



# OHIO LEGISLATIVE SERVICE COMMISSION

## Final Analysis

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### **Am. Sub. H.B. 341** 131st General Assembly (As Passed by the General Assembly)

**Reps.** Young and Sweeney, Becker, Boose, Hall, Retherford, Terhar, Thompson, Amstutz, Barnes, Boyd, Conditt, Dever, Green, Grossman, Hambley, Howse, G. Johnson, Rogers

**Sens.** LaRose, Eklund, Gardner, Hackett, Hite, Seitz, Yuko

**Effective date:** April 6, 2017

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## ACT SUMMARY

### Towing and storage fees

- Eliminates the statutorily prescribed maximum fees for the removal and storage of a vehicle towed from private property or a private tow-away zone and authorizes the Public Utilities Commission to establish new fees by rule.
- Requires the Commission to establish a process for reviewing the fees every five years and to adjust any fee that it 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, that differ from those established by the 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 the lienholder received a notice indicating that the vehicle had been towed.
- Generally authorizes a towing service or storage facility to charge an after-hours retrieval fee for the retrieval of personal items from a vehicle that was towed from

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\* This version updates the effective date.

private property or from the street or after coming into the possession of law enforcement.

- Generally 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 civil penalties that a court may impose upon a towing service or storage facility for certain towing violations when a vehicle owner brings a civil action against the towing service or storage facility as authorized under continuing law.
- Eliminates the requirement that a storage facility remain open if a towing service is towing a vehicle from private property or from the street or after coming into the possession of law enforcement and the vehicle will be held by the storage facility.
- Eliminates the requirement that a storage facility ensure that, within three hours of receiving a call from the owner of a vehicle towed from private property or from the street or after coming into the possession of law enforcement, a representative of the storage facility is available to release the vehicle.
- Authorizes an insurance company to bring a civil action against a towing service for purposes of recovering a motor vehicle that has been towed, objecting to the amount billed by the towing service, or both.
- 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 if the towing service does not have a written contract with the owner of the property.
- Prohibits a towing service from knowingly offering or providing monetary 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.
- Allows a towing service to deliver a vehicle towed from private property or a private tow-away zone to a place of storage after the required two-hour delivery



window if the delay is due to an uncontrollable force, natural disaster, or unforeseeable event.

- Requires a towing service, storage facility, or repair 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.
- 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.
- Prohibits the owner of a motor vehicle that has been towed from retrieving personal items from the 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 provide a written estimate for towing services under specified circumstances, so that the requirement only applies if the estimate is requested.

### **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 an inoperable vehicle worth less than \$1,500 for purposes of disposing of the vehicle through a motor vehicle salvage dealer or scrap metal processing facility.

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

- When a repair garage, place of storage, towing service, or storage facility for towed vehicles pays the clerk of courts the value of a vehicle in order to obtain title to the vehicle under continuing law, allows the entity to deduct both of the following from the value:
  - 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 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 vehicle.



## Notice from a salvage motor vehicle auction

- Requires a salvage motor vehicle auction that is seeking a salvage title to a motor vehicle to send a written request for the removal of the vehicle to its owner and any known lienholder using a nationally recognized courier service, rather than by certified mail, return receipt requested, as under prior law.

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## CONTENT AND OPERATION

### Towing and storage fees

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

The act eliminates the former statutorily established towing and storage fees for removing a vehicle from private property or a private tow-away zone. Instead, the act requires the Public Utilities Commission to adopt rules under the Administrative Procedure Act by April 6, 2018 (one year after the act's effective date) that establish maximum fees that may be charged with regard to those types of tow. Until the rules are adopted, the act specifies that the former statutory fee amounts remain in effect. Those fees are as follows:<sup>1</sup>

<b>Table 1: Former statutory towing and storage fees</b>		
<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

The act 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 that establish new fees are adopted. In conducting the review, the Commission must 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>2</sup>

The act also allows a municipal corporation to establish towing and storage fees that differ from the fees established by the Commission for removing a vehicle from private property other than a private tow-away zone within its territory.<sup>3</sup>

#### Reduced storage fee for lienholders

The act allows a lienholder to reclaim a vehicle that was towed from a private tow-away zone without paying the storage fee for the period of time before the

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<sup>1</sup> R.C. 4513.60(D)(1), 4513.601(B)(1) and (G)(1)(b), 4921.25(B)(4), and Section 3.

