



# Ohio Legislative Service Commission

## Bill Analysis

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131st General Assembly  
(As Reported by H. State Government)

**Reps.** Young and Sweeney, Becker, Boose, Hall, Retherford, Terhar, Thompson

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## BILL SUMMARY

### Salvage title to certain inoperable vehicles

- Establishes a process by which a repair facility, towing service, or place of storage for towed vehicles may obtain a salvage certificate of title to a vehicle in its possession for purposes of disposing of the vehicle through a motor vehicle salvage dealer or scrap metal processing facility if the vehicle:
  - Has a value of less than \$1,500;
  - Is apparently inoperable; and
  - Is impossible to restore for highway operation.

### Title to an unclaimed vehicle

- Specifies that a repair garage, place of storage, towing service, or storage facility, may obtain the title to a motor vehicle under circumstances specified by current law if the vehicle has a value of less than \$4,400, rather than less than \$3,500 as under current law.
- When an entity specified above pays the clerk of courts the value of a vehicle in order to obtain title to the vehicle, allows the entity to deduct both of the following:
  - A towing fee, if the vehicle was towed by the party seeking title to the vehicle; and
  - Storage fees for the period of time the vehicle was stored without payment.

- Specifies that a repair garage or place of storage may take title to a vehicle under a provision of current law, even if the person who requested the repair or who agreed to the storage of the motor vehicle is not an owner or a lienholder of the motor vehicle as indicated in the records of the Bureau of Motor Vehicles.

### **Towing prohibitions and penalties**

- Modifies the penalties that may be imposed by a court in a civil action initiated against a towing service or storage facility for certain towing violations.
- Prohibits a towing service from permitting the operation of a towing vehicle on behalf of the towing service unless the towing service holds a valid certificate of public convenience and necessity.
- Prohibits a towing service from removing a vehicle from a private tow-away zone other than pursuant to a written contract with the owner of the private property on which the private tow-away zone is located.
- Prohibits a towing service from knowingly offering or providing compensation in exchange for the authorization to tow motor vehicles from a specified location or on behalf of the person to whom the towing service offered or provided compensation.

### **Towing and storage fees**

- Replaces the statutorily prescribed maximum fees for the removal and storage of a vehicle towed from private property or a private tow-away zone with maximum fees to be established by the Public Utilities Commission by rule.
- Requires the Public Utilities Commission to establish a process for reviewing the fees every five years and to adjust any fee the Commission determines is not just, reasonable, or compensatory.
- Allows a municipal corporation to establish towing and storage fees for the removal of a vehicle from private property, other than a private tow-away zone, within the municipal corporation that differ from those established by the Public Utilities Commission.
- Specifies that a lienholder that reclaims a vehicle that was towed from a private tow-away zone is not required to pay storage fees for any period of time prior to the date a notice indicating that the vehicle had been towed was received by the lienholder.
- Authorizes a towing service or storage facility to charge an after-hours retrieval fee for the retrieval of personal items from a towed vehicle if the owner retrieves

personal items when the towing service of storage facility is not open to the public and is not required to be open.

- Allows a person to use a major credit card to pay a "drop fee," which is a reduced fee that may be paid to a towing service for the release of a vehicle that has been prepared for removal but not yet removed from private property or a private tow-away zone.

### **Other towing provisions**

- Modifies the requirement that a towing service must deliver a vehicle towed from private property or a private tow-away zone to a place of storage within two hours by establishing an exception that applies if delivery is not practicable.
- Requires a towing service, storage facility, or authorized entity, in specified circumstances, to notify the owner of a towed vehicle that if the owner disputes that the motor vehicle was lawfully towed the owner may be able to file a civil action.
- Extends the deadline by which a towing service or storage facility must notify the owner of a vehicle that the vehicle has been towed from a private tow-away zone.
- Extends the deadline by which the sheriff or chief of police must notify the owner of a vehicle that the vehicle has been ordered into storage by law enforcement.
- Eliminates the requirement that a storage facility remain open during periods of time that a towing service is towing a vehicle from private property or from the street or after coming into the possession of law enforcement when the vehicle will be held by the storage facility.
- Eliminates the requirement that a storage facility must ensure that, within three hours of receiving a call from the owner of a towed vehicle, a representative of the storage facility is available to release the vehicle.
- Prohibits the owner of a motor vehicle that has been towed from retrieving personal items from the motor vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.
- Modifies the requirement that a towing service must provide a written estimate for towing services under specified circumstances, so that the requirement only applies if the estimate is requested.

