



Owner-Operator Independent Drivers Association, Inc.

National Headquarters: OOIDA Building, I-70 at Grain Valley Exit
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Hearing Date: February 24, 2022

Bill No. / Title: Senate Bill 613

Committee: Judicial Proceedings

Position: Support

The Owner-Operator Independent Drivers Association (OOIDA) submits the following testimony in support of SB 613, legislation that would establish basic consumer protections for truck drivers and motor carriers that are involved in a nonconsensual tow in Maryland.

OOIDA is a national trade association that represents roughly 150,000 small-business motor carriers and professional truck drivers, including nearly 7,000 who reside in Maryland. Our members are the victims of unscrupulous towing and recovery companies that exploit the system, often times inflating their invoices by tens of thousands of dollars.

For purposes of this discussion, a nonconsensual tow includes those dispatched by the Maryland State Police (MSP) to assist with the towing and recovery of a commercial motor vehicle. The problem is not with MSP, but rather with those companies that price gouge. There are no rules in place to prevent towing companies from charging whatever they want, which is something they clearly use to their advantage.

As SB 613 is being considered, I want to make a few points:

1. The towing and recovery industry opposes regulations or consumer protections of any kind. In their own words, the "Towing and Recovery Association of America asserts that there is no legitimate legislative need for state and local regulation of towing companies that perform nonconsensual towing at the direction of law enforcement officials [See Page 2 of Exhibit 1]."
2. We are coming to the legislature as a last resort. Again, the towing and recovery industry has no interest in addressing our concerns in any meaningful way.
3. The towing and recovery industry is unable to self-police itself. This is precisely why communities across Maryland have consumer protections in place for personal automobiles. People who own or operate big trucks should have similar protections.

4. The fraudulent activity we are seeing in Maryland from towing and recovery companies is much bigger than just a “few bad apples.” It is a statewide problem that large segments of the industry continue to exploit with impunity.
5. Despite what you might hear, the proposed rules in SB 613 should have little to no impact on towing and recovery companies that do things the right way. Other states are already doing what is being proposed in Maryland and honest towing and recovery operators are doing just fine.

I would also like to address concerns about the cost of towing and recovery equipment, in particular heavy-duty rotators and wreckers. Let us consider the following scenario:

Let us assume that a towing and recovery company buys a brand new heavy-duty rotator with all the bells and whistles for \$1,000,000 – even though you can buy quality pre-owned rotators for much less than half of this amount. They put no money down and finance it over seven years – though in reality, they would likely have some sort of down payment and it might even be financed over a longer period of time.

This means that there would be 84 monthly payments of \$11,904 (excluding interest). Please turn your attention to Exhibits 2 and 3 where you will see that in a matter of hours on a single nonconsensual recovery, companies are covering their monthly payment and making a profit. The Auto Barn, for example, has \$41,500 in heavy-duty wrecker charges. Obviously these calculations do not include insurance, taxes, and other costs but it still highlights the excessive invoicing that is prevalent in Maryland.

It is worth noting that some heavy-duty recoveries can be complicated, but some are relatively simple as well. Towing and recovery companies should charge a fair price for the work they perform, but many invoices are tens of thousands of dollars more than the competition would charge – not just in Maryland, but across the country. Further, simply because something is complicated does not negate the problem itself, nor should it prevent consideration

SB 613 would mitigate the longstanding abused in Maryland by (1) establishing a complaint process, (2) prohibit the use of per pound billing, (3) clarify that towing companies have no right to a lien, and (4) give truck drivers and motor carriers the option to use their tower or choice. These are basic consumer protections that would mitigate – not prevent – the damage being inflicted upon unsuspecting truck drivers and motor carriers by fraudulent towing and recovery companies in Maryland.

Thank you for your time and support of SB 613. Please contact me directly at (816) 229-5791 ext. 1603 or mike_matousek@ooida.com should you have any questions or require additional information.

Exhibit 1

The Voice of America's Towing Industry

TOWING & RECOVERY ASSOCIATION OF AMERICA, INC.

