



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 341 of the 131st G.A.
(LSC 131 1337-11)

Date: January 27, 2016

Status: In House State Government

Sponsor: Reps. Young and Sweeney

Local Impact Statement Procedure Required: Yes

Contents: Towing law changes

State Fiscal Highlights

- Potential negligible annual revenue gain in the form of state court costs collected from violators of the bill's failure to display prohibition and deposited into the state treasury.¹

Local Fiscal Highlights

- The cost of any additional work for clerks of courts of common pleas to issue salvage titles may be more or less offset by the collection of related fees.
- The bill's civil and criminal penalty provisions are likely to generate additional cases for county and municipal judicial systems to dispose of. The costs of doing so will not be significant, and are likely to be offset to some degree by court costs, fees, and fines.

Detailed Fiscal Analysis

The bill makes various changes to the state's motor vehicle towing requirements and procedures, many of which primarily affect private towing and salvage companies and do not have any fiscal impact on governmental entities.

Certificates of title

Salvage certificate of title

The bill allows the owner of a towing service, storage facility, or repair garage, under certain conditions, to file an affidavit with a clerk of court of common pleas to obtain a salvage certificate of title to a vehicle in its possession for purposes of disposing

¹ The court costs are apportioned between the Victims of Crime/Reparations Fund (Fund 4020) and the Indigent Defense Support Fund (Fund 5DY0).

of the vehicle through a motor vehicle salvage dealer or a scrap metal processing facility. In order to be eligible for a salvage certificate of title, the towing service or storage facility must follow a specified process that in part involves confirming that the vehicle in question: (1) has a value of less than \$1,500 after reductions for repairs, towing, and up to 65 days of storage, (2) is apparently inoperable, and (3) is impossible to restore for highway operation.

These changes may increase the workload for clerks of court, as they may have to issue salvage certificates of title for additional vehicles. The bill requires the payment of a \$4 fee to issue such a title, and requires it be deposited into the county general fund. The cost of any additional work for a clerk will likely be offset to some degree by the fees collected.

Unclaimed vehicle certificate of title

Under current law, the owner of a repair garage or place of storage is permitted to file an affidavit with a clerk of court of common pleas to receive a certificate of title for certain vehicles that have been left unclaimed for more than 30 days. The bill specifies that the owner of a repair garage or place of storage is also permitted to file an affidavit seeking title of an unclaimed vehicle if the person who left the vehicle was not the owner or lienholder of that vehicle, provided that the appropriate notice is filed with the appropriate law enforcement agency. These changes may increase the workload for clerks of court, as they may have to issue certificates of title for additional vehicles that could be declared unclaimed.

Current law requires the owner of a repair garage or place of storage to pay the clerk of court, for deposit into the county general fund, the value of the motor vehicle for which the certificate of title is requested, less any expenses the owner may have incurred. The cost of any additional work for a clerk will likely be offset by the revenue received for the value of the motor vehicle.

Certificate of Public Convenience and Necessity

Current law requires a towing service to obtain a valid Certificate of Public Convenience and Necessity issued by the Public Utilities Commission and display both the certificate number and business telephone number on the left and right sides of the towing vehicle. The bill creates a penalty for the failure to display such information and classifies a first offense as a minor misdemeanor subject to a fine of up to \$150. A second or subsequent violation is an unclassified misdemeanor subject to a mandatory \$500 fine, and the court is required to seize and impound all vehicles used to tow motor vehicles on behalf of the towing service until the required certificate is obtained.

The penalty for failure to display may increase the number of misdemeanor cases for municipal and county courts to adjudicate. Presumably, towing services, for the most part, are generally complying with current law's requirement to display a valid certificate number and will continue to do so if the bill is enacted. As such, any increase in costs associated with disposing of additional cases under the bill is likely to be

relatively small for any given court. For those courts that do experience an increase in caseload as a result of the bill, the bill requires the owner of a towing service who permitted the violation to appear in the appropriate court to answer the charge. Under current Supreme Court Rule, a person who receives a citation for certain traffic violations is permitted to pay the amount of fines, fees, and court costs to the office of the clerk of the court in person or by mail thereby avoiding having to appear in court. As such, it may take more time to dispose of these cases than if the offender was permitted to settle the matter outside of court.

Any increase in criminal cases and subsequent convictions as a result of the bill may lead to a gain in related state and local revenues. The state revenues would be in the form of locally collected state court costs, in the amount of \$29 for a misdemeanor, that are forwarded for deposit in the state treasury and divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). Counties and municipalities may gain revenues in the form of local court costs, fees, and fines. The amount of money that either the state or local governments may gain annually is likely to be negligible, as the number of affected cases is likely to be relatively small.

Civil penalties for towing violations

Current law permits the owner of a vehicle that was towed in violation of the towing law to file a civil action against the towing service or storage facility and requires the court, if it is determined that a violation occurred, to impose specified penalties on the towing service or storage facility. The bill modifies those penalties by creating and distinguishing between "major violations" and "minor violations," and adding failure to display the Certificate of Public Convenience and Necessity number as a violation for which a civil action can be initiated. The bill specifies that if a vehicle owner brings an action for multiple violations, the court must consider each violation as a separate violation for purposes of awarding a civil penalty and determining the number of violations a towing service or storage facility has committed within the year.

This civil penalty modification may result in a relatively small increase in the number of civil actions filed against towing services and storage facilities but will not likely have a discernible impact on courts, as they are not expected to significantly increase workload. The costs associated with any new civil actions filed as a result of the bill may be at least partially offset by the fee that is required to accompany each filing. Additionally, civil actions alleging towing violations generally involve private parties, so it is unlikely that the state or a political subdivision would be a defendant in such an action and subsequently required to pay the imposed penalty. Civil actions alleging towing violations fall under the subject matter jurisdiction of common pleas, municipal, and county courts.

Public Utilities Commission

The bill requires the Public Utilities Commission (PUCO) to establish specified maximum fees charged for the removal of a vehicle from private property or a private tow-away zone and raise those fees every year based on the U.S. Department of Labor's consumer price index. The bill also requires PUCO to establish a process for reviewing towing and storage fees every five years to determine whether the fees are just, reasonable, and compensatory and authorizes PUCO to adjust those fees to an appropriate amount. Any additional costs that PUCO may incur to comply with the bill's provisions are likely to be absorbed utilizing existing resources.

Synopsis of Fiscal Effect Changes

The substantial differences in the fiscal effects between the substitute bill (LSC 131 1337-11) and the previous version (As Introduced) are as follows:

- **Salvage title affidavit process.** The substitute bill eliminates a provision of the As Introduced version that required law enforcement officers to determine and confirm eligibility of a vehicle for which a towing service or storage facility wanted to obtain a salvage certificate of title and replaces it with a provision allowing a towing service, storage facility, or repair garage to sign an affidavit confirming the vehicle's eligibility. By eliminating the requirement that a law enforcement officer perform these duties, the substitute bill eliminates significant local costs associated with the potential diverting of officers from their regular duties or hiring of additional officers to perform the bill's required duties.
- **Criminal penalty.** The substitute bill creates a new criminal misdemeanor penalty for failure to display a Certificate of Public Convenience and Necessity on a tow truck. It is likely that there will be some towing services that fail to display and are charged with a violation falling under the subject matter jurisdiction of a municipal or county court. The costs for municipalities and counties to dispose of these matters will be minimal at most annually, and offset to some degree by court costs, fees, and fines collected from violators. The As Introduced version did not contain any criminal penalty provisions.