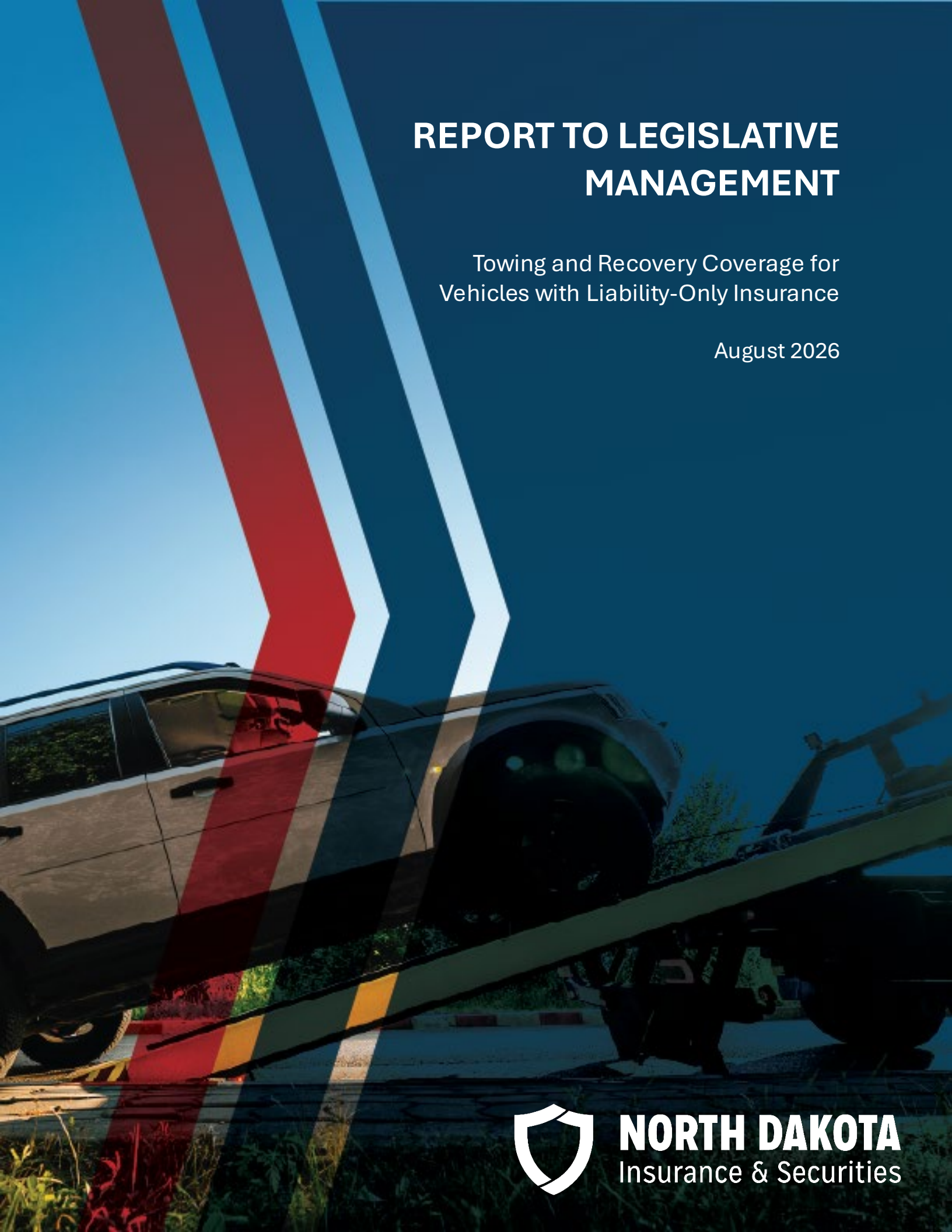
REPORT TO LEGISLATIVE MANAGEMENT

Towing and Recovery Coverage for Vehicles with Liability-Only Insurance

August 2026



NORTH DAKOTA
Insurance & Securities

REPORT TO LEGISLATIVE MANAGEMENT

Towing and Recovery Coverage for Vehicles with Liability-Only Insurance

North Dakota Insurance & Securities Department
August 2026

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I. Executive Summary

Section 16 of Senate Bill No. 2374, enacted by the Sixty-ninth Legislative Assembly, authorized the Insurance Commissioner during the 2025-26 interim to study the feasibility, benefits, and challenges of providing coverage for towing and recovery costs associated with vehicles carrying liability-only insurance. The legislation directed that the study be conducted with stakeholders from both the insurance industry and towing industry and examine six specific areas: the frequency and financial impact of uncovered towing and recovery costs; towing cost structures, fee practices, and reimbursement models; the implications of expanding coverage for an at-fault vehicle; regulatory, administrative, and consumer impacts; approaches used by other states; and insurance protocols and preferred procedures regarding towing operations. The Commissioner is required to report findings and recommendations, together with any legislation necessary to implement those recommendations, to Legislative Management before September 1, 2026.

The study confirmed that towing and recovery services can generate significant costs following a motor vehicle accident, particularly when specialized recovery, extended mileage, storage, administrative work, or disposal is required. Towing and recovery companies also can experience uncompensated costs when a vehicle owner is uninsured, lacks applicable physical-damage or towing coverage, is unable to pay, or abandons a vehicle with limited salvage value. Conversely, insurers and consumers have an interest in ensuring that towing, recovery, and storage charges submitted for payment are reasonable, documented, related to the covered event, and subject to appropriate claims review.

The study also identified an important distinction underlying the policy discussion. Automobile liability coverage generally protects an insured against legal liability for injury or property damage sustained by others. Coverage for towing the at-fault driver's own vehicle is ordinarily a first-party benefit and may already be purchased as optional towing or roadside-assistance coverage. Requiring liability-only policies to provide a new benefit for the insured's own vehicle therefore would represent an expansion of the traditional purpose of liability coverage rather than merely clarifying an existing liability obligation.

Expanding mandatory coverage could provide towing providers with an additional source of payment and reduce certain out-of-pocket expenses for motorists. At the same time, such an expansion would introduce additional premium costs, claims frequency, coverage-verification requirements, reimbursement disputes, rate and form considerations, fraud

controls, and administrative obligations. The wide variation in towing circumstances and charges, particularly between urban and rural areas of North Dakota, would further complicate development of a uniform mandatory benefit.

The review of other states did not identify a single prevailing model. States that have addressed towing and recovery costs have used materially different approaches, including limited first-party benefits, clarification of accident-scene recovery obligations under liability coverage, protections associated with insurer acquisition of totaled vehicles, and requirements relating to towing rates and invoice transparency.

Based on the information developed during the study, the Department does not recommend legislation at this time requiring towing or recovery coverage to be included in liability-only automobile insurance policies or creating a new standardized mandatory towing benefit.

The Department recommends continued monitoring of the issue, continued communication between the towing and insurance industries, and use of operational practices intended to improve documentation, communication, and timely resolution of towing and storage charges. If future data demonstrate a persistent statewide problem that cannot reasonably be addressed through existing insurance products, existing law, or industry practices, the issue may be reconsidered.

No legislation is necessary to implement the Department's recommendations.

II. Statutory Authority and Scope of Study

Section 16 of Senate Bill No. 2374 provides that, during the 2025-26 interim, the Insurance Commissioner may study the feasibility, benefits, and challenges of providing towing and recovery costs associated with vehicle liability-only insurance for towing operations.

The legislation specifically requires consideration of:

1. The frequency and financial impact of towing and recovery costs involving vehicles without applicable insurance coverage;
2. Cost structures, fee practices, and reimbursement models for standard towing and recovery operations across North Dakota;
3. The financial and operational implications of expanding coverage to include towing and recovery costs for an at-fault vehicle carrying only liability coverage;
4. Regulatory, administrative, and consumer impacts of such an expansion;
5. Approaches taken by other states; and
6. Insurance protocols and preferred procedures regarding towing operations, including practices intended to facilitate agreements between insurers and towing companies, prevent misunderstandings, and improve the claims process.

For purposes of this report, the term "liability-only" is used as shorthand for an automobile policy that does not provide collision or comprehensive physical-damage coverage for the insured vehicle. North Dakota automobile policies remain subject to other coverage requirements established by state law.

III. Study Process and Stakeholder Engagement

Consistent with Section 16, the Department engaged representatives of both the towing and recovery industry and the automobile insurance industry during the interim.

Stakeholder discussions focused on the circumstances under which towing and recovery charges arise; responsibility for payment; the distinction between towing, accident-scene recovery, storage, and roadside assistance; insurer claims procedures; towing-company billing practices; uninsured and underinsured vehicle owners; abandoned vehicles; rural towing costs; and possible insurance-coverage alternatives.

The discussions demonstrated that the two industries view portions of the issue from different perspectives.

Towing and recovery providers emphasized the financial exposure created when they respond to accidents, law-enforcement requests, or disabled vehicles and subsequently are unable to collect the full cost of the work performed. That exposure can be particularly significant when specialized equipment or labor is required, storage accumulates, or a damaged vehicle has little salvage value.

Insurance interests emphasized the need to distinguish covered accident-related expenses from costs that are the vehicle owner's responsibility and the need for reasonable, documented, and verifiable charges. The insurance claims process also requires determining applicable coverage, liability, authorization, reasonable charges, storage periods, and responsibility for expenses exceeding applicable coverage.

These perspectives are not necessarily inconsistent. Both industries have an interest in prompt removal of vehicles, clear documentation, timely claims handling, and predictable resolution of legitimate charges. The principal disagreement concerns how financial responsibility should be allocated and whether mandatory insurance coverage is necessary to accomplish those objectives.

IV. Findings

A. Frequency and Financial Impact of Towing and Recovery Costs Without Applicable Insurance Coverage

North Dakota requires motor vehicles subject to the state's financial-responsibility requirements to maintain automobile insurance. Nevertheless, uninsured motorists continue to operate vehicles in the state. Earlier Department estimates suggested that approximately 13 percent of vehicles may have been operated by uninsured motorists, although the Department previously cautioned that the estimate was imprecise because it relied substantially on known uninsured claims and did not capture all uninsured vehicles or losses.

The study identified several circumstances in which towing and recovery expenses may not be fully recoverable through insurance. They include vehicles operated without required insurance; insured vehicles without collision, comprehensive, towing, or other applicable first-party coverage; abandoned vehicles; vehicles with little or no salvage value; and circumstances in which the responsible vehicle owner does not have sufficient resources to satisfy the charges.

The economic consequences can include:

- Emergency towing and transportation;
- Winching and specialized recovery services;
- Labor and equipment;
- Mileage and extended travel;
- Storage;
- Administrative and notification expenses;
- Title and lien-processing expenses;
- Auction or disposal costs; and
- Costs associated with vehicles that have little or no remaining value.

When these expenses cannot be collected from a vehicle owner or another responsible party, the towing provider may sustain an uncompensated loss.

The study also found that the effects of an uninsured or abandoned vehicle may extend beyond the towing provider. Local governments and law-enforcement agencies can incur administrative costs, and North Dakota maintains an abandoned motor vehicle system and disposal fund reflecting the public costs associated with abandoned vehicles. Insured motorists may likewise incur expenses when coverage applicable to their own vehicle is unavailable.

The study did **not**, however, develop a statistically reliable statewide estimate of the number of towing events annually involving vehicles without applicable coverage or the aggregate dollar amount of towing-company losses attributable specifically to the absence of insurance coverage. The available uninsured-motorist estimate is not itself a measurement of towing frequency, towing charges, or uncompensated towing losses.

This distinction is important for policymaking. The study establishes that uncompensated towing and recovery costs occur and can be significant in individual cases, but the information available does not establish the magnitude of a statewide insurance-coverage gap sufficient to quantify the cost or benefit of a statutory coverage mandate.

B. Cost Structures, Fee Practices, and Reimbursement Models

Towing and recovery is not a uniform service. The cost of a particular incident can vary substantially based on:

- The type and weight of the vehicle;
- Distance traveled by the towing provider;
- Distance the vehicle must be transported;
- Time of day;
- Weather and roadway conditions;
- Location of the vehicle;
- Whether winching or specialized recovery is required;
- Equipment and number of personnel necessary;
- Accident-scene cleanup;
- Duration and type of storage; and
- Administrative, title, lien, auction, and disposal requirements.

These differences are particularly relevant in North Dakota. Rural responses may require a towing operator to travel significant distances before reaching a vehicle, and there may be fewer providers capable of handling a particular recovery. A reimbursement amount that is reasonable for a routine tow within a metropolitan area may therefore be insufficient for a rural or specialized recovery.

The study did not identify a single statewide cost or reimbursement model that would appropriately account for the full range of towing and recovery circumstances. Possible approaches include fixed-dollar limits, mileage-based reimbursement, reasonable-and-customary standards, negotiated or preferred-provider arrangements, or a combination of base charges, mileage, labor, equipment, and documented storage.

Each approach presents tradeoffs. A fixed benefit provides certainty but may bear little relationship to actual costs in a complex recovery. An open-ended reasonableness standard provides flexibility but may increase disputes over charges. A statewide fee schedule could provide predictability but may inadequately reflect differences in geography, equipment, labor, and operating costs.

The study therefore does not support the conclusion that the payment issue can be resolved simply by requiring insurers to pay all towing and recovery invoices. Any insurance-payment requirement would necessarily require standards governing which services are covered, documentation, reasonableness of charges, limits, storage periods, and dispute resolution.

C. Financial and Operational Implications of Expanding Coverage for the At-Fault Vehicle

A central issue examined during the study was whether an automobile policy without collision coverage should nevertheless provide towing or recovery coverage for the insured's own vehicle when the insured driver is at fault.

Towing coverage is currently available as an optional automobile insurance benefit. Unlike liability coverage, which generally protects an insured against claims arising from injury or damage caused to other persons or property, towing coverage for the insured's own vehicle is a first-party benefit.

Mandatory expansion could provide benefits. A vehicle owner could receive assistance with an unexpected towing charge without purchasing collision or comprehensive

coverage. Towing providers could have an additional potential source of payment. Prompt payment and vehicle removal could also reduce storage accumulation in some cases.

Those benefits must be considered together with the operational and financial consequences.

Premium and actuarial impact

Towing claims can arise independently of an accident. Depending on how a benefit is defined, mechanical breakdowns, dead batteries, flat tires, weather events, lockouts, roadside assistance, winching, storage, and secondary towing could potentially be included.

