

HOUSE BILL 487

E4, I4

(2lr1772)

ENROLLED BILL

— *Environment and Transportation/Judicial Proceedings* —

Introduced by **Delegates Foley and Fraser-Hidalgo**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Commercial Vehicles – ~~Nonconsensual~~ Police-Initiated Towing – Requirements**

3 FOR the purpose of requiring the Department of State Police to make a certain tow list
4 regarding certain businesses and certain rates available to the public on request;
5 establishing certain requirements and procedures for the ~~nonconsensual~~
6 police-initiated towing of certain commercial vehicles at the direction of the
7 Department; and generally relating to the ~~nonconsensual~~ police-initiated towing of
8 commercial vehicles.

9 BY repealing and reenacting, with amendments,
10 Article – Public Safety
11 Section 2–314
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2021 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



BY adding to

Article – Commercial Law

Section 16A–101 to be under the new title “Title 16A. ~~Nonconsensual~~
Police-Initiated Towing Services”

Annotated Code of Maryland

(2013 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Public Safety

2–314.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

~~(2) “APPROVED RATES” MEANS THE RATES FOR TOWING AND
RECOVERY SERVICE OPERATIONS APPROVED BY THE DEPARTMENT THAT APPLY TO
NONCONSENSUAL TOWING AND RECOVERY SERVICE OPERATIONS PERFORMED AT
THE DIRECTION OF THE DEPARTMENT.~~

~~(3)~~ (2) “AUTHORIZED TOW COMPANY” MEANS A COMPANY
PROVIDING TOWING AND RECOVERY SERVICES AT THE REQUEST OF THE
DEPARTMENT AND DESIGNATED ON THE TOW LIST.

~~(4)~~ (3) “HEAVY-DUTY TOWING” MEANS TOWING AND RECOVERY OF
A VEHICLE INCLUDING TRAILERS AND SEMITRAILERS WITH A GROSS VEHICLE
WEIGHT RATING OVER ~~20,000~~ 26,000 POUNDS.

~~(5)~~ (4) “MEDIUM-DUTY TOWING” MEANS TOWING AND RECOVERY
OF A VEHICLE INCLUDING TRAILERS OR SEMITRAILERS WITH A GROSS VEHICLE
WEIGHT RATING ~~BETWEEN 10,001 POUNDS AND 20,000 POUNDS~~ FROM OVER 10,000
POUNDS TO 26,000 POUNDS.

~~(6) “NONCONSENSUAL TOWING” MEANS THE TOWING OR RECOVERY
OF A COMMERCIAL MOTOR VEHICLE WHICH WAS AUTHORIZED, REQUESTED, OR
DISPATCHED BY THE DEPARTMENT INCLUDING A REQUEST BY AN OWNER OR
OPERATOR OF A COMMERCIAL MOTOR VEHICLE.~~

~~(7)~~ (5) “PER POUND BILLING” MEANS A METHOD OF CALCULATING
A FEE FOR TOWING AND RECOVERY SERVICES USING A FORMULA THAT CONSIDERS
THE WEIGHT OF THE VEHICLE, EQUIPMENT, OR CARGO THAT IS THE SUBJECT OF
THE TOWING AND RECOVERY AND MULTIPLIES THE WEIGHT OF THE VEHICLE,
EQUIPMENT, OR CARGO BY A MONETARY AMOUNT.

(6) “POLICE-INITIATED TOWING” MEANS THE TOWING OR RECOVERY OF A COMMERCIAL MOTOR VEHICLE WHICH WAS AUTHORIZED, REQUESTED, OR DISPATCHED BY THE DEPARTMENT INCLUDING A REQUEST BY AN OWNER OR OPERATOR OF A COMMERCIAL MOTOR VEHICLE.

(7) “TOW LIST” MEANS THE LIST OF TOWING BUSINESSES AUTHORIZED BY THE DEPARTMENT TO PERFORM NONCONSENSUAL POLICE-INITIATED TOWING SERVICES OF DISABLED OR ABANDONED COMMERCIAL VEHICLES WITHIN THE DEPARTMENT’S JURISDICTION.

[(a)] (B) The Department shall:

(1) establish and maintain a TOW list, by county, of qualifying tow companies for use by the Department in carrying out the duties of this subtitle; AND

(2) MAKE THE TOW LIST AVAILABLE TO THE PUBLIC ON REQUEST.

[(b)] (C) The Department may adopt regulations to establish standards for tow companies, including application procedures and minimum qualification requirements, and must include on the list all qualifying tow companies.

