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Bill Analysis

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BILL SUMMARY

- Generally establishes procedures and requirements governing nonconsensual towing under the following circumstances:
 - A vehicle removed being from a private tow-away zone;
 - A vehicle removed from private property not designated as a private tow-away zone;
 - A motor vehicle in possession of law enforcement, or ordered by law enforcement from a road or highway; and
 - A motor vehicle removed pursuant to a contract with a municipal corporation, county, or township that does not fall within any of the above categories.

Removal of vehicles from a private tow-away zone

- Modifies the required contents of a private tow-away zone sign.
- Requires the place a vehicle will be taken upon removal from a private tow-away zone to be within 20 linear miles, if practicable, rather than "conveniently located" as in current law.
- Requires a written contract between a property owner and a towing service for the removal of vehicles from a private tow-away zone.

- Requires a towing service to provide notice to the owner or operator of a vehicle who arrives after the vehicle is prepared for towing but prior to actual removal of the option to pay a "drop fee" of one-half the normal towing charge in order to obtain immediate release of the vehicle.
- Requires a towing service, prior to removal of a vehicle from a private tow-away zone, to make all reasonable efforts to take as many photographs as necessary to clearly evidence the violation.
- Requires a towing service that has removed a vehicle from a private tow-away zone to provide notice to the appropriate law enforcement agency and deliver the vehicle to the place from which it may be recovered within two hours of removal.
- Eliminates the towing and storage fees established in current law for tows from a private tow-away zone (generally \$90 maximum for towing; \$12 per day for storage with larger fees when a vehicle is above a certain weight), and instead requires the PUCO to establish fees by rule (see below).
- Allows a vehicle owner or lienholder to retrieve a vehicle removed from a private tow-away zone upon presentation of proof of ownership and payment of all applicable fees established by the Public Utilities Commission (PUCO) under the bill.
- Allows the owner of a vehicle towed from a private tow-away zone to retrieve personal items from the vehicle upon showing proof of ownership.
- If a vehicle owner, operator, or lienholder contests the removal of a vehicle from a private tow-away zone, requires a towing service or storage facility to show the person all photographs of the violation and give the person written notice that the person may contact the PUCO regarding options for contesting the tow.
- Requires a towing service or storage facility to provide, upon request, copies of all photographs in the medium in which they are stored, whether paper, electronic, or otherwise.
- Establishes prohibitions and penalties that apply if a towing service, storage facility, or property owner fails to comply with applicable requirements of the Towing Law.



Removal of vehicles from private property not designated as a private tow-away zone

- Requires the place a vehicle will be taken upon removal from private property not designated as a private tow-away zone to be conveniently located, be on or within a reasonable distance of public transportation, and accept credit cards.
- Requires a towing service to provide notice to the owner or operator of a vehicle who arrives after the vehicle is prepared for towing but prior to actual removal of the option to pay a "drop fee" of one-half the normal towing charge in order to obtain immediate release of the vehicle.
- Requires a towing service that has removed a vehicle from a private property not designated as a tow-away zone to deliver the vehicle to the location designated by the sheriff or chief of police within two hours of removal.
- Eliminates the towing and storage fees established in current law for tows from a private property other than a private tow-away zone (generally \$90 maximum for towing; \$12 per day for storage with larger fees when a vehicle is above a certain weight), and instead requires the PUCO to establish fees by rule (see below).
- Allows a vehicle owner or lienholder to retrieve a vehicle removed from private property not designated as a private tow-away zone upon presentation of proof of ownership and payment of all applicable fees established by the PUCO under the bill.
- Allows the owner of a vehicle towed from private property not designated as a private tow-away zone to retrieve personal items from the vehicle upon showing proof of ownership.
- If a vehicle owner, operator, or lienholder contests the removal of a vehicle from a private property not designated as a private tow-away zone, requires a towing service or storage facility to give the person written notice that the person may contact the PUCO regarding options for contesting the tow.
- Establishes prohibitions and penalties that apply if a towing service or storage facility fails to comply with applicable requirements of the Towing Law.

Vehicles towed from the street or after coming into the possession of law enforcement

- Requires the place a vehicle will be taken upon removal from the street or after coming into the possession of law enforcement to be conveniently located, be well



lighted, be on or within a reasonable distance of public transportation, and to accept credit cards.

- Requires a towing service that has removed a vehicle from the street or after coming into the possession of law enforcement to deliver the vehicle to the location designated by the sheriff or chief of police within two hours of removal.
- Allows a vehicle owner or lienholder to retrieve a vehicle removed from the street or after coming into the possession of law enforcement upon presentation of proof of ownership, payment of all applicable fees established by the PUCO, and payment of a \$25 processing fee, if applicable.
- If a vehicle owner, operator, or lienholder contests the removal of a vehicle from the street or after coming into the possession of law enforcement, requires a towing service or storage facility to give the person written notice that the person may contact the PUCO regarding options for contesting the tow.
- Allows the owner of a vehicle towed from the street or after coming into the possession of law enforcement to retrieve personal items from the vehicle upon showing proof of ownership.
- Establishes prohibitions and penalties that apply if a towing service or storage facility fails to comply with applicable requirements of the Towing Law.

