COMMISSIONER OF SECURITIES AND INSURANCE

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Commissioner

Office of the
Montana State Auditor

July 26, 2026

Senator Russ Tempel, Chair
Transportation Interim Committee
Montana Legislature
State Capitol
Helena, MT 59620

Dear Chairman Tempel, Vice Chair Fitzpatrick, and Members of the Transportation Interim Committee:

Thank you for the opportunity for the State Auditor's Office, also known as the CSI, to provide comment at the Transportation Interim Committee held on July 8, 2026.

This letter serves both as a summation of the Agency's remarks given at that hearing, as well as a response to the Committee's April 24, 2026, letter requesting guidance regarding insurance obligations, roadway debris removal, and the reimbursement of towing operators under § 61-9-416(2)(e). I appreciate the Committee's interest in this topic.

The issues identified by the Committee both in its April letter and at the July hearing arise under several different legal frameworks. Thus, in any given case, the answer will depend upon the specific facts, the applicable insurance policy language, and existing Montana law. To wit:

General Insurance Framework

Liability insurance is intended to cover damages an insured entity is legally obligated to pay because of bodily injury or property damage caused by negligence or other covered conduct.

Whether liability coverage applies to roadway debris cleanup depends upon whether an insured has legal responsibility for creating or causing the hazardous condition and whether the policy provides coverage for that claim.

Likewise, first-party coverages, such as collision or comprehensive insurance, protect the policyholder's own property interests and generally do not provide reimbursement for costs incurred by unrelated third parties unless specifically provided for within the policy.

Roadway Debris Cleanup

Section 61-9-416(2)(e), MCA, requires towing operators to remove debris from the roadway as part of performing a tow. The statute establishes a duty to perform debris removal but does not itself determine who is financially responsible for those cleanup costs. Whether a tow operator is ultimately reimbursed depends upon the legal basis for payment. Potential sources of reimbursement may include:

- the legally responsible party whose negligence created the debris;
- an applicable liability insurance policy;
- a vehicle owner's physical damage coverage if policy provisions permit;
- contractual arrangements among towing companies, law enforcement agencies, or governmental entities; or
- direct payment by a vehicle owner or other responsible party.

The insurance code does not create an independent obligation requiring insurers to reimburse towing operators solely because debris removal was performed pursuant to § 61-9-416, MCA.

Ownership of Debris

The Committee also asked about situations in which debris located on a public roadway or within a highway right-of-way does not have an immediately identifiable owner.

Ownership of debris and legal responsibility for creating the hazard are questions of fact and law that fall outside the regulatory authority of the Commissioner of Securities and Insurance. Those determinations are ultimately resolved through applicable statutes, law enforcement investigations, civil liability principles, or judicial proceedings.

Insurance coverage generally follows the legal determination of responsibility rather than ownership of the debris itself.

"Third-Party" Status of Tow Operators

The Committee noted that some tow operators have been informed they possess no "insurable interest" because they are considered third parties.

An insurable interest is required when a person seeks to insure their own property or financial interest.

Reimbursement claims submitted by towing operators for services performed are not necessarily determined by whether the tow truck operator possesses an insurable interest in the damaged property. Rather, payment depends upon the applicable insurance policy, contractual obligations, assignments of benefits where permitted, or the legal liability of an insured party.

Accordingly, whether a tow truck operator may recover cleanup costs cannot be answered categorically. Rather, as stated above, the answer depends upon and must be evaluated under the specific facts and policy provisions involved in specific cases.

Underinsured and Uninsured Drivers

The Committee also inquired about situations involving uninsured or underinsured motorists.

Motorists who purchase only the minimum liability limits required by Montana law may remain personally liable for damages exceeding their available insurance coverage. If the responsible party lacks sufficient insurance or assets, recovery by injured parties or service providers may be limited.

Uninsured and underinsured motorist coverage protects insured persons against certain bodily injury losses caused by uninsured or inadequately insured drivers but generally does not serve as reimbursement for roadway debris cleanup expenses incurred by towing operators.

Consumer Guidance

My agency encourages Montana consumers to discuss the following issues with their insurance producer before purchasing or renewing automobile insurance:

- liability limits that adequately protect personal assets;
- collision and comprehensive coverage;
- towing and roadside assistance endorsements;
- rental reimbursement coverage;
- uninsured and underinsured motorist coverage; and
- any optional coverages addressing emergency roadside services.

Consumers should understand that the minimum liability limits required by law may not fully protect them in the event of a serious accident.

Regulatory Authority

The State Auditor's Office is, pursuant to the Montana Constitution, is a member of the Executive Branch of Government. The Office's duties are set 'by law' and it is my duty, as State Auditor, to take care that the State's Laws are faithfully executed.

The Legislature has directed that the State Auditor's Office regulate insurance companies and enforce Montana's insurance laws. CSI reviews insurance policy forms and rates, investigates consumer complaints, and ensures insurers comply with applicable statutes and regulations.

CSI does not determine fault in motor vehicle accidents, adjudicate ownership disputes, interpret contractual rights between towing operators and motorists, or resolve civil liability disputes between private parties.

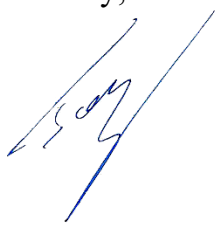
As discussed at the July meeting, the Committee has identified an area where questions frequently arise among insurers, towing operators, law enforcement, and motorists. While existing insurance principles provide a general framework, reimbursement questions often depend upon policy language, contractual relationships, and the factual circumstances surrounding a particular loss.

If the Legislature wishes to establish greater certainty regarding payment responsibility for mandatory roadway debris removal, that's a policy determination reserved for the legislative branch of government. Should the Interim Committee as a whole or should any member of the Legislature individually desire to provide greater clarity to Section 61-9-416 MCA, the Legislature is free to exercise to constitutional authority to do so during the 2027 Montana Legislative Session.

Per request, I have enclosed the National Council of Insurance Legislators (NCOIL) Consumer Protection Towing Model Act, the relevant Kentucky legislation, and House Bill 223 from last session as discussed during the meeting. These documents and authorities should serve as an excellent starting point for any legislation that may be deemed desirable and/or necessary to clarify existing statutes.

Thank you again for the opportunity to provide these comments. This agency is ready to assist you as you carry out your duties.

Sincerely,



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NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL)

Consumer Protection Towing Model Act

Adopted by the NCOIL Property & Casualty Committee on July 12, 2018 and the NCOIL Executive Committee on July 15, 2018
Sponsored by Rep. Matt Lehman (IN)

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Section 1. Title

This Act shall be known and cited as the [State] Consumer Protection Towing Act.

Section 2. Purpose

The purpose of this Act is to establish minimum standards for towing vendor services and to promote fair and honest practices in the towing service business.

Section 3. Definitions

For purposes of this Act:

"Automobile club services" - shall include, but not be limited to, the assumption of or reimbursement of the expense or a portion thereof for towing of a motor vehicle, emergency road service, matters relating to the operation, use, and maintenance of a motor vehicle, and the supplying of services which includes, augments, or is incidental to theft or reward services, discount services, arrest bond services, lock and key services, trip interruption services, and legal fee reimbursement services in defense of traffic related offenses.

"Recovery service" - a form of towing service which involves moving vehicles by the use of a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack, automobile ambulance, tow dolly, or any other similar device.

"Emergency towing" – the towing of a vehicle due to a motor vehicle accident, mechanical breakdown on public roadway or other emergency related incident necessitating vehicle removal for public safety with or without the owner's consent.

"Flat bed (Roll-back) service" - a form of towing service which involves moving vehicles by loading them onto a flat-bed platform.

"Government agency towing" – the towing of government-owned or government controlled vehicles by the government agency that owns or controls them.

"Law enforcement towing" – the towing of a vehicle for law enforcement purposes other than "seizure towing." The term includes towing for law enforcement purposes that is performed by a towing company under a contract with the State, a local unit, or a law enforcement agency of the State or local unit; or on behalf of the State, a local unit, or a law enforcement agency of the State or local unit.

"Motor vehicle" – any vehicle that is manufactured primarily for use on public streets, roads and highways (not including a vehicle operated exclusively on a rail or rails); and has at least four (4) wheels.

