

Cade v. Montgomery County (1990) - Attachment A.pdf

Uploaded by: Mary-Dulany James

Position: FAV

Cade v. Montgomery County

83 Md. App. 419 (Md. Ct. Spec. App. 1990) · 575 A.2d 744
Decided Aug 30, 1990

No. 1161, September Term, 1989.

June 27, 1990. Certiorari Denied August 30, 1990.

Appeal from the Circuit Court, Montgomery
420 County, William M. Cave, J. *420

William C. Brennan, Jr. (Knight, Manzi, Brennan,
Ostrom Ham, P.A., on the brief), Upper Marlboro,
421 for appellants. *421

Patricia P. Hines, Asst. County Atty. (Clyde H.
Sorrell, County Atty., and Linda D. Berk, Sr. Asst.
County Atty., on the brief), Rockville, for
appellees.

Argued before MOYLAN, GARRITY and
WENNER, JJ.

WENNER, Judge.

Upon this appeal and cross-appeal from the
Circuit Court for Montgomery County, we are
asked to consider the validity of a comprehensive
local ordinance regulating the towing of motor
vehicles from private property without the consent
422 of the vehicles' owners. We shall reverse the
judgment of the circuit court which declared the
ordinance unconstitutional in its entirety. In so
doing we shall address, although not necessarily in
the order presented, the following arguments:

I. A local ordinance which requires a
towing service to accept as payment for
towing and storage fees personal checks or
credit cards in lieu of cash violates the
prohibition against States making anything
but gold and silver coins tender in payment
of debts;

II. A possessory lien is created in favor of
the towing service until the vehicle owner
pays the towing and storage fees;

III. A vehicle owner who parks without
permission on private property that is
properly posted with signs warning that
trespassing vehicles will be towed, and
whose vehicle is towed at the direction of
the property owner, is liable for the towing
and storage fees;

IV. Towing services do not have standing
to assert that the rights of private property
owners are improperly infringed by the
ordinance;

*422

V. The ordinance is a proper exercise of
the police power.¹

¹ Issues I and II are presented by appellants;
issues III, IV and V are presented on cross-
appeal by appellee.

Appellants, G G Towing, et al., are a number of
towing companies. They sought a declaration that
the ordinance, Bill No. 16-87, was
unconstitutional. In the meantime, appellants were

successful in enjoining the appellee, Montgomery County, Maryland, from enforcing the ordinance until resolution of the merits of their complaint.² The matter was heard by the circuit court upon cross motions for summary judgment. After a hearing, the circuit court declared that the ordinance was unconstitutional as exceeding the county's police power.³ We disagree.

² The injunction was later modified to permit appellee to enforce the provisions relating to posting signs, requiring the towing companies to notify the local police department of trespass tows, and precluding the towing of vehicles with valid handicapped identification. 30C-4(b), 30C-5 and 30C-6.

³ The circuit court's declaration was based upon grounds different from those advanced by the appellants. Appellants contended below that the ordinance violated Article I, § 10 of the United States Constitution by impairing the obligation of contracts and establishing a form of legal tender other than gold and silver coin. Appellants' claim that the ordinance violated anti-trust laws was apparently abandoned at the hearing.

Montgomery County has adopted a home rule charter under Article XI-A of the Maryland Constitution. Consequently, Article 25A, § 5(S) of the Annotated Code of Maryland confers upon Montgomery County the authority to "pass all ordinances, resolutions, or bylaws not inconsistent with the provisions of this article or the laws of the State, as may be proper in executing and enforcing any of the powers enumerated in this section or elsewhere in this article, as well as such ordinances as may be deemed expedient in maintaining the peace, good government, health and welfare of the county." *See also Montgomery Citizens League v. Greenhalgh*, 253 Md. 151, 159-160, 252 A.2d 242 (1969). *See also* Mont.Co.Code § 2-12 (1984) (conferring upon the

423 Montgomery County Council "full *423 power and

authority to enact ordinances for the county as it may deem necessary for the peace, good government, safety or welfare of the county"). The Court of Appeals has held that this grant of power to legislate for the general welfare of the county is to be afforded a broad reading. *Id.* at 161, 252 A.2d 242. The Court has also said that it is enough that a legislative act tends to correct some local evil or promote some local interest, and that the act is reasonably and substantially related to its goal or purpose. *Stewart Petroleum Co. v. Board of County Commissioners*, 276 Md. 435, 446-447, 347 A.2d 854 (1975). For purposes of illumination, we summarize the legislation and its objective.

The catalyst behind Montgomery County Council Bill No. 16-87, to be codified in the Montgomery County Code as Chapter 30C, Motor Vehicle Towing From Private Property, was citizen complaints of "excessive rates, little or no notice of which areas are off limits to parking, and difficulty in redeeming towed vehicles." *See* Legislative Request Report, Bill No. 16-87. The purpose of the Bill, then, was to "clarify the respective rights of landowners, towing services, and motorists." *Id.*

The scope of Bill No. 16-87 is limited to the towing of motor vehicles from private property without the consent of the owners of the vehicles. 30C-1(b). Generally, vehicles with valid handicapped registration plates or valid disabled person's parking permit may not be towed from private property without the consent of the vehicle's owner.⁴ 30C-6.

⁴ A vehicle with a valid handicap registration plate or a valid disabled person's parking permit conspicuously displayed may be towed without the owner's consent, however, if the tow is expressly authorized by a police officer at the request of a property owner, or the vehicle is blocking a clearly marked fire lane or access to another vehicle, the property or a building.

The rates which a towing company may charge are limited to those maximum rates set by the county executive. 30C-2(a). Every trespass towing company must file with the office of consumer
424 affairs a schedule of its towing and *424 storage rates, and is precluded from charging fees that exceed that schedule. 30C-3(c) and (d). Each trespass towing company must enter into a written agreement with every private property owner that authorizes a towing company to tow trespassing vehicles. 30C-3(f).

Bill No. 16-87 imposes certain requirements on owners of private property. Prior to having a motor vehicle towed without the consent of the vehicle's owner, the property owner must post a sufficient number of signs notifying the public of the parking restrictions. 30C-4(b)(1). Signs must be posted 24 hours prior to towing a trespassing vehicle. *Id.* It is sufficient if at least one sign is clearly visible from each parking area and each vehicle entrance to the property. 30C-4(b)(2). In the alternative, private parking lots having more than 100 spaces may post in a conspicuous place, readable from all affected spaces, at least one sign for every 75 spaces. *Id.* Each sign must indicate the area and time within which the restrictions will be enforced and give notice that any vehicles violating the restrictions will be towed at the owner's expense. 30C-4(b)(3). Signs must include the telephone numbers of each towing company hired to tow and, in the alternative, a telephone number at which the towing company may be reached at all hours. *Id.* Signs must be clearly legible and unobstructed. *Id.* Alternatively, owners of residential property, such as condominiums, may have a trespassing vehicle towed within not less than 48 hours after having attached a written notice to the vehicle in a conspicuous place notifying the owner of the violation. *Id.* Public notice provisions are inapplicable to towing from the yard or driveway of single family dwellings. 30C-1(b)(3)(B). Private property owners or their agent must expressly authorize the tow. 30C-4(c).

