

1 HB285  
2 181665-2  
3 By Representatives Chesteen and Patterson  
4 RFD: Public Safety and Homeland Security  
5 First Read: 23-FEB-17

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: This bill would require the Alabama State  
9 Law Enforcement Agency (ALEA) to adopt rules  
10 regulating the nonconsensual towing of motor  
11 vehicles and commercial vehicles as directed by  
12 agency law enforcement officers.

13 This bill would establish procedures for  
14 motor vehicle owners to dispute fees and charges  
15 related to nonconsensual towing and recovery.

16 This bill would also allow ALEA to assess a  
17 civil penalty against a towing and recovery service  
18 who violates the rules adopted by the agency.

19  
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23  
24 Relating to motor vehicles; to provide for the  
25 regulation of nonconsensual towing fees and charges by the  
26 Alabama State Law Enforcement Agency; to establish regulations  
27 for towing and recovery service providers; to establish a

1 resolution process for motor vehicle owners who dispute the  
2 amount of towing and recovery fees and charges; to allow the  
3 agency to assess a civil penalty against towing and recovery  
4 service providers for violations of agency rules; and to  
5 provide for the distribution of civil penalties collected.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

9 (1) AGENCY. The Alabama State Law Enforcement  
10 Agency.

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

14 (3) NONCONSENSUAL TOWING. The moving, transporting,  
15 or recovery of a motor vehicle or commercial vehicle by a  
16 towing and recovery service without the prior consent or  
17 authorization of the owner or operator of the vehicle.

18 (4) TOWING. The moving, transporting, or recovery  
19 from private property or from a storage facility of a person's  
20 motor vehicle or commercial vehicle, the moving or removing of  
21 an abandoned motor vehicle, as defined in Section 32-13-1,  
22 Code of Alabama 1975, or the immobilization of or preparation  
23 for moving or removing of the motor vehicle, for which a fee  
24 is charged, either directly or indirectly.

25 (5) TOWING AND RECOVERY SERVICE. An individual or  
26 business entity that provides towing and recovery services at

1 the direction of a law enforcement officer of the agency in  
2 exchange for a fee or charge.

3 Section 2. (a) The Alabama State Law Enforcement  
4 Agency shall establish rules governing the use of towing and  
5 recovery services for nonconsensual towing. At a minimum, the  
6 rules shall include all of the following provisions:

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

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

11 a. Receive compensation or receive any other  
12 incentive, monetary or otherwise, to use a particular towing  
13 and recovery service.

14 b. Hold any financial interest in a towing and  
15 recovery service.

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

18 (3) All assignments for towing and recovery services  
19 shall be made by the commander of the trooper post with  
20 jurisdiction over the location in which the vehicle is located  
21 at the time the services are needed.

22 (4) Upon nonconsensual towing or recovery of a  
23 commercial vehicle and movement of the vehicle to a storage  
24 facility, a towing and recovery service shall allow an owner  
25 of a commercial vehicle or a designee of the owner of the  
26 commercial vehicle to access the vehicle and retrieve any  
27 freight or contents. Freight and contents in or on the

1 commercial vehicle may not be held by the towing and recovery  
2 service to secure towing and recovery charges.

3 (b) The agency shall adopt a service charge dispute  
4 resolution process that includes all of the following  
5 provisions:

6 (1) Upon a dispute over fees and charges related to  
7 towing and recovery services for nonconsensual towing, the  
8 motor vehicle owner or the motor vehicle owner's designee must  
9 file a written complaint with the towing and recovery service  
10 provider within three business days of receiving an invoice  
11 for the services provided.

12 (2) Upon receipt of the written complaint  
13 challenging the fees and charges, a towing and recovery  
14 service shall cease any and all storage charges that would  
15 incur during the complaint review procedure.

16 (3) If no agreement for cost adjustments can be made  
17 by the motor vehicle owner or the motor vehicle owner's  
18 designee and the towing and recovery service within seven days  
19 from the date of the submission of the complaint, the  
20 complaint shall be submitted for review to the commander of  
21 the trooper post with jurisdiction over the location upon  
22 which the vehicle was located at the time of towing or  
23 recovery. The commander of the trooper post shall make a  
24 determination on the complaint within three business days as  
25 follows:

26 a. If the commander of the trooper post determines  
27 that the fees are reasonable, the towing and recovery service

1 may submit additional charges for any and all storage fees  
2 that have incurred during the complaint procedure.

3 b. If the commander of the trooper post finds the  
4 towing and recovery charges to be in excess of the reasonable  
5 rates that are customary in practice of the industry, the post  
6 commander may adjust the charges accordingly and require the  
7 towing and recovery service to comply with the revised fees  
8 and charges.

9 Section 3. (a) If a towing and recovery service  
10 violates a rule adopted by the Alabama State Law Enforcement  
11 Agency as required in Section 2, the agency may assess a civil  
12 penalty against the towing and recovery service in an amount  
13 of five hundred dollars (\$500) per violation and may remove  
14 the towing and recovery service from the state's wrecker  
15 rotation list.

16 (c) Any determination or order by the agency under  
17 this section may be appealed in accordance with the Alabama  
18 Administrative Procedure Act.

19 (d) Any penalties collected pursuant to this  
20 subsection (a) shall be deposited in the State Treasury to be  
21 used by the Alabama State Law Enforcement Agency.

22 Section 4. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.