Vehicles towed pursuant to a contract with a local authority

- Establishes requirements that apply if a motor vehicle is removed by a towing service pursuant to a contract with a municipal corporation, county, or township and the removal is not covered by another provision of the Towing Law.
- Requires a towing service or storage facility to do all of the following as applicable:
 - Provide notice to the owner or operator of a vehicle who arrives after the vehicle is prepared for towing but prior to actual removal of the option to pay a "drop fee" of one-half the normal towing charge in order to obtain immediate release of the vehicle;
 - Make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked in violation of a posted parking restriction or any other applicable ordinance or resolution of the municipal corporation, county, or township;
 - Deliver the vehicle to the location from which it may be recovered not more than two hours after it was removed; and



--Ensure that the place a vehicle will be taken upon removal is conveniently located, is well lighted, is on or within a reasonable distance of public transportation, and accepts major credit cards.

- Allows a vehicle owner or lienholder to retrieve a vehicle removed pursuant to a contract with a local authority upon presentation of proof of ownership and payment of all applicable fees established by the PUCO.
- Allows the owner of a vehicle towed pursuant to a contract with a local authority to retrieve personal items from the vehicle upon showing proof of ownership.
- If a vehicle owner, operator, or lienholder contests the removal of a vehicle pursuant to a contract with a local authority, requires a towing service or storage facility to show the person all photographs of the violation and give the person written notice that the person may contact the PUCO regarding options for contesting the tow.
- Requires a towing service or storage facility to provide, upon request, copies of all photographs in the medium in which they are stored, whether paper, electronic, or otherwise.
- Establishes prohibitions and penalties that apply if a towing service, storage facility, or property owner fails to comply with applicable requirements of the Towing Law.

Storage facility requirements

- Requires a storage facility to post a sign at the entrance to the facility listing the telephone number at which a vehicle owner may contact a representative of the facility at any time, and requires the facility to have a process for answering such phone calls.
- After receiving a phone call from a vehicle owner, requires a representative from the storage facility to be available to release the vehicle within three hours of the receipt of the phone call.
- Establishes enforcement procedures for a storage facility owner that does not comply with the above listed requirements.

PUCO regulation

- Requires the PUCO to adopt rules that generally establish consumer protections and safety regulations that include the following:

--The scope of regulation that local authorities may impose upon for-hire motor carriers engaged in the towing of motor vehicles;



- The maximum amount of towing and storage fees that may be imposed by a towing service for a nonconsensual tow (for five years after the bill's effective date, generally \$90 maximum for towing; \$12 maximum per day for storage with a 24-hour grace period; and larger fees when the vehicle at issue is above a certain weight);
 - The maximum amount of other fees that may be imposed for a nonconsensual tow;
 - A review of maximum fees beginning five years after the bill's effective date;
 - Requirements governing the display of the towing service's telephone number on the side of tow trucks;
 - Safety standards for tow trucks engaged in towing;
 - Requirements governing the terms of a contract between a towing service and the owner of private property designated as a private tow-away zone; and
 - Other specified requirements.
- Authorizes the PUCO to impose sanctions, including monetary fines and the suspension or revocation of the certificate of public convenience and necessity, on a for-hire motor carrier that violates the Towing Law.
 - Requires the PUCO to conduct mediation and arbitration hearings concerning an alleged violation of the Towing Law or rules established by PUCO upon request and in conformance with rules established by the PUCO.
 - Establishes the Motor Vehicle Towing Advisory Council for the purpose of providing advice and recommendations to the General Assembly regarding the law governing the towing of motor vehicles.

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CONTENT AND OPERATION

Motor vehicle towing requirements and procedures

The bill generally imposes additional procedures that a towing service must comply with, requires the place where a towed vehicle may be stored to meet certain requirements, and imposes penalties for specified violations. Under current law, there are generally three situations in which a vehicle may be towed without the consent of the owner: (1) a vehicle is parked in a private tow-away zone without the authority to do so, (2) a vehicle is left on private property not designated as a private tow-away zone without the consent of the owner of the property, or (3) a vehicle has come into the possession of law enforcement as a result of law enforcement duties or a vehicle is left on a public street, other property open to the public for purposes of vehicular travel, or the right-of-way of any road or highway. The bill makes changes with regard to those types of towing and adds a category that applies when the other provisions of the Towing Law are not applicable and a vehicle is removed pursuant to a contract between a towing service and a municipal corporation, county, or township.

Vehicles towed from a private tow-away zone

The bill generally revises and recodifies the law governing the removal of a vehicle from property designated as a private tow-away zone, as discussed below.¹

Signage requirements

The bill modifies the required contents of a warning sign at the location of a private tow-away zone. Under the bill, the sign must include all of the following:

- (1) A statement that the property is a tow-away zone;
- (2) A description of persons authorized to park on the property;
- (3) If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
- (4) The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night; and
- (5) The telephone number and website of the PUCO and a statement that if a person contests the tow, the person may contact the PUCO.²

With regard to the description of persons authorized to park on the property, the bill specifies that if the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. Additionally, if the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. However, in all cases, if it is not apparent which persons may park in the private tow-away zone, the owner must include on the sign the address of the property on which the private tow-away zone is located or the name of the business which is located on the property designated as a private tow-away zone.³

At any time, in order to comply with the signage requirements, a property owner may modify existing private tow-away zone signs by affixing stickers or an addendum to the existing sign in lieu of replacing the sign. The bill also provides that the owner of property that was established as a private tow-away zone under the Towing Law as it

¹ R.C. 4513.60(B) and portions of 4513.60(C) to (G) are recodified as R.C. 4513.601.

² R.C. 4513.601(A)(1).