Bill No. 16-87 also prescribes towing and redemption procedures. The towing company must tow each trespassing vehicle to the nearest storage site available to the company, but not more than 12 miles from the origin of the tow. 30C-8(a)(1). The towing company must keep the towed vehicle
425 and its contents secure at all times. *425 30C-8(a)(4). The towing company must notify the appropriate county or municipal police department of each trespass tow, 30C-5(a); the police must be contacted again if a vehicle remains in the company's possession for more than 72 hours. 30C-5(d). The towing company is required to remain open at least 2 hours after completion of the last tow. 30C-8(b).

The towing company is required to accept in lieu of cash payment either a major credit card or a personal check. 30C-8(c)(2)(A).⁵ In the event a vehicle owner later withholds payment for a credit card transaction or stops payment on a check, the vehicle owner is liable to the towing company for twice the amount validly charged. 30C-8(c)(5) and (6). If, prior to a vehicle's removal from private property but after the vehicle has been attached to the tow truck, the vehicle owner returns to the tow site, the towing company must release the vehicle to the owner upon payment by the owner of a release fee. 30C-7(a). Such release fee cannot be greater than one-half the fixed rate for towing the vehicle to the nearest storage site. *Id.* With this background firmly in mind, we now turn to the issues at hand.

⁵ The towing company is required to accept the two most widely used major credit cards as determined by the Office of Consumer Affairs.

Discussion

At the outset, we observe that an ordinance, like a statute, is presumed to be valid. *R.S. Construction Co. v. City of Baltimore*, 269 Md. 704, 706, 309 A.2d 629 (1973). A legislative enactment is within the permissible bounds of the police power if it is reasonably and substantially related to the public

health, morals, safety and welfare of the people. *Steuart, supra*, 276 Md. at 446, 347 A.2d 854. Beyond that, of course, the act must not infringe upon any constitutional guarantees. *Maryland Board of Pharmacy v. Sav-A-Lot, Inc.*, 270 Md. 103, 106-107, 311 A.2d 242 (1973). In any event,
 426 the burden of demonstrating the *426 invalidity of a legislative enactment rests with the party attacking its constitutionality. *Salisbury Beauty Schools v. State Board of Cosmetologists*, 268 Md. 32, 48, 300 A.2d 367 (1973).

A.

The circuit court found that Bill No. 16-87 was an improper exercise of the police power for essentially two reasons.

1.

The circuit court determined that the provisions of the Bill relating to the posting of signs and the exception prohibiting generally the towing of vehicles with valid handicapped identifications were too stringent and interfered with the rights of private property owners to remove trespassing vehicles from their property. Initially, we shall reject appellee's contention that appellants do not have standing to assert that the rights of private property owners are improperly infringed by the ordinance. It is true that this issue was not raised below. *See supra*, n. 3. As we see it, however, the circuit court was not precluded from granting declaratory relief on grounds entirely different from those on which relief was sought. *See Mayor and Town Council of New Market v. Armstrong*, 42 Md. App. 227, 233, 400 A.2d 425 (1979). And, appellee cites no authority for the proposition that the circuit court improperly decided the issue. Moreover, we think it appropriate on appeal to address the issue, as it was expressly decided by the circuit court. Md. Rule 8-131(a).

Having crossed that hurdle, we need only briefly consider appellee's contention on cross-appeal that the Bill does not improperly interfere with the rights of private property owners. There is no

evidence whatsoever in the record before us that the provisions of the Bill requiring signs to be posted and prohibiting generally the towing of vehicles with valid handicapped identification are unduly restrictive of the rights of private property owners. In fact, not one private property owner
 427 participated in this *427 litigation. Consequently, in view of the strong presumption as to the validity of the Bill, we hold that there was insufficient evidence to sustain, on these grounds, the circuit court's conclusion to the contrary. *Salisbury Beauty Schools, supra*, 268 Md. at 48, 300 A.2d 367.

2.

Bill No. 16-87 does not expressly create a possessory lien in favor of the towing company. In other words, the Bill does not give a towing company the right to retain a motor vehicle until the vehicle owner pays the towing and storage fees. 30C-8(c)(8). From that, the circuit court concluded that "since no possessory lien exists, there was no statutory or common law requirement that the owner has to pay the tow truck operation . . . the trespassing vehicle owner isn't required to pay anything for the return of his vehicle and is entitled to have it returned upon demand."

Appellants contend that, under the circumstances, a common law possessory lien is created in favor of the towing company until the vehicle owner pays the towing and storage fees. However that may be, appellants repeatedly conceded at the hearing in the circuit court that the Bill created no possessory lien by virtue of the trespassing vehicles having been towed and stored. Consequently, whether the circuit court properly decided that no possessory lien was created by Bill No. 16-87 has not been preserved for review. *Pitts v. Mahan*, 39 Md. App. 95, 96-97, 382 A.2d 1092 (1978) (whether trial court erred in finding plaintiff guilty of contributory negligence as a

matter of law not preserved for review where plaintiff's counsel conceded at trial that plaintiff was contributorily negligent).

Beyond that, the parties agree on appeal that a vehicle owner who parks without permission on private property that is properly posted with signs warning that trespassing vehicles will be towed, and whose vehicle is towed at the direction of the property owner, is liable to the ⁴²⁸ towing company for towing and storage fees. We agree and hold that, under these circumstances, there is an obligation to pay.

A promise to pay may be manifested by conduct or by implication from surrounding circumstances. Restatement (Second) of Contracts § 4 Comment a (1981). *See also* 1 Corbin, Contracts §§ 18-19 (1963). As we see it, the 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. *See* 73 Op. Atty. Gen. ____ (1988) [Opinion No. 88-055 (December 19, 1988)]. In *Capson v. Superior Court of Maricopa*, 139 Ariz. 113, 677 P.2d 276 (1984), a towing company was charged with theft after it failed to return to the owner a vehicle which had been involuntarily towed. While the Court found that no possessory lien existed, it indicated that there may be an implied agreement by the vehicle owner to pay for towing where the signs posted on the parking lot specified that a \$75 towing fee would be assessed if the vehicle was towed. *Id.* 677 P.2d at 278. Under Bill No. 16-87, posted signs must indicate, among other things, that any vehicles that are parked in violation of the restrictions may be towed at the expense of the vehicle owner. 30C-4(b)(3)(B). We hold that the provisions of Bill No. 16-87 regulating the posting of signs are sufficient to place vehicle owners on notice that if they park in designated no parking areas they are liable for reasonable towing and storage fees.⁶

⁶ The obligation to pay may also arise by statute or ordinance. *See T.R. Ltd. v. Lee*, 55 Md. App. 629, 465 A.2d 1186 (1983), *cert. denied*, 298 Md. 395, 470 A.2d 353 (1984). We express no opinion as to whether Bill No. 16-87, read in its entirety, imposes such liability.

