

By: Senator(s) Branning

To: Highways and
Transportation

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 Transportation to perform politics-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 Transportation shall
75 create within the department a "Commercial Vehicle Towing Advisory
76 Committee." The Commercial Vehicle Towing Advisory Committee
77 shall consist of the following members:

78 (a) The Director of the Department of Transportation or
79 his or her designee;

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

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

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

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

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

93 (3) At the first meeting, the Commercial Vehicle Towing
94 Advisory Committee shall elect a chairperson from its membership
95 to serve for a term of two (2) years. A chairperson may serve
96 consecutive terms.



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

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

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

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

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

120 (c) Establish statewide maximum towing and storage
121 rates for nonconsensual tows, including those for private



122 property. The established maximum rates shall include maximum
123 rates for administrative fees, as well as hazardous materials and
124 cargo clean-up rates.

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

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

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

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

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

144 (e) Publish a Towing Service Standard Manual, with
145 rules governing the use of towing and recovery services for
146 nonconsensually towing of commercial vehicles no later than



147 January 1, 2025. At a minimum, the rules shall include the
148 following provisions:

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

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

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

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

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

168 (vi) Establish a disciplinary procedure for
169 violations of the rules by the towing and recovery service,
170 including the assessment of fines for violations and/on criminal



171 misdemeanor or felony penalties and the suspension or removal of a
172 towing and recovery service from the tow list; and

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

176 **SECTION 3.** (1) Upon nonconsensual towing and recovery of a
177 commercial towing vehicle and movement of the commercial motor
178 vehicle to a storage facility, a towing and recovery service shall
179 allow an owner of a commercial motor vehicle or a designee of the
180 owner of the commercial motor vehicle to access the vehicle in a
181 reasonable manner as established by rules adopted by the
182 Commercial Vehicle Towing Advisory Committee and retrieve any
183 cargo or contents in or on the commercial motor vehicle, including
184 a trailer, tractor and any items necessary to carry out the
185 interrupted job. Cargo and contents in or on the commercial motor
186 vehicle may not be held by the towing and recovery service to
187 secure towing and recovery charges.

188 (2) The towing and recovery services shall provide a
189 commercial vehicle owner or operator or owner's designee with
190 reasonable access to the vehicle so that the vehicle owner and
191 operator or the owner's designee may access and collect any
192 personal property or cargo contained in the vehicle, regardless of
193 whether any payment has been made for the towing and recovery
194 service charges.



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

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

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

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

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

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

217 (iii) The towing and recovery service shall
218 release the vehicle to the owner or the owner's designee on



219 payment of twenty percent (20%) of the invoice by the vehicle
220 owner or operator of the owner's designee.

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

224 **SECTION 4.** In authorizing a towing and recovery service to
225 perform towing services, any law enforcement officer may utilize
226 the services of a tow list, provided:

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

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

238 **SECTION 5.** (1) It shall be unlawful for:

239 (a) A law enforcement officer to:

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



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

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

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

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

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

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

264 **SECTION 6.** (1) Before a towing and recovery service
265 connects a commercial motor vehicle to a tow truck for a
266 nonconsensual tow, the towing and recovery service shall:



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

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

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

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

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

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

287 (d) A towing and recovery service's failure to produce
288 the photographs shall create a rebuttable presumption that the
289 towing and recovery service did not have the authority to tow a
290 vehicle from either a private property owner or operator or a law
291 enforcement officer.



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

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

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

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

307 (ii) The notice must state clearly:

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

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

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



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

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

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

331 **SECTION 7.** (1) A towing and recovery service in the
332 business of installing vehicle immobilization devices shall:

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

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

338 (c) An optional, alternative, online payment service
339 may be offered as an optional payment method. If the person makes
340 payment for the removal of the vehicle immobilization device and



341 elects to use the optional payment method, then the provider of
342 the online payment service may charge a three percent (3%)
343 convenience fee.

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

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

363 (4) If a vehicle immobilization device is placed on a
364 commercial motor vehicle that is parked on private property due to
365 the vehicle operator or owner's failure to pay the required



366 parking charge, then the owner and operator of the private
367 property may require the vehicle operator or owner to pay the
368 applicable immobilization device removal fee and all unpaid
369 parking fines and fees to have the immobilization device removed.

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

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

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

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

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

387 (e) The signs required by this section must be no less
388 than twenty-four (24) inches in height and eighteen (18) inches in
389 width and contain lettering that is no less than two (2) inches in
390 height and be located at each designated entrance to the property,



391 be erected in a place that is clearly visible from each parking
392 space; and

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

398 **SECTION 8.** This act shall take effect and be in force from
399 and after July 1, 2024.

