 Introduced by Representative Rachelson of Burlington

Referred to Committee on

Date:

Subject: Motor vehicles; involuntary towing and storage; consumer protection

Statement of purpose of bill as introduced: This bill proposes to establish certain consumer protections related to the towing and storage of vehicles.

An act relating to consumer protections related to the towing and storage of vehicles

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 23 V.S.A. chapter 43 is added to read:

CHAPTER 43. TOWING OF MOTOR VEHICLES

§ 4301. SHORT TITLE

This chapter may be cited as the Vermont Consumer Protection Towing Act.

§ 4302. PURPOSE

The purpose of the Vermont Consumer Protection Towing Act is to establish minimum standards for towing and storage services and to promote fair and honest practices in the towing industry.

§ 4303. DEFINITIONS
As used in this chapter:

(1) “Automobile club” means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle, including auto dealers and insurance companies, by supplying services, which may include towing service, emergency road service, and indemnification service.

(2) “Dealer” has the same meaning as in subdivision 4(8) of this title.

(3) “Drop fee” means a charge offered instead of a standard tow fee that allows an owner or operator who arrives on scene prior to a vehicle being towed to stop a tow that is in process.

(4) “Emergency towing” means the towing of a vehicle due to a motor vehicle crash, mechanical breakdown on a public highway, or other emergency-related incident necessitating vehicle removal for public safety with or without the owner’s or operator’s consent.

(5) “Government agency towing” means the towing of government-owned or government-controlled vehicles by the government agency that owns or controls them.

(6) “Owner” means the person to whom a vehicle is registered or to whom it is leased, if the terms of the lease require the lessee to maintain and
repair the vehicle. For the purposes of this chapter, a rental vehicle company is the owner of a vehicle rented pursuant to a rental agreement.

(7) “Private-property towing” means the towing of a vehicle, without the owner’s or operator’s consent, from private property where it was illegally parked, or for which some exigent circumstance necessitated its removal, to a nearby location.

(8) “Rental vehicle company” means any person, including a franchisee, in the business of renting vehicles to the public.

(9) “Seizure towing” means the taking of a vehicle for law enforcement purposes, such as the maintenance of the chain of custody of evidence, forfeiture of assets, or unpaid parking tickets.

(10) “Storage services” means storing a towed vehicle at a towing-storage lot.”

(11) “Towing company” means any corporation, association, sole-proprietorship, co-partnership, company, firm, or other aggregation of individuals that exists to provide towing or storage services. A towing company shall not include an automobile club, dealer, or insurance company.

(12) “Towing services” means towing or otherwise moving vehicles by means of a tow truck.

(13) “Towing or storage services” means towing services or storage services, or both.
(14) “Towing-storage lot” means a property used to store vehicles that have been towed.

(15) “Tow truck” means a motor vehicle equipped to tow or pick up vehicles, including damaged or disabled vehicles.

§ 4304. APPLICABILITY; RULEMAKING; COMPLAINTS

(a) Applicability.

(1) This chapter shall apply to any person engaging in, or offering to engage in, the business of providing towing or storage services in Vermont. This chapter shall not apply to vehicles towed into Vermont or towed through Vermont, provided that the tow originates in another jurisdiction.

(2) Notwithstanding subdivision (1) of this subsection, this chapter shall not apply to towing and storage services by an automobile club, dealer, or insurance company or the towing of an abandoned motor vehicle as defined in section 2151 of this title.

(b) Regulatory authority. This chapter confers exclusive regulatory jurisdiction over towing companies and the provision of towing and storage services to the Department of Motor Vehicles.

(c) Rulemaking. The Department shall adopt rules pursuant to 3 V.S.A. chapter 25 for the administration of this chapter, including the assessment of administrative penalties in addition to those penalties allowed under section 4316 of this chapter.
(d) Complaints. The Department shall establish a complaint mechanism for consumers and insurers.

