

Agenda Item #4C  
July 21, 2015  
**Action**

## MEMORANDUM

July 17, 2015

TO: County Council  
FROM: Josh Hamlin, Legislative Attorney   
SUBJECT: **Action:** Bill 17-15, Motor Vehicle Towing and Immobilization on Private Property – Amendments

**Public Safety Committee recommendation (3-0): enact the Bill with amendments.**

Bill 17-15, Motor Vehicle Towing and Immobilization on Private Property – Amendments, sponsored by Lead Sponsor Councilmember Berliner, and Co-Sponsors Councilmembers Rice, Katz, Navarro, Hucker, Riemer, Elrich, Council Vice President Floreen and Council President Leventhal, was introduced on April 14, 2015. A public hearing was held on June 16, and the Public Safety Committee held worksessions on the Bill on June 29 and July 13.

As introduced, Bill 17-15 would:

- (1) authorize the County Executive to set flat rates for certain towing services;
- (2) add certain notice and towing procedure requirements;
- (3) provide certain additional enforcement powers for the Office of Consumer Protection;
- (4) prohibit the immobilization of certain vehicles; and
- (5) generally amend the law governing motor vehicle towing and immobilization on private property.

### Background

Chapter 30C of the County Code governs the towing or immobilization of motor vehicles on private property without the consent of the vehicle owners, and has not been substantively amended since 1997. Bill 17-15 would make a number of changes to the law to better protect public safety in incidents where vehicles are towed without their owners' consent. Specifically, Bill 17-15 would amend the law to:

- clearly state that the purpose of the Chapter is to protect public safety;
- require the Executive to set either maximum rates or flat rates, and require towing companies to charge rates either not in excess of the maximum rate, or equal to the flat rate, depending on which is set;

- grant subpoena powers for the Office of Consumer Protection in enforcing the Chapter;
- require one notice sign per 25 spaces in parking lots with 100 or more parking spaces, in addition to requiring signs at entrances;
- require that tows between 2:00 am and 9:00 am be “specifically authorized” by the property owner;
- require photographic evidence of violation or event precipitating the towing of a vehicle;
- prohibit the use of “spotters” to identify vehicles for towing;
- require a property owner or property manager to maintain tow slips and information on nonconsensual tows;
- give authority to Office of Consumer Protection investigators to order release of vehicle; and
- prohibit immobilization of vehicles under this Chapter.

The Bill would also make a number of corrective technical amendments throughout Chapter 30C to make subparagraph references consistent with current practice.

### **County Authority to Regulate Trespass Towing**

Nonconsensual towing of vehicles from private property, or “trespass towing” is regulated at the federal, state, and local level. Towing generally is regulated at the federal level under the Federal Aviation Administration Authorization Act of 1994 (FAAAA), which includes a general preemption of state and local regulation of the “price, route, or service of any motor carrier . . . with respect to the transportation of property.” Tow trucks are included in this preemptive language. Since the enactment of the FAAAA, the United States Supreme Court has held that laws regulating the storage and disposal of a vehicle, once towed, “are not sufficiently related to a motor carrier’s service with respect to the transportation of property to warrant preemption under [the FAAAA].”<sup>1</sup> Under this ruling the County may regulate activities related to towing, once the tow is complete.

In addition to the post-tow regulation, local jurisdictions may enact laws “relating to the price of for-hire motor vehicle transportation by a tow truck, if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.”<sup>2</sup> Additionally, there is a broad exclusion from the preemptive language of the FAAAA to allow a state (and a political subdivision of a state) to enact laws under its safety regulatory authority. It is under this authority that the County’s regulation of trespass towing is enacted.

The State of Maryland has also enacted laws regulating trespass towing.<sup>3</sup> Under the State law, “nothing . . . prevents a local authority from exercising any power to adopt local laws or regulations relating to the registration or licensing of persons engaged in, or otherwise regulating, in a more stringent manner, the parking, towing or removal, or impounding of vehicles.”<sup>4</sup> Thus,

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<sup>1</sup> *Dan’s City Used Cars, Inc. v. Pelkey*, 133 S. Ct. 1769, 1775 (2013).

<sup>2</sup> 49 U.S.C. § 14501(b)(2)(C).

<sup>3</sup> MD. Transportation Code, MD. Transportation Code, §§ 21-10A-01 through 21-10A-06.

<sup>4</sup> *Id.*, § 21-10A-01(b)(2).

State law does not preempt the County from regulating trespass towing, subject to the stringency requirement.<sup>5</sup>

### **June 16, 2015 Public Hearing**

The Public Safety Committee held a public hearing on the Bill on June 16, 2015. There were 30 speakers at the hearing, representing a wide range of perspectives on the issues covered in the Bill. Eric Friedman, Director of the Office of Consumer Protection (OCP), spoke on behalf of the County Executive, and expressed support for the Bill with a number of additional recommendations. The remainder of the speakers at the public hearing generally represented four perspectives: business owners and property managers, towing companies, homeowners' associations (HOAs) and condominiums, and "victims" of predatory towing practices.

Concerns expressed by business owners and property managers ranged from descriptions of the hardship that illegal parking imposes on business to concerns more specific to Bill 17-15's proposed changes, particularly related to overnight tows and increased signage. Representatives from the towing industry were also concerned with the proposed specific authorization requirements for overnight tows and signage, but also objected to the Bill's proposed ban on the use of "spotters," its "photographic evidence" requirement, and the grant of additional powers to OCP.