A broader benefit would therefore produce more claims than a narrowly defined accident-related recovery benefit. Insurers would have to establish rates reflecting expected claim frequency and severity, and those costs ultimately would be reflected in premiums.

Adverse selection

Drivers with older or less reliable vehicles, greater travel distances, or greater expected use of roadside services may be more likely to select optional towing benefits. A mandatory benefit would eliminate traditional adverse selection but would instead spread the cost of the benefit across a broader population of insured motorists, including motorists who may not wish to purchase it.

Claims administration

Expansion would require insurers and towing providers to resolve questions including:

- Whether a vehicle has applicable coverage;
- Whether the particular service is covered;
- Whether authorization is required;
- Applicable reimbursement limits;
- Responsibility for charges exceeding policy limits;
- Whether storage remains reasonable;
- Whether specialized services were necessary; and
- Whether the amount billed is reasonable.

The study materials identify these coverage-verification, authorization, reimbursement, and dispute issues as material implementation considerations.

Fraud and unnecessary utilization

Any new benefit also would require claims controls addressing duplicate charges, inflated mileage or labor, unnecessary recovery services, nonemergency uses, and other potentially inappropriate claims.

Consumer understanding

A mandatory towing benefit within a liability-only policy could also create consumer confusion. Payment of a towing expense would not mean the policy covers physical damage to the at-fault driver's vehicle. A consumer could therefore have insurance for the tow but remain personally responsible for the loss of or damage to the vehicle itself.

On balance, the study found that expansion is feasible as an insurance product but would not be administratively or economically neutral. The coverage could benefit particular consumers and towing providers, but those benefits would be accompanied by additional premium and administrative costs and would not resolve every dispute involving towing or storage.

D. Regulatory, Administrative, and Consumer Impacts

Requiring towing and recovery coverage as part of liability-only automobile policies would necessitate regulatory implementation.

Insurers would need to develop or amend policy forms, establish rates, define covered services and exclusions, establish per-occurrence or annual limitations if permitted, revise claims procedures, train personnel, and develop systems for communicating applicable coverage to consumers and towing providers.

The Department would be required to evaluate corresponding filings and address consumer and provider questions concerning the scope of the new benefit. Claims disputes could arise over the distinction among recovery, towing, roadside assistance, storage, and transportation for repair.

The principal potential administrative efficiency would be the existence of an identifiable source of payment in cases in which an at-fault driver's vehicle otherwise lacks applicable

first-party towing coverage. Greater payment certainty could reduce collection efforts by towing providers.

That potential efficiency is offset by the creation of new questions concerning coverage, authorization, reimbursement limits, reasonableness, documentation, storage, and payment. The study therefore did not establish that mandatory coverage would produce a net regulatory or administrative efficiency. The materials instead indicate that the effectiveness of any such system would depend heavily on how coverage and reimbursement rules were structured.

For consumers, mandatory expansion would provide an additional benefit but also would add a cost to insurance coverage. Although the individual premium impact could potentially be modest, the study did not develop statewide claims experience or actuarial data sufficient to determine the expected premium effect.

Accordingly, the study does not provide a sufficient factual basis to conclude that the consumer benefits of a mandate would exceed its costs.

E. Approaches Taken by Other States

The Department reviewed approaches used in other jurisdictions. The review demonstrates that states have addressed towing and recovery issues in different ways and that no single model has emerged as a uniform national approach.

Maine

Maine requires a motor vehicle liability policy to provide up to $500 per accident for reasonable towing and storage charges involving the insured vehicle when the vehicle is towed at the request of a law-enforcement officer. The model provides a defined benefit and narrowly defines when it applies.

The Maine approach provides certainty but illustrates the limitations of a fixed-dollar benefit. A fixed amount may cover a routine tow while covering only a portion of a complex recovery or long-distance rural tow.

Delaware

Delaware distinguishes accident-scene **recovery costs** from ordinary transportation of the at-fault driver's vehicle. Its insurance guidance treats the cost of removing vehicles from

the roadway or adjacent property as an accident-related recovery obligation while distinguishing that work from ordinary towing of the at-fault vehicle for repair.

This model demonstrates the importance of defining the service for which payment is sought. Accident-scene recovery necessary to clear a roadway is materially different from a general roadside-assistance benefit.

Virginia

Virginia similarly recognizes that reasonable cleanup, recovery, removal, and certain towing costs can fall within property-damage liability when those costs represent damages the insured is legally obligated to pay.

The approach addresses liability arising from an accident without necessarily creating a broad new first-party towing benefit.

Georgia

Georgia law addresses reasonable towing and storage costs incurred by a third-party claimant once an automobile liability insurer accepts liability. The claimant remains responsible for mitigating the loss, and payment is limited to actual losses.

This approach reinforces both reasonableness and mitigation requirements.

Louisiana

Louisiana focuses in part on circumstances in which an insurer succeeds to title to a damaged vehicle. An insurer taking title may not obtain the economic benefit associated with the vehicle while leaving covered towing and storage obligations with the towing provider. Louisiana also addresses storage charges through applicable limitations.

Florida

Florida's approach provides a useful example concerning billing transparency. Towing-storage operators must maintain rate sheets and provide detailed, itemized invoices identifying towing, storage, labor, administrative, cleanup, and other charges.

Florida's model does not itself resolve the question of what insurance coverage should be required, but it demonstrates how transparency and documentation can reduce disagreement over what services were performed and the amounts charged.

Tennessee

Tennessee has implemented a law streamlining vehicle towing, storage, and parking enforcement. The statute creates a new online motor vehicle portal that will provide real-time public access to information about towed vehicles, including ownership details, tow location, and retrieval requirements. Key provisions include strict regulations for parking lot owners and towing companies, such as requiring clear signage, limiting booting and towing practices, and establishing consumer protections. The statute mandates that towing companies and parking enforcement vendors be licensed, post detailed information, and follow specific notification procedures when towing or storing vehicles.

It also introduces requirements for vehicle immobilization devices, such as self-releasing boots and limits on removal fees. Additionally, the statute addresses abandoned vehicles, sets guidelines for vehicle auctions, and provides mechanisms for vehicle owners to challenge towing or storage actions. Violations of the Tennessee Consumer Protection Act can result in penalties, including civil actions and misdemeanor charges for serious infractions. The comprehensive legislation aims to create more transparency, fairness, and accountability in vehicle towing and storage practices.

Overall observation from other states

The other-state review does not demonstrate that North Dakota is an outlier because it does not mandate a broad towing benefit within liability-only coverage.

Instead, the approaches generally address narrower problems: a defined accident-related benefit, accident-scene recovery, third-party property-damage obligations, insurer responsibility after taking title, reasonable storage practices, or billing transparency.

These examples may provide useful reference points if North Dakota identifies a specific problem requiring future legislative action, but the study does not establish a need to adopt any one of these approaches at this time.

F. Insurance Protocols and Preferred Procedures Regarding Towing Operations

Stakeholder discussions and the study materials indicate that many disputes can be reduced through clearer communication and documentation rather than changes to insurance coverage.

The following practices are consistent with the issues identified through the study and may improve interaction between towing providers, insurers, vehicle owners, and claims personnel without requiring statutory mandates.

Itemized documentation

Invoices should clearly identify the services performed and distinguish among towing, accident-scene recovery, winching, specialized equipment, labor, mileage, cleanup, storage, administrative charges, and other services.

Extraordinary charges should be supported with sufficient documentation to allow the vehicle owner or insurer to evaluate why the service was necessary.

Distinguishing recovery from ordinary towing

Towing providers should distinguish emergency accident-scene recovery necessary to remove a vehicle or restore roadway access from ordinary transportation of a damaged or disabled vehicle.

Clear terminology can prevent an insurer and towing provider from using the word "towing" to describe materially different services.

Early identification of coverage and responsible parties

When insurance is potentially involved, available claim and insurer information should be exchanged as early as reasonably practicable. Towing providers benefit from knowing whether applicable coverage exists, while insurers benefit from early notice that storage or other continuing charges are accumulating.

Timely access to vehicles

Insurers should have reasonable access to inspect vehicles when necessary for adjustment of a covered claim. When a vehicle will be moved, declared a total loss, sold, or otherwise disposed of, timely communication can help limit unnecessary accumulation of storage expenses.

Defined storage expectations

Storage charges can accumulate rapidly. Early communication concerning inspection, vehicle movement, salvage, and the period during which storage remains necessary can reduce disputes for both industries.

Dispute resolution

Insurers and towing providers should attempt to identify the specific disputed portion of an invoice rather than allowing disagreement over one charge to delay resolution of all undisputed amounts.

These practices can improve the claims process without requiring the state to prescribe contract terms between individual insurers and towing companies.

V. Conclusions

The study identified legitimate concerns raised by both towing providers and insurers.

Towing and recovery providers perform necessary services, frequently under difficult circumstances and sometimes at the request of law enforcement. Providers assume a collection risk when the vehicle owner is uninsured, lacks applicable coverage, has insufficient financial resources, or abandons a vehicle with little remaining value.

At the same time, the existence of an unpaid towing bill does not necessarily establish a deficiency in automobile liability insurance. A substantial portion of the policy discussion concerns payment for services provided to the at-fault driver's own vehicle. Liability insurance traditionally protects against legal liability to other persons, while towing and physical-damage benefits for the insured's vehicle are first-party coverages.

The study also identified legitimate concerns regarding the amount and documentation of towing, recovery, and storage charges. Costs vary widely depending on the circumstances. Requiring insurance payment without standards governing coverage and reasonable charges could transfer existing payment disputes into the insurance claims process rather than resolve them.

Most importantly, the study did not produce statewide data establishing the frequency or aggregate financial magnitude of uncompensated towing and recovery costs attributable specifically to the absence of applicable insurance coverage.

Likewise, the study did not establish the expected premium effect, utilization rate, or administrative cost of a mandatory towing benefit.

The absence of that data does not establish that individual towing providers do not experience significant uncompensated losses. It does, however, limit the factual basis for imposing a statewide insurance mandate on all motorists.

For those reasons, the Department concludes that the evidence developed during the interim does not demonstrate a need for legislative intervention at this time.

VI. Recommendations

1. No change to mandatory automobile insurance coverage at this time

The Department does not recommend requiring liability-only automobile insurance policies to include towing and recovery coverage for the insured's at-fault vehicle.

Existing optional towing and roadside-assistance products provide consumers with the ability to obtain first-party towing protection. The study did not establish a statewide market failure sufficient to warrant converting that optional benefit into a mandated component of automobile insurance.

2. No legislatively prescribed reimbursement schedule at this time

The Department does not recommend establishing a statewide towing reimbursement schedule applicable to insurers.

The geographic, operational, equipment, labor, and incident-specific differences identified through the study would make a uniform rate difficult to establish without creating either inadequate reimbursement in some circumstances or excessive reimbursement in others.

3. Continue monitoring complaints, market conduct, and available data

The Department should continue monitoring towing- and recovery-related issues identified through consumer complaints, insurer information, towing-industry concerns, and other available sources.

Particular attention may be given to recurring disputes involving:

- Accident-scene recovery;
- Extraordinary recovery charges;
- Storage duration and charges;
- Abandoned or low-value vehicles;
- Coverage verification;
- Access to vehicles;
- Documentation and itemization; and
- Delays in claims resolution.

If future information demonstrates a recurring statewide problem, the Department can evaluate whether targeted legislative, regulatory, or administrative action is warranted.

4. Encourage continued stakeholder communication and voluntary best practices

The Department should encourage insurers and towing providers to continue discussing operational procedures that can reduce disputes, including itemized invoices, prompt exchange of claims information, documentation of extraordinary services, timely vehicle inspection and disposition, and identification of undisputed amounts.

Such efforts address many of the practical concerns identified during the study without creating new insurance mandates or imposing additional costs on all policyholders.

5. Preserve targeted options for future consideration

If future data demonstrate a need for legislative action, policymakers could consider narrower approaches rather than a broad roadside-assistance mandate. Possible subjects for future evaluation could include accident-scene recovery costs, transparency and itemization requirements, storage procedures, or narrowly defined coverage associated with law-enforcement-requested accident tows.

The Department does not recommend adoption of any such provision based on the present study. These alternatives are identified only because other states demonstrate that targeted approaches are available should a more clearly defined problem emerge.

VII. Legislation Required to Implement Recommendations

None.

The Department's recommendations can be implemented through continued monitoring, stakeholder communication, consumer education, and ordinary regulatory oversight under existing authority.

Accordingly, the Department does not recommend legislation resulting from the study authorized by Section 16 of Senate Bill No. 2374.

Appendix A - Stakeholder Engagement

Date / Time	Location Format	Towing Industry Participants	Insurance Industry Participants	Principal Subjects Discussed
01/27/26	Teams Call	Brian Barrett	Chris Oen, John Ward, Rob Hovland, Maj. Tom Iverson, Brad Nold	Areas of concern regarding Towing and Insurance.
02/24/26	Teams Call	Brian Barrett, Rick Kleinwaechter	Chris Oen, John Ward, Rob Hovland, Maj. Tom Iverson, Brad Nold	Went over key points
03/10/26 1pm	Teams Call		Rob Hovland	One on one
03/10/26 2pm	Teams Call		Chris Oen	One on one
03/17/26 9am	Teams Call		Brad Nold	One on one
03/17/26 10am	Teams Call	Brain Barrett		One on One
4/21/26	Teams Call	Brian Barrett	John Ward, Rob Hovland, Brad Nold, Phil Arnzen	Update

Any formal written material submitted by stakeholders may also be identified in this appendix.

Appendix B - Statutory Authorization

Section 16, Senate Bill No. 2374, Sixty-ninth Legislative Assembly.

Attach or reproduce the study authorization and reporting requirement.

Appendix C - Other-State Authorities Reviewed

The Department's review included, among other authorities:

- Maine Revised Statutes, Title 29-A, § 1605-B;
- Delaware Department of Insurance Auto Bulletin No. 30;
- Virginia State Corporation Commission Administrative Letter 2020-06;
- Georgia Code § 33-7-11.1;
- Louisiana Revised Statutes § 22:1292; and
- Florida Statutes § 713.78.
- Tennessee MOTION Act (TCA § 55-31)

These authorities illustrate alternative approaches to limited towing coverage, accident-scene recovery, liability obligations, towing and storage payments, and billing transparency. They are provided for comparative purposes and are not recommended for enactment in North Dakota at this time.

SECTION 16. INSURANCE COMMISSIONER STUDY - TOWING AND RECOVERY COVERAGE FOR VEHICLES WITH LIABILITY-ONLY INSURANCE - REPORT TO LEGISLATIVE MANAGEMENT.