§ 4305. EMERGENCY TOWING

(a) Prohibitions. It is a misdemeanor for a towing company to stop or cause an individual to stop at the scene of a crash or near a disabled vehicle for the purpose of soliciting an engagement for emergency towing services, either directly or indirectly, or, unless requested to perform the services by a law enforcement officer or public agency pursuant to that agency’s procedures or unless summoned to the scene or requested to stop by the owner or operator of a disabled vehicle, to provide towing emergency towing services, to move a vehicle from a highway when there is an injury as the result of a crash, or to accrue charges for services provided under those circumstances.

(b) Selection of towing company.

(1) The owner or operator of the vehicle being towed shall summon to the scene the towing company of the owner’s or operator’s choice in consultation with law enforcement or authorized municipal personnel and designate the location where the vehicle is to be towed.

(2) The provisions of subdivision (1) of this subsection shall not apply when the owner or operator is incapacitated, otherwise unable to summon a tow company, or defers to law enforcement or authorized municipal personnel.
(3) The authority provided to the owner or operator in subdivision (1) of this subsection may be superseded by the law enforcement officer or authorized municipal personnel if the towing company of choice cannot respond to the scene in a timely fashion and the vehicle is a hazard, impedes the flow of traffic, or may not legally remain in its location in the opinion of the law enforcement officer or authorized municipal personnel.

(c) Record of caller.

(1) If a towing company is summoned for an emergency tow by the owner or operator of a disabled vehicle, the towing company shall record the first name, last name, and telephone number of the individual who summoned it to the scene and the make, model, year, color, vehicle identification number (VIN), and license plate number of the towed vehicle.

(2) If a towing company is summoned for an emergency tow by a law enforcement officer or designee of a public safety agency with jurisdiction, the towing company shall record the identity of the law enforcement officer or designee of a public safety agency with jurisdiction and the log number, call number, incident number, or dispatch number assigned to the incident as applicable.

(d) Visual documentation. Prior to towing a vehicle under this section, a towing company shall take photographs, video, or other visual documentation to evidence the location of the vehicle and any damages.
(e) Record retention and production.

(1) The towing company shall maintain a record of the information described in subsections (c) and (d) of this section and shall retain that information for three years.

(2) The towing company shall make the records required to be maintained under subdivision (1) of this subsection available within 48 hours after receipt of a written request from law enforcement or the Department of Motor Vehicles.

(f) Storage. The towing company shall properly secure all towed vehicles and make all reasonable efforts to prevent further damage, weather damage, or theft to all towed vehicles, including the vehicle’s cargo and contents.

§ 4306. PRIVATE-PROPERTY TOWING REQUIREMENTS

(a) Establishment of a private tow-away zone. The owner of private property may establish a private tow-away zone by posting a sign that is at least 18 inches by 24 inches in size and includes a statement that the property is a tow-away zone, a description of persons authorized to park on the property, and the address and telephone number for where towed vehicles are stored.

(b) Prohibition and record of caller. A towing company shall not tow a vehicle under this section unless it receives a request for a tow. The towing company shall record the date, time, and name of the requestor.
(c) Visual documentation. Prior to towing a vehicle under this section, a towing company shall take photographs, video, or other visual documentation to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone. The towing company shall record the time and date of the photographs, video, or other visual documentation.

(d) Record retention and production.

(1) The towing company shall maintain a record of the information described in subsections (b) and (c) of this section and shall retain that information for three years.

(2) The towing company shall make the records required to be maintained under subdivision (1) of this subsection available within 48 hours after receipt of a written request from law enforcement or the Department of Motor Vehicles.

(e) Location and storage.

(1) A towing company shall ensure that a vehicle towed under this section is taken to a location that is within 25 miles of the location of the private tow-away zone.

(2) The towing company shall properly secure all towed vehicles and make all reasonable efforts to prevent further damage, weather damage, or theft to all towed vehicles, including the vehicle’s cargo and contents.
(f) Release of vehicle prior to towing. If the owner or operator of a vehicle is parked in violation of a private tow-away zone and arrives while the vehicle is being removed, the towing company shall give the vehicle owner or operator oral or written notification that the vehicle owner or operator may pay a drop fee for the release of the vehicle. Upon payment of that fee, the towing company shall release the vehicle and give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received.

(g) Notice. The towing company shall provide notice of the tow to law enforcement within two hours of removing the vehicle from the private tow-away zone.

§ 4307. SEIZURE TOWING

(a) Location and storage.

