

House Amendments to Senate Bill No. 2635

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

61 (j) "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 (k) "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 (l) "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 (m) "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 (n) "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 Commissioner of the Mississippi Department of
96 Public Safety, or his or her designee;

97 (b) The Director of the Mississippi Highway Patrol
98 (Assistant Commissioner of the Mississippi Department of Public
99 Safety), or his or her designee;

100 (c) Two (2) members, the President of the Mississippi
101 Towing Association, and his or her appointee, to represent the
102 towing and recovery services within the state;

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

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

108 (2) Members of the Commercial Vehicle Towing Advisory
109 Committee shall serve for a term of two (2) years. Members may
110 serve consecutive terms. Members shall serve without
111 compensation.

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 Commissioner
119 of the Mississippi Department of Public Safety. Thereafter,
120 meetings shall be held on dates and at times and locations within
121 the state and selected by the chairperson in consultation with the
122 other members or by the Commissioner of the Mississippi Department
123 of Public Safety if the most recent chairperson's term has
124 expired.

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

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

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

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

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

142 (ii) The towing and recovery service shall not
143 charge or retain any fees not indicated by the committee for the
144 maximum rates for towing and storage of a commercial motor vehicle
145 after the nonconsensual tow from private property; and

146 (iii) The statewide maximum towing and storage
147 rates for nonconsensual tows shall be reviewed annually. Market
148 fluctuations within the towing industry may be considered along
149 with current consensual towing market rates and their relationship
150 to nonconsensual towing rates;

151 (c) Require the towing and recovery service to ban the
152 use of per-pound billing for nonconsensual towing;

153 (d) Publish a Towing Service Standard Manual, with
154 rules governing the use of towing and recovery services for
155 nonconsensually towing of commercial vehicles no later than
156 January 1, 2025. At a minimum, the rules shall include the
157 following provisions to:

158 (i) Establish the information required to be
159 included on any invoice associated with the towing of a commercial
160 motor vehicle, including, but not limited to, requiring that the
161 invoice be itemized;

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

165 (iii) Establish a process the committee shall use
166 to receive, investigate and adjudicate complaints against a towing
167 and recovery service;

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

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

177 (vi) Establish a disciplinary procedure for
178 violations of the rules by the towing and recovery service,
179 including the suspension or removal of a towing and recovery
180 service from the tow list; and

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

184 **SECTION 4.** (1) Upon nonconsensual towing and recovery of a
185 commercial towing vehicle and movement of the commercial motor
186 vehicle to a storage facility, a towing and recovery service shall
187 allow an owner of a commercial motor vehicle or a designee of the
188 owner of the commercial motor vehicle to access the vehicle in a
189 reasonable manner as established by rules adopted by the
190 Commercial Vehicle Towing Advisory Committee. Any vehicle towed
191 nonconsensually in Mississippi must be stored in the State of
192 Mississippi.

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

200 (3) If there is no dispute as to the charges assessed by the
201 towing and recovery service for the nonconsensual towing of the
202 commercial motor vehicle, the vehicle owner or operator or the
203 owner's designee shall pay the towing service invoice and the
204 towing and recovery service shall release the vehicle immediately.

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

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

213 (b) An owner or operator of a commercial motor vehicle
214 may request a specific towing and recovery service and that
215 request shall be honored by the law enforcement officer unless the
216 requested towing and recovery service cannot perform the requested
217 towing and recovery service or does not respond in a reasonable
218 time, as determined by the law enforcement officer.

219 **SECTION 6.** (1) It shall be unlawful for:
220 (a) A law enforcement officer to:
221 (i) Receive compensation or receive any other
222 incentive, monetary or otherwise, to select a particular towing
223 and recovery service from the list;
224 (ii) Hold any financial interest in a towing and
225 recovery service; and
226 (iii) Recommend any towing and recovery service in
227 the performance of his or her duties;
228 (b) Any member of the Commercial Vehicle Towing
229 Advisory Committee or Department of Transportation to receive
230 compensation from a towing and recovery service for the privilege
231 of being included on the tow list;
232 (c) A towing and recovery service to pay money or other
233 valuable consideration for the privilege of nonconsensual towing
234 commercial motor vehicles;
235 (d) A towing and recovery service to employ or
236 otherwise compensate individuals, commonly referred to as
237 "spotters," whose primary task is to report the presence of
238 unauthorized, improperly or illegally parked commercial motor
239 vehicles for the purpose of towing or removal and storage; and
240 (2) Nonconsensual tows for unauthorized, illegally parked
241 commercial motor vehicles on private property must be performed by
242 Mississippi-based towers. Towed vehicles must be stored within
243 the State of Mississippi.

244 **SECTION 7.** (1) (a) Before a towing and recovery service
245 connects a commercial motor vehicle to a tow truck for a
246 nonconsensual tow, the towing and recovery service shall document
247 the vehicle's condition and the reason for the tow by:

248 (i) Taking at least four (4) photographs of the
249 vehicle, with at least one (1) photograph taken from the front,
250 one (1) photograph taken from the rear, one (1) photograph taken
251 from the driver's side and one (1) taken from the passenger's
252 side. These photographs must:

253 1. Show the entire vehicle from the required
254 angle; and

255 2. Have the vehicle fill at least
256 three-fourths (3/4) of the photograph, measured from side to side;
257 and

258 (ii) Taking a photograph that shows the reason the
259 vehicle is being towed nonconsensually. The photograph must show
260 the portion of the vehicle in relation to the reason, including
261 any sign that the vehicle was towed.

262 (b) Upon demand of the owner or operator of the
263 commercial motor vehicle or the owner's designee, the Department
264 of Transportation or the Commercial Vehicle Towing Advisory
265 Committee, the towing and recovery service shall provide copies of
266 the photographs.

267 (c) A towing and recovery service's failure to produce
268 the photographs shall create a rebuttable presumption that the
269 towing and recovery service did not have the authority to tow a

270 vehicle from either a private property owner or operator or a law
271 enforcement officer.

272 (2) Before a towing and recovery service connects a
273 commercial motor vehicle to a tow truck for a nonconsensual tow,
274 the towing and recovery service shall have authorization to
275 nonconsensually tow a commercial motor vehicle. Authorization
276 shall be found if:

277 (a) A law enforcement officer requests a
278 police-initiated tow and requests that a towing and recovery
279 service from the tow list provide towing; or

280 (b) The towing and recovery service has received
281 permission to tow the commercial motor vehicle from the owner of
282 the private property.

283 A towing service shall not tow a commercial motor vehicle
284 from private property without the owner or operator of the private
285 property giving the tower service written permission.

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

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

299 **SECTION 8.** A towing and recovery service shall not use
300 vehicle immobilization devices except under the direction of law
301 enforcement.

302 **SECTION 9.** This act shall take effect and be in force from
303 and after July 1, 2024, and shall stand repealed on July 1, 2029.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

HR26\SB2635A.J

Andrew Ketchings
Clerk of the House of Representatives