700 12th St. NW
Suite 700
Washington DC 20005



Website: www.traaonline.com
Email: contact@traaonline.com
Phone/Fax: 888.392.9300

Via electronic mail only

November 9, 2015

Members of the Conference Committee on H.R. 3763
Surface Transportation Reauthorization and Reform (STRR) Act of 2015

**RE: Amendment No. 42 (11/3/15):
Authorizing state and local regulation of nonconsensual towing**

Dear Conference Committee Member:

Towing and Recovery Association of America (TRA) is the national trade association for automotive towing businesses. TRAA membership includes towing businesses in all 50 states.

Last Tuesday Rep. Chris Van Hollen (Md.-8th) and Donald Beyer (Va-8th) proposed an amendment to the highway reauthorization bill, H.R. 3763, which would amend Title 49, Section 14501(c)(2)(C) of the federal transportation code to expand the authority of state and local governments to regulate nonconsensual towing operations. Amendment No. 42, printed in Part B of House Report 114-325, was approved by the House shortly after 8:00 p.m. on Tuesday by voice vote.

TRA asserts that the amendment is overbroad. Clearly, the target of the legislation is "predatory" towing operations — *i.e.*, the practice of snatching vehicles from parking lots and charging exorbitant fees. However, because the statute would permit state and local regulation of *all* tow truck operations "performed without the prior consent or authorization of the owner or operator of the motor vehicle," the law could negatively impact the business relationship between law enforcement agencies and the towing companies that provide nonconsensual towing services on their behalf.

The specifics of the amendment are as follows:

(C) [Federal preemption of the regulation of intrastate motor carriers of property] does not apply to the authority of a State or political subdivision of a State to enact or enforce a law, regulation, or other provision relating to ~~the price of for-hire motor vehicle transportation by a tow truck, if such transportation is the~~ regulation of tow truck operations performed without the prior consent or authorization of the owner or operator of the motor vehicle.

In the automotive towing industry, the transport of vehicles without the prior consent or authorization of the owner or operator of a motor vehicle is commonly referred to as "nonconsensual towing." Certainly, the impounding of an improperly parked vehicle from a

posted “NO PARKING” or “CUSTOMERS ONLY” private parking lot, *e.g.*, restaurant, bar, or shopping center, in situations where the owner or operator is not present is a nonconsensual tow. That type of towing has an inherent potential for price-gouging by unscrupulous towing companies and is frequently referred to as “predatory towing” in the news media and by legislators. TRAA is certainly aware of limited, though highly publicized, instances of abusive practices by private property impounding companies. Despite being trespassers, the drivers or owners of illegally or improperly parked vehicles are nevertheless entitled to protection from abusive practices.

Pursuant to Amendment No. 42, *all aspects* of the nonconsensual impounding of vehicles from private parking lots would be subject to regulation by state and local governments. *To that extent*, TRAA does not oppose the amendment that was adopted last Tuesday night.

However, there is *another*, far more common, type of nonconsensual towing that does not necessitate regulation by the legislative bodies of local governments. That is the nonconsensual towing which occurs when a vehicle is towed without the authorization of an owner or operator but *at the direction of a law enforcement official*. For example, when the driver of a vehicle is incapacitated by reason of injury or intoxication and, thus, unable to give their effective consent or authorization for the tow of their vehicle, a police officer will typically direct the tow of the vehicle. As a further example, vehicles are frequently abandoned on public roadways due to mechanical failures, accidents, or financial distress of the owner. Those vehicles are impounded at the direction of a law enforcement officer.

All of the towing situations noted in the above paragraph are, technically, “nonconsensual” tows falling within the scope of the amendment because there is no consent or authorization by the owner or operator of the vehicle; however, there is a critical distinction between those type of tows and nonconsensual tows from private parking lots – *a law enforcement official is directing the tow*.