(1) A towing company shall ensure that a vehicle towed under this section is taken to a location that is within 25 miles of the location where the vehicle is towed from.

(2) The towing company shall properly secure all towed vehicles and make all reasonable efforts to prevent further damage, weather damage, or theft to all towed vehicles, including the vehicle’s cargo and contents.

(b) Release of vehicle prior to towing. If the owner or operator of a vehicle that is being towed because of unpaid parking tickets arrives while the vehicle
is being towed, the towing company shall give the vehicle owner or operator oral or written notification that the vehicle owner or operator may pay a drop fee for the release of the vehicle. Upon payment of that fee, the towing company shall release the vehicle and give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received.

§ 4308. ESTIMATE REQUIREMENTS

(a) Estimate required. If the owner or operator of a vehicle is present at the time and location of a tow, the towing company shall furnish the owner or operator of the vehicle with a written itemized estimate of all charges and services to be performed.

(b) Estimate contents. The estimate required under subsection (a) of this section shall include all of the following:

(1) the name, address, telephone number, and motor carrier permit number of the towing company;

(2) the license plate number of the tow truck performing the tow; and

(3) an itemized description and cost for all services, including charges for labor, special equipment, mileage from dispatch to return, and storage fees expressed as a daily rate.

(c) Signature required.
(1) The towing company shall obtain the vehicle owner’s or operator’s written or electronic signature on the itemized estimate and shall furnish a copy to the individual who signs the estimate.

(2) The requirements in subdivision (1) of this subsection may be completed after the vehicle is attached and removed to the nearest safe shoulder or highway if done at the request of law enforcement or a public agency, provided the estimate is furnished prior to the removal of the vehicle from the nearest safe shoulder or highway.

(d) Record retention and production.

(1) The towing company shall maintain the records required under subsection (a) of this section and shall retain that information for three years.

(2) The towing company shall make the records required to be maintained under subdivision (1) of this subsection available within 48 hours after receipt of a written request from law enforcement or the Department of Motor Vehicles.

§ 4309. INVOICE REQUIREMENTS

(a) Invoice required. All services rendered by a towing company, including any warranty or zero-cost services, shall be recorded on an invoice. Each additional service must be set forth individually as a single line item with an explanation and the exact charge for the service.
(b) Invoice contents. Each itemized invoice for towing costs shall contain
the following:

(1) the location from which the vehicle was towed;
(2) the storage location of the vehicle;
(3) the name, address, and telephone number of the towing company;
(4) a description of the vehicle, including the make, model, year, color, vehicle identification number (VIN), and license plate number of the towed vehicle;
(5) the charge for the tow; and
(6) the daily storage charge and the number of days the vehicle was stored.

(c) Record retention and production.

(1) The towing company shall maintain the records required under subsection (a) of this section and shall retain that information for three years.

(2) The towing company shall make the records required to be maintained under subdivision (1) of this subsection available within 48 hours after receipt of a written request from law enforcement or the Department of Motor Vehicles.

§ 4310. NOTICE REQUIREMENTS

(a) Notice required. Within 24 hours after the commencement of towing, the towing company must commence a search of the records of the Department
of Motor Vehicles to ascertain the identity of the owner and any lienholder of
the towed vehicle. Written notice shall be given directly to the owner by
registered mail within five business days after the commencement of towing,
and no storage charges beyond the initial 24-hour charge shall accrue until the
notice requirement has been met.
(b) Notice contents. Notice to the owner or insurer shall contain the
following:
(1) the name, address, and telephone number of the towing company;
(2) the date and time the vehicle was towed;
(3) the location from which the vehicle was towed;
(4) the address where the vehicle is or will be stored and the address and
telephone number where payment and business transactions take place, if
either is different from the address and telephone number of the towing
company;
(5) the name of the tow truck operator; and
(6) a description of the vehicle, including the make, model, year, color,
vehicle identification number (VIN), and license plate number of the towed
vehicle.
§ 4311. LICENSE REQUIREMENTS; INSURANCE; DISPLAY
(a) Application.
(1) The Department of Motor Vehicles shall approve an application for a towing company license or renewal and issue or renew the license, provided the applicant submits an approvable application on a form prescribed by the Department of Motor Vehicles and pays a $50.00 application fee.