³ R.C. 4513.601(A)(1)(b).



existed prior to the effective date of the bill may retain existing private tow-away zone signs that comply with the requirements of that law for up to five years after the effective date of the bill.⁴

Under current law, the owner of private property may establish a private tow-away zone if the owner posts a sign that is visible from all entrances to the property, is at least 18 x 24 inches, and contains all of the following:

(1) Notice that the property is a private tow-away zone and that vehicles not authorized to park on the property will be towed;

(2) The telephone number of the person from whom a towed vehicle can be recovered, the address of the place to which the vehicle will be taken, and the place from which it may be recovered; and

(3) A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership, and payment of a towing charge of not more than \$90 and a storage charge of not more than \$12 per 24-hour period. (The sign also must state that if the vehicle has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer, then the towing charge may be up to \$150 and the storage charge may be up to \$20 per 24-hour period.)⁵

Storage requirements

The bill modifies the requirements governing the storage of towed vehicles. Under current law, the owner of property on which a private tow-away zone is located must ensure that the place where a vehicle will be taken if towed from the private tow-away zone is:

(1) Conveniently located;

(2) Well lighted; and

(3) If any public transportation is available in the municipal corporation or township in which the private tow-away zone is located, on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation.⁶

⁴ R.C. 4513.601(A). The signage requirements in current law, which are revised and recodified by the bill, are in R.C. 4513.60(B).

⁵ R.C. 4513.60(B)(1)(a).

⁶ R.C. 4513.60(B)(1)(b).



The bill modifies the requirement that the place of storage be conveniently located by requiring instead that it be located within 20 linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within 20 linear miles. The bill also requires the owner of the property to ensure that the towing service and storage facility accepts major credit cards for payment of towing and storage charges.⁷

Removal of vehicles from a private tow-away zone

The bill allows the owner of private property that is established as a private tow-away zone to cause the removal of a vehicle that is parked on the property without consent or in violation of any posted parking condition by a towing service pursuant to a written contract, so long as the written contract contains all terms required in rules established by the PUCO (discussed below). Additionally, the towing service is required to remove the vehicle in accordance with the Towing Law and rules established by the PUCO.⁸

Under current law, the property owner or the owner's agent may remove, or cause the removal of, such a vehicle.⁹ There is no specific provision in current law governing a contract between a towing service and the property owner.

Drop fees

The bill requires a towing service to provide notice that a person may pay a "drop fee" and clarifies when such a fee may be applicable. Under current law, if the owner or operator of a vehicle that is being removed from a private tow-away zone arrives after the vehicle has been prepared for removal but before the vehicle is actually removed from the property, the owner or operator has the opportunity to pay a fee of not more than one-half of the charge for removal. This is commonly called a "drop fee." Upon payment of the fee, the vehicle must be released to the owner and the owner must move the vehicle.¹⁰

The bill clarifies when the drop fee is applicable by defining "vehicle has been prepared for removal" and "prior to its actual removal from the property." Under the bill, "vehicle has been prepared for removal" means that the vehicle has been loaded onto a tow vehicle or any part of the vehicle has been placed upon or connected in any

⁷ R.C. 4513.601(A)(2) and (3).

⁸ R.C. 4513.601(B)(1).

⁹ R.C. 4513.60(B)(2).

¹⁰ R.C. 4513.60(C).

manner to an assembly that is connected to the tow vehicle that enables the tow vehicle to tow the vehicle. "Prior to its actual removal from the property" means that after a vehicle has been prepared for removal, any part of the vehicle that is being towed or the tow vehicle, including a tire and wheel assembly, is on the property from which the vehicle is being towed.¹¹

The bill also requires the towing service, at the time the owner or operator arrives, to give the owner or operator oral or written notification of the opportunity to pay a drop fee to obtain release of the vehicle. Additionally, the towing service must accept major credit cards for the payment of a drop fee and must give any vehicle owner or operator who chooses to pay a drop fee a receipt showing both the full amount normally assessed and the actual amount received.¹²

Photographs of a violation

The bill requires that prior to towing a vehicle from a private tow-away zone, a towing service must make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of the private tow-away zone and record the time and date of all photographs. The towing service must retain the photographs and the record for at least 30 days after the date the vehicle is recovered, or at least two years after the date the vehicle is towed, whichever is earlier.¹³

Notice of vehicle removal and delivery of the vehicle

The bill imposes a timeframe within which a towing service must notify law enforcement that a vehicle has been removed from a private tow-away zone. Under current law, the owner of private property or the agent of the owner that causes the removal of a vehicle from a private tow-away zone must promptly notify the police department of the municipal corporation, township, or township or joint police district in which the property is located of all of the following: (1) the removal, (2) the vehicle's license number, make, model, and color, (3) the location from which the vehicle was removed, (4) the date and time of removal, (5) the telephone number of the person from whom the vehicle may be recovered, and (6) the address of the place to which the vehicle has been taken and from which it may be recovered.¹⁴ Under the bill, the towing service that removes the vehicle must provide that notice to the appropriate law

¹¹ R.C. 4513.601(C)(2).

¹² R.C. 4513.601(C)(1).

¹³ R.C. 4513.601(D)(1).

