



**Testimony of Andrew W. Herf
Proponent of HB 341
December 1, 2016**

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Chairman LaRose, Vice Chair Manning, Ranking Member Cafaro, and members of the Ohio Senate Transportation Commerce and Labor Committee, thank you for the opportunity to testify today as a proponent of House Bill 341. My name is Andy Herf and I am here on behalf of the Association of Professional Towing Operators—Ohio.

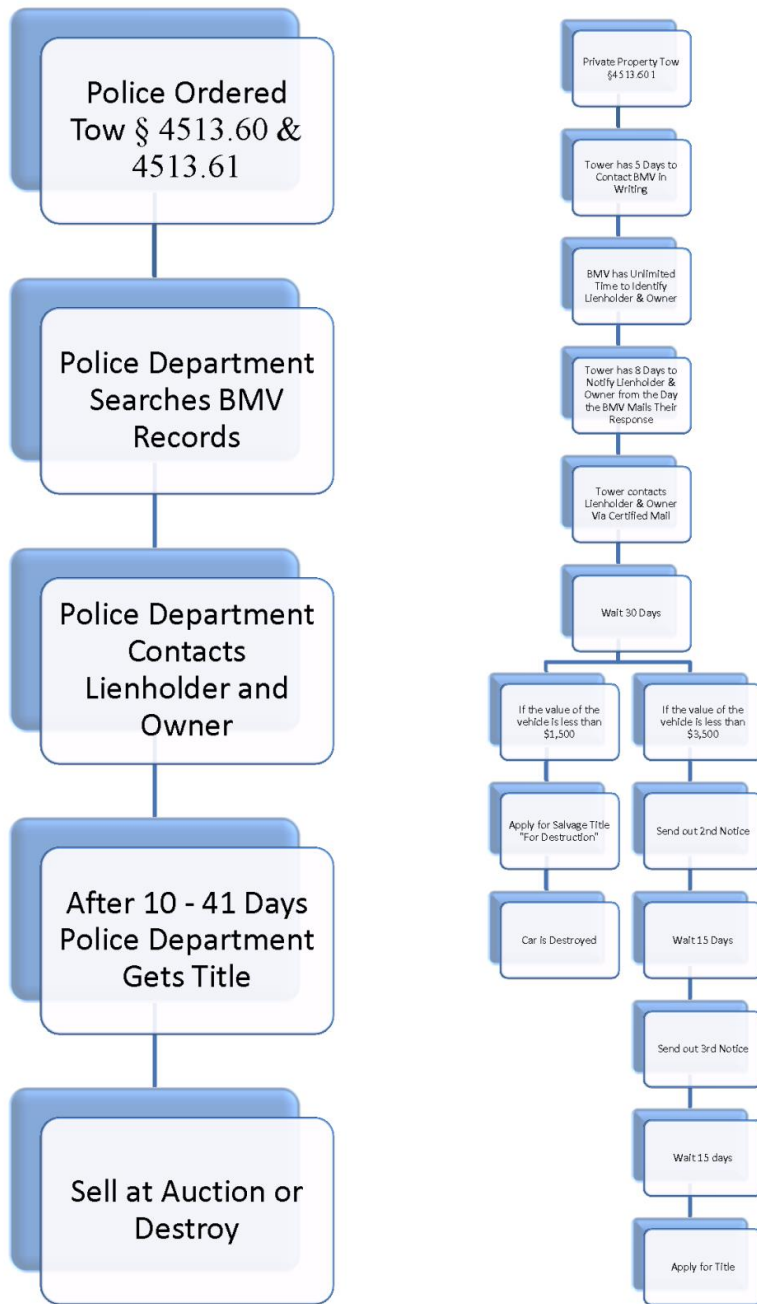
HB 341 would make five important changes in the towing industry.

- The bill creates the ability for a place of storage to receive a salvage title for abandoned, junk vehicles, and the bill allows for reasonable towing and storage deductions.
- The bill changes the 3 strikes provision created in Senate Bill 274 by creating major and minor infractions accompanied by a series of monetary fines and the possible loss of the PUCO Certificate of Public Convenience and Necessity (CPCN).
- The bill expands the role of the Public Utilities Commission of Ohio by allowing the PUCO hold a rate hearing regarding towing and daily storage fees for private tow away zone tows.
- The bill creates a process for insurers to challenge towing bills while protecting towing operators from frivolous claims.

