



Senate Bill 107

Committee: Environment & Transportation Committee

Date: March 27, 2024

Position: Favorable

Henry's Wrecker Service (Henry's) strongly supports Senate Bill 107: Commercial Law - Statutory Liens - Motor Vehicles Towed or Removed from Parking Lots (SB 107). This bill, in conjunction with Title 21, Subtitle 10A of the Maryland Transportation Article, codifies into state law a longstanding industry practice where the owner of a lawfully towed vehicle from a private parking lot must settle tow-related charges before reclaiming their vehicle.

Modeled after Prince George's County's law, SB 107 establishes a possessory lien, termed a "statutory lien" by the Department of Legislative Services. See *Prince George's County Code, Division 10, Sec. 26-142.11*. This lien grants the tower a possessory claim over the vehicle until the owner satisfies the specified tow-related charges, which are set and capped by local regulatory authorities. Upon payment, the lien dissipates, and the owner regains full possession of their vehicle.

The Maryland General Assembly has instituted stringent regulations governing parking lot signage, encompassing laws that dictate the dimensions, placement, and specific content required on signs. These regulations inform drivers of the potential for towing. See MD Code, Transportation, § 21-10A-02(b-c). It's essential to emphasize that under Maryland law, drivers of vehicles lawfully towed must have received clear and conspicuous notice via regulated signage indicating the possibility of towing for improperly parked vehicles. Consequently, SB 107 simply mandates that vehicle operators, having been duly informed by mandated signage at the parking lot, then settle specified charges before reclaiming their vehicles.

This mandate aligns with established Maryland case law as well. In *Cade v. Montgomery County*, the then-Maryland Court of Special Appeals citing Attorney General's Opinion No. 88-055 held that a vehicle owner towed from private property carries the obligation to cover the associated towing expenses. 83 Md. App. 419 (1990). The Court held, "[T]he obligation to pay arises because a vehicle owner, who parks in an area where signs prohibit the parking of unauthorized vehicles and such signs indicate that vehicles will be towed at the expense of the vehicle's owner, impliedly agrees to pay reasonable towing and storage charges." *Id.* at 428. Again, the tower simply holding the towed vehicle until the vehicle owner's obligations to the tower are met is the next logical, intermediate step in that process.

Finally, maintaining possession of a towed motor vehicle by the tower was envisioned by this legislative body when it enshrined into law §21-10A of the Maryland Transportation Article. Specifically, §21-10A-05(3) reads,

- (3) A storage facility that is in possession of a towed vehicle shall make the vehicle available to the owner, the owner's agent, the insurer of record, or a secured party, under the supervision of the storage facility, for:
 - (i) Inspection; or
 - (ii) Retrieval from the vehicle of personal property that is not attached to the vehicle.

Access to the vehicle wouldn't be necessary if the owner could simply retrieve it without covering the cost of the tow.

Regrettably, this loophole in the law has led to opportunistic class action lawsuits. These lawsuits do not assert any violations of state or local towing regulations but rather focus solely on the holding of vehicles until payment is made. As someone involved in the development of the towing legislation that established Title 21-10A of the Maryland Transportation Article, we recognize this as an unintended consequence and humbly ask this legislative body to close that gap in the law.

Therefore, Henry's supports SB 127 as amended by the Senate Judicial Proceedings Committee that 1. makes the possessory interest created subordinate to all other interests and 2. eliminates the retroactivity provisions of the bill. We look forward to working with the committee and subcommittee in advancing this clarifying piece of legislation for the tow industry.