(2) An application shall include:
   (A) the applicant’s workers’ compensation coverage;
   (B) the applicant’s unemployment compensation coverage;
   (C) the financial responsibility of an applicant relating to liability insurance or bond requirements;
   (D) the applicant’s standard hours of operation;
   (E) the applicant’s after-hours access policy;
   (F) the applicant’s business address and contact information;
   (G) the applicant’s towing and storage charges; and
   (H) any other information the Department of Motor Vehicles may require.

(3) The applicant must not have been convicted of fraud or had a civil judgment rendered against it for fraud nor has any officer, director, or partner of an applicant that is a corporation or partnership during the officer’s, director’s, or partner’s tenure.

(b) Insurance.
(1) The applicant must provide proof of minimum insurance requirements of the following or a sufficient surety bond as determined by the Commissioner of Motor Vehicles:

   (A) $100,000.00 for liability for bodily injury or property damage per occurrence; and

   (B) $50,000.00 of legal liability per occurrence, to protect against vehicle damage, including fire and theft, from the time a vehicle comes into the custody of a towing company until it is redeemed or sold.

(2) Cancellation of or failure to maintain the insurance required by subdivision (1) of this subsection automatically revokes the applicant’s license.

   (c) Display. A towing company granted a license or renewal under this section shall prominently display the license, hours of operation, and charges for towing and storage at the towing company’s primary place of business and website, if one is maintained.

   (d) Licenses are nonassignable and nontransferable. Licenses shall be nonassignable and nontransferable and shall be surrendered to the Department of Motor Vehicles immediately upon the towing company ceasing to do business as a towing company.

§ 4312. MAXIMUM CHARGES

(a) A towing company shall not charge more than the following rates:

   (1) $90.00 per tow or $3.50 per mile towed:
(2) $15.00 per drop fee;

(3) $20.00 per day of storage for any day that the towing company is operating under its standard hours of operation; and

(4) $25.00 for access to a towed vehicle for the recovery of personal items outside the towing company’s standard hours of operation.

(b) Notwithstanding subsection (a) of this section, charges for towing an abandoned vehicle from public property shall be in accordance with section 2158 of this title and fees for towing or storing a vehicle pursuant to municipal ordinance shall be as established by the municipality in accordance with section 1753 of this title.

(c) No charge shall be made in excess of the estimated price without the prior consent of the owner or operation of the vehicle.

§ 4313. HOURS OF OPERATION

A towing-storage lot shall have, at a minimum, the following standard hours of operation: 7:00 a.m.–6:00 p.m. Monday–Friday, exclusive of federal and State holidays, and on at least one weekend day.

§ 4314. RELEASE OF VEHICLE; METHODS OF PAYMENT

(a) A towing company shall release a towed vehicle to the owner or the insurance company representative upon receipt of payment.

(b) A towing company shall only release a towed vehicle to the insurance company representative if:
(1) the owner’s insurance company representative presents proof that the
towed vehicle is insured with the company; or

(2) the owner of the towed vehicle approves release of the towed vehicle
to the insurance company representative.

(c) The owner of the towed vehicle or the owner of the towed vehicle’s
insurance company representative shall have the right to inspect the vehicle
before accepting its return.

(d) A towing company shall accept, at a minimum, cash, an insurance
check, a credit card, a debit card, a certified check, or a money order.

§ 4315. PROHIBITED ACTS

(a) It shall be unlawful for a towing company or an individual acting on
behalf of a towing company to:

(1) falsely represent, either expressly or by implication, that the towing
company represents or is approved by any private organization that provides
emergency road service for disabled motor vehicles;