¹⁴ R.C. 4513.60(D)(1).



enforcement agency within two hours of vehicle removal. In addition, the bill clarifies that notice also may be given to the county sheriff when it is appropriate.¹⁵

The bill also specifies that the towing service must deliver the vehicle to the location from which it may be recovered not more than two hours after it is removed from the private tow-away zone.¹⁶

Vehicle recovery and retrieval of personal items

The bill modifies the process for retrieving a vehicle that has been towed from a private tow-away zone. Under current law, in order for a vehicle owner to recover the vehicle that has been towed from a private tow-away zone, the owner must present proof of ownership and pay the applicable towing and storage charges. The towing and storage charges under current law include a \$90 towing charge and a storage charge of \$12 per 24-hour period. There are higher fees established for certain vehicles above a specified weight (\$150 towing charge and \$20 storage charge per 24-hour period).¹⁷

Under the bill, the vehicle owner or lienholder must present proof of ownership and pay all applicable fees in accordance with rules established by the PUCO (see below). The owner of the vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle or paying any fee. However, the owner may not retrieve any personal item that has been determined by the sheriff or chief of police, as applicable, to be necessary to a criminal investigation. For purposes of the bill, "personal items" do not include any items that are attached to the vehicle.¹⁸

Additionally under the bill, if the vehicle owner, operator, or lienholder contests the removal of the vehicle, the towing service or storage facility in possession of the vehicle must show the person all photographs taken of the violation. Upon request, the towing service or storage facility must provide copies of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise. The towing service or storage facility also must give written notice that if the person disputes that the vehicle was lawfully towed, the person may contact the PUCO about options for contesting the tow, including mediation and legal action.¹⁹

¹⁵ R.C. 4513.601(E)(1).

¹⁶ R.C. 4513.601(D)(2).

¹⁷ R.C. 4513.60(E).

¹⁸ R.C. 4513.601(F)(1) and (3).

¹⁹ R.C. 4513.601(F)(2).



Prohibitions

The bill expands the prohibitions applicable to persons engaged in the towing and storage of vehicles removed from private tow-away zones. Under current law, a person is prohibited from doing either of the following: removing, or causing the removal of, a vehicle from property established as a private tow-away zone other than in accordance with the Towing Law; or storing a vehicle other than in accordance with the aforementioned storage requirements. A violation of either of these prohibitions is a minor misdemeanor.²⁰

The bill also prohibits a towing service or storage facility from doing any of the following, as applicable:

(1) Failing to show or provide photographs of an alleged violation of a private tow-away zone and the written notice regarding contesting the tow;

(2) Charging or collecting any fee that exceeds the maximum fee established by the PUCO, charging or collecting any fee that is not authorized by the PUCO, or refusing to accept a major credit card for the payment of applicable fees;

(3) Refusing to allow the owner of a vehicle to retrieve personal items from the vehicle or charging or collecting any fee related to the retrieval of personal items;

(4) If applicable, failing to notify a vehicle owner or operator of the opportunity to pay a drop fee;

(5) Failing to display the business telephone number of the towing service on both sides of the towing vehicle in accordance with rules established by the PUCO; and

(6) Offering any compensation, financial or otherwise, to a property owner in exchange for the authorization to remove vehicles from a private tow-away zone.²¹

Additionally, the bill prohibits a property owner from accepting any compensation, financial or otherwise, from a towing service in exchange for authorizing the towing service to remove vehicles from a private tow-away zone.²² The bill establishes a violation of any of these prohibitions as a minor misdemeanor on the first offense, a fourth degree misdemeanor on the second offense, and a third degree

²⁰ R.C. 4513.60(F) and (G).

²¹ R.C. 4513.601(G).

²² R.C. 4513.601(G)(7).



misdemeanor on the third or subsequent offense.²³ If the offender is a for-hire motor carrier, the offender also may be subject to sanctions pursuant to the rules of the Public Utilities Commission (see below).²⁴

Vehicles towed from private property other than a private tow-away zone

Vehicle removal and storage requirements

The bill modifies the requirements governing the removal of a vehicle from private property other than a private tow-away zone and imposes requirements for the place of storage to which a vehicle will be taken. Under current law, if a motor vehicle has been left on private residential or private agricultural property that is not designated as a private tow-away zone for at least four hours without the permission of the person having the right to possession of the property, upon that person's request, the sheriff or chief of police, as applicable, may order the vehicle into storage. Additionally, a vehicle that has been left at a garage or place of storage for a longer period of time than agreed upon may be ordered into storage by the sheriff or chief of police upon the request of the owner of the repair garage or place of storage. With regard to a vehicle that is ordered into storage pursuant to either of those provisions, the sheriff or chief of police must arrange for the removal of the vehicle by a private tow truck operator or towing company.²⁵

Under the bill, a sheriff or chief of police is required to arrange for the removal of a vehicle under the aforementioned circumstances by a towing service. The sheriff or chief of police also must designate a place of storage that meets all of the following requirements:

(1) It is conveniently located;

(2) It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the motor vehicle is located at the time of removal; and

(3) It accepts major credit cards for the payment of applicable fees.²⁶

²³ R.C. 4513.601(I).

²⁴ R.C. 4513.601(J).

²⁵ R.C. 4513.60(A)(1).

²⁶ R.C. 4513.60(A)(1).