<sup>2</sup> R.C. 4921.25(B)(5).

<sup>3</sup> R.C. 4513.60(B)(1) and (D)(1) and 4921.25(B)(4).



lienholder received notice from the towing service or storage facility that the vehicle had been towed. Under prior law, the lienholder was required to pay storage fees for the entire period the vehicle was held by the towing service or storage facility.<sup>4</sup>

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

The act authorizes a storage facility to charge a fee for the retrieval of personal items from a vehicle that was towed from private property (other than a private tow-away zone) or from the street or after coming into the possession of law enforcement if the owner retrieves the personal items after-hours. The Commission must establish the fee by rule. If a storage facility receives a call from a person who seeks to recover personal items from such a vehicle after-hours, the storage facility must notify the person that an after-hours retrieval fee applies and must state the amount of the fee. The storage facility may not charge the fee under either of the following circumstances:

(1) The owner of the vehicle called and the storage facility failed to provide the owner with notice of the fee and the fee amount; or

(2) The storage facility is open for business as required under the law governing the business hours of a storage facility (see "**Storage facility hours of operation**," below).<sup>5</sup>

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

The act allows the owner or operator of a motor vehicle to pay a "drop fee" with a major credit card unless a towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Under continuing law, an owner or operator of a motor vehicle that is being towed from private property or from a private tow-away zone may pay a "drop fee" if the owner or operator arrives after the vehicle has been prepared for removal by a towing service but prior to the removal of the vehicle. The "drop fee" may not exceed one-half of the standard fee for removal of the vehicle.<sup>6</sup>

### **Penalties for towing violations**

The act modifies the penalties that may be imposed by a court in a civil action that is 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

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<sup>4</sup> R.C. 4513.601(G)(1)(b).

<sup>5</sup> R.C. 4513.60(D)(2), 4513.61(C)(2), 4513.69(B)(3), and 4921.25(B)(6).

<sup>6</sup> R.C. 4513.60(B) and 4513.601(C).



the law governing the provision of estimates for certain towing services. Specifically, the act establishes a two-tiered system of penalties that may be imposed in the 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 prior law, while the penalties for minor violations are less severe.

The offenses are categorized as follows:

<b>Table 2: Classification of towing offenses under the act</b>	
<b>Major violations<sup>7</sup></b>	<b>Minor violations<sup>8</sup></b>
Failure to give the owner of a vehicle notification that the owner may pay a "drop fee" for the immediate release of the vehicle as required under the laws governing tows from private property and private tow-away zones	Failure to deliver a vehicle to the designated location within two hours after removal, as required under the laws governing tows from private property and private tow-away zones, unless the exception applies
Failure to release a vehicle upon payment of a drop fee	Failure to provide a receipt as required under the laws governing tows from private property and private tow-away zones
Refusal to allow a vehicle owner to reclaim their vehicle as required under the laws governing tows from private property and private tow-away zones	Failure to take a towed vehicle to a location that meets the requirements of the private tow-away zone law
Refusal to allow a vehicle owner to retrieve personal items from the owner's vehicle under the laws governing tows from private property and private tow-away zones	Failure to comply with any photograph-related requirement under the private tow-away zone law (If more than one such violation was committed with regard to the same transaction, the entity is liable for only one minor violation.)
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	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
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 towing service or storage facility committed this violation and the similar minor violation (see right) with regard to the same transaction, the towing service or storage facility is liable for only the major violation.)	Failure to send notice to the owner and any lienholder as required under the private tow-away zone law

<sup>7</sup> R.C. 4513.611(A)(2).

<sup>8</sup> R.C. 4513.611(A)(1).



<b>Table 2: Classification of towing offenses under the act</b>	
<b>Major violations<sup>7</sup></b>	<b>Minor violations<sup>8</sup></b>
Failure to visibly display the certificate of public convenience and necessity number on both sides of a towing vehicle	Charging a fee that does not comply with fee limitations for failure to provide an estimate
	Failure to post a notice of the fee limitations for failure to provide an estimate

Please note that the list of violations subject to a civil action does not include all possible violations under the Towing Law.

