
OLR Bill Analysis

sHB 6657

AN ACT CONCERNING NONCONSENSUAL TOWING.

SUMMARY

This bill makes various changes related to nonconsensual towing laws, some of which apply generally to nonconsensual towing and others that apply only to nonconsensual towing from private property. It makes the following generally applicable changes:

1. requires, rather than allows, the Department of Motor Vehicles (DMV) commissioner to consider specified factors when setting and amending nonconsensual towing and storage rates and charges (e.g., the Consumer Price Index (CPI) and towing industry operating costs);
2. specifies some operating costs that the commissioner must consider, such as costs of fuel, wreckers (i.e., tow trucks), personnel, and insurance; and
3. requires that licensed tow truck operators keep in their records a photo of each motor vehicle they tow, showing the vehicle's condition and reason for the tow.

It makes the following changes to the laws on towing from private property, among others:

1. generally requires "residential complex" owners and lessees to provide 24 hours' notice before towing unauthorized vehicles left on their property, with certain exceptions;
2. applies the law's towing signage requirements to all private property (except those with a single-family dwelling), instead of just private commercial property, and requires that additional

information be included on the signs;

3. provides certain exceptions to the signage and 24-hour notice requirements, including for unauthorized vehicles (a) in accessible parking spots or areas reserved for emergency vehicles, (b) in parking lots reserved for residents, and (c) blocking building access or a parking spot reserved for a specific person;
4. generally requires towing companies to get written authorization to tow a vehicle from the property owner or lessee, or his or her agent, and subjects violators to a fine of up to \$1,000;
5. prohibits private property owners and lessees from having a vehicle towed solely because it is unregistered or its registration has expired; and
6. requires that towing companies accept payment for towing and storage charges in cash and by credit card and keep enough cash on hand to make change.

As under current law, the bill's signage requirements also apply to rendering vehicles immovable (i.e., booting) on private property. The bill also prohibits private property owners or lessees, or their agents, from booting vehicles only because they are unregistered or their registration is expired.

The bill increases, from \$100 to \$1,000, the maximum fine for (1) towing companies who rebate or pay money or other valuable consideration to a property owner or lessee or to a lending institution for the privilege of towing or booting a vehicle and (2) booting a vehicle on private property without the express instruction of the property owner or lessee, or his or her agent.

Lastly, the bill makes numerous conforming and technical changes.

EFFECTIVE DATE: October 1, 2023

§§ 1 & 2 — PROVISIONS APPLICABLE TO ALL NONCONSENSUAL TOWING***Towing, Transporting, and Storage Rates (§ 1)***

By law, the DMV commissioner must establish a schedule of uniform rates and charges for nonconsensual towing and transporting and for motor vehicle storage and reconsider them upon a licensed towing company's petition (but no more often than once every two years). The rates and charges must be "just and reasonable," and the commissioner must amend them upon a petition if he determines, after considering factors specified in law, that the rates and charges are no longer just and reasonable. By law, these rates apply to tows initiated by private property owners or lessees and to those ordered by law enforcement officers or traffic authorities.

Under current law, the commissioner may consider, but is not limited to, the following factors when setting and amending the rates and charges: (1) the CPI, (2) rates set by other jurisdictions, (3) charges for towing and transportation services provided through automobile clubs, and (4) rates published in standard services manuals. The bill instead requires the commissioner to consider these factors and additionally requires him to consider the operating costs of the state's towing industry, including costs for fuel, wreckers, heavy duty wreckers, motor vehicle parts, equipment, personnel, workers' compensation insurance, unemployment compensation, and insurance premiums. Existing DMV regulations already allow the commissioner to consider the towing and recovery industry's operating costs but does not list specific costs that may be considered (Conn. Agencies Regs. § 14-63-36a).

As under existing law, DMV must hold a public hearing to get more information before determining the rates and charges. Anyone aggrieved by the commissioner's decision may appeal under the Uniform Administrative Procedure Act. (When DMV increased these rates in 2018, the amended rates were appealed on the grounds that DMV did not give appropriate consideration to the statutory and regulatory factors (see BACKGROUND).)

Photo Evidence (§ 2)

Existing law requires towing companies to maintain information and documents (e.g., registration numbers of towed vehicles, the charge for the tow, and the tow truck's mileage at the start and end of the tow) for at least two years after a tow. The bill requires that they also include at least one photo of the motor vehicle that was taken before the vehicle was attached to the tow truck and shows the vehicle's condition and the reason for being towed. As with other records the law requires towing companies to maintain, the photos may be stored electronically and must be made available for inspection by DMV.