* TRAA asserts that there is no legitimate legislative need for state and local regulation of towing companies that perform nonconsensual towing at the direction of law enforcement officials. The business relationship between law enforcement agencies and the towing companies performing nonconsensual towing at their direction is typically governed by contract or internal rules and regulations implemented by the law enforcement agency. Those contracts and informal rules set forth equipment criteria, insurance requirements, towing rates and price ceilings, etc. Towing companies violating the rules are subject to discipline including suspension and termination. TRAA contends that the control of police-directed nonconsensual towing is best left to the internal procedures of the state and local law enforcement agencies that procure that type of nonconsensual towing. *

There is yet a further compelling reason to exclude police-directed nonconsensual tows from the regulatory authority that would be extended by this amendment to Title 49, U.S. Code, Section

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14501(c)(2)(C). Authorizing state and local legislative bodies to impose laws and regulations relating to police-directed law enforcement towing may well generate conflicts with the “tried and true” internal police department towing policies already in place throughout the nation. It is not difficult to envisage the enactment of a politically-motivated law relating to police-directed towing that directly conflicts with the police department’s own well-established internal rules and procedures.

In light of the foregoing, TRAA seeks your support of a simple amendment to H.R. 3763 that would limit the scope of Amendment No. 42 to that which was clearly intended by Representatives Van Hollen and Beyer — predatory towing. TRAA suggests the following:

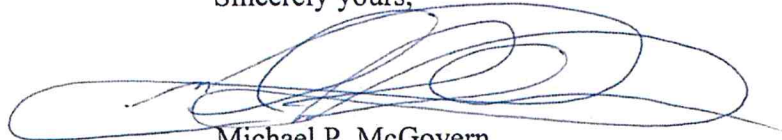
(C) does not apply to the authority of a State or political subdivision of a State to enact or enforce a law, regulation, or other provision relating to the regulation of tow truck operations performed without the prior consent or authorization of the owner or operator of the motor vehicle, **or a law enforcement official.**

That amendment would allow *full regulation* of private parking lot nonconsensual impounding while avoiding the unnecessary disruption of the existing systems for police-directed nonconsensual towing.

In closing, I trust you will agree that most tow truck operators — even those who perform the unpleasant task of nonconsensual towing from private parking lots — are honest, hard-working small businesspersons who charge a reasonable fee for their services. On behalf of the Board and members of TRAA, I extend our support of Amendment 42 to H.R. 3763 with the caveat that nonconsensual towing performed at the direction of law enforcement agencies be excluded from its reach.

I would, of course, be pleased to speak with you or your staff in greater detail about this important issue.

Sincerely yours,



Michael P. McGovern
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MPM:rld

cc: The Honorable Bill Shuster, Chairman
House Committee on Transportation and Infrastructure
The Honorable Chris Van Hollen
The Honorable Donald Beyer
TRAA Board of Directors
Int'l Association of Chiefs of Police
National Sheriffs' Association
American Association of State Highway and Transportation Officials
Conference of Northeastern Towing Association

Exhibit 2

The Auto Barn Inc

2930 James St (Tow yard: 2125 W Lafayette Ave), Baltimore MD 21230
 Phone: 410-362-0117 / 410-646-2610 | Fax : (410) 646-2011

Impound Invoice

Printed 2/19/2021

Invoice #	27476	VIN Number	
Purchase Order #		Model	
Driver initials		License Plate	
Driver initials		Towed from	west 50 @ patuxent river rd
Account	MD State Police MSP Glen Burnie	Stored at	The Auto Barn Inc. 2125 W Lafayette Ave, Baltimore MD 21217
Date/Time Impounded: 2/14/2021 5:30 AM			

Storage charges	Quantity	Price	Line Total
(Storage - Storage Fees) Storage (Police - MSP - Daily Rate)	5	\$450.00	\$2,250.00
Towing charges	Quantity	Price	Line Total
(Towing) Hourly Rate (Wrecker #16)	8	\$1,500.00	\$12,000.00
(Towing) Recovery (Rotator used)	7	\$2,500.00	\$17,500.00
(Towing) Clean Up	7	\$750.00	\$5,250.00
(Towing) Hourly Rate (Rollback #49)	7	\$750.00	\$5,250.00
(Towing) Safety Manager / Supervisor	1	\$2,275.00	\$2,275.00
(Towing) Labor - (Equipment - Forklift / Backhoe / Etc) (Recovery truck)	6	\$1,200.00	\$7,200.00
(Towing) Hourly Rate (Wrecker #19)	8	\$1,500.00	\$12,000.00
(Towing) Hourly Rate (Landall #51)	7	\$950.00	\$6,650.00
		Towing Subtotal	\$68,125.00
		Storage - Storage Fees Subtotal	\$2,250.00
		Subtotal	\$70,375.00
		Taxes	\$0.00
		Grand Total	\$70,375.00
		Amount Due:	\$70,375.00