## Towing and Quick Clear Board

- Establishes the Towing and Quick Clear Board, consisting of members representing the Department of Transportation or the Ohio Turnpike and Infrastructure Commission, the Department of Public Safety, the Public Utilities Commission, the towing industry, and the motor vehicle insurance industry.
- Authorizes an insurance company to file a claim with the Board objecting to the amount of any portion of a bill from a towing company for the towing of a vehicle for which the insurance company is responsible for payment.
- After receipt of the copy of the claim and payment of the undisputed charges, requires the towing company to release the vehicle to the owner of the vehicle or the insurance company.
- Requires the Board to hold a public hearing to resolve the dispute over the towing bill and issue a written decision that includes the amount the Board determines to be appropriate for services rendered by the towing company.
- Allows the Board to impose the following penalties:
  - If the amount originally billed by the towing company exceeds the amount determined to be appropriate, a penalty of not more than \$1,000 to be paid by the towing company;
  - If the Board determines that the towing company engaged in a pattern and practice of failing to charge a commercially reasonable rate, recommend to the Public Utilities Commission that the towing company's Certificate of Public Convenience and Necessity be revoked; and
  - If the amount originally billed by the towing company is less than or equal to the amount determined to be appropriate, a penalty of up to three times the difference between the undisputed amount and the amount determined to be appropriate to be paid by the insurance company.
- Specifies that decisions of the Board may be appealed to the Court of Common Pleas of Franklin County.
- Requires the Board to issue a report to the General Assembly that includes specified information, including the number of complaints filed with the Board during its first two years of existence and the number of penalties imposed against insurance companies and towing companies.



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## CONTENT AND OPERATION

### Salvage title to certain inoperable vehicles

The bill allows an authorized entity to obtain a salvage certificate of title to a vehicle in its possession for purposes of disposing of the vehicle through a motor vehicle salvage dealer or scrap metal processing facility if the vehicle:

(1) Has a value of less than \$1,500 (the wholesale value for that make and model of motor vehicle at the time an affidavit is submitted, minus all of the following: the estimated cost of repairs to restore the motor vehicle to the wholesale value, a towing fee if the motor vehicle was towed by the party seeking title to the motor vehicle, storage fees for the period of time the motor vehicle was stored without payment up to a maximum of 30 days);

(2) Is apparently inoperable; and

(3) Is impossible to restore for highway operation.

In order to obtain the salvage certificate of title under the bill, an authorized entity must comply with the steps set forth below. An authorized entity is any business with which a person entered into an agreement for the repair of a motor vehicle, any for-hire motor carrier that tows motor vehicles, or any place to which such a for-hire motor carrier delivers a towed motor vehicle for storage.<sup>1</sup>

#### **Step 1: Notice to the owner and lienholder of the vehicle**

The authorized entity must cause a search to be made of the records of the Bureau of Motor Vehicles in order to determine the identity of the owner or any lienholder of the motor vehicle. Within eight business days after the Registrar of Motor Vehicles provides the identity of the owner and any lienholder of a motor vehicle, if the vehicle remains unclaimed, the authorized entity must send written notice to any owner and any lienholder of the vehicle by certified or express mail with return receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.<sup>2</sup>

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<sup>1</sup> R.C. 4505.103(A)(1) and (D)(1) and (3).

<sup>2</sup> R.C. 4505.103(A)(2).



## **Step 2: Obtain a salvage certificate of title**

Not sooner than 30 days after notice to the owner and any lienholder has been received (as evidenced by a receipt signed by any person) or the authorized entity has been notified that delivery of the notice was not possible, an agent of the authorized entity may complete and sign an affidavit attesting that the vehicle qualifies for disposal and that all applicable requirements have been met. The affidavit must be on a form prescribed by the Registrar of Motor Vehicles and must include the make and model of the vehicle; the vehicle identification number (if available); an itemized statement of the value of the motor vehicle; a description of the damage to the motor vehicle; the length of time the motor vehicle has remained unclaimed; that a notice to remove the vehicle has been sent to any owner or lienholder; and that a search of the records of the BMV has been made for outstanding liens. The authorized entity also must photograph the vehicle to substantiate the determination that the value of the motor vehicle is less than \$1,500.<sup>3</sup>

An agent of the authorized entity may present the affidavit, along with the photographs, an application for a salvage certificate of title, and a fee of \$4 to the clerk of courts. Upon receipt of a properly executed application, the clerk of courts must issue a salvage certificate of title to the motor vehicle, on a form prescribed by the Registrar and mark the certificate of title with the words "FOR DESTRUCTION." The clerk also must retain a record of the issuance of the salvage certificate of title and all accompanying documentation in the automated title processing system for not less than ten years. The clerk must deposit the \$4 fee into the certificate of title administration fund, which is used to pay the costs incurred by the clerk in processing titles.<sup>4</sup>

Under the bill, such a salvage certificate of title is free and clear of all liens and must be used solely for purposes of disposing of the vehicle through a motor vehicle salvage dealer or a scrap metal processing facility. If a salvage certificate of title has been issued using this procedure, the bill prohibits the use of the motor vehicle for anything except parts and scrap metal.<sup>5</sup>

## **Step 3: Disposal of the vehicle**

### **Disposal under the bill**

After obtaining a salvage certificate of title, the authorized entity may dispose of the vehicle through a salvage dealer or scrap metal processing facility. "Scrap metal

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<sup>3</sup> R.C. 4505.103(A)(3).

<sup>4</sup> R.C. 325.33, not in the bill, and 4505.103(B).

