

By: Senator(s) Branning

To: Highways and
Transportation

SENATE BILL NO. 2635
(As Passed the Senate)

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; TO REQUIRE TOWING AND RECOVERY SERVICES THAT HAVE
11 PERFORMED A NONCONSENSUAL TOW TO STORE THE VEHICLE IN MISSISSIPPI
12 AND ALLOW THE VEHICLE OWNER REASONABLE ACCESS TO THE COMMERCIAL
13 VEHICLE TO COLLECT PERSONAL PROPERTY; TO PROVIDE HOW A POLICE
14 OFFICER MAY UTILIZE A TOW LIST; TO PROVIDE THAT MEMBERS OF THE
15 COMMITTEE MAY NOT RECEIVE A BENEFIT FOR PLACING TOWING AND
16 RECOVERY COMPANIES ON THE TOW LIST; TO PROVIDE PROCEDURES FOR WHAT
17 A TOWING AND RECOVERY SERVICE MUST DO BEFORE PERFORMING A
18 NONCONSENSUAL TOW; TO REQUIRE PRIVATE PROPERTY OWNERS TO DISPLAY
19 SIGNAGE WARNING VEHICLE OPERATORS OF THE POTENTIAL OF BEING TOWED;
20 TO PROHIBIT THE USE OF VEHICLE IMMOBILIZATION DEVICES, EXCEPT WHEN
21 DIRECTED BY LAW ENFORCEMENT; AND FOR RELATED PURPOSES.

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

23 **SECTION 1.** For the purposes of this act, the following terms
24 shall have the following meanings, unless context clearly provides
25 otherwise:



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

29 (b) "Nonconsensual towing" means the moving,
30 transporting or recovery of a commercial vehicle by a towing and
31 recovery service without the prior consent or authorization of the
32 owner or operator of the motor vehicle from private property
33 and/or by police-initiated towing.

34 (c) "Towing" means the moving, transporting or recovery
35 from public or private property, or from a storage facility of a
36 person's commercial motor vehicle, the moving or removing of an
37 unclaimed commercial vehicle, or the immobilization of or
38 preparation for moving or removing of the commercial motor
39 vehicle, for which a fee is charged either directly or indirectly.

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

43 (ii) Medium-duty towing shall be the towing of a
44 vehicle, including trailers and semitrailers with a gross vehicle
45 rating of over fifteen thousand (15,000) pounds to twenty-six
46 thousand (26,000) pounds.

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



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

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

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

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

65 (i) "Per pound billing" means a method of calculating a
66 fee for towing using a formula that considers the weight of the
67 commercial motor vehicle, equipment or cargo that is the subject
68 of the towing and multiplies the weight of the vehicle, equipment
69 or cargo by a monetary amount.

70 (j) "Drop fee" means a fee that a towing and recovery
71 service charges to unhook a commercial motor vehicle from a tow
72 truck.

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



- 76 (i) Pallets;
77 (ii) Containers;
78 (iii) Bracing;
79 (iv) Air pillows;
80 (v) Tie-down assemblies and other securement
81 systems;
82 (vi) Cradles;
83 (vii) Chocks; and
84 (viii) All other dunnage and packaging.

85 (1) "Commercial vehicle" means any self-propelled or
86 motored device designed to be used or used primarily for the
87 transportation of passengers or property, or both, and have a
88 gross vehicular weight rating of fifteen thousand (15,000) pounds
89 or more.

90 **SECTION 2.** (1) The Department of Public Safety, Public
91 Commercial Transportation Enforcement Division, shall create
92 within the department a "Commercial Vehicle Towing Advisory
93 Committee." The Commercial Vehicle Towing Advisory Committee
94 shall consist of the following members:

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

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



99 (c) Two (2) members, appointed by the President of the
100 Mississippi Towing Association, to represent the towing and
101 recovery services within the state;

102 (d) Two (2) members, appointed by the President of the
103 Mississippi Trucking Association, to represent the commercial
104 motor carriers within the state; and

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

107 (2) Members of the Commercial Vehicle Towing Advisory
108 Committee shall serve for a term of two (2) years. Members may
109 serve consecutive terms. Members shall serve without compensation
110 but shall be reimbursed for travel and other expenses actually and
111 necessarily incurred in the performance of their duties.

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

116 (4) The Commercial Vehicle Towing Advisory Committee shall
117 hold its first meeting no later than September 1, 2024, at a time
118 and location within the state to be determined by the Director of
119 the Department of Public Safety. Thereafter, meetings shall be
120 held on dates and at times and locations within the state and
121 selected by the chairperson in consultation with the other members
122 or by the Director of the Department of Public Safety if the most
123 recent chairperson's term has expired.



124 (5) The Commercial Vehicle Towing Advisory Committee shall
125 keep and maintain a record of all proceedings of the Commercial
126 Vehicle Towing Advisory Committee, and copies of all orders and/or
127 recommendations issued by the Commercial Vehicle Towing Advisory
128 Committee.

129 **SECTION 3.** (1) The Commercial Vehicle Towing Advisory
130 Committee shall:

131 (a) Establish regulations and standards for the
132 inclusion of a towing and recovery service on the tow list,
133 including application procedures and minimum qualification
134 requirements.

135 (b) Establish statewide maximum towing and storage
136 rates for nonconsensual tows, including those for private
137 property. The established maximum rates shall include maximum
138 rates for administrative fees.

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

141 (ii) The governing authority of a municipality may
142 require a towing and recovery service charge that is lower than
143 the maximum rates on towing between points within such
144 municipality than those provided by the committee's maximum rates.
145 The governing authority of a municipality shall not provide for
146 higher maximum rates than are provided by the committee.