Under the act, the penalties for major and minor violations are as follows:<sup>9</sup>

<b>Table 3: Penalties for specified towing violations under the act</b>			
<b>Major violations</b>		<b>Minor violations</b>	
<b>Number of <i>major</i> violations within one year</b>	<b>Penalty</b>	<b>Number of <i>minor</i> violations within one year</b>	<b>Penalty</b>
		1	\$150
		2	\$350
1	\$1,000	3	Count as a major violation (see left)
		4	\$1,500
		5	\$2,000
2	\$2,500	6	Count as a major violation (see left)
		7	\$2,500
		8	\$2,500
3	\$3,500 and a six-month revocation of the towing service's or storage facility's certificate of public convenience and necessity*	9	Count as a major violation (see left)

\*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.

As shown in the table above, the penalty for a violation is enhanced based on the number of violations committed within one year of the violation for which the penalty

<sup>9</sup> R.C. 4513.611(B)(2) and (3).





is being imposed. Both major and minor offenses are considered for purposes of enhancing the penalty. For example, if a court determines that a towing service has committed a major violation, and the towing service has previously committed three minor violations within one year, the major violation would be considered a second major violation because the three minor violations add up to one prior major violation. Thus, the towing service would receive a \$2,500 fine. If a court determines that a towing service has committed a minor violation, and the towing service has previously committed five minor violations, the minor violation would be considered a second major violation (because each set of three minor violations equals a major violation) and the towing service would receive a \$2,500 fine. 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 service or storage facility.<sup>10</sup>

Under prior law, the court was required to impose the following penalties on a towing service or storage facility if the court determined that the entity committed a violation:<sup>11</sup>

<b>Table 4: Penalties for towing violations under prior law</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.*

The act retains the existing requirement that if a court determines that a towing service or storage facility committed a violation (major or minor) that caused actual damages, the court must award the vehicle owner three times the actual damages and reasonable attorney's fees.<sup>12</sup>

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<sup>10</sup> R.C. 4513.611(B)(5).

<sup>11</sup> R.C. 4513.611(B).

<sup>12</sup> R.C. 4513.611(C).



### **Multiple violations**

The act also clarifies how a court must handle multiple violations. Under the act, 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 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.<sup>13</sup>

### **Copy of judgment**

The act 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. As a result, it will be easier to determine the number of prior violations a towing service or storage facility has committed for purposes of enhancing the penalties for a violation based on prior violations.<sup>14</sup>

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

The act eliminates the requirement that a storage facility remain open during periods of time when one or more vehicles are being towed and will be brought to the storage facility from private property or from the street or after coming into the possession of law enforcement. However, the act retains the existing requirements that a storage facility be open during the following periods of time:

(1) Any time during which one or more vehicles are being towed and will be brought to the storage facility from a private tow-away zone; and

(2) Between 9 a.m. and noon on the day after any day during which the storage facility accepted for storage any vehicle towed under the towing statutes.<sup>15</sup>

The act also narrows the requirement that a storage facility ensure that a representative is available within three hours of receiving a phone call from a vehicle owner (at any time, day or night) to release the vehicle. Under the act, the three-hour release requirement only applies to vehicles that were towed from a private tow-away zone. Accordingly, the three-hour release requirement no longer applies to vehicles

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<sup>13</sup> R.C. 4513.611(B)(4).

<sup>14</sup> R.C. 4513.611(D).