(D) THE DEPARTMENT SHALL:

(1) ~~ADOPT REGULATIONS ESTABLISHING THE APPROVED RATES THAT MAY BE CHARGED FOR NONCONSENSUAL MEDIUM AND HEAVY DUTY TOWING BASED ON HOURLY RATES FOR TOWING AND RECOVERY SERVICES AND NOT ANY OTHER METHOD OF CALCULATION INCLUDING PER POUND BILLING;~~

(2) ~~ESTABLISH INFORMATION REQUIRED TO BE INCLUDED ON AN INVOICE ASSOCIATED WITH THE NONCONSENSUAL TOWING OF A COMMERCIAL MOTOR VEHICLE;~~

(3) REQUIRE A TOW COMPANY APPLYING TO THE DEPARTMENT’S TOW LIST FOR MEDIUM- AND HEAVY-DUTY TOWING TO SUBMIT A RATE SHEET THAT DOES NOT INCLUDE PER POUND BILLING;

(2) REQUIRE A TOW COMPANY THAT MAKES AN APPLICATION UNDER PARAGRAPH (1) OF THIS SUBSECTION TO BAN THE USE OF PER POUND BILLING BY OCTOBER 1, 2023;

(3) REQUIRE THE DEPARTMENT TO MAKE EACH TOW COMPANY’S RATE SHEET REQUIRED UNDER ITEM (1) OF THIS SUBSECTION AVAILABLE ON REQUEST; AND

(4) DEVELOP A PROCESS TO RECEIVE, INVESTIGATE, AND ADJUDICATE COMPLAINTS FROM A VEHICLE OWNER OR OPERATOR OR THE OWNER'S DESIGNEE AGAINST AN AUTHORIZED TOW COMPANY REGARDING THE ~~NONCONSENSUAL~~ POLICE-INITIATED TOWING OF A COMMERCIAL MOTOR VEHICLE, INCLUDING A PROCESS TO SUSPEND OR REMOVE AN AUTHORIZED TOW COMPANY FROM THE TOW LIST;~~AND~~

~~(4) MAKE THE APPROVED RATES AVAILABLE TO THE PUBLIC ON REQUEST.~~

(E) AN AUTHORIZED TOW COMPANY MAY CHARGE LESS THAN BUT MAY NOT CHARGE MORE THAN THE ~~APPROVED~~ RATES ON THE RATE SHEET SUBMITTED TO THE DEPARTMENT FOR A ~~NONCONSENSUAL~~ POLICE-INITIATED TOWING.

(F) IF A VEHICLE OWNER OR THE OWNER'S DESIGNEE REQUESTS THE USE OF A SPECIFIC TOWING COMPANY, THE DEPARTMENT SHALL HONOR THAT REQUEST AND ALLOW THE VEHICLE OWNER TO ENGAGE THE SERVICES OF THE REQUESTED TOWING COMPANY EXCEPT WHEN:

(1) THE REQUESTED TOWING COMPANY CANNOT ARRIVE AT THE LOCATION OF THE VEHICLE WITHIN A REASONABLE TIME PERIOD;

(2) A TRAFFIC SAFETY PROBLEM EXISTS AND THE REQUESTED TOWING COMPANY CANNOT ARRIVE AT THE LOCATION WITHIN 30 MINUTES OF A POLICE EMPLOYEE'S ARRIVAL AT THE LOCATION OF THE VEHICLE; OR

(3) THE VEHICLE IS DISABLED IN THE ROADWAY AS A RESULT OF A COLLISION OR VEHICLE FIRE AND THE REQUESTED TOWING COMPANY CANNOT ARRIVE WITHIN 30 MINUTES OF A POLICE EMPLOYEE'S ARRIVAL AT THE LOCATION OF THE VEHICLE.

Article – Commercial Law

TITLE 16A. ~~NONCONSENSUAL~~ POLICE-INITIATED TOWING SERVICES.

16A-101.

(A) (1) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(2) "APPROVED RATES" HAS THE MEANING STATED IN § 2-314 OF THE PUBLIC SAFETY ARTICLE.~~

1 ~~(3)~~ (2) “AUTHORIZED TOW COMPANY” HAS THE MEANING STATED
2 IN § 2-314 OF THE PUBLIC SAFETY ARTICLE.

3 ~~(4)~~ (3) “HEAVY-DUTY TOWING” HAS THE MEANING STATED IN §
4 2-314 OF THE PUBLIC SAFETY ARTICLE.

5 ~~(5)~~ (4) “MEDIUM-DUTY TOWING” HAS THE MEANING STATED IN §
6 2-314 OF THE PUBLIC SAFETY ARTICLE.

7 ~~(6)~~ (5) “~~NONCONSENSUAL~~ POLICE-INITIATED TOWING” HAS THE
8 MEANING STATED IN § 2-314 OF THE PUBLIC SAFETY ARTICLE.

9 ~~(7)~~ (6) “TOW LIST” HAS THE MEANING STATED IN § 2-314 OF THE
10 PUBLIC SAFETY ARTICLE.

11 (B) (1) TITLE 16 OF THIS ARTICLE DOES NOT APPLY TO ~~NONCONSENSUAL~~
12 POLICE-INITIATED TOWING SERVICES BY AN AUTHORIZED TOW COMPANY.