Further, the bill requires a towing service that is removing a vehicle from private property other than a private tow-away zone to remove the vehicle in accordance with the Towing Law and applicable rules established by the PUCO. The towing service also must deliver the vehicle to the place of storage designated by the sheriff or chief of police not more than two hours after the time it is removed from the private property.²⁷

Drop fees and vehicle owner's choice of towing service

The requirements of the bill governing drop fees that apply to towing a vehicle from a private tow-away zone (see above) generally apply when removing a vehicle from private property other than a private tow-away zone. However, the bill specifies that if the vehicle owner or operator is present with the motor vehicle and is not incapacitated, or arrives before the motor vehicle has been prepared for removal, the sheriff or chief of police must allow the vehicle owner or operator the opportunity to arrange for the removal of the vehicle within a period of time specified by the sheriff or chief of police. If the vehicle owner or operator does not arrange for the removal of the vehicle or if the sheriff or chief of police determines that the vehicle has not been removed within the specified period of time, the sheriff or chief of police must order the removal of the vehicle.²⁸

Vehicle recovery and retrieval of personal items

The bill modifies the process for retrieving a vehicle that has been towed from a private property other than a private tow-away zone. Under current law, in order for a vehicle owner to recover the vehicle that has been towed from private property other than a private tow-away zone, the owner must present proof of ownership and pay the applicable towing and storage charges. The towing and storage charges under current law include a \$90 towing charge and a storage charge of \$12 per 24-hour period. There are higher fees established for certain vehicles above a specified weight (\$150 towing charge and \$20 storage charge per 24-hour period).²⁹

Under the bill, the vehicle owner or lienholder must present proof of ownership and pay all applicable fees in accordance with rules established by the PUCO (see below). The owner of the vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle or paying any fee. For purposes of the bill, "personal items" do not include any items that are attached to the vehicle.³⁰

²⁷ R.C. 4513.60(A)(2).

²⁸ R.C. 4513.60(B).

²⁹ R.C. 4513.60(E).

³⁰ R.C. 4513.60(D)(1) and (3).



Additionally, under the bill, if the vehicle owner, operator, or lienholder contests the removal of the vehicle, the towing service or storage facility in possession of the vehicle must give written notice that if the person disputes that the vehicle was lawfully towed, the person may contact the PUCO about options for contesting the tow, including mediation and legal action.³¹

Prohibitions

The bill expands the prohibitions applicable to persons engaged in the towing and storage of vehicles removed from private property other than a private tow-away zone. Under current law, a person is prohibited from removing or causing the removal of any motor vehicle from private property other than in accordance with the Towing Law. A violation of this prohibition is a minor misdemeanor.³²

The bill also prohibits a towing service or storage facility from doing any of the following, as applicable:

- (1) Failing to provide written notice regarding contesting a tow;
- (2) Charging or collecting any fee that exceeds the maximum fee established by the PUCO, charging or collecting any fee that is not authorized by the PUCO, or refusing to accept a major credit card for the payment of the applicable fees;
- (3) Refusing to allow the owner of a vehicle to retrieve personal items from the vehicle or charging or collecting any fee related to the retrieval of personal items;
- (4) Failing to inform a vehicle owner of the opportunity to pay a drop fee; and
- (5) Failing to display the business telephone number of the towing service on both sides of the towing vehicle in accordance with rules established by the PUCO.³³

The bill establishes a violation of any of these prohibitions as a minor misdemeanor on the first offense, a fourth degree misdemeanor on the second offense, and a third degree misdemeanor on the third or subsequent offense. If the offender is a for-hire motor carrier, the offender also may be subject to sanctions pursuant to the rules adopted by the PUCO (see below).³⁴

³¹ R.C. 4513.60(D)(2).

³² R.C. 4513.60(F) and (G).

³³ R.C. 4513.60(E).

³⁴ R.C. 4513.60(G) and (H).

Vehicles towed from a street or after coming into the possession of law enforcement

Background

Under current law, if a vehicle comes into the possession of a sheriff, chief of police, or state highway patrol trooper as a result of the performance of that law enforcement officer's duties, the law enforcement officer may order the vehicle into storage. Additionally, such a law enforcement officer may order a vehicle into storage if the vehicle has been left on 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 road or highway for 48 hours or longer without notification to the sheriff or chief of police. In either case, if the vehicle is ordered to be removed, the applicable law enforcement officer must designate the place of storage.

Storage requirements

Under the bill, the applicable law enforcement officer who orders the removal of a vehicle must ensure, whenever possible, that the place of storage where the vehicle will be taken meets all of the following requirements:

- (1) It is conveniently located;
- (2) It is well lighted;
- (3) It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township from which the vehicle is removed; and
- (4) It accepts major credit cards for payment of towing and storage charges.³⁵

Requirements for a towing service

Additionally, under the bill, the towing service or storage facility in possession of a motor vehicle ordered into storage by a law enforcement officer must do all of the following:

- (1) Comply with the applicable rules adopted by the PUCO governing removal by for-hire motor carriers (see below);
- (2) Impose fees only in accordance with rules adopted by the PUCO and accept major credit cards for payment of all such fees; and

³⁵ R.C. 4513.61(C).