By signing you are attesting that you are legally authorized and entitled to take possession of the vehicle described and all personal property therein. For questions and/or concerns regarding this invoice, the reason for your impound, or the condition of your vehicle, please see the cashier at the Reclaim Window to request an incident report. Incident Reports must be filed within 24hrs of reclaiming the vehicle. All incident reports are forwarded to the General Manager, Ronald Rucker, and will typically be responded to within 3-5 business days. ----- ***Towing from Private Property Facilities is regulated by CITY CODE ARTICLE 31, SUBTITLE 21 and by CITY CODE ARTICLE 15, SUBTITLE 22. For complaints please call the Baltimore City Towing Board at 410-545-3377 ----- ***Towing from Private Property Facilities is regulated by COUNTY CODE, TITLE 24, ARTICLE VI, SECTION 24.221, ET. SEQ. For complaints please call the Department of Permits and Development Management at 410-887-3616 ----- ***If you vehicle was towed from Howard County and you have questions or wish to obtain a copy of the law, Contact the Office of Consumer Affairs at 410-313-6420

Signature: _____ Date: _____

USDOT: 608721

Exhibit 3

PHILLIPS GARAGE, INC. EASTERN SHORE RHINO LININGS

P.O. Box 213 / 119 East Main St.
Sudlersville, MD 21668
(410)438-3183
292 ADMG

Year Make. 2020 Towing Service
Engine L4 1.6L Vin:-
License CARGO_001
MLG in/out 0000 / 0000
Vin
RECOVERY

Date 06/20/20 Schedule 06/20/20 **INVOICE :** _____ 10:14 am Page 1

REMARKS AND LABOR DESCRIPTIONS	HRS	PRICE	PARTS & LUBRICANTS	QTY	PRICE	TOTAL
-- MSP CALL OUT FOR ACCIDENT / RECOVERY OF LOADED, OVERTURNED TRACTOR TRAILER ON RT. 301 CHURCH HILL, MD. ARRIVED TO FIND LOADED TRUCK AND TRAILER ON ITS SIDE IN THE NUD IN CENTER MEDIAN. TRAILER WAS FULLY LOADED WITH MANGOS. BOXEX WERE BROKEN AND LOOSE. ATTEMPTED TO UPRIGHT THE TRAILER WITH AIR BAGS AND ROTATORS. WAS NOT ABLE TO UPRIGHT. TRAILER WAS BREAKING. UNLOADED MANGOS BY HAND AND PUT IN 30 YARD CONTAINERS. PHILLIPS SENT OUT RESPONSE TEAM OF 2 50 TON ROTATORS ALONG WITH AN ADDITIONAL 75 TON ROTATOR, SERVICE TRUCK, ROLLBACKS WITH SKID STEERS AND BUCKETS. SPILL RESPONSE TEAM WAS ALSO ON SIGHT. 80,000 PONDS @ .95 PER	80000.	76000.0				

DATE TIME PHONE APPROVED AMOUNT I acknowledge notice and oral approval of an increase in the original estimated price	All Parts Are New Unless Shown As (U) Used or (R) Rebuilt	Labor Sublet	Parts & Lubricants EPA Shop Supplies Gasoline Sub Total Sales Tax Deposit Disc. Applied
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CHARGE

X

A C C E P T A N C E S I G N A T U R E
 I accept the charges and terms of this agreement.

**TOTAL
BALANCE DUE**

PHILLIPS GARAGE, INC.

