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Bill Analysis
Legislative Service Commission

H.B. 126

126th General Assembly
(As Introduced)

Reps. Widener, Kearns, C. Evans, Fessler, Collier, Martin, Wolpert

BILL SUMMARY

- Requires 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 a law enforcement agency to cause a search to be made of Bureau of Motor Vehicles (BMV) records to identify the vehicle owner and any lienholder, unless such a search has already been made by the law enforcement agency that requested its removal.
- Requires such a towing company or other person 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 a driver's license if the vehicle is not claimed and the towing and storage fees are not paid.
- Permits the towing company or other person in possession of the towed motor vehicle to file a claim in the proper small claims court for the total amount of towing and daily storage fees due, up to a maximum of 60 days, plus any applicable administrative fee.
- Provides that if the vehicle owner fails to appear at the hearing or appears but refuses to accept the repayment terms and conditions that the court establishes, the court must issue an order prohibiting the vehicle owner from registering, renewing, or transferring the registration of any vehicle and from obtaining or renewing a driver's license until the towing and storage fees are paid.
- Specifies that a person who is blocked from registering a vehicle and from obtaining or renewing a driver's license may have the court that issued the original order containing the registration and driver's license

block issue a new order rescinding the block by presenting to the court acceptable proof showing payment of the expenses and charges specified in the original order.

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 roads or property open to the public 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 motor 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 in the same manner 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 requiring the towing company or other person either to 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 file suit in small claims court for certain unpaid towing and storage fees. If, after considering all the evidence, the court finds for the towing company or other person, the court must issue a judgment in favor of the towing company or other person and also must issue an order that prevents the vehicle owner from registering any vehicle or obtaining or renewing a driver's license unless the vehicle owner pays specified outstanding towing and storage fees.

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 14 days must cause its own search to be made of the BMV records to identify the owner and any lienholder of the motor vehicle. If, however, the towing company or other person is able to obtain this information from a sheriff or chief of police who obtained this information through an internal BMV records search, the towing company or other

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.*

person is not required to conduct its own BMV records search. The towing 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 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 fees due for the removal and storage of the vehicle, the acceptable method of payment, the hours during which the vehicle may be claimed, and the acceptable proof of ownership or proof of a lien on the vehicle, as the case may be. Presentation of the certificate of title to the motor vehicle is acceptable proof of ownership and proof of a lien on the vehicle may be established only by presentation of a written document that evidences the lien.

The fees due may include a \$25 administrative fee to reimburse the towing company or other person for expenses incurred in acting under and complying with the bill.

(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 fees due for the removal or storage of the motor vehicle plus, if applicable, the administrative fee. (Sec. 4513.621(A) and (B).)

The owner or lienholder may reclaim the vehicle upon payment of the fees due for its removal and storage and any applicable administrative fee and presentation of acceptable proof of ownership or proof of a lien on the vehicle. If the owner or lienholder does not claim the vehicle, the towing company or other person may file a claim in small claims court and request the court to issue an order 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 secure the release of the motor vehicle, the company or other person may file a claim in the small claims court that has

jurisdiction over the location from which the vehicle originally was removed for the amount due the towing company or other person. The total amount that can be specified in the claim cannot exceed the amount of the towing fee based on the prevailing rates in the jurisdiction of the law enforcement entity that is involved plus the amount of the applicable daily storage fee normally charged by the towing company or other person multiplied by the number of days for which the towing company or other person has stored the vehicle, up to a maximum of 60 days, plus any applicable administrative fee.

The court is required to schedule a hearing on the claim, and notice must be given to all parties as in any other case. At the hearing, the towing company or other person must submit to the court all relevant evidence, including proof of the various amounts that are claimed to be owed and proof of the mailing of the required notice. The court must consider any testimony and evidence the vehicle owner presents prior to rendering its decision. If the court finds in favor of the towing company or other person and, by a preponderance of the evidence, finds that the towing company or other person possesses the vehicle in question and is owed an amount consisting of towing and storage fees relative to the vehicle plus any applicable administrative fee and that the required notice was properly sent, the court must issue a judgment in favor of the towing company or other person that establishes the total amount owed the towing company or other person and the repayment terms and conditions.