<sup>5</sup> R.C. 4505.103(B).



processing facility" means an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes.<sup>6</sup>

At the time of disposal, the authorized entity must deliver the salvage certificate of title to the salvage dealer or scrap metal processing facility for its records. The authorized entity is permitted to retain any money arising from the disposal of the vehicle.<sup>7</sup>

### **Disposal under current law**

There are three provisions of current law that authorize the disposal of a motor vehicle by law enforcement in circumstances that overlap with those provided in the bill. The first provision allows a county sheriff or the chief of police of a municipal corporation, township, or joint police district to order an unclaimed vehicle that was towed from private property, from the street, or after coming into the possession of law enforcement to be disposed of through a motor vehicle salvage dealer or scrap metal processing facility or to be sold at a public auction. Any money in excess of the towing and storage expenses is credited to the general fund of the county, municipal corporation, township, or joint police district, as applicable.<sup>8</sup>

The second provision allows a county sheriff or the chief of police of a municipal corporation, township, or joint police district to order the disposal of an "abandoned junk motor vehicle" through a motor vehicle salvage dealer or scrap metal processing facility that is under contract with the county, township, or municipal corporation. Any money arising from the disposal of an abandoned junk motor vehicle is deposited in the general fund of the county, township, or municipal corporation, as applicable. An abandoned junk motor vehicle is defined as a vehicle that meets all of the following requirements:

(1) It is left on private property for 48 hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for 48 hours or longer;

(2) It is three years old or older;

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<sup>6</sup> R.C. 4505.103(D)(2) and 4737.05(D), not in the bill.

<sup>7</sup> R.C. 4505.103(C).

<sup>8</sup> R.C. 4513.62, not in the bill.





(3) It is extensively damaged, including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(4) It is apparently inoperable; and

(5) It has a fair market value of \$1,500 or less.<sup>9</sup>

The third provision allows a county sheriff or the chief of police of a municipal corporation, township, or joint police district to dispose of a vehicle that was towed from the street or after coming into the possession of law enforcement and that is extensively damaged, apparently inoperable, and has a fair market value of \$1,500 or less if the vehicle has remained unclaimed for ten days or longer after the sheriff or chief of police has provided notice to the owner or lienholder. The means of disposal and the disposition of money arising from the disposal is the same as in the second provision above.<sup>10</sup>

### **Title to an unclaimed vehicle**

Under current law, there are two circumstances in which an entity in possession of a vehicle may be able to obtain title to the vehicle (discussed below). Under both circumstances, the vehicle must have a "value" of less than \$3,500. The bill modifies the existing processes in the following ways:

(1) The bill raises the threshold value of a vehicle for purposes of determining whether an entity in possession of the vehicle may take title to it under either circumstance from \$3,500 to \$4,400.

(2) The bill allows for the deduction of towing and storage fees from the amount an entity must pay to the clerk of courts in order to obtain title to the vehicle.

(3) The bill modifies the procedure under Circumstance 1 (below) if the person who requested the repair or who agreed to the storage of the motor vehicle is not an owner or a lienholder of the motor vehicle.

### **Background**

#### **Circumstance 1: Vehicles left at a repair garage or place of storage**

Under current law, a repair garage or place of storage may take title to a vehicle if all of the following apply:

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<sup>9</sup> R.C. 4513.63, not in the bill.

<sup>10</sup> R.C. 4513.63, not in the bill.



(1) The motor vehicle has a value of less than \$3,500;

(2) The vehicle has been left unclaimed for 15 days or more following the completion of a requested repair or agreed term of storage;

(3) The repair garage or place of storage complies with requirements governing the mailing of notice to the vehicle owner and any lienholder and the vehicle remains unclaimed 15 days after the mailing of all required notices; and

(4) The repair garage or place of storage submits a properly executed affidavit to the clerk of courts.<sup>11</sup>

### **Circumstance 2: Vehicles towed from a private tow-away zone**

Under current law, a towing service or storage facility may obtain title to a vehicle if all of the following apply:

(1) The vehicle was towed from a private tow-away zone;

(2) The vehicle has a value of less than \$3,500;

(3) The owner of the towing service or storage facility complies with requirements governing notice to the vehicle owner and any lienholder;

(4) The vehicle has been left unclaimed for 60 days after an initial notice is provided; and

(5) The owner of the towing service or storage facility submits a properly executed affidavit to the clerk of courts.<sup>12</sup>

### **Vehicle valuation**

The bill raises the "value" of a vehicle for purposes of determining whether an entity in possession of the vehicle may take title to it under either circumstance above from \$3,500 to \$4,400.<sup>13</sup> The bill retains the existing method of determining the "value" of the vehicle. Under current law, the value of a motor vehicle is the wholesale value for that make and model of motor vehicle at the time the affidavit is submitted (as provided in a vehicle valuation guide that is generally available and recognized by the

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<sup>11</sup> R.C. 4505.101(A).

<sup>12</sup> R.C. 4505.101(B).

<sup>13</sup> R.C. 4505.101(A)(1) and (B)(2).

motor vehicle industry) minus: (1) the estimated cost of repairs to restore the motor vehicle to the wholesale value, and (2) the cost of any agreed-upon repairs.<sup>14</sup>

### **Payment to the clerk of courts**

Under current law, when obtaining a certificate of title to a motor vehicle under either circumstance above, the repair garage or place of storage or towing service or storage facility must pay the value of the vehicle, as determined above, to the clerk of courts. The bill allows the entity to deduct both of the following from the value:

(1) A towing fee, if the motor vehicle was towed by the party seeking title to the motor vehicle; and

(2) Storage fees for the period of time the vehicle was stored without payment.<sup>15</sup>

With the exception of the fees for the towing and storage of a vehicle that is removed from private property or a private tow-away zone (see "**Statutory towing and storage fees**," below), towing and storage fees are not established by law and may be set by the entity responsible for the towing or storage of the vehicle.