SALVAGE TITLES

House Bill 341 creates a process to gain a salvage title to cars that are valued under \$1,500 in Ohio. The salvage title process would be expedited, and the title would be marked as “FOR DESTRUCTION.” Currently, if a police department orders a tow, then they are responsible for the title process if a lienholder or the owner of the vehicle do not come to claim the vehicle. If a car is towed from a private tow away zone, and the car is determined to have a value less than \$1,500 then the towing operator may initiate the salvage title process. They would notify the BMV, the BMV would respond to the towing operator with the name of any lienholder and the owner, then the towing operator would notify the lienholder and the owner. If no one responds to a certified letter after 30 days, the towing operator may gain a salvage title “FOR DESTRUCTION” on the vehicle. The title process created by SB 274 which passed last General Assembly would remain in place and that is illustrated by the attached chart:

How to Gain Titles



The expedited process will allow towers in Ohio avoid a lengthy process, sending out multiple notices and paying exorbitant prices for vehicles where they will never recover their costs.

Without the relief offered in this bill, cars will continue to pile up on lots across Ohio as they have been for several years.



TOWING AND STORAGE DEDUCTIONS

HB 341 would allow for towing and storage deduction from the price of an automobile that has been abandoned on a tow lot. The price of a tow established by the tow away zone law—4513.601 ORC—is \$90 and the daily storage fee is \$12 unless the vehicle is over 10,000 pounds. For vehicles over 10,000 pounds the towing rate is \$150 and a daily storage fee of \$25. Under SB 274 passed last year, to obtain a title the tower would be required to hold a car on their lot for a minimum of 65 days. 5 days to get the first notice to the owner of the vehicle, 30 days to wait before sending a second notice, followed by two more notices waiting 15 days between each one. Therefore, HB 341 allows for a tower to deduct the \$90 tow and 65 days at \$12 per day for a maximum deduction of \$870. The daily storage deduction for the salvage title process would be limited to 30 days because only one notice would be required. Therefore, under the salvage title process the maximum deduction would be \$450.

MAJOR AND MINOR PENALTIES

SB 274, which passed last year, created a series of penalties that ultimately caused a business to lose their PUCO Certificate of Public Convenience and Necessity (CPCN) for six months. Since the passage of SB 274 much attention has been focused on this section because loss of the certificate for six months effectively closes the business permanently. Not being able to operate for six months would be just cause for every private contract to be broken and it would cause the company to be removed from the law enforcement rotation lists. The penalty for mistakes is great, and APTO believes that companies should take the threat of closure very seriously. However, we would like to take another look at the penalties that could lead to a company closing down. We believe a tiered system of punishment would be more just, with a series of major and minor penalties. Major penalties would be property issues—not dropping a car off the hook if caught in the middle of a tow, not releasing a vehicle if ownership is established and the fee has been paid, and not allowing a person to retrieve personal items from within the car. Minor violation would include administrative issues and paperwork mistakes like not providing a receipt showing that the car was dropped for half the price, or not taking pictures of the car illegally parked before the tow.

Major Penalties (Property)		Minor Penalties (Administrative)	
		Violation 1	\$150
		Violation 2	\$300
Violation 1	\$1,000 - STRIKE 1	Violation 3	\$1,000 - STRIKE 1
		Violation 4	\$1,500
		Violation 5	\$2,000
Violation 2	\$2,500 - STRIKE 2	Violation 6	\$2,500 - STRIKE 2
		Violation 7	\$2,500
		Violation 8	\$2,500
Violation 3	\$3,500 - STRIKE 3	Violation 9	\$3,500 - STRIKE 3
	6 MONTHS CLOSED		6 MONTHS CLOSED
<p>List of Major Offenses:</p> <ul style="list-style-type: none"> • Failure to give a person their car if: <ul style="list-style-type: none"> ○ They have paid the bill ○ The car is not being held as evidence • Failure to release a car for half of the fee if the car has not been removed from the property • Refusal to allow the owner to retrieve personal items. • Failure to notify law enforcement within 2 hours. • Failure to notify the owner of the vehicle of the tow. 		<p>List of Minor Offenses:</p> <ul style="list-style-type: none"> • Failure to deliver the car to tow lot within 2 hours (unless impractical). • Failure to provide a receipt if the car is released. • Failure to take the car to a well lit lot within 25 miles and near public transportation. • Failure to photograph a private tow-away zone tow, and to produce photos if requested. • Failure to notify lienholder of owner. • Failure to provide an estimate if required. • Changing a fee greater than the fee allowed by law for dropped tows. • Failure to post notice of fee limitations. 	