If the vehicle owner fails to appear at the hearing or appears but refuses to accept the repayment terms and conditions that the court establishes, the court must issue an order prohibiting 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 until the towing and storage fees are paid. The order must indicate the total amount of fees due, and the court must send a copy of this order to the Registrar of Motor Vehicles in a form and manner that the Registrar prescribes. (Sec. 4513.622(A).)

When the Registrar receives the copy of the order, 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 order 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 order unless the order is rescinded by the court (sec. 4513.622(B)). However, the prohibition against accepting a registration application does not apply if the person making the application is a motor vehicle 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 order is rescinded by the court. The Registrar or deputy registrar also must inform the applicant of the methods for obtaining the rescission of the order. (Sec. 4513.622(C).)

The owner of a vehicle who is named in an order issued by a small claims court under the bill may obtain a new order from the court rescinding the original order by paying to the towing company or other person who possesses the vehicle the amount of the towing and storage fees plus any applicable administrative fee specified in the original order. Upon presentation to the court of evidence of payment to the towing company or other person of that entire amount, the court is required to issue a new order rescinding its original order and also must send a copy of the new order to the Registrar. When the Registrar receives the new order, the Registrar may accept an application for vehicle registration, registration renewal, or transfer of registration from the person named in the order or an application for the issuance or renewal of a driver's license, commercial driver's license, or temporary instruction permit from the person named in the order. (Sec. 4513.622(D).)

The bill requires 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)).

Miscellaneous provisions

Notification to a vehicle owner after a towed vehicle is disposed of

Under current law, unclaimed motor vehicles that were ordered into storage after being removed from property open to the public at the request of law enforcement must be either:

(1) Disposed of at the order of the county sheriff or chief of police of the municipal corporation, township, or township police district to a motor vehicle salvage dealer or scrap metal processing facility or to any other facility owned by or under contract with the county, municipal corporation, or township for the disposal of such vehicles; or

(2) Sold by the sheriff, chief of police, or licensed auctioneer at public auction after notice is given by an advertisement published once a week for two consecutive weeks in a newspaper of general circulation in the county.

Any money that accrues from the disposition of an unclaimed motor vehicle that is in excess of the expenses that result from the removal and storage of

the vehicle must be credited to the general fund of the county, municipal corporation, or township.

The bill retains these provisions, but provides that when a motor vehicle is so disposed of, the county, municipal corporation, township, or township police district must send written notification to the vehicle owner not less than 21 days after the disposition informing the vehicle owner of that fact and of the amount that resulted from the disposition and the amount of the expenses paid from the proceeds of the disposition. (Sec. 4513.62.)

Towed motor vehicles and the Financial Responsibility Law

The bill specifies that the application of the motor vehicle towing and disposal provisions (secs. 4513.60 to 4513.65) to a motor vehicle does not affect the operation and applicability of the Financial Responsibility Law (Chapter 4509.) to that vehicle (sec. 4513.66).

Inapplicability of motor vehicle towing and disposal provisions to manufactured homes and mobile homes

Current law provides that the definitions that apply to the Revised Code Traffic Law chapter (Chapter 4511.) also apply to the Motor Vehicle Equipment Law chapter (Chapter 4513.). The bill retains this provision, but specifically provides that for purposes of the motor vehicle towing and disposal provisions (secs. 4513.60 to 4513.65), "motor vehicle" does not include manufactured homes or mobile homes. (Sec. 4513.01.)

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 money arising from the disposal of an abandoned junk motor vehicle must be deposited into the general fund of the county, township, or the municipal corporation, as the case may be.

HISTORY

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