

***STATEMENT***

***Insurance Association of Connecticut***

Transportation Committee

Wednesday, March 10, 2010

HB 5459, An Act Concerning Wreckers

The Insurance Association of Connecticut (IAC) is opposed to subdivision (h) of Section 2 of HB 5459, An Act Concerning Wreckers, which would permit wreckers to charge a new fee of fifty dollars every time a wrecker lifts, tows, or transports an inoperable, disabled or wrecked vehicle on its lot.

The towing and storage rates for nonconsensual tows are set by the Department of Motor Vehicles (DMV). The uniform rates established for such tows include all services necessary to prepare the vehicle for a tow, the tow, storage and the release of the vehicle. Lifting, towing or transporting a vehicle once it is on the wrecker's lot has always been part of the tow rate, whether it is to release it to the owner, another shop, salvage company or to move it. As such, the concept of moving a vehicle is already incorporated into the uniform rates and an additional fee for such service is unwarranted.

Section 14-145b specifically contemplates the release of the vehicle as a component of the tow rate and does not authorize the collection of any additional fees for the release, or any aspect of releasing, the vehicle. Subsection (e) of Section 14-63-36c of the DMV regulations specifically delineates the permissible charges for towing and releasing a vehicle, which unequivocally states that "No additional fees shall be charged by a licensed wrecker service for releasing a vehicle to its owner or a person legally

entitled to its custody.” Section 14-63-37a sets forth the requirements for releasing a towed vehicle which does not permit the charging of a fee for that service.

There is no justifiable reason to support changing the current system to authorize towing facilities to charge such a fee. A towing service is in complete control of where a vehicle is deposited on a lot. Most vehicles that are moved from a tower’s lot are done so within a few days of the original tow. If such a vehicle is buried on the lot, necessitating other vehicles be moved to release the vehicle, that is the wrecker’s doing and a consumer should not have to pay for it.

The Towing and Recovery Professionals of CT (TRPC) have a petition pending before DMV seeking authorization to charge essentially the same fee, except in the petition to DMV the fee is labeled a “release fee”. In support of that petition, and in defense of charging unauthorized fees over time, the towing industry claims that the liability exposure, increased insurance and operating costs justify the imposition of such fees. These costs have been present since the guidelines for the uniform rates were first adopted and no such fees were permitted. To permit a facility to impose a fee for lifting, transporting or towing a vehicle on its premises is permitting such a facility to charge for releasing the vehicle and in direct conflict with current law.

The towing industry has been improperly charging to move vehicles on their lots for years. The towing industry has been quite creative in its naming and the use of unauthorized fees to enhance their bottom line. Examples of such unauthorized fees charged over the years include the “gate fee”, “escort fee”, “access fee”, “release fee”, “maneuvering vehicle charge”, “second tow to move vehicle from lot” and “administrative fee”. The use of such fees became so prolific that in 2007 Commissioner Ward, Commissioner of DMV, had to send a reminder to the towing industry that such

fees were not permitted and continuation of charging such fees would result in swift enforcement action. (See Commissioner Ward's letter dated 6/13/07 attached hereto.) Unfortunately shops continue to ignore that edict and continue to charge the unauthorized fees today, necessitating complaints to be filed with DMV.

The language in subdivision (h) of Section 2 of HB 5459 is unduly vague and extremely broad which will make it ripe for abuse to the consumers' detriment. This subdivision uses undefined terms as "lifted, towed or transported", which essentially means "move", and such terms like "inoperable, wrecked or disabled" which could mean any vehicle such facility tows. A consumer is at the mercy of the shop on how it interprets and applies this provision. Just as the shop is in complete control of where a vehicle is placed on its lot, it too will be in complete control of charging these fees as it deems warranted. The facility could charge a fee every time a vehicle is moved. There is no limit to the charges a shop could add to a consumer's tow bill for this fee and as evidenced by past experience, such charges can add hundreds of dollars of unwarranted charges to a tow bill, driving up the cost of insurance rates in Connecticut and adding unnecessary charges to consumers. Insurers and the driving public will have no choice but to pay these unnecessary charges.

The Insurance Association of Connecticut respectfully requests your rejection of HB 5459.



STATE OF CONNECTICUT

*Department of Motor Vehicles*

ROBERT M. WARD  
*Commissioner*

Telephone: (203) 805-6018  
Facsimile: (203) 805-6156

June 13, 2007

To: All Connecticut Towers

Re: Unauthorized Fees

In recent months, the Dealers and Repairers Division of the Department of Motor Vehicles (DMV) has received several complaints against certain dealers and repairers (Licensees) for the imposition of so-called "steering fees" on invoices for towing and storage. DMV has also received complaints concerning the charging of so-called "gate fees." All of these complaints are either under investigation or in the formal hearing process, at this time. This letter is to advise all Licensees that "steering fees", "gate fees" – or any similar, administrative fees that do not represent any actual towing, storage or repair services – are not an authorized charge.

A small number of Licensees are apparently attempting to justify this type of charge with reference to the laws that prohibit insurance companies from requiring that repairs be made by certain, so-called "preferred shops." Connecticut statutes (section 38a-354) prohibit appraisers from preventing or requiring an appraisal or a repair to be made in a particular facility or business. The law also prohibits an insurance company from requiring their insured to use a specific person or repair facility for the provision of damage repairs, unless otherwise agreed to in writing by the insured. However, there is no authority in the law for any Licensee to be an arbiter of whether there is a violation of these provisions, and to impose a fee when, in its sole opinion, there has been a violation.

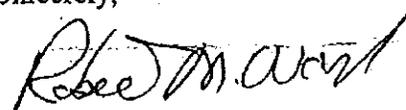
As you are aware, DMV has established a schedule of uniform rates and charges for non-consensual towing and storage, as required by section 14-66 of the General Statutes. This schedule has been established in view of all the standards and procedures set forth in DMV regulations (sections 14-63-34 to 14-63-37b). The most recent schedule became effective on January 1, 2007. There is no authorization in the regulations or in the schedule for "steering fees", "gate fees" or similar charges. In fact, section 14-63-36c(e) states: "No additional fee shall be charged by a licensed wrecker service for releasing a vehicle to its owner or a person legally entitled to its custody."

As the Dealers and Repairers Division has previously advised all Licensees, if exceptional services are performed in connection with a towing operation or special circumstances involving storage, these charges must be specifically documented, in accordance with the provisions of section 14-63-36c(c) of the regulations.

All Licensees are hereby notified that any fees of the type known as "steering fees" or "gate fees" may not be charged to any customer, whether or not the customer is being represented by an insurance company. Hereafter, any complaint that DMV receives against any Licensee of this nature will result in swift enforcement action, including the imposition of penalties that may include license suspension or revocation.

Thank you for your anticipated cooperation in this matter. If you have any questions regarding this letter, or of any aspect of the laws and regulations that govern the rates and charges that are approved or disapproved, you may contact Eyvonne Parker-Bair at 860-263-5028.

Sincerely,



Robert M. Ward  
Commissioner

RMW/mgk