

FRANKLIN D. COOKE, JR.
STATE REPRESENTATIVE
16th District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
411 LEGISLATIVE AVENUE
DOVER, DELAWARE 19901

COMMITTEES
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Corrections, Vice-Chair
Gaming & Parimutuels, Vice-Chair
Capital Infrastructure
Capital Improvement
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Labor
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House Public Safety & Homeland Security Committee Meeting Minutes

4.23.24

House Committee Recording

Chair Cooke called the meeting to order at 11:04 a.m.

Members present:

Rep. Cooke, Chair

Rep. Osienski, Vice Chair

Rep. Bush

Rep. Collins

Rep. Johnson

Rep. Romer

Chair Cooke introduced **HB 351, AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO THE REMOVAL OF MOTOR VEHICLES FROM PRIVATE OR PUBLIC PROPERTY BY PRIVATE TOW COMPANIES.** *Time Stamp 11:05 am.*

HB 351, sponsored by Vice Chair Osienski, would establish various requirements of tow companies and storage facilities relating to the towing of vehicles. Tow companies would be required to document photographic evidence before towing, make rates publicly displayed and no more than \$500, drop vehicles if the owner returns before removal, be accessible between 8 a.m. and 6 p.m. five days a week, not charge fees for days the company is closed, allow personal belongings to be retrieved at no cost to the owner, and accept credit cards. Tow companies would not be allowed to patrol for or pay for information about illegally parked cars. Tow companies would be required to reimburse owners if they violated these regulations and would be liable for property damage caused by a non-consensual tow.

411 Legislative Avenue, Legislative Hall, House of Representatives,
Dover, Delaware 19901 House Offices: Wilmington: (302) 577-8476

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House Amendment 1 to HB 351 defines private parking areas, clarifies businesses' capability for prior written authorization, and specifies that the \$500 maximum fee applies to non-commercial vehicle owners. Vice Chair Osienski shared that he worked with the Department of Justice and did further research to make the bill clearer. Additionally, he provided a letter from a local Delaware bank outlining how consumers and merchants are protected in the case of fraudulent tow charges. Vice Chair Osienski also stated that the AAA Mid-Atlantic supports this legislation.

Rep. Collins asked for clarification about the scope of the bill. Vice Chair Osienski confirmed that this bill is regarding a business hiring a private towing company to remove illegally parked vehicles.

Chair Cooke opened the floor for public comment.

Robert Overmiller, Ken Grant (Wilmington Fines and Fees Group), and Jana Tidwell (Manager of Public and Government Affairs, AAA Mid-Atlantic) voiced support for this bill.

Rep. Johnson voiced support for the bill and appreciation for Vice Chair Osienski's work to strengthen the bill since it was previously discussed in Committee on March 26, 2024.

Rep. Collins asked for clarification about how this would impact an illegally parked vehicle on a property without a contracted towing company. Vice Chair Osienski answered that in that case, the property owner would have the vehicle towed through law enforcement. He noted that law enforcement towing is not at all altered by this bill.

A motion was made by Rep. Johnson and seconded by Rep. Romer to release HB 351 from committee, motion carried. Yes = 6 (Bush, Collins, Cooke, Johnson, Osienski, Romer); No = 0; Absent = 2 (Morris, Vanderwende). The bill was released from committee with a F=5, M=1, U=0 vote.

Chair Cooke adjourned the meeting at 11:15 am.

Respectfully submitted by:

Emma Crowell

Attendance List:

- Robert Overmiller
- Ken Grant, Wilmington Fines and Fees Group
- Jana Tidwell, Manager of Public and Government Affairs, AAA Mid-Atlantic



AAA Mid-Atlantic's Testimony in SUPPORT of HB 351

Towing Legislation Relating to the Removal of Motor Vehicles from Private or Public Property by Private Towing Companies

House Public Safety and Homeland Security Committee Hearing, March 26, 2024

Submitted by: Jana Tidwell, Manager, Public & Government Affairs, AAA Mid-Atlantic