Every third violation of a minor offense would carry the same weight as the major offenses.

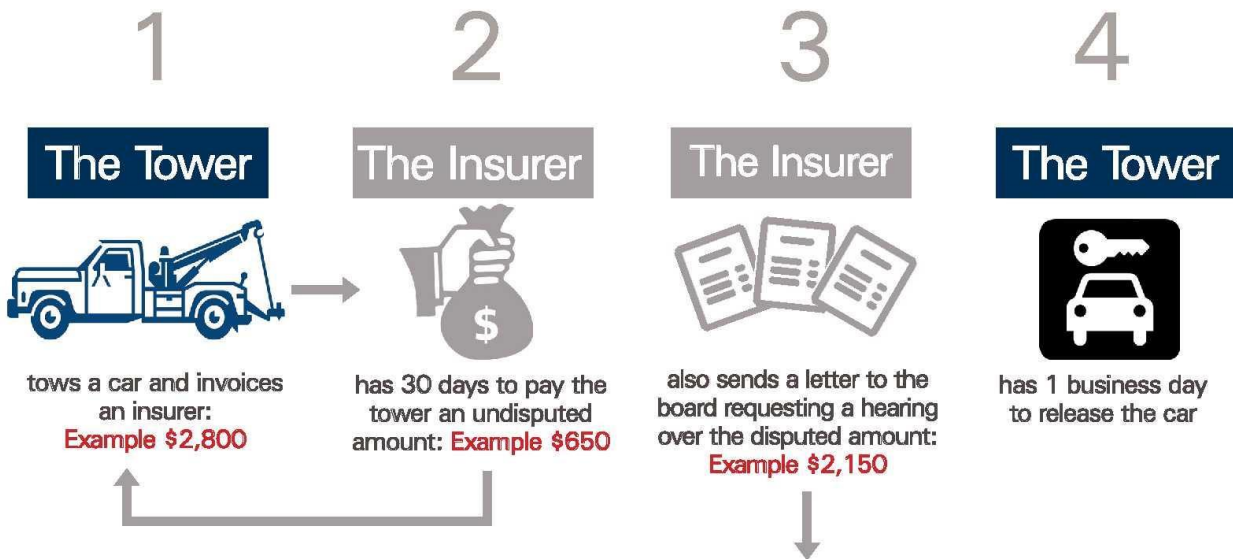
PUCO REGULATIONS

Under SB 274, the PUCO was required to regulate the towing industry. In November 2016, the new PUCO regulations went into effect. HB 341 would expand their authority to pricing. As written the bill would allow the PUCO to also regulate the price of a private tow away zone tow and the daily storage allowance. Currently the rates are set in statute at \$90 for the tow and \$12 per day storage unless the vehicle is over 10,000 pounds. For vehicles over 10,000 pounds the towing rate is \$150 and a daily storage fee of \$25. Upon the passage of the bill, the fees would increase modestly to reflect the CPI, and after 5 years, the PUCO would hold a rate hearing on the issue.

