

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 487

(Delegates Foley and Fraser-Hidalgo)

Environment and Transportation

Judicial Proceedings

Commercial Vehicles - Police-Initiated Towing - Requirements

This bill establishes requirements and procedures for the “police-initiated towing” of certain commercial vehicles at the request of the Department of State Police (DSP). Additionally, the bill requires DSP to make publicly available, upon request, a tow list (by county) of qualifying tow companies for use by DSP in carrying out its duties. Among other things, DSP must also develop a complaints process for resolving disputes. The bill establishes that “authorized tow companies” must provide reasonable access to vehicles that are the subject of a police-initiated towing and delineates requirements related to release of vehicles and cargo.

Fiscal Summary

State Effect: Although the bill has an operational impact on DSP, the bill’s requirements can likely be handled with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill defines “police-initiated towing” as the towing or recovery of a commercial motor vehicle that was authorized, requested, or dispatched by DSP. “Authorized tow company” means a company providing towing and recovery services at the request of DSP and designated on the tow list. “Per pound billing” is defined as a method of calculating a fee for towing and recovery services using a formula that considers

the weight of the vehicle, equipment, or cargo that is the subject of the towing and recovery and multiplies that weight by a monetary amount.

The bill requires DSP to:

- require a tow company applying to DSP's tow list (for medium- and heavy-duty towing) to (1) submit a rate sheet that does not include per pound billing and (2) ban the use of per pound billing by October 1, 2023;
- make each tow company's required rate sheet available upon request; and
- develop a process to receive, investigate, and adjudicate complaints from a vehicle owner or operator (or owner's designee) against an authorized tow company regarding the police-initiated towing of a commercial vehicle, including a process to suspend or remove an authorized tow company from the tow list.

The bill prohibits an authorized tow company from charging more than the rates on the rate sheet submitted to DSP for a police-initiated towing; an authorized tow company may charge less than the approved rates.

If a vehicle owner (or designee) requests the use of a specific towing company, DSP must honor that request and allow the vehicle owner to engage the services of the requested company. However, this requirement does not apply in certain circumstances (*i.e.*, if the requested company cannot arrive within a reasonable time period or other circumstances exist that would delay the arrival).

Lien Creation

The bill specifies that certain provisions of State law related to statutory liens on personal property do not apply to police-initiated towing services by an authorized tow company. Further, the bill establishes that police-initiated towing does not create a lien or security interest for the authorized tow company in any equipment, vehicle, or cargo.

Access to Towed Vehicle

The bill requires an authorized tow company to provide a vehicle owner or operator (or the owner's designee) with reasonable access to a vehicle that is the subject of a police-initiated towing so that the person may access and collect any personal property or cargo contained in the vehicle, regardless of whether any payment has been made for the towing services.

Dispute of Fees and Release of Vehicle and Cargo

If there is no dispute as to the fees assessed by the authorized tow company for the police-initiated towing of a vehicle, then (1) the vehicle owner or operator (or the owner's

designee) must pay the invoice and (2) the tow company must release the vehicle and any cargo immediately.

However, if there is a genuine dispute as to the reasonableness (or amount) of the fees assessed, then the authorized tow company must release the cargo immediately to the owner (or the owner's authorized agent) in accordance with the bill's requirements upon submission of:

- proof of ownership if the cargo does not belong to the transportation company; or
- if the cargo belongs to the transportation company, then either (1) a letter from the insurance company stating there is coverage for the relevant claim or accident and including, at a minimum, a claim number, policy number, and policy limit or (2) if a required insurance policy is not high enough to cover the cost of the cargo clean-up, a signed letter of guarantee from the transportation company.

Additionally, in the case of such a dispute, beginning October 1, 2023, the authorized tow company must release the vehicle to the owner (or authorized agent) upon payment of 20% of the invoice by the vehicle owner or operator (or the owner's designee). Any such payment does not eliminate the remainder of the financial obligation to the authorized tow company.

Current Law: DSP is required to establish and maintain a list, by county, of qualifying tow companies for use by DSP in carrying out its duties. Additionally, DSP is authorized to adopt regulations to establish standards for tow companies, including application procedures and minimum qualification requirements. All qualified tow companies must appear on the list.

Small Business Effect: DSP advises that it currently creates a list of approved towers by [barrack](#), and that it maintains separate lists for light- and heavy-duty towing. A towing company must apply to each barrack in order to tow to that location. DSP further advises that it does not specify what fees towers may charge except in counties where fees are set forth by local law (*e.g.*, Anne Arundel and Prince George's counties).

Under the bill, DSP must require a tow company applying to the department's tow list to ban the use of per pound billing by October 1, 2023. Companies approved by DSP that currently use per pound billing are likely affected by the bill. Specifically, to the extent the alternative rates (*i.e.*, rates not based on per pound billing) submitted by companies applying to the tow list differ from current per pound billing rates, revenues for those companies may be affected, assuming those companies remain on the approved list. Other provisions in the bill (*e.g.*, the requirement to release a vehicle or cargo prior to full payment under certain circumstances) may further affect operations and existing business procedures of towing companies that participate.

Conversely, small commercial businesses that are the subject of a police-initiated towing may meaningfully benefit from the bill's requirements (*e.g.*, as a result of the elimination of per pound billing, the establishment of a complaints process, *etc.*).

Additional Information

Prior Introductions: None.

Designated Cross File: SB 613 (Senator Waldstreicher) - Judicial Proceedings.

Information Source(s): Department of State Police; Maryland Department of Transportation; Department of Legislative Services

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Analysis by: Eric F. Pierce

Direct Inquiries to:
(410) 946-5510
(301) 970-5510