- AAA Mid-Atlantic supports **HB 351**, which creates a new chapter in Title 21 pertaining to the towing of vehicles without the consent of the owner or operator. It makes violations of the chapter an unlawful practice enforceable by the Consumer Protection Unit of the Department of Justice. The Act creates the following requirements for the towing and storage of vehicles without the consent of the owner or operator:
 - Photographic evidence must be taken to document the unauthorized parking of a vehicle before it can be towed.
 - Tow companies and storage facilities must publicly display their rates.
 - Towing and storage rates must be reasonable, with reasonableness calculated in relation to the fees imposed by the companies for consensual towing and storage or based on average rates in the county.
 - A maximum total towing and storage rate of \$500 is imposed.
 - Tow companies must decouple or drop vehicles that have not been removed from parking areas if the owner returns before removal.
 - The drop fee may not be more than 50% of the tow fee.
 - Storage facilities must be open or accessible to the public from 8 a.m. to 6 p.m. five days a week, and tow companies must make reasonable accommodations to redeem vehicles after-hours.
 - Individuals must be allowed to retrieve at no cost personal belongings from vehicles held in storage.
 - Tow companies and storage facilities must accept credit cards.
 - Where a tow is completed in violation of the chapter, the owner or operator is entitled to both reimbursement of the tow and storage fees as well as damages incurred to retrieve an illegally towed vehicle.
 - Tow companies are liable for property damage sustained due to a non-consensual tow or storage.
 - Tow companies may not patrol for illegally parked cars.
 - Tow companies may not pay or give other benefits to obtain information about cars parked without authorization.
- As the motorists' advocate, AAA supports HB 351, as it is good for the public at large, protecting their rights as vehicle owners and rights to their personal property. HB 351 is an extensive and thorough bill. It follows very closely and in some cases nearly matches AAA standards and best practices for protecting motorists and their personal property, as it clearly outlines the responsibilities of tow companies when towing vehicles from private and public property. Importantly, it includes the ability to retrieve private property from a non-consensually towed motor vehicle, which was a concern that AAA-sponsored bill (HB 223) passed in 2021 tried to address.
- HB 351 is intended to extend protection for the motoring public. There are non-consensual tow companies who "troll" private parking lots with no authority to remove unauthorized vehicles. They may utilize "spotters" who are people stationed near parking lots watching for people who may unintentionally park their vehicles in a private lot, then "tip-off" the tow company that pays them for the information. The bill will establish safeguards against these unscrupulous activities.
- HB 351 establishes rules for private parking lot owners to follow along with their designated tow providers. It provides for a reasonable maximum dollar amount to be charged for those vehicles which are

removed from a parking area and impounded. In some localities the total charges can be exorbitant, even to the point of exceeding the value of the vehicle.

- AAA supports HB 351 and respectfully requests the bill be released from Committee.

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INSTITUTE FOR JUSTICE

April 23, 2024

Delaware House Committee on Public Safety and Homeland Security
Delaware General Assembly
411 Legislative Avenue, House Majority Caucus Room
Dover, Delaware 19901

Re: Letter in support of HB 351

Dear Chair Cooke, Vice Chair Osienski, and Members of the Committee:

Thank you for the opportunity to submit this letter in support of HB 351. My name is Alasdair Whitney, and I am a legislative counsel at the Institute for Justice (IJ). IJ is dedicated to protecting the right of every American to own and use his or her property freely.

IJ encourages the committee to support this bill because it would provide a much-needed solution to the unfair towing practices occurring in this State. The current state of towing laws in Delaware often leaves vehicle owners vulnerable to predatory practices by towing companies. It is not uncommon for vehicles to be abruptly towed from private lots without the owner's consent, leading to exorbitant fees, inconvenience, and sometimes even damage to the vehicle. Additionally, certain practices employed by tow companies restrict a vehicle owner's ability to reclaim personal belongings from the vehicle post-tow, as well as neglect to publicly disclose fee rates, effectively holding both the vehicle and its contents captive.

This bill remedies these issues. It, among other things, caps the total amount of fees a tow company may charge a vehicle owner and requires companies to publicly post tow rates and fees. It also requires that companies permit vehicle owners to access the personal property in towed vehicles during regular business hours and provide after-hours accommodations for vehicle retrieval. These provisions will help prevent disputes and ensure honest business practices in the towing process.

HB 351 will promote transparency and accountability within the towing industry by establishing clear guidelines and procedures for towing companies to follow. This bill is essential to shield consumers from longstanding unchecked and unscrupulous practices. Numerous states, including California¹ and Illinois,² offer substantial protections to owners of towed vehicles. It is time Delaware enacts the same protections for its citizens. The prevalence of these unjust towing practices is underscored by an ongoing lawsuit filed by the Institute for Justice in federal court.³ We urge the committee to support this bill.

Thank you for your time and thoughtful consideration of this issue.

¹ See Cal. Veh. Code § 22651.07(c)(1).

² See 625 ILCS 5/4-203(g)(4).

³ See *Shaheed, et al. v. City of Wilmington, Delaware, et al.*, No. 1:21-cv-01333-UNA, Dkt. 1 (Dist. Ct. Del.).

Sincerely,

Alasdair Whitney
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