



# Ohio Legislative Service Commission

## Bill Analysis

Amanda M. Ferguson

### H.B. 341

131st General Assembly  
(As Introduced)

**Reps.** Young and Sweeney, Becker, Boose, Hall, Retherford, Terhar, Thompson

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## BILL SUMMARY

- Authorizes the owner of a towing service or storage facility to obtain a salvage certificate of title to a vehicle in its possession for purposes of disposing of the vehicle through a motor vehicle salvage dealer or scrap metal processing facility if the vehicle is:
  - At least three years old;
  - Apparently inoperable; and
  - Impossible to restore for highway operation.
- Modifies the process for valuing a vehicle for purposes of determining whether an authorized entity in possession of the vehicle may take title to it, thus allowing such an entity to obtain title to a vehicle with a higher wholesale value than under current law.
- Modifies the penalties that may be imposed by a court in a civil action initiated against a towing service or storage facility for certain towing violations as follows:
  - Eliminates the requirement that a court impose a six-month revocation of a towing service's or storage facility's certificate of public convenience and necessity for a third or subsequent towing violation within a one-year period; and
  - Requires a \$3,500 fine for a third or subsequent towing violation within a one-year period, rather than \$2,500 as under current law.
- Eliminates a provision of current law that generally allows the owner of a motor vehicle to retrieve any personal items from the vehicle without paying any fee.

- Requires the owner of a vehicle to pay a \$35 fee in order to obtain any nonmedical personal items.
- Requires a towing service or storage facility to deduct any fee paid to obtain nonmedical personal items from the balance of the towing and storage fees that the owner must pay in order to retrieve the vehicle.
- Replaces the statutorily prescribed maximum fees for the removal of a vehicle from private property or a private tow-away zone with maximum fees to be established by the Public Utilities Commission by rule.
- Requires the Commission to set the initial maximum fees in the same amounts as are currently statutorily specified and to increase the fees on an annual basis by the annual percentage increase, if any, in the Consumer Price Index.

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## **CONTENT AND OPERATION**

### **Salvage title to certain inoperable vehicles**

The bill authorizes the owner of a towing service or storage facility to obtain a salvage certificate of title to a vehicle in its possession for purposes of disposing of the vehicle through a motor vehicle salvage dealer or scrap metal processing facility if the vehicle is: (1) at least three years old, (2) apparently inoperable, and (3) impossible to restore for highway operation. In order to obtain the salvage certificate of title under the bill, a towing service or storage facility must comply with the requirements specified below.<sup>1</sup>

#### **Step 1: Notice to the owner and lienholder of the vehicle**

The towing service or storage facility must send written notice to any owner and any lienholder of the vehicle by certified or express mail with return receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.<sup>2</sup>

#### **Step 2: Inspection by a law enforcement officer**

Not sooner than 15 days after the notice to the owner and any lienholder of the vehicle has been received (as evidenced by a receipt signed by any person) or the towing service or storage facility has been notified that the delivery was not possible,

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<sup>1</sup> R.C. 4505.103.

<sup>2</sup> R.C. 4505.103(A).

the towing service or storage facility may arrange for a law enforcement officer to inspect the vehicle. A law enforcement officer must inspect the vehicle as soon as practicable after receiving such a request. At the time of inspection, the law enforcement officer may sign an affidavit allowing the towing service or storage facility to obtain a salvage certificate of title if all applicable requirements are met. Alternatively, the law enforcement officer may arrange for the disposal of the vehicle using methods prescribed in current law.<sup>3</sup>

### **Disposal under current law**

There are three provisions of current law that authorize the disposal of a motor vehicle by law enforcement. The first provision allows a county sheriff or the chief of police of a municipal corporation, township, or joint police district to order an unclaimed vehicle that was towed from private property, from the street, or after coming into the possession of law enforcement to be disposed of through a motor vehicle salvage dealer or scrap metal processing facility or to be sold at a public auction. Any money in excess of the towing and storage expenses is credited to the general fund of the county, municipal corporation, township, or joint police district, as applicable.<sup>4</sup>

The second provision allows a county sheriff or the chief of police of a municipal corporation, township, or joint police district to order the disposal of an "abandoned junk motor vehicle" through a motor vehicle salvage dealer or scrap metal processing facility that is under contract with the county, township, or municipal corporation. Any money arising from the disposal of an abandoned junk motor vehicle is deposited in the general fund of the county, township, or municipal corporation, as applicable. An abandoned junk motor vehicle is defined as a vehicle that meets all of the following requirements:

(1) It is left on private property for 48 hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for 48 hours or longer;

(2) It is three years old or older;

(3) It is extensively damaged, including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(4) It is apparently inoperable; and

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<sup>3</sup> R.C. 4505.103(A).

