

By: Representative Steverson

To: Judiciary B

HOUSE BILL NO. 1622

1 AN ACT TO ESTABLISH THE "COMMERCIAL VEHICLE TOWING ADVISORY
 2 COMMITTEE" WITHIN THE COMMERCIAL TRANSPORTATION ENFORCEMENT
 3 DIVISION OF THE MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY; TO
 4 PROVIDE FOR THE COMMITTEE'S MEMBERSHIP COMPOSITION, TERMS OF
 5 SERVICE AND PRESCRIBE ITS POWERS AND DUTIES; TO PROVIDE FOR THE
 6 REGULATION OF NONCONSENSUAL TOWING AND CHARGES FOR COMMERCIAL
 7 MOTOR VEHICLES; TO ESTABLISH REGULATIONS FOR TOWING AND RECOVERY
 8 SERVICE PROVIDERS; TO ESTABLISH A RESOLUTION PROCESS FOR
 9 COMMERCIAL MOTOR VEHICLE OWNERS WHO DISPUTE THE AMOUNT OF TOWING
 10 AND RECOVERY FEES AND CHARGES; TO REQUIRE THE COMMITTEE TO APPROVE
 11 TOWING RATES BASED ON CERTAIN STANDARDS; TO PROVIDE FOR
 12 DISCIPLINARY ACTION AGAINST TOWING AND RECOVERY SERVICE PROVIDERS
 13 FOR VIOLATIONS; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** For purposes of this act, the following terms
 16 shall have the meanings ascribed in this section unless the
 17 context of use clearly requires otherwise:

18 (a) "Motor vehicle" means a vehicle intended primarily
 19 for use and operation on public roads and highways which is
 20 self-propelled.

21 (b) "Nonconsensual towing" means the moving,
 22 transporting, or recovery of a commercial vehicle by a towing and
 23 recovery service without the prior consent or authorization of the



24 owner or operator of the motor vehicle from private property
25 and/or by police-initiated towing.

26 (c) "Towing" means the moving, transporting, or
27 recovery from public or private property or from a storage
28 facility of a person's commercial motor vehicle, the moving or
29 removing of an unclaimed commercial motor vehicle, or the
30 immobilization of or preparation for moving or removing of the
31 commercial motor vehicle, for which a fee is charged, either
32 directly or indirectly.

33 (d) "Heavy-duty towing" means towing of a vehicle
34 including trailers and semitrailers with a gross vehicle rating
35 over twenty-six thousand (26,000) pounds.

36 (e) "Medium-duty towing" means towing of a vehicle
37 including trailers or semitrailers with a gross vehicle rating
38 from over ten thousand (10,000) pounds to twenty-six thousand
39 (26,000) pounds.

40 (f) "Towing and recovery service" means an individual
41 or business entity that provides towing and recovery services at
42 the direction of a law enforcement officer or private property
43 owner in exchange for a fee or charge.

44 (g) "Law enforcement officer" means any person
45 appointed or employed full time by the state or any political
46 subdivision thereof, by the state military department as provided
47 in Section 33-1-33 or by a hospital as provided in Section
48 41-9-41, who is duly sworn and vested with authority to bear arms



49 and make arrests, and whose primary responsibility is the
50 prevention and detection of crime, the apprehension of criminals
51 and the enforcement of the criminal and traffic laws of this state
52 and/or the ordinances of any political subdivision thereof. The
53 term "law enforcement officer" also includes those district
54 attorney criminal investigators who are designated as law
55 enforcement officers, the acting Commissioner of Public Safety,
56 the acting Director of Mississippi Bureau of Narcotics, the acting
57 Director of the Office of Homeland Security, and any employee of
58 the Department of Public Safety designated by the commissioner who
59 has previously served as a law enforcement officer and who would
60 not otherwise be disqualified to serve in such capacity.

61 (h) "Tow list" means a list of approved towing
62 companies compiled, maintained, and utilized by a law enforcement
63 officer or his or her designee and as authorized by the
64 Mississippi Department of Public Safety to perform
65 police-initiated towing services of disabled or abandoned
66 commercial motor vehicles.

67 (i) "Police-initiated towing" means towing of a
68 commercial motor vehicle which was authorized, requested or
69 dispatched by a law enforcement officer.

70 (j) "Vehicle immobilization device" means a mechanical
71 device that is designed or adapted to be attached to a wheel,
72 tire, or other part of a parked commercial motor vehicle to
73 prohibit the vehicle's usual manner of movement or operation.



