

By: Senator(s) Branning

To: Highways and
Transportation

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2635

1 AN ACT TO PROVIDE FOR THE REGULATION OF NONCONSENSUAL TOWING
2 AND CHARGES FOR COMMERCIAL MOTOR VEHICLES; TO CREATE THE
3 COMMERCIAL VEHICLE TOWING ADVISORY COMMITTEE; TO ESTABLISH
4 REGULATIONS FOR TOWING AND RECOVERY SERVICE PROVIDERS; TO
5 ESTABLISH A RESOLUTION PROCESS FOR COMMERCIAL MOTOR VEHICLE OWNERS
6 WHO DISPUTE THE AMOUNT OF TOWING AND RECOVERY FEES AND CHARGES; TO
7 REQUIRE THE COMMERCIAL VEHICLE TOWING ADVISORY COMMITTEE TO
8 PROVIDE TOWING RATES BASED ON CERTAIN STANDARDS; TO PROVIDE FOR
9 DISCIPLINARY ACTION AGAINST TOWING AND RECOVERY SERVICE PROVIDERS
10 FOR VIOLATIONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** For the purposes of this act, the following terms
13 shall have the following meanings, unless context clearly provides
14 otherwise:

15 (a) "Motor vehicle" means a vehicle which self-propels,
16 and is intended primarily for use and operation on public roads
17 and highways.

18 (b) "Nonconsensual towing" means the moving,
19 transporting or recovery of a commercial vehicle by a towing and
20 recovery service without the prior consent or authorization of the
21 owner or operator of the motor vehicle from private property
22 and/or by police-initiated towing.



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

29 (i) Heavy-duty towing shall be the towing of a
30 vehicle, including trailers and semitrailers, with a gross vehicle
31 rating over twenty-six thousand (26,000) pounds.

32 (ii) Medium-duty towing shall be the towing of a
33 vehicle, including trailers and semitrailers with a gross vehicle
34 rating of over ten thousand (10,000) pounds to twenty-six thousand
35 (26,000) pounds.

36 (d) "Towing and recovery service" means an individual
37 or business entity that provides towing and recovery services at
38 the direction of a law enforcement office or private property
39 owner in exchange for a fee or charge.

40 (e) "Law enforcement officer" means any law enforcement
41 public servant and/or State Highway Patrol Officer.

42 (f) "Tow list" means a list of approved towing
43 companies compiled, maintained and utilized by a law enforcement
44 officer or his or her designee, and as authorized by the
45 Department of Public Safety to perform police-initiated towing
46 services of disabled or abandoned commercial motor vehicles.



47 (g) "Police initiated towing" means towing of a
48 commercial motor vehicle which was authorized, requested or
49 dispatched by a law enforcement officer.

50 (h) "Vehicle immobilization device" means a mechanical
51 device that is designated or adapted to be attached to a wheel,
52 tire or other part of a parked commercial motor vehicle to
53 prohibit the vehicle's usual manner of movement or operation.

54 (i) "Per pound billing" means a method of calculating a
55 fee for towing using a formula that considers the weight of the
56 commercial motor vehicle, equipment or cargo that is the subject
57 of the towing and multiplies the weight of the vehicle, equipment
58 or cargo by a monetary amount.

59 (j) "Drop fee" means a fee that a towing and recovery
60 service charges to unhook a commercial motor vehicle from a tow
61 truck.

62 (k) "Cargo" means goods and materials transported by a
63 commercial motor vehicle as defined in 49 CFR Section 390.5,
64 including, without limitation:

- 65 (i) Pallets;
- 66 (ii) Containers;
- 67 (iii) Bracing;
- 68 (iv) Air pillows;
- 69 (v) Tie-down assemblies and other securement
70 systems;
- 71 (vi) Cradles;



72 (vii) Chocks; and
73 (viii) All other dunnage and packaging.

74 **SECTION 2.** (1) The Department of Public Safety, Public
75 Commercial Transportation Enforcement Division, shall create
76 within the department a "Commercial Vehicle Towing Advisory
77 Committee." The Commercial Vehicle Towing Advisory Committee
78 shall consist of the following members:

79 (a) The Director of the Department of Public Safety, or
80 his or her designee;

81 (b) The Director of the State Highway Patrol, or his or
82 her designee;

83 (c) Two (2) members, appointed by the Governor, to
84 represent the towing and recovery services within the state;

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

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

89 (2) Members of the Commercial Vehicle Towing Advisory
90 Committee shall serve for a term of two (2) years. Members may
91 serve consecutive terms. Members shall serve without compensation
92 but shall be reimbursed for travel and other expenses actually and
93 necessarily incurred in the performance of their duties.

