

By: Representative Steverson

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
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 fifteen thousand (15,000) 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 (n) "Commercial vehicle" means any self-propelled or
95 motored device designed to be used or used primarily for the
96 transportation of passengers or property, or both, and having a
97 gross vehicular weight rating of fifteen thousand (15,000) pounds
98 or more.



99 SECTION 2. (1) There is established within the Commercial
100 Transportation Enforcement Division of the Mississippi Department
101 of Public Safety, the "Commercial Vehicle Towing Advisory
102 Committee," which shall consist of the following members:

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

105 (b) The Director of the Mississippi Highway Patrol
106 (Assistant Commissioner of the Mississippi Department of Public
107 Safety), or his or her designee;

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

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

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

114 (2) (a) The members of the committee shall be appointed
115 within thirty (30) days of the effective date of this act. Any
116 vacancy in the committee shall not affect its powers, but shall be
117 filled as prescribed in subsection (1) of this section. The
118 committee shall hold its first meeting within sixty (60) days of
119 the effective date of this act, upon a call of the commissioner.
120 A majority of the membership of the committee shall constitute a
121 quorum, and shall meet at the call of the chairmen. All members
122 must be notified in writing of all meetings at least five (5) days
123 before the date on which a meeting of the committee is scheduled.



124 At its first meeting, the committee shall elect a chairperson from
125 its membership to serve for a term of two (2) years. A
126 chairperson may serve consecutive terms.

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

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

139 (4) The Commercial Vehicle Towing Advisory Committee shall
140 keep and maintain a record of all proceedings of the Commercial
141 Vehicle Towing Advisory Committee, and copies of all orders and
142 recommendations issued by the Commercial Vehicle Towing Advisory
143 Committee.

144 **SECTION 3.** The Commercial Vehicle Towing Advisory Committee
145 shall:

146 (a) Establish and maintain a tow list, by county, of
147 qualifying towing and recovery services for use by law enforcement



148 officers in this state and make the tow list available to the
149 public on request;

150 (b) Establish regulations and standards for the
151 inclusion of a towing and recovery service on the tow list,
152 including application procedures and minimum qualification
153 requirements;

154 (c) Establish statewide maximum towing and storage
155 rates for nonconsensual tows, including those from private
156 property. The established maximum rates shall include maximum
157 rates for administrative fees, as well as hazardous materials and
158 cargo clean-up rates, provided as follows:

159 (i) A towing and recovery service may charge less
160 than but may not charge more than the approved statewide maximum
161 rates;

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

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



172 (iv) The statewide maximum towing and storage
173 rates for nonconsensual tows shall be reviewed annually. Market
174 fluctuations within the towing industry may be considered, along
175 with current consensual towing market rates and their relationship
176 to nonconsensual towing rates;

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

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

184 (i) Establish the information required to be
185 included on any invoice associated with the towing of a commercial
186 motor vehicle, including, but not limited to, requiring that the
187 invoice be itemized;

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

191 (iii) Establish a process the committee shall use
192 to receive, investigate and adjudicate complaints against a towing
193 and recovery service;

194 (iv) Establish a service charge dispute resolution
195 process that includes, at minimum, provisions requiring completion
196 of a written complaint form, deadlines for initiating a complaint



197 after receiving an itemized invoice, deadlines for responding to a
198 complaint, cessation of storage fees during the complaint
199 resolution process, a hearing on the complaint, and deadlines for
200 issuing a formal decision adjudicating the service charge dispute;

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

203 (vi) Establish a disciplinary procedure for
204 violations of the rules by a towing and recovery service,
205 including the assessment of fines for violations and/or criminal
206 misdemeanor or felony penalties and the suspension or removal of a
207 towing and recovery service from the tow list; and

208 (vii) Establish a process the department may use
209 to suspend or remove a towing and recovery service from any tow
210 list.

211 **SECTION 4.** (1) Upon nonconsensual towing or recovery of a
212 commercial motor vehicle and movement of the commercial motor
213 vehicle to a storage facility, a towing and recovery service shall
214 allow an owner of a commercial motor vehicle or a designee of the
215 owner of the commercial motor vehicle to access the vehicle in a
216 reasonable manner as established by rules adopted by the
217 Commercial Vehicle Towing Advisory Committee and retrieve any
218 cargo or contents in or on the commercial motor vehicle, including
219 a trailer, tractor, and any items necessary to carry out the
220 interrupted job. Cargo and contents in or on the commercial motor



221 vehicle may not be held by the towing and recovery service to
222 secure towing and recovery charges.