1. During the 2025-26 interim, the insurance commissioner may study the feasibility, benefits, and challenges of providing towing and recovery costs associated with vehicle liability-only insurance for towing operations. The study must be conducted with stakeholders from both the insurance industry and the towing industry. The study must include:

   a. An evaluation of the frequency and financial impact of the towing and recovery costs of vehicles without applicable insurance coverage.

   b. A review of the cost structures, fee practices, and reimbursement models associated with standard towing and recovery operations across this state.

   c. Consideration of the financial and operational implications of expanding coverage to include towing and recovery cost coverage for the at-fault vehicle with only liability coverage.

   d. An analysis of the regulatory, administrative, and consumer impacts resulting from the coverage expansion, including anticipated efficiencies or burdens.

   e. A review of approaches taken by other states regarding similar coverage options, including statutory or regulatory frameworks, and how those states balance the needs of insurers, towing providers, and consumers.

   f. An analysis of insurance protocols and preferred procedures regarding towing operations. For the purpose of establishing agreements and contracts between insurance companies and towing companies, preventing misunderstandings, and ensuring a seamless claims process.

2. Before September 1, 2026, the insurance commissioner shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

Florida 713.78

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02.

(c) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(d) "National Motor Vehicle Title Information System" means the federally authorized electronic National Motor Vehicle Title Information System.

(e) "Equivalent commercially available system" means a service that charges a fee to provide vehicle information and that at a minimum maintains records from those states participating in data sharing with the National Motor Vehicle Title Information System.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

(a) The owner thereof;

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. 715.07;

(c) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. 83.806 or s. 715.104; or

(d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that a storage fee may not be charged if the vehicle or vessel is stored for fewer than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. 715.07.

(4)(a) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a

lien for recovery, towing, or storage services, shall give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

(b) Whenever a law enforcement agency authorizes the removal of a vehicle or vessel or whenever a towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law enforcement agency of the jurisdiction where the vehicle or vessel is stored shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the vehicle or vessel, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding s. 627.736.

(c) The notice of lien must be sent by certified mail to the registered owner, the insurance company insuring the vehicle notwithstanding s. 627.736, and all other persons claiming a lien thereon within 7 business days, excluding Saturday and Sunday, after the date of storage of the vehicle or vessel. However, in no event shall the notice of lien be sent less than 30 days before the sale of the vehicle or vessel. The notice must state:

1. If the claim of lien is for a vehicle, the last 8 digits of the vehicle identification number of the vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, clearly printed in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon.

2. The name, physical address, and telephone number of the lienor, and the entity name, as registered with the Division of Corporations, of the business where the towing and storage occurred, which must also appear on the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.

5. That a lien as provided in subsection (2) is claimed.

6. That charges have accrued and include an itemized statement of the amount thereof.

7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5).

8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less.

9. The address at which the vehicle or vessel is physically located.

(d) The notice of lien may not be sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming a lien thereon less than 30 days before the sale of the vehicle or vessel.

(e) If attempts to locate the name and address of the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 business days, excluding Saturday and Sunday, after the initial tow or storage, notify the public agency of jurisdiction where the vehicle or vessel is stored in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system. For purposes of this paragraph and subsection (9), the term “good faith effort” means that the following checks have been performed by the company to establish the prior state of registration and for title:

1. A check of the department’s database for the owner and any lienholder.

2. A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.

3. A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

4. A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

5. A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.

6. If there is no address of the owner on the impound report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.

7. A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.

8. A check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

9. A check of the vehicle for a vehicle identification number.

10. A check of the vessel for a vessel registration number.

11. A check of the vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5)(a) The owner of a vehicle or vessel removed pursuant to subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored to determine whether her or his property was wrongfully taken or withheld.

(b) At any time before the sale of the vehicle or vessel, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) A vehicle or vessel that is stored pursuant to subsection (2) and remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less. The sale shall be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the

person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice of the sale must be sent by certified mail. The notice must have clearly identified and printed, if the claim of lien is for a motor vehicle, the last 8 digits of the vehicle identification number of the motor vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon. The notice must be sent to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least 30 days before the sale of the vehicle or vessel. The notice must state the name, physical address, and telephone number of the lienor, and the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, all of which must also appear in the return address section on the outside of the envelope containing the notice of sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days before the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk shall hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney fees, and costs in favor of the prevailing party.

(7)(a) A wrecker operator recovering, towing, or storing vehicles or vessels is not liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels, provided that such services have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle or vessel upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle or vessel is removed, such removal has been done in compliance with s. 715.07. Further, a wrecker operator is not liable for damage to a vehicle,

vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer.

(b) For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:

1. The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;

2. The wrecker operator has illuminated the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and

3. The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility:

a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;

b. A security dog remains at the storage facility from sunset to sunrise;

c. Security cameras or other similar surveillance devices monitor the storage facility; or

d. A security guard service examines the storage facility at least once each hour from sunset to sunrise.

(c) Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. However, if the owner or driver of the motor vehicle is present and accompanies the vehicle, no inventory by law enforcement is required. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.

(8) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9) Failure to make good faith efforts to comply with the notice requirements of this section precludes the imposition of any storage charges against the vehicle or vessel. If a lienor fails to provide notice to a person claiming a lien on a vehicle or vessel in accordance with subsection (4), the lienor may not charge the person for more than 7 days of storage, but such failure does not affect charges made for towing the vehicle or vessel or the priority of liens on the vehicle or vessel.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, shall report the vehicle to the National Motor Vehicle Title Information System and apply to the Department of Highway Safety and Motor Vehicles for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include proof of reporting to the National Motor Vehicle Title Information System and an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state or any other state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of $3 for each certificate of destruction. A service charge of $4.25 shall be collected and retained by the tax collector who processes the application.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow

truck, or car carrier, to ensure compliance with the requirements of this section. Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle or vessel upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11) and the vehicle has been reported to the National Motor Vehicle Title Information System, the department shall place the name of the registered owner of that vehicle or vessel on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle or vessel is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle or vessel and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

3. A general description of the vehicle or vessel, including its color, make, model, body style, and year.

4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.

5. The name of the person or the corresponding law enforcement agency that requested that the vehicle or vessel be recovered, towed, or stored.

6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle or vessel for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle or vessel may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle or vessel was sold in a private or casual sale before the vehicle or vessel was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle or vessel was sold to a licensed dealer as defined in s. 319.001 before the vehicle or vessel was recovered, towed, or stored.

c. The records of the department were marked "sold" prior to the date of the tow.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle or vessel is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than $500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle or vessel was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle or vessel was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be

issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle or vessel was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle or vessel attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of $2, which shall be deposited into the General Revenue Fund. A service charge of $2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which includes the annual renewals. This subsection does not apply to any vehicle registered in the name of the lessor. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

(14)(a) A copy of the notice of lien required by subsection (4) and the notice of sale required by subsection (6), which must include the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, and proof of the required check of

the National Motor Vehicle Title Information System or an equivalent commercially available system shall constitute satisfactory proof for application to the Department of Highway Safety and Motor Vehicles for transfer of title, together with any other proof required by any rules and regulations of the department.

(b) The Department of Highway Safety and Motor Vehicles may not approve an application for transfer of title if the application fails to include a copy of the notice of lien required by subsection (4) and the notice of sale required by subsection (6). The vehicle or hull identification number on the notice of lien must match the vehicle or hull identification number of the vehicle or vessel that is the subject of the transfer of title.

(15)(a) A lienor or the lienor's agent may charge an administrative fee to the registered owner or a person claiming a lien against the vehicle or vessel to obtain release of the vehicle or vessel from the claim of lien imposed under this section. Such administrative fee may not exceed $250. For purposes of this paragraph, the term "administrative fee" means a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for towing and storing the vehicle or vessel.

(b) A lienor or the lienor's agent may not charge fees or costs, other than those authorized in this section or ss. 125.0103 and 166.043, that exceed $250.

(16) A towing-storage operator must use a third-party service approved by the Department of Highway Safety and Motor Vehicles to transmit all notices required by this section. If there is no third-party service approved by the department, the towing-storage operator may mail the notices and provide evidence of compliance with this section upon submission of an application for certificate of title or certificate of destruction.

(a) For purposes of this subsection, the term "third-party service" means a qualified business entity that, upon a request submitted through a website by a towing-storage operator:

1. Accesses the National Motor Vehicle Title Information System records to obtain the last state of record of the vehicle.

2. Accesses the owner, lienholder, and insurer information, as applicable, for a vehicle or vessel from the department.

3. Electronically generates the notices required of a towing-storage operator by this section through the website.

4. Prints and sends the notices required under this section to each owner, lienholder, and insurer of record by certified mail.

5. Electronically returns tracking information or other proof of mailing and delivery of the notices to the towing-storage operator.

6. Electronically reports to the department, via an electronic data exchange process using a web interface, the following information related to the towing and storage notice:

a. The vehicle identification number or vessel hull identification number.

b. The license plate number.

c. The name and address of the towing-storage operator or lienor.

d. The physical location of the vehicle or vessel.

e. The date on which the vehicle or vessel was towed.

f. The amount of storage fees owed at the time of the notice.

g. The date of assessment of storage charges.

h. The dates on which the notice was mailed and delivered.

i. Other information required by the department.

(b) A third-party service must apply to and be approved by the department in order to provide notices under this section. The department shall prescribe the format for the application. The department may approve the applicant as qualified to perform the services provided in paragraph (a) if the applicant:

1. Provides the department with a $1 million bond.

2. Submits an acceptable internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant.

3. Successfully demonstrates the ability to electronically provide required data to the department via an electronic data exchange process using a web interface.

(c) The department may deny, suspend, or revoke approval of a third-party service if the department determines that the third-party service has committed an act of fraud or misrepresentation related to a notice required by this section.

(d) A third-party service must maintain all records related to providing notices under this section for 5 years and allow the department to inspect and copy such records upon request. The records may be maintained in an electronic format.

(e) A third-party service must annually provide the department with evidence that it maintains a $1 million bond and must annually submit an internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant to continue its approved status each year.

(f) A third-party service must maintain a publicly available website that allows owners, registrants, lienholders, insurance companies, or their agents to search for notices sent pursuant to this section. The search results must exclude personal identifying information but provide the same information provided to the department.

(17) A lienor must accept either a copy of an electronic title or a paper title as evidence of a person's interest in a vehicle or vessel.

History.—s. 2, ch. 76-83; s. 1, ch. 79-206; s. 1, ch. 79-244; s. 1, ch. 79-410; s. 7, ch. 90-283; s. 2, ch. 92-148; s. 10, ch. 93-49; s. 830, ch. 97-102; s. 11, ch. 98-324; s. 64, ch. 99-248; s. 41, ch. 2000-362; s. 3, ch. 2001-164; s. 36, ch. 2001-

196; s. 17, ch. 2002-235; s. 16, ch. 2003-179; s. 3, ch. 2005-137; s. 94, ch. 2005-164; s. 10, ch. 2006-172; s. 6, ch. 2009-206; s. 2, ch. 2012-103; s. 71, ch. 2012-181; s. 105, ch. 2013-18; s. 75, ch. 2013-160; s. 164, ch. 2014-17; s. 9, ch. 2014-70; s. 3, ch. 2017-82; s. 4, ch. 2019-73; s. 6, ch. 2020-174.

Tennessee Motion Act AMENDMENT #1 rewrites the bill to enact the "Modernization of Towing, Immobilization, and Oversight Normalization Act" ("act") as follows:

BOOTING AND TOWING PROHIBITED ON COMMERCIAL PARKING LOTS

(1) Establishes that it is an offense for a commercial parking lot owner to boot or tow a motor vehicle located on the lot owner's lot if the motor vehicle is not an abandoned, immobile, or unattended motor vehicle;

(2) Establishes that it is not an offense for a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow motor vehicles located on the licensed parking lot if the licensed parking lot is located within the jurisdiction of a local government that has passed an ordinance pursuant to this act and the licensed parking lot or licensed parking attendant boots or tows a motor vehicle in compliance with the ordinance;

(3) Establishes that a violation of the provisions under this heading also constitutes a violation of the Tennessee Consumer Protection Act (TCPA) and an unfair or deceptive act or practice, subject to the penalties and remedies of the TCPA as well as this act;

(4) Establishes that the attorney general has all of the investigative and enforcement authority of the TCPA as relates to violations of this act. If the attorney general believes a person has violated this act, authorizes the attorney general to institute a proceeding under this act. Costs of any kind or nature must not be taxed against the attorney general or the state in actions commenced under this act;

(5) In addition to the remedy provided under this heading, provides that a person injured as a result of a violation of the provisions under the heading is entitled to maintain a private right of action for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator;

BOOTING PROHIBITED GENERALLY

(6) Establishes that it is an offense for a person, other than a licensed parking attendant, to knowingly boot a motor vehicle in this state. A violation of this offense if a Class B

misdemeanor; however, a second or subsequent offense is a Class A misdemeanor;

LOCAL OPTION

(7) If, after the effective date of this act, a local government passes an ordinance specifically opting to be governed by the provisions under this heading, authorizes the local government to permit a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow on the licensed parking lot; however, the ordinance must comply with the requirements as described under this heading;

(8) Requires such local ordinance to, at a minimum, do the following:

(A) Require the annual licensure of the commercial parking lot owner as a licensed parking lot and the issuance of a license number to the licensed parking lot;

(B) Specify in the annual licensure whether the licensure permits the licensed parking lot to boot, tow, or both boot and tow;

(C) Require the annual licensure of any employee authorized by the licensed parking lot to boot or tow from the lot as a licensed parking attendant and issue a license number and photo identification from the local government to the licensed parking attendant;

(D) Prohibit any person from booting or towing a motor vehicle on a licensed parking lot except by a licensed parking attendant licensed by the local government;

(E) Require licensed parking attendants licensed pursuant to (C) above to (i) prominently display the photo identification issued by the local government on the licensed parking attendant's person at all times when the licensed parking attendant is on duty and available to boot or tow a motor vehicle located on a licensed parking lot; and (ii) wear a distinctive uniform identifying the licensed parking attendant as an employee of the licensed parking lot at all times when the licensed parking attendant is on duty and available to boot or tow a motor vehicle located on the licensed parking lot;

(F) Require a licensed parking lot and licensed parking attendant to accept credit cards and debit cards as methods of payment for the removal of a vehicle immobilization device from a motor vehicle;