### **Additional procedures**

The bill specifies that a repair garage or place of storage may take title to a vehicle under Circumstance 1 (above) even if the person who requested the repair or who agreed to the storage of the motor vehicle is not an owner or a lienholder of the motor vehicle as indicated in the records of the Bureau of Motor Vehicles. However, if that person is not an owner or lienholder, in addition to the above requirements, the repair garage or place of storage must notify the sheriff of the county or the police department of the municipal corporation, township, or township or joint police district in which the repair garage or place of storage is located that the repair garage or place of storage is in possession of the motor vehicle.<sup>16</sup>

### **Penalties for towing violations**

The bill modifies the penalties that may be imposed by a court in a civil action initiated against a towing service or storage facility for a violation of the law governing the removal of a vehicle from private property or a private tow-away zone or the law governing the provision of estimates for certain towing services. Under current law, the

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<sup>14</sup> R.C. 4505.101(E)(3).

<sup>15</sup> R.C. 4505.101(C)(3) and (E)(3).

<sup>16</sup> R.C. 4505.101(A)(1) and (C)(2).



court must impose the following penalties against a towing service or storage facility if the court determines that the entity committed a violation:<sup>17</sup>

| <b>Table 1: Existing penalties for towing violations</b>           |  |
|--|--|
| <b>Number of prior violations within one year of the violation</b> | <b>Penalty</b>   |
| 0  | \$1,000  |
| 1  | \$2,500  |
| 2  | \$2,500 and a six-month revocation of the towing service's or storage facility's certificate of public convenience and necessity (After the expiration of the six-month revocation, a court cannot consider any violation committed by the towing service or storage facility prior to the revocation for purposes of a civil action initiated after the expiration of the six-month revocation) |

*If a court determines that a towing service or storage facility committed a violation that caused actual damages, the court must award the vehicle owner three times the actual damages and reasonable attorney's fees.*

### **Under the bill**

The bill establishes a two tier system of penalties that may be imposed in such a civil action by classifying violations of the towing law as major and minor violations. The penalties for major violations are similar to the penalties under current law, while the penalties for minor violations are less severe. The penalties under the bill for major violations are as follows:<sup>18</sup>

| <b>Table 2: Penalties for <i>major</i> towing violations under the bill</b>     |  |
|---|--|
| <b>Number of prior <i>major</i> violations within one year of the violation</b> | <b>Penalty</b>   |
| 0   | \$1,000  |
| 1   | \$2,500  |
| 2   | \$3,500 and a six-month revocation of the towing service's or storage facility's certificate of public convenience and necessity (After the expiration of the six-month revocation, a court cannot consider any violation committed by the towing service or storage facility prior to the revocation for purposes of a civil action initiated after the expiration of the six-month revocation) |

<sup>17</sup> R.C. 4513.611(B) and (C).

<sup>18</sup> R.C. 4513.611(B)(3).



The penalties under the bill for a minor violation are as follows:<sup>19</sup>

| <b>Table3: Penalties for <i>minor</i> towing violations under the bill</b>      |   |
|---|---|
| <b>Number of prior <i>minor</i> violations within one year of the violation</b> | <b>Penalty</b>                                  |
| 0   | \$150   |
| 1   | \$350   |
| 2   | Count as a major violation (see <b>Table2</b> ) |
| 3   | \$1,500   |
| 4   | \$2,000   |
| 5   | Count as a major violation (see <b>Table2</b> ) |
| 6   | \$2,500   |
| 7   | \$2,500   |
| 8   | Count as a major violation (see <b>Table2</b> ) |

### **Major violations**

A major violation is any of the following:

- (1) Failure to give the owner of a vehicle, who arrives after the owner's vehicle has been prepared for removal but prior to its actual removal, notification that the owner may pay a "drop fee" (equal to not more than one-half of the fee for the removal of the vehicle) for the immediate release of the vehicle as required under the laws governing tows from private property and private tow-away zones;
- (2) Failure to release a vehicle upon payment of a drop fee (as discussed above);
- (3) Refusal to allow a vehicle owner to reclaim the owner's vehicle upon payment of the applicable fees established by the Public Utilities Commission and presentation of proof of ownership as required under the laws governing tows from private property and private tow-away zones;
- (4) Refusal to allow a vehicle owner to retrieve personal items from the owner's vehicle under circumstances in which the owner is permitted to retrieve personal items under the laws governing tows from private property and private tow-away zones;

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<sup>19</sup> R.C. 4513.611(B)(2).

(5) Failure to provide notice to the appropriate law enforcement agency within two hours of removing a vehicle as required under the private tow-away zone law; and

(6) Failure to send notice that a vehicle has been towed to the vehicle owner and any known lienholder within 30 days of removal of the vehicle from a private tow-away zone. (If a court determines that a towing service or storage facility committed this violation and a minor violation for failure to send notice to the owner as provided in minor violation (5) below with regard to the same transaction, the court must find the towing service or storage facility liable for only the major violation.)