EASTERN SHORE RHINO LININGS

P.O. Box 213 / 119 East Main St.
Sudlersville, MD 21668
(410)438-3183
292 ADMG

Year Make. 2020 Towing Service
Engine L4 1.6L Vin:-
License CARGO_001
MLG in/out 0000 / 0000
Vin
RECOVERY

Date 06/20/20 Schedule 06/20/20 **INVOICE :** 10:14 am Page 2

REMARKS AND LABOR DESCRIPTIONS	HRS	PRICE	PARTS & LUBRICANTS	QTY	PRICE	TOTAL
POUND			OIL DRY MATERIAL			
--- LOT / ADMIN FEE	1.00	275.00		1.00	75.00	75.00
--- DISPOSAL SERVICE FOR CLEAN UP OF MANGOS. TRI AXLE TRUCK WITH CONTAINERS - 7.0	7.00	2625.00				
--- DISPOSAL SERVICE FOR TAKING CONTAINERS TO LAND FILL - 4.5	4.50	1687.50				
--- ESTIMATED DIPOSAL FEES FROM LAND FILL -	1.00	1281.50				
2001 PETERBILT - VIN #j						
TRAILER - 2012 UTILITY TRAILER VIN						
--- TOWING OF TRACTOR & TRAILER BACK TO SUDLERSVILLE	1.00	575.00				
--- STORAGE OF TRACTOR @ 110.00 PER DAY	10.00	1100.00				
--- STORAGE OF TRAILER @ 110.00 PER DAY	10.00	1100.00				

DATE	TIME	PHONE	APPROVED	AMOUNT	All Parts Are New Unless Shown As (U) Used or (R) Rebuilt	Labor Sublet	Parts & Lubricants
I acknowledge notice and oral approval of an increase in the original estimated price							EPA Shop Supplies Gasoline Sub Total Sales Tax Deposit Disc. Applied

CHARGE

X

.....
ACCEPTANCE SIGNATURE
I accept the charges and terms of this agreement.

**TOTAL
BALANCE DUE**

PHILLIPS GARAGE, INC.

EASTERN SHORE RHINO LININGS

P.O. Box 213 / 119 East Main St.
Sudlersville, MD 21668
(410)438-3183
292 ADMG

Year Make. 2020 Towing Service
Engine L4 1.6L Vin:-
License CARGO_001
MLG in/out 0000 / 0000
Vin
RECOVERY

Date 06/20/20 Schedule 06/20/20

INVOICE :

10:14 am

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REMARKS AND LABOR DESCRIPTIONS	HRS	PRICE	PARTS & LUBRICANTS	QTY	PRICE	TOTAL
** ESTIMATED TRACOR RECOVERY PORTION - 38000.00 PLUS STORAGE *** ESTIMATED TRAILER RECOVERY PORTION - 38000.00 PLUS STORAGE						

DATE	TIME	PHONE	APPROVED	AMOUNT	LABOR	PARTS & LUBRICANTS
					Labor 84644.00 Sublet 0.00	Parts & Lubricants 75.00
I acknowledge notice and oral approval of an increase in the original estimated price					This charge represents costs and profits to the motor vehicle repair facility for miscellaneous shop supplies or waste disposal.	
					EPA 0.00 HAZ MAT 22.50 Gasoline 0.00 Sub Total 84741.50 Sales Tax 5.85 Deposit 0.00 Disc. Applied 0.00	

CHARGE

X

ACCEPTANCE SIGNATURE
I accept the charges and terms of this agreement.

TOTAL 84747.35
BALANCE DUE 84747.35

I authorize the above repairs and necessary materials. Your employees may operate vehicle for inspection, testing, delivery at my risk. You will not be responsible for loss or damage to vehicle or items left in it. I agree to pay reasonable storage on vehicle left more than 3 working days after notification that job is completed. Labor is guaranteed 90 days or 4000 miles whichever occurs first. All other guarantees are made by the manufacturer. Warrantee work based on this bill must be performed at this shop. All parts are new unless specified as (U) used or (R) rebuilt. REMOVED PARTS WILL BE DISPOSED OF UNLESS I INITIAL HERE _____.