Our holding is not inconsistent with Md. Transp. Code Ann. § 26-301(b)(3) (1987 Supp. 1989), which empowers political subdivisions generally to regulate the towing of vehicles ⁴²⁹ from privately owned parking lots. Moreover, statutes in other jurisdictions expressly provide that a vehicle owner who without authorization parks on private property in defiance of posted parking restrictions shall be deemed to have consented to the removal and storage of their vehicle as well as to payment of charges for its removal and storage. *See* Ill. Rev. Stat. Ch. 82, para. 47a (1989); Ohio Rev. Code Ann. § 4513.60 (Baldwin 1989).

The actions of a municipality in the exercise of its police power will ordinarily not be interfered with unless they are arbitrary or patently unreasonable. *Salisbury Beauty Schools*, *supra*, 268 Md. at 48, 300 A.2d 367. In *Crane Towing, Inc. v. Gorton*, 89 Wn.2d 161, 570 P.2d 428 (1977) the Supreme Court of Washington upheld as a proper exercise of the State's police power a statute that is markedly similar to Bill No. 16-87. Like Bill No. 16-87, the statute in *Crane* requires private property owners to post signs that contain warnings that unauthorized vehicles will be towed as well as information to assist vehicle owners in recovering their vehicles. 570 P.2d at 430. In *Crane*, the statute also imposes restrictions on the towing companies. For instance, towing companies are required to be available on a 24-hour basis to facilitate vehicle recovery, and must give notice of each towing to local law enforcement agencies. *Id.* at 431. And, not unlike Bill No. 16-87, towing companies are required to accept as payment for towing and storage fees either cash, personal checks drawn on local banks,

or valid and appropriate credit cards. *Id.* at 432, n. 6. The statute also provides for damages twice the amount of towing and storage fees in the event that the vehicle owner later attempts to defraud the towing company. *Id.* We find persuasive the Court's reasoning in *Crane* as to why the legislation was a valid exercise of the State's general police power:

430 Modern society's dependence on the automobile as the primary mode of travel is well known in this time of national discussion on energy conservation. Traveling hundreds of miles from one's home and back in one day, *430 whether for business or pleasure, is surely not an uncommon experience. It cannot be doubted that the unexpected loss of the use of one's vehicle directly affects the safety and welfare of vehicle operators and owners. A person may be stranded hundreds of miles from home with no alternative mode of return travel and with no place to stay until the vehicle can be recovered. Similarly, the loss of the use of one's vehicle may substantially affect one's employment. Legislation which tends to assist members of the public from involuntarily losing the use of their vehicles and which tends to expedite recovery of their vehicles once they have been removed fairly and clearly promotes the safety and welfare of the public.

Id. at 433-434. Accordingly, we hold that Bill No. 16-87 bears a reasonable and substantial relation to the safety and welfare of the people and to the goals of the Montgomery County Council.

B.

That the enactment of Bill No. 16-87 is a proper exercise by the county of the police power does not conclude our inquiry, however. Appellants contend that the Bill, by requiring towing companies to accept as payment for towing and

storage charges personal checks or credit cards in lieu of cash, violates Article I, § 10 of the United States Constitution:

No State shall . . . make anything but gold and silver coin a tender in payment of debts. . . .

We see it somewhat differently.

Section 30C-8(c), entitled "Payment and Promise to Pay," requires a towing company to accept as full payment of towing and storage charges either a credit card or a personal check. 30C-8(c)(2)(A). That section does not create a new form of legal tender nor regulate its value. Nor does it deprive the towing company of its right to collect its debt in money. In *Porter v. City of Atlanta*, 259 Ga. 526, 384 S.E.2d 631 (1989), *cert. denied*, ___ U.S. ___, 110 S.Ct. 1297, 108 L.Ed.2d 474 (1990), the 431 Supreme Court of Georgia *431 considered whether a municipal ordinance requiring wrecker companies to accept checks and credit cards attempts to legislate a change in legal tender. In rejecting the argument, the Court said,

[t]he regulation does not require appellees to accept something other than legal tender to discharge a debt. The debt is discharged when the appellants receive payment in legal tender through a third party institution.

384 S.E.2d at 634. We hold that the circuit court's determination that the provision at issue represents merely an alternative manner of "cash" payment, rather than establishing a substitute form of legal tender, was correct.

Furthermore, the provisions requiring a towing company to accept checks or credit cards has a reasonable relation to facilitating the recovery of vehicles by their owners. Moreover, in the absence of a possessory lien to secure payment of towing and storage charges, those provisions are obviously favorable to the towing companies. In any event, a towing company that has been defrauded may find solace in the provisions

protecting towing companies against an owner who later withholds payment. *See* 30C-8(c)(5) and (6).

Appellants' reliance on *Capital Grain Feed Co. v. Federal Reserve Bank of Atlanta*, 3 F.2d 614 (N.D.Ga. 1925) is misplaced. That case held unconstitutional a state law permitting banks to pay its checks by another check. This was, according to the Court, a plain effort to make a debt dischargeable by something other than gold or silver coin or other medium fixed by constitutional federal authority. *Id.* at 616. Yet, the Court said that the case would have been different had the statute made the check to be given by the

bank in payment of a debt only tentative and to be payment when itself was paid by lawful money. *Id.* This latter circumstance is not unlike the present case. Here, the tender of personal checks or credit cards are characterized as promises to pay. *See* 30C-8(c).

In sum, we hold that the circuit court erred in holding that Bill No. 16-87 was an unconstitutional exercise of the police power by
432 Montgomery County. *432

JUDGMENT REVERSED.

COSTS TO BE PAID BY THE APPELLANTS.

Montgomery County Code Chapter 30C-9 - Attachment

Uploaded by: Mary-Dulany James

Position: FAV

Sec. 30C-9. Redemption and storage procedures.

(a) *Storage of towed vehicles.* A towing company must immediately deliver a towed vehicle directly to a storage site that complies with the following conditions:

(1) A storage site must not be more than 15 miles from the origin of the tow. Every storage site must be located in Montgomery County, unless the nearest storage site is within one mile of the County line.

(2) A storage site must be brightly lit at all times.

(3) A towed vehicle must not be stored more than a reasonable walking distance from a redemption area.

(4) The towed vehicle and its contents must be kept secured at all times.

(5) The storage site must remain open and have personnel on-site for redemption of vehicles 24 hours per day, seven days a week.

(6) The storage site must be identified by a sign at the entrance indicating the name and telephone number of the tow service.

(b) *Payment and promise to pay.*

(1) *Cash payment.* A trespass towing company must accept payment in cash, or by a traveler's check accompanied by reasonable identification.

(2) *Credit card payment.* Each trespass towing company must accept the two most widely used major credit cards. The Office must define, in regulations under method (2), which major credit cards are the two most widely used.

