

1 SB201
2 183675-3
3 By Senator Reed
4 RFD: Transportation and Energy
5 First Read: 16-FEB-17

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 Relating to commercial motor vehicles; to provide
12 for the regulation of nonconsensual towing fees and charges
13 for commercial motor vehicles by the Alabama State Law
14 Enforcement Agency; to establish regulations for towing and
15 recovery service providers by rules adopted pursuant to the
16 Administrative Procedure Act; to establish a resolution
17 process for commercial motor vehicle owners who dispute the
18 amount of towing and recovery fees and charges; to require the
19 agency to approve towing rates based on certain standards; and
20 to provide for disciplinary action against towing and recovery
21 service providers for violations of agency rules.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. For the purposes of this act, the
24 following terms shall have the following meanings:

25 (1) AGENCY. The Alabama State Law Enforcement
26 Agency.

1 (2) MOTOR VEHICLE. A vehicle intended primarily for
2 use and operation on the public roads and highways which is
3 self-propelled.

4 (3) NONCONSENSUAL TOWING. The moving, transporting,
5 or recovery of a commercial vehicle by a towing and recovery
6 service without the prior consent or authorization of the
7 owner or operator of the vehicle.

8 (4) TOWING. The moving, transporting, or recovery
9 from private property or from a storage facility of a person's
10 commercial motor vehicle, the moving or removing of an
11 unclaimed motor vehicle, as defined in Section 32-8-84, Code
12 of Alabama 1975, or the immobilization of or preparation for
13 moving or removing of the commercial motor vehicle, for which
14 a fee is charged, either directly or indirectly.

15 (5) TOWING AND RECOVERY SERVICE. An individual or
16 business entity that provides towing and recovery services at
17 the direction of a law enforcement officer of the agency in
18 exchange for a fee or charge.

19 Section 2. (a) Subject to the Alabama Administrative
20 Procedure Act, the Alabama State Law Enforcement Agency shall
21 establish rules governing the use of towing and recovery
22 services for nonconsensual towing directed by the agency of
23 commercial motor vehicles as defined by 49 C.F.R. Part 390.5.
24 At a minimum, the rules shall include all of the following
25 provisions:

26 (1) The agency may not receive compensation from a
27 towing and recovery service.

1 (2) A state trooper of the agency may not do any of
2 the following:

3 a. Receive compensation or receive any other
4 incentive, monetary or otherwise, to use a particular towing
5 and recovery service.

6 b. Hold any financial interest in a towing and
7 recovery service.

8 c. Recommend any towing and recovery service in the
9 performance of his or her duties.

10 (3) All assignments for towing and recovery services
11 shall be made by the trooper commander or his or her designee
12 with jurisdiction over the location in which the vehicle is
13 located at the time the services are needed.

14 (4) The agency shall approve rates as reasonable
15 based on what is customary in practice of the industry.

16 (5) Upon nonconsensual towing or recovery of a
17 commercial vehicle and movement of the vehicle to a storage
18 facility, a towing and recovery service shall allow an owner
19 of a commercial vehicle or a designee of the owner of the
20 commercial vehicle to access the vehicle in a reasonable
21 manner as established by rules adopted by the agency pursuant
22 to this section and retrieve any freight or contents in or on
23 the commercial vehicle, including a trailer, tractor, and any
24 items necessary to carry out the interrupted job. Freight and
25 contents in or on the commercial vehicle may not be held by
26 the towing and recovery service to secure towing and recovery
27 charges. In the event that the trailer or the tractor is

1 retrieved from the storage facility, the commercial vehicle
2 owner shall pay up to a two thousand dollar (\$2,000) security
3 deposit until the service bill is paid. Nothing in this
4 section shall be construed to conflict with any existing law
5 giving the towing service provider a lien on the commercial
6 vehicle for the services provided.

7 (b) The agency shall adopt a service charge dispute
8 resolution process that includes all of the following
9 provisions:

10 (1) Upon a dispute over fees and charges related to
11 towing and recovery services for nonconsensual towing, the
12 commercial motor vehicle owner or the motor vehicle owner's
13 designee must file a written complaint with the towing and
14 recovery service provider and the trooper commander or his or
15 her designee within three business days of receiving an
16 invoice for the services provided.

17 (2) Upon receipt of the written complaint
18 challenging the fees and charges, a towing and recovery
19 service shall cease any and all storage charges that would
20 incur during the complaint review procedure.

21 (3) Upon a dispute based on an unpaid invoice, the
22 towing and recovery service provider may file a complaint
23 after 30 days of the date of the invoice but no later than 90
24 days after that same date.

25 (4) If no agreement for cost adjustments can be made
26 by the commercial motor vehicle owner or the commercial motor
27 vehicle owner's designee and the towing and recovery service

1 within seven days from the date of the submission of the
2 complaint under subdivision (1) or (2), the complaint shall be
3 reviewed by the trooper commander or his or her designee with
4 jurisdiction over the location upon which the vehicle was
5 located at the time of towing or recovery. The trooper
6 commander or his or her designee shall make a determination on
7 the complaint within three business days as follows:

8 a. If the trooper commander or his or her designee
9 determines that the fees are reasonable, the towing and
10 recovery service may submit additional charges for any and all
11 storage fees that have incurred during the complaint
12 procedure.

13 b. If the trooper commander or his or her designee
14 finds the towing and recovery charges to be in excess of the
15 reasonable rates that are customary in practice of the
16 industry, the trooper commander or his or her designee may
17 adjust the charges accordingly and require the towing and
18 recovery service to comply with the revised fees and charges.

19 Section 3. (a) If a towing and recovery service
20 violates a rule adopted by the Alabama State Law Enforcement
21 Agency as required in Section 2, the agency may administer any
22 disciplinary action provided for by agency rules governing
23 rotation towing services, including the assessment of fines
24 for violations, not to exceed five hundred dollars (\$500) per
25 violation.

1 (b) Any determination or order by the agency under
2 this section may be appealed in accordance with the Alabama
3 Administrative Procedure Act.

4 Section 4. Rules required to be adopted pursuant to
5 this act shall be adopted by the agency no later than November
6 1, 2017.

7 Section 5. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Transportation and Energy..... 16-FEB-17

Read for the second time and placed on the calen-
dar 1 amendment..... 23-FEB-17

Read for the third time and passed as amended 09-MAR-17

Yeas 22
Nays 1

Patrick Harris,
Secretary.