<sup>15</sup> R.C. 4513.69(A).

towed from private property or from the street or after coming into the possession of law enforcement as under prior law.<sup>16</sup>

### **Civil action initiated by an insurance company**

The act authorizes an insurance company to file a civil action against a towing service seeking the recovery of a motor vehicle that has been towed, objecting to the amount billed by the towing service, or both. In order for an insurance company to file the action, a claim must have been filed with the insurance company with regard to the vehicle. The action may be filed on behalf of the insurance company, on behalf of the holder of a policy of automobile insurance, or on behalf of a motor vehicle owner. The insurance company must file the action in the municipal or county court with territorial jurisdiction over the location from which the vehicle was towed within 30 days of receipt of the bill for towing services. If the insurance company objects to the amount billed by the towing service, the complaint must include the amount of the bill that is undisputed and the reasons the insurance company objects to the remainder of the bill. The insurance company must file, along with the complaint, a copy of the bill and any evidence supporting the assertion that the billed amount is unreasonable. If the insurance company seeks the recovery of the vehicle, the insurance company also must pay the undisputed amount of the bill to the towing service.

Upon receipt of payment of the undisputed amount of the bill and not later than two business days after receiving service of the complaint, the towing service must release the vehicle that is the subject of the complaint to the owner of the vehicle or to a representative of the insurance company that filed the complaint. If the towing service fails to release the vehicle, the court is permitted to impose a penalty of up to \$100 per day against the towing service for each day the towing service fails to release the vehicle. The towing service must pay the penalties to the clerk of courts.

The court must make a determination as to whether the amount charged by the towing service is unreasonable. If the court determines that the amount is reasonable, the court must order the insurance company to pay the amount billed minus the undisputed amount that the insurance company paid to the towing service for the release of the vehicle, if such a payment was made. If the court determines that the amount charged was unreasonable, the court must determine a reasonable amount and order the insurance company to pay that amount minus the undisputed amount that the insurance company paid for the release of the vehicle, if such a payment was made.

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<sup>16</sup> R.C. 4513.69(B)(1) and (2).



The court also may require either party to pay any additional amount and may impose any monetary penalties the court determines to be appropriate.<sup>17</sup>

## **Other towing-related provisions**

### **Failure to obtain a valid certificate of public convenience and necessity**

The act 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. This is a strict liability offense and a towing service that is issued a citation for this 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. A violation of this prohibition is a minor misdemeanor on the first offense. 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 service until the towing service obtains a certificate of public convenience and necessity.

If the towing service previously has been convicted of or pleaded guilty to such a violation, the violation is an unclassified misdemeanor and the court must impose 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 the 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>18</sup>

Prior law prohibited any person from operating a towing vehicle for a towing service that did not hold a valid certificate of public convenience and necessity. It also prohibited any person who owned a towing vehicle used by the towing service, or who had supervisory responsibility over a towing vehicle used by the towing service, from permitting the operation of a towing vehicle by the towing service if the towing service did not hold a valid certificate of public convenience and necessity. There was no penalty for a violation of either of the prohibitions.<sup>19</sup>

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<sup>17</sup> R.C. 4513.70.

<sup>18</sup> R.C. 4513.67(B)(1) and (D).

<sup>19</sup> R.C. 4513.67(B)(1).



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

The act 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>20</sup>

## **Who may establish a private tow-away zone**

The act alters and expands the authority to establish a private tow-away zone by allowing all of the following persons to do so:

- (1) Any person who holds title to the property;
- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
- (3) A person who is authorized to manage the property; and
- (4) A duly authorized agent of any person listed above.

Under prior law, only the owner of private property could establish a private tow-away zone.<sup>21</sup>

## **Kickbacks**

The act prohibits a towing service from knowingly offering or providing monetary 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. The act specifies that this prohibition does not prohibit a towing service from negotiating or reducing towing and storage fees. A violation of this prohibition is a minor misdemeanor.<sup>22</sup>

## **Delivery of a towed vehicle**

The act modifies requirements related to the delivery of a vehicle that is removed by a towing service from private property or a private tow-away zone. A towing service generally must deliver a towed vehicle not more than two hours after the time it is removed as follows:

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<sup>20</sup> R.C. 4513.601(B)(3).

<sup>21</sup> R.C. 4513.601(A) and (K).

<sup>22</sup> R.C. 4513.612.



(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.