74 (k) "Per pound billing" means a method of calculating a
75 fee for towing using a formula that considers the weight of the
76 commercial motor vehicle, equipment or cargo that is the subject
77 of the towing and multiplies the weight of the vehicle, equipment
78 or cargo by a monetary amount.

79 (l) "Drop fee" means a fee for towing and recovery
80 service charges to unhook a commercial motor vehicle from a tow
81 truck.

82 (m) "Cargo" means goods and materials transported by a
83 commercial motor vehicle as defined in 49 CFR Section 390.5,
84 including, without limitations:

- 85 (i) Pallets;
- 86 (ii) Containers;
- 87 (iii) Bracing;
- 88 (iv) Air pillows;
- 89 (v) Tie-down assemblies and other securement
90 systems;
- 91 (vi) Cradles;
- 92 (vii) Shocks; and
- 93 (viii) All other dunnage or packaging.

94 **SECTION 2.** (1) There is established within the Commercial
95 Transportation Enforcement Division of the Mississippi Department
96 of Public Safety, the "Commercial Vehicle Towing Advisory
97 Committee," which shall consist of the following members:



98 (a) The Commissioner of the Mississippi Department of
99 Public Safety, or his or her designee;

100 (b) The Director of the Mississippi Highway Patrol
101 (Assistant Commissioner of the Mississippi Department of Public
102 Safety), or his or her designee;

103 (c) Two (2) members, appointed by the Governor, to
104 represent the towing and recovery services in the state;

105 (d) Two (2) members, appointed by the Governor, to
106 represent the commercial motor carriers within the state; and

107 (e) One (1) member, appointed by the Governor, to
108 represent the local police jurisdictions.

109 (2) (a) The members of the committee shall be appointed
110 within thirty (30) days of the effective date of this act. Any
111 vacancy in the committee shall not affect its powers, but shall be
112 filled as prescribed in subsection (1) of this section. The
113 committee shall hold its first meeting within sixty (60) days of
114 the effective date of this act, upon a call of the commissioner.
115 A majority of the membership of the committee shall constitute a
116 quorum, and shall meet at the call of the chairmen. All members
117 must be notified in writing of all meetings at least five (5) days
118 before the date on which a meeting of the committee is scheduled.
119 At its first meeting, the committee shall elect a chairperson from
120 its membership to serve for a term of two (2) years. A
121 chairperson may serve consecutive terms.



122 (b) After its inaugural meeting, meetings of the
123 committee shall be held on dates and at times and locations within
124 the state selected by the chairperson in consultation with the
125 other members, or as determined by the commissioner if the most
126 recent chairperson's term has expired.

127 (3) Members of the committee shall serve for a term of two
128 (2) years, and may serve consecutive terms. Members shall serve
129 without compensation but shall receive a per diem in the amount
130 provided in Section 25-3-69 for each day engaged in the business
131 of the committee, and shall receive reimbursement for travel
132 expenses incurred while engaged in official business of the
133 committee in accordance with Section 25-3-41.

134 (4) The Commercial Vehicle Towing Advisory Committee shall
135 keep and maintain a record of all proceedings of the Commercial
136 Vehicle Towing Advisory Committee, and copies of all orders and
137 recommendations issued by the Commercial Vehicle Towing Advisory
138 Committee.

139 **SECTION 3.** The Commercial Vehicle Towing Advisory Committee
140 shall:

141 (a) Establish and maintain a tow list, by county, of
142 qualifying towing and recovery services for use by law enforcement
143 officers in this state and make the tow list available to the
144 public on request;

145 (b) Establish regulations and standards for the
146 inclusion of a towing and recovery service on the tow list,



147 including application procedures and minimum qualification
148 requirements;

149 (c) Establish statewide maximum towing and storage
150 rates for nonconsensual tows, including those from private
151 property. The established maximum rates shall include maximum
152 rates for administrative fees, as well as hazardous materials and
153 cargo clean-up rates, provided as follows:

154 (i) A towing and recovery service may charge less
155 than but may not charge more than the approved statewide maximum
156 rates;

157 (ii) The governing authority of a municipality may
158 require a towing and recovery service charge lower than maximum
159 rates on towing between points within such municipality than those
160 provided by the committee's maximum rates. The governing
161 authority of a municipality shall not provide for higher maximum
162 rates than are provided for by the department;