94 (3) At the first meeting, the Commercial Vehicle Towing
95 Advisory Committee shall elect a chairperson from its membership



96 to serve for a term of two (2) years. A chairperson may serve
97 consecutive terms.

98 (4) The Commercial Vehicle Towing Advisory Committee shall
99 hold its first meeting no later than September 1, 2024, at a time
100 and location within the state to be determined by the Director of
101 the Department of Public Safety. Thereafter, meetings shall be
102 held on dates and at times and locations within the state and
103 selected by the chairperson in consultation with the other members
104 or by the Director of the Department of Public Safety if the most
105 recent chairperson's term has expired.

106 (5) The Commercial Vehicle Towing Advisory Committee shall
107 keep and maintain a record of all proceedings of the Commercial
108 Vehicle Towing Advisory Committee, and copies of all orders and/or
109 recommendations issued by the Commercial Vehicle Towing Advisory
110 Committee.

111 **SECTION 3.** (1) The Commercial Vehicle Towing Advisory
112 Committee shall:

113 (a) Establish and maintain a towing list, by county, of
114 qualified towing and recovery services for use by law enforcement
115 officers in this state and make the towing list available to the
116 public on request.

117 (b) Establish regulations and standards for the
118 inclusion of a towing and recovery service on the tow list,
119 including application procedures and minimum qualification
120 requirements.



121 (c) Establish statewide maximum towing and storage
122 rates for nonconsensual tows, including those for private
123 property. The established maximum rates shall include maximum
124 rates for administrative fees, as well as hazardous materials and
125 cargo clean-up rates.

126 (i) A towing and recovery service may charge less
127 than, but may not charge more than the approved statewide rates.

128 (ii) The governing authority of a municipality may
129 require a towing and recovery service charge that is lower than
130 the maximum rates on towing between points within such
131 municipality than those provided by the committee's maximum rates.
132 The governing authority of a municipality shall not provide for
133 higher maximum rates than are provided by the committee.

134 (iii) The towing and recovery service shall not
135 charge or retain any fees not indicated by the committee for the
136 maximum rates for towing and storage of a commercial motor vehicle
137 after the nonconsensual tow from private property.

138 (iv) The statewide maximum towing and storage
139 rates for nonconsensual tows shall be reviewed annually. Market
140 fluctuations within the towing industry may be considered along
141 with current consensual towing market rates and their relationship
142 to nonconsensual towing rates.

143 (d) Require the towing and recovery service to ban the
144 use of per-pound billing for nonconsensual towing.



145 (e) Publish a Towing Service Standard Manual, with
146 rules governing the use of towing and recovery services for
147 nonconsensually towing of commercial vehicles no later than
148 January 1, 2025. At a minimum, the rules shall include the
149 following provisions:

150 (i) Establish the information required to be
151 included on any invoice associated with the towing of a commercial
152 motor vehicle, including, but not limited to, requiring that the
153 invoice be itemized;

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

157 (iii) Establish a process the committee shall use
158 to receive, investigate and adjudicate complaints against a towing
159 and recovery service;

160 (iv) Establish a service charge dispute resolution
161 process that includes, at minimum, provisions requiring completion
162 of a written complaint form, deadlines for initiating a complaint
163 after receiving an itemized invoice, deadlines for responding to a
164 complaint, cessation of storage fees during the complaint
165 resolution process, a hearing on the complaint and deadlines for
166 issuing a formal decision adjudicating the service charge dispute;

167 (v) Establish an appeals process for the appeal of
168 any determination of order of the committee under this subsection;



169 (vi) Establish a disciplinary procedure for
170 violations of the rules by the towing and recovery service,
171 including the assessment of fines for violations and/on criminal
172 misdemeanor or felony penalties and the suspension or removal of a
173 towing and recovery service from the tow list; and

174 (vii) Establish a process the Department of Public
175 Safety may use to suspend or remove a towing and recovery service
176 from any tow list.

177 **SECTION 4.** (1) Upon nonconsensual towing and recovery of a
178 commercial towing vehicle and movement of the commercial motor
179 vehicle to a storage facility, a towing and recovery service shall
180 allow an owner of a commercial motor vehicle or a designee of the
181 owner of the commercial motor vehicle to access the vehicle in a
182 reasonable manner as established by rules adopted by the
183 Commercial Vehicle Towing Advisory Committee and retrieve any
184 cargo or contents in or on the commercial motor vehicle, including
185 a trailer, tractor and any items necessary to carry out the
186 interrupted job. Cargo and contents in or on the commercial motor
187 vehicle may not be held by the towing and recovery service to
188 secure towing and recovery charges.

