, until judgment is entered in the current civil action.⁴

The 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 commercial motor vehicle, cargo, or personal property was removed, towed, or stored. A copy of the filing must also be sent to any lienholder, if known, of the subject commercial motor vehicle, cargo, or personal property. 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 commercial motor vehicle, cargo, or personal property.⁵

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 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.⁶

Nothing in the civil action process created by the bill creates, implies, or grants additional insurance coverage beyond what the commercial 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.⁷

⁴ R.C. 4513.71(C).

⁵ R.C. 4513.71(D), (E), and (F).

⁶ R.C. 4513.71(G) and (H).

⁷ R.C. 4513.71(I).

Window tinting

Under current law, the Director of Public Safety is responsible for adopting rules governing the use of tinted glass and the use of transparent, nontransparent, translucent, and reflectorized materials in or on motor vehicle windshields, side windows, sidewings, and rear windows. There are exemptions in current law for law enforcement motor vehicles when either:

- The vehicle is not distinctly marked as a law enforcement vehicle, but it is being used by or on behalf of a law enforcement agency in an authorized investigation or other activity that requires the presence and identity of the vehicle occupants to be undisclosed; or
- The vehicle primarily is used by a law enforcement agency's canine unit for transporting a police dog.

The bill expands the exemption so that a law enforcement agency may use nonconforming tinted windows on any motor vehicle used for a purpose within the scope of the agency's duties.⁸

Transportation network company background checks

The bill requires a transportation network company ("TNC," e.g., Uber, Lyft, etc.) to conduct annual background checks on its authorized drivers. Additionally, if the background check reveals that a driver for the TNC has committed a disqualifying offense, then the TNC must terminate that driver's authorization to work for the company.⁹

Under current law, a TNC must conduct a background check on any person who applies to be a driver for the company. The background check includes a search of a multi-state/multi-jurisdictional criminal records database (or similar nationwide criminal records database), a search of the U.S. Department of Justice's National Sex Offender public website, and a driving history report. There are a variety of offenses that disqualify a person from being authorized to drive for a TNC (e.g., OVI, not having a valid driver's license or insurance, and other specified traffic, sex, and theft offenses).¹⁰ Current law, however, does not expressly require a TNC to conduct additional background checks after its original authorization of its drivers.

Emission control system tampering

The bill adds to the existing list of exceptions to the prohibition in continuing law against selling, leasing, renting, or transferring title to a motor vehicle with an emission system that has been "tampered with." "Tampered with" means to remove permanently, bypass, defeat, or render inoperative, in whole or part, any emission control system (any system designated by the U.S. Environmental Protection Agency under federal law, including any device or element of design of the system) that is installed on or in a motor vehicle.

⁸ R.C. 4513.241(A) and (J).

⁹ R.C. 4925.03(I) and 4925.04(C).

¹⁰ R.C. 2925.04(B).

Under the bill, a motor vehicle dealer who sells or transfers title to a motor vehicle that has been tampered with to another motor vehicle dealer through a motor vehicle auction is exempt if all the following occur:

- The dealer discloses to the auction that the vehicle has been tampered with;
- The auction announces during, or as part of, the vehicle auction process that the vehicle has been tampered with;
- The auction identifies the vehicle as having been tampered with in any written description of the vehicle; and
- The auction provides the buyer and seller of the vehicle with a receipt or other written documentation after the sale that identifies the vehicle as having been tampered with.

Current law only allows a person to sell a tampered with vehicle if: (1) the person selling or giving away the vehicle is acting as a motor vehicle auction owner, a special auctioneer, or a salvage motor vehicle auction licensed under continuing law, or (2) the vehicle is titled with a salvage certificate of title issued under continuing law.¹¹

HISTORY

Action	Date
Introduced	02-07-24
Reported, H. Civil Justice	05-01-24
Passed House (91-0)	06-12-24
Reported, S. Judiciary	---

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¹¹ R.C. 3704.16.