(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 act provides an exception if the towing service is unable to deliver the vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service. The act 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 prior law.<sup>23</sup>

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

The act requires a towing service or storage facility to notify the owner of a vehicle towed from private property or from a private tow-away zone that, if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action. The notice must be provided when the owner retrieves the vehicle.<sup>24</sup>

A towing service or storage facility also must provide the notice to the owner of a vehicle when the towing service or storage facility is seeking to obtain a salvage title for the vehicle (see "**Salvage title to certain inoperable vehicles**," below).<sup>25</sup>

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

Under the act, a towing service or storage facility must conduct a search of the Bureau of Motor Vehicles (BMV) records within three business days of the removal of a vehicle from a private tow-away zone to identify the vehicle owner and any lienholder. The service or facility must send a notice to the vehicle's owner and lienholder within five business days after the Registrar of Motor Vehicles provides the identity of the owner and lienholder. The Registrar must ensure that the information is provided to the towing service or storage facility in a timely manner.

Under prior law, the towing service or the storage facility was required to immediately cause a search of the BMV records to be conducted to identify the owner of

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<sup>23</sup> R.C. 4513.60(A)(2) and 4513.601(A)(2)(a) and (D)(2).

<sup>24</sup> R.C. 4513.60(D)(1) and 4513.601(G)(3).

<sup>25</sup> R.C. 4505.103(B)(2).



the vehicle and any lienholder and send notice to the owner and any lienholder within five business days of the removal of the vehicle from the private tow-away zone.<sup>26</sup>

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

The act extends the timeframe for notifying the owner of a vehicle that has been ordered into storage by law enforcement. Under continuing 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>27</sup>

If the sheriff, chief of police, or trooper orders the removal, the act requires the sheriff or chief of police to cause a search of the BMV records to identify the owner of the vehicle and lienholder within five business days of the removal of the vehicle. Under prior law, the sheriff or chief of police was required to immediately cause a search of the BMV records to identify the owner of the vehicle and lienholder.<sup>28</sup>

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

The act prohibits the owner of a motor vehicle that has been towed from retrieving personal items from the vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.<sup>29</sup>

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

The act modifies the requirement that a towing service provide a written estimate for towing services under specified circumstances. Under prior law, a towing service was required to provide a written estimate for the price of the removal of a vehicle in all circumstances except when the vehicle was being towed from private property, from a private tow-away zone, from an accident scene, or after coming into

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<sup>26</sup> R.C. 4513.601(F)(1).

<sup>27</sup> R.C. 4513.61(A).

<sup>28</sup> R.C. 4513.61(C)(1).

<sup>29</sup> R.C. 4513.60(D)(2)(b), 4513.601(G)(4), and 4513.61(C)(2)(b).

the possession of law enforcement. The towing service was not required to provide the estimate if the vehicle operator was incapacitated, seriously injured, or otherwise unavailable to accept the estimate. The act removes the provisions governing incapacitated, injured, and unavailable vehicle operators and, instead, requires a towing service to provide the estimate only if requested.<sup>30</sup>

## **Vehicle title-related provisions**

### **Salvage title to certain inoperable vehicles**

The act allows an authorized entity (a repair facility, towing service, or storage facility) 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) Is inoperable;

(2) Is impossible to restore for highway operation; and

(3) Has a value of less than \$1,500, which is calculated by subtracting the following from the wholesale value for that make and model of motor vehicle:

--The estimated cost of repairs to restore the vehicle to the wholesale value;

--A towing fee if the vehicle was towed by the party seeking title; and

--Storage fees for the time the vehicle was stored without payment, up to a maximum of 30 days.

In order to obtain a salvage certificate of title under the act, an authorized entity must comply with the steps set forth below.<sup>31</sup>

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

The authorized entity must cause a search to be made of BMV records 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, if the vehicle remains unclaimed, the authorized entity must send written notice to the owner and lienholder by certified or express mail with return

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<sup>30</sup> R.C. 4513.68(A).