189 (2) The towing and recovery services shall provide a
190 commercial vehicle owner or operator or owner's designee with
191 reasonable access to the vehicle so that the vehicle owner and
192 operator or the owner's designee may access and collect any
193 personal property or cargo contained in the vehicle, regardless of



194 whether any payment has been made for the towing and recovery
195 service charges.

196 (3) If there is no dispute as to the charges assessed by the
197 towing and recovery service for the nonconsensual towing of the
198 commercial motor vehicle the vehicle owner or operator or the
199 owner's designee shall pay the towing service invoice and the
200 towing and recovery service shall release the vehicle and any
201 cargo immediately.

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

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

208 (b) If the cargo belongs to the commercial motor
209 carrier:

210 (i) A letter from the insurance company stating
211 that there is coverage for the relevant claim or accident and
212 including at a minimum, a claim number, policy number and policy
213 limit; or

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



218 (iii) The towing and recovery service shall
219 release the vehicle to the owner or the owner's designee on
220 payment of twenty percent (20%) of the invoice by the vehicle
221 owner or operator of the owner's designee.

222 (5) A payment under subsection (4)(b)(iii) of this section
223 does not eliminate the remainder of the financial obligation to
224 the towing and recovery service.

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

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

233 (b) An owner or operator of a commercial motor vehicle
234 may request a specific towing and recovery service and that
235 request shall be honored by the law enforcement officer unless the
236 requested towing and recovery service cannot do or does not
237 respond in a reasonable time, as determined by the law enforcement
238 officer.

239 **SECTION 6.** (1) It shall be unlawful for:

240 (a) A law enforcement officer to:



241 (i) Receive compensation or receive any other
242 incentive, monetary or otherwise, to select a particular towing
243 and recovery service from the list;

244 (ii) Hold any financial interest in a towing and
245 recovery service; and

246 (iii) Recommend any towing and recovery service in
247 the performance of his or her duties.

248 (2) Any member of the Commercial Vehicle Towing Advisory
249 Committee or Department of Transportation to receive compensation
250 from a towing and recovery service for the privilege of being
251 included on the tow list.

252 (3) A towing and recovery service to pay money or other
253 valuable consideration for the privilege of nonconsensual towing
254 commercial motor vehicles.

255 (4) A towing and recovery service to employ or otherwise
256 compensate individuals, commonly referred to as "spotters," whose
257 primary task is to report the presence of unauthorized, improperly
258 or illegally parked commercial motor vehicles for the purpose of
259 towing or removal and storage.

260 (5) A towing and recovery service to travel to the scene of
261 a commercial motor vehicle accident or a disabled commercial motor
262 vehicle on public property or property open to the public to
263 solicit business for the purposes of towing or removal and
264 storage.



265 **SECTION 7.** (1) Before a towing and recovery service
266 connects a commercial motor vehicle to a tow truck for a
267 nonconsensual tow, the towing and recovery service shall:

268 (a) Document the vehicle's condition and the reason for
269 the tow by:

270 (i) Taking at least four (4) photographs of the
271 vehicle, with at least one (1) photograph taken from the front,
272 one (1) photograph taken from the rear, one (1) photograph taken
273 from the driver's side and one (1) taken from the passenger's
274 side. These photographs must:

275 1. Show the entire vehicle from the required
276 angle; and

277 2. Have the vehicle fill at least
278 three-fourths (3/4) of the photograph, measured from side to side.

279 (ii) Take a photograph that shows the reason the
280 vehicle is being towed nonconsensually. The photograph must show
281 the portion of the vehicle in relation to the reason, including
282 any sign that the vehicle was towed.

283 (c) Upon demand of the owner or operator of the
284 commercial motor vehicle or the owner's designee, the Department
285 of Transportation or the Commercial Vehicle Towing Advisory
286 Committee, the towing and recovery service shall provide copies of
287 the photographs.

288 (d) A towing and recovery service's failure to produce
289 the photographs shall create a rebuttable presumption that the



290 towing and recovery service did not have the authority to tow a
291 vehicle from either a private property owner or operator or a law
292 enforcement officer.

293 (2) Have authorization to nonconsensually tow a commercial
294 motor vehicle. Authorization shall be found if:

295 (a) A law enforcement officer requests a
296 police-initiated tow and requests that a towing and recovery
297 service from the tow list provide towing.

298 (b) The towing and recovery service has received
299 permission to tow the commercial motor vehicle within twenty-four
300 (24) hours immediately preceding the towing, from the owner of the
301 private property.