(7) Failure to visibly display the certificate of public convenience and necessity number on both sides of a towing vehicle.<sup>20</sup>

### **Minor violations**

A minor violation is any of the following:

(1) Failure to deliver a vehicle to the designated location within two hours after removal, unless impracticable, as required under the laws governing tows from private property and private tow-away zones;

(2) Failure to provide a receipt as required under the laws governing tows from private property and private tow-away zones;

(3) Failure to take a towed vehicle to a location that meets the requirements of the private tow-away zone law;

(4) Failure to comply with any photograph-related requirement established under the private tow-away zone law. (If a court determines that a towing service or storage facility committed more than one violation of the photograph-related requirements with regard to the same transaction, the court must find the towing service or storage facility liable for only one minor violation.)

(5) Failure to send notice to the owner and any lienholder as required under the private tow-away zone law;

(6) Failure to provide an estimate, upon request, when a vehicle is towed other than from private property, a private tow-away zone, or by law enforcement, containing the required information;

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<sup>20</sup> R.C. 4513.611(A)(2).

(7) Charging a fee that does not comply with fee limitations for failure to provide an estimate; and

(8) Failure to post a notice pertaining to the fee limitations for failure to provide an estimate.<sup>21</sup>

### **Multiple violations**

Under the bill, if the civil action alleges multiple violations, the court must award a penalty for each violation for which the towing service or storage facility is determined to be liable. The court must consider each violation as a separate violation for purposes of determining how many violations the towing service or storage facility has committed within one year. In determining if a towing service or storage facility has committed prior violations within one year, the court must consider only violations that have been determined by a court of competent jurisdiction to have been committed by the towing company or storage facility.<sup>22</sup>

### **Copy of judgment**

The bill also requires a court that issues a judgment in a civil action against a towing service or storage facility to send a copy of the judgment to the Public Utilities Commission. The Commission must provide a copy of the judgment upon request.<sup>23</sup>

### **Penalty for failure to obtain a valid certificate of public convenience and necessity**

The bill prohibits a towing service from permitting the operation of a towing vehicle on behalf of the towing service unless the towing service holds a valid certificate of public convenience and necessity. The bill specifies that this is a strict liability offense. A violation of this prohibition is a minor misdemeanor on the first offense and a towing service that is issued a citation for the violation is not permitted to enter a written plea of guilty and waive the right to contest the citation in a trial but instead must designate an agent to appear in person in the proper court to answer the charge. If the towing service is convicted of or pleads guilty to the offense, the court must notify the towing service that a subsequent offense will result in the seizure and impoundment of any tow truck that is used to tow vehicles on behalf of the towing

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<sup>21</sup> R.C. 4513.611(A)(1).

<sup>22</sup> R.C. 4513.611(B)(4) and (5).

<sup>23</sup> R.C. 4513.611(D).



service until the towing service obtains a certificate of public convenience and necessity.<sup>24</sup>

If the towing service previously has been convicted of or pleaded guilty to such a violation, the violation is an unclassified misdemeanor. The court is required to impose upon the towing service a \$500 fine. The court also must require the towing service to disclose the license plate number of every vehicle used to tow vehicles on behalf of the towing service and order an appropriate law enforcement agency to seize and impound all such vehicles. Upon presentation of a certificate of public convenience and necessity for the towing service, the court must terminate the order and the law enforcement agency in possession of the vehicles must release the vehicles.<sup>25</sup>

Under current law, if a towing service does not hold a valid certificate of public convenience and necessity, both of the following prohibitions apply:

(1) No person shall operate a towing vehicle for the towing service; and

(2) No person who owns a towing vehicle used by the towing service, or who has supervisory responsibility over a towing vehicle used by the towing service, shall permit the operation of a towing vehicle used by the towing service.<sup>26</sup>

There is no existing penalty for a violation of either of the above prohibitions.

### **Written contract for removal of a vehicle from a private tow-away zone**

The bill prohibits a towing service from removing a vehicle from a private tow-away zone other than pursuant to a written contract entered into with the owner of the private property on which the private tow-away zone is located. A violation of this prohibition is a minor misdemeanor.<sup>27</sup>

### **Kickbacks**

The bill prohibits a towing service from knowingly offering or providing compensation, financial or otherwise, in exchange for the authorization to tow motor vehicles from a specified location or on behalf of the person to whom the towing service offered or provided compensation. The bill specifies that this prohibition does not

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<sup>24</sup> R.C. 4513.67(B)(1) and (D)(1) and (3).

<sup>25</sup> R.C. 4513.67(D)(2).

<sup>26</sup> R.C. 4513.67(B)(1).

