

Ohio House Civil Justice Committee
April 23, 2024
HB 403 - PROPONENT TESTIMONY
Association of Professional Towing – Ohio (APTO)

Chair Hillyer, Vice Chair Mathews, Ranking Member Isaachson, and members of the Civil Justice Committee, thank you for the opportunity to present Proponent Testimony in support of HB 403.

Several years ago, the Ohio Trucking Association approached the state’s Towing and Recovery Associations to address the issue of high towing invoices in the heavy duty towing and recovery space and the need to create a simple, fair and expedited form of dispute resolution. The towing industry welcomed the chance to address the issue of not being able to collect for the work that was performed. HB 403 is the result of two industries working together creating a fair solution for dispute resolution. A win for both industries.

The type of accidents addressed in HB 403 require law enforcement entities like the Ohio State Highway Patrol, County Sheriffs, or Chiefs of Police to order towing companies to respond immediately and remove vehicles and property while opening the roadway in a timely manner for the motoring public – keeping commerce moving and the roadways safe for travel.

When these accidents occur, it may result in a dispute between the trucking company and the towing company concerning the invoice for recovery, clean up, protecting property and timeliness of opening up the road. Keep in mind these incidents are highway emergencies – often blocking major highways and roadways and posing a serious threat to the public, including, causing secondary accidents and long delays.

Law Enforcement must clear the road, but no governmental entity has the resources or funding to clear the roads, hence their authority to order towing and recovery companies to provide the service. Ohio towing and recovery companies are a vital part of the public safety and emergency response fabric of Ohio. They must respond and work alongside law enforcement, fire, and emergency responder partners. The towing and recovery company also assumes the expense and liability to clear the roads in accordance with the Ohio Revised Code. However the towing and recovery company has no guarantee of payment.

The issue of “price gouging”, especially in the heavy duty towing and recovery space, is a very contentious issue for both the towing and trucking industries. Far too often, towing companies are not paid for providing recovery, towing, and storage services to law enforcement entities when ordered to do so. Neither the law enforcement entity, nor the state, county or local governmental entity is required to pay the towing company for providing the services. The only avenue for towing companies to be paid for their services is through the vehicle owner – in this case the trucking company.

From the Ohio Trucking Association’s perspective, we recognize that trucking companies are concerned with vehicles, property, and cargo that can be tied up when a dispute about a bill arises. Current forms of resolution, like a replevin action and the ensuing legal cases are costly and tremendously time-consuming for both parties. I would like to commend the Ohio Trucking Association for their time and efforts to have an open, honest, and productive process – the result being the fair, equitable and timely

dispute resolution process offered in HB 403. Both industries agree on the need and the process created in the legislation.

HB 403:

- Permits a vehicle owner to commence a civil action on behalf of that owner, or a third party for whom the owner commercially transports cargo – to object to the amount billed by a towing service.
- The action may be filed in a municipal or county court with jurisdiction over the location the vehicle was removed.
- The complaint shall include the amount of the bill that is *undisputed* and the reasons the owner objects to the remainder of the bill and include any evidence supporting the assertion that the bill amount is unreasonable.
- The vehicle owner shall pay the undisputed amount to the towing company and post a bond equal to the disputed amount.
- No later than two business days from receipt of the undisputed payment, the towing service or storage facility shall release the motor vehicle, cargo, or personal property that is the subject of the complaint.
- The court shall then make a determination whether the amount charged by the towing service was reasonable or unreasonable, order the motor vehicle owner to pay the undisputed charges or additional reasonable charges, may require either party to pay or refund any additional amount and may impose monetary penalties that the court determines to be appropriate.
- Finally, HB 403 also provides the towing service or storage facility the reciprocal privilege to commence the expedited civil action against the vehicle owner in the event the bill is not paid in 45 days from when it is presented to the vehicle owner.

Both parties will know the consequences of engaging the process, and will know the “rules of the road” if they cannot agree on a final bill when these major accidents must be cleared from our roadways. We trust this process will also encourage the parties to make every effort to settle these disputes before engaging the expedited civil action. Significantly, vehicles, property, cargo and payment to the towing service will be dealt with expeditiously to ensure we keep highways safe for the public and commerce moving.

On a final note, we shared this language with the Ohio Insurance industry and the Ohio Judicial Conference and do not anticipate any opposition to the proposal. Thank you for your attention to HB 403, I would appreciate your support for the legislation, and I would be happy to answer any questions at this time.