

By: Representative Nelson

To: Transportation

HOUSE BILL NO. 839

1 AN ACT TO AMEND SECTIONS 63-37-1, 63-37-3, 63-37-5, 63-37-7,
2 63-37-9, 63-37-11, 63-37-13 AND 63-37-15, MISSISSIPPI CODE OF
3 1972, TO REVISE PROVISIONS RELATED TO THE NONCONSENSUAL TOWING OF
4 VEHICLES TO ENSURE THAT THE AUTHORITY TO PERFORM SUCH TOWING IS
5 APPLICABLE TO BOTH PRIVATE MOTOR VEHICLES AND COMMERCIAL MOTOR
6 VEHICLES; TO RENAME THE "COMMERCIAL VEHICLE TOWING ADVISORY
7 COMMITTEE" AS THE "VEHICLE TOWING ADVISORY COMMITTEE" AND LEAVING
8 THE ADMINISTRATION THEREOF WITHIN THE COMMERCIAL TRANSPORTATION
9 ENFORCEMENT DIVISION OF THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND
10 SECTION 63-3-915, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
11 AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 63-37-1, Mississippi Code of 1972, is
14 amended as follows:

15 63-37-1. For the purposes of this chapter, the following
16 terms shall have the following meanings, unless context clearly
17 provides otherwise:

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

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 recovery
27 from public or private property, or from a storage facility of a
28 person's commercial motor vehicle, the moving or removing of an
29 unclaimed commercial vehicle, or the immobilization of or
30 preparation for moving or removing of the commercial motor
31 vehicle, for which a fee is charged either directly or indirectly.

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

35 (e) Medium-duty towing shall be the towing of a
36 vehicle, including trailers and semitrailers with a gross vehicle
37 rating of over fifteen thousand (15,000) pounds to twenty-six
38 thousand (26,000) pounds.

39 (f) "Towing and recovery service" means an individual
40 or business entity that provides towing and recovery services at
41 the direction of a law enforcement officer or private property
42 owner in exchange for a fee or charge.

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

45 (h) "Tow list" means a list of approved towing
46 companies compiled, maintained and utilized by a law enforcement
47 officer or his or her designee, and as authorized by the



Department of Public Safety to perform police-initiated towing services of disabled or abandoned commercial motor vehicles.

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

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

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

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

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

- (i) Pallets;
- (ii) Containers;
- (iii) Bracing;
- (iv) Air pillows;



(v) Tie-down assemblies and other securement systems;

(vi) Cradles;

(vii) Chocks; and

(viii) All other dunnage and packaging.

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

(o) "Private motor vehicle" means any self-propelled or motored device, other than a commercial vehicle, as defined in paragraph (n) of this section, which is designed to be used or used primarily for the transportation of passengers for personal, nonbusiness purposes. The term does not include motor vehicles used to transport passengers for payment.

SECTION 2. Section 63-37-3, Mississippi Code of 1972, is amended as follows:

63-37-3. (1) The Department of Public Safety, Public Commercial Transportation Enforcement Division, shall create within the department a " * * * Vehicle Towing Advisory Committee." The * * * Vehicle Towing Advisory Committee shall consist of the following members:

(a) The Commissioner of the Mississippi Department of 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 * * * Vehicle Towing Advisory Committee
109 shall serve for a term of two (2) years. Members may serve
110 consecutive terms. Members shall serve without compensation.

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

115 (4) The * * * Vehicle Towing Advisory Committee shall hold
116 its first meeting no later than September 1, 2024, at a time and
117 location within the state to be determined by the Commissioner of
118 the Mississippi Department of Public Safety. Thereafter, meetings
119 shall be held on dates and at times and locations within the state
120 and selected by the chairperson in consultation with the other



members or by the Commissioner of the Mississippi Department of Public Safety, if the most recent chairperson's term has expired.

(5) The * * * Vehicle Towing Advisory Committee shall keep and maintain a record of all proceedings of the * * * Vehicle Towing Advisory Committee, and copies of all orders and/or recommendations issued by the * * * Vehicle Towing Advisory Committee.

SECTION 3. Section 63-37-5, Mississippi Code of 1972, is amended as follows:

63-37-5. * * * The * * * Vehicle Towing Advisory Committee shall:

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

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

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

(ii) The towing and recovery service shall not charge or retain any fees not indicated by the committee for the maximum rates for towing and storage of a private motor vehicle or



commercial motor vehicle after the nonconsensual tow from private property; and

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

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

(d) Publish a Towing Service Standard Manual, with rules governing the use of towing and recovery services for nonconsensually towing of private motor vehicles and commercial vehicles no later than January 1, * * * 2026. At a minimum, the rules shall include the following provisions to:

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

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

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



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

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

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

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

SECTION 4. Section 63-37-7, Mississippi Code of 1972, is amended as follows:

63-37-7. (1) Upon nonconsensual towing and recovery of a private motor vehicle or commercial towing vehicle and movement of the private motor vehicle or commercial motor vehicle to a storage facility, a towing and recovery service shall allow an owner of a private motor vehicle or commercial motor vehicle or a designee of the owner of the private motor vehicle or commercial motor vehicle



to access the vehicle in a reasonable manner as established by rules adopted by the * * * Vehicle Towing Advisory Committee. Any vehicle towed nonconsensually in Mississippi must be stored in the State of Mississippi.