13 (2) ~~NONCONSENSUAL~~ POLICE-INITIATED TOWING DOES NOT CREATE
14 A LIEN OR SECURITY INTEREST FOR THE AUTHORIZED TOW COMPANY IN ANY
15 EQUIPMENT, VEHICLE, OR CARGO.

16 (C) AN AUTHORIZED TOW COMPANY SHALL PROVIDE A VEHICLE OWNER OR
17 OPERATOR OR THE OWNER’S DESIGNEE WITH REASONABLE ACCESS TO A VEHICLE
18 THAT IS THE SUBJECT OF A ~~NONCONSENSUAL~~ POLICE-INITIATED TOWING SO THAT
19 THE VEHICLE OWNER OR OPERATOR OR THE OWNER’S DESIGNEE MAY ACCESS AND
20 COLLECT ANY PERSONAL PROPERTY OR CARGO CONTAINED IN THE VEHICLE,
21 REGARDLESS OF WHETHER ANY PAYMENT HAS BEEN MADE FOR THE AUTHORIZED
22 TOW COMPANY’S SERVICES.

23 (D) (1) IF THERE IS NO DISPUTE AS TO THE FEES ASSESSED BY THE
24 AUTHORIZED TOW COMPANY FOR THE ~~NONCONSENSUAL~~ POLICE-INITIATED
25 TOWING OF A VEHICLE:

26 (I) THE VEHICLE OWNER OR OPERATOR OR THE OWNER’S
27 DESIGNEE SHALL PAY THE AUTHORIZED TOW COMPANY’S INVOICE; AND

28 (II) THE AUTHORIZED TOW COMPANY SHALL RELEASE A
29 VEHICLE AND ANY CARGO THAT WAS THE SUBJECT OF A ~~NONCONSENSUAL~~
30 POLICE-INITIATED TOWING IMMEDIATELY.

31 (2) IF THERE IS A GENUINE DISPUTE AS TO THE REASONABLENESS OR
32 AMOUNT OF THE FEES ASSESSED BY AN AUTHORIZED TOW COMPANY:

~~(I) THERE IS NO REQUIREMENT THAT THE VEHICLE OWNER
PAY ANY PORTION OF THE AUTHORIZED TOW COMPANY'S INVOICE; AND~~

~~(H) THE AUTHORIZED TOW COMPANY SHALL RELEASE THE
VEHICLE AND CARGO IMMEDIATELY TO THE OWNER OR THE OWNER'S AUTHORIZED
AGENT IN ACCORDANCE WITH THIS SUBSECTION ON SUBMISSION OF:~~

1. PROOF OF OWNERSHIP IF THE CARGO DOES NOT
BELONG TO THE TRANSPORTATION COMPANY; OR

2. IF THE CARGO BELONGS TO THE TRANSPORTATION
COMPANY:

A. A LETTER FROM THE INSURANCE COMPANY STATING
THERE IS COVERAGE FOR THE RELEVANT CLAIM OR ACCIDENT AND INCLUDING, AT
MINIMUM, A CLAIM NUMBER, POLICY NUMBER, AND POLICY LIMIT; OR

B. IF AN INSURANCE POLICY REQUIRED UNDER ITEM 2
OF THIS ITEM IS NOT HIGH ENOUGH TO COVER THE COST OF THE CARGO CLEAN-UP,
A SIGNED LETTER OF GUARANTEE FROM THE TRANSPORTATION COMPANY; AND

(II) ~~THE~~ BEGINNING OCTOBER 1, 2023, THE AUTHORIZED TOW
COMPANY SHALL RELEASE THE VEHICLE TO THE OWNER OR THE OWNER'S
AUTHORIZED AGENT ON PAYMENT OF 20% OF THE INVOICE BY THE VEHICLE OWNER
OR OPERATOR OR THE OWNER'S DESIGNEE.

(3) A PAYMENT UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION
DOES NOT ELIMINATE THE REMAINDER OF THE FINANCIAL OBLIGATION TO THE
AUTHORIZED TOW COMPANY.

~~(E) THIS SUBSECTION MAY NOT BE CONSTRUED TO CONFER THE RIGHT OF
AN AUTHORIZED TOW COMPANY TO RETAIN POSSESSION OF A VEHICLE OR CARGO
OR TO ASSERT A LIEN ON A VEHICLE OR CARGO IF THE VEHICLE OWNER DOES NOT
PAY THE INVOICE AT THE TIME THE AUTHORIZED TOW COMPANY RELEASES THE
VEHICLE OR CARGO.~~

~~(F) ON RECEIVING FROM A VEHICLE OWNER OR OPERATOR OR THE
OWNER'S DESIGNEE A DEMAND FOR RETURN OF A VEHICLE OR CARGO THAT WAS
THE SUBJECT OF A NONCONSENSUAL TOWING, ALL STORAGE FEES IMMEDIATELY
CEASE TO ACCRUE AND AN AUTHORIZED TOW COMPANY MAY NOT CHARGE FEES
BEYOND THE DATE OF THE DEMAND FOR RETURN.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2022.