(G) Require a licensed parking lot to maintain a phone number that is monitored by a

natural person 24 hours per day, seven days per week;

(H) Require a licensed parking lot to post signage at the terminal end of each parking spot that is subject to being booted or towed bearing notice: (i) that the parking policy for the property is strictly enforced; (ii) that a violator's vehicle will be immobilized with a vehicle immobilization device with the owner of the vehicle having to pay to have the device removed, if the licensed parking lot has been licensed by the local government to boot vehicles pursuant to (B); towed at the owner's expense, if the licensed parking lot has been licensed by the local government to tow vehicles pursuant to (B); or both, if the licensed parking lot has been licensed by the local government to boot and tow vehicles pursuant to (B); of the name of the licensed parking lot, the licensed parking lot registration number issued by the local government pursuant to (A), and the phone number required by (G); and (iii) that this act protects consumers from booting and towing violations and that violations may be reported to the attorney general and reporter and the phone number for the enforcement division of the local government;

(I) Require that the signage required by (H) be no less than 24 inches in height and 18 inches in width and contain lettering that is no less than two inches in height and be viewable from the driver's seat of an average motor vehicle parked in the parking spot;

(J) Require that immediately upon booting a vehicle, the licensed parking attendant must place a notice conspicuously displayed on the windshield of the motor vehicle immediately in front of the driver's seat indicating: (i) that a vehicle immobilization device has been installed on the motor vehicle and that damage could occur if the vehicle is moved without first removing the vehicle immobilization device; (ii) the information in (H); (iii) the name, license number issued by the local government, and direct contact number for the licensed parking attendant who has booted the motor vehicle; and (iv) the date and time that the vehicle immobilization device was installed on the motor vehicle;

(K) Require a licensed parking lot to pay for any damage done to a motor vehicle if the notice required by (J) is not posted;

(L) Require a licensed parking lot to have a licensed parking attendant arrive at the licensed parking lot within 30 minutes of a call requesting the removal of a vehicle immobilization device and immediately remove the device upon satisfactory payment of any parking fee and vehicle immobilization device removal fee;

(M) Prohibit a licensed parking lot from charging a vehicle immobilization device removal

fee of greater than $75;

(N) Prohibit a licensed parking lot from charging any fee to remove a vehicle immobilization device to a person who had paid to park and who was improperly booted by the licensed parking lot or a licensed parking attendant; and

(O) Provide for the revocation of any license issued pursuant to the ordinance for violations of the ordinance or this act;

(9) Provides that the provisions under this heading do not prohibit a local government from passing an ordinance with requirements that are stricter than the minimum requirements;

(10) Provides that the provisions under this heading do not prohibit a local government from booting a motor vehicle that is located on public property; however, if the local government boots a motor vehicle on public property, then the local government must immediately, upon booting the motor vehicle, place a notice conspicuously displayed on the windshield of the motor vehicle immediately in front of the driver's seat indicating (i) that a vehicle immobilization device has been installed on the motor vehicle and that damage could occur if the vehicle is moved without first removing the vehicle immobilization device; (ii) the name of the local government official who booted the motor vehicle; (iii) the date and time the motor vehicle was booted; and (iv) the contact number the owner of the motor vehicle must call to have the vehicle immobilization device removed from the vehicle.

REQUIREMENTS OF COMMERCIAL PARKING LOTS

(11) Prohibits a commercial parking lot owner in this state from doing the following:

(i) Utilizing an automatic license plate reader to enforce the lot owner's parking requirements without first posting a sign that contains red lettering that is no less than six inches in height displayed on a white background; contains the language "LICENSE PLATE READER IN USE"; and is located at each designated entrance to the property, or, if there is no designated entrance, is erected in a place that is clearly visible from each parking space; and

(ii) Charging a penalty for non-payment of parking fees for a first violation in excess of the actual cost of the unpaid cost to park; however, a commercial parking lot owner may charge a late fee of up to $50 in addition to the actual cost of the unpaid cost to park if the

actual cost of the unpaid cost to park is not paid within 30 calendar days;

(12) Establishes that a violation of (i) and (ii) under these headings constitutes a violation of the TCPA and an unfair or deceptive act or practice affecting trade or commerce subject to the penalties and remedies provided in the TCPA, in addition to any penalties and remedies established under this act;

(13) Establishes that the attorney general has all of the investigative and enforcement authority of the TCPA as relates to violations of this act. If the attorney general believes a person has violated this act, authorizes the attorney general to institute a proceeding under this act. Costs of any kind or nature must not be taxed against the attorney general or the state in actions commenced under this act;

(14) Provides that, in addition to the remedy provided under this heading, a person injured as a result of a violation of the provisions under this heading is entitled to maintain a private right of action for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator;

UNCLAIMED OR ABANDONED VEHICLES - CUSTODY - REMOVAL - RESERVATION AND STORAGE

(15) Authorizes a police department to take into custody a motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; however, a motor vehicle used in curbstoning on residential property must not be taken into custody unless the police department provides notice on the motor vehicle at least 48 hours prior to the seizure;

(16) Authorizes a police department to employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing motor vehicles that are abandoned, immobile, unattended, or used in curbstoning;

(17) Establishes that any motor vehicle used in curbstoning is subject to seizure and forfeiture in the same manner as provided by law for seizure and forfeiture of other items under state law;

(18) Establishes that the provisions under this heading do not limit a local government's initiative for more restrictive requirements regarding the sale of curbstoned vehicles;

(19) Provides that, for purposes of this amendment, "curbstoning" means selling, offering for sale, advertising for sale, or soliciting the sale of (i) a motor vehicle without a properly endorsed certificate of title by a person or entity engaged primarily in the sale of used motor vehicles if the person or entity is not licensed as a motor vehicle dealer; or (ii) more than five motor vehicles in any twelve-month period when the motor vehicles are titled in the person's name or the name of the entity engaged primarily in the sale of used motor vehicles if the person or entity is not licensed as a motor vehicle dealer;

NOTICE AND PENALTY

(20) Requires a police department that takes into custody an abandoned, immobile, or unattended motor vehicle, to, within three business days after taking the motor vehicle into custody, verify ownership of the motor vehicle. The police department must, within three business days after receiving verification of ownership, notify by a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery, the last known registered owner of the motor vehicle and all lienholders of record that the vehicle has been taken into custody. The notice must do the following:

(i) Describe the year, make, model, and vehicle identification number of the abandoned, immobile, or unattended motor vehicle;

(ii) Stipulate the location of the facility where the motor vehicle is being held;

(iii) Inform the owner and any lienholders of the right to reclaim the motor vehicle within 20 days after the date of the notice, upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody; and

(iv) State that the failure of the owner or lienholder to exercise the right to reclaim the vehicle within the time provided is deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and consent to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction;

(21) Establishes that a police department is not required to comply with the notice procedure described under this heading if it provides preseizure notice to the owner of the motor vehicle and all lienholders of record that the vehicle has been found to be abandoned, immobile, or unattended;

(22) Requires that a preseizure notice be sent by a nationally recognized overnight delivery

carrier, other than the United States postal service, requesting proof of delivery, to the last known address of the owner of record and to all lienholders of record;

(23) Requires the preseizure notice to do the following:

(A) Be written in plain language;

(B) Contain the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable;

(C) Provide the location of the motor vehicle, and a statement advising the owner that the police department will take the abandoned, immobile, or unattended vehicle into custody in no less than 20 days, unless the owner appeals the determination by the police department that the vehicle is abandoned, immobile, or unattended or the owner removes the vehicle from the property within the twenty-day period;

(D) Inform the owner and any lienholders of the right to reclaim the motor vehicle after it is taken into custody but before it is sold or demolished, upon payment of all towing, preservation, storage, or other charges resulting from placing the vehicle in custody; and

(E) State that the failure of the owner or lienholders to exercise the right to reclaim the vehicle will be deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and consent to the demolition of the vehicle or its sale at a public auction;

(24) Provides that, if the owner or lienholder cannot be located through the exercise of due diligence, then requires the notice on the motor vehicle portal to be given as set out under this heading;

(25) Provides that, if the owner or lienholder of an abandoned, immobile, or unattended motor vehicle fails to appeal the determination that the vehicle is abandoned, immobile, or unattended or fails to remove the motor vehicle within 20 days from receipt of the preseizure notice, authorizes the police department to take the vehicle into custody;

(26) Provides that, if an appeal is made, prohibits the police department from taking the motor vehicle into custody while the appeal is pending;

(27) Establishes that without exception, failure to appeal within the specific time period

constitutes a waiver of the right of appeal;

(28) Provides that, if there is no response to the notice requesting proof of delivery, requires the police department to make notice within three business days of receipt of the delivery confirmation by posting the abandoned, immobile, or unattended motor vehicle on the motor vehicle portal;

(29) Establishes that the consequences and effect of failure to reclaim an abandoned, immobile, or unattended motor vehicle must be as described in a valid notice;

(30) Provides that, if the owner of a motor vehicle is not present at the time the motor vehicle is towed, then within 15 minutes of a person, firm, or entity towing the motor vehicle, requires such person, firm, or entity to notify local law enforcement of the vehicle identification number (VIN), registration information, license plate number, and description of the vehicle. A violation of this requirement is a Class B misdemeanor. A police department must keep a record of all information required by that the police department must make available for public inspection;

(31) Provides that, if an employee of a public agency, a towing company contracting with a public agency, or a towing company authorized to tow by a private property owner or the private property owner's authorized agent, takes possession of a motor vehicle found abandoned, immobile, or unattended, requires an employee of the agency to verify ownership through the Tennessee information enforcement system (TIES) and place the ownership information on the towing sheet or form. The agency must also provide the ownership information to a garagekeeper with whom the agency has a contract or to a towing company authorized to tow by a private property owner or private property owner's authorized agent, as applicable. If a public agency attempts to verify ownership information through TIES and the response is "Not on File," requires the agency to contact the department of revenue title and registration division, which must search records not contained in TIES for the ownership information. If the title and registration division locates ownership information through this search, requires the division to notify the appropriate public agency and the agency must distribute the information. When any other person takes possession of a motor vehicle found abandoned, immobile, or unattended, the action must be reported immediately to the taxpayer and vehicle services division for verification of ownership on a form prescribed and provided by the registrar of motor vehicles;

(32) Provides that, in addition to the notification requirements described under this

heading, requires a garagekeeper that has in its possession an abandoned, immobile, or unattended motor vehicle taken into custody by a police department or authorized by a private property owner or the private property owner's authorized agent to be towed, and in whose possession the motor vehicle was lawfully placed by the police department or authorized to be placed by a private property owner or the private property owner's authorized agent, to, within three business days after the motor vehicle is taken into its possession, verify ownership of the motor vehicle. The garagekeeper must, within three business days after receiving verification of ownership, provide notice to the last known registered owner of the motor vehicle and all lienholders of record. The notification requirements described under this heading apply to the notice required to be provided by a garagekeeper;

(33) Establishes that a garagekeeper that does not verify ownership of a motor vehicle within three business days after taking possession of the motor vehicle or that does not notify by requesting proof of delivery the owner of the motor vehicle within three business days after receiving verification of ownership from the appropriate state department or agency is not entitled to receive more than six days of storage-related expenses. A garagekeeper that is found by a court of competent jurisdiction to have failed to release a motor vehicle upon the presentment of payment for towing and storage expenses is subject to civil liability to the motor vehicle owner, secured creditor, lessor, or lienholder who prevails in an action brought under this heading for reasonable costs and attorney fees incurred by the person instituting the action;

(34) Provides that, if the owner of the motor vehicle or the owner's agent is present at the time a garagekeeper commences towing the owner's or agent's motor vehicle, establishes that the gatekeeper provisions described above do not apply to the garagekeeper; however, this does not exempt the garagekeeper from any other notification requirements under this heading or other provision of law;

AUCTIONS AND AUCTIONEERS

(35) Provides that, if an abandoned, immobile, or unattended motor vehicle has not been reclaimed, requires the police department to sell the abandoned, immobile, or unattended motor vehicle at a public auction;

(36) Establishes that the purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, must receive a sales receipt from the police department, and, upon presentation of the sales receipt, requires the department of

revenue to issue a certificate of title to the purchaser;

(37) Establishes that the sales receipt only is sufficient title for purposes of transferring the motor vehicle to a demolisher for demolition, wrecking, or dismantling, and, in this case, further titling of the motor vehicle is not necessary;

(38) Requires that the proceeds of the sale of an abandoned, immobile, or unattended motor vehicle be used for payment of the expenses of the auction, the costs of towing, preserving, and storing the abandoned, immobile, or unattended motor vehicle, and all notice and publication costs, including costs to post the motor vehicle on the motor vehicle portal, incurred pursuant to provisions under the heading "Notice and Penalty," above;

(39) Requires that any remainder from the proceeds of a sale be held for the owner of the motor vehicle or entitled lienholder for 60 days, and then must be deposited in a special fund that must remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs, including costs to post the motor vehicle on the motor vehicle portal, that result from placing other abandoned, immobile, or unattended vehicles in custody, whenever the proceeds from a sale of other abandoned, immobile, or unattended motor vehicles are insufficient to meet these expenses and costs;

GARAGEKEEPERS

(40) Authorizes the police department through its chief officer, after complying with the provisions under the heading "Notice and Penalty," above, to execute a written waiver of its right to sell a vehicle taken into custody under this act in favor of a garagekeeper in whose possession the vehicle was lawfully placed by the police department under this act. If a garagekeeper has made repairs to a vehicle for which a waiver has been executed, then the garagekeeper may proceed to enforce the lien. If the garagekeeper has not made repairs to a vehicle for which a waiver has been executed, then the garagekeeper may proceed to sell the vehicle;

(41) Establishes that as to third-party purchasers, the sale of the abandoned, immobile, or unattended vehicle is valid, but the garagekeeper must sell the vehicle in a commercially reasonable manner;

(42) Establishes that a person injured as a result of a violation of the provisions under this heading is entitled to maintain a private right of action for injunctive relief and to recover

actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator;

DEMOLISHERS

(43) Authorizes a person, firm, corporation, or unit of government, upon whose property or in whose possession is found an abandoned, immobile, or unattended motor vehicle, or a person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, to apply to the police department of the jurisdiction in which the vehicle is situated for authority to sell, give away, or dispose of the vehicle to a demolisher;

(44) Requires the application to set out the name and address of the applicant, the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable, together with any other identifying features, and to contain a concise statement of the facts surrounding the abandonment, or that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title. The applicant must execute an affidavit stating that the facts alleged therein are true and that no material fact has been withheld;