<sup>27</sup> R.C. 4513.601(B)(3).



prohibit a towing service from negotiating or reducing towing and storage fees. A violation of this prohibition is a minor misdemeanor.<sup>28</sup>

## Towing and storage fees

### Fees related to tows from private property or a private tow-away zone

The bill eliminates the existing statutory towing and storage fees for the removal of a vehicle from private property or a private tow-away zone and instead requires the Public Utilities Commission to adopt rules, under the Abbreviated Rulemaking Act, within one year of the effective date of the bill that establish maximum fees that may be charged with regard to those types of tow.<sup>29</sup> Until the rules are adopted, the bill specifies that the existing statutory fee amounts remain in effect.<sup>30</sup> The bill further requires the Commission to establish a process for reviewing the fees every five years, beginning on the five-year anniversary of the date the initial rules are adopted, to determine whether the fees are just, reasonable, and compensatory. If the Commission determines that any existing fee is not just, reasonable, or compensatory, the Commission must adjust the fee by rule so that it is equal to an amount the Commission determines to be appropriate.<sup>31</sup> The bill also allows a municipal corporation to establish different towing and storage fees for the removal of a vehicle within its territory from private property other than a private tow-away zone.<sup>32</sup>

Under current law, the statutory towing and storage fees for vehicle removals from private property, including private tow-away zones, are as follows:<sup>33</sup>

| <b>Type of fee</b> | <b>Standard vehicle</b> | <b>Truck, bus, or commercial tractor and trailer/semitrailer with a gross vehicle weight rating of greater than 10,000 pounds</b> |
|--------------------|-------------------------|---|
| Towing fee         | \$90                    | \$150   |
| Storage fee        | \$12 per 24 hour period | \$20 per 24 hour period   |

<sup>28</sup> R.C. 4513.612.

<sup>29</sup> R.C. 4513.60(B) and (D)(1), 4513.601(B)(1), (C), and (G)(1), 4513.68(C), and R.C. 4921.25(B)(4).

<sup>30</sup> Section 3.

<sup>31</sup> R.C. 4921.25(B)(5).

<sup>32</sup> R.C. 4513.60(B) and (D)(1).

<sup>33</sup> R.C. 4513.60(D)(1) and 4513.601(G)(1)(b).



## **Reduced storage fee for lienholders**

The bill allows a lienholder to reclaim a vehicle that was towed from a private tow-away zone without paying the storage fee for any period of time prior to the date the lienholder received a notice from the towing service or storage facility that the vehicle had been towed. Under current law, the lienholder is required to pay storage fees for the entire period the vehicle was held by the towing service or storage facility.<sup>34</sup>

## **Fee for after-hours retrieval of personal items**

The bill authorizes a towing service or storage facility to charge a fee for the retrieval of personal items from a towed vehicle if the owner retrieves the personal items after-hours. The bill specifies that the after-hours retrieval fee may only be charged if the entity in possession of the vehicle is not open to the public and is not required to be open under the law governing the business hours of a storage facility (see "**After-hours retrieval of a towed vehicle**," below). As specified above, the Public Utilities Commission is required to establish the after-hours retrieval fee by rule.<sup>35</sup>

## **Use of a credit card to pay a "drop fee"**

Under current law, if the owner or operator of a motor vehicle that is being towed from private property or from a private tow-away zone arrives after the motor vehicle has been prepared for removal but prior to the removal of the vehicle, the owner or operator may pay a fee of not more than half of the fee for removal of the vehicle to the towing service in order to have the vehicle released. This is commonly called a "drop fee." The bill specifies that the owner or operator may pay a drop fee with a major credit card.<sup>36</sup>

## **Delivery of a towed vehicle**

The bill modifies the law governing the delivery of a vehicle that is removed by a towing service from private property or a private tow-away zone. Under current law, a towing service is required to deliver a towed vehicle not more than two hours after the time it is removed as follows:

(1) If the vehicle is removed from private property it must be delivered to a location specified by the law enforcement officer that ordered the removal.

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<sup>34</sup> R.C. 4513.601(G)(1)(b).

<sup>35</sup> R.C. 4513.60(D)(2), 4513.601(G)(3), 4513.61(C)(2), and 4921.25(B)(6).

<sup>36</sup> R.C. 4513.60(B) and 4513.601(C).



(2) If the vehicle is removed from a private tow-away zone it must be delivered to the location from which it may be recovered.

The bill qualifies this requirement by specifying that the vehicle must be delivered within two hours *unless it is not practicable*.<sup>37</sup> The bill also specifies that a vehicle removed from a private tow-away zone must be taken to a location within 25 linear miles (unless it is not practicable), rather than 20 miles (unless it is not practicable) as under current law.<sup>38</sup>

### **Notice that a person may file a civil action**

The bill requires a towing service or storage facility, in specified circumstances, to notify the owner of a towed vehicle that if the owner disputes that the motor vehicle was lawfully towed the owner may be able to file a civil action. Those circumstances are as follows:

(1) If the vehicle was towed from private property, the notice must be provided when the owner retrieves the vehicle;<sup>39</sup>

(2) If the vehicle was towed from a private tow-away zone, the notice must be provided when the owner retrieves the vehicle or, if the vehicle owner has not yet retrieved the vehicle, when the towing service or storage facility sends a notice to the owner.<sup>40</sup>

An authorized entity must provide such a notice to the owner of a vehicle to which the authorized entity is seeking to obtain a salvage title (see "**Salvage title to certain inoperable vehicles**," above).<sup>41</sup>

### **Notice to the owner of a vehicle towed from a private tow-away zone**

The bill extends the timeframe for notifying the owner of a vehicle that has been towed from a private tow-away zone. Under current law, when a vehicle is removed from a private tow-away zone, the owner of the towing service or the storage facility from which the vehicle may be recovered must immediately cause a search of the BMV records to be conducted to identify the owner of the vehicle and any lienholder. The

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<sup>37</sup> R.C. 4513.60(A)(2) and 4513.601(D)(2).