§§ 1-5 — PRIVATE PROPERTY TOWS

Signage Requirements (§ 3(a)(2))

Existing law requires certain property owners or lessees, or their agents, to install signs warning that unauthorized vehicles may be towed before they can have a vehicle towed. The bill expands the properties that must post signage and establishes more specific requirements for the signs.

Current law's signage requirements apply to "private commercial property." Under the bill, signage requirements instead apply to any private property, except property with a single-family dwelling.

By law, signs must be clearly visible and state that unauthorized vehicles may be towed, where they will be stored, how they may be redeemed, and any fees that may be charged. The bill additionally requires that the signs:

1. be placed at all entrances to the property;
2. specify that the towing of unauthorized vehicles is at the vehicle owner's expense;
3. indicate the towing company's name, address, and telephone number; and
4. list the violations for which the vehicle may be towed.

24 Hours' Notice for Residential Complexes (§ 3(a)(1) & (3))

The bill generally requires owners and lessees of residential complexes, or their agents, to give 24 hours' notice to unauthorized vehicles left on their property before towing them, with certain exceptions (see below). A "residential complex" is a multi-family dwelling, a condominium, or a common interest community (1) that is used for residential purposes and (2) for which a common parking area is provided, regardless of whether residents or units have been assigned specific parking spaces.

Under the bill, complex owners or lessees, or their agents, must put a written notice on unauthorized vehicles subject to towing at least 24 hours before towing them. The notice must be placed in a clearly visible spot on the vehicle's driver-side windshield and include the following:

1. a statement that the vehicle will be towed from the complex without the owner's consent if it remains parked in the same spot;
2. a description of the reason for the tow; and
3. the time the (a) notice was affixed to the vehicle and (b) vehicle will be towed, which may not be earlier than 24 hours after the notice is affixed to the vehicle.

Exceptions to Signage and 24-Hour Notice Requirements (§ 3(a)(4))

Under the bill, a property owner or lessee, or his or her agent, may have an unauthorized vehicle towed without installing the required signage or, in the case of residential complexes, giving 24 hours' written notice in certain circumstances. (These are also the circumstances under which a towing company may act as a property owner or lessee's agent to give written authorization to tow under § 4, see below.)

Specifically, the exceptions are for vehicles left in the following locations or ways:

1. in an accessible parking space for people with disabilities without a removable windshield placard or special license plate;

2. in an area reserved for authorized emergency vehicles;
3. within 10 feet of a fire hydrant;
4. occupying or blocking access to or from a (a) building or (b) parking spot reserved for a specific resident or unit;
5. blocking entry or exit from the property;
6. for 48 hours or longer;
7. in a parking lot marked for the exclusive use of residents without displaying valid authorization;
8. in an area not designated for parking vehicles; and
9. in violation of a parking ban to facilitate snow and ice removal, as long as the owner or lessee, or his or her agent, at least four hours before enacting the ban, posts notices that are clearly visible in the building and the parking area and communicates the ban directly by phone, email, or text message.

Current law only provides exceptions to signage requirements in the case of vehicles parked in accessible parking spaces, in areas reserved for emergency vehicles or within 10 feet of a fire hydrant, blocking building access or entry or exit from the property, or for 48 hours or more.

The bill also allows residential complexes to tow repeat offenders without giving 24 hours' notice. On and after October 1, 2023, if a vehicle is parked on a residential complex for a third or subsequent time in the same way that caused the vehicle to receive prior notices, the private property owner or lessee, or his or her agent, can have the vehicle towed without giving the required notice.

As under current law with signage requirements, the bill's expanded signage requirements and the new 24-hour notice requirement do not apply in the case of vehicle repossession.

Written Authorization (§§ 2 & 4)

Current law prohibits a vehicle from being towed from private property except (1) upon express instruction of the owner or lessee, or his or her agent, of the property on which the vehicle is trespassing or (2) for purposes of vehicle repossession by a lending institution. The bill replaces this prohibition with a requirement that towing companies get written authorization to tow a vehicle from the property owner or lessee (including in the case of repossession by a lending institution).