(3) *Withholding payment.* If:

(A) the vehicle owner withholds payment in a credit card transaction with a towing service under this Chapter; and

(B) a court in any subsequent civil action finds that the tow was valid and the amount charged was correct;

the vehicle owner must pay the towing company, in addition to the amount validly charged, liquidated damages of two times the amount validly charged (but not more than \$1,000.00) and all reasonable costs of collection, including court costs and a reasonable attorney's fee.

(4) *Applicability.* This subsection applies to payment of any charge arising from the towing or storage of a vehicle without the owner's consent, and to payment for an incomplete tow under Section 30C-8.

(5) *Purpose.* This subsection and Section 30C-8 do not create or imply a lien in favor of a towing company when such a lien would not otherwise exist. This subsection and Section 30C-8 do not give a towing company a right to retain possession of any vehicle it would otherwise have to return to the vehicle owner.

(c) *Rates displayed.* Every trespass towing company must display prominently, at each redemption area, a copy of its current rates and a statement that these rates do not exceed the rates filed with the Office. Every trespass towing company must also display prominently a sign, furnished at a reasonable fee by the Office, listing the Office's telephone number and summarizing the vehicle owner's rights under this Chapter.

(d) *Storage fee.* A trespass towing company must not charge a storage fee for any time before the vehicle actually reaches the storage site.

(e) *Receipt.* Upon receiving payment, a towing company must furnish the vehicle owner a receipt on a form approved by the Office. The receipt must:

(1) record the amount paid to redeem the vehicle, the actions for which the vehicle owner paid, and the date and time of the redemption;

(2) be signed legibly by an agent of the towing company, and list the name, address and telephone number of the towing company;

(3) identify the violation or event that precipitated the towing of the vehicle;

(4) include photographic evidence of the violation required under subsection 30C-5(c)(9); and

(5) briefly inform the vehicle owner that the Office can explain the vehicle owner's rights and how to enforce them in small claims court or another appropriate forum if the vehicle owner believes that any provision of County law has been violated, and that the owner may obtain a copy of the law from the Office.

(f) *Damage waiver.* A trespass towing company must not require a vehicle owner to sign any waiver of the owner's right to receive compensation for damages to the vehicle.

(g) *Inspection and retrieval of personal property.* A storage site that is in the possession of a towed vehicle shall make the vehicle available, without charge, to the owner, the owner's agent, a secured party, or the insurer of record, under the supervision of the storage site, for:

(1) inspection; or

(2) retrieval from the vehicle of personal property that is not attached to the vehicle. (1988 L.M.C., ch. 29, § 2; 1996 L.M.C., ch. 13, § 1; 1997 L.M.C., ch. 21, § 1; [2005 L.M.C., ch. 26](#), § 1; [2015 L.M.C., ch. 40](#), § 1; [2016 L.M.C., ch. 7](#), § 1.)

Editor's note—2005 L.M.C., ch. 26, §§ 2 and 3, state:

Sec. 2. Regulations. A regulation which implements a function transferred to the Office of Consumer Protection by this Act continues in effect until otherwise amended or repealed, but any reference to any predecessor department or office must be treated as referring to the Office of Consumer Protection.

Sec. 3. Transition. This act does not invalidate or affect any action taken by the Department of Housing and Community Affairs before this Act took effect. Any responsibility or right granted by law, regulation, contract, or other document, and which is associated with a function transferred by this Act from the Department of Housing and Community Affairs, is transferred to the Office of Consumer Protection.

SB 577 2026 Sen James Sponsor Testimony.pdf

Uploaded by: Mary-Dulany James

Position: FAV

MARY-DULANY JAMES
Legislative District 34
Harford County



James Senate Office Building
11 Bladen Street, Room 103
Annapolis, Maryland 21401
410-841-3158 · 301-858-3158
800-492-7122 Ext. 3158
MaryDulany.James@senate.state.md.us

Judicial Proceedings Committee
Executive Nominations Committee

Senate Chair

Joint Committee on
Children, Youth, and Families

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Mary-Dulany James
In Support of Senate Bill 577 - Vehicle Laws - Towing of Vehicles from
Parking Lots - Civil Action for Nonpayment
Senate Judicial Proceedings Committee
February 19, 2026**

Mr. Chairman, Vice Chair, and Members of the Committee,

Senate Bill 577 is aimed at clarifying that a towing company has the right to be paid all statutorily recognized charges before the vehicle is released to the owner. Maryland's Transportation Article has language relating to the fees that may be charged for a private tow in § 21-10A-04 (a)(1), language to ensure that a vehicle owner has access to a towed vehicle for inspection or retrieval of personal property in § 21-10A-05 (c)(3), and language establishing that the owner has a continuous opportunity to retake possession of the vehicle in § 21-10A-05 (a)(3). But there is nothing in statute to clarify that the vehicle owner of a lawfully towed vehicle has an obligation to pay for the costs associated with that tow.

In seeing how the various subcomponents of Subtitle 10A work together, it is clear that they operate so that, while the towing company must provide the vehicle owner with the continuous opportunity to retake possession, the opportunity is premised on the owner paying the outstanding towing charges and compelling the towing company to accept such payment.

My research found one case in Maryland that appears to be particularly instructive. In *Cade v. Montgomery County (1990)*, which is submitted as Attachment A in my testimony, the Court of Special Appeals upheld the constitutionality of a local county law that allowed towing from private parking lots passed pursuant to the predecessor statute to Article 21 Section 10A Transportation Code (see 26-301 (b)(3) 1987 & Supplemental 1989). In so doing, the court said that there was an implied agreement between the vehicle owner and the towing company whereby the vehicle owner agreed to pay the towing and storage charges. The court approvingly referenced other state statutes that hold the vehicle owner parking in defiance of a posted parking restriction, "*shall be deemed to have consented to the removal and storage of their vehicle as well as to payment of charges for its removal and storage.*" (See Cade, page 5; emphasis added)

It is time for the Maryland legislature to make its intentions known explicitly and, thereby, relieve the State courts from attempting to understand the legal implications of our towing from private property statutes.

My previous attempts to make this statute clearer have centered around the idea of establishing a lien on towed vehicles, but, in response to the feedback from stakeholders, I am taking a new approach this session. Senate Bill 577 addresses this existing ambiguity in Maryland law by establishing that a storage facility may bring civil action to recover payment against a vehicle owner who takes possession of a lawfully towed vehicle without payment. If the court determines that the vehicle was validly towed, the court shall award the tower the amount initially charged for the tow, liquidated damages of two times the amount validly charged for the tow (up to a maximum of \$1,000), as well as court costs and reasonable attorney fees. This section of Senate Bill 577 was drafted to mirror Montgomery County's code governing redemption and storage procedures of towed vehicles, found in Chapter 30C-9 (b)(3), which is submitted as Attachment B with my testimony.