"Owner" - the person or entity to whom a motor vehicle is registered, or to whom it is leased, if the terms of the lease require the lessee to maintain and repair the vehicle, or a person or entity that holds a lien on the motor vehicle. For the purposes of this Act, a rental vehicle company is the owner of a motor vehicle rented pursuant to a rental agreement.

"Owner requested towing" – the request to tow a vehicle by or on behalf of the vehicle owner or operator.

"Private property towing" – the towing of a motor vehicle, without the owner's consent, from private property on which the motor vehicle was illegally parked, or for which some exigent circumstance necessitated its removal to another location.

"Rental vehicle company" – any person or organization, or any subsidiary or affiliate, including a franchisee, in the business of renting vehicles to the public.

"Seizure towing" – the towing of a motor vehicle for law enforcement purposes involving the maintenance of the chain of custody of evidence, or forfeiture of assets.

"Storage facility" – any lot, facility, or other property used to store motor vehicles that have been removed from another location by a tow truck.

"Tow truck" - a motor vehicle equipped to provide any form of towing service, including recovery service or flat bed service.

"Tow truck operator" – an individual who operates a tow truck as an employee or agent of a towing company.

"Towing company" - any service, company or business that tows or otherwise moves motor vehicles by means of a tow truck or owns or operates a storage lot. A towing business, service or company shall not include an automobile club, car dealership or insurance company.

Section 4. General Provisions

The provisions of this Act shall be applicable to any entity or person engaging in, or offering to engage in, the business of providing towing service in the State of XXXX. The provisions of this chapter shall not apply to vehicles towed into the State of XXXX or through the State of XXXX if the tow originates in another jurisdiction.

The provisions of this Act are not applicable to the towing of motor vehicles by or on behalf of an "automobile club", car dealership or insurance company.

The provisions of this Act are not applicable to "government agency towing", the towing of government-owned or government controlled vehicles by the government agency that owns or controls them.

The provisions of this Act are not applicable to "seizure towing", the towing of a vehicle for law enforcement purposes.

The provisions of this Act confer exclusive regulatory jurisdiction to the [regulatory body] in the State of XXXX over the towing and storage services of towing companies and vehicle storage companies. The [regulatory body] shall establish a complaint mechanism for consumers and insurers.

In addition to any penalty imposed under Section 12 of this Act, any for-hire motor carrier engaged in the towing of motor vehicles who violates this Act is subject to sanctions imposed by the [regulatory body] in the State of XXXX.

Section 5. Emergency Towing

A. This Section applies to a towing company that engages in, or offers to engage in, emergency towing. Prior to removing a vehicle from a tow truck under this section, a towing company shall take photographs, video or other visual documentation to evidence the vehicle damages, debris, damaged cargo or property, and complications to recovery process.

B. Except as provided in Section 5(C), a towing company shall not stop, or cause a person to stop, at the scene of an accident or near a disabled motor vehicle:

(1) if there is an injury as the result of an accident; or

(2) for the purpose of:

(i) soliciting an engagement for emergency towing services;

(ii) moving a motor vehicle from a public street, road, or highway; or

(iii) accruing charges in connection with an activity in subsection (i) or (ii)

C. A towing company may stop, or cause a person to stop, at the scene of an accident or near a disabled motor vehicle under the circumstances, or for any of the purposes, described in Section 5(B) if:

(1) the towing company is requested to stop or to perform a towing service by a law enforcement officer or by authorized state, county, or municipal personnel;

(2) the towing company is summoned to the scene or requested to stop by the owner or operator of a disabled vehicle; or

(3) the owner of a disabled motor vehicle has previously provided consent to the towing company to stop or perform a towing service.

(4) the towing company has reasonable belief that a motorist is in need of immediate aide. The towing company may not offer towing services in this circumstance unless conditions C(1), C(2), or C(3) of this section are met.

D. Except as provided in Sections 5(E) and (F), the owner or operator of a disabled motor vehicle may:

(1) summon to the disabled motor vehicle's location the towing company of the owner's or operator's choice, either directly or through an insurance company's or an automobile club's emergency service arrangement; and

(2) designate the location to which the disabled motor vehicle is to be towed. However, if the location designated by the owner or operator is not a storage facility owned or

operated by the towing company, the owner or operator must make arrangements for payment to the towing company at the time the towing company is summoned.

E. Section 5(D) does not apply:

(1) in any case in which the owner or operator of a disabled motor vehicle:

(a.) is incapacitated or otherwise unable to summon a towing company; or

(b.) defers to law enforcement or to authorized state, county, or municipal personnel as to:

(i) the towing company to be summoned; or

(ii) the location to which the disabled motor vehicle is to be towed; or

(2) in the event of a declared emergency

F. The authority of an owner or operator of a disabled vehicle to summon the towing company of the owner's or operator's choice under Section 5(D) shall be superseded by a law enforcement officer or by authorized State, county, or municipal personnel if the towing company of choice of the owner or operator:

(1) is unable to respond to the location of the disabled motor vehicle in a timely fashion; and

(2) the disabled motor vehicle is a hazard; impedes the flow of traffic; or may not legally remain in its location in the opinion of the law enforcement officer or authorized state, county, or municipal personnel.

G. If a disabled motor vehicle is causing or poses a safety hazard to any of the parties at the scene of the disabled motor vehicle, the disabled motor vehicle may be moved by a towing company to a safe location after being released by a law enforcement officer or by authorized state, county, or municipal personnel for that purpose.

H. If a towing company is summoned for emergency towing by the owner or operator of a disabled motor vehicle, the towing company shall make a record, to the extent available, consisting of:

(1) the first and last name, and telephone number of the person who summoned the towing company to the scene;

(2) the make, model year, vehicle identification number, and license plate number of the disabled motor vehicle.

I. If a towing company is summoned for emergency towing by a law enforcement officer or by authorized state, county, or municipal personnel, the towing company shall make a record, to the extent available, consisting of:

(1) the identity of the law enforcement agency or authorized state, county, or municipal agency, requesting the emergency towing;

(2) the make, model, year, vehicle identification number, and license plate number of the disabled motor vehicle.

J. A towing company shall maintain a record created under Sections 5(H) or (I) and provide said record to a law enforcement agency upon request from the time the towing company appears at the scene of the disabled motor vehicle until the time the motor vehicle is towed and released to an authorized third party. A towing company shall also retain a record created under Sections 5(H) or (I) for a period of two (2) years from the date the disabled vehicle was towed from scene and, throughout said two (2) year period, make the record available for inspection and copying, not later than two (2) business days after receiving a written request from a law enforcement agency, the attorney general, the disabled motor vehicle's owner, or an authorized agent of the disabled motor vehicle's owner.

K. A towing company that performs emergency towing under this Act must properly secure all towed motor vehicles and take all reasonable efforts to prevent further damage (including weather damage) or theft of all towed motor vehicles, including a motor vehicle's cargo and contents.

Section 6. Commercial Private Property Towing

A. This Section applies to a towing company that engages in, or offers to engage in, private property towing. This Section does not apply to the towing of a motor vehicle from a tow-away zone that is not located on private property. Prior to removing a vehicle from a tow truck under this section, a towing company shall take photographs, video or other visual documentation to evidence the vehicle damages, debris, damaged cargo or property, and complications to recovery process.

B. The owner of private property may establish a tow-away zone on the owner's property. A property owner that establishes a tow-away one under this Section shall post at the location of the tow-away zone a sign that is clearly visible to the public. The sign must include a statement that the area is a tow-away zone, pertinent contact information, and a description of any persons authorized to park in the area.

C. A towing company that tows a motor vehicle under this Section shall ensure that the motor vehicle is towed to a storage facility that is located within twenty-five (25) miles of the location of the tow-away zone from which the motor vehicle was removed, or, if there is no storage facility located within twenty-five (25) miles of the location of the tow-away zone, to the storage facility nearest to the tow-away zone. ***Drafting Note: Depending on the population density of a State, legislators may consider altering this distance.***

D. If the owner or operator of a motor vehicle that is parked in violation of a tow-away zone arrives at the location of the tow-away zone while the motor vehicle is in the process of being towed, the towing company shall give the owner or operator either oral or written notification that the owner or operator may pay a fee in an amount that is not greater than half of the amount of the fee the towing company normally charges for the release of a motor vehicle. Upon the owner's or operator's payment of the amount specified, the towing company shall release the motor vehicle to the owner or operator, and give the owner or operator a receipt showing the full amount of the fee of the towing company normally charges for the release of a motor vehicle, and the amount of the fee paid by the owner or operator.