Under the bill, at any time within the 24 hours before towing a vehicle from private property, a towing company must get written authorization from the property owner or lessee (or his or her agent), who must be present on the property when giving the authorization and verify the reason for the tow. Towing companies may act as the property owner's or lessee's agent to give written authorization to tow vehicles in the circumstances that fall under the exceptions to signage and notice requirements (see above); they may not act as an agent for towing vehicles under other circumstances.

The bill requires the written authorization to include the following information:

1. the vehicle's make, model, identification number, and license plate number;
2. the name, signature, job title, residential or business address, and phone number of the property owner or lessee (or his or her agent) authorizing the tow;
3. the reason for the tow;
4. the time the vehicle was first observed parked at the private property; and
5. the time the written authorization to tow the vehicle was given.

The bill subjects companies who violate the written authorization requirement to a fine of up to \$1,000. Towing companies must maintain any required written authorization in their required records for each tow (which must be retained for at least two years and available for

inspection by DMV, see above).

As under current law, none of these provisions limit the state's or a municipality's right to remove abandoned vehicles as allowed under state law.

Towing Unregistered Vehicles (§ 3(a)(2))

The bill prohibits property owners and lessees, or their agents, from towing a vehicle or causing one to be towed solely because the vehicle is unregistered or has an expired registration.

Release for Incomplete Tow (§§ 1 & 3(c))

The bill requires tow truck drivers to release vehicles that have been connected to the truck but not yet removed from the property if the vehicle owner or driver asks them to. The towing company may charge a "drop fee," which the bill requires the commissioner to set and include on the schedule for towing rates and charges.

Storage Lot Distance (§ 5)

Current law requires that any vehicle towed under the state's private property towing laws be stored at the towing company's business in a secured storage lot. Under the bill, for vehicles towed from property in a municipality with more than 50,000 people, the storage lot must be within a 10-mile radius of the property.

(The Department of Public Health's most recently released (2021) population estimates list the following 19 municipalities as having populations over 50,000: Bridgeport, Bristol, Danbury, East Hartford, Fairfield, Greenwich, Hamden, Hartford, Manchester, Meriden, Milford, New Britain, New Haven, Norwalk, Stamford, Stratford, Waterbury, West Hartford, and West Haven.)

Payment Accepted (§ 5)

The bill requires towing companies to (1) accept cash and credit cards as payment for towing and storage fees for vehicles towed from private property and (2) keep sufficient cash at their offices to give change to a vehicle owner, or another authorized person, at the time of payment.

The bill allows towing companies to charge a service fee for credit card payments, but it may not exceed the charge the company pays to the card issuer (including any discount rate).

BACKGROUND

History of Nonconsensual Towing and Storage Rate Increases

In March 2023, DMV issued a decision on a 2022 petition from Myhoopty, LLC requesting an increase in towing, mileage, and storage fees by about 60% across the board. DMV found that Myhoopty failed to justify its proposed increase but determined that a more moderate increase (roughly 19%, in line with the CPI) in the base fee (hook fee) and mileage rate (but not storage rates) was just and reasonable.

Prior to the 2022 petition, DMV increased base rates and storage fees (but not mileage rates) in 2018, after a 2017 petition from the Towing & Recovery Professionals of Connecticut (TRPC), Inc. The increases generally reflected the rise in CPI between 2018 and the last time the rates were increased in 2007. In determining the increases, the hearing officer considered evidence presented by TRPC on vehicle costs, real estate taxes, and worker's compensation, among other things, but decided to give more weight to factors listed in statute (namely, CPI). TRPC petitioned for an increase in 2009, which was denied.

Towing & Recovery Professionals of Connecticut, Inc. vs. Department of Motor Vehicles

In response to DMV's 2018 decision, TRPC filed an administrative appeal challenging the commissioner's consideration of statutory and regulatory factors and its weighing of evidence, arguing that the way in which the commissioner weighed the factors violated the rule of statutory and regulatory construction by rendering certain factors insignificant. When the appeal reached the Appellate Court, it held that, given the inclusion of the word "may," both the statute and regulation give the commissioner discretion to consider and weigh the factors that he sees fit (*Towing and Recovery Professionals of Connecticut, Inc. v. Department of Motor Vehicles*, 205 Conn. App. 368 (2021), cert. denied, 338 Conn. 910 (2021)).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute

Yea 24 Nay 12 (03/17/2023)