In summary, Senate Bill 577 will establish clarity in Maryland's statute and allow for towers to recover the costs of a lawful tow when a vehicle owner refuses to pay. Additionally, this bill addresses the concerns regarding due process and predatory towing raised in past discussions on this subject by ensuring that a judgement may only be issued after a court ruling that the tow met all statutory requirements. The bill will not restrict individuals from challenging a tow based on its legality; it simply provides towers who operate in good faith with an avenue for receiving what they are due when a tow is ruled to be valid and the owner refuses payment.

Thank you for your consideration of Senate Bill 577 and I ask that the committee issue a favorable report

Respectfully,

A handwritten signature in black ink that reads "Mary-Dulany James". The signature is written in a cursive, flowing style.

Senator Mary-Dulany James

Harford County, Maryland

SB 577-Vehicle Laws-Towing of Vehicles from Parkin

Uploaded by: Andrea Mansfield

Position: FWA



Towing & Recovery Professionals of Maryland

P.O Box 905 * Huntingtown, Maryland 20639

410-414-5406 * 1-800-244-0102 * Fax 410-414-5408

MEMORANDUM

TO: The Honorable Will Smith, Chair and Members of the Judicial Proceedings Committee

FROM: Vince Flook, President, Towing & Recovery Professionals of Maryland
Will Cain, 1st Vice President, Towing & Recovery Professionals of Maryland

DATE: February 19, 2026

RE: **SB 577 Vehicle Laws – Towing of Vehicles from Parking Lots – Civil Action for Nonpayment**

POSITION: **SUPPORT WITH AMENDMENTS**

The Towing & Recovery Professionals of Maryland (TRPM) SUPPORT SB 577 WITH AMENDMENTS. This bill will allow a vehicle owner to take possession of a towed vehicle without payment if a photo identification card is provided before taking possession. The bill also authorizes a storage facility to bring a civil action against an owner who retakes possession without payment and establishes a process for doing so.

TRPM appreciates the sponsor's intent to assist towing companies should a vehicle owner refuse to pay for the charges associated with a tow. However, the organization is concerned the bill explicitly allows in statute a vehicle owner to take possession of a vehicle "without payment".

SB 577 applies to private parking lot tows. These types of tows are pursuant to a contract between a lot owner and a towing company, and in some cases may involve a disgruntled vehicle owner who finds that his or her improperly parked vehicle has been towed without knowledge upon returning to the parking lot. State law, and many local ordinances, have established strict requirements for the towing of vehicles. These requirements include parking lot signage to inform vehicle owners of the possibility of being towed if parked improperly, and regulation of towing and storage charges. Being unhappy with your improperly parked car being towed does not negate the payment of these charges to the towing company for the services rendered on behalf of the parking lot owner.

TRPM is concerned that allowing a vehicle owner to take possession more broadly in state statute will set a precedent and the only recourse to ensure payment will be filing a civil action. This could be a time-consuming process and would mean towers are performing a service without payment for a period of time. No other industry works under these conditions. When a service is provided, payment is expected. At the very least, TRPM is proposing amendments to strike the words "WITHOUT PAYMENT" from page 2, line 23 and page 3, line 22. TRPM is willing to continue working with the sponsor and the Committee to address the issues raised by SB 577.

For these reasons, TRPM SUPPORTS SB 577 WITH AMENDMENTS.

SB577_UNF_EconAction.pdf

Uploaded by: Jennifer Bevan-Dangel

Position: UNF



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

Position: Unfavorable

February 19, 2026

The Honorable William Smith, Chair
Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401
Cc: Members of the Committee

Chair Smith and members of the Judicial Proceedings Committee,

Economic Action Maryland Fund urges an unfavorable report on SB577, which would expose low-income Marylanders to civil suits over towing and storage fees.

Authorizing a civil action for towing storage fees is unnecessary and unduly burdensome on low-income owners. A company can already pursue payment through existing collections mechanisms. This bill would allow a predatory towing company to seek double damages, attorneys fees, and court costs on top of the towing fee. In effect, SB577 criminalizes poverty by levying extraordinary costs on Maryland drivers who have had their car towed-whether the tow was legal or not.

There is already a process in place regarding towing companies and towed vehicles. There is no need to create a burdensome process that requires a government-issued identification card, a requirement which may pose particular risks and hardships for immigrant car owners in this current moment - it is worth keeping in mind that the owner of the car may not be the driver.

Additionally, the costs of a civil action can range from a few thousand to tens of thousands of dollars and require time away from work for individuals who are paid hourly. That exposes low-income Marylanders to costs that are in stark contrast to the goal of this session of focus on affordability. Allowing treble damages, court costs and attorneys fees is exorbitant; other professionals cannot collect these enhanced damages if their bills are not paid. There is no reason to allow towing and storage companies to seek such excessive damages.

Predatory towing fees is a problem recognized by this committee, which has passed legislation to try and curtail those practices. This bill would increase the number of debt collection cases and make predatory towing more profitable, which is a step in the wrong direction. We urge an unfavorable report on SB577.

Sincerely,
Jennifer Bevan-Dangel, Deputy Director

Economic Action (formerly the Maryland Consumer Rights Coalition) champions economic rights and housing justice through advocacy, research, consumer education, and direct service. Our 12,500 supporters include consumer advocates, practitioners, and low-income and working families throughout Maryland.

2209 Maryland Ave · Baltimore, MD 21218 | www.econaction.org
Marceline White · Marceline@EconAction.org | Jennifer Bevan-Dangel · Jennifer@EconAction.org

Opposition to SB 577 (2026).2-19-2026.pdf

Uploaded by: Richard Gordon

Position: UNF



February 19, 2026

Re: Request for an UNFAVORABLE report on SB 577

Dear Members of the Judicial Proceedings Committee:

I write at this time to urge the Judicial Proceedings Committee to give SB 577 an unfavorable report. This is the third year in a row that a bill is before this Committee to create for towing companies a right that no other Maryland business has. In both 2024 (SB 107) and 2025 (SB 883), the legislation sought to establish non-consensual towing liens against decades of precedent, *T.R. v. Lee*, 55 Md. App. 629 (1983), and in violation of the due process clause of the Constitution. *Huemmer v. Mayor & City Council of Ocean City*, 632 F.2d 371 (4th Cir. 1980). Both prior bills were intended to aid trespass towers to collect outstanding towing fees and charges by permitting towers to hold on to the consumers' vehicles until any amounts owed were paid. Neither bill, however, was passed and enacted.