E. Not later than two (2) hours after completing a tow of a motor vehicle from private property, a towing company shall provide notice of the towing to the law enforcement agency having jurisdiction in the location of the private property.

F. A towing company that performs private property towing under this Section shall properly secure all towed motor vehicles, and take all reasonable efforts to prevent further damage (including weather damage) or theft of all towed motor vehicles, including a motor vehicle's cargo and contents.

G. This Section does not affect a private property owner's rights under [insert State Statute with respect to abandoned motor vehicles] with respect to abandoned vehicles on the property owner's property.

Section 7. Estimates and Invoices for Towing Services

A. Prior to attaching a vehicle to a tow truck, the towing company shall furnish the vehicle owner, if the owner is present at the scene of a disabled vehicle, a rate sheet listing all rates for towing services included but not limited to, all rates for towing and associated fees, cleanup charges, labor, storage, and any other services provided by the towing company. A charge in excess of what is reflected on the rate sheet for any service shall be deemed excessive as described in Section 10A. The rate sheet shall also be posted at the towing company's place of business and be made available upon request to consumers.

B. An itemized invoice of actual towing charges assessed by a towing company for a completed tow shall be made available to the owner of the motor vehicle or the owner's authorized agent, which may be an insurance company, not later than one (1) business day after the tow is completed, or the towing company has obtained all necessary information to be included on the invoice, including any charges submitted by subcontractors used by the towing company to complete the tow – whichever occurs later.

C. The itemized invoice required by this Section must contain the following information:

a. an invoice number

b. the location from which the motor vehicle was towed;

c. the location to which the motor vehicle was towed;

d. the name, address, and telephone number of the towing company;

e. a description of the towed motor vehicle, including the:

(i) make;

(ii) model;

(iii) year;

(iv) vehicle identification number; and

(v) color

f. the license plate number and state of registration for the towed motor vehicle;

g. the cost of the original towing service;

h. the cost of any vehicle storage fees, expressed as a daily rate;

i. Other reasonable fees;

j. the costs for services that were performed under a warranty or that were otherwise performed at no cost to the owner of the motor vehicle.

D. Any reasonable service or fee in addition to the services or fees described in Section 7C, must be set forth individually as a single line item on the invoice required by this section, with an explanation and the exact charge for the service or the exact amount of the fee.

E. A copy of each invoice and receipt submitted by a tow truck operator in accordance with Section 7 shall be retained by the towing company for a period of two (2) years from the date of issuance. Throughout said two (2) year period, the copy of each invoice and receipt shall be made available for inspection and copying not later than two (2) business daysafter receiving a written request for inspection from:

a. a law enforcement agency;

b. the attorney general;

c. the prosecuting attorney or city attorney having jurisdiction in the location of any of the towing company's xxx State business locations;

d. the disabled motor vehicle's owner; or

e. the agent of the disabled motor vehicle's owner.

Section 8. Notice Requirements

A. Within two (2) business days of commencement of towing, the towing company or storage facility must commence a search of the National Motor Vehicle Title Information Systems data base, to obtain the last state of record of the vehicle and then obtain the most current name and address of the person who owns or holds a lien from the State's agency responsible for maintaining motor vehicle title data or an authorized vendor providing real time access to that state database, by electronic means, if available. No storage charges beyond the initial two (2) business days charge will accrue until the notice requirement has been met. If a state does not have a mechanism to provide the above requested information electronically, then the tow company will make all reasonable efforts to obtain the vehicle owner and lien holder information.

B. Upon obtaining the name and address of the owner and lienholder of the motor vehicle, written notice shall be given directly to the owner and lienholder, and, if known to the towing service or storage facility, the insurer of the vehicle, by certified mail with delivery confirmation within five (5) business days unless the ownership information could not reasonably be obtained within that time. Notice to the owner or insurer shall contain the following:

    a. The date and time the vehicle was towed;

    b. The location from which the vehicle was towed;

    c. The name, address, and telephone number where the vehicle will be located;

    d. The location, address and phone number where payment and business transactions take place if different from business address;

    e. The name, address and phone number of the towing company or storage facility;

    f. A description of the towed vehicle including but not limited to the make, model, year, vehicle identification number and color of the towed vehicle;

    g. The license plate number and state of registration of the towed vehicle.

C. If the search result under Section 8(A) is a corporately owned vehicle then the above notice shall be sent to the state corporate address listed on the registration. The vehicle must be held for up to 60 days in order for the vehicle owner to retrieve the towed vehicle. The rate charged must be comparable to the standard daily rate. If at any time more than one vehicle owned by the same corporation is under your control each vehicle shall be processed under a separate transaction.

Section 9. Releasing Towed Motor Vehicles

A. This section applies to towing companies that tow and store motor vehicles, and to storage facilities that store motor vehicles towed by a towing company, regardless of whether the towing company and the storage facility are affiliates.

B. Upon payment of all costs incurred against a motor vehicle that is towed and stored under this Act, the towing company or storage facility shall release the motor vehicle to:

a.) a properly identified person who owns or holds a lien on the motor vehicle; or

b.) a representative of the responsible insurance company and the insurance representative provides proof of such, or, the owner of the motor vehicle approves release of the vehicle to the insurance company representative.

C. An owner, a lienholder, or an insurance company representative has the right to inspect a motor vehicle under normal business hours before accepting return of the motor vehicle under this Section.

D. A towing service or storage yard must accept payment made by any of the following means from a person seeking to release a motor vehicle under this Section: cash; insurance check; credit card, debit card, money order, or certified check.

E. Upon receiving payment of all costs incurred against a motor vehicle, a towing service or storage yard shall provide to the person making payment an itemized receipt that includes the information set forth in Section 7, to the extent the information is known or available.

F. A towing service or storage yard must be open for business and accessible by telephone during normal business hours. A towing service or storage yard must provide a telephone number that is available on a twenty-four (24) hour basis to receive calls and messages from callers, including calls made outside of normal business hours. All calls made to a towing service or storage yard must be returned within twenty-four (24) hours from the time received. However, if adverse weather, an act of God, an emergency situation, or another act over which the towing service or storage yard has no control prevents the towing service or storage yard from returning calls within twenty-four (24) hours, the towing service or storage yard shall return all calls received as quickly as possible.

Section 10. Fees

A. A towing company shall not charge a fee for towing, clean-up services and/or storage of a vehicle that is excessive or unfairly discriminatory.

B. All services rendered by a tow company, including any warranty or zero cost services, shall be recorded on an invoice. The towing company or the owner or operator of a tow truck shall maintain the records for two (2) years, and shall make the records available for inspection and copying upon written request from law enforcement.

C. A towing company shall furnish a copy of its rate sheet as provided in Section 7A to (insert relevant regulatory body)

Section 11. Tow Company Certificate Requirements

Drafting Note: States that already have a towing certification process in place may wish to supplement its relevant insurance code or regulations with this Section.

A. The [regulatory body] shall approve an application for a towing company certificate or certificate renewal, and shall issue or renew a certificate, provided the applicant submits to the [regulatory body] a completed application on a form prescribed by the [regulatory body], and also pays the application fee set by the [regulatory body].

B. If applicable by state law, an application shall include:

   a. The applicant's workers' compensation coverage.

   b. The applicant's unemployment compensation coverage.

   c. The financial responsibility of an applicant relating to liability insurance or bond requirements according to state XXXX.

C. The applicant must not have been convicted of fraud or had a civil judgment rendered against it, in the past 5 years, for fraud nor has any officer, director or partner of an applicant that is a corporation or partnership during officer's, director's or partner's tenure.

Section 12. Prohibited Acts

A. A towing company shall not do any of the following:

   a. falsely represent, either expressly or by implication, that the towing company represents or is approved by any organization which provides emergency road service for disabled motor vehicles.

   b. require an owner/operator of a disabled motor vehicle, to preauthorize more than 24 hours of storage, or repair work as a condition to providing towing service for the disabled vehicle.

   c. charge more than one (1) towing fee when the owner/operator of a disabled vehicle requests transport of the vehicle be towed to a repair facility owned or operated by the towing company

d. tow a motor vehicle to a repair facility, unless either the owner of the motor vehicle of the owner's designated representative gives consent, and, the consent is given before the motor vehicle is removed from the location from which it is to be towed. This prohibition does not apply to a storage yard that has a repair facility on the same site so long as the vehicle is not moved into the repair facility without consent as stated above.

