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To: The Honorable William C. Smith, Jr.
Chair, Judicial Proceedings Committee

From: Karen S. Straughn
Consumer Protection Division

Re: Senate Bill 883 – Commercial Law – Statutory Liens – Motor Vehicles Towed or
Removed from Parking Lots (CONCERN)

The Consumer Protection Division of the Office of the Attorney General has concerns regarding Senate Bill 883 introduced by Senator Mary-Dulany James. This bill provides for an automatic lien on a motor vehicle towed from a privately owned parking lot for the charges incurred for towing, recovery, storage and notice. However, the Division is concerned that the bill fails to address the due process concerns raised by the Office of Counsel to the General Assembly in the attached letters to Senator Love and Delegate Boyce.

When a vehicle is towed from a private lot, there are charges incurred which are usually paid by the individual who owns the vehicle in order to recover it. Sometimes, however, the vehicle is towed because it has been abandoned, leaving no one to pay the costs, or the owner may have difficulty paying the fees. In some cases, the owner of the vehicle may have a dispute concerning the basis for towing the vehicle in the first place. Generally, in these cases, a lien may be filed with the courts, to serve as notice that the towing company may have a claim against the individual's assets. This bill would allow a towing company to bypass the normal process of obtaining a lien, and would make the lien automatic, only being discharged when all fees are paid. The lien becomes a public record, which could be detrimental to individual owners who are taking the necessary steps to pay the bill in a timely manner. Moreover, under §25-206 of the Transportation Article, if an owner or secured party fails to reclaim an abandoned vehicle within 3 weeks after notice is given, the responsible party is deemed to have waived all of their rights,

title, and interest in the vehicle and to have consented to the sale of the vehicle at public auction. Therefore, no automatic lien is necessary.

As noted in the attached letters, due process requires that the vehicle owner be given prompt notice of the lien and the opportunity to promptly challenge the lien and basis for the tow. The bill fails to provide for such a process and, for most Maryland jurisdictions, no such process exists. Accordingly, the Consumer Protection Division wanted to make the Judicial Proceedings Committee aware of our concerns.

cc: The Honorable Mary-Dulany James
Members, Judicial Proceedings Committee