SB 577 proposes a different tactic to assist trespass towers in their debt collection efforts. If the consumer has not paid all towing charges within 10-days after retaking possession of their vehicle, then SB 577 permits the filing of a civil lawsuit against the "vehicle owner" and *requires* all Maryland Courts to award: (a) three times the standard towing fee *PLUS* (b) Court costs *PLUS* (c) reasonable attorney's fees.¹ Thus, under SB 577, Courts have no discretion to award a lesser amount and vehicle owners who fail to pay the entire tow fee (which might be as little as \$170), within 10-days – without any notice or disclosure of the consequences of failing to pay within the 10-day timeframe – will have a judgment entered against them for \$1,000 or more. There are numerous problems with this proposal including the following:

First, no other business in Maryland gets this type of windfall for an unpaid debt. Doctors, plumbers, accountants, electricians and other businesses that send out invoices for their services, and rely upon consumers to pay the amounts owed, are strictly limited to collecting only the overdue amount of their fee if the invoice goes unpaid. If a physician files suit in Court, the Doctor collects only the outstanding fee. The same is true for the plumber, accountant, electrician and everybody else. The Court will not, and in fact, cannot award these professionals liquidated damages or court costs or attorney's fees in addition to the debt. SB 577, however, will permit such a windfall for towing companies.

¹ SB 577 also permits these same enhanced damages when a vehicle owner pays by credit card "but subsequently withholds the payment." This is a different circumstance than mandating enhanced damages when a vehicle owner fails to pay promptly. Indeed, at least one Maryland County already provides a similar remedy when vehicle owners renege on the credit card payment. *See e.g.* Montgomery County Code, §30C-9. While I do not think that such remedies, when someone challenges the credit card payment, are appropriate statewide, this opposition is not directed to that issue.

Second, a customized and boutique judicial process and procedure for trespass towers is simply unnecessary. Towers currently have the same access to the Court system as every other business in the State of Maryland. If the vehicle owner fails to pay the towing invoice, a trespass tower, like every other company that is allegedly owed a small debt, may file suit in small claims court in Maryland, a division of the District Court, which has exclusive jurisdiction over all civil cases for money damages up to \$5,000. These cases involve simplified, informal procedures that often allow for self-representation.

Third, there is no support whatsoever for the notion that trespass towers are uniquely situated or otherwise, in the past, have had difficulty collecting their towing fees. Thus, SB 577 crafts a solution for a problem that simply does not exist.

Fourth, even if statistics, data and studies showed that the burden to collect on an unpaid invoice is disproportionately higher for trespass towers, the solution is not to mandate an award of twice the outstanding debt as liquidated damages PLUS court costs PLUS attorney's fees *in addition to* the standard tow fee. Such a windfall in favor of the towing company is draconian, overreaches and disproportionately punishes the vehicle owner.

Fifth, SB 577 also may impact the current volume of cases in the Court system without taking the resulting fiscal impact into account. Because SB 577 would create an extreme financial incentive for towing companies to file a civil action for the unpaid charges – a windfall recovery of three times or more the original towing fee is virtually assured – towers will be incentivized to pursue litigation. The burden of these additional cases, no doubt, will result in a negative fiscal impact on the Court system.

Finally, SB 577 also would adversely impact vehicle owners who were not involved in or even aware of the tow. In short, the truncated 10-day payment period set forth in SB 577 would result in many of these absent vehicle owners having an exorbitant judgment entered against them even when they have no reason to know that their vehicle had been towed. This is a real world scenario that would affect not only consumers (*i.e.*, the teenager who was towed but waits to tell their parent, the vehicle owner), but also small businesses (*i.e.*, employees driving the company vehicle who hold off on advising their supervisors) and even car rental companies that would have no reason to know about the tow. In this regard, the fact that SB 577 does not even require the towing company to provide a disclosure regarding the truncated 10-day period to pay, at the time the vehicle is released, or notice of the consequences of not paying within the 10-day timeframe, is especially troublesome.

Respectfully,

Richard S. Gordon

SB 577- CPD - Towing - Oppose.pdf

Uploaded by: Steve Sakamoto-Wengel

Position: UNF

CAROLYN A. QUATTROCKI
Chief Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CARRIE J. WILLIAMS
Deputy Attorney General

SHARON S. MERRIWEATHER
Deputy Attorney General

ZENITA WICKHAM HURLEY
Deputy Attorney General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

ANTHONY G. BROWN
Attorney General

WILLIAM D. GRUHN
Division Chief

STEVEN M. SAKAMOTO-WENGEL
*Executive Counsel to the
Attorney General*

PETER V. BERNIS
General Counsel

CHRISTIAN E. BARRERA
Chief Of Staff

February 19, 2026

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

FROM: Steven M. Sakamoto-Wengel
Executive Counsel to the Attorney General

RE: Senate Bill 577 – Vehicle Laws – Towing of Vehicles From Parking Lots
– Civil Action for Nonpayment -- OPPOSE

The Consumer Protection Division opposes Senate Bill 577, sponsored by Senator James, which would allow the operator of a storage lot for vehicles towed from private lots to bring a debt collection action against a vehicle owner who has exercised their right to remove their vehicle from the facility without first paying the amount charged by the storage facility for towing the vehicle and, in addition to the towing charges, collect liquidated damages of two times the amount allegedly owed, court costs and attorney's fees. There is no justification for assessing enhanced penalties and attorney's fees, especially where the vehicle owner has no legal remedy available to promptly challenge the basis for towing their vehicle.

Towing lot operators have previously tried to assert a lien against the towed vehicle to prevent the vehicle owner from removing the vehicle from the lot without first paying the towing charges. However, due process requires that the vehicle owner be given notice and a prompt hearing to be able to challenge the basis for towing their vehicle from a private lot. See attached letters of advice to Delegates Boyce and Love. However, no such process to provide vehicle owners with the opportunity to promptly challenge the basis for towing their vehicles from private lots has been established.

Instead, SB 577 would require vehicle owners to challenge the basis for towing their vehicle as a defense to a debt collection action in which the vehicle owner would be subject to draconian penalties not generally available as part of a debt collection action. The Division sees no basis for providing greater relief to the towing lot operator than the relief available in any

other debt collection action. And should the vehicle owner successfully establish that their car was illegally towed, there is no enhanced relief or attorney's fees provided to the vehicle owner. The effect of allowing such draconian awards for the towing lot owner would be to ensure that vehicle owners pay for towing they believe to be questionable rather than risk paying enhanced penalties if the judge fails to accept their explanation as to why the tow was improper.

