Written Testimony

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Towing & Recovery Professionals of Connecticut

Support of House Bill 6558

An Act Concerning the Quick Clearance of State Highways, Towing and Transporting

Friday, March 8, 2013

Transportation Committee

Good morning Senator Maynard, Representative Guerrera, Senator Boucher, Representative Scribner and the distinguished members of the Transportation Committee my name is Lee Telke, I'm the Executive Director of the Towing & Recovery Professionals of Connecticut (TRPC). I appreciate this opportunity to testify in support of **House Bill 6558**, An Act Concerning the Quick Clearance of State Highways, Towing and Transporting. In addition, I would like to refer you to TRPC's written comments (attached) in opposition to certain section of House Bill 6495, Revisions to the Motor Vehicle Statutes. However, I would like to use my 3 minutes to discuss the quick clearance proposal.

The Towing & Recovery Professionals of Connecticut are an organization composed of 200 towing companies. Our member towers are fully trained and certified wrecker operators who maintain the highways of Connecticut by providing the services necessary to clear roads of accidents or breakdowns so traffic flow may be maintained. We work closely with law enforcement, fire response, the Departments of Transportation and Environmental Protection during these events.

The quick clearance proposal before you today will allow the tow company, at the direction of law enforcement, to clear the highway of traffic obstruction in the quickest manner. Most importantly, this proposal will reduce the number of secondary accidents resulting from the original incident. When city of Atlanta adopted a similar proposal secondary crashes were reduced by "69-percent in 12-months"[1], saving lives, property and reducing insurance claims.

In addition this legislation will allow the businesses operating on our highways to meet their delivery schedules; it will allow people going to or coming from work or just using the highway to travel without delay; it will significantly reduce the closure times; and the rerouting of traffic on secondary roads. Finally this proposal will provide for a timely, efficient solution when a major traffic incident occurs.

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[1] Strategic Highway Research Program, Traffic Incident Management Training - USDOT, FHWA, American Association of State Highway and Transportation Officials, Transportation Research Board.

The procedure outlined in this legislation are endorsed by the:

- I-95 Corridor Coalition Coordinated Incident Management[2]
- Traffic Incident Management (TIM) Program of the Federal Highway Administration,[3] which is endorsed by the Connecticut Regional Council of Governments
- Unified Response Manual for Highway Incidents[4]

The goal of this legislation is to reduce the average highway incident duration time, which is tracked by ConnDOT[5] and keep Connecticut highway congestion to a minimum. To achieve this goal tow operators need to utilize specialized equipment, as set forth by the Department of Emergency Services and Public Protection.[6] That equipment comes at a substantial cost to the tow company. In order to address this issue, the legislation seeks to apply the rates approved by the commissioner of the Department of Motor Vehicles only to the tow and transport of the vehicle, not to the operations necessary for the recovery of the vehicle.

Lastly we want to insure that the costs that are set and approved by DMV meet the operating expenses of the tow company providing the services. This provision would simply base the calculation of a rate on the costs of performing the services.

In conclusion, this legislation will provide your constituents with a safer highway system, reduce accidents, save lives, reduce the damage to personal property and reduce insurance claims.

I sincerely appreciate the opportunity to testify and would be glad to answer any questions you may have at this time.

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[2] www.i95coalition.org
[3] http://ops.fhwa.dot.gov/eto_tim_pse/about/tim.htm
[4] http://www.ct.gov/cfpc/lib/cfpc/Unified_Response_Manual_6-10-08.pdf
[5] http://www.ct.gov/dot/lib/dot/documents/dperformancemeasures/pmeasures2009q3.pdf
[6] http://www.ct.gov/dmv/lib/dmv/regulations/29_023a.pdf

Comments on 2013 HB6495

The Towing and Recovery Professionals of Connecticut is composed of nearly 200 towing professionals who are licensed dealers and repairers. We are composed of small businesses who are trying to improve the quality of life in our state. The Department of Motor Vehicles is the licensing agency that we interact with on a daily basis. We feel that many of the proposals set forth in the Department's bill, HB 6495, will detract from the business climate in this state and create hardships that are unnecessary for small businesses. It is not an easy task to meet the statutory requirements of the Department on every repair job and vehicle sale or tow. It does appear that the Department's proposals are placing several obstructions in the way of our members, the licensed dealers and repairers who support this state with revenue collection, employment and community service, which will prevent them from conducting a profitable business in this current economic climate. Specifically:

- Section 23(a) references 14-52 and prohibits the sale of a motor vehicle by a licensed dealer if the vehicle is on consignment; this act also prohibits the brokerage of a motor vehicle by a licensed dealer. Need to clarify if this prohibits the sale of a vehicle not owned by a dealer or if a sale by contract of an on owned motor vehicle by a dealer is allowable, many sell donated vehicles for nonprofits such as the American Cancer Society etc., this would apparently end that. Also would need exclusion for auctions, which are required to have a dealer license, and never own the cars being auctioned. (b)(4) limits the dealer/repair bond claim to a customer of the business, defines a customer and excludes the floor plan finance company or another dealer from the definition of a customer making them unable to place a claim on the bond. Need to expand this to the insurance companies who file claims with the DMV regarding vehicle issues – this should be up to the vehicle owner to file a claim. DMV does the foot work for the insurance companies in these cases – if the financing companies and the dealers cannot file bond claims the insurance companies should not be able to either. (e) establishes that a violation of this proposed Statutory change would be a class B misdemeanor. Need to clarify issues with consignment and brokerage definitions before you can establish this area as a misdemeanor.
- Section 24(a) references 14-60 and clarifies the issue of use of a dealer plate, it must be on a vehicle owned by the business if it is being used for the demonstration of a vehicle – this goes along with the constraints placed by Section 23(a) commented on above. (b) defines a part-time employee as working less than 35 hours a week with all deductions made. Needs to be modified to allow persons who are employees on a 1099 who pick up parts, deliver cars to auctions etc. to operate a vehicle owned by the business. These are usually retired persons working only 10 or less hours a week. Needs to be reviewed to ensure that salesmen/technicians are covered regardless of the method of wage payment.

- Section 25(d) references 14-62 and establishes the sale of a motor vehicle without a title (when required to have one) as a class B misdemeanor. Should clarify that not all motor vehicles are titled and that motor vehicle in different states have different title requirements, examples are CT titles 1981 and up vehicles, Rhode Island only titles vehicles 10 years of age or newer – this creates different registration requirements based on proof of ownership rather than title documents. (d) establishes that a class B misdemeanor could be issued for a violation of this section. Need to clarify all aspects of the sale requirements before this can be proposed. (g) establishes a class B misdemeanor for a violation of this section. This seems to be quite an extreme penalty for the provisions of section (g), especially the paperwork violations. In these instances who would be cited – the salesman, the manager, the owner, the business???. (h) prohibits delivery or possession of a vehicle by a retail customer unless the vehicle is fully paid for or financing is approved. Needs to be examined to determine if "buy here pay here" is included in the financing definition, also there are circumstances where a person may operate a purchased vehicle and the financing approval is withdrawn based on credit checks etc. The provision for a class B misdemeanor should be removed as there are simply too many extenuating circumstances to the sale/financing that would wind up in an already overloaded judicial system. You have to remember that any law enforcement agency (not just DMV) could issue the misdemeanor.
- Section 26 references 14-63 and basically changes shall to may for the investigation/arbitration of complaints. This leads to selective enforcement against licensees as the DMV could now select who to take action against and for what reasons rather than investigating and applying the same laws, resolutions and/or administrative penalties to all. Either arbitrate all complaints to resolution/closure for the complainant or do not process complaints – other agencies could issue licenses as well as maintaining a more effective complaint process rather than tagging everything as a misdemeanor or an infraction – what purpose is served? What was done for the consumer? What other actions will be taken in an instance when an infraction is issued – will there be administrative action as well or would this constitute two penalties for the same act?
- Section 27 applies the odometer requirements in 14-106b (for an altered odometer and the replacement of an odometer (which are all part of vehicle history)) to 14-65 sale requirements based on the last transfer of ownership (not based on history). This provision would apply penalties if the odometer was altered on the most recent transfer of ownership and would seem to conflict with current Statute as well as the Federal Odometer Act. This proposal does not appear to accomplish anything as it is unclear what it attempts to add or modify, perhaps an addition to 14-106b rather than 14-65 would be more in order. It would also benefit to research criminal penalties for odometer tampering, if it was altered the Connecticut Unfair Trade Practices Act would offer benefits to the purchaser making this a duplicative effort.
- Section 31 will require the two hour notification on a vehicle towed from private property (14-145 tow) in writing by fax or email to the local police department. Previously only telephone notice was required. Need to clarify who to fax email to, a telephone call usually was answered immediately, email and fax lines may not be looked at over weekends or holidays in smaller departments. Need to establish that if the local police department has no fax or email it can be sent to a town or municipal office. Information regarding the vehicle is sent to the local police department; the local police department determines ownership and notifies the owner.