B. A towing company or a storage facility shall not do any of the following:

a. upon payment of all costs incurred against a motor vehicle that is towed and stored under this Act, refuse to release the motor vehicle to a properly identified person who owns or holds a lien on the motor vehicle, or a representative of the responsible insurance company.

(i) However, a towing company or storage facility shall not release a motor vehicle in any case in which a law enforcement agency has ordered the motor vehicle not to be released, or in any case in which a judicial order countermands its release.

b. refuse to permit a properly identified person who owns or holds a lien on a motor vehicle, or a representative of the responsible insurance company to inspect the motor vehicle before all costs incurred against the motor vehicle are paid or the motor vehicle is released.

c. charge any storage fee for a stored motor vehicle with respect to any day on which release of the motor vehicle, or inspection of the motor vehicle by the owner, lienholder, or insurance company, is not permitted during normal business hours by the towing company or storage facility.

Section 13. Penalties and Enforcement

Drafting Note: Legislators should consider provisions that establish rules that allow for the [regulatory body] to be responsible for the administration and enforcement, including inspections, investigations, penalties, and license revocations, of all towing businesses and towing service storage lots in the state of XXXX.

Drafting Note: Legislators should further consider provisions allowing for an independent cause of action for insurers to recover a motor vehicle that has been towed and subject to an unreasonable billing by the tower for any excessive towing/storage charges.

AN ACT relating to the towing and storage of motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 281.630 is amended to read as follows:

(1) A person shall not act as a motor carrier without first obtaining a certificate from the department.

(2) A certificate for the intrastate transportation of passengers or property, including household goods, shall be issued to any qualified applicant authorizing operation covered by the application, if it is found that the applicant conforms to the provisions of this chapter and the requirements of the administrative regulations promulgated in accordance with this section.

(3) (a) The department shall issue the following certificates:

1. Taxicab certificate;
2. Limousine certificate;
3. Disabled persons vehicle certificate;
4. Transportation network company certificate;
5. Household goods certificate;
6. Charter bus certificate;
7. Bus certificate;
8. U-Drive-It certificate;
9. Property certificate;
10. Driveaway certificate;
11. Peer-to-peer car sharing certificate;~~[and]~~
12. Automobile utility trailer certificate***; and***
13. Towing and storage certificate.

(b) Application for a certificate shall be made in such form as the department may require. The department shall receive an application fee of two hundred fifty dollars ($250) for all applications, except that the department shall receive an

application fee of twenty-five dollars ($25) for a property certificate.

(c) Before the department may issue a certificate, an applicant shall:

1. Pay the application fee established under paragraph (b) of this subsection;
2. For entities other than TNCs and peer-to-peer car sharing companies, file a motor carrier vehicle license application for each motor carrier vehicle as required by KRS 281.631. The applicant shall file at least one (1) motor carrier vehicle license application before being eligible for a certificate;
3. For TNCs, file a TNC authority application with the department pursuant to administrative regulations promulgated by the department;
4. For peer-to-peer car sharing companies, file a peer-to-peer car sharing certificate application with the department pursuant to administrative regulations promulgated by the department;
5. File with the department one (1) or more approved indemnifying bonds or insurance policies as required by KRS 281.655;
6. For taxicab, limousine, disabled persons vehicle, TNC, household goods, charter bus, and bus certificates, obtain and retain for a period of at least three (3) years, a nationwide criminal background check, in compliance with KRS 281.6301, of each owner, official, employee, independent contractor, or agent operating a passenger vehicle or household goods vehicle or entering a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods;
7. For household goods certificates, file with the department a current tariff;~~[and]~~
8. For a bus certificate, file with the department authorization from a city

as required by KRS 281.635***; and***

9. For towing and storage certificates, the applicant shall have a rate sheet on file with the department. All rates included shall be reasonable and customary to Kentucky.

(4) (a) Every certificate shall be renewed annually. Application for renewal shall be in such form as the department may require.

(b) A certificate not renewed within one (1) calendar year after the date for its renewal shall become null and void.

(c) The department shall not renew any certificate if it has been revoked or, if suspended, during the period of any suspension. A certificate shall not be considered revoked or suspended when an appeal of the revocation or suspension is pending in a court of competent jurisdiction.

(d) For the renewal of an intrastate certificate, the department shall receive a fee of two hundred fifty dollars ($250), except for an application for renewal of a property certificate, for which the department shall receive a fee of twenty-five dollars ($25).

(e) Before the department may renew a certificate, the certificate holder shall:

1. Pay the renewal fee established under paragraph (d) of this subsection;

2. For the entities other than TNCs and peer-to-peer car sharing companies, file a motor carrier vehicle license application or renewal for each motor carrier vehicle as required by KRS 281.631. The certificate holder shall file at least one (1) motor carrier vehicle license application or renewal before being eligible for renewal;

3. For TNCs, file a TNC authority application with the department pursuant to administrative regulations promulgated by the department;

4. For peer-to-peer car sharing companies, file a peer-to-peer car sharing certificate application with the department pursuant to administrative

regulations promulgated by the department;

5. File with the department one (1) or more approved indemnifying bonds or insurance policies as required by KRS 281.655;

6. Every three (3) years, for taxicab, limousine, disabled persons vehicle, TNC, household goods, charter bus, and bus certificates, obtain and retain for a period of at least three (3) years, a nationwide criminal background check in compliance with KRS 281.6301, of each owner, official, employee, independent contractor, or agent operating a passenger vehicle or entering a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods. However, within the three (3) year period:

   a. If a new owner, official, employee, independent contractor, or agent joins the certificate holder and performs the aforementioned duties; or

   b. If the certificate holder has knowledge that a current owner, official, employee, independent contractor, or agent who performs the aforementioned duties has been convicted of or pled guilty to any of the offenses listed in KRS 281.6301(2);

   then the certificate holder shall obtain and retain for a period of at least three (3) years, a nationwide criminal background check for that owner, official, employee, independent contractor, or agent;~~[and]~~

7. For household goods certificates, have on file with the department a current tariff***; and***

8. For towing and storage certificates, have on file with the department a current rate sheet.

(5) (a) A motor carrier operating under a household goods certificate shall, at all times the certificate is in effect, maintain on file with the department a current

tariff.

(b) Except for a household goods certificate holder that has had only an out-of-state address on file with the department prior to January 1, 2015, all certificate holders shall maintain on file with the department an address within the Commonwealth. The certificate holder shall keep open for public inspection at that address such information as the department may require.

(c) The certificate holder shall not charge, demand, collect, or receive a greater, less, or different compensation for the transportation of household goods or for any service in connection therewith, than the tariff filed with the department and in effect at the time would require. A certificate holder shall not make or give any unreasonable preference or advantage to any person, or subject any person to any unreasonable discrimination.

(6) A certificate shall not be transferred unless the transfer involves either the change of the legal name of the existing certificate holder or the incorporation of a sole proprietor certificate holder.

(7) A certificate authorizing a person to act as an automobile utility trailer lessor shall also authorize the agents of the person to act on his or her behalf during the period of their agency.

(8) A motor carrier vehicle shall not be operated after the expiration of the certificate under which it is operated.

(9) A person shall not knowingly employ the services of a motor carrier not authorized to perform such services.

(10) If the department, after a hearing held upon its own motion or upon complaint, finds any existing rate unjustly discriminatory, or finds the services rendered or facilities employed by any motor carrier to be unsafe, inadequate, inconvenient, or in violation of law or of the administrative regulations of the department, it may by final order do any or all of the following:

(a) Require the certificate holder to follow any rate or time schedule in effect at the time of service;

(b) Require the certificate holder to issue a refund to the complainant;

(c) Require the certificate holder to pay the fine set out in KRS 281.990 to the department; and

(d) Determine the reasonable, safe, adequate, and convenient service to be thereafter furnished.

(11) Hearings conducted under authority of this section shall be conducted in the same manner as provided in KRS 281.640.