147 (iii) The towing and recovery service shall not
148 charge or retain any fees not indicated by the committee for the



149 maximum rates for towing and storage of a commercial motor vehicle
150 after the nonconsensual tow from private property.

151 (iv) The statewide maximum towing and storage
152 rates for nonconsensual tows shall be reviewed annually. Market
153 fluctuations within the towing industry may be considered along
154 with current consensual towing market rates and their relationship
155 to nonconsensual towing rates.

156 (c) Require the towing and recovery service to ban the
157 use of per-pound billing for nonconsensual towing.

158 (d) Publish a Towing Service Standard Manual, with
159 rules governing the use of towing and recovery services for
160 nonconsensually towing of commercial vehicles no later than
161 January 1, 2025. At a minimum, the rules shall include the
162 following provisions:

163 (i) Establish the information required to be
164 included on any invoice associated with the towing of a commercial
165 motor vehicle, including, but not limited to, requiring that the
166 invoice be itemized;

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

170 (iii) Establish a process the committee shall use
171 to receive, investigate and adjudicate complaints against a towing
172 and recovery service;



173 (iv) Establish a service charge dispute resolution
174 process that includes, at minimum, provisions requiring completion
175 of a written complaint form, deadlines for initiating a complaint
176 after receiving an itemized invoice, deadlines for responding to a
177 complaint, cessation of storage fees during the complaint
178 resolution process, a hearing on the complaint and deadlines for
179 issuing a formal decision adjudicating the service charge dispute;

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

182 (vi) Establish a disciplinary procedure for
183 violations of the rules by the towing and recovery service,
184 including the assessment of fines for violations and/on criminal
185 misdemeanor or felony penalties and the suspension or removal of a
186 towing and recovery service from the tow list; and

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

190 **SECTION 4.** (1) Upon nonconsensual towing and recovery of a
191 commercial towing vehicle and movement of the commercial motor
192 vehicle to a storage facility, a towing and recovery service shall
193 allow an owner of a commercial motor vehicle or a designee of the
194 owner of the commercial motor vehicle to access the vehicle in a
195 reasonable manner as established by rules adopted by the
196 Commercial Vehicle Towing Advisory Committee. Any vehicle towed



197 nonconsensually in Mississippi must be stored in the State of
198 Mississippi.

199 (2) The towing and recovery services shall provide a
200 commercial vehicle owner or operator or owner's designee with
201 reasonable access to the vehicle so that the vehicle owner and
202 operator or the owner's designee may access and collect any
203 personal property contained in the vehicle, regardless of whether
204 any payment has been made for the towing and recovery service
205 charges.

206 (3) If there is no dispute as to the charges assessed by the
207 towing and recovery service for the nonconsensual towing of the
208 commercial motor vehicle, the vehicle owner or operator or the
209 owner's designee shall pay the towing service invoice and the
210 towing and recovery service shall release the vehicle immediately.

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

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

219 (b) An owner or operator of a commercial motor vehicle
220 may request a specific towing and recovery service and that
221 request shall be honored by the law enforcement officer unless the



222 requested towing and recovery service cannot perform the requested
223 towing and recovery service or does not respond in a reasonable
224 time, as determined by the law enforcement officer.

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

226 (a) A law enforcement officer to:

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

230 (ii) Hold any financial interest in a towing and
231 recovery service; and

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

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

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

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



246 (5) Nonconsensual tows for unauthorized, illegally parked
247 commercial motor vehicles on private property must be performed by
248 Mississippi-based towers. Towed vehicles must be stored within
249 the State of Mississippi.

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

253 (a) Document the vehicle's condition and the reason for
254 the tow by:

255 (i) Taking at least four (4) photographs of the
256 vehicle, with at least one (1) photograph taken from the front,
257 one (1) photograph taken from the rear, one (1) photograph taken
258 from the driver's side and one (1) taken from the passenger's
259 side. These photographs must:

260 1. Show the entire vehicle from the required
261 angle; and

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

264 (ii) Take a photograph that shows the reason the
265 vehicle is being towed nonconsensually. The photograph must show
266 the portion of the vehicle in relation to the reason, including
267 any sign that the vehicle was towed.

268 (c) Upon demand of the owner or operator of the
269 commercial motor vehicle or the owner's designee, the Department
270 of Transportation or the Commercial Vehicle Towing Advisory



271 Committee, the towing and recovery service shall provide copies of
272 the photographs.

273 (d) A towing and recovery service's failure to produce
274 the photographs shall create a rebuttable presumption that the
275 towing and recovery service did not have the authority to tow a
276 vehicle from either a private property owner or operator or a law
277 enforcement officer.

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

280 (a) A law enforcement officer requests a
281 police-initiated tow and requests that a towing and recovery
282 service from the tow list provide towing.

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

287 A towing service shall not tow a commercial motor vehicle
288 from private property without the owner or operator of the private
289 property giving the tower service written permission consistent
290 with requirements under Section 85-7-251.

291 (c) In order for the towing and recovery service to
292 conduct a nonconsensual tow, the private property owner must have
293 posted signage visible and facing the driver at each entryway into
294 the property stating that vehicles parked on the property without
295 authorization or inappropriately or illegally parked are subject



296 to being towed. The sign must also contain the international
297 towing symbol no smaller than four (4) inches by four (4) inches
298 and be permanently mounted in a position that is no lower than
299 five (5) feet and no higher than eight (8) feet.

300 (3) The towing and recovery service shall not assess a drop
301 fee to release the commercial motor vehicle after the vehicle is
302 hooked up to the tow truck but before the vehicle is removed from
303 the private property.

304 **SECTION 8.** A towing and recovery service shall not use
305 vehicle immobilization devices except under the direction of law
306 enforcement.

307 **SECTION 9.** This act shall take effect and be in force from
308 and after July 1, 2024, and shall stand repealed on June 30, 2024.