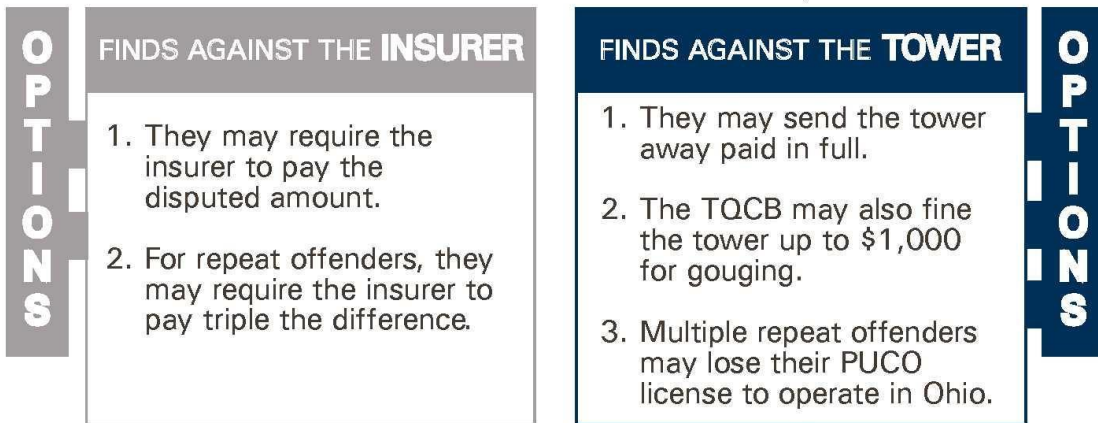
INSURERS

Insurers in Ohio claim that a small group of towers send bills to insurance companies after traffic accidents that are outside the normal price range for similar work. For more than a decade, insurers and towers have been at odds over how to deal with outlier claims. This year the Association of Professional Towers-Ohio and the Ohio Insurance Institute committed to working out a fair and equitable solution. As a result, the towing and quick clear board would be created by HB 341. The board would be a seven member panel with towers

APPROACH Towing & Quick Clear Board Process



TOWING & QUICK CLEAR BOARD



BOTH TOWERS AND INSURERS HAVE THE RIGHT TO APPEAL THE TQCB DECISION TO THE COURT OF COMPETENT JURISDICTION

and insurers represented. More importantly, HB 341 would ensure that car would be released from the tow lot and get repaired while towers and insurers plead their case to the towing and quick clear board.

OTHER CHANGES

House Bill 341 inserts the words “unless impracticable” when directing towers to get cars to the tow lots within 2 hours. In some rural counties and during extreme weather events, tower may not be physically capable of delivering a car to their lot within 2 hours. However, the tower would still have to report the car towed to local law enforcement regardless of weather or other circumstances. Another miscellaneous change in HB 341 is to extend the distance to a tow lot from 20 to 25 miles which would allow rural towers to expand their service area.

The bill recognizes the distinction between the two different kinds of non-consensual tows: private tow away zone tows and police tows. In both cases the vehicle owner may not know that their car was towed. Under current law, a company that conducts private tow-away zone tows under 4513.601 is open whenever they have trucks towing cars. In many cases, tow-away zone operation are open 24 hours per day, 7 days per week, and their rates are set by the revised code. However, companies conducting police ordered tows under 4513.60 and 4513.61 could close and may have rates set by local jurisdictions. Another distinction between police tows and tow-away zone tows is the ability for the car owner to retrieve the car in the middle of the night. Police ordered tows fall into three basic categories: abandoned vehicles, accidents and arrests. In each case, the likelihood of a car being retrieved in the middle of the night is slim. Abandoned cars are abandoned, claims adjusters assessing accidents work regular business hours and fewer and fewer police departments have dispatchers that can sign a police release after hours to retrieve a car towed from an arrest. Therefore, HB 341 would allow a police only tower to be closed throughout the night because the chances of anyone retrieving a police ordered tow after hours is very unlikely.

Finally, HB 341 included several negotiated changes requested by interested parties that were adopted by the House State Government Committee.:

- Lienholders do not pay daily storage until they receive notice of a tow.
- Clarifies that judges who find against towers must notify PUCO.
- Gives police departments 5 days to notify owners and lienholders of a tow.
- Requires towers to accept credit cards for drop fees.
- Requires towers and landlords to have a contract for private tow away zone tows.
- Requires towers to notify owners and lienholders of their rights on mailings and receipts.
- Prohibits kickbacks to towers.
- Strengthens the CPCN, and gives a cure period for towers to get their CPCN.
- Requires the Towing and Quick Clear Board to report findings to the legislature.

Thank you for allowing me an opportunity to testify as a proponent on HB 341. I would like to acknowledge the work of Chairman LaRose, his staff and the bill Sponsors Representative Young and Representative Sweeney. The diligent work of the chairman and the sponsors has put us in a position to resolve some longstanding issues in the towing industry while continuing to protect the public from past abuses.

I am happy to answer questions.