(12) (a) Subject to the limitation of paragraph (b) of this subsection, the department shall have the power to promulgate administrative regulations as it may deem necessary to carry out the provisions of this section.

(b) Any administrative regulation that reasonably applies only to a human driver shall not apply to the operation of a fully autonomous vehicle licensed under this section.

➔Section 2. KRS 281.631 is amended to read as follows:

(1) No person shall act as a motor carrier without first obtaining a motor carrier vehicle license from the department for each motor carrier vehicle.

(2) Application for and renewal of a motor carrier vehicle license shall be made in such form as the department may require. Every motor carrier vehicle license shall be renewed annually.

(3) (a) Except as permitted under paragraph (b) of this subsection, an applicant or license holder shall pay to the department the following annual license fees:

1. Thirty dollars ($30) for each taxicab, limousine, TNC, or disabled persons vehicle;

2. Ten dollars ($10) for each motor carrier vehicle transporting household goods for hire;

3. One hundred dollars ($100) for each charter bus or bus;
4. Fifteen dollars ($15) for each motor carrier vehicle operating as a U-Drive-It;
5. Ten dollars ($10) for each motor carrier vehicle transporting property other than household goods and those exempt under KRS 281.605;
6. Ten dollars ($10) for each motor carrier vehicle operating as a driveaway;~~[and]~~
7. Ten dollars ($10) for each automobile utility trailer***; and***
8. Ten dollars ($10) for each tow truck that is not actively registered with the unified carrier registration.

(b) The cabinet may promulgate administrative regulations to set forth an optional motor carrier vehicle license fee schedule under this subsection on a bulk basis for applicants who employ or contract with more than fifty (50) vehicles. Bulk application fees under these administrative regulations may use a tiered system based on the type of certificate and the number of vehicles.

(4) Before the department may issue or renew a motor carrier vehicle license, the applicant or license holder shall:

(a) Pay the fee established under subsection (3) of this section;

(b) For a taxicab, limousine, disabled persons vehicle, TNC vehicle, charter bus, and bus, provide a copy of the vehicle registration for each out-of-state registered motor carrier vehicle being licensed, and if necessary, a statement showing that the driver is an insured driver of the vehicle, and that the registered owner or lessee authorizes the use of the vehicle for TNC services; and

(c) For a taxicab, limousine, disabled persons vehicle, TNC vehicle, charter bus, and bus, obtain and retain for a period of at least three (3) years, an inspection of the motor vehicle in the manner and form as the department may require.

(5) No motor carrier vehicle shall be operated after the expiration of the motor carrier vehicle license under which it is operated.

(6) All cities or counties of the Commonwealth may impose an annual license fee on an intrastate taxicab, limousine, or disabled persons vehicle operated from said city or county. The annual license fee shall not exceed thirty dollars ($30) per vehicle.

(7) Notwithstanding any other provisions of this section, nonresident motor carriers engaged in transporting passengers for hire in irregular route interstate charter or special operations shall be exempt from all fees prescribed in this chapter, if reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his or her state.

(8) If any person required to pay a license fee under subsection (3) of this section begins the operation of an additional motor carrier vehicle after the date of its certificate or renewal, the fee shall be as many twelfths of the annual fee as there are unexpired months in the certificate or renewal year.

(9) The department may promulgate administrative regulations as it deems necessary to carry out.

➔Section 3. KRS 281.928 is amended to read as follows:

(1) Within one (1) business day of the removal, a towing company shall contact the cabinet in order to ascertain the identity of the owner and any lienholder of any motor vehicle registered in Kentucky which it has towed and, within ten (10) days of the removal, shall, by certified mail, provide notice to the owner and any lienholder at the address or addresses of record, when a motor vehicle has been:

(a) Towed under KRS 281.924 or 281.926;

(b) Involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason;

(c) Stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business; or

(d) In any other situation, involuntarily towed or transported by order of police, other authority, or by private person or business. If the lienholder is a registered organization listed in the business records of the Secretary of State, the cabinet shall provide the address listed for the lienholder.

(2) The cabinet shall, within two (2) business days, provide the towing company the name and address of the owner and lienholder of any motor vehicle requested pursuant to subsection (1) of this section.

(3) (a) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall provide the notice required in subsection (1) of this section, by certified mail, to the owner and any lienholder at the address or addresses of record of the motor vehicle within ten (10) days of recovery of, or taking possession of, the motor vehicle.

(b) Any notice sent under this subsection shall comply with the notification provisions of subsection (4) of this section and shall include an estimated itemized invoice pursuant to KRS 281.926(5) that specifies the amount of charges for towing, recovery, storage, transporting, and other applicable charges due on the vehicle.

(c) If the owner of the storage facility fails to provide notice as provided in this section, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) days from the date of tow.

(d) This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(4) Any notification required under subsection (1) or (2) of this section shall include:

(a) The date and time the vehicle was towed;

(b) The location from which the vehicle was towed;

(c) The name, address, and telephone number where the vehicle will be located;

(d) The location, address, and phone number where payment and business

transactions take place if different from the business address;

(e) The name, address, and phone number of the towing company or storage facility;

(f) A description of the towed vehicle which shall at a minimum include the make, model, year, vehicle identification number, and color of the towed vehicle;

(g) The license plate number and state of registration of the towed vehicle; and

(h) A copy of the rate sheet required in KRS 281.926(2), if the vehicle was towed by a towing company operating under this chapter and vehicles are being held in a storage facility or garage.

(5) If a vehicle described in subsection (1) of this section is determined to be a corporately owned motor vehicle, the notices required under subsections (1) and (2) of this section shall be sent to the corporate address listed on the registration. A motor vehicle under this subsection shall be held for up to forty-five (45) days to allow the motor vehicle owner or lienholder to retrieve the towed motor vehicle. The rate charged shall be the standard daily rate of the towing company or storage facility. If at any time more than one (1) motor vehicle owned by the same corporation is under the control of a towing company or storage facility, each motor vehicle shall be processed under a separate transaction.

(6) ***If a vehicle described in subsection (1) of this section is being held for potential evidence in a civil or criminal investigation, the entity requesting the hold shall provide written notice to the vehicle owner within five (5) business days of a hold being initiated and within two (2) business days of a hold being released. The notice required under this subsection shall be transmitted either electronically or by certified mail.***

(7) A towing company or storage facility that has met the provisions of this section may sell the towed vehicle in accordance with KRS 359.230.

➔Section 4. KRS 281.930 is amended to read as follows:

(1) This section applies to towing companies that tow and store motor vehicles, and to storage facilities that store vehicles towed by a towing company, regardless of whether the towing company and the storage facilities are affiliates.

(2) Upon payment of all costs incurred against a motor vehicle towed and stored under this chapter, the towing company or storage facility shall release the motor vehicle to:

(a) A properly identified owner or lienholder of the motor vehicle; or

(b) An authorized representative of the insurance company or its contracted service provider insuring the motor vehicle if the:

1. Motor vehicle is covered by an active policy of insurance and the insurance representative provides proof of coverage; or

2. Owner of the motor vehicle approves release of the vehicle to the insurance company representative.

(3) (a) Prior to payment of fees and release of the motor vehicle, a storage facility or towing company shall not refuse the right of physical inspection of the towed vehicle during posted business hours by:

1. An owner;

2. A lienholder;

3. A representative of the insurance company that insures the motor vehicle; or

4. A contracted service provider of the insurance company.

(b) The inspection of a vehicle that is being held as evidence by a law enforcement agency shall only occur if authorized by the investigating law enforcement agency. The law enforcement agency may impose any or all of the following restrictions:

1. Restrict the inspection to visual and touchless only; or

2. Require any persons or entities outlined in paragraph (a) of this subsection to be accompanied by a law enforcement officer.

(4) A towing company or storage facility shall accept payment made by any of the following means from an individual seeking to release a motor vehicle:

(a) Cash;

(b) Check from an insurer or its agent;

(c) Credit card;

(d) Debit card;

(e) Money order; or

(f) Check drawn by a bank or other financial institution.

(5) Upon receiving payment of all costs incurred against a motor vehicle, a towing company or storage facility shall provide to the person making payment an itemized receipt in accordance with KRS 281.926(4) and (5) to the extent the information is known or available.