(3) Deliver the vehicle to the location designated by the sheriff or chief of police not more than two hours after it is removed.³⁶

Vehicle recovery and retrieval of personal items

The bill modifies the process for retrieving a vehicle that has been towed from a street or after coming into the possession of law enforcement. Under current law, in order for the owner or lienholder of a vehicle to recover such a vehicle, the owner or lienholder must present proof of ownership and pay any expenses or charges incurred in the removal or storage of the vehicle along with a \$25 processing fee if a required notice has been sent.³⁷ Under the bill, the vehicle owner or lienholder must present proof of ownership and pay all applicable fees in accordance with rules established by the PUCO (see below) along with the \$25 processing fee, if applicable.³⁸ If the vehicle owner, operator, or lienholder contests the removal of the vehicle, the towing service or storage facility in possession of the vehicle must give written notice that if the person disputes that the vehicle was lawfully towed, the person may contact the PUCO about options for contesting the tow, including mediation and legal action.³⁹

Additionally, under the bill, the owner of the vehicle may retrieve any personal items from the vehicle without retrieving the vehicle or paying any fee. However, the owner may not retrieve any personal item that has been determined by the sheriff or chief of police, as applicable, to be necessary to a criminal investigation. For purposes of the bill, "personal items" do not include any items that are attached to the vehicle.⁴⁰

Vehicle owner's choice of towing service

Under the bill, if the vehicle owner or operator is present with the motor vehicle and is not incapacitated, or arrives before the sheriff, chief of police, or state highway patrol trooper has ordered the vehicle into storage, the sheriff, chief of police, or state highway patrol trooper must allow the vehicle owner or operator the opportunity to arrange for the removal of the vehicle within a period of time specified by the sheriff, chief of police, or state highway patrol trooper. However, the sheriff, chief of police, or state highway patrol trooper is not required to allow a vehicle owner or operator the opportunity to arrange for the removal of the vehicle if the vehicle is being taken into the custody of law enforcement. If the vehicle owner or operator does not arrange for

³⁶ R.C. 4513.61(B).

³⁷ R.C. 4513.61.

³⁸ R.C. 4513.61(D)(2) and (3).

³⁹ R.C. 4513.61(D)(2).

⁴⁰ R.C. 4513.61(D)(2).



the removal of the vehicle, if the sheriff or chief of police determines that the vehicle has not been removed within the specified period of time, or if the vehicle is being taken into the custody of law enforcement, the sheriff, chief of police, or state highway patrol trooper must order the removal of the vehicle.⁴¹

Prohibitions

The bill prohibits a towing service from removing a vehicle other than in accordance with the applicable requirements. The bill also prohibits any storage facility from storing a vehicle other than in accordance with the applicable requirements. A violation of either prohibition is a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the third degree on the third or subsequent offense. If the offender is a for-hire motor carrier, the offender also may be subject to sanctions pursuant to the rules of the PUCO.⁴²

Vehicles towed pursuant to a contract with a local authority

Vehicle removal and storage requirements

The bill adds an additional category of towing, and accompanying requirements, that apply to the removal of a motor vehicle by a towing service pursuant to a contract with a municipal corporation, county, or township if the removal is not covered by another provision of the Towing Law. With regard to a vehicle removed pursuant to a contract with a local authority, the bill requires the towing service or storage facility to do all of the following, as applicable:

- (1) Remove the vehicle in accordance with the applicable PUCO rules;
- (2) Impose fees only in accordance with PUCO rules and accept major credit cards for payment of all such fees;
- (3) Provide notice to the owner or operator of a vehicle who arrives after the vehicle has been prepared for removal but prior to its actual removal that the person may pay a drop fee of one-half the fee established by the PUCO for vehicle removal;
- (4) Accept major credit cards for the payment of any drop fee;
- (5) If a person pays a drop fee, provide a receipt showing both the full amount normally assessed and the actual amount received, and release the vehicle;

⁴¹ R.C. 4513.61(A)(2).

⁴² R.C. 4513.61(G), (H), and (I).

(6) Make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked in violation of a posted parking restriction or any other applicable ordinance or resolution of the municipal corporation, county, or township;

(7) Retain all photographs and a record of the time and date of the photographs, in electronic or printed form, for at least 30 days after the date on which the vehicle is recovered by the owner or lienholder or at least two years from the date on which the vehicle was towed, whichever is earlier;

(8) Deliver the vehicle to the location from which it may be recovered not more than two hours after the time it was removed; and

(9) Ensure that the following apply to the place from which the vehicle may be recovered:

--It is conveniently located;

--It is well lighted;

--It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the vehicle is located at the time of removal; and

--It accepts major credit cards for the payment of all applicable charges.⁴³

Vehicle recovery and retrieval of personal items

Under the bill, the vehicle owner or lienholder may reclaim such a vehicle upon presentation of proof of ownership and payment of all applicable fees in accordance with rules established by the PUCO (see below). If the vehicle owner, operator, or lienholder contests the removal of the vehicle, the towing service or storage facility in possession of the vehicle must show all photographs that were taken of the violation and must provide those photographs, in the medium in which they are stored, upon request. The towing service or storage facility also must give written notice that if the person disputes that the vehicle was lawfully towed, the person may contact the PUCO about options for contesting the tow, including mediation and legal action. Upon presentation of proof of ownership, the owner of the vehicle may retrieve any personal

⁴³ R.C. 4513.602(A).

items from the vehicle without retrieving the vehicle or paying any fee. For purposes of the bill, "personal items" do not include any items that are attached to the vehicle.⁴⁴

Prohibitions

The bill prohibits any towing service or storage facility from failing to comply with the requirements governing the towing of a motor vehicle pursuant to a contract with a local authority. However, if a towing service is required to take vehicles to a public impound lot pursuant to the contract, the towing service is not in violation of the place of storage requirements governing the location, lighting, or acceptance of credit cards if the public impound lot does not comply with those requirements. A violation of the prohibition is a minor misdemeanor on the first offense, a misdemeanor of the fourth degree on the second offense, and a misdemeanor of the third degree on the third or subsequent offense. If the offender is a for-hire motor carrier, the offender also may be subject to sanctions pursuant to the rules of the PUCO.⁴⁵

Storage facility requirements

The bill requires a storage facility that accepts for storage vehicles towed under the bill's provisions to conspicuously post a notice at the entrance to the storage facility that states the telephone number at which the owner or lienholder of a vehicle may contact the owner or a representative of the storage facility at any time. The owner of the storage facility also must provide that telephone number to the sheriff of a county or chief of police of a municipal corporation, township, or township joint police district. The owner of the storage facility must ensure that a process is in place for purposes of answering calls at all times of day or night.

