



**S.B. 224**

124th General Assembly  
(As Introduced)

**Sen. Armbruster**

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**BILL SUMMARY**

- Requires law enforcement to decide within 72 hours of ordering a vehicle into storage whether the law enforcement agency will retain jurisdiction over the vehicle and further requires law enforcement, within an additional 24 hours, to remove the vehicle from a private towing or storage company if the law enforcement agency wishes to retain jurisdiction over the vehicle.
- Requires a towing company or other person, if law enforcement relinquishes jurisdiction over a vehicle, to cause a search to be made of Bureau of Motor Vehicles (BMV) records to identify the vehicle owner and any lienholder.
- Requires the towing company or other person to notify the vehicle owner and any lienholder by certified mail that the vehicle may be disposed of and the person may be prohibited from registering another vehicle if the vehicle is not claimed and the charges are not paid.
- Allows a towing company or other person to obtain the certificate of title to the vehicle, invalidating any lienholder's lien, if the vehicle is unclaimed and the charges are unpaid ten days after the notice is sent to the vehicle owner and any lienholder of record.
- Requires the Registrar of Motor Vehicles, at the request of a towing company or other person, to prevent a vehicle owner from registering another vehicle for five years unless the registration block is canceled.
- Specifies that a person who is prevented from registering a vehicle may have that registration block canceled by presenting to the Registrar: (1) acceptable proof that the registration applicant was not the owner of the

vehicle at the time it was towed, (2) a copy of a civil complaint involving the applicant and the towing company or other person, or (3) a registration release from the towing company or other person showing payment of specified charges.

- Requires the towing company or other person to give the vehicle owner a registration release if (1) the owner pays specified towing and storage charges or (2) the company or person obtained title to the vehicle and the declared value of the vehicle exceeds the specified towing and storage charges.

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## CONTENT AND OPERATION

### Background

Current law authorizes law enforcement to order abandoned vehicles to be towed in the following four situations:

(1) Vehicles (other than abandoned junk vehicles) left on private residential or private agricultural property without permission for four hours or more;

(2) Vehicles (other than abandoned junk vehicles) that have been left at a repair garage or place of storage for a longer period than that agreed upon and upon the complaint of the owner of the garage or place of storage;

(3) Vehicles (including abandoned junk vehicles) that have come into the possession of law enforcement as a result of the performance of law enforcement duties; and

(4) Vehicles (including abandoned junk vehicles) that have been left on a public street for more than 48 hours or immediately if the vehicle obstructs traffic. (Secs. 4513.60(A)(1) and 4513.61.) (See **COMMENT 1**.)

Whenever a vehicle is removed under (1) or (2) above, the sheriff or chief of police is directed to use a private tow company whenever possible. Under these circumstances, the person may reclaim the vehicle upon payment of towing charges of not more than \$90 and storage charges of not more than \$12 per 24-hour period for most noncommercial vehicles (sec. 4513.60(E)). Vehicles ordered into storage under these circumstances that are unclaimed for 30 days must be disposed of at the order of the appropriate local law enforcement official to a motor vehicle salvage dealer or scrap metal processing facility, or to any other facility owned by or under contract with the local government for vehicle disposal.

The vehicles also may be sold at public auction. Any money from the disposition of an unclaimed motor vehicle that exceeds the removal and storage expenses is credited to the general fund of the appropriate local government. (Sec. 4513.62, not in the bill.) (See **COMMENT 2**.)

Whenever a vehicle is removed under (3) or (4) above, the sheriff or chief of police must designate the place of storage. The sheriff or chief must have a search made of the records of the Bureau of Motor Vehicles (BMV) to find the vehicle owner and any lienholder. The sheriff or chief then must notify the owner or lienholder that the vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder may reclaim the vehicle upon payment of any expenses or charges in removing and storing the vehicle. Unlike vehicles removed from private property, current law does not limit the towing and storage charges for vehicles removed in these circumstances. The owner or lienholder also may be liable for a processing fee of \$25 if it is reclaimed after the owner of the place of storage caused the BMV record search to be conducted and sent the required notice. (Sec. 4513.61.) Unclaimed vehicles are disposed of as described above, either to a motor vehicle salvage dealer or scrap metal processing facility, or to any other facility owned by or under contract with the local government for vehicle disposal, or at public auction. Again, any money from the disposition of an unclaimed motor vehicle that exceeds the removal and storage expenses is credited to the general fund of the appropriate local government. (Sec. 4513.62, not in the bill.)

Any vehicle that is unclaimed for ten days or more following notice to the owner or lienholder and that has been extensively damaged, including missing wheels, tires, motor, or transmission, is apparently inoperable, and has a fair market value of \$1,500 or less, may be disposed of by law enforcement immediately as an abandoned junk motor vehicle (sec. 4513.63, not in the bill).