<sup>38</sup> R.C. 4513.601(A)(2)(a).

<sup>39</sup> R.C. 4513.60(D)(1).

<sup>40</sup> R.C. 4513.601(F)(4) and (G)(3).

<sup>41</sup> R.C. 4505.103(A)(2).

owner of the towing service or storage facility then must send notice to the owner and any lienholder within five business days of the removal. The bill instead requires that the BMV search be conducted within five business days of the removal and that a notice must be sent to the vehicle's owner and any lienholder within five business days after the Registrar of Motor Vehicles provides the identity of the owner and any lienholder.<sup>42</sup>

### **Notice to the owner of a vehicle ordered into storage by law enforcement**

The bill extends the timeframe for notifying the owner of a vehicle that has been ordered into storage by law enforcement. Under current law, the sheriff of a county, the chief of police of a municipal corporation, township, or joint police district, or a state highway patrol trooper may order a vehicle into storage if any of the following applies:

(1) The vehicle has come into the possession of the sheriff, chief of police, or trooper as a result of the performance of their duties;

(2) The vehicle has been left on a public street or other property for 48 hours or longer without notification to law enforcement; or

(3) The vehicle constitutes an obstruction to traffic.<sup>43</sup>

If the sheriff, chief, or trooper orders the removal, the sheriff or chief of police must immediately cause a search of the records of the BMV records to identify the owner of the vehicle and any lienholder. The bill instead requires that the search be conducted within five business days of the removal of the vehicle. Under current law, unchanged by the bill, the sheriff or chief then must send notice to the owner or lienholder.<sup>44</sup>

### **Storage facility hours of operation**

The bill modifies the periods of time during which a storage facility is required to be open in order to allow a vehicle owner or lienholder to retrieve a vehicle in the possession of the storage facility. Under current law, a storage facility is required to be open during both of the following periods of time:

(1) Any time during which a towing service is towing a vehicle pursuant to the various towing statutes (tows from private property, private tow-away zones, and from

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<sup>42</sup> R.C. 4513.601(F)(1).

<sup>43</sup> R.C. 4513.61(A).

<sup>44</sup> R.C. 4513.61(C)(1).



the street or after coming into the possession of law enforcement) when the vehicle will be held by the storage facility;

(2) Between 9 a.m. and noon on the day after any day during which the storage facility accepted for storage a vehicle towed under the towing statutes.

The bill removes the requirement under (1) above that the storage facility remain open during periods of time that a towing service is towing a vehicle from private property or from the street or after coming into the possession of law enforcement.<sup>45</sup>

### **After-hours retrieval of a towed vehicle**

The bill eliminates the requirement that the owner of a storage facility must ensure that, within three hours of receiving a call from the owner of a towed vehicle, a representative of the storage facility is available to release the vehicle. Instead, the bill specifies that if, after receiving a call from the owner or lienholder of a vehicle who seeks to recover the vehicle, the storage facility makes a representative available during a period of time that the storage facility is closed to the public and is not required to be open (see "**Storage facility hours of operation**," above), the storage facility may charge the existing after-hours retrieval fee established by the Public Utilities Commission by rule.<sup>46</sup>

### **Retrieval of personal items from a towed vehicle**

The bill prohibits the owner of a motor vehicle that has been towed from retrieving personal items from the motor vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.<sup>47</sup>

### **Written estimates for certain towing services**

The bill modifies the requirement that a towing service provide a written estimate for towing services under specified circumstances. Under current law, a towing service must provide a written estimate for the price of the removal of a vehicle in all circumstances except when the vehicle is being removed from private property, from a private tow-away zone, after coming into the possession of law enforcement, or from an accident scene. The towing service is not required to provide the estimate if the vehicle operator is incapacitated, seriously injured, or otherwise unavailable to accept the estimate. The bill removes the provisions governing incapacitated, injured, and

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<sup>45</sup> R.C. 4513.69(A).

<sup>46</sup> R.C. 4513.69(B)(2).

<sup>47</sup> R.C. 4513.60(D)(2)(b), 4513.601(G)(4), and 4513.61(C)(2)(b).



unavailable vehicle operators and, instead, requires a towing service to provide the estimate only if requested.<sup>48</sup>

Current law also specifies that if a towing service fails to provide such an estimate, the towing service is prohibited from charging towing and storage fees that exceed 25% of the statutory fees for towing and storage under the private tow-away zone law. The bill modifies this provision by tying the 25% cap to either the fees established by the Public Utilities Commission (see "**Towing and storage fees**," above) or, if the vehicle is towed within a municipal corporation that has established removal and storage fees, to those fees established by the municipal corporation.<sup>49</sup>

## **Towing and Quick Clear Board**

The bill creates the Towing and Quick Clear Board to hear claims from insurance companies objecting to towing and storage fees charged by towing companies. The Board consists of members representing the Department of Transportation or the Ohio Turnpike and Infrastructure Commission, the Department of Public Safety, the Public Utilities Commission (PUCO), the towing industry, and the motor vehicle insurance industry.