(6) A towing company or storage facility shall be open for business or accessible by telephone during posted business hours. A towing company or storage facility shall provide a telephone number available on a twenty-four (24) hour basis to receive calls and messages from callers, including calls made outside posted business hours. All calls made to a towing company or storage facility shall be returned within twenty-four (24) hours from the time received. However, if adverse weather, an emergency situation, or another act over which the towing company or storage facility has no control prevents the towing company or storage facility from returning calls within twenty-four (24) hours, the towing company or storage facility shall return all calls received as quickly as possible.

(7) (a) Storage fees may be charged by a towing company or storage facility during a hold period initiated for potential evidence in any criminal or civil investigation.

(b) Subject to the conditions in paragraph (c) of this subsection, a reasonable daily storage rate of no more than the daily storage rate included on the published rate sheet may be charged during the hold period. A towing company or storage facility shall not charge any additional fee or combination of fees during the hold period other than:

1. A daily storage fee; or

2. Fees charged in accordance with the rate sheet for completed labor to assist with an inspection, as directed by the entity overseeing the investigation.

(c) If an insurer offers to provide a secure facility for storage during the hold period at no cost, the entity requesting the hold may allow the vehicle to be moved to the insurer's facility.

(d) Upon release of the hold and payment from the owner or insurer for all towing and storage charges set forth by the published rate sheet, the vehicle shall be released to the owner, insurer, or representative of the insurer.

➔Section 5. KRS 281.926 is amended to read as follows:

(1) This section applies to any towing company that engages in, or offers to engage in, emergency towing.

(2) ~~[Prior to attaching a motor vehicle to the tow truck,]~~The towing company shall furnish the vehicle's owner or operator, if the owner or operator is present at the scene of the disabled vehicle***, or***~~[and]~~ upon the owner's or operator's request, a rate sheet listing all rates for towing services, including but not limited to all rates for towing and associated fees, cleanup, labor, storage, and any other services provided by the towing company.

(3) (a) Any towing company or storage facility shall:

1. Post a rate sheet as described in subsection (2) of this section at its place of business;

2. Provide a current rate sheet to the nearest Department of Kentucky State Police post and any law enforcement agency in its service area;~~[and]~~

3. Make the rate sheet available upon a customer's request***; and***

4. Have only one (1) rate sheet that is applicable to all customers, regardless of the customer or entity responsible for payment of the services provided. This subparagraph shall not apply to negotiated rates in a contract between a towing company or storage facility and a law enforcement entity.

(b) Any charge in excess of the rate sheets provided under this subsection shall be deemed excessive. ***Any payments made that are deemed excessive shall be refunded to the payor within thirty (30) days of notification to the towing company or storage facility by the department. Any charge deemed excessive from a towing company or storage facility in relation to a property, casualty, or property and casualty insurance policy shall be a fraudulent insurance act in violation of KRS 304.47-020.***

(c) If a towing company fails to comply with any of the provisions of this subsection, the Department of Kentucky State Police and any local law enforcement agency in the company's service area shall remove that towing company from its wrecker log for a period of:

1. Six (6) months for the first violation; and

2. One (1) year for any subsequent violation.

(4) An itemized invoice of actual towing charges assessed by a towing company for a completed tow shall be made available to the owner of the motor vehicle or the owner's agent no later than one (1) business day after:

(a) The tow is completed; or

(b) The towing company has obtained all necessary information to be included on the invoice, including any charges submitted by subcontractors used by the

towing company to complete the tow and recovery.

(5) The itemized invoice required under subsection (4) of this section shall contain the following information:

(a) The date and time the motor vehicle was towed;

(b) The location to which the motor vehicle was towed;

(c) The name, address, and telephone number of the towing company;

(d) A description of the towed motor vehicle, including the color, make, model, year, and vehicle identification number of the motor vehicle;

(e) The license plate number and state of registration for the towed motor vehicle;

(f) The cost of the original towing service;

(g) The cost of any vehicle storage fees, expressed as a daily rate;

(h) Other fees, including documentation fees and motor vehicle search fees; and

(i) A list of the services that were performed under a warranty or that were otherwise performed at no cost to the owner of the motor vehicle.

(6) Any service or fee in addition to the services or fees described in subsection (5)(f), (g), or (h) of this section shall be set forth individually as a single line item on the invoice required by this section, with an explanation and the exact charge for the service or the exact amount of the fee.

(7) A copy of each invoice and receipt submitted by a tow truck operator in accordance with this section shall:

(a) Be retained by the towing company for a period of two (2) years from the date of issuance; and

(b) Throughout the two (2) year period described in this subsection, be made available for inspection and copying not later than forty-eight (48) hours after receiving a written request for inspection from:

1. A law enforcement agency;

2. The Attorney General;

3. A city attorney, county attorney, or the prosecuting attorney having jurisdiction in the location of any of the towing company's business locations;
4. The disabled motor vehicle's owner or lienholder;
5. An agent of the disabled motor vehicle's owner or lienholder; or
6. Any individual involved in the underlying collision, his or her respective insurance companies, or his or her legal representatives, if the disabled motor vehicle was involved in a collision.

➔Section 6. KRS 281.010 is amended to read as follows:

As used in this chapter:

(1) "Automobile club" means a person that, for consideration, promises to assist its members or subscribers in matters relating to the assumption of or reimbursement of the expense or a portion thereof for towing of a motor vehicle; emergency road service; matters relating to the operation, use, and maintenance of a motor vehicle; and the supplying of services which includes, augments, or is incidental to theft or reward services, discount services, arrest bond services, lock and key services, trip interruption services, and legal fee reimbursement services in defense of traffic-related offenses;

(2) "Automobile utility trailer" means any trailer or semitrailer designed for use with and towed behind a passenger motor vehicle;

(3) "Automobile utility trailer certificate" means a certificate authorizing a person to engage in the business of automobile utility trailer lessor;

(4) "Automobile utility trailer lessor" means any person operating under an automobile utility trailer certificate who is engaged in the business of leasing or renting automobile utility trailers, but shall not include the agents of such persons;

(5) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific

delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;

(6) "Bus" means a motor vehicle operating under a bus certificate transporting passengers for hire between points over regular routes;

(7) "Bus certificate" means a certificate granting authority for the operation of one (1) or more buses;

(8) "Cabinet" means the Kentucky Transportation Cabinet;

(9) "Certificate" means a certificate of compliance issued under this chapter to motor carriers;

(10) "Charter bus" means a motor vehicle operating under a charter bus certificate providing for-hire intrastate transportation of a group of persons who, pursuant to a common purpose under a single contract at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;

(11) "Charter bus certificate" means a certificate granting authority for the operation of one (1) or more charter buses;

(12) "Commissioner" means the commissioner of the Department of Vehicle Regulation;

(13) "CTAC" means the Coordinated Transportation Advisory Committee created in KRS 281.870;

(14) "Department" means the Department of Vehicle Regulation;

(15) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;

(16) "Disabled persons vehicle carrier" means a motor carrier for hire, transporting passengers including the general public who require transportation in disabled persons vehicles;

(17) "Disabled persons vehicle" means a motor vehicle operating under a disabled persons vehicle certificate especially equipped for the transportation of passengers with disabilities in accordance with 49 C.F.R. pt. 38, and is designed or constructed with not more than fifteen (15) regular seats. It shall not mean an ambulance as defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a stretcher;

(18) "Disabled persons vehicle certificate" means a certificate granting authority for the operation of one (1) or more disabled persons vehicles transporting passengers for hire;

(19) "Driveaway" means the transporting and delivering of motor vehicles, except semitrailers and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for hire. "Driveaway" does not include the transportation of such vehicles by the full mount method on trailers or semitrailers;

(20) "Driveaway certificate" means a certificate granting authority for the operation of one (1) or more motor carrier vehicles operating as a driveaway;

(21) "Driver" means the person physically operating the motor vehicle;

(22) "Flatbed/rollback service" means a form of towing service which involves moving vehicles by loading them onto a flatbed platform;

(23) "Fully autonomous vehicle" has the same meaning as in KRS 186.760;

(24) "Highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;

(25) "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;

(26) "Household goods carrier" has the same meaning as "household goods motor carrier" in 49 C.F.R. sec. 375.103;

(27) "Household goods certificate" means a certificate granting authority for the operation of one (1) or more household goods vehicles;

(28) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:

(a) Nonemergency medical transportation under KRS Chapter 205;