163 (iii) The towing and recovery service shall not
164 charge or retain any fees not identified by the committee for the
165 maximum rates for towing and storage of a commercial motor vehicle
166 after a nonconsensual tow from private property; and

167 (iv) The statewide maximum towing and storage
168 rates for nonconsensual tows shall be reviewed annually. Market
169 fluctuations within the towing industry may be considered, along
170 with current consensual towing market rates and their relationship
171 to nonconsensual towing rates;



172 (d) Require the towing and service recovery service to
173 ban the use of per pound billing for nonconsensual tows; and

174 (e) Publish a Towing Service Standards Manual, with
175 rules and regulations governing the use of towing and recovery
176 services for nonconsensual towing of commercial motor vehicles no
177 later than January 1, 2025. At a minimum, the rules and
178 regulations shall include the following provisions to:

179 (i) Establish the information required to be
180 included on any invoice associated with the towing of a commercial
181 motor vehicle, including, but not limited to, requiring that the
182 invoice be itemized;

183 (ii) Establish factors that shall be considered in
184 determining whether a charge levied by a towing and recovery
185 service is fair, equitable and reasonable;

186 (iii) Establish a process the committee shall use
187 to receive, investigate and adjudicate complaints against a towing
188 and recovery service;

189 (iv) Establish a service charge dispute resolution
190 process that includes, at minimum, provisions requiring completion
191 of a written complaint form, deadlines for initiating a complaint
192 after receiving an itemized invoice, deadlines for responding to a
193 complaint, cessation of storage fees during the complaint
194 resolution process, a hearing on the complaint, and deadlines for
195 issuing a formal decision adjudicating the service charge dispute;



196 (v) Establish an appeals process for the appeal of
197 any determination or order of the committee under this subsection;

198 (vi) Establish a disciplinary procedure for
199 violations of the rules by a towing and recovery service,
200 including the assessment of fines for violations and/or criminal
201 misdemeanor or felony penalties and the suspension or removal of a
202 towing and recovery service from the tow list; and

203 (vii) Establish a process the department may use
204 to suspend or remove a towing and recovery service from any tow
205 list.

206 **SECTION 4.** (1) Upon nonconsensual towing or recovery of a
207 commercial motor vehicle and movement of the commercial motor
208 vehicle to a storage facility, a towing and recovery service shall
209 allow an owner of a commercial motor vehicle or a designee of the
210 owner of the commercial motor vehicle to access the vehicle in a
211 reasonable manner as established by rules adopted by the
212 Commercial Vehicle Towing Advisory Committee and retrieve any
213 cargo or contents in or on the commercial motor vehicle, including
214 a trailer, tractor, and any items necessary to carry out the
215 interrupted job. Cargo and contents in or on the commercial motor
216 vehicle may not be held by the towing and recovery service to
217 secure towing and recovery charges.

218 (2) The towing and recovery service shall provide a
219 commercial vehicle owner or operator or owner's designee with
220 reasonable access to the vehicle so that the vehicle owner or



221 operator or the owner's designee may access and collect any
222 personal property or cargo contained in the vehicle, regardless of
223 whether any payment has been made for the towing and recovery
224 service charges.

225 (3) If there is no dispute as to the charges assessed by the
226 towing and recovery service for the nonconsensual towing of the
227 commercial motor vehicle, the vehicle owner or operator or owner's
228 designee shall pay the tow invoice and the towing and recovery
229 service shall release a vehicle and any cargo immediately.

230 (4) If there is a dispute as to the reasonableness or amount
231 of the fees assessed by the towing and recovery service, the
232 towing and recovery service shall release the cargo immediately to
233 the owner or owner's agent on submission of:

234 (a) Proof of ownership if the cargo does not belong to
235 the commercial motor carrier; or

236 (b) If the cargo belongs to the commercial motor
237 carrier:

238 (i) A letter from the insurance company stating
239 that there is coverage for the relevant claim or accident and
240 including, at minimum, a claim number, policy number, and policy
241 limit; or

242 (ii) If an insurance policy required under
243 subparagraph (i) of this paragraph (b) is not high enough to cover
244 the cost of the cargo clean-up, a signed letter of guarantee from
245 the commercial motor carrier; and



246 (iii) The towing and recovery service shall
247 release the vehicle to the owner or the owner's designee on
248 payment of twenty percent (20%) of the invoice by the vehicle
249 owner or operator or the owner's designee;.