(45) Provides that, if the police department finds that the application is executed in proper form and shows that the motor vehicle has been abandoned, immobile, or unattended upon the property of the applicant or if it shows that the motor vehicle is not abandoned, immobile, or unattended but that the applicant appears to be the rightful owner, requires the police department to follow the notification procedures set forth under the heading "Notice and Penalty," above;

(46) Provides that, if an abandoned, immobile, or unattended motor vehicle is not reclaimed, requires the police department to give the applicant a certificate of authority to sell the motor vehicle to any demolisher for demolition, wrecking, or dismantling. The demolisher must accept the certificate in lieu of the certificate of title to the motor vehicle;

(47) Authorizes a person, firm, corporation, or unit of government upon whose property or in whose possession is found an abandoned, immobile, or unattended motor vehicle, or a person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, to dispose of the motor vehicle to a demolisher without that title and without the notification procedures of "Notice and Penalty," above, if the motor vehicle is over ten years old and has no engine or is otherwise totally inoperable;

(48) Provides that, if a vehicle does have an engine, and is properly licensed but otherwise

fits the description of this heading, requires such vehicle left on a public highway or street and pulled in at the direction of local or state law enforcement officials to be held at least ten days. If, at the end of that period, no claim has been received for the vehicle, then the vehicle may then be disposed of in accordance with this heading. This does not apply in counties with a metropolitan form of government, in which counties the authorization to dispose of a motor vehicle found abandoned, immobile, or unattended on a person, firm, or corporation's property, or which belongs to a person whose title certificate is faulty lost, or destroyed, remains in full force and effect;

DEMOLISHERS - SURRENDER OF CERTIFICATE OF TITLE OR AUCTION SALES RECEIPT FOR CANCELLATION - RECORDS

(49) Establishes that a demolisher who purchases or otherwise acquires a motor vehicle for purposes of wrecking, dismantling, or demolition is not required to obtain a certificate of title for the motor vehicle in the demolisher's name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher must surrender for cancellation the certificate of title or auction sales receipt. The taxpayer and vehicle services division must issue forms and rules governing the surrender of auction sales receipts and certificates of title as are appropriate;

(50) Requires a demolisher to keep an accurate and complete record of all motor vehicles purchased or received in the course of the demolisher's business. Such records must contain the name and address of the person from whom each motor vehicle was purchased or received and the date when the purchase or receipt occurred. The demolisher must make the records open for inspection by any police department at any time during normal business hours. Such a record must be kept by the demolisher for at least one year after the date of the transaction to which it applies;

TIME FOR TOWING

(51) Prohibits a vehicle from being towed without authorization by the owner of the vehicle until 12 hours have elapsed since it was first observed to be abandoned, immobile, or unattended unless the vehicle is creating a hazard, blocking access to public or private property, or parked illegally;

(52) Requires a tow truck operator to immediately release a motor vehicle that the operator has begun to tow but which has not left the parking area if the motor vehicle owner arrives and pays a release fee;

(53) Establishes that a violation under this heading is a Class B misdemeanor;

(54) Establishes that a violation of the provisions under this heading also constitutes a violation of the Tennessee Consumer Protection Act (TCPA) and an unfair or deceptive act or practice, subject to the penalties and remedies of the TCPA as well as this act;

(55) Establishes that the attorney general has all of the investigative and enforcement authority of the TCPA as relates to violations of this act. If the attorney general believes a person has violated this act, authorizes the attorney general to institute a proceeding under this act. Costs of any kind or nature must not be taxed against the attorney general or the state in actions commenced under this act;

EXPRESS WRITTEN AUTHORIZATION

(56) Provides that, in order for a garagekeeper to tow or store a vehicle, requires the garagekeeper to obtain an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, from the owner of the vehicle, or from the owner or the authorized agent of the owner, of the private property from which the vehicle is to be towed. The authorization must include all of the information required by state law relative to a garagekeeper's lien. In addition to any other penalty provided by this act or by state law relative to liens on vehicles, a violation under this heading is a Class B misdemeanor. This does not apply to new or used motor vehicle dealers;

TOWING FIRMS - REFERRAL - PENALTY

(57) Prohibits a towing firm from making, conferring, or offering any payment or other pecuniary benefit to an owner or manager of property from which the firm has towed a vehicle with the intent of rewarding the owner or manager for referring the vehicle for towing;

(58) Prohibits an owner or manager of property from which a towing firm has towed a vehicle from soliciting or receiving any payment or other pecuniary benefit from a towing firm in exchange for referring a vehicle for towing to the firm;

(59) Establishes that a violation under this heading is a Class B misdemeanor;

MOTOR VEHICLE PORTAL CREATED

(60) Requires the department of revenue to create and implement an electronic database or online platform that allows a police department to input abandoned, immobile, or unattended vehicle information for public notice to be made through the motor vehicle portal;

(61) Authorizes the department of revenue to charge a police department a fee to cover the cost of creating and administering the motor vehicle portal;

(62) Authorizes the commissioner of revenue to promulgate rules to effectuate the provisions under this heading;

FEES - PERIOD EXCEEDING 21 DAYS

(63) Prohibits a person engaged in the business of towing motor vehicles by tow truck or otherwise or the storing of such motor vehicles for any type of remuneration, whether as the principal business of the person or as an incidence to the person's principal business, from charging the owner or lienholder of a stored motor vehicle a storage fee for a period exceeding 21 days without the consent of the owner or lienholder, except as otherwise provided by this act;

(64) Prohibits a person engaged in a business described under this heading from charging a storage fee for any day on which the vehicle is not available for release to the owner, lienholder, or insurer, unless the failure to release is based on a hold placed on the vehicle by law enforcement;

(65) Provides that, upon provision of documentation from an insurer or lienholder showing its right to take custody of a vehicle, requires a person engaged in a business described under this heading to release the vehicle to the insurer or lienholder, or an authorized agent or representative for such insurer or lienholder, upon the insurer's or lienholder's payment of reasonable charges due, without requiring additional consent from the owner of the motor vehicle. The insurer or lienholder must indemnify and hold harmless the releasing person or entity from any action, cause of action, claim, judgment, loss, liability, damage, or cost that it may incur due to wrongful release of the motor vehicle to an authorized agent or representative of the insurer or lienholder;

FEES - PERIOD EXCEEDING 21 DAYS - NOTICE

(66) Authorizes a person engaged in the business of towing and storing motor vehicles to charge a storage fee for a period exceeding 21 days if the last known registered owner of the motor vehicle and all lienholders of record are notified using a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery, of the intent to charge a storage fee for a period to exceed 21 days. The notice must be given at least 10 days prior to the imposition of any additional storage fee;

TOWING AND STORAGE FEES

(67) Prohibits a person engaged in the business of towing motor vehicles by tow truck or otherwise or the storing of such motor vehicles for any type of remuneration, whether as the principal business of the person or incidental to the person's principal business, from charging a person for the towing or storage of a motor vehicle (i) a fee charged at a higher rate than the maximum fee that has been approved by the Tennessee highway patrol district to be charged for the same service by persons engaged in a business described under this heading that serve on the Tennessee highway patrol dispatch towing list; (ii) a gate, access, or release fee during normal business hours for any day during which daily storage is also being charged; or (iii) a release fee of more than $100;

GARAGEKEEPER'S LIEN

(68) Establishes that garagekeepers are entitled to a lien upon all motor vehicles that lawfully come into their possession and are retained in their possession until all reasonable charges due are paid. A garagekeeper may, after 30 days, enforce such lien in the manner prescribed for the enforcement of artisans' liens under state law; except, that the garagekeeper: (i) is only required to advertise the sale on the department of revenue website developed pursuant to this act; and (ii) must include the vehicle identification number (VIN), if it is ascertainable, in the notice and in the advertisement of the sale described in state law relative to artisans' liens;

(69) Provides that, if the motor vehicle, including any associated rental equipment, clearly identifies a rental vehicle company, the United States department of transportation (USDOT) number issued by the federal motor carrier safety administration (FMCSA), a registration plate issued and attached to the motor vehicle, or a registration plate issued and attached to a trailer, and a garagekeeper lawfully comes into possession of the vehicle and any associated equipment, requires the garagekeeper to notify the rental vehicle company, the owner of the motor vehicle identified by the USDOT number, or the owner

assigned to the registration plate issued and attached to the motor vehicle or a registration plate issued and attached to the trailer, at the address identified with the USDOT number, rental equipment information, or the vehicle's registration within three business days of taking possession of such vehicle or equipment using a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery;

(70) Requires the commissioner of commerce and insurance or the commissioner's designee to notify the commissioner of safety of violations under this heading. Upon receiving such notice, the commissioner of safety must suspend any contract that the state may have for towing services with the garagekeeper for a period of 60 days or notify the appropriate authority to suspend all such contracts with the state;

(71) Provides that, in addition to any other penalty provided for a violation of this heading, such a violation is also a violation of the TCPA and an unfair or deceptive act or practice affecting trade or commerce, and is subject to the penalties and remedies as provided in the TCPA, in addition to the penalties and remedies provided under this heading;

(72) Establishes that the attorney general has all of the investigative and enforcement authority that the attorney general has under the TCPA relating to alleged violations under this heading. The attorney general may institute any proceedings involving alleged violations of this act in Davidson County circuit or chancery court or any other venue otherwise permitted by law. Costs of any kind or nature must not be taxed against the attorney general or the state in actions commenced under this heading;

(73) Authorizes a rental vehicle company, the owner of the motor vehicle identified by the USDOT number, or the owner assigned to the registration plate issued and attached to the motor vehicle or a registration plate issued and attached to the trailer to seek relief under the TCPA, in addition to remedies provided under this heading;

(74) Prohibits a garagekeeper from collecting any storage or related fees for any period of time in which the garagekeeper was in violation of this heading with respect to a motor vehicle or associated equipment;

(75) Authorizes the commissioner of commerce and insurance to promulgate rules to effectuate this heading;

(76) Establishes that this heading does not apply to new or used motor vehicle dealers;

(77) Establishes that a person, firm, or entity does not have a right to a lien on a vehicle that has been towed in violation of state law. If the owner of the vehicle is not present, then within 15 minutes of a person, firm, or entity towing the vehicle pursuant to this act, the person, firm, or entity must notify local law enforcement of the VIN, registration information, license plate number, and description of the vehicle. A violation of this paragraph by a person, firm, or entity is a Class A misdemeanor. Local law enforcement must keep a record of such information, which must be available for public inspection;

(78) Establishes that any authorization made by a police department to tow a vehicle must be made in writing. Such authorization must include (i) the name of the officer giving authorization; (ii) the year, make, model, and color of the vehicle to be towed; (iii) the reason for the tow; (iv) the license plate number, if any; and (v) the VIN, if it is ascertainable;

(79) Requires the officer giving authorization to post a copy of the authorization with the vehicle and the copy of the authorization must remain with the vehicle until the vehicle is claimed by the owner;

(80) Establishes that person, firm, or entity, unless licensed and regulated under state law relative to vehicle sales, does not have a right to a lien against a lienor, who is also the seller of such motor vehicle or who retains title under a title retention or conditional sale agreement, for repairs in excess of $250 made on such motor vehicle, unless the person, firm, or entity making the repairs has received a written authorization from the lienor or seller to make such repairs on the motor vehicle; and

TCPA

(81) Adds to the TCPA that violations of the following are unfair or deceptive practices: (i) provisions under the heading "Booting and Towing Prohibited on Commercial Parking Lots"; (ii) provisions under the heading "Requirements of Commercial Parking Lots"; (iii) provisions under the heading "Time for Towing"; and (iv) state law relative to a garagekeeper's or towing firm's lien.

ON APRIL 22, 20240, THE HOUSE SUBSTITUTED SENATE BILL 1731 FOR HOUSE BILL 1731, ADOPTED AMENDMENTS #1 AND #2, AND PASSED SENATE BILL 1731, AS AMENDED.

AMENDMENT #1 rewrites the bill as follows:

(1) Removes from present law the following: (i) the unclaimed or abandoned vehicles

chapter of the motor and other vehicles title; (ii) the motor vehicle storage act; and (iii) the Tennessee Information Protection Act;

(2) Establishes the Modernization of Towing, Immobilization, and Oversight Normalization Act ("act");

BOOTING AND TOWING PROHIBITED ON COMMERCIAL PARKING LOTS

(3) Establishes that it is an offense for a commercial parking lot owner to boot or tow a motor vehicle located on the lot owner's lot if the motor vehicle is not an abandoned, immobile, or unattended motor vehicle;

(4) Establishes that it is not an offense for a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow motor vehicles located on the licensed parking lot if the licensed parking lot is located within the jurisdiction of a local government that has passed an ordinance pursuant to the bill and the licensed parking lot or licensed parking attendant boots or tows a motor vehicle in compliance with the ordinance;

(5) Establishes that a violation of the provisions under this heading constitutes a violation of the Tennessee Consumer Protection Act of 1977 (TCPA). A violation under this heading constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies as provided in the TCPA, in addition to any penalties and remedies established under the bill;

(6) Establishes that the attorney general has all of the investigative and enforcement authority that the attorney general has under the TCPA relating to alleged violations of the bill. If the attorney general and reporter reasonably believes that a person has violated the bill, then the attorney general and reporter may institute a proceeding under this heading. Costs of any kind or nature must not be taxed against the attorney general and reporter or the state in actions commenced under the bill;

(7) In addition to the remedies described under this heading, establishes that a person injured as a result of a violation under this heading is entitled to maintain a private right of action for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator;

BOOTING PROHIBITED GENERALLY AND OF MOTOR VEHICLES IDENTIFIED BY USDOT

NUMBER

(8) Establishes that it is an offense for a person, other than a licensed parking attendant, to knowingly boot a motor vehicle in this state;

(9) Establishes that it is an offense for a person to knowingly boot a motor vehicle in this state, whether on a commercial or private parking lot, if the motor vehicle is clearly identifiable by (i) a U.S. department of transportation (USDOT) number issued by the federal motor carrier safety administration (FMCSA); (ii) a registration plate issued and attached to the motor vehicle; or (iii) a registration plate issued and attached to a trailer;

(10) Establishes that a violation under this heading is a Class B misdemeanor, and a violation for a second or subsequent offense is a Class A misdemeanor;

LOCAL OPTION

(11) If, after the effective date of this act, a local government passes an ordinance specifically opting to be governed under this heading, permits the local government to permit a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow on the licensed parking lot if the ordinance complies with the minimum requirements, as follows:

(A) Requires the annual licensure of the commercial parking lot owner as a licensed parking lot and the issuance of a license number to the licensed parking lot;

(B) Specifies in the annual licensure whether the licensure permits the licensed parking lot to boot, tow, or both boot and tow;

(C) Requires the annual licensure of any employee authorized by the licensed parking lot to boot or tow from the lot as a licensed parking attendant and issue a license number and photo identification from the local government to the licensed parking attendant;

(D) Prohibits any person from booting or towing a motor vehicle on a licensed parking lot except by a licensed parking attendant licensed by the local government pursuant to (3) above;

(E) Requires licensed parking attendants licensed pursuant to (3) above to (i) prominently display the photo identification issued by the local government on the licensed parking

attendant's person at all times when the licensed parking attendant is on duty and available to boot or tow a motor vehicle located on a licensed parking lot; and (ii) wear a distinctive uniform identifying the licensed parking attendant as an employee of the licensed parking lot at all times when the licensed parking attendant is on duty and available to boot or tow a motor vehicle located on the licensed parking lot;

(F) Requires a licensed parking lot and licensed parking attendant to accept credit cards and debit cards as methods of payment for the removal of a vehicle immobilization device from a motor vehicle;

(G) Requires a licensed parking lot to maintain a phone number that is monitored by a natural person 24 hours per day, seven days per week;

(H) Requires a licensed parking lot to post signage at the terminal end of each parking spot that is subject to being booted or towed bearing notice of the following:

(i) That the parking policy for the property is strictly enforced;

(ii) That a violator's vehicle will be (a) immobilized with a vehicle immobilization device with the owner of the vehicle having to pay to have the device removed, if the licensed parking lot has been licensed by the local government to boot vehicles; (b) towed at the owner's expense, if the licensed parking lot has been licensed by the local government to tow vehicles; or (c) both, if the licensed parking lot has been licensed by the local government to boot and tow vehicles;

(iii) Of the name of the licensed parking lot, the licensed parking lot registration number issued by the local government, and phone number; and

(iv) That the bill protects consumers from booting and towing violations and that violations may be reported to the attorney general and reporter and the phone number for the enforcement division of the local government;

(I) Requires that the signage required by (8) be no less than 24 inches in height and 18 inches in width and contain lettering that is no less than two inches in height and be viewable from the driver's seat of an average motor vehicle parked in the parking spot;

(J) Requires that immediately upon booting a vehicle, the licensed parking attendant must place a notice conspicuously displayed on the windshield of the motor vehicle

immediately in front of the driver's seat indicating (i) that a vehicle immobilization device has been installed on the motor vehicle and that damage could occur if the vehicle is moved without first removing the vehicle immobilization device; (ii) the information in (8)(C) and(D); (iii) the name, license number issued by the local government, and direct contact number for the licensed parking attendant who has booted the motor vehicle; and

(iv) the date and time that the vehicle immobilization device was installed on the motor vehicle;

(K) Requires a licensed parking lot to pay for any damage done to a motor vehicle if the notice required is not posted;

(L) Requires a licensed parking lot to have a licensed parking attendant arrive at the licensed parking lot within 30 minutes of a call requesting the removal of a vehicle immobilization device and immediately remove the device upon satisfactory payment of any parking fee and vehicle immobilization device removal fee;

(M) Prohibits a licensed parking lot from charging a vehicle immobilization device removal fee of greater than $75;

(N) Prohibits a licensed parking lot from charging any fee to remove a vehicle immobilization device to a person who had paid to park and who was improperly booted by the licensed parking lot or a licensed parking attendant; and

(O) Provides for the revocation of any license issued pursuant to the ordinance for violations of the ordinance or the bill;

(12) Establishes that the provisions under this heading do not prohibit a local government from passing an ordinance with requirements that are stricter than the minimum requirements in (A)-(O), above;

(13) Establishes that the provisions under this heading do not prohibit a local government from booting a motor vehicle that is located on public property; however, if the local government boots a motor vehicle on public property, then the local government must immediately, upon booting the motor vehicle, place a notice conspicuously displayed on the windshield of the motor vehicle immediately in front of the driver's seat indicating (i) that a vehicle immobilization device has been installed on the motor vehicle and that damage could occur if the vehicle is moved without first removing the vehicle

immobilization device; (ii) the name of the local government official who booted the motor vehicle; (iii) the date and time the motor vehicle was booted; and (iv) the contact number the owner of the motor vehicle must call to have the vehicle immobilization device removed from the vehicle;

REQUIREMENTS OF COMMERCIAL PARKING LOTS

(14) Prohibits a commercial parking lot owner in this state from doing the following:

(A) Utilizing an automatic license plate reader to enforce the lot owner's parking requirements without first posting a sign that (i) contains red lettering that is no less than six inches in height displayed on a white background; (ii) contains the language "LICENSE PLATE READER IN USE"; and (iii) is located at each designated entrance to the property, or, if there is no designated entrance, is erected in a place that is clearly visible from each parking space; and

(B) Charging a penalty for non-payment of parking fees for a first violation in excess of the actual cost of the unpaid cost to park; however, a commercial parking lot owner may charge a late fee of up to $50 in addition to the actual cost of the unpaid cost to park if the actual cost of the unpaid cost to park is not paid within 30 calendar days;

(15) Establishes that a violation under this heading constitutes a violation of the TCPA;

(16) Establishes that a violation under this heading constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies as provided in the TCPA, in addition to any penalties and remedies established under the bill;

(17) Establishes that the attorney general has all of the investigative and enforcement authority that the attorney general and reporter has under the TCPA relating to alleged violations of the bill. If the attorney general reasonably believes that a person has violated the bill, authorizes the attorney general to institute a proceeding under this heading. Costs of any kind or nature must not be taxed against the attorney general or the state in actions commenced under the bill;

(18) In addition to the remedies provides under this heading, establishes that a person injured as a result of a violation under this heading is entitled to maintain a private right of action for injunctive relief and to recover compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator;

UNCLAIMED OR ABANDONED VEHICLES

(19) Authorizes a police department to take into custody a motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; however, a motor vehicle used in curbstoning on residential property must not be taken into custody unless the police department provides notice on the motor vehicle at least 48 hours prior to the seizure;

(20) Authorizes a police department to employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing motor vehicles that are abandoned, immobile, unattended, or used in curbstoning;

(21) Establishes that any motor vehicle used in curbstoning is subject to seizure and forfeiture in the same manner as provided by law for seizure and forfeiture of other items under state law;

(22) Establishes that the provisions under this heading do not limit a local government's initiative for more restrictive requirements regarding the sale of curbstoned vehicles;

NOTICE AND PENALTY

(23) Requires a police department that takes into custody an abandoned, immobile, or unattended motor vehicle, to, within three business days after taking the motor vehicle into custody, verify ownership of the motor vehicle. The police department must, within three business days after receiving verification of ownership, notify by a nationally recognized overnight delivery carrier, other than the USPS, requesting proof of delivery, the last known registered owner of the motor vehicle and all lienholders of record that the vehicle has been taken into custody. The notice must do the following:

(A) Describe the year, make, model, and vehicle identification number of the abandoned, immobile, or unattended motor vehicle;

(B) Stipulate the location of the facility where the motor vehicle is being held;

(C) Inform the owner and any lienholders of the right to reclaim the motor vehicle within (20 days after the date of the notice, upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody; and

(D) State that the failure of the owner or lienholder to exercise the right to reclaim the vehicle within the time provided is deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and consent to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction;

(24) Establishes that a police department is not required to comply with (A)-(D) under this heading if it provides preseizure notice to the owner of the motor vehicle and all lienholders of record that the vehicle has been found to be abandoned, immobile, or unattended.

(25) Requires that a preseizure notice be sent by a nationally recognized overnight delivery carrier, other than the USPS, requesting proof of delivery, to the last known address of the owner of record and to all lienholders of record;

(26) Requires the preseizure notice to comply with the following:

(A) Be written in plain language;

(B) Contain the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable;

(C) Provide the location of the motor vehicle, and a statement advising the owner that the police department will take the abandoned, immobile, or unattended vehicle into custody in no less than 20 days, unless the owner appeals the determination by the police department that the vehicle is abandoned, immobile, or unattended or the owner removes the vehicle from the property within the twenty-day period;

(D) Inform the owner and any lienholders of the right to reclaim the motor vehicle after it is taken into custody but before it is sold or demolished, upon payment of all towing, preservation, storage, or other charges resulting from placing the vehicle in custody; and

(E) State that the failure of the owner or lienholders to exercise the right to reclaim the vehicle will be deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and consent to the demolition of the vehicle or its sale at a public auction;

(27) If the owner or lienholder cannot be located through the exercise of due diligence, requires the police department to make notice within three business days of receipt of the

delivery confirmation by posting the abandoned, immobile, or unattended motor vehicle on the motor vehicle portal;

(28) If the owner or lienholder of an abandoned, immobile, or unattended motor vehicle fails to appeal the determination that the vehicle is abandoned, immobile, or unattended or fails to remove the motor vehicle within 20 days from receipt of the preseizure notice, authorizes the police department to take the vehicle into custody;

(29) If an appeal is made, prohibits the police department from taking the motor vehicle into custody while the appeal is pending;

(30) Establishes that, without exception, failure to appeal within the specific time period constitutes a waiver of the right of appeal;

(31) If there is no response to the notice requesting proof of delivery, requires the police department to make notice within three business days of receipt of the delivery confirmation by posting the abandoned, immobile, or unattended motor vehicle on the motor vehicle portal;

(32) Requires that the consequences and effect of failure to reclaim an abandoned, immobile, or unattended motor vehicle be as described in a valid notice;

(33) If the owner of a motor vehicle is not present at the time the motor vehicle is towed, then within 15 minutes of a person, firm, or entity towing the motor vehicle, requires such person, firm, or entity to notify local law enforcement of the vehicle identification number (VIN), registration information, license plate number, and description of the vehicle. A violation of this requirement is a Class B misdemeanor. A police department must keep a record of all information required, that the police department must make available for public inspection;

(34) If an employee of a public agency, a towing company contracting with a public agency, or a towing company authorized to tow by a private property owner or the private property owner's authorized agent, takes possession of a motor vehicle found abandoned, immobile, or unattended, requires an employee of the agency to verify ownership through the Tennessee information enforcement system (TIES) and place the ownership information on the towing sheet or form. The agency must also provide the ownership information to a garagekeeper with whom the agency has a contract or to a towing company authorized to tow by a private property owner or private property owner's

authorized agent, as applicable. If a public agency attempts to verify ownership information through TIES and the response is "Not on File," then the agency must contact the department of revenue title and registration division, which must search records not contained in TIES for the ownership information. If the title and registration division locates ownership information through this search, then the division must notify the appropriate public agency and the agency must distribute the information. When any other person takes possession of a motor vehicle found abandoned, immobile, or unattended, the action must be reported immediately to the taxpayer and vehicle services division for verification of ownership on a form prescribed and provided by the registrar of motor vehicles;

(35) In addition to the other notification requirements described under this heading, requires a garagekeeper that has in its possession an abandoned, immobile, or unattended motor vehicle taken into custody by a police department or authorized by a private property owner or the private property owner's authorized agent to be towed, and in whose possession the motor vehicle was lawfully placed by the police department or authorized to be placed by a private property owner or the private property owner's authorized agent, to, within three business days after the motor vehicle is taken into its possession, verify ownership of the motor vehicle. The garagekeeper must, within three business days after receiving verification of ownership, provide notice to the last known registered owner of the motor vehicle and all lienholders of record. The other notification requirements listed under this heading apply to the notice required to be provided by a garagekeeper;

(36) Establishes that a garagekeeper that does not verify ownership of a motor vehicle within three business days after taking possession of the motor vehicle or that does not notify by requesting proof of delivery in the manner required under this heading the owner of the motor vehicle within three business days after receiving verification of ownership from the appropriate state department or agency, is not entitled to receive more than six days of storage-related expenses. A garagekeeper that is found by a court of competent jurisdiction to have failed to release a motor vehicle upon the presentment of payment for towing and storage expenses is subject to civil liability to the motor vehicle owner, secured creditor, lessor, or lienholder who prevails in an action brought under this heading for reasonable costs and attorney fees incurred by the person instituting the action;

(37) Establishes that if the owner of the motor vehicle or the owner's agent is present at the time a garagekeeper commences towing the owner's or agent's motor vehicle, then the provisions under this heading relative to garagekeepers do not apply to the garagekeeper;, however, this does not exempt the garagekeeper from any other notification requirements

under this heading or other provision of law;

AUCTIONS AND AUCTIONEERS

(38) If an abandoned, immobile, or unattended motor vehicle has not been reclaimed as provided under the heading "Notice and Penalty," requires the police department to sell the abandoned, immobile, or unattended motor vehicle at a public auction;

(39) Establishes that the purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, and must receive a sales receipt from the police department, and, upon presentation of the sales receipt, the department of revenue must issue a certificate of title to the purchaser;

(40) Establishes that the sales receipt only is sufficient title for purposes of transferring the motor vehicle to a demolisher for demolition, wrecking, or dismantling, and, in this case, further titling of the motor vehicle is not necessary;

(41) Requires that the proceeds of the sale of an abandoned, immobile, or unattended motor vehicle be used for payment of the expenses of the auction, the costs of towing, preserving, and storing the abandoned, immobile, or unattended motor vehicle, and all notice and publication costs, including costs to post the motor vehicle on the motor vehicle portal;

(42) Requires that any remainder from the proceeds of a sale be held for the owner of the motor vehicle or entitled lienholder for 60 days, and then be deposited in a special fund that must remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs, including costs to post the motor vehicle on the motor vehicle portal, that result from placing other abandoned, immobile, or unattended vehicles in custody, whenever the proceeds from a sale of other abandoned, immobile, or unattended motor vehicles are insufficient to meet these expenses and costs;

GARAGEKEEPERS

(43) Authorizes the police department through its chief officer, after complying "Notice and Penalty," above, to execute a written waiver of its right to sell a vehicle taken into custody in favor of a garagekeeper in whose possession the vehicle was lawfully placed by the police department. If a garagekeeper has made repairs to a vehicle for which a waiver has been executed, then the garagekeeper may proceed to enforce the lien as provided in state law.