<sup>31</sup> R.C. 4505.103(A)(1) and (4) and (B)(1).





receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.<sup>32</sup>

### **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, on a form prescribed by the Registrar, attesting that the vehicle qualifies for disposal and that all requirements have been met. The authorized entity also must photograph the vehicle to substantiate the determination that its value is less than \$1,500.<sup>33</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 at least ten years. The clerk must deposit the \$4 fee into the certificate of title administration fund, which is used to pay costs incurred by the clerk in processing titles.<sup>34</sup>

A salvage certificate of title issued under the act 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 act prohibits the use of the motor vehicle for anything except parts and scrap metal.<sup>35</sup>

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

After obtaining a salvage certificate of title, the authorized entity may dispose of the vehicle through a motor vehicle salvage dealer or scrap metal processing facility. At the time of disposal, the authorized entity must deliver the salvage certificate of title to

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<sup>32</sup> R.C. 4505.103(B)(2).

<sup>33</sup> R.C. 4505.103(B)(3).

<sup>34</sup> R.C. 325.33, not in the act, and 4505.103(C).

<sup>35</sup> R.C. 4505.103(C).



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>36</sup>

### **Other vehicle disposal procedures**

There are three provisions of continuing law that authorize a law enforcement agency to dispose of an unclaimed motor vehicle that has been ordered into storage by the agency. The provisions generally allow the agency to dispose of a vehicle, under specified circumstances, through a public auction, through a motor vehicle salvage dealer, or through a scrap metal dealer. The proceeds of the disposal are credited to the general fund of the political subdivision in which the agency has jurisdiction.<sup>37</sup> These provisions may overlap with those established by the act above.

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

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

The act alters the amount a repair garage, place of storage, towing service, or storage facility must pay to the clerk of courts for a certificate of title to an unclaimed motor vehicle. Continuing law generally allows a repair garage or place of storage to obtain a certificate of title to an unclaimed vehicle that is in its possession if the vehicle has a value of less than \$3,500 and the repair garage or place of storage complies with specified requirements. Similarly, a towing service or storage facility may obtain a certificate of title to an unclaimed vehicle that is in its possession if the vehicle has a value of less than \$3,500, was towed from a private tow-away zone, and the towing service or storage facility complies with specified requirements. When obtaining a certificate of title to a motor vehicle under either circumstance, the entity must pay the value of the vehicle to the clerk of courts. Under the act, the "value" of a motor vehicle is the wholesale value for that make and model at the time the affidavit is submitted (as provided in a vehicle valuation guide that is generally available and recognized by the motor vehicle industry) minus:

- (1) The estimated cost of repairs to restore the vehicle to the wholesale value;
  - (2) The cost of any agreed-upon repairs;
  - (3) A towing fee, if the vehicle was towed by the party seeking title to the vehicle;
- and
- (4) Storage fees for the time the vehicle was stored without payment.

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<sup>36</sup> R.C. 4505.103(C).

<sup>37</sup> R.C. 4513.62 and 4513.63, not in the act.



Prior law did not allow a deduction for towing or storage fees.<sup>38</sup>

### **Additional procedures**

The act specifies that a repair garage or place of storage may take title to an unclaimed vehicle even if the person who requested the repair or who agreed to the storage is not an owner or a lienholder of the vehicle as indicated in the BMV records. If that person is not an owner or lienholder, in addition to the existing 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 it is in possession of the vehicle.<sup>39</sup>

### **Notice from a salvage motor vehicle auction**

Under continuing law, if a salvage motor vehicle auction is in the possession of a motor vehicle it may apply to the clerk of the court of common pleas for a salvage title to the vehicle if all of the following apply:

(1) An insurance company requested the salvage auction to take possession of the vehicle and either denied coverage for it or otherwise did not take ownership of it;

(2) The vehicle has been in the possession of the salvage auction for at least 45 days; and

(3) The salvage auction sent a written request to the owner and any lienholder of the vehicle that the vehicle be removed from its facility.

The act requires the salvage auction to provide proof that the written request required under (3) above was delivered by a nationally recognized courier service, rather than by certified mail, return receipt requested, as under prior law.<sup>40</sup>

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<sup>38</sup> R.C. 4505.101(C)(3) and (E)(3).

<sup>39</sup> R.C. 4505.101(A)(1) and (C)(2).

<sup>40</sup> R.C. 4505.11(C)(2).



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## HISTORY

ACTION	DATE
Introduced	09-28-15
Reported, H. State Gov't	05-03-16
Passed House (92-4)	05-18-16
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