



April 10, 2024

SUMMARY OF BILL AS AMENDED (015128): Creates the *Modernization of Towing, Immobilization, and Oversight Normalization (MOTION) Act*.

Prohibits a commercial parking lot owner from: (1) booting or towing a motor vehicle located on the lot owner's lot if the motor vehicle is not an abandoned, immobile, or unattended motor vehicle; (2) utilizing an automatic license plate reader to enforce the lot owner's parking requirements without first posting a sign; and (3) charging a penalty for non-payment of parking fees for a first violation in excess of the actual cost of the unpaid cost to park; provided, however, that a commercial parking lot owner may charge a late fee of up to \$50.00 in addition to the actual cost of the unpaid cost to park if the actual cost of the unpaid cost to park is not paid within 30 calendar days.

Prohibits a vehicle from being towed without authorization by the owner of the vehicle until 12 hours have elapsed since it was first observed to be abandoned, immobile, or unattended unless the vehicle is creating a hazard, blocking access to public or private property, or parked illegally. Requires a tow truck operator to immediately release a motor vehicle that the operator has begun to tow but which has not left the parking area if the motor vehicle owner arrives and pays a release fee.

Establishes a violation of such is an unfair and deceptive act or practice under the *Consumer Protection Act of 1977*. Authorizes the Attorney General and Reporter (AG) to bring an action for an alleged violation. Prohibits costs of any kind or nature from being taxed against the AG or the state in actions commenced under this part.

Creates a Class B misdemeanor for a person, other than a licensed parking attendant, to knowingly boot a motor vehicle in this state. The penalty is enhanced to a Class A misdemeanor for a second or subsequent violation.

Authorizes a local government that passes an ordinance specifically opting to be governed by the proposed legislation to permit a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow on the licensed parking lot; provided, that the ordinance complies with outlined requirements.

Creates a Class B misdemeanor, if a person, firm, or entity towing a motor vehicle where the owner of a motor vehicle is not present at the time the motor vehicle is towed, does not notify local law enforcement of the vehicle identification number, registration information, license plate number, and description of the vehicle within 15 minutes of a person, firm, or entity towing the motor vehicle.

Enhances the penalty, from a Class C misdemeanor to a Class B misdemeanor, for a garagekeeper who tows or stores a vehicle without obtaining an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, from the owner of the vehicle, or from the owner or the authorized agent of the owner, of the private property from which the vehicle is to be towed.

Enhances the penalty, from a Class C misdemeanor to a Class B misdemeanor, for: (1) a towing firm who makes, confers, or offers any payment or other pecuniary benefit to an owner or manager of property from which the firm has towed a vehicle with the intent of rewarding the owner or manager for referring the vehicle for towing; or (2) an owner or manager of property from which a towing firm has towed a vehicle who solicits or receives any payment or other pecuniary benefit from a towing firm in exchange for referring a vehicle for towing to the firm.

Requires the Department of Revenue (DOR) to create and implement an electronic database or online platform that allows a police department to input abandoned, immobile, or unattended vehicle information for public notice to be made through the motor vehicle portal. Authorizes the DOR to charge a police department a fee to cover the cost of creating and administering the motor vehicle portal.

FISCAL IMPACT OF BILL AS AMENDED:

Increase State Revenue – \$300,000/FY24-25

Increase State Expenditures – \$300,000/FY24-25

Increase Local Expenditures – \$300,000/FY24-25/Permissive

Assumptions for the bill as amended:

- It is assumed that, on average, a person convicted of a Class C misdemeanor will spend zero days in local jail; a Class B misdemeanor will spend a total of one day in a local jail; and a person convicted of a Class A misdemeanor will spend a total of 15 days in a local jail.
- There were zero convictions over the last five years for all misdemeanors enhanced by this legislation.
- It is therefore assumed that there will not be a sufficient change in the number of prosecutions for state or local government to experience any significant change in revenue or expenditures.
- Based on information provided by the DOR, there will be a one time increase in state expenditures of \$300,000 to contract with a third-party vendor to create the electronic database.
- The proposed legislation authorizes DOR to charge a fee to police departments, which includes county sheriff's departments, Tennessee Highway Patrol, and other

departments, boards, and commissions designated by a county with a metropolitan form of government to perform the duties of a police department.

- Based on U.S. Department of Justice data, there are 363 law enforcement agencies in Tennessee.
- The precise number of police departments or other users that will choose to participate is unknown; however, DOR will charge a one-time fee to participating police departments at a rate necessary to pay costs associated with implementing the database resulting in a one-time increase in permissive local government expenditures of \$300,000 and corresponding increase in state revenue of \$300,000 in FY24-25.
- Any increase in the number of complaints handled by the AG is estimated to be not significant and can be handled by existing staff during normal work hours.
- Any additional AG duties resulting from the proposed legislation will be absorbed using existing resources.
- Any additional workload on the courts, as a result of this legislation, can be accommodated within existing resources and personnel.
- Committing an unfair or deceptive practice under the *Consumer Protection Act of 1977* is a Class B misdemeanor offense.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.

IMPACT TO COMMERCE OF BILL AS AMENDED:

Increase Business Revenue – \$300,000/FY24-25

Other Commerce Impact – The precise impact on operations of businesses providing vehicle booting services cannot be determined with reasonable certainty.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 6-54-132, municipalities are authorized to regulate the commercial use of wheel immobilizers to disable vehicles.
- The proposed legislation will significantly impact operations of businesses providing vehicle booting services in any municipalities that are not currently regulating such businesses.
- However, due to multiple unknown factors including the number of companies currently operating in any municipality, the number of municipalities that currently regulate booting companies, and the extent to which the proposed legislation will impact operations of such companies, the precise impact to jobs and commerce in Tennessee cannot reasonably be estimated.

- There will be a one-time increase in business revenue of \$300,000 in FY24-25 resulting from DOR paying a third-party vendor to create the database.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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