Upon receiving a call from the owner or lienholder of a vehicle who seeks to recover the vehicle, the owner of the storage facility must ensure that, within three hours of the phone call, a representative of the storage facility is available to release the vehicle upon being presented with proof of ownership of the vehicle and payment of all applicable fees.

The bill prohibits the owner of a storage facility from failing to comply with the aforementioned requirements. This prohibition is generally enforced through the PUCO mediation and arbitration process discussed below. If the PUCO determines, as part of an arbitration hearing, that the owner of a storage facility has failed to comply with the above requirements, the PUCO must impose a fine of \$100 on the first offense, \$150 on

⁴⁴ R.C. 4513.602(B).

⁴⁵ R.C. 4513.602(C), (D), and (E).

the second offense, and \$200 on the third or subsequent offense. The fine shall be deposited into the Public Utilities Safety Fund.⁴⁶

Regulation by the Public Utilities Commission

The bill requires the Public Utilities Commission (PUCO) to adopt rules pursuant to the Administrative Procedure Act governing for-hire motor carriers engaged in the nonconsensual towing motor vehicles. The Commission's rules must do all of the following:

(1) Establish the acceptable scope of consumer protection or public safety regulations that may apply to a for-hire motor carrier engaged in the towing of motor vehicles that a county or township may adopt pursuant to a resolution;

(2) Establish fees applicable to a for-hire motor carrier engaged in the nonconsensual towing of motor vehicles in accordance with the following:

- For five years after the effective date of the bill, the maximum fee for the removal of a vehicle is \$90; or for a vehicle that has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds that is a truck, bus, or a combination of commercial tractor and trailer or semitrailer, the maximum fee is \$150;
- For five years after the effective date of the bill, the maximum storage fee is \$12 per 24-hour period, except the first 24-hour period during which no fee may be assessed; or for a vehicle that has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds that is a truck, bus, or a combination of commercial tractor and trailer or semitrailer, the maximum storage fee is \$20 per 24-hour period, except the first 24-hour period during which no fee may be assessed;
- Beginning five years after the effective date of the bill, the PUCO may revise the maximum removal and storage fees;
- At any time, the PUCO may establish any other fees in addition to the removal and storage fees, but must establish maximum amounts that may be charged for each additional fee;
- The PUCO must review the fees every five years, beginning five years after the effective date of the bill; and

⁴⁶ R.C. 4513.67.

- The PUCO must ensure that all fees established in rules are fair, reasonable, and nondiscriminatory.

(3) Require the display of the business telephone number of a for-hire motor carrier engaged in the towing of motor vehicles on both sides of a vehicle used by the motor carrier to tow other motor vehicles. The rules must require the telephone number to be displayed in a manner that is readily legible and consistent with applicable markings required under federal law for a commercial motor vehicle.

(4) Establish safety standards for the type of equipment necessary to safely remove and tow vehicles based on the type of vehicle being removed or towed;

(5) Establish standards for the removal of a motor vehicle from a private tow-away zone by a for-hire motor carrier engaged in the towing of motor vehicles in addition to standards and requirements established under the Towing Law. The standards may vary based on whether the private tow-away zone is located on residential, retail, or other commercial property.

(6) Establish minimum terms that must be part of a written contract between a property owner and a towing service in order for the towing service to remove a vehicle from a private tow-away zone, including all of the following:

- The circumstances under which a towing service may remove vehicles from a private tow-away zone;
- The hours during which the towing service may remove vehicles from the private tow-away zone; and
- A description of the area in which the towing restrictions may be enforced.

(7) Determine which documents may be used by the owner or lienholder of a vehicle to establish proof of ownership of a vehicle that is in possession of a for-hire motor carrier engaged in the towing of motor vehicles;

(8) Establish a procedure for any vehicle owner to file a complaint against a for-hire motor carrier engaged in the towing of motor vehicles alleging that the motor carrier violated any of the prohibitions in the Towing Law;

(9) Establish procedures and requirements governing mediation and arbitration of towing disputes (see below);



(10) Establish a schedule of sanctions to be imposed on a for-hire motor carrier engaged in the towing of motor vehicles upon verification of the violation of the Towing Law or a rule adopted by the Commission, which may include a monetary fine and the suspension or revocation of the certificate of public convenience and necessity issued to the for-hire motor carrier in accordance with the For-hire Motor Carrier Suspension Law. Any such fines collected must be deposited in the Public Utilities Transportation Safety Fund and utilized only for purposes of administering the duties of the PUCO related to towing.

