



OFFICE OF CONSUMER PROTECTION

DEPARTMENT OF COUNTY ADMINISTRATION

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February 18, 2026

Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB577: Vehicle Laws - Towing of Vehicles from Parking Lots - Civil Action for Nonpayment

Dear Chair Smith, Vice Chair Waldstreicher, and Members of the Committee,

The Office of Consumer Protection (OCP) helps protect Howard County consumers by providing education regarding unfair and deceptive trade practices, conducting mediation, and enforcing consumer protection code. In addition, the OCP regulates and licenses trespass towing companies in Howard County under HCC §17.600, *et seq.* The OCP writes this letter of information in connection with SB577.

Trespass towing is a unique business model. In no other industry does the law allow a business to take an individual's personal property without permission and refuse to return it until they are paid a fee. While most tow companies operate with integrity and lawfulness, unfortunately many do not. SB577 proposes to allow tow companies to release vehicles without payment upon presentation of a photo ID (with unknown security protocols to store such PII), then pursue civil actions against vehicle owners with the potential to recover liquidated damages of up to \$1,000, court costs, and attorney's fees. These provisions create opportunities for abuse by predatory tow companies. Below are four recent examples of our cases for your consideration.

First, through a complaint, we learned about a scheme by unlicensed tow operators from neighboring counties which monitor police scanners for accidents, arrive on the scene, tow the damaged vehicles, and provide owners with false information about the company name and address for the storage lot. This prevents consumers from timely retrieving their vehicles while storage fees accumulate. The Maryland Insurance Administration has issued a Consumer Alert about this practice.

Second, the OCP received a complaint from a consumer who had his car illegally towed from a Howard County gas station deli which had no posted tow signs. The deli owner hired an unlicensed tow operator to tow the car to a Baltimore auto repair shop (more than 12 miles away contrary to Howard County law), which he also owned. The repair shop then removed the car's tire and rims to prevent the owner retrieving his car and demanded almost 3 times the cost of the illegal tow (and well in excess of the County's approved tow redemption charges) before he would repair the car so the owner could retrieve it.

Finally, we conducted enforcement and compliance actions against two local companies. An unlicensed tow company towed 42 vehicles, and when approached for compliance, provided false information in its subsequent licensing application, failed to provide updated insurance information, charged rates greater than that approved

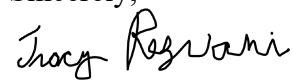
by the Howard County Council, charged government fines (again in excess of Council-approved rates), acted as a spotter, towed vehicles without authorization of the property owner, and failed to provide notice of the tow to the Police as required by County law. Another tower, despite not having a contract with the property owner, nevertheless came on the property after hours, removed the prior tow company's signs, installed its own signs, told the concierge it had a valid contract with the property owner when asked, and then towed ten (10) cars without the authorization of the property owner or its agents.

Under SB577, these bad actors could release vehicles to consumers without payment, then file civil actions seeking double the towing charges plus attorney's fees—even for illegal tows. The amount authorized by the Bill would be in excess of the rates approved by the Howard County Council. Moreover, consumers who dispute fraudulent or illegal tows would face the burden and expense of taking time off work to engage in the intimidating court process to defend themselves against laws they do not understand. This could give predatory towers a powerful new revenue mechanism backed by the threat of liquidated damages. The burden on consumers should be evaluated by the Committee.

Lastly, proposed Transportation Article 21-10-05(D) seems to grant tow operators an ability to sue where a consumer has successfully disputed a charge under the Fair Credit Billing Act for credit cards (and ostensibly under the Electronic Funds Transfer Act for debit or hybrid cards). Bill at 3, line 23-34. The Committee should evaluate whether this provision would be inconsistent with, or preempted by, these federally mandated dispute resolution processes.

We respectfully ask the Members of the Committee to consider how SB577's provisions would impact consumers facing the scenarios described above.

Sincerely,



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Cc: Brian Shepter, Deputy Chief of Staff