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

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

SECTION 5. Section 63-37-9, Mississippi Code of 1972, is amended as follows:

63-37-9. In authorizing a towing and recovery service to perform towing services, any law enforcement officer may utilize the services of a tow list, provided:

(a) They are under no obligation to include or retain the services of any towing and recovery service in any contract or agreement with respect to any tow list established pursuant to



219 this subsection. A towing and recovery service is subject to
220 removal from a towing list at any time; and

221 (b) An owner or operator of a private motor vehicle or
222 commercial motor vehicle may request a specific towing and
223 recovery service and that request shall be honored by the law
224 enforcement officer unless the requested towing and recovery
225 service cannot perform the requested towing and recovery service
226 or does not respond in a reasonable time, as determined by the law
227 enforcement officer.

228 **SECTION 6.** Section 63-37-11, Mississippi Code of 1972, is
229 amended as follows:

230 63-37-11. (1) It shall be unlawful for:

231 (a) A law enforcement officer to:

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

235 (ii) Hold any financial interest in a towing and
236 recovery service; and

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

239 (b) Any member of the * * * Vehicle Towing Advisory
240 Committee or Department of Transportation to receive compensation
241 from a towing and recovery service for the privilege of being
242 included on the tow list;



(c) A towing and recovery service to pay money or other valuable consideration for the privilege of nonconsensual towing private motor vehicles or commercial motor vehicles; and

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

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

SECTION 7. Section 63-37-13, Mississippi Code of 1972, is amended as follows:

63-37-13. (1) (a) Before a towing and recovery service connects a private motor vehicle or commercial motor vehicle to a tow truck for a nonconsensual tow, the towing and recovery service shall document the vehicle's condition and the reason for the tow by:

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



268 1. Show the entire vehicle from the required
269 angle; and

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

273 (ii) Taking a photograph that shows the reason the
274 vehicle is being towed nonconsensually. The photograph must show
275 the portion of the vehicle in relation to the reason, including
276 any sign that the vehicle was towed.

277 (b) Upon demand of the owner or operator of the private
278 motor vehicle or commercial motor vehicle or the owner's designee,
279 the Department of Transportation or the * * * Vehicle Towing
280 Advisory Committee, the towing and recovery service shall provide
281 copies of the photographs.

282 (c) A towing and recovery service's failure to produce
283 the photographs shall create a rebuttable presumption that the
284 towing and recovery service did not have the authority to tow a
285 vehicle from either a private property owner or operator or a law
286 enforcement officer.

287 (2) Before a towing and recovery service connects a private
288 motor vehicle or commercial motor vehicle to a tow truck for a
289 nonconsensual tow, the towing and recovery service shall have
290 authorization to nonconsensually tow a private motor vehicle or
291 commercial motor vehicle. Authorization shall be found if:



292 (a) A law enforcement officer requests a
293 police-initiated tow and requests that a towing and recovery
294 service from the tow list provide towing; or

295 (b) The towing and recovery service has received
296 permission to tow the private motor vehicle or commercial motor
297 vehicle from the owner of the private property, consistent with
298 the provisions of Section 63-3-915.

299 A towing service shall not tow a private motor vehicle or
300 commercial motor vehicle from private property without the owner
301 or operator of the private property giving the tower service
302 written permission.

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

312 (3) The towing and recovery service shall not assess a drop
313 fee to release the private motor vehicle or commercial motor
314 vehicle after the vehicle is hooked up to the tow truck but before
315 the vehicle is removed from the private property.



SECTION 8. Section 63-37-15, Mississippi Code of 1972, is amended as follows:

63-37-15. A towing and recovery service shall not use vehicle immobilization devices except under the direction of law enforcement.

SECTION 9. Section 63-3-915, Mississippi Code of 1972, is amended as follows:

63-3-915. A motor vehicle that is located upon private property may not be towed except when authorized by the owner of the motor vehicle, the lienholder of the motor vehicle, the owner of the property upon which the motor vehicle is located or the towing is authorized by other local, state or federal law. If a motor vehicle is located upon the private property, the owner of the property upon which the motor vehicle is located must provide authorization for the towing of the motor vehicle in accordance with the requirements of Section 63-37-13(2)(b) and (c).

SECTION 10. This act shall take effect and be in force from and after July 1, 2025.