### **Overview of the bill**

In general, the bill establishes collection methods for motor vehicle towing companies and other persons who tow or store a vehicle at the request of law enforcement. The bill applies to each of the four situations described above under "**Background**" currently authorizing law enforcement to order vehicles to be towed. (Secs. 4513.60(A)(1) and (E) and 4513.61.) The collection methods established by the bill include allowing the towing company or other person to have the BMV record search conducted, allowing the towing company or other person to obtain title to an unclaimed vehicle, and allowing the towing company or other person to request the Registrar of Motor Vehicles to prevent the vehicle owner from registering another vehicle for five years unless the vehicle owner pays the outstanding expenses and charges.

### **Law enforcement jurisdiction over towed vehicles**

Under the bill, within 72 hours after ordering an abandoned vehicle into storage, the sheriff, chief of police, or state highway patrol must give written notice to the private tow truck operator, towing company, or other person in possession of the vehicle stating whether or not the law enforcement office wishes to retain jurisdiction over the motor vehicle. If the law enforcement office decides to retain jurisdiction over the vehicle, they must remove it from the towing company or other person not later than 96 hours after the motor vehicle was ordered into storage. If the law enforcement official retains jurisdiction over the vehicle, the official proceeds as under current law. The law enforcement official must conduct a search of BMV records to identify the owner and any lienholder. The owner or lienholder may reclaim the vehicle upon payment of any expenses or charges that the county, municipal corporation, township, township police district, or state highway patrol incurred in its removal and storage. (Sec. 4513.61.)

Under current law and the bill, law enforcement officials may dispose of vehicles that are unclaimed for ten days after mailing the notice to the owner or lienholder (sec. 4513.61(C)). The bill specifies that the disposal requirements of current law apply to vehicles over which the sheriff, chief of police, township or township police district, or highway patrol retains jurisdiction. The disposal must be to a motor vehicle salvage dealer or scrap metal processing facility, or to any other facility owned by or under contract with the local government for vehicle disposal, or at public auction. Any money from the disposition of an unclaimed motor vehicle that exceeds the removal and storage expenses is credited to the general fund of the appropriate local government or to the state treasury to the credit of the general revenue fund if the highway patrol disposes of the vehicle. (Sec. 4513.62.)

### **Towing or storage company jurisdiction over towed vehicles**

If a law enforcement official relinquishes jurisdiction over a motor vehicle that was ordered into storage, the bill establishes procedures for the towing or storage company to notify the owner and dispose of the vehicle if it remains unclaimed. These procedures apply to vehicles left on private property without permission, vehicles the owner of a repair garage or place of storage requests to be removed because they have been left for a longer period than that agreed upon, vehicles that have come into the possession of law enforcement as a result of the performance of law enforcement duties, and vehicles that have been left on a public street for more than 48 hours or that constitute a traffic obstruction (sec. 4513.60(E)).

### Notice

Under the bill, when a towing company or other person is notified that law enforcement officials are relinquishing jurisdiction over the vehicle, the towing company or other person immediately must cause a search to be made of the BMV records to identify the owner and any lienholder of the motor vehicle. The bill specifies that if the search reveals an outstanding lien on the motor vehicle, the company or other person must notify the lienholder in the same manner as an owner (sec. 4513.621(E)(2)). The company or other person must send a notice to the owner and any lienholder of record at each person's last known address, by certified mail with return receipt requested. The notice must do all of the following:

(1) State that the sheriff, chief of police, or state highway patrol has relinquished jurisdiction over the vehicle to the company or other person;

(2) State that the vehicle may be disposed of if not claimed within ten days *of the date of mailing of the notice* or if other arrangements are not made that are acceptable to both parties;

(3) Describe in detail the method by which the owner or lienholder may claim the vehicle, including all expenses and charges to be paid, the acceptable method of payment, the hours during which the vehicle may be claimed, and the acceptable proof of ownership;

(4) State that the owner may not be eligible for the issuance of a certificate of registration for any motor vehicle owned or leased by the owner, if the owner fails to pay the expenses or charges incurred in the removal or storage of the motor vehicle. (Sec. 4513.621(A) and (B).)

### Expenses and fees to reclaim a vehicle

The owner or lienholder of the vehicle may reclaim it upon payment of the expenses or charges incurred in its removal and storage and presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle. The bill requires the owner or lienholder to pay the following expenses or charges before the company or other person releases the vehicle to the owner or lienholder:

(1) Towing charges;

(2) Storage charges incurred by the company or other person before the sheriff, chief of police, or state highway patrol relinquished jurisdiction over the vehicle;

(3) Storage charges incurred by the company or other person from the tenth day after the company or other person notifies the owner or lienholder that the vehicle is in its possession until the owner or lienholder reclaims the vehicle or the company or other person disposes of the vehicle;

(4) An additional processing fee of \$25 if the owner or lienholder of the vehicle reclaims it after the company or other person conducted a search of the BMV records and sent the notice to the owner or lienholder. (Sec. 4513.621(C) and (D).)