250 (c) A payment under paragraph (b)(iii) of this
251 subsection does not eliminate the remainder of the financial
252 obligation to the towing and recovery service.

253 **SECTION 5.** In authorizing a towing and recovery service to
254 perform towing services, any law enforcement officer may utilize
255 the services of a tow list, provided:

256 (a) They are under no obligation to include or retain
257 the services of any towing and recovery service in any contract or
258 agreement with respect to any tow list established pursuant to
259 this subsection. A towing and recovery service is subject to
260 removal from a tow list at any time; and

261 (b) An owner or operator of a commercial motor vehicle
262 may request a specific towing and recovery service, and that
263 request shall be honored by the law enforcement officer unless the
264 requested towing and recovery service cannot or does not respond
265 in a reasonable time, as determined by the law enforcement
266 officer.

267 **SECTION 6.** It shall be unlawful for:

268 (a) A law enforcement officer to:



269 (i) Receive compensation or receive any other
270 incentive, monetary or otherwise, to select a particular towing
271 and recovery service from the tow list;

272 (ii) Hold any financial interest in a towing and
273 recovery service; or

274 (iii) Recommend any towing and recovery service in
275 the performance of his or her duties;

276 (b) Any member of the Commercial Vehicle Towing
277 Advisory Committee or Mississippi Department of Public Safety to
278 receive compensation from a towing and recovery service for the
279 privilege of being included on the tow list;

280 (c) A towing and recovery service to pay money or other
281 valuable consideration for the privilege of nonconsensually towing
282 commercial motor vehicles;

283 (d) A towing and recovery service to employ or
284 otherwise compensate individuals, commonly referred to as
285 "spotters," whose primary task is to report the presence of
286 unauthorized, improperly or illegally parked commercial motor
287 vehicles for the purposes of towing or removal and storage; and

288 (e) A towing and recovery service to travel to the
289 scene of a commercial motor vehicle accident or a disabled
290 commercial motor vehicle on public property or property open to
291 the public to solicit business for the purposes of towing or
292 removal and storage.



293 **SECTION 7.** (1) Before a towing and recovery service
294 connects a commercial motor vehicle to a tow truck for a
295 nonconsensual tow, the towing and recovery service shall document
296 the vehicle's condition and the reason for the tow, as follows:

297 (a) By taking at least four (4) photographs of the
298 vehicle, with at least one (1) photograph taken from the front,
299 one (1) photograph taken from the rear, one (1) photograph taken
300 from the driver's side, and one (1) photograph taken from the
301 passenger's side. These photographs must:

302 (i) Show the entire vehicle from the required
303 angles; and

304 (ii) Have the vehicle fill at least three-fourths
305 (3/4) of the photograph, measured from side to side;

306 (b) By taking a photograph that shows the reason for
307 the vehicle being towed nonconsensually. The photograph must show
308 the portion of the vehicle in relation to the reason, including
309 any sign, that the vehicle was towed;

310 (c) Provide copies of the photographs upon demand of
311 the owner or operator of the commercial motor vehicle or the
312 owner's designee, the Mississippi Department of Public Safety or
313 the Commercial Vehicle Towing Advisory Committee;

314 (d) Failure of a towing and recovery service to produce
315 the photographs shall create a rebuttable presumption that the
316 towing and recovery service did not have authorization to tow a



317 vehicle from either a private property owner or operator or from a
318 law enforcement officer.

319 (2) Before a towing and recovery service connects a
320 commercial motor vehicle to a tow truck for a nonconsensual tow,
321 the towing and recovery service shall have authorization to
322 nonconsensually tow a commercial motor vehicle, provided that:

323 (a) A law enforcement officer requests a
324 police-initiated tow and requests that a towing and recovery
325 service from the tow list provide towing; or

326 (b) The towing and recovery service has received
327 permission to tow the commercial motor vehicle, within the
328 twenty-four (24) hours immediately preceding the towing, from the
329 owner of the private property in a manner consistent with the
330 following:

331 (i) A towing and recovery service shall not
332 nonconsensually tow a commercial motor vehicle from private
333 property without the owner or operator of the private property
334 owner giving the vehicle owner or operator twenty-four (24) hours
335 written notice by placing the written notice on the windshield of
336 the vehicle; and

337 (ii) The notice must clearly state:

338 1. That the commercial motor vehicle will be
339 towed without consent if the vehicle remains parked
340 inappropriately or illegally;