- Section 32 references 14-150 and changes the notification to a vehicle owner for a vehicle towed under the direction of a law enforcement agency. Currently the law agency has to notify the vehicle owner of the tow within 48 hours, this proposal would now also **additionally** require the tower to notify the vehicle owner within the 48 hours. This seems unnecessary as the law enforcement organization has all the information and they are required to make the notice to owner and lienholder. The tower does not have direct access to this information – it is only available to law enforcement and the DMV - so now the tower must get this info from one or the other and make the notification that the law enforcement organization has already made. Does not make sense, only places another bureaucratic step in the process that accomplishes nothing. We understand that law enforcement may be lax in this notice but if we need the information from them to make it ---- how is this going to work?? The costs of performing this service also need to be detailed. There are two certified mailings one to owner one to lien holder, not every towing company has an office person to call for information on ownership - someone will have to pay for this function also.
- Section 34 references 140188 and basically voids a lien if the lien holder is not in business. If a lien holders business was bought out or incorporated into another business records may not be easily available but the lien may still be unsatisfied. If the vehicle owner can prove that they paid the vehicle off in full that is a different issue – incorporate language requiring proof from the vehicle owner of lien satisfaction. If they cannot provide proof require a bond for the amount of the lien or possibly current vehicle value if that cannot be determined.
- Section 48 references 14-65f and requires documentation of estimate and authorization for repair work performed on a vehicle. Why would this be made an infraction? Does this prohibit the agency from taking additional action? Will the small business who did not cross the "t" receive an infraction, an administrative penalty and be ordered to provide restitution? The entire regulatory framework needs to be studied before additional penalties are piled on.
- Section 49 references 14-65g and requires a format for a waiver of estimate by a vehicle owner. . Why would this be made an infraction? Does this prohibit the agency from taking additional action? Will the small business who did not cross the "t" receive an infraction, an administrative penalty and be ordered to provide restitution? The entire regulatory framework needs to be studied before additional penalties are piled on.
- Section 50 references 14-65f and pertains to the return of removed parts and sublet repair work. . Why would this be made an infraction? Does this prohibit the agency from taking additional action? Will the small business who did not cross the "t" receive an infraction, an administrative penalty and be ordered to provide restitution? The entire regulatory framework needs to be studied before additional penalties are piled on.
- Section 51 references 14-65i and references the signs to be posted in dealer/repair shops. Why would this be made an infraction? Does this prohibit the agency from taking additional action? Will the small business who did not cross the "t" receive an infraction, an administrative penalty and be ordered to provide restitution? The entire regulatory framework needs to be studied before additional penalties are piled on.

- Section 52 references 14-65j and repairs not being completed on schedule, false statements as to the necessity of repairs and time of completion. Why would this be made a Class B misdemeanor? This is a problem that needs to be addressed by the DMV. If the agency cannot help why would they make it a criminal charge against the licensee for these violations? Any consumer who desires to pursue a case can go to court – this proposal would place an alleged violation in court to be argued rather than DMV administrative process. What is being accomplished? How does this help the businessman to come into compliance? Is this just another tool to threaten the licensee with to get restitution (which is only due in the OPINION of the Inspector?)