### **Certificates of title to unclaimed vehicles**

If the vehicle remains unclaimed by the owner or lienholder for ten days after the mailing of the notice, and the towing company or other person has received the signed receipt from the certified mail or has been notified that the delivery was not possible, the bill allows the company or other person to obtain a certificate of title to the motor vehicle in the company or person's name. The bill specifies that if the vehicle is unclaimed and the notification was properly attempted, a lienholder's lien is invalid after the tenth day after the mailing of the notice. (Sec. 4513.621(E)(1).)

The towing company or other person may obtain a certificate of title by executing an affidavit certifying that all of the requirements of the bill have been met including the proper notice, proof of delivery or failure, and the passage of the ten days. Specifically, the affidavit must set forth all of the following: (1) the length of time the motor vehicle has remained unclaimed, (2) the expenses incurred relative to the motor vehicle, (3) the value of the vehicle as determined by publications of the National Auto Dealer's Association, (4) that a notice to remove the vehicle has been mailed to the titled owner and lienholder, if known, by certified mail, return receipt requested, and (5) that a search of the BMV records has been made for outstanding liens on the motor vehicle. Under the bill, no affidavit may be executed or filed until after a search of the BMV records has been made. (Sec. 4513.621(E)(2).)

When the towing company or other person presents any clerk of a court of common pleas with the affidavit showing compliance with all requirements, the bill requires the clerk to issue a certificate of title, free and clear of all liens and encumbrances, to the company or person (sec. 4513.621(F)). However, no clerk may issue a certificate of title transferring ownership of a motor vehicle from the owner who fails to claim it until the clerk receives the affidavit described above and at least 30 days have passed since the vehicle was ordered into storage (sec. 4513.60(E)).

The bill authorizes a tow truck operator, towing company, or other person to bring a civil action in an appropriate court to recover the outstanding expenses and charges. If there are outstanding expenses, these actions may be pursued regardless of whether the company or other person obtained a certificate of title. Additionally, the operator, company, or other person may request the Registrar to prohibit the vehicle owner from registering, renewing, or transferring the registration of any vehicle. (Sec. 4513.621(G).) (See **COMMENT 3**.)

### **Blocking of registration**

If the vehicle owner fails to pay the expenses and charges that the towing company or other person is authorized to collect (see **Expenses and fees to reclaim a vehicle**"), the company or other person may notify the Registrar of that fact and request the Registrar to prohibit the person from registering other vehicles. The notice to the Registrar must be given not earlier than ten days nor later than three years after the date the owner was notified that the company or other person was in possession of the vehicle. The notice must be in a form and manner, and contain such information, as the Registrar prescribes. (Sec. 4513.622(A).)

When the Registrar receives the notice, the bill specifies that neither the Registrar nor any deputy registrar may accept any application for the registration, registration renewal, or transfer of registration of any motor vehicle owned or leased by the person named in the notice for five years following receipt of the notice unless the notice is canceled. If the Registrar or a deputy registrar refuses a person's registration application, the Registrar or deputy registrar must inform the applicant that no such application may be accepted unless the notice is canceled. The Registrar or deputy registrar also must inform the applicant of the methods for obtaining the cancellation of the notice. (Sec. 4513.622(B) and (C).)

The Registrar must cancel a registration block and may accept a registration application from the person named in the notice upon the occurrence of any of the following:

- (1) The expiration of five years from the date of the notice;
- (2) Receipt of a copy of a registration release; or
- (3) Receipt from the applicant of (a) proof showing that the applicant was not the owner of the vehicle at the time the vehicle was towed or (b) a copy of a civil complaint involving the vehicle or the towing and storage charges filed by the applicant or the towing company or other person who filed the notice with the Registrar. (Sec. 4513.622(D).)

The proof that the applicant was not the owner of the vehicle at the time of the incident must be in a form acceptable to the Registrar. The bill authorizes the Registrar to adopt any forms and rules that are necessary to carry out the Registrar's duties concerning blocking a person's registration and canceling the block (sec. 4513.622(E)).

**Registration release.** The tow truck operator, towing company, or other person who filed the notice with the Registrar immediately must issue a registration release if specified expenses and charges are satisfied. The expenses and charges that must be satisfied generally are those described above in "**Expenses and fees to reclaim a vehicle**," except that storage charges are limited to those incurred by the towing company or other person before the sheriff, chief of police, or state highway patrol relinquished jurisdiction over the vehicle and *storage charges of not more than 30 days* incurred by the towing company or other person from the tenth day after the owner or lienholder was notified that the vehicle is in the possession of the company or other person. (Sec. 4513.623(A).)