<sup>4</sup> R.C. 4513.62, not in bill.



(5) It has a fair market value of \$1,500 or less.<sup>5</sup>

The third provision allows a county sheriff or the chief of police of a municipal corporation, township, or joint police district to dispose of a vehicle that was towed from the street or after coming into the possession of law enforcement and that is extensively damaged, apparently inoperable, and has a fair market value of \$1,500 or less if the vehicle has remained unclaimed for ten days or longer after the sheriff or chief of police has provided notice to the owner or lienholder. The means of disposal and the disposition of money arising from the disposal is the same as in the second provision above.<sup>6</sup>

### **Disposal under the bill**

Under the bill, if the law enforcement officer determines that the vehicle is at least three years old, apparently inoperable, and impossible to restore to highway operation and the officer does not wish to dispose of the vehicle as provided above (if applicable), the officer must sign an affidavit, on a form prescribed by the Registrar of Motor Vehicles. The affidavit must include the make and model of the vehicle, the vehicle identification number if available, a description of the damage to the vehicle, and a statement that the vehicle qualifies for disposal and that all of the requirements have been complied with.<sup>7</sup>

### **Step 3: Obtain a salvage certificate of title**

After obtaining an affidavit from a law enforcement officer as provided above, a towing service or storage facility may present the affidavit along with an application for a salvage certificate of title and a fee of \$4 to the clerk of courts. Upon receipt of a properly executed application, the clerk of courts must issue a salvage certificate of title to the motor vehicle, on a form prescribed by the Registrar. The clerk also must mark the certificate of title with the words "FOR DESTRUCTION."

Under the bill, such a salvage certificate of title is free and clear of all liens and must be used solely for purposes of disposing of the vehicle through a motor vehicle salvage dealer or a scrap metal processing facility. If a salvage certificate of title has been issued using this procedure, the bill prohibits the use of the motor vehicle for anything except parts and scrap metal.<sup>8</sup>

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<sup>5</sup> R.C. 4513.63, not in the bill.

<sup>6</sup> R.C. 4513.63, not in the bill.

<sup>7</sup> R.C. 4505.103(A).

<sup>8</sup> R.C. 4505.103(B).



#### **Step 4: Disposal of the vehicle**

After obtaining a salvage certificate of title, the towing service or storage facility may dispose of the vehicle through a salvage dealer or scrap metal processing facility.

Under the bill, "motor vehicle salvage dealer" means any person who engages in business primarily for the purpose of selling salvage motor vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal.<sup>9</sup> "Scrap metal processing facility" means an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for remelting purposes.<sup>10</sup> At the time of disposal, the towing service or storage facility must deliver a photocopy of the salvage certificate of title to the salvage dealer or scrap metal processing facility for its records. The towing service or storage facility is permitted to retain any money arising from the disposal of the vehicle.<sup>11</sup>

#### **Definition of "towing service or storage facility"**

For purposes of the provisions of the bill governing salvage certificates of title, "towing service or storage facility" is defined as any for-hire motor carrier that removes a motor vehicle from a private tow-away zone and any place to which such a for-hire motor carrier delivers a motor vehicle towed under the law governing private tow-away zones.<sup>12</sup>

The bill defines "towing service or storage facility" by cross reference to a definition in an existing provision of law. The general provisions of the section of the bill governing salvage certificate of title appear to allow all towing services and storage facilities to obtain salvage certificates of title. However, the cross-referenced definition of "towing service or storage facility" seems to have the effect of limiting those provisions to only those entities in the business of towing or storing motor vehicles from private tow-away zones.