Accordingly, for the reasons discussed above, the Consumer Protection Division requests that the Judicial Proceedings Committee give Senate Bill 577 an unfavorable report.

cc: The Honorable Mary-Dulany James



CANDACE MCLAREN LANHAM
Chief Deputy Attorney General

CAROLYN A. QUATTROCKI
Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

ANTHONY G. BROWN
Attorney General

SANDRA BENSON BRANTLEY
*Principal Counsel
Assistant Attorney General*

PETER V. BERNS
General Counsel

CHRISTIAN E. BARRERA
Chief Operating Officer

NATALIE R. BILBROUGH
Assistant Attorney General

November 18, 2024

The Honorable Regina T. Boyce
Maryland General Assembly
251 Taylor House Office Building
Annapolis, Maryland 21401
Via email

**RE: *Senate Bill 107 of 2024 – Commercial Law – Statutory Liens – Motor Vehicles
Towed or Removed From Parking Lots***

Dear Delegate Boyce:

You have asked whether a proposed amendment to Senate Bill 107 of 2024 would resolve due process concerns raised in my letter of advice to Delegate Sara Love dated April 5, 2024. In that letter I advised that Senate Bill 107, which would have authorized a possessory lien on a motor vehicle if the person legally tows or removes the motor vehicle from a privately owned parking lot, presented a significant risk of violating the Due Process Clause because it did not provide an opportunity for a prompt hearing so that a person could challenge the legal and factual basis of the tow. Specifically, you have asked about the following amended language:

(7) A political subdivision must create a prompt statutory post-deprivation hearing process to challenge the legality of the tow, that:

- a) Allows for an administrative hearing to dispute the legality of the tow within 48 hours of a request for a hearing; and**
- b) In the event that an administrative hearing cannot be provided within 48 hours, the vehicle will be released to the owner without charge.**

In my view, the proposed language *partially* resolves the due process issue raised in my April 5, 2024 letter, as it provides the opportunity for a post-deprivation hearing within 48 hours of request, which courts have found to be reasonably prompt. See *Coleman v. Watt*, 40 F.3d 255, 261 (8th Cir. 1994) (collecting cases); *Goichman v. Rheuban Motors, Inc.*, 682 F.2d 1320, 1325 (9th Cir. 1982) (holding “that provision for a post-seizure hearing within forty-eight hours satisfies the requirements of due process”). Of course, until political subdivisions create and provide the administrative hearing process, there could still be a risk of a procedural due process violation, depending on the circumstances involved.¹

However, neither the proposed language, nor the current statutory provisions governing vehicle towing, expressly require prompt *notice* of a person’s right to the hearing. If the owner is not told of the opportunity to request a hearing, the protections of such a hearing are lessened. In *De Franks v. Mayor & City Council of Ocean City*, the Fourth Circuit upheld an Ocean City towing ordinance after it was amended to require *both* (1) a “written notice to the owner of the vehicle, within one working day of the tow, of his entitlement to a hearing on the question of legality of the seizure,” and (2) that “the hearing to be had within twenty-four hours after a request for it.” 777 F.2d 185, 187 (4th Cir. 1985). The Eighth Circuit has also recognized there could be a procedural due process violation where a person was not informed that he could request to appear before a judicial officer to prove his vehicle was unlawfully seized sooner than the default court date of seven days after the tow. *Coleman*, 40 F.3d at 261. Accordingly, although not facially unconstitutional, in my view, the amended bill still presents a risk of a procedural due process violation if the political subdivision does not provide adequate notice in addition to a hearing.

This risk could be alleviated by explicitly directing political subdivisions to include as an element of the hearing process a prompt post-tow notice that is reasonably calculated to inform interested parties of the right to request the post-deprivation hearing. *Towers v. City of Chicago*, 979 F. Supp. 708, 716-17 (N.D. Ill. 1997), *aff’d*, 173 F.3d 619 (7th Cir. 1999) (Notice need only to be “‘reasonably calculated’ to apprise an individual of his or her rights.”).

Constitutionally sufficient notice can take many forms. See *id.* (finding that notice was adequate where ordinance required police officers to inform person who was in control of the vehicle at the time of the violation of the right to request a hearing); see also *Scofield v. City of Hillsborough*, 862 F.2d 759, 764 (9th Cir. 1988) (holding that procedural due process was sufficient where statute required that notice of the right to a post-towing hearing and instructions on how to request the hearing be mailed to owner within forty-eight hours after vehicle was towed); *Cokinovs v. D.C.*, 728 F.2d 502, 503 (D.C. Cir. 1983) (finding that notice was adequate when back of parking ticket informed recipient that an on-demand hearing was available to challenge the underlying traffic violation that triggered the tow). But in my view, notice of the right to request a hearing within 48 hours must be provided sooner than the seven-day statutory deadline required

¹ In addition, the individual ordinances setting up the hearing processes must themselves also be constitutionally adequate in terms of the process provided. For example, at least one federal court has held that the denial of an opportunity to appeal the decision made at a post-deprivation hearing can also be a sufficient basis for a procedural due process claim. *Lee v. NNAMHS*, No. 03:06CV-0433-LRH-RAM, 2007 WL 2462616, at *5 (D. Nev. Aug. 28, 2007).

The Honorable Regina T. Boyce
November 18, 2024
Page 3

for tow companies to notify vehicle owners of the fact of the tow. *See* Md. Code Ann., Transp. § 21-10A-04(a)(3).

I hope this response is helpful. Please let me know if you need further information.

Sincerely,



Natalie R. Bilbrough
Assistant Attorney General

CANDACE McLAREN LANHAM
Chief Deputy Attorney General

CAROLYN A. QUATTROCKI
Deputy Attorney General

LEONARD J. HOWIE III
Deputy Attorney General

CHRISTIAN E. BARRERA
Chief Operating Officer

ZENITA WICKHAM HURLEY
Chief, Equity, Policy, and Engagement

PETER V. BERNS
General Counsel



ANTHONY G. BROWN
Attorney General

SANDRA BENSON BRANTLEY
Counsel to the General Assembly

DAVID W. STAMPER
Deputy Counsel

JEREMY M. MCCOY
Assistant Attorney General

SHAUNEE L. HARRISON
Assistant Attorney General

NATALIE R. BILBROUGH
Assistant Attorney General

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

April 5, 2024

The Honorable Sara Love
Maryland General Assembly
210 Lowe House Office Building
6 Bladen Street
Annapolis, Maryland 21401
Via email

***RE: Senate Bill 107 – Commercial Law – Statutory Liens – Motor Vehicles Towed
or Removed From Parking Lots***

Dear Delegate Love:

You have requested advice concerning the constitutionality of a proposed amendment to Senate Bill 107 (“Commercial Law – Statutory Liens – Motor Vehicles Towed or Removed From Parking Lots”). It is my view that the bill, even with the proposed amendment, presents a significant risk of leading to a violation of the Due Process Clause because it does not provide the opportunity for a prompt hearing so that a person can challenge the legality and factual basis of the tow.

Senate Bill 107

Senate Bill 107 establishes “a lien on a motor vehicle if the person tows or removes the motor vehicle from a privately owned parking lot under Title 21, Subtitle 10A of the Transportation Article” for charges incurred for towing, recovery, storage, or notice provided. Proposed Md. Code Ann., Comm. Law, § 16-202(e). You have asked our Office to consider the constitutionality

of the bill, including the proposed amended language shown below, which requires certain signage and conditions the lien on the tow being legal.