The expenses and charges are satisfied if the person pays the specified expenses and charges to the towing company or other person or if the company or other person obtained title to the vehicle and the value of the vehicle declared in the affidavit presented to the clerk of courts exceeds the specified expenses and charges. If the expenses or charges are satisfied by either of the means, the towing company or other person must issue the registration release in duplicate, on a form provided by the Registrar. One copy of the release must be delivered to the Registrar and one copy must be delivered to the person who was the subject of the notice. (Sec. 4513.623(B) and (C).)

### **Miscellaneous**

#### **Lienholder's reclaiming a vehicle**

Under current law, the owner of a vehicle that is removed from private property, including a repair garage or storage facility or private tow-away zone, may reclaim it upon payment of specified expenses or charges incurred in its removal. The specifies that a lienholder may reclaim the vehicle upon payment of the specified expenses and charges (sec. 4513.60(E)).

#### **Municipal licensing of tow trucks**

Current law specifies that if a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation may use an unlicensed tow truck or unlicensed tow truck operator to remove a vehicle from a private tow-away zone. Violation of this is a minor misdemeanor. The bill removes the prohibition against using

unlicensed tow trucks under these circumstances and eliminates the penalty for using unlicensed tow trucks. (Secs. 4513.60(B)(3) and 4513.99(A).) (See **COMMENT 4.**)

### **State Highway Patrol**

Current law is not consistent in references to the state highway patrol in regard to the towing, storing, and disposal of abandoned vehicles. The bill clarifies that the state highway patrol, as well as a sheriff and a chief of police, may order vehicles to be towed and stored. The highway patrol may elect to retain jurisdiction over a towed vehicle and may order the disposal of an unclaimed vehicle in its possession. (Secs. 4513.61 and 4513.62.)

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## **COMMENT**

1. "Abandoned junk vehicles" are treated differently than other abandoned vehicles. Under R.C. 4513.63 (not in the bill), an abandoned junk motor vehicle means any motor vehicle that meets all of the following requirements: (1) has been left for 48 hours or longer on private property without permission or on a public street or other property or the right-of-way of any road or highway, (2) is three years old, or older, (3) has been extensively damaged, including missing wheels, tires, motor, or transmission, (4) is apparently inoperable, and (5) has a fair market value of \$1,500 or less.

Abandoned junk motor vehicles may be disposed of immediately to a salvage dealer or a scrap metal processing facility or to any other facility owned by or under contract with a local government for the disposal of vehicles. Any moneys arising from the disposal of an abandoned junk motor vehicle must be deposited in the general fund of the county, township, or the municipal corporation, as the case may be.

2. If the owner of a repair garage or place of storage does not request law enforcement to remove unclaimed vehicles, R.C. 4505.101 (not in the bill) authorizes such an owner to obtain title to an unclaimed vehicle valued at less than \$2,500. When the owner of the garage or storage facility receives title to the vehicle, the value of the motor vehicle, less expenses incurred by the owner, is paid to the Clerk of Courts for deposit into the county general fund.

3. Unlike the disposal of vehicles by law enforcement officials and the disposal of vehicles valued at less than \$2,500 by repair garages or storage facilities, the bill does not address the distribution of any money realized in the disposition of the vehicle that exceeds the amount of the expenses and charges owed to the towing company or other person (secs. 4505.101, not in the bill, and 4513.62).

4. The scope of municipal authority to license tow trucks has been litigated in federal court and currently is pending before the United State Supreme Court. In *Ours Garage & Wrecker Service, Inc., et al. v. City of Columbus*, 257 F.3d 506 (6th Cir. 2001), the Court of Appeals held that the Interstate Commerce Act, 49 U.S.C. § 14501(c)(1), "does not preempt municipal licensing and safety regulation of non-consensual towing operations when a municipality acts as a market participant, but does preempt other regulation not falling within this narrow exception." *Id.*, citing *Petry v. City of Toledo*, 246 F.3d 548 (6th Cir. 2001) at 507, 508. Thus, the Court held that a Columbus towing ordinance, which among other things required the owners and operators of tow trucks to obtain a license from the City, maintain insurance, and comply with other regulatory requirements was invalid under federal law when applied to consensual towing situations.

The United States Supreme Court granted a petition for a writ of certiorari, agreeing to hear an appeal from the Sixth Circuit decision in *City of Columbus v. Ours Garage & Wrecker Service, Inc.*, 122 S.Ct. 802, 70 USLW 3418, 70 USLW 3426 (U.S. Jan 04, 2002) (NO. 01-419).

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## HISTORY

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Introduced	01-30-02	p. 1406

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