302 (i) A towing and recovery service shall not
303 nonconsensually tow a commercial motor vehicle from private
304 property without the owner or operator of the private property
305 giving the vehicle owner or operator twenty-four (24) hours
306 written notice by placing the written notice on the windshield of
307 the vehicle.

308 (ii) The notice must state clearly:

309 1. That the commercial motor vehicle will be
310 towed without consent if the vehicle remains parked
311 inappropriately or illegally;

312 2. A description of the inappropriate or
313 illegal parking that has caused the notice to be given;



314 3. The time the vehicle will be towed if it
315 is not moved to an appropriate parking location or the
316 inappropriate parking has not been corrected; and

317 4. That continuing to park inappropriately in
318 the same manner may lead to the vehicle being towed without
319 notice.

320 (c) In order for the towing and recovery service to
321 conduct a nonconsensual tow, the private property owner must have
322 posted signage visible and facing the driver at each entryway into
323 the property stating that vehicles parked on the property without
324 authorization or inappropriately or illegally parked are subject
325 to being towed. The sign must also contain the international
326 towing symbol no smaller than four (4) inches by four (4) inches
327 and be permanently mounted in a position that is no lower than
328 five (5) feet and no higher than eight (8) feet.

329 (3) Not assess a drop fee to release the commercial motor
330 vehicle after the vehicle is hooked up to the tow truck but before
331 the vehicle is removed from the private property.

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

334 (a) Accept credit cards and debit cards as methods of
335 payment for the removal of a vehicle immobilization device from a
336 commercial motor vehicle.

337 (b) A fee to accept payment for credit or debit cards
338 shall not be charged; and



339 (c) An optional, alternative, online payment service
340 may be offered as an optional payment method. If the person makes
341 payment for the removal of the vehicle immobilization device and
342 elects to use the optional payment method, then the provider of
343 the online payment service may charge a three percent (3%)
344 convenience fee.

345 (2) If the operator or owner of the commercial motor vehicle
346 who is requesting the removal of the vehicle immobilization device
347 elects to make the payment by credit or debit card, and the
348 payment cannot be completed by the card without undue delay at the
349 location where the commercial motor vehicle to which the vehicle
350 immobilization device is attached is located, and an optional
351 online payment method as described in subsection (1)(b) of this
352 section is either unavailable or has been refused by the towing
353 and recovery service, removal of the vehicle immobilization device
354 shall occur, and the towing and removal company shall issue a
355 billing invoice for payment due to the operator who is requesting
356 the removal of the vehicle immobilization device, if such operator
357 provides a valid form of identification, or by mail to the
358 registered owner of the commercial motor vehicle.

359 (3) The towing and recovery service engaged in the business
360 of installing vehicle immobilization devices shall not compensate
361 employees on a commission basis or contract for or engage the
362 services of an independent contractor to install or remove vehicle
363 immobilization devices.



364 (4) If a vehicle immobilization device is placed on a
365 commercial motor vehicle that is parked on private property due to
366 the vehicle operator or owner's failure to pay the required
367 parking charge, then the owner and operator of the private
368 property may require the vehicle operator or owner to pay the
369 applicable immobilization device removal fee and all unpaid
370 parking fines and fees to have the immobilization device removed.

371 (5) An owner or operator of private property for which an
372 enforceable agreement exists with a towing and recovery service to
373 provide enforcement services by installing vehicle immobilization
374 devices on commercial motor vehicles on such property shall post
375 signage in a conspicuous location on the property bearing notice
376 that:

377 (a) The parking policy for the property is strictly
378 enforced;

379 (b) The violator's vehicle will be immobilized with a
380 vehicle immobilization device with the owner or operator of the
381 vehicle having to pay to have the device removed;

382 (c) The name and phone number of the authorized towing
383 and recovery service;

384 (d) The operators and owners of commercial motor
385 vehicles are protected from violations of this subsection and that
386 violations may be reported to the Commercial Vehicle Towing
387 Advisory Committee;



388 (e) The signs required by this section must be no less
389 than twenty-four (24) inches in height and eighteen (18) inches in
390 width and contain lettering that is no less than two (2) inches in
391 height and be located at each designated entrance to the property,
392 be erected in a place that is clearly visible from each parking
393 space; and

394 (f) A towing and recovery service engaged in the
395 business of installing vehicle immobilization devices shall not
396 install a vehicle immobilization device on a commercial motor
397 vehicle if the vehicle is located on property that does not comply
398 with the signage requirements under this subsection.

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

