FISCAL IMPACT STATEMENT

LS 7040
BILL NUMBER: HB 1183

SUBJECT: Towing Services.

FIRST AUTHOR: Rep. Lehman
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

NOTE PREPARED: Dec 31, 2018
BILL AMENDED:

BILL STATUS: As Introduced

Summary of Legislation: This bill has the following provisions:

Release of Abandoned Motor Vehicles: This bill amends the statute concerning the release of an abandoned motor vehicle that has been towed to a storage yard or towing facility as follows: (a) Provides inspection rights for owners and lienholders. (b) Requires a towing service or storage yard to: (I) provide an itemized receipt upon payment; and (II) meet certain requirements as to: (i) hours of operation; and (ii) receiving and returning telephone calls. The bill includes lienholders in the statutory definition of "owner".

Duty to Notify Owner: The bill makes the following changes to the statute concerning a public agency's or towing service's duty to notify the owner that an abandoned vehicle has been removed to a storage yard or towing service: (a) Provides that the required notice shall also be provided to the insurer of the vehicle, if: (I) the insurer is known; and (II) the vehicle is covered by an active insurance policy. (b) Specifies additional information that must be included in the notice. (c) Specifies a public agency's or towing service's duties with respect to vehicles owned by a corporation or another business entity.

New Regulations Governing Towing: The bill creates a new article in the Indiana Code to establish certain requirements for towing companies that engage in, or offer to engage in, the business of providing towing service in Indiana, including provisions concerning the following: (a) Emergency towing. (b) Private property towing. (c) Estimates and invoices for towing services. (d) Releasing towed motor vehicles. (e) Prohibited acts by towing companies and storage facilities. The bill provides that a person who violates these new provisions commits a deceptive act that is: (a) actionable under; and (b) subject to the penalties and remedies set forth in; the statute governing deceptive consumer sales.
**Attorney General Enforcement:** The bill provides that the Attorney General: (a) shall receive, and may investigate, complaints alleging violations of the new provisions; and (b) after finding that a violation has occurred, may take appropriate action under the statute governing deceptive consumer sales. The bill authorizes the Attorney General to adopt rules to implement the new provisions.

**Effective Date:** July 1, 2019.

**Explanation of State Expenditures:** *Investigation of Complaints:* This bill could increase the workload of the Attorney General to the extent complaints are filed against towing companies who violate the requirements of the bill. Increases in workload would include investigating allegations, and in instances where a deceptive act has been discovered, the Attorney General would file an enjoinment against violators and seek civil penalties during a court action. Increases in workload could be offset with the collection of civil penalties levied against violators.

**Towing Company Certificates:** The bill also requires individuals who wish to operate a towing business in the state to register with the Secretary of State. Currently, towing companies register with the Secretary of State, Business Services Division. It is not known if these towing company certificates would be an additional registration requirement, or if their current registrations with the Business Services Division would satisfy the requirements of the bill.

To the extent an additional registration is required for towing companies, the workload of the Secretary of State would increase to process and approve additional registration requests. Increases in workload and/or expenditures could be offset with the collection of registration fees.

**Rule Promulgation:** The bill authorizes (1) the Attorney General to adopt rules concerning the administration of tow truck regulations in the bill and (2) the BMV to adopt rules concerning denying registration for individuals who do not pay towing costs for abandoned vehicles. Increases in workload are expected to be accomplished within existing resource and funding levels.

**Explanation of State Revenues:** *Summary:* This bill could impact revenue the BMV receives from fees collected from registrations and credential requests. The net impact on BMV revenue is expected to be minimal.

Additionally, towing companies who violate the provisions of the bill would be subject to action from the Attorney General and a maximum civil penalty of $5,000 per violation. Revenue received from civil penalties would benefit the General Fund. Total revenue received from civil penalties is unknown.

The bill could also increase revenue the Secretary of State receives from registration fees paid by towing companies. Actual revenue received will depend on the number of towing companies that would be required to register with the Secretary of State under the bill as well as the registration fees established by the Secretary of State.

**Additional Information:** To the extent individuals do not pay towing fees for abandoned vehicles, the BMV would receive less revenue from vehicle registrations and operator license requests. Registration renewal requests are completed annually, whereas operator’s licenses are valid for up to 6 years. Any reduction in revenue from the bill is expected to come primarily from vehicle registrations. The breakdown of fee distributions and impacted funds is included in the following table.
The State Highway Fund receives a distribution of the revenue deposited in the Motor Vehicle Highway Account (MVHA) and the Highway, Road and Street Account. Reductions in revenue distributions to these two accounts would result in less revenue deposited in the State Highway Fund.

The bill could also increase state revenue from court fees from deceptive acts. Increases in revenue are expected to be minimal as it is expected that consumers aggrieved by a towing company would already file a complaint with the Attorney General.

**Towing Company Certificates:** The bill could increase revenue the Secretary of State receives from registration fees paid by towing companies who are required to receive certification under the bill.

**Explanation of Local Expenditures:** **Summary:** This bill could increase court workloads to hear cases where a towing company has committed a deceptive act. Increases in court workloads are indeterminable, but expected to be small.

**Additional Information:** By specifying new regulations concerning towing of vehicles, this bill may increase court caseload to provide additional deceptive act hearings. However, it is expected that in most instances where a consumer feels that a towing company has committed a deceptive act, these cases are currently reported to the Attorney General and are actionable through deceptive act regulations contained in current law.

**Explanation of Local Revenues:** Local units of government receive a distribution of the revenue deposited in the Motor Vehicle Highway Account (MVHA) and the Highway, Road and Street Account. Reductions in revenue distributions to these two accounts would result in less revenue distributed to local units of government.

The bill could also increase local revenue from court fees from deceptive acts. Increases in local revenue are expected to be minimal as it is expected that consumers aggrieved by a towing company would already file a complaint with the Attorney General.

**State Agencies Affected:** Attorney General; Bureau of Motor Vehicles; Indiana Department of
Transportation; Secretary of State.

**Local Agencies Affected:** All.

**Information Sources:**

**Fiscal Analyst:** Bill Brumbach, 317-232-9559.