(2) require an owner or operator of a motor vehicle involved in a crash
or breakdown to preauthorize one or more of the following: more than 24
hours of storage, tear down, or repair work as a condition to providing towing
services for the vehicle;
(3) charge more than one towing fee when the owner or operator of a
disabled vehicle requests transport of the vehicle to a repair facility owned or
operated by the towing company;
(4) operate a towing company or offer towing or storage services
without being a towing company licensed by the Department of Motor
Vehicles;
(5) charge more than the maximum fees as allowed under section 4312
of this chapter;
(6) submit false or fraudulent information to obtain a towing license; or
(7) violate any other provision of this chapter.
(b) Towing companies shall not tow disabled vehicles to a repair facility
unless the owner or operator of the disabled vehicle gives written consent
before removal of the disabled vehicle.
(c) No towing company may refuse to release a vehicle to the owner or the
owner’s insurer upon tender of full payment of an itemized invoice for all
lawful charges made in connection with the towing and storage of a vehicle.
(d) No towing company may refuse, including prior to payment of fees and
release of a towed vehicle, the right of physical inspection of the towed vehicle
by the owner or the owner’s insurer or the recovery of personal items left in the
vehicle during the towing company’s standard hours of operation.
(e) No towing company shall charge storage for any day where release of
the towed vehicle or access to the towed vehicle by the owner or insurer is not
permitted by the towing company.

§ 4316. PENALTIES AND ENFORCEMENT

(a) The Department of Motor Vehicles shall have authority for the
inspection of all locations operated by a towing company.

(b) The Department of Motor Vehicles shall investigate any suspected
violations and complaints that are filed with the Department and take all proper
and necessary remedial action.

(c) Any towing company that submits false or fraudulent information to
obtain a towing license shall have its license revoked.

Sec. 2. 23 V.S.A. § 2151 is amended to read:

§ 2151. DEFINITIONS

As used in this subchapter:

(1)(A) “Abandoned motor vehicle” means:

(i) a motor vehicle that has remained on public or private property
or on or along a highway for more than 48 hours without the consent of the
owner or person in control of the property and has a valid registration plate or
public vehicle identification number that has not been removed, destroyed, or
altered; or
(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) “Abandoned motor vehicle” does not include:

(i) a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner that does not interfere with the normal movement of traffic; or

(ii) a vehicle that is towed from a private tow-away zone, as established pursuant to section 4306 of this title.

* * *

Sec. 3. 23 V.S.A. § 2152 is amended to read:

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.
(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal, based upon the request of the landowner on whose property the vehicle is located and information indicating that the vehicle is an abandoned motor vehicle.

(2) A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal. A landowner who removes or causes removal of an abandoned motor vehicle shall immediately notify the police agency in the jurisdiction from which the vehicle is removed and provide the registration plate number, the public vehicle identification number, if available; and the make, model, and color of the vehicle. The landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, the landowner or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

(c) Record of caller.

(1) If a towing service is summoned to tow an abandoned motor vehicle by the landowner of private property, the towing service shall record the first name, last name, and telephone number of the individual who summoned it to
the scene and the make, model, year, color, vehicle identification number
(VIN), and license plate number of the towed vehicle.

(2) If a towing company is summoned to tow an abandoned motor
vehicle by a law enforcement officer, the towing service shall record the
identity of the law enforcement officer and the log number, call number,
incident number, or dispatch number assigned to the incident as applicable.

(d) Visual documentation. Prior to towing a vehicle under this section, a
towing service shall take photographs, video, or other visual documentation to
evidence the location of the vehicle and any damages.

(e) Record retention and production.

(1) The towing service shall maintain a record of the information
described in subsections (c) and (d) of this section and shall retain that
information for three years.

(2) The towing service shall make the records required to be maintained
under subdivision (1) of this subsection available within 48 hours after receipt
of a written request from law enforcement or the Department of Motor
Vehicles.

(f) Storage. The towing service shall properly secure all towed vehicles
and make all reasonable efforts to prevent further damage, weather damage, or
theft to all towed vehicles, including the vehicle’s cargo and contents.
Sec. 4. 23 V.S.A. § 2155 is amended to read:

§ 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee that is not more than the maximum charge allowed under section 4312 of this title to be paid by the vehicle owner or the landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle that is not more than the maximum charge allowed under section 4312 of this title, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent to the Department.

Sec. 5. RULEMAKING

Unless extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c), the Department of Motor Vehicles shall adopt rules required under 23 V.S.A. § 4304(c), as added by Sec. 1 of this act, not later than June 1, 2024, to be effective July 1, 2024.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2024.