If the garagekeeper has not made repairs to a vehicle for which a waiver has been executed, then the garagekeeper may proceed to sell the vehicle in accordance with the procedure established under the heading "Auctions and Auctioneers";

(44) As to third-party purchasers, the sale of the abandoned, immobile, or unattended vehicle is valid, but requires the garagekeeper to sell the vehicle in a commercially reasonable manner. A person injured as a result of a violation of is entitled to maintain a private right of action for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator;

DEMOLISHERS

(45) Authorizes a person, firm, corporation, or unit of government, upon whose property or in whose possession is found an abandoned, immobile, or unattended motor vehicle, or a person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, to apply to the police department of the jurisdiction in which the vehicle is situated for authority to sell, give away, or dispose of the vehicle to a demolisher;

(46) Requires the application to set out the name and address of the applicant, the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable, together with any other identifying features, and contain a concise statement of the facts surrounding the abandonment, or that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title. The applicant must execute an affidavit stating that the facts alleged therein are true and that no material fact has been withheld;

(47) If the police department finds that the application is executed in proper form and shows that the motor vehicle has been abandoned, immobile, or unattended upon the property of the applicant or if it shows that the motor vehicle is not abandoned, immobile, or unattended but that the applicant appears to be the rightful owner, requires the police department to follow the notification procedures set forth under the heading "Notice and Penalty";

(48) If an abandoned, immobile, or unattended motor vehicle is not reclaimed in accordance with "Notice and Penalty," requires the police department to give the applicant a certificate of authority to sell the motor vehicle to any demolisher for demolition, wrecking, or dismantling. The demolisher must accept the certificate in lieu of the certificate of title to the motor vehicle;

(49) Authorizes a person, firm, corporation, or unit of government upon whose property or in whose possession is found an abandoned, immobile, or unattended motor vehicle, or a person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, to dispose of the motor vehicle to a demolisher without that title and without the notification procedures under "Notice and Penalty," if the motor vehicle is over 10 years old and has no engine or is otherwise totally inoperable; and

(50) If a vehicle does have an engine, and is properly licensed but otherwise fits the description under this heading, requires such vehicle left on a public highway or street and pulled in at the direction of local or state law enforcement officials to be held at least 10 days. If, at the end of that period, no claim has been received for the vehicle, then the vehicle may then be disposed of in accordance with the provisions under this heading. This does not apply in counties with a metropolitan form of government, in which counties (49) remains in full force and effect;

DEMOLISHERS - SURRENDER OF CERTIFICATE OF TITLE OR RECEIPT - RECORDS

(51) Establishes that a demolisher who purchases or otherwise acquires a motor vehicle for purposes of wrecking, dismantling, or demolition is not required to obtain a certificate of title for the motor vehicle in the demolisher's name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher must surrender for cancelation the certificate of title or auction sales receipt. The taxpayer and vehicle services division must issue forms and rules governing the surrender of auction sales receipts and certificates of title as are appropriate;

(52) Requires a demolisher to keep an accurate and complete record of all motor vehicles purchased or received in the course of the demolisher's business. Such records must contain the name and address of the person from whom each motor vehicle was purchased or received and the date when the purchase or receipt occurred. The demolisher must make the records open for inspection by any police department at any time during normal business hours. A record required under this heading must be kept by the demolisher for at least one year after the date of the transaction to which it applies;

TIME FOR TOWING

(53) Prohibits a vehicle from being towed without authorization by the owner of the vehicle until 12 hours have elapsed since it was first observed to be abandoned, immobile, or unattended unless the vehicle is creating a hazard, blocking access to public or private

property, or parked illegally;

(54) Requires a tow truck operator to immediately release a motor vehicle that the operator has begun to tow but which has not left the parking area if the motor vehicle owner arrives and pays a release fee;

(55) Establishes that a violation under this heading is a Class B misdemeanor;

(56) In addition to any other penalty provided for under this heading, a violation under this heading is also a violation of the TCPA. Such a violation constitutes an unfair or deceptive act or practice affecting trade or commerce, and is subject to the penalties and remedies as provided in the TCPA;

(57) Establishes that the attorney general has all of the investigative and enforcement authority that the attorney general has under the TCPA relating to violations under this heading. The attorney general may institute any proceedings involving alleged violations of the bill in Davidson County circuit or chancery court or any other venue otherwise permitted by law. Costs of any kind or nature must not be taxed against the attorney general or the state in actions commenced under this heading;

EXPRESS WRITTEN AUTHORIZATION

(58) In order for a garagekeeper to tow or store a vehicle, requires the garagekeeper to obtain an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, from the owner of the vehicle, or from the owner or the authorized agent of the owner, of the private property from which the vehicle is to be towed. The authorization must include all of the information required by state law on garagekeeper's liens. In addition to any other penalty provided by the bill or state law relative to liens on vehicles, a violation under this heading is a Class B misdemeanor;

(59) Establishes that this heading and a garagekeeper's lien under present law do not apply to new or used motor vehicle dealers licensed under state law;

TOWING FIRMS - REFERRAL - PENALTY

(60) Prohibits a towing firm from making, conferring, or offering any payment or other pecuniary benefit to an owner or manager of property from which the firm has towed a vehicle with the intent of rewarding the owner or manager for referring the vehicle for

towing;

(61) Prohibits an owner or manager of property from which a towing firm has towed a vehicle from soliciting or receiving any payment or other pecuniary benefit from a towing firm in exchange for referring a vehicle for towing to the firm;

(62) Establishes that a violation under this heading is a Class B misdemeanor;

MOTOR VEHICLE PORTAL CREATED

(63) Requires he department of revenue to create and implement an electronic database or online platform that, on and after July 1, 2025, allows a police department or another user to input abandoned, immobile, or unattended vehicle information for public notice to be made through the motor vehicle portal;

(64) On and after July 1, 2025, authorizes the department of revenue to charge a police department or another user of the portal a fee to cover the cost of creating and administering the motor vehicle portal created pursuant to the bill;

(65) Authorizes the commissioner of revenue to promulgate rules to effectuate the bill;

FEES - PERIOD EXCEEDING 21 DAYS

(66) Prohibits a person engaged in the business of towing motor vehicles by tow truck or otherwise or the storing of such motor vehicles for any type of remuneration, whether as the principal business of the person or as an incidence to the person's principal business, from charging the owner or lienholder of a stored motor vehicle a storage fee for a period exceeding 21 days without the consent of the owner or lienholder, except as otherwise provided under the heading "Fees - Period Exceeding 21 Days - Notice," below;

(67) Prohibits such a person engaged in a business from charging a storage fee for any day on which the vehicle is not available for release to the owner, lienholder, or insurer, unless the failure to release is based on a hold placed on the vehicle by law enforcement;

(68) Upon provision of documentation from an insurer or lienholder showing its right to take custody of a vehicle, requires a person engaged in a business described under this heading to release the vehicle to the insurer or lienholder, or an authorized agent or representative for such insurer or lienholder, upon the insurer's or lienholder's payment of reasonable

charges due, without requiring additional consent from the owner of the motor vehicle. The insurer or lienholder must indemnify and hold harmless the releasing person or entity from any action, cause of action, claim, judgment, loss, liability, damage, or cost that it may incur due to wrongful release of the motor vehicle to an authorized agent or representative of the insurer or lienholder;

FEES - PERIOD EXCEEDING 21 DAYS - NOTICE

(69) Authorizes a person engaged in the business of towing and storing motor vehicles to charge a storage fee for a period exceeding 21 days if the last known registered owner of the motor vehicle and all lienholders of record are notified using a nationally recognized overnight delivery carrier, other than the USPS, requesting proof of delivery, of the intent to charge a storage fee for a period to exceed 21 days. The notice must be given at least 10 days prior to the imposition of any additional storage fee;

TOWING AND STORAGE FEES

(70) Prohibits a person engaged in the business of towing motor vehicles by tow truck or otherwise or the storing of such motor vehicles for any type of remuneration, whether as the principal business of the person or incidental to the person's principal business, from charging a person for the towing or storage of a motor vehicle (i) a fee charged at a higher rate than the maximum fee that has been approved by the Tennessee highway patrol district to be charged for the same service by persons engaged in a business described in the bill; (ii) a gate, access, or release fee during normal business hours for any day during which daily storage is also being charged; or (iii) a release fee of more than one hundred dollars $100;

GARAGEKEEPER'S OR TOWING FIRM'S LIEN

(71) Replaces the present law relative to a garagekeeper's or towing firm's lien as follows:

(A) Establishes that garagekeepers are entitled to a lien upon all motor vehicles that lawfully come into their possession and are retained in their possession until all reasonable charges due are paid. A garagekeeper may, after 30 days, enforce such lien in the manner prescribed for the enforcement of artisans' liens under state law; except, that the garagekeeper (i) is only required to advertise the sale on the department of revenue website developed pursuant the bill; and (ii) must include the vehicle identification number (VIN), if it is ascertainable, in the notice required and in the advertisement of the sale;

(B) If the motor vehicle, including any associated rental equipment, clearly identifies a rental vehicle company, the USDOT number issued by the FMCSA, a registration plate issued and attached to the motor vehicle, or a registration plate issued and attached to a trailer, and a garagekeeper lawfully comes into possession of the vehicle and any associated equipment, requires the garagekeeper to notify the rental vehicle company, the owner of the motor vehicle identified by the USDOT number, or the owner assigned to the registration plate issued and attached to the motor vehicle or a registration plate issued and attached to the trailer, at the address identified with the USDOT number, rental equipment information, or the vehicle's registration within three business days of taking possession of such vehicle or equipment using a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery;

(C) Requires the commissioner of commerce and insurance or the commissioner's designee to notify the commissioner of safety of violations under this heading. Upon receiving such notice, the commissioner of safety must suspend any contract that the state may have for towing services with the garagekeeper for a period of 60 days or notify the appropriate authority to suspend all such contracts with the state;

(D) In addition to any other penalty provided for a violation under this heading, a violation of (A) under this heading is also a violation of the TCPA. A violation of (1) under this heading constitutes an unfair or deceptive act or practice affecting trade or commerce, and is subject to the penalties and remedies as provided in the TCPA, in addition to the penalties and remedies provided under this heading;

(E) Establishes that the attorney general has all of the investigative and enforcement authority that the attorney general and reporter has under the TCPA relating to alleged violations under this heading. The attorney general and reporter may institute any proceedings involving alleged violations of the bill in Davidson County circuit or chancery court or any other venue otherwise permitted by law. Costs of any kind or nature must not be taxed against the attorney general and reporter or the state in actions commenced under this heading;

(F) Authorizes a rental vehicle company, the owner of the motor vehicle identified by the USDOT number, or the owner assigned to the registration plate issued and attached to the motor vehicle or a registration plate issued and attached to the trailer to seek relief under the TCPA, in addition to remedies provided under this heading;

(G) Prohibits a garagekeeper from collecting any storage or related fees for any period of time in which the garagekeeper was in violation of (A) with respect to a motor vehicle or associated equipment;

(H) Authorizes the commissioner of commerce and insurance to promulgate rules to effectuate the bill;

(I) Establishes that the provisions under this heading do not apply to new or used licensed motor vehicle dealers;

(J) Establishes that a person, firm, or entity does not have a right to a lien on a vehicle that has been towed in violation of state law. If the owner of the vehicle is not present, then within 15 minutes of a person, firm, or entity towing the vehicle pursuant to the bill, the person, firm, or entity must notify local law enforcement of the VIN, registration information, license plate number, and description of the vehicle. A violation of this (7) by a person, firm, or entity is a Class A misdemeanor. Local law enforcement must keep a record of such information, which must be available for public inspection;

(K) Requires that any authorization made by a police department to tow a vehicle must be in writing. Such authorization must include (i) the name of the officer giving authorization; (ii) the year, make, model, and color of the vehicle to be towed; (iii) the reason for the tow; (iv) the license plate number, if any; and (v) the VIN, if it is ascertainable;

(L) Requires the officer giving authorization to post a copy of the authorization with the vehicle and the copy of the authorization must remain with the vehicle until the vehicle is claimed by the owner; and

(M) Establishes that a person, firm, or entity, unless licensed and regulated under state law relative to motor vehicle sales licenses does not have a right to a lien against a lienor, who is also the seller of such motor vehicle or who retains title under a title retention or conditional sale agreement, for repairs in excess of $250 made on such motor vehicle, unless the person, firm, or entity making the repairs has received a written authorization from the lienor or seller to make such repairs on the motor vehicle;

UNFAIR OR DECEPTIVE PRACTICES PROHIBITED

(72) Establishes that a violation of state law relative to forms of payment to be accepted by a company and posting of signage is not an unfair or deceptive practice; and

(73) Establishes that violations of the following are unfair and deceptive practices: (i) the provisions under the heading "Booting and Towing Prohibited on Commercial Parking lots"; (ii) the provisions under the heading "Requirements of Commercial Parking Lots"; (iii) the provisions under the heading "Time for Towing"; and (iv) present law relative to a garagekeeper's or towing firm's lien.