Under the bill, an insurance company, on its own behalf, on the behalf of the holder of a policy of automobile insurance, or on behalf of a motor vehicle owner, may file a short plain statement with the Board objecting to the amount of any portion of a bill for the towing of a motor vehicle for which the insurance company is responsible for payment. The insurance company must file the statement within 30 days of the receipt of the bill by the insurance company. The statement must include the amount of the bill that is undisputed and the reasons the insurance company objects to the remainder of the bill. Along with the short plain statement, the insurance company must include a copy of the invoiced bill.<sup>50</sup>

If an insurance company files a statement as specified above, the insurance company must immediately provide a copy of the statement and pay the undisputed portion of the bill to the towing company that performed the service. Within one business day after receipt of a copy of the statement and the payment, the towing company must release the motor vehicle from storage to the owner of the motor vehicle or a representative of the insurance company. The Board may impose a penalty of \$100 per day against a towing company for each day the towing company holds the motor

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<sup>48</sup> R.C. 4513.68(A).

<sup>49</sup> R.C. 4513.68(C).

<sup>50</sup> R.C. 4921.27(A)(1).



vehicle after the towing company is required to release it. The towing company must pay the penalty to the Board to be deposited into the Towing and Quick Clear Fund (see below).<sup>51</sup>

## **Hearing**

With regard to a claim made by an insurance company, the Board must hold a public hearing in accordance with rules and procedures adopted by the Board. The purpose of the hearing is to resolve the dispute over the towing bill. The hearing must address a single dispute and, in the event that one or both parties are involved in multiple disputes, the disputes must be handled in separate proceedings. Upon completion of a hearing, the Board must issue a written decision that includes the amount the Board determines to be appropriate for the services rendered by the towing company and the reasons supporting that determination. The Board also must order the insurance company to pay the amount the Board determined to be appropriate minus the undisputed amount the insurance company has already paid to the towing company.<sup>52</sup>

## **Penalties and damages**

If the amount originally billed by the towing company exceeds the amount determined to be appropriate by the Board, the Board may order the towing company to pay a penalty of not more than \$1,000 to the Board to be deposited into the Towing and Quick Clear Fund. The Fund is administered by the Board and money in it must be used solely for purposes of executing the duties of the Board. All investment earnings of the Fund must be credit to the Fund.<sup>53</sup> If the Board determines that the towing company has engaged in a pattern and practice of failing to charge a commercially reasonable rate, the Board may recommend to the PUCO that the towing company's Certificate of Public Convenience and Necessity be revoked.

If the amount originally billed by the towing company is less than or equal to the amount determined to be appropriate by the Board, the Board may require the insurance company to pay to the towing company an amount up to three times the difference between the undisputed amount and the amount the board determined was appropriate.<sup>54</sup>

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<sup>51</sup> R.C. 4921.27(A)(2).

<sup>52</sup> R.C. 4921.26(E) and 4921.27(B)(1).

<sup>53</sup> R.C. 4921.26(F).

<sup>54</sup> R.C. 4921.27(B)(2) and (3).



## Appeal

A decision of the Board may be appealed to the Court of Common Pleas of Franklin County. The Court may modify a decision of the Board only if the Court determines that the decision of the Board involved an abuse of discretion.<sup>55</sup>

## Reporting requirement

Not later than the date that is 25 months after the bill's effective date, the Board must issue a report to the General Assembly. The report must include all of the following:

(1) The number of complaints objecting to a bill for the towing of a motor vehicle that have been filed with the Board within the two years the Board has been in existence;

(2) Whether the number of complaints filed has diminished or increased over the two years the Board has been in existence;

(3) The number of times the Board has imposed a penalty against an insurance company under the bill;

(4) The number of times the Board has imposed a penalty against a towing company under the bill;

(5) The number of times the PUCO has revoked a towing company's certificate of public convenience and necessity due to the Board's determination that the company engaged in a pattern and practice of failing to charge a commercially reasonable rate; and

(6) A list of the towing companies and insurance companies upon which the Board has imposed penalties on multiple occasions, if any, and the dates those penalties were imposed.<sup>56</sup>

## Other Board requirements

Under the bill, the Governor is required to make appointments to the Board, with the advice and consent of the Senate. The initial appointees serve staggered terms of either two, four, or six years. Thereafter, all members serve six-year terms. The Board must meet at least once each calendar year and upon the call of the chairperson who

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<sup>55</sup> R.C. 4921.27(B)(4).

<sup>56</sup> Section 4.





must be a representative of the PUCO. The Board also must select one member as a vice-chairperson and must appoint an executive secretary and such other employees as it considers necessary to carry out its powers and duties. Each member of the Board must serve without compensation, but must be reimbursed for reasonable and necessary expenses incurred in the discharge of the member's duties. The PUCO must provide the Board with a meeting place, supplies, and staff assistance as the Board requests.<sup>57</sup>

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## HISTORY

| ACTION                   | DATE     |
|--------------------------|----------|
| Introduced               | 09-28-15 |
| Reported, H. State Gov't | 05-03-16 |

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<sup>57</sup> R.C. 4921.26(A) through (D).