#### **Value of an unclaimed vehicle for purposes of obtaining title**

Under current law, there are two circumstances in which an entity in possession of a vehicle may be able to obtain title to the vehicle (discussed below). Under both

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<sup>9</sup> R.C. 4505.103(D)(2) and 4738.01(A), not in the bill.

<sup>10</sup> R.C. 4505.103(D)(3) and 4737.05(D), not in the bill.

<sup>11</sup> R.C. 4505.103(C).

<sup>12</sup> R.C. 4505.101(E)(2) and 4505.103(D)(1).

circumstances, the vehicle must have a "value" of less than \$3,500. The bill modifies the process for valuing a vehicle for purposes of determining whether an authorized entity in possession of the vehicle may take title to it under either of those circumstances.

### **Circumstance 1: Vehicles left at a repair garage or place of storage**

The owner of a repair garage or place of storage may take title to a vehicle if all of the following apply:

(1) *The motor vehicle has a value of less than \$3,500;*

(2) The vehicle has been left unclaimed for 15 days or more following the completion of a requested repair or agreed term of storage;

(3) The owner of the repair garage or place of storage complies with requirements governing notice to the vehicle owner and any lienholder and the vehicle remains unclaimed 15 days after the mailing of all required notices; and

(4) The owner of the repair garage or place of storage submits a properly executed affidavit to the clerk of courts.<sup>13</sup>

### **Circumstance 2: Vehicles towed from a private tow-away zone**

A towing service or storage facility may obtain title to a vehicle if all of the following apply:

(1) The vehicle was towed from a private tow-away zone;

(2) *The vehicle has a value of less than \$3,500;*

(3) The owner of the towing service or storage facility complies with requirements governing notice to the vehicle owner and any lienholder;

(4) The vehicle has been left unclaimed for 60 days after an initial notice is provided; and

(5) The owner of the towing service or storage facility submits a properly executed affidavit to the clerk of courts.<sup>14</sup>

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<sup>13</sup> R.C. 4505.101(A).

<sup>14</sup> R.C. 4505.101(B).



## Vehicle valuation

Under current law, the value of a motor vehicle for purposes of the \$3,500 threshold in both circumstances set forth above is the wholesale value for that make and model of motor vehicle at the time the affidavit is submitted (as provided in a vehicle valuation guide that is generally available and recognized by the motor vehicle industry) minus: (1) the estimated cost of repairs to restore the motor vehicle to the wholesale value, and (2) the cost of any agreed-upon repairs.

<b>Table 1: "Value" of a vehicle under current law</b>
Wholesale value
– Estimated cost of repairs
– Agreed-upon repairs
"Value"

The bill adds the following two additional costs that may be deducted from the wholesale value of the vehicle: (1) a towing fee (if the vehicle was towed by the party seeking title to the vehicle), and (2) storage fees for the period of time the vehicle was stored without payment, up to a maximum of 65 days of fees. Due to the ability to deduct additional expenses from the wholesale value of a vehicle, an entity may obtain title to a vehicle with a higher wholesale value than under current law.<sup>15</sup>

<b>Table 2: "Value" of a vehicle under the bill</b>
Wholesale value
– Estimated cost of repairs
– Agreed-upon repairs
– A towing fee, if applicable
– Storage fees (up to 65 days)
"Value"

With the exception of the fees for the towing and storage of a vehicle that is removed from private property or a private tow-away zone (see "**Statutory towing and storage fees**," below), towing and storage fees are not established by law and may be set by the entity responsible for the towing or storage of the vehicle.

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<sup>15</sup> R.C. 4505.101(E)(3).