341 2. A description of the inappropriate or
342 illegal parking that has caused the notice to be issued;

343 3. The time the vehicle will be towed if it
344 is not moved to appropriate parking or the inappropriate parking
345 has been corrected; and

346 4. That continuing to park inappropriately in
347 the same manner may lead to the vehicle being towed without
348 notice; and

349 (c) The private property owner must have posted signage
350 visible and facing the driver at each entry way into the property
351 that vehicles parked on the property without authorization,
352 inappropriately or illegally are subject to being towed. The sign
353 must also contain the international towing symbol no smaller than
354 four (4) inches by four (4) inches and be permanently mounted in a
355 position that is no lower than five (5) feet and no higher than
356 eight (8) feet.

357 (3) Before a towing and recovery service connects a
358 commercial motor vehicle to a tow truck for a nonconsensual tow,
359 the towing and recovery service shall not assess a drop fee to
360 release the commercial motor vehicle after the vehicle is hooked
361 up to the tow truck before the vehicle is removed from the private
362 property.

363 **SECTION 8.** (1) A towing and recovery service in the
364 business of installing vehicle immobilization devices shall:



365 (a) Accept credit cards and debit cards as methods of
366 payment for the removal of a vehicle immobilization device from a
367 commercial motor vehicle, provided that:

368 (i) A fee to accept payment by credit card or
369 debit card shall not be charged; or

370 (ii) An optional, alternative, online payment
371 service may be offered as an optimal payment method. If the
372 person making payment for the removal of the vehicle
373 immobilization device elects to use the optional online payment
374 method, then the provider of the online payment service may charge
375 a three percent (3%) convenience fee;

376 (b) If the operator or owner of the commercial motor
377 vehicle who is requesting removal of the vehicle immobilization
378 device elects to make the payment by credit card or debit card and
379 the payment cannot be completed by the card without undue delay at
380 the site where the commercial motor vehicle to which the vehicle
381 immobilization device is attached is located, and an optimal
382 online payment method as described in paragraph (a)(ii) of this
383 section is either unavailable or has been refused by the towing
384 and recovery service, remove the vehicle immobilization device and
385 issue a billing invoice for payment due to the operator who is
386 requesting the removal of the vehicle immobilization device, if
387 such operator provides a valid form of identification, or by mail
388 to the registered owner of the commercial motor vehicle; and



389 (c) Not compensate employees on a commission basis or
390 contract for or engage the services of an independent contractor
391 to install or remove vehicle immobilization devices.

392 (2) If a vehicle immobilization device is placed on a
393 commercial motor vehicle that is parked on private property due to
394 the vehicle operator or owner's failure to pay the required
395 parking charge, then the owner or operator of the private property
396 may require the vehicle operator or owner to pay the applicable
397 immobilization device removal fee and all unpaid parking fines and
398 fees to have the immobilization device removed.

399 (3) (a) An owner or operator of private property for which
400 an enforceable agreement exists with a towing and recovery service
401 to provide enforcement services by installing vehicle
402 immobilization devices on commercial motor vehicles on such
403 property shall post signage in a conspicuous location on the
404 property bearing notice:

405 (i) That the parking policy for the property is
406 strictly enforced;

407 (ii) That the violator's vehicle will be
408 immobilized with a vehicle immobilization device with the owner or
409 operator of the vehicle having to pay to have the device removed;

410 (iii) Providing the name and phone number of the
411 authorized towing and recovery service; and



412 (iv) That operators and owners of commercial motor
413 vehicles are protected from violations of this subsection and that
414 violations may be reported to the Commercial Vehicle Towing
415 Advisory Committee.

416 (b) The sign required by paragraph (a) must be no less
417 than twenty-four (24) inches in height and eighteen (18) inches
418 in width, and contain lettering that is no less than two (2)
419 inches in height, and which such signage is to be located at each
420 designated entrance to the property where parking prohibitions are
421 in place. If there is not a designated entrance to the property,
422 the signage must be erected in a place that is clearly visible
423 from each parking space.

424 (c) A towing and recovery service engaged in the
425 business of installing vehicle immobilization devices shall not
426 install a vehicle immobilization device on a commercial motor
427 vehicle if the vehicle is located on property that does not comply
428 with the signage requirements under this subsection.

429 **SECTION 9.** This act shall take effect and be in force from
430 and after July 1, 2024.