223 (2) The towing and recovery service shall provide a
224 commercial vehicle owner or operator or owner's designee with
225 reasonable access to the vehicle so that the vehicle owner or
226 operator or the owner's designee may access and collect any
227 personal property or cargo contained in the vehicle, regardless of
228 whether any payment has been made for the towing and recovery
229 service charges.

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

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

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

241 (b) If the cargo belongs to the commercial motor
242 carrier:

243 (i) A letter from the insurance company stating
244 that there is coverage for the relevant claim or accident and



245 including, at minimum, a claim number, policy number, and policy
246 limit; or

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

251 (iii) The towing and recovery service shall
252 release the vehicle to the owner or the owner's designee on
253 payment of twenty percent (20%) of the invoice by the vehicle
254 owner or operator or the owner's designee;.

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

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

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

266 (b) An owner or operator of a commercial motor vehicle
267 may request a specific towing and recovery service, and that
268 request shall be honored by the law enforcement officer unless the
269 requested towing and recovery service cannot or does not respond



270 in a reasonable time, as determined by the law enforcement
271 officer.

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

273 (a) A law enforcement officer to:

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

277 (ii) Hold any financial interest in a towing and
278 recovery service; or

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

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

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

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

293 (e) A towing and recovery service to travel to the
294 scene of a commercial motor vehicle accident or a disabled



295 commercial motor vehicle on public property or property open to
296 the public to solicit business for the purposes of towing or
297 removal and storage.

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

302 (a) By taking at least four (4) photographs of the
303 vehicle, with at least one (1) photograph taken from the front,
304 one (1) photograph taken from the rear, one (1) photograph taken
305 from the driver's side, and one (1) photograph taken from the
306 passenger's side. These photographs must:

307 (i) Show the entire vehicle from the required
308 angles; and

309 (ii) Have the vehicle fill at least three-fourths
310 (3/4) of the photograph, measured from side to side;

311 (b) By taking a photograph that shows the reason for
312 the vehicle being towed nonconsensually. The photograph must show
313 the portion of the vehicle in relation to the reason, including
314 any sign, that the vehicle was towed;

315 (c) Provide copies of the photographs upon demand of
316 the owner or operator of the commercial motor vehicle or the
317 owner's designee, the Mississippi Department of Public Safety or
318 the Commercial Vehicle Towing Advisory Committee;



319 (d) Failure of a towing and recovery service to produce
320 the photographs shall create a rebuttable presumption that the
321 towing and recovery service did not have authorization to tow a
322 vehicle from either a private property owner or operator or from a
323 law enforcement officer.

324 (2) Before a towing and recovery service connects a
325 commercial motor vehicle to a tow truck for a nonconsensual tow,
326 the towing and recovery service shall have authorization to
327 nonconsensually tow a commercial motor vehicle, provided that:

328 (a) A law enforcement officer requests a
329 police-initiated tow and requests that a towing and recovery
330 service from the tow list provide towing; or

331 (b) The towing and recovery service has received
332 permission to tow the commercial motor vehicle, within the
333 twenty-four (24) hours immediately preceding the towing, from the
334 owner of the private property in a manner consistent with the
335 following:

336 (i) A towing and recovery service shall not
337 nonconsensually tow a commercial motor vehicle from private
338 property without the owner or operator of the private property
339 owner giving the vehicle owner or operator twenty-four (24) hours
340 written notice by placing the written notice on the windshield of
341 the vehicle; and

342 (ii) The notice must clearly state:



343 1. That the commercial motor vehicle will be
344 towed without consent if the vehicle remains parked
345 inappropriately or illegally;

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

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

351 4. That continuing to park inappropriately in
352 the same manner may lead to the vehicle being towed without
353 notice; and

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

362 (3) Before a towing and recovery service connects a
363 commercial motor vehicle to a tow truck for a nonconsensual tow,
364 the towing and recovery service shall not assess a drop fee to
365 release the commercial motor vehicle after the vehicle is hooked
366 up to the tow truck before the vehicle is removed from the private
367 property.



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

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

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

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

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



392 such operator provides a valid form of identification, or by mail
393 to the registered owner of the commercial motor vehicle; and

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

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

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

410 (i) That the parking policy for the property is
411 strictly enforced;

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

415 (iii) Providing the name and phone number of the
416 authorized towing and recovery service; and



417 (iv) That operators and owners of commercial motor
418 vehicles are protected from violations of this subsection and that
419 violations may be reported to the Commercial Vehicle Towing
420 Advisory Committee.

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

429 (c) A towing and recovery service engaged in the
430 business of installing vehicle immobilization devices shall not
431 install a vehicle immobilization device on a commercial motor
432 vehicle if the vehicle is located on property that does not comply
433 with the signage requirements under this subsection.

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