## Penalties for towing violations

The bill modifies the penalties that may be imposed by a court in a civil action initiated against a towing service or storage facility for a violation of the law governing the removal of a vehicle from a private tow-away zone or from private property not designated as a tow-away zone, or the law governing the provision of estimates for certain towing services. Under current law, the court must impose the following penalties against a towing service or storage facility if the court determines that the entity committed a violation:<sup>16</sup>

<b>Number of prior violations within one year of the violation</b>	<b>Penalty</b>
0	\$1,000
1	\$2,500
2	\$2,500 and a six-month revocation of the towing service's or storage facility's certificate of public convenience and necessity (After the expiration of the six-month revocation, a court cannot consider any violation committed by the towing service or storage facility prior to the revocation for purposes of a civil action initiated after the expiration of the six-month revocation) <sup>17</sup>

*If a court determines that a towing service or storage facility committed a violation that caused actual damages, the court must award the vehicle owner three times the actual damages and reasonable attorney's fees.*

The bill eliminates the ability of a court to impose a six-month revocation of a towing service's or storage facility's certificate of public convenience and necessity and the corresponding reset of the number of violations (for purposes of determining subsequent penalties) after such a revocation. Instead, the bill provides that if a towing service or storage facility has committed two or more prior violations within one year of the violation for which the penalty is being imposed, the penalty is \$3,500.<sup>18</sup>

## Fee for retrieval of nonmedical personal items

The bill eliminates a provision of current law that allows the owner of a motor vehicle that was towed from private property, a private tow-away zone, or from the street or after coming into the possession of law enforcement to retrieve any personal

<sup>16</sup> R.C. 4513.611(A) and (C).

<sup>17</sup> R.C. 4513.611(B).

<sup>18</sup> R.C. 4513.611(A) and (B).





items from the vehicle without paying any fee. Instead, the bill allows the owner to retrieve medical personal items without the payment of a fee, but requires the owner to pay a \$35 fee in order to obtain any nonmedical personal items. Under the bill, "medical personal items" include any items that have been prescribed, provided, or recommended by a person's doctor for purposes of curing, mitigating, managing, or preventing a disease, illness, or injury, or any physiologic, mental, or psychological condition or disorder. The bill requires a towing service or storage facility to deduct any fee paid for the retrieval of nonmedical personal items from the balance of the towing and storage fees that the owner must pay in order to retrieve the vehicle.<sup>19</sup>

### **Statutory towing and storage fees**

The bill requires the Public Utilities Commission to adopt rules, under the Abbreviated Rulemaking Act, that establish maximum fees for the removal of a vehicle from private property or a private tow-away zone in the same amounts as are currently statutorily specified. The bill also requires the Commission to increase the fees on an annual basis by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers (United States City Average, All Items) over the previous one-year period, as published by the U.S. Department of Labor, Bureau of Labor Statistics.<sup>20</sup> The bill eliminates the existing statutory towing and storage fees, but specifies that the existing statutory fee amounts remain in effect until the Public Utilities Commission establishes fees by rule as required under the bill.<sup>21</sup>

Under current law, the statutory towing and storage fees are as follows:<sup>22</sup>

<b>Table 4: Statutory towing and storage fees under current law</b>		
<b>Type of fee</b>	<b>Standard vehicle</b>	<b>Truck, bus, or commercial tractor and trailer/semitrailer with a gross vehicle weight rating of greater than 10,000 pounds</b>
Towing fee	\$90	\$150
Storage fee	\$12 per 24 hour period	\$20 per 24 hour period

<sup>19</sup> R.C. 4513.60(D)(2), 4513.601(G)(3), and 4513.61(C)(2) and (4).

<sup>20</sup> R.C. 4921.25(B)(4).

<sup>21</sup> R.C. 4513.60(B) and (D)(1), 4513.601(B)(1), (C), and (G)(1), 4513.68(C), and Section 3.

<sup>22</sup> R.C. 4513.60(D)(1) and 4513.601(G)(1)(b).



## Use of the crossover or shoulder of a roadway

The bill authorizes the operator of a tow truck that is traveling to the scene of a motor vehicle accident and is displaying a flashing, oscillating, or rotating amber light to do both of the following if the circumstances so warrant:

(1) Use an opening or crossover of a highway in order to proceed in the opposite direction, even if the use of the opening or crossover is restricted to authorized vehicles such as emergency vehicles and public safety vehicles; and

(2) Operate upon the berm or shoulder adjacent to the roadway of a street or highway.

The bill also specifies that the above authorizations do not relieve the operator of a tow truck from the duty to drive with due regard for the safety of all persons and property upon the highway.<sup>23</sup>

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## HISTORY

ACTION	DATE
Introduced	09-28-15

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<sup>23</sup> R.C. 4511.044.