(11) Adopt any other rules necessary to carry out the PUCO's responsibilities under the bill.⁴⁷

The bill also prohibits any person from knowingly falsifying or failing to submit any information required to be submitted to the PUCO under any of the aforementioned rules.⁴⁸

Under current law, the PUCO may regulate as a for-hire motor carrier any entity that is engaged in the towing of motor vehicles.⁴⁹ A "for-hire motor carrier" generally means a person engaged in the business of transporting persons or property by motor vehicle for compensation, except when engaged in specified activities in intrastate commerce. A "for-hire motor carrier" includes the carrier's agents, officers, and representatives, as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and employees concerned with the installation, inspection, and maintenance of motor-vehicle equipment and accessories.⁵⁰

Municipal regulation of entities engaged in the towing of motor vehicles

The bill removes a provision of current law that the Ohio Supreme Court determined was in conflict with Article XVIII, Section 3 of the Ohio Constitution. Current law provides that an entity engaged in the towing of motor vehicles is not subject to any ordinance, rule, or resolution of a municipal corporation, county, or township that provides for the licensing, registering, or regulation of entities that tow motor vehicles.⁵¹ In *Cleveland v. State*, Slip Opinion No. 2014-Ohio-86, the court held that

⁴⁷ R.C. 4921.25(B).

⁴⁸ R.C. 4921.25(C).

⁴⁹ R.C. 4921.25(A).

⁵⁰ R.C. 4921.01(B), not in the bill.

⁵¹ R.C. 4921.25(A).



provision violated a municipal corporation's home rule authority. Accordingly, the bill removes that provision from the law.⁵²

PUCO mediation and arbitration procedures

The bill allows any person whose vehicle has been towed and who disputes some aspect of the removal due to an alleged violation of the Towing Law to request the PUCO to facilitate mediation between the vehicle owner and the towing service that removed the vehicle. Under the bill, the PUCO is required to request the towing service to participate in the mediation. If the towing service agrees to participate, the PUCO is required to hold a mediation hearing as expeditiously as possible. At the hearing, the PUCO must mediate the dispute and attempt to reach a conclusion that is satisfactory to both parties. The mediation hearing must be conducted in accordance with rules adopted by the PUCO for such a proceeding.⁵³

The bill also allows a person to submit a written request asking the PUCO to hold an arbitration hearing if the towing service refuses to participate in mediation, or if the mediation is conducted but does not reach a conclusion that is satisfactory to the person whose vehicle was towed. After receiving such a request, the PUCO must hold an arbitration hearing, in which a towing service is required to participate. The arbitration must be conducted in accordance with rules adopted by the PUCO for such a proceeding.⁵⁴

Under the bill, the PUCO must deliver a written statement of the PUCO's decision to the person who requested arbitration and the towing service that towed the vehicle upon completion of the arbitration hearing. If the PUCO determines that the towing service violated a prohibition in the Towing Law, the PUCO must require the towing service to pay a fine of at least two times the amount of fees collected from the vehicle owner, which will be remitted to the vehicle owner. Both parties are bound to the PUCO arbitration decision. The decision may be enforced by the Franklin County Court of Common Pleas and may be appealed to the Franklin County Court of Appeals.⁵⁵

The bill specifies that a law enforcement officer who ordered a tow is not required to participate in a mediation or arbitration. In addition, a person may not challenge whether a law enforcement order was in conformance with the Towing Law.

⁵² R.C. 4921.25(A).

⁵³ R.C. 4921.251(A).

⁵⁴ R.C. 4921.251(B)(1).

⁵⁵ R.C. 4921.251(B)(2) and (3).



Finally, the bill specifies that an issuer of a policy of motor vehicle insurance covering a towed vehicle may request mediation and arbitration.⁵⁶

The Motor Vehicle Towing Advisory Council

The bill establishes the Motor Vehicle Towing Advisory Council for purposes of providing advice and recommendations to the General Assembly concerning the law that relates to the towing of motor vehicles. Under the bill, the Council must consist of the following 11 members:

- (1) One representative from a towing company that engages in heavy duty towing;
- (2) One representative from a towing company that engages in light duty towing;
- (3) One representative from a towing company that engages in towing from private property;
- (4) One representative from a statewide organization representing the towing and recovery industry;
- (5) One representative from a law enforcement agency;
- (6) One representative from the property and casualty insurance industry;
- (7) One representative from a bank that issues loans for the purchase of motor vehicles;
- (8) An owner of an apartment complex that is designated as a private tow-away zone;
- (9) One representative of an automobile club;
- (10) One representative from an automotive repair shop; and
- (11) One member of the public.

Those members must be jointly appointed to staggered three-year terms by the Speaker of the House of Representatives and the President of the Senate and then

⁵⁶ R.C. 4921.251(C) and (D).



approved by the Governor. The bill also establishes procedural requirements applicable to the Council.⁵⁷

Applicability

The bill specifies that it must not be construed to impair any written contract that was entered into prior to the bill's effective date. Additionally, the bill specifies that the amendment, enactment, or repeal of provisions of the Revised Code by the bill related to conditions that require corresponding provisions to be adopted by rule do not affect the continued operation of statutory provisions, the same as if they had not been amended or enacted, until rules corresponding to those provisions take effect.⁵⁸

HISTORY

ACTION	DATE
Introduced	12-10-13
Reported, H. Commerce, Labor & Technology	02-26-14
Re-referred to H. Commerce, Labor & Technology	03-12-14
Re-reported, H. Commerce, Labor & Technology	03-19-14
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⁵⁷ R.C. 4921.252.

⁵⁸ Section 3.

