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Bill Analysis
Legislative Service Commission

H.B. 307

125th General Assembly
(As Introduced)

Reps. Widener, C. Evans, Kearns, Redfern, Fessler, Carmichael, Schlichter, Schaffer, Allen, White, Jerse

BILL SUMMARY

- Permits a private towing company or other person legally possessing a motor vehicle that has been towed from property open to the public at the request of law enforcement to cause a search to be made of Bureau of Motor Vehicles (BMV) records to identify the vehicle owner and any lienholder.
- Requires a towing company or other person making such a search to notify the vehicle owner and any lienholder by certified mail that the vehicle may be disposed of in accordance with current law and that the person may be blocked from registering another vehicle and obtaining or renewing his driver's license if the vehicle is not claimed and the expenses and charges are not paid.
- Requires the Registrar of Motor Vehicles, at the request of a towing company or other person, to block such a vehicle owner from registering another vehicle and obtaining or renewing a driver's license unless the block is canceled.
- Specifies that a person who is blocked from registering a vehicle and obtaining a driver's license may have that block canceled by presenting to the Registrar either acceptable proof that the applicant was not the owner of the vehicle at the time it was towed or a release from the towing company or other person showing payment of specified expenses and charges.
- Requires the towing company or other person to give the vehicle owner a release if either the company or other person receives the specified

expenses and charges or the vehicle owner demonstrates a lack of proper notification.

CONTENT AND OPERATION

Current disposition of vehicles towed from public property by order of a law enforcement agency

Current law authorizes law enforcement officers to order abandoned vehicles to be towed in a number of situations. The two situations relevant to the bill are:

(1) 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

(2) 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. (Sec. 4513.61, not in the bill.) (See **COMMENT**.)

Whenever a vehicle is so removed, the sheriff or chief of police must designate the place of storage. The sheriff or chief "immediately" 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. 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).¹ Unclaimed vehicles are disposed of as described in the notice, either to a motor vehicle salvage dealer or scrap metal processing facility, or to any other facility owned by or under contract with the

¹ *Although sec. 4513.61 requires the sheriff or chief of police to "immediately" cause a search to be made of the BMV records to identify the towed vehicle's owner and any lienholders, that section also provides that if the owner reclaims the vehicle after a BMV record search has been conducted "and the search was conducted by the owner of the place of storage or the owner's employee" the \$25 processing fee will be assessed. The section does not address why the storage owner would conduct the BMV records search in lieu of the sheriff or chief of police.*

local government for vehicle disposal, or at public auction.² 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).

Changes made by the bill

Overview

The bill establishes a collection method for private tow truck operators and towing companies (hereinafter collectively "towing companies") and other persons who possess a motor vehicle that has been towed from a public street or other property open to the public for purposes of vehicular travel or upon or within the right-of-way of any public road or highway at the request of law enforcement. The collection method consists of allowing the towing company or other person to either utilize the results of the law enforcement agency BMV record search or to conduct its own BMV record search and allowing the towing company or other person to request the Registrar of Motor Vehicles to prevent the vehicle owner from registering another vehicle or obtaining or renewing a driver's license unless the vehicle owner pays specified outstanding expenses and charges.

Notice to the vehicle owner or lienholder

Under the bill, a towing company or other person who possesses a motor vehicle that was ordered into storage by a law enforcement agency and that has remained unclaimed by the owner for more than 45 days may cause its own search to be made of the BMV records to identify the owner and any lienholder of the motor vehicle. The towing company or other person also may obtain this information from a sheriff or chief of police who obtained this information through their own BMV records search. The towing company or other person may 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:

² *Although the vehicle cannot be disposed of prior to ten days after the date of the mailing of the notice, there is no statutory requirement that the vehicle be disposed of within a specified period of time after that ten-day period.*

(1) State that the towing company or other person possesses the motor vehicle;

(2) State that the vehicle may be disposed of in accordance with law if its release is not secured;

(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. Presentation of the certificate of title to the motor vehicle is 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 or to be issued an initial or renewal driver's license, commercial driver's license, or temporary instruction permit 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).)

The owner or lienholder may reclaim the vehicle upon payment of the expenses or charges incurred in its removal and storage and presentation of acceptable proof of ownership. If the owner or lienholder does not claim the vehicle, the towing company or other person may inform the Registrar of that fact and request the Registrar to prohibit the vehicle owner from registering, renewing, or transferring the registration of any vehicle and from being issued a driver's license, commercial driver's license, or temporary instruction permit. (Sec. 4513.621(C) and (D).)

Blocking of vehicle registration and driver's license issuance

If the owner of a vehicle that is in the possession of a towing company or other person for more than 45 days fails to pay the expenses and charges that the towing company or other person is authorized to collect, the company or other person may notify the Registrar of that fact by giving the Registrar proof of the notice that was mailed to the owner or lienholder. The notice must be in a form and manner, and contain any additional information, as the Registrar prescribes. (Sec. 4513.622(A).)

When the Registrar receives the notice and proof of mailing, 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 or any application for the issuance or renewal of a driver's license, commercial driver's license, or temporary instruction permit in the name of the person named in the notice unless the notice is canceled (sec. 4513.622(B)). However, the prohibition

against accepting a registration application does not apply if the person making the application is a licensed motor vehicle leasing dealer or is a motor vehicle renting dealer and is applying to register a vehicle in that capacity (sec. 4513.622(E)). If the Registrar or a deputy registrar refuses a person's 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(C).)

The Registrar must cancel a registration and driver's license block and may accept a vehicle registration or driver's license application from the person named in the notice upon receipt of either a copy of a release or proof from the applicant in a form acceptable to the Registrar showing that the applicant was not the owner of the vehicle at the time the vehicle was towed. (Sec. 4513.622(D).) The bill authorizes the Registrar to adopt any forms and rules that are necessary to carry out the duties the bill imposes on the Registrar (sec. 4513.622(F)).

Release

The towing company or other person who filed the notice with the Registrar must issue a release immediately if the specified expenses and charges are satisfied. This occurs if the person pays the specified expenses and charges to the towing company or other person or if the company or other person received the full amount of the specified expenses and charges from the proceeds of the sale of the vehicle held in accordance with current law. (Sec. 4513.623(A)(1) and (2).) If the person named in the notice sent by the company or other person is able to demonstrate a lack of proper notification, the towing company or other person also must issue a release (sec. 4513.623(B)). All releases must be on forms provided by the Registrar. One copy of any 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(C)).

COMMENT

"Abandoned junk vehicles" are treated differently under current law 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.

HISTORY

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Introduced	10-16-03	p. 1135

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