AMENDMENT #2 makes the following changes:

(1) Adds to the definition of an "abandoned motor vehicle" by providing that an "abandoned motor vehicle" also means a motor vehicle that has remained on private residential property without the consent of the owner or person in control of the property;

(2) Revises the provision in the bill that defines an "automatic license plate reader" to mean one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of license plates into computer-readable data by, instead, defining an "automatic license plate reader" to mean one or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of vehicles or license plates into computer-readable data that can be used to determine the ownership of a motor vehicle;

(3) Revises the provision in the bill that defines a "licensed parking lot" to mean a commercial parking lot licensed by a local government by, instead, defining a "licensed parking lot" to mean a commercial parking lot owner licensed by a local government;

(4) Revises the provision in the bill requiring a licensed parking lot to post signage at the terminal end of each parking spot that is subject to being booted or towed bearing notice (i) that the parking policy for the property is strictly enforced; (ii) that a violator's vehicle will be immobilized with a vehicle immobilization device with the owner of the vehicle having to pay to have the device removed, if the licensed parking lot has been licensed by the local government to boot vehicles, towed at the owner's expense, if the licensed parking lot has been licensed by the local government to tow vehicles, or both, if the licensed parking lot has been licensed by the local government to boot and tow vehicles; (iii) of the name of the licensed parking lot, the licensed parking lot registration number issued by the local government, and the phone number of the licensed parking lot; and (iv) that the bill protects consumers from booting and towing violations and that violations may be reported to the attorney general and reporter and the phone number for the enforcement division of the local government by, instead, requiring a licensed parking lot to post signage

in conspicuous locations on the property bearing the notice mentioned in (i)-(iv) above;

(5) Revises the provision requiring that the signage required by (4) above be no less than 24 inches in height and 18 inches in width and contain lettering that is no less than two inches in height and be viewable from the driver's seat of an average motor vehicle parked in the parking spot by, instead, requiring the signage required by (4) above be no less than 36 inches in height and 24 inches in width and contain lettering that is no less than two inches in height and be located at each designated entrance to the property where parking prohibitions are to be effective, if a dedicated entrance to the licensed parking lot exists, and be erected so as to be clearly visible from each parking space;

(6) Revises the provision in the bill requiring that immediately upon booting a vehicle, the licensed parking attendant must place a notice conspicuously displayed on the windshield of the motor vehicle immediately in front of the driver's seat by, instead, requiring that immediately upon booting a vehicle, the licensed parking attendant must place a notice conspicuously displayed on the driver's side window of the motor vehicle immediately in front of the driver's seat;

(7) Revises the provision of the bill requiring a licensed parking lot to have a licensed parking attendant arrive at the licensed parking lot within 30 minutes of a call requesting the removal of a vehicle immobilization device and immediately remove the device upon satisfactory payment of any parking fee and vehicle immobilization device removal fee by, instead, requiring the licensed parking attendant to arrive at the licensed parking lot within 45 minutes;

(8) Revises the provision in the bill providing that the bill does not prohibit a local government from booting a motor vehicle that is located on public property. However, if the local government boots a motor vehicle on public property, then the local government must immediately, upon booting the motor vehicle, place a notice conspicuously displayed on the windshield of the motor vehicle immediately in front of the driver's seat by, instead, requiring the local government to immediately, upon booting the motor vehicle, place a notice conspicuously displayed on the driver's side window of the motor vehicle immediately in front of the driver's seat;

(9) Requires a local ordinance passed pursuant to the bill to, at a minimum require that all active parking rates must be available online and provided to consumers digitally at the licensed parking lot;

(10) Revises the provision in the bill prohibiting a commercial parking lot owner in this state from utilizing an automatic license plate reader to enforce the lot owner's parking requirements without first posting a sign that (i) contains red lettering that is no less than six inches in height displayed on a white background; (ii) contains the language "LICENSE PLATE READER IN USE"; and (iii) is located at each designated entrance to the property, or if there is no designated entrance, is erected in a place that is clearly visible from each parking space by, instead, prohibiting a commercial parking lot owner in this state from utilizing an automatic license plate reader to enforce the lot owner's parking requirements without first posting signage that: (i) contains red lettering that is no less than six inches in height displayed on a white background; (ii) contains the language "LICENSE PLATE READER IN USE"; (iii) is located at each designated entrance to the property, if a dedicated entrance to the commercial parking lot exists; and (iv) is erected so as to be clearly visible from each parking space;

(11) Revises the provision in the bill that prohibits a commercial parking lot owner in this state from charging a penalty for non-payment of parking fees for a first violation in excess of the actual cost of the unpaid cost to park. However, a commercial parking lot owner may charge a late fee of up to $50 in addition to the actual cost of the unpaid cost to park if the actual cost of the unpaid cost to park is not paid within 30 calendar days by, instead, prohibiting a commercial parking lot owner from charging a penalty for non-payment of parking fees unless:

(A) The commercial parking lot posts signage that (i) contains red lettering that is no less than six inches in height displayed on a white background; (ii) provides notice that motor vehicle owners who leave the commercial parking lot without paying parking fees will be subject to a late fee if the parking fees are not paid within 72 hours; and (iii) is located at each designated exit of the commercial parking lot;

(B) The actual cost of parking owed remains unpaid after 72 hours from the time the motor vehicle exited the commercial parking lot; and

(C) (i) If the actual cost of parking owed remains unpaid for 30 days or less from the time the motor vehicle exited the commercial parking lot, the fee is not greater than $50; or (ii) if the actual cost of parking owed remains unpaid for greater than 30 days from time the motor vehicle exited the commercial parking lot, the fee is not greater than $75; and

(12) Requires all revenues received from the fees to be earmarked and used for the administration and maintenance of the motor vehicle portal. All funds generated pursuant

to the provisions relevant to the motor vehicle portal must be deposited into a special account earmarked solely for the purposes set forth in such provisions and any unexpended funds do not revert to the general fund and must be held in the account for use in accordance with this such provisions.

RS 22:1292

§1292. Towing and storage of motor vehicles; insurance policies; storage fees; exceptions

A. A motor vehicle insurance policy shall not be construed to allow an insurer to assume or accede to the legal title of a motor vehicle without assuming credit obligations of the insured owner of the motor vehicle for charges for towing and storage services associated with the incident from which the insurance coverage arises. Such charges for storage services shall not exceed any maximum charge set by the Public Service Commission pursuant to its legal authority under R.S. 45:180.1, or as otherwise provided by law.

B. An insurer which has succeeded to the title of a motor vehicle is not authorized to abandon such vehicle to a towing or storage service without consent of the provider of such service.

C.(1) A debt incurred by or on behalf of a named insured for towing or storage services may be collected from an insurer which succeeds to the legal title of the motor vehicle covered under the policy for physical damage, property damage, or uninsured motorist coverage.

(2) An insurer may be authorized by the provisions of a motor vehicle insurance policy to act for a named insured in any matter regarding the towing and storage of a covered disabled vehicle.

D.(1) Repealed by Acts 1999, No. 1108, §3, eff. Jan. 1, 2000.

(2) Any storage facility which charges and receives a fee in excess of that set in this Section shall return all storage fees received for storage of the vehicle for which an excess fee was charged and shall be subject to a fine not to exceed one hundred dollars. Each daily overcharge shall constitute a separate violation for which a fine may be assessed.

(3) The daily storage fee shall be the only fee charged by the storage facility during storage of a vehicle. There shall be no additional charges for locating the vehicle in the storage facility, viewing of the vehicle, photography of the vehicle, removal of items from the vehicle, or for any other similar activity which does not require towing or moving of the vehicle during regular business hours.

(4) Nothing in this Section shall be construed to diminish the authority of the Public Service Commission to regulate wreckers and towing services and their rates, fares, tolls, or charges as provided by R.S. 45:180.1.

(5) For the purposes of this Section "inside" shall be limited to storage in or under a fixed structure.

E. Repealed by Acts 2006, No. 628, §2.

Acts 1990, No. 951, §§1, 3; Acts 1992, No. 375, §1; Acts 1999, No. 1108, §§1, 3 (§3 eff. Jan. 1, 2000); Acts 2006, No. 628, §§1, 2; Redesignated from R.S. 22:672 by Acts 2008, No. 415, §1, eff. Jan. 1, 2009.

The House Committee on Insurance offers the following substitute to HB 673:

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 33-7-11.1 of the Official Code of Georgia Annotated, relating to the commencement of liability of insurer to pay benefits to a third party on behalf of the insured, so as to provide for an insurer to provide notice to a third party that failure to use proceeds in accordance with a security agreement of the third party and a lienholder may constitute a violation of Code Section 16-8-4; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 33-7-11.1 of the Official Code of Georgia Annotated, relating to the commencement of liability of insurer to pay benefits to a third party on behalf of the insured, is amended by adding a new subsection and revising subsection (c) as follows:

"(c) When making any payment to a third party for damage to an automobile for any loss, the insurer shall have printed on the loss estimate, if prepared directly by the insurer, the following:

'Failure to use the insurance proceeds in accordance with a security agreement between you and a lienholder, if any, may be a violation of Code Section 16-8-4 of the O.C.G.A. If you have any questions, contact your lending institution.'

This subsection does not apply if the insurer does not prepare the loss estimate or if the estimate is not prepared in the State of Georgia.

~~(c)~~(d) The provisions of this Code section shall be applicable to all automobile liability or motor vehicle liability insurance policies that pay benefits to a third party on behalf of an insured for the loss of use and towing and storage costs of such motor vehicle issued, delivered, or renewed in this state on or after ~~July 1, 2002~~ January 1, 2009."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.

SCOTT A. WHITE
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

COMMONWEALTH OF VIRGINIA

P.O. BOX 1157
RICHMOND, VIRGINIA 23218

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www.scc.virginia.gov/boi

August 19, 2020

REVISED 7-31-24*

Administrative Letter 2020-06

TO: All Property & Casualty Insurers Licensed to Write Motor Vehicle Insurance on Motor Vehicles

RE: Property Damage Liability Claims Involving Clean-Up, Removal of Vehicles and Debris from Roadways and Property Adjacent to Roadways

Insurers licensed to write policies on vehicles principally garaged or used, or policies issued or delivered in the Commonwealth are responsible for payment of the reasonable costs of clean-up, recovery, and certain towing expenses with respect to at-fault accidents under the property damage liability coverage that requires coverage for "all damages the insured is legally obligated to pay."

If the investigation of the claim indicates that the insured is responsible for the accident, then the insurer of the at-fault vehicle is required to pay under the vehicle's property damage liability coverage the **reasonable** costs of: (1) removing debris, liquids and other materials from the roadway or adjacent to the roadway, (2) removing the at-fault and not-at-fault vehicles from a roadway or from property adjacent to a roadway, and (3) towing not-at-fault vehicles away from the scene of the accident. The cost of removing vehicle accident debris and the cost of removing the at-fault or not-at-fault vehicles from a roadway or from property adjacent to a roadway after an accident are sometimes referred to as "clean up and recovery costs." The at-fault driver is responsible for the clean-up of the roadway and areas adjacent to the roadway and the recovery of vehicles involved in the accident on the roadway and adjacent to the roadway.

These clean-up and recovery costs must also be paid in any claim involving a single-vehicle accident if the driver of the vehicle is at-fault for the accident. These costs must be itemized by the towing company when presenting a claim to the insurer so that the insurer may determine that the charges are covered by the policy.

The Bureau of Insurance has received complaints from towing companies that have made claims with the at-fault insurers seeking payment for clean-up and recovery costs. Insurers have denied these third-party claims for many reasons. For example, insurers have refused to pay these costs because (i) the insured's policy does not have collision or towing coverage; (ii) the towing and recovery company does not have a contract with

the state or local government; and (iii) they do not have to pay claims from towing and recovery operators. None of these reasons are adequate justification for denial of these towing claims. However, no insurer is required to pay a claim for clean-up, recovery, and towing costs if the invoice for the charges has not been itemized.

This administrative letter does not require an insurer to pay for the cost of towing the at-fault vehicle away from the scene of the accident unless that vehicle's policy includes the relevant physical damage coverage.

The Bureau also reminds insurers that if the insurer declines to pay all or any part of a claim for clean-up, recovery, and towing, the insurer is required to issue to the claimant (the insured or a third-party claimant) a written denial letter that includes a reasonable explanation for the denial of all or part of the claim, as required by 14 VAC 5-400-70 A of the Administrative Code. The Rules Governing Unfair Claims Settlement Practices defines "third party claimant as "any person asserting a claim against an insured or a provider filing a claim on behalf of an insured under an insurance policy." See 14 VAC 5-400-20 of the Virginia Administrative Code. This definition includes towing companies that respond to an accident at the request of state or local authorities for clean-up, recovery, and towing services.

The Bureau notes that each claim must be reviewed and evaluated on its merits.

Please direct any questions regarding this administrative letter to:

P&C Consumer Services Section
Bureau of Insurance
(804) 371-9185

Sincerely,

Scott A. White
Commissioner of Insurance

***REVISED to include information that all invoices for clean-up, recovery, and towing costs must be itemized when making a claim for these costs with the insurer.**

Trinidad Navarro
Commissioner

Delaware Department of Insurance

AUTO BULLETIN NO. 30

TO: **ALL INSURERS WRITING AUTOMOBILE INSURANCE COVERAGE IN DELAWARE, AND THEIR BROKERS AND AGENTS**

RE: **REIMBURSING TOWING COMPANIES FOR "RECOVERY COSTS"**

DATED: **October 26, 2018**

This Bulletin reminds automobile liability insurers that when their policy holder is the **at-fault driver** in an automobile accident, Delaware law requires the insurer to cover the costs of removing both the at-fault and not-at-fault vehicles from a roadway or from property adjacent to a roadway after an accident (sometimes referred to as "recovery costs"), even if the at-fault driver's liability policy does not include full collision coverage. Note that "recovery costs" do not include the cost of towing the at-fault vehicle from the scene of the accident.

Under Delaware law (*see* 21 *Del. C.* § 2118(a)(3)), automobile liability insurance policies issued or delivered in Delaware must include:

> . . . compensation for damage to property arising as a result of an accident involving the motor vehicle, other than damage to a motor vehicle, aircraft, watercraft, self-propelled mobile equipment and any property in or upon any of the aforementioned, with the minimum limits of $10,000 for any one accident.

Therefore, post-accident, the liability insurer for the at-fault driver is responsible for paying the cost of:

- Removing both the at-fault and not-at-fault vehicles from a roadway or from property adjacent to a roadway;
- Towing the not-at-fault vehicle from the scene of the accident; and
- Towing the at-fault vehicle from the scene of the accident, but only if that coverage is separately underwritten in the policy.

As with all claims, after establishing coverage and its insured's liability, the insurer is required to issue payment within 30 days from receipt of a satisfactory proof of claim amount. *See* 18 *DE Admin. Code* § 903-4. Satisfactory proof of claim amount is established by (1) a written agreement or other document assuming liability; (2) a final order by the court; or (3) unappealed arbitration award. The Department notes that each claim must be reviewed and evaluated on its merits and reminds insurers of their ongoing obligation to do so.

Questions concerning Auto Bulletin No. 30 should be emailed to compliance@delaware.gov.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.

Trinidad Navarro
Delaware Insurance Commissioner

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.

§1605-B. Towing and storage charges

A motor vehicle liability policy issued for a motor vehicle registered or principally garaged in this State must provide coverage in an amount up to $500 per accident for the reasonable towing and storage charges incurred as a result of an accident involving the insured vehicle if the vehicle is towed at the request of a law enforcement officer. The coverage required by this section applies only to the reasonable towing and storage charges of the insured vehicle. This section does not apply to a policy insuring more than 4 motor vehicles, nor to any policy covering a garage, automobile sales agency, repair shop, service station or public parking place. [PL 2023, c. 395, Pt. A, §2 (NEW); PL 2023, c. 395, Pt. A, §4 (AFF).]

SECTION HISTORY

PL 2023, c. 395, Pt. A, §2 (NEW). PL 2023, c. 395, Pt. A, §4 (AFF).

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