(E) (1) IF A CLEARLY VISIBLE SIGN IS POSTED AT A PRIVATELY OWNED PARKING LOT THAT EXPLICITLY NOTIFIES PARKERS THAT THEIR VEHICLE WILL BE SUBJECT TO A LIEN IF IT IS LEGALLY TOWED PURSUANT TO STATE AND LOCAL LAW FOR PARKING IMPROPERLY, A PERSON HAS A POSSESSORY LIEN ON A MOTOR VEHICLE IF THE PERSON LEGALLY TOWS OR REMOVES THE MOTOR VEHICLE FROM A PRIVATELY OWNED PARKING LOT UNDER TITLE 21, SUBTITLE 10A OF THE TRANSPORTATION ARTICLE, ON BEHALF OF THE PARKING LOT OWNER OR AGENT, FOR ANY REASONABLE CHARGE INCURRED FOR ANY:

- (I) TOWING;
- (II) RECOVERY;
- (III) STORAGE; OR
- (IV) NOTICE PROVIDED.

Constitutional Analysis

It is my view that the bill, even with the proposed amended language, is at a substantial risk of being found unconstitutional if challenged because it does not provide an opportunity for a prompt post-deprivation hearing so that a person with an interest in the vehicle could test the factual and legal basis for the tow. Deprivation of even a temporary use of a vehicle implicates a constitutionally protected property interest and thus requires certain procedural due process protections. *Stypmann v. City & Cnty. of San Francisco*, 557 F.2d 1338, 1342-43 (9th Cir. 1977). “The fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

Numerous federal courts have concluded that state or local laws allowing a vehicle to be towed without providing notice and an opportunity for a hearing within a short amount of time after the tow violate the Due Process Clause of the Fourteenth Amendment. For example, the United States Court of Appeals for the Fourth Circuit affirmed that an Ocean City towing ordinance “was manifestly defective” when vehicle recovery “was absolutely conditioned on payment of towing and storage charges” and “[n]o opportunity was presented for notice and a hearing to establish whether or not the initial removal of the vehicle was rightful or wrongful.” *Huemmer v. Mayor & City Council of Ocean City*, 632 F.2d 371, 372 (4th Cir. 1980). The Fourth Circuit later upheld the Ocean City towing ordinance after it added a new “provision requiring written notice to the owner of the vehicle, within one working day of the tow, of his entitlement to a hearing [within 24 hours of request] on the question of legality of the seizure.” *De Franks v. Mayor & City Council of Ocean City*, 777 F.2d 185, 187 (4th Cir. 1985).

Likewise, the United States Court of Appeals for the Ninth Circuit agreed that provisions of the California Vehicle Code “authorizing removal of privately owned vehicles from streets and highways without prior notice or opportunity for hearing” and another statute “establishing a possessory lien for towage and storage fees without a hearing before or after the lien attaches” were unconstitutional for the same reason. *Stypmann*, 557 F.2d at 1344-45. In reaching its conclusion, the Ninth Circuit court noted that the statute at issue did not provide for the release of the vehicles upon payment of a bond, that “no official participates in any way in assessing the storage charges or enforcing the lien,” “[t]he only hearing available under any other state procedure may be long deferred, and the burden of proof is placed upon the owner of the property seized rather than upon those who have seized it.” *Id.* at 1343. The court determined that a San Francisco ordinance providing a vehicle owner with a hearing within five days of providing notice was “clearly excessive” and other remedies through a “regular court action” would entail “considerable delay.” *Id.* at 1344, 1342, n. 19.

Maryland law already requires persons towing a vehicle to provide notice to certain persons, including the vehicle owner, within a certain amount of time after towing. Md. Code Ann., Transp. § 21-10A-04; *see also* Md. Code. Ann. Comm. Law § 16-203(b) (requiring notice to holders of security interests in the property). But neither the Transportation Article, nor Senate Bill 107, provides a prompt hearing opportunity or notice thereof. However, there are other procedural protections available to a property owner. Section 16-206(a) of the Commercial Law Article stays execution of a lien if the owner “disputes any part of the charge for which the lien is claimed” and “institute[s] appropriate judicial proceedings.” Md. Code. Ann. Comm. Law § 16-206(a). And if the owner “disputes any part of the charge for which the lien is claimed, he immediately may repossess his property by filing a corporate bond for double the amount of the charge claimed.” *Id.* § 16-206(b). It is possible that a court could find these protections are sufficient, but I think it is more likely they would not. Those provisions require an owner to file an action in court, and a hearing would likely not occur in a quick enough timeframe. Generally, hearings within one to two days of a request have been determined to be constitutional, while hearings after five days or more have been found to be unconstitutional. *See Towers v. City of Chicago*, 979 F. Supp. 708, 715, n.13 (N.D. Ill. 1997), *aff’d*, 173 F.3d 619 (7th Cir. 1999) (collecting cases). In addition, the provision allowing the owner to retake possession after filing a bond is also unlikely to save the statute. *See N. Georgia Finishing, Inc. v. Di-Chem, Inc.*, 419 U.S. 601, 606 (1975) (holding that a garnishment statute was unconstitutional because it allowed a creditor to impound a bank account so that the owner could not use it until litigation of the debt was resolved unless the owner paid a bond). A court would likely conclude, as did the court in *Huemmer*, that the “failure to provide an opportunity to be heard at some meaningful time before the injury occasioned by the taking becomes final” is constitutionally deficient. *Huemmer v. Mayor & City Council of Ocean City*, 474 F. Supp. 704, 711 (D. Md. 1979), *aff’d in part, rev’d in part*, 632 F.2d 371 (4th Cir. 1980).

It is possible that, in a particular scenario, a local law that requires a hearing would apply and could provide adequate procedural due process, but that obviously would not insulate the statute from legal challenge in other scenarios. Accordingly, it is my view that Senate Bill 107

The Honorable Sara Love
April 5, 2024
Page 4

would be at risk of being found to be unconstitutional because the attachment of any lien is not conditioned upon the provision of constitutionally adequate notice and opportunity for a hearing within a short time after any tow.

I hope this information is helpful. Please let me know if you have further questions.

Sincerely,

A handwritten signature in black ink that reads "Natalie Bilbrough". The signature is written in a cursive style with a large, stylized initial "N".

Natalie R. Bilbrough
Assistant Attorney General

SB577_Towing_2026.pdf

Uploaded by: Tracy Rezvani

Position: INFO



OFFICE OF CONSUMER PROTECTION

DEPARTMENT OF COUNTY ADMINISTRATION

9830 Patuxent Woods Drive • Columbia, Maryland 21046 • 410-313-6420
Calvin Ball, County Executive • Tracy D. Rezvani, Administrator

consumer@howardcountymd.gov
www.howardcountymd.gov/consumer

FAX 410-313-6453

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

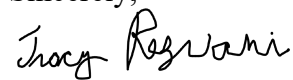
by the Howard County Council, charged government fines (again in excess of Council-approved rates), acted as a spotter, towed vehicles without authorization of the property owner, and failed to provide notice of the tow to the Police as required by County law. Another tower, despite not having a contract 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,



Tracy D. Rezvani, Administrator

410-313-6569

trezvani@howardcountymd.gov

Cc: Brian Shepter, Deputy Chief of Staff