(b) Mental health, intellectual disabilities, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;

(c) Work programs for public assistance recipients under KRS Chapter 205;

(d) Adult services under KRS Chapter 205, 209, 216, or 273;

(e) Vocational rehabilitation under KRS Chapter 151B or 157; or

(f) Blind industries or rehabilitation under KRS Chapter 151B or 163;

(29) "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;

(30) "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;

(31) "Limousine" means a motor vehicle operating under a limousine certificate that is designed or constructed with not more than fifteen (15) regular seats;

(32) "Limousine certificate" means a certificate granting authority for the operation of one (1) or more limousines transporting passengers for hire;

(33) "Mobile application" means an application or a computer program designed to run on a smartphone, tablet computer, or other mobile device that is used by a TNC to connect drivers with potential passengers;

(34) "Motor carrier" means any person in either a private or for-hire capacity who owns, controls, operates, manages, or leases, except persons leasing to authorized motor carriers, any motor vehicle for the transportation of passengers or property upon any highway, and any person who engages in the business of automobile utility trailer lessor, vehicle towing, driveaway, or U-Drive-It;

(35) "Motor carrier vehicle" means a motor vehicle, including a fully autonomous

vehicle, used by a motor carrier to transport passengers or property;

(36) "Motor carrier vehicle license" means a license issued by the department for a motor carrier vehicle authorized to operate under a certificate;

(37) "Motor carrier license plate" means a license plate issued by the department to a motor carrier authorized to operate under a certificate other than a household goods, property, TNC, peer-to-peer car sharing, or U-Drive-It certificate;

(38) "Motor vehicle" means any motor-propelled vehicle used for the transportation of passengers or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles;

(39) "Passenger" means an individual or group of people;

(40) "Peer-to-peer car sharing":

(a) Means the authorized use of a motor vehicle by an individual other than the vehicle's owner through a peer-to-peer car sharing program; and

(b) Does not:

1. Include the operation of a U-Drive-It certificate as defined in this section; or

2. Involve the sale or provision of rental vehicle insurance as defined in KRS 304.9-020;

(41) "Peer-to-peer car sharing certificate" means a certificate granting the authority for the operation of a peer-to-peer car sharing program;

(42) "Peer-to-peer car sharing company" means a person that operates a peer-to-peer car sharing program;

(43) "Peer-to-peer car sharing program":

(a) Means a business platform that connects shared vehicle owners with shared vehicle drivers to enable the sharing of motor vehicles for financial consideration; and

(b) Does not include a:

1. U-Drive-It;
2. Motor vehicle renting company as defined in KRS 281.687;
3. Rental vehicle agent as defined in KRS 304.9-020; or
4. Service provider that is solely providing hardware or software as a service to a person or entity that is not effectuating payment of financial consideration for use of a shared vehicle;

(44) "Permit" means a temporary permit of compliance issued under this chapter for a specified period not to exceed ten (10) days, and for a specific vehicle, to any motor carrier, including one who is a nonresident of the Commonwealth, who operates a motor vehicle and is not entitled to an exemption from the payment of fees imposed under KRS 186.050 because of the terms of a reciprocal agreement between the Commonwealth and the state in which the vehicle is licensed;

(45) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, assignee, or personal representative thereof;

(46) "Platoon" means a group of two (2) individual commercial motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than would ordinarily be allowed under KRS 189.340(9)(b);

(47) "Prearranged ride" means the period of time that begins when a transportation network company driver accepts a requested ride through a digital network or mobile application, continues while the driver transports the rider in a personal vehicle, and ends when the transportation network company services end;

(48) "Pre-trip acceptance liability policy" means the transportation network company liability insurance coverage for incidents involving the driver for a period of time when a driver is logged into a transportation network company's digital network or mobile application but is not engaged in a prearranged ride;

(49) "Property" means general or specific commodities, including hazardous and

nonhazardous materials;

(50) "Property certificate" means a certificate granting authority for the transportation of property, other than household goods, not exempt under KRS 281.605;

(51) "Recovery":

(a) Means a form of towing service which involves moving vehicles by the use of a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack, automobile ambulance, tow dolly, or any other similar device as requested by a state or local law enforcement agency; and

(b) Includes:

1. Relocating a vehicle or cargo from a place where towing is not possible to a place where towing is possible; and

2. The cleanup of debris or cargo, and returning an area to pre-event condition;

(52) "Regular route" means the scheduled transportation of passengers between designated points over designated routes under time schedules that provide a regularity of services;

(53) "Regular seat" means a seat ordinarily and customarily used by one (1) passenger and, in determining such seating capacity, the manufacturer's rating may be considered;

(54) "Shared vehicle":

(a) Means a motor vehicle that is available for car sharing through a peer-to-peer car sharing program; and

(b) Does not include a motor vehicle leased or rented by a person operating under a U-Drive-It certificate;

(55) "Shared vehicle driver" means an individual who has been authorized to drive the shared vehicle by the shared vehicle owner under a car sharing program agreement;

(56) "Shared vehicle owner":

(a) Means the registered owner, or a person designated by the registered owner, of a motor vehicle made available for sharing to shared vehicle drivers, through a peer-to-peer car sharing program; and

(b) Does not include a:

1. Person operating a U-Drive-It certificate;

2. Motor vehicle renting company as defined in KRS 281.687; or

3. Rental vehicle agent as defined in KRS 304.9-020;

(57) "Storage facility" means any lot, facility, or other property used to store motor vehicles that have been removed from another location by a tow truck;

(58) "Street hail" means a request for service made by a potential passenger using hand gestures or verbal statement;

(59) "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority;

(60) "Tariff" means the listing of compensation received by a motor carrier for household goods that includes the manner in which and the amount of fares an authorized motor carrier may charge;

(61) "Taxicab" means a motor vehicle operating under a taxicab certificate that is designed or constructed with not more than eight (8) regular seats and may be equipped with a taximeter;

(62) "Taxicab certificate" means a certificate granting authority for the operation of one (1) or more taxicabs transporting passengers for hire;

(63) "Taximeter" means an instrument or device approved by the department that automatically calculates and plainly indicates the charge to a passenger for hire who is being charged on the basis of mileage;

(64) "Tow truck" means a motor vehicle equipped to provide any form of towing

service, including recovery service or flatbed/rollback service;

(65) "Tow truck operator" means an individual who operates a tow truck as an employee or agent of a towing company;

(66) "Towing" means:

(a) Emergency towing, which is the towing of a motor vehicle, with or without the owner's consent, because of:

1. A motor vehicle accident on a public highway;

2. An incident related to an emergency; or

3. An incident that necessitates the removal of the motor vehicle from a location for public safety reasons;

(b) Private property towing, which is the towing of a motor vehicle, without the owner's consent, from private property:

1. On which the motor vehicle was illegally parked; or

2. Because of an exigent circumstance necessitating its removal to another location; and

(c) Seizure towing, which is the towing of a motor vehicle for law enforcement purposes involving the:

1. Maintenance of the chain of custody of evidence;

2. Forfeiture of assets; or

3. Delinquency of highway fuel tax, weight distance tax, or any other taxes and fees administered by the Transportation Cabinet;

(67) ***"Towing and storage certificate" means a certificate granting authority for the operation of one (1) or more tow trucks, storage facilities, or both;***

(68) "Towing company":

(a) Means a service or business operating as a motor carrier that:

1. Tows or otherwise moves motor vehicles by means of a tow truck; or

2. Owns or operates a storage ***facility*** ~~[lot]~~;

(b) Includes a tow truck operator acting on behalf of a towing company when appropriate in the context; and

(c) Does not include an automobile club, car dealership, insurance company, repossession company, lienholders and entities hired by lienholders for the purpose of repossession, local government, or any other entity that contracts with a towing company;

(69) ~~[(68)]~~ "Transportation network company" or "TNC" means a person or entity that connects passengers through its digital network or mobile application to its drivers for the provision of transportation network company services;

(70) ~~[(69)]~~ "Transportation network company certificate" or "TNC certificate" means a certificate granting the authority for the operation of one (1) or more transportation network company vehicles transporting passengers for hire;

(71) ~~[(70)]~~ "Transportation network company driver" or "TNC driver" means an individual who operates a motor vehicle that is owned or leased by the individual, or a motor vehicle for which the driver is an insured driver and has the permission of the owner or lessee of the motor vehicle, and used to provide transportation network company services;

(72) ~~[(71)]~~ "Transportation network company service" or "TNC service" means a prearranged passenger transportation service offered or provided through the use of a transportation network company mobile application or digital network to connect potential passengers with transportation network company drivers;

(73) ~~[(72)]~~ "Transportation network company vehicle" or "TNC vehicle" means a privately owned or leased motor vehicle, including a fully autonomous vehicle, designed or constructed with not more than eight (8) regular seats, operating under a transportation network company certificate;

(74) ~~[(73)]~~ "U-Drive-It" means any person operating under a U-Drive-It certificate who leases or rents a motor vehicle for consideration to be used for the transportation of

persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee; and

(75) ~~[(74)]~~ "U-Drive-It certificate" means a certificate granting authority for the operation of one (1) or more U-Drive-Its.

➔Section 7. KRS 281.990 is amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, a person shall be fined not less than twenty-five dollars ($25) and no more than two hundred dollars ($200), if the person:

(a) Violates, causes, aids, or abets any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter;

(b) Knowingly makes any false or erroneous statement, report, or representation to the Department of Vehicle Regulation with respect to any matter placed under the jurisdiction of the department by this chapter;

(c) Knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter; or

(d) Knowingly fails to keep, or knowingly destroys or mutilates, any accounts or records.

Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or administrative regulation of the department issued pursuant thereto, shall constitute a violation thereof.

(2) (a) Any person who violates KRS 281.630(1) or 281.631(1) shall be fined not less than five hundred dollars ($500) nor more than three thousand five hundred dollars ($3,500).

(b) Any person who operates as a motor carrier in violation of the terms of his or her certificate or motor carrier vehicle license shall be fined not less than five

hundred dollars ($500) nor more than three thousand five hundred dollars ($3,500).

(3) A person who violates KRS 281.630(9) shall not be subject to a penalty under this section.

(4) (a) Except as provided in this subsection, any person who violates KRS 281.757 shall be fined two hundred fifty dollars ($250) for each offense.

(b) A person who is cited for a violation of KRS 281.757 in which the lights were inoperable or the reflectors were missing may, within thirty (30) days from the date of the citation, provide proof to the county attorney of the county in which the offense occurred that the mechanical problem has been repaired and that the lights are in working order or that the required reflectors have been placed on the vehicle. If such proof is shown, the citation shall be dismissed.

(c) A law enforcement officer and the department shall not issue a citation to a person as violating KRS 281.757 if the atmospheric conditions all motorists were subjected to at the time the person is stopped reasonably limit the ability of a person to keep the vehicle's lights or reflectors from being obscured by dirt, mud, or debris.

(5) ***(a) A towing company or storage facility which violates KRS 281.920 to 281.936 shall be subject the following administrative penalties levied by the cabinet:***

1. For each violation, up to four (4) violations within a three (3) year period, the towing company or storage facility shall have its certificate suspended for thirty (30) days; and

2. For each subsequent violation within a three (3) year period, a towing company or storage facility shall have its certificate suspended for twelve (12) months.

(b) During a period when a towing company or storage facility has had its certificate suspended, the towing company or storage facility shall not

charge fees.

(6) The cabinet may promulgate administrative regulations in accordance with KRS Chapter 13A to set ***additional*** penalties for violations of KRS 281.920 to 281.936.

HOUSE BILL NO. 223

INTRODUCED BY J. SCHILLINGER

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MOTOR VEHICLE INSURANCE POLICIES TO COVER REASONABLE COSTS FOR TOWING, RECOVERY, AND SERVICES FOR COMMERCIAL TOW TRUCK OPERATORS, SUBJECT TO THE LIMITS IN THE POLICY; AMENDING SECTION 61-6-103, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 61-6-103, MCA, is amended to read:

"**61-6-103. Motor vehicle liability policy minimum limits -- other requirements.** (1) A motor vehicle liability policy must:

(a) designate by explicit description or by appropriate reference all motor vehicles with respect to the coverage to be granted; and

(b) insure the person named in the policy and any other person, as insured, using any motor vehicle or motor vehicles with the express or implied permission of the named insured, against loss from the liability imposed by law for damages, including REASONABLE costs for TOWING, recovery, and debris cleanup services, such as liquids and other material at the scene of an accident, by a commercial tow truck operator as defined in 61-8-903, SUBJECT TO THE LIMITS IN THE POLICY, arising out of the ownership, maintenance, or use of the motor vehicle or motor vehicles within the United States of America or Canada, subject to limits exclusive of interest and costs, with respect to each motor vehicle, as follows:

(i) $25,000 because of bodily injury to or death of one person in any one accident and subject to the limit for one person;

(ii) $50,000 because of bodily injury to or death of two or more persons in any one accident; and

(iii) $20,000 because of injury to or destruction of property of others in any one accident.

(2) An operator's policy of liability insurance must insure the person named as insured in the policy against loss from the liability imposed upon the operator by law for damages arising out of the use by the

operator of any motor vehicle not owned by the operator, within the same territorial limits and subject to the same limits of liability that are set forth in subsection (1) with respect to the operator's policy of liability insurance.

(3) A motor vehicle liability policy must state the name and address of the named insured, the coverage afforded by the policy, the premium charged for the policy, the policy period, and the limits of liability and contain an agreement or be endorsed that insurance is provided under the policy in accordance with the coverage defined in this part with respect to bodily injury and death or property damage, or both, and is subject to all the provisions of this part.

(4) A motor vehicle liability policy need not insure any liability under any workers' compensation law or any liability on account of bodily injury to or death of an employee of the insured while engaged in the employment, other than domestic, of the insured or while engaged in the operation, maintenance, or repair of a motor vehicle or any liability for damage to property owned by, rented to, in charge of, or transported by the insured.

(5) A motor vehicle liability policy is subject to the following provisions, which need not be contained in the policy:

(a) The liability of the insurance carrier with respect to the insurance required by this part becomes absolute whenever injury or damage covered by the motor vehicle liability policy occurs. The policy may not be canceled or annulled as to the liability by any agreement between the insurance carrier and the insured after the occurrence of the injury or damage. A statement made by the insured or on behalf of the insured and a violation of the policy may not defeat or void the policy.

(b) The satisfaction by the insured of a judgment for the injury or damage may not be a condition precedent to the right or duty of the insurance carrier to make payment on account of the injury or damage.

(c) The insurance carrier has the right to settle any claim covered by the policy, and if the settlement is made in good faith, the amount is deductible from the limits of liability specified in subsection (1)(b).

(d) The policy, the written application for the policy, if any, and any rider or endorsement that does not conflict with the provisions of this part constitute the entire contract between the parties.

(6) A motor vehicle policy is not subject to cancellation, termination, nonrenewal, or premium

increase due to injury or damage incurred by the insured or operator unless the insured or operator is found to have violated a traffic law or ordinance of the state or a city, is found negligent or contributorily negligent in a court of law or by the arbitration proceedings contained in chapter 5 of Title 27, or pays damages to another party, whether by settlement or otherwise. A premium may not be increased during the term of the policy unless there is a change in exposure.

(7) Any policy that grants the coverage required for a motor vehicle liability policy may also grant any lawful coverage in excess of or in addition to the coverage specified for a motor vehicle liability policy, and the excess or additional coverage is not subject to the provisions of this part. With respect to a policy that grants the excess or additional coverage, the term "motor vehicle liability policy" applies only to that part of the coverage required by this section.

(8) A motor vehicle liability policy may provide that the insured shall reimburse the insurance carrier for any payment the insurance carrier would not have been obligated to make under the terms of the policy except for the provisions of this part.

(9) A motor vehicle liability policy may provide for the prorating of the insurance under the policy with other valid and collectible insurance.

(10) The requirements for a motor vehicle liability policy may be fulfilled by the policies of one or more insurance carriers, which policies together meet the requirements.

(11) Any binder issued pending the issuance of a motor vehicle liability policy fulfills the requirements for the policy.

(12) A reduced limits endorsement may not be issued by a company to be attached to a policy issued in compliance with this section."

NEW SECTION. **Section 2. Applicability.** [This act] applies to motor vehicle insurance policies issued or renewed on or after October 1, 2025.

- END -