Representatives of HOAs and condominiums also were primarily concerned with Bill 17-15's proposed changes with regard to overnight tows and signage. However, at least one condominium association board member decried predatory towing practices and urged the Council to enact the Bill. Vehicle owners whose cars were towed from private property told stories of having their cars towed immediately after stepping off the premises ("walk-off" tows) and alleged mistreatment by towing companies.

### **Committee Worksessions**

At its worksessions on June 29 and July 13, the Committee discussed the Bill, which as introduced would make a number of significant changes to the County's trespass towing law. The Committee also considered a number of additional amendments proposed by the Executive. The Committee recommended a number of amendments now reflected in the Bill (©1-30). Bill 17-15, with amendments recommended by the Committee would:

- restructure Chapter 30C by splitting §30C-1 into two sections, clearly stating that the purpose of the Chapter is to protect the health, safety, and welfare of County residents, consolidating enforcement provisions into a single section, and making technical changes (lines 4-103; lines 639-657);
- require the Executive to set flat rate maximum rates for towing (including hook-up, transport to storage area, and the first 24 hours of storage) and storage after the first 24 hours (lines 104-134);

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<sup>5</sup> Certain areas of local towing regulation less stringent than State law may also be permitted under certain sections of the State law, such as the distance of the tow, and many other restrictions on towing. See §§ 21-10A-03 and 21-10A-04.

- authorize the Office of Consumer Protection to issue subpoenas for documents and information relevant to the investigation of a complaint filed with the Office (lines 647-650);
- retain the exemption from the express authorization requirement for tows between 2:00 am and 9:00 pm as it exists in the current law (lines 350-358);
- require photographic evidence of violation or event precipitating the towing of a vehicle, and require that photographic evidence to be provided to the vehicle owner along with the receipt required under existing law (lines 359-366; 591-592);
- authorize OCP investigators to order release of a vehicle to prevent a breach of the peace or when there is reasonable cause to believe the tow is or would be unlawful (lines 640-646);
- prohibit immobilization of vehicles on private property without the owners' consent (lines 660-753);
- amend Chapter 30C to be consistent with State law, allowing OCP to enforce the law rather than police. These amendments relate to:
  - identification, registration, and insurance of tow trucks; age of drivers (lines 136-140);
  - number of signs (lines 221-228);
  - sign specifications (lines 229-253);
  - notice requirements for trespass tows solely for violation of State motor vehicle registration law (lines 394-397);
  - storage lot signs and hours of operation (lines 500-504);
  - Inspection and retrieval of personal property (lines 602-608); and
  - Notice provisions requiring that a towing company provide the same information provided to police under existing law to the vehicle owner, any secured party, and the insurer of record, within seven days after the towing or removal of the vehicle, and authorizing a fee for providing the notice only for vehicles not reclaimed within 48 hours after towing (lines 442-449; 128-131);
- require all new contracts between towing companies and property owners to include reference to the liability and obligations of property owners under the law (lines 170-184);
- require property owners who wish to engage in non-consensual towing to first electronically register their commercial lots and provide quarterly reports on towing activity (lines 187-205);
- allow residential and commercial property owners to have unauthorized vehicles towed after following certain notice procedures in lieu of posting all required signs (258-302);
- require *written* authorization for each tow in the form of a tow authorization form provided in person, or via fax, email, or other electronic means approved by the Director of OCP (lines 303-313);
- make the towing company exclusively responsible for the law's notification requirements, and both the property owner and the towing company subject to tow authorization form retention requirements (408-441);
- retain the existing County law providing for a release fee for incomplete tows, but set the fee at \$25, require receipts required under current law to include reference to the County Code fee provisions, and identify and include photographic evidence of the violation that

precipitated the incomplete tow, and require a towing company to accept payment of the release fee by cash or credit card (lines 459-481;126-127);

- require storage facilities to accept payment both in cash and by credit card, and have personnel onsite for redemption of vehicles 24 hours per day, seven days per week (500-558);
- clearly provide that a property owner is not liable for towing when it is not expressly authorized and the property owner does not otherwise have a business relationship with the towing company (lines 623-626);
- prohibit “patrol towing” by providing that a towing company “must not monitor, patrol, or otherwise surveil private property for the purposes of identifying unauthorized parked vehicles for towing and removal” (lines 398-407);
- increase civil fines for second and subsequent violations of Chapter 30C to \$1,000 (lines 658-659);
- require a towing company to wait at least 15 minutes after a vehicle has been parked on private property held open to the public for parking before towing the vehicle or attaching the vehicle to a tow truck (lines 367-377).

### Committee Recommendations

#### 1. *Should Chapter 30C be restructured?*

As a preliminary matter the Committee considered a slight restructuring of Chapter 30C. The restructuring would result in splitting current § 30C-1 into two sections, with the first setting forth the scope and purpose of the Chapter, clearly stating that the purpose of the Chapter is to protect the health, safety, and welfare of County residents. The second would contain definitions, including the addition of terms used in the law but not currently defined. Also, enforcement provisions that are currently scattered throughout the Chapter would be consolidated into a single new section. The restructuring also includes a number of technical changes, including changing reference to “towing service” to “towing company” throughout the Chapter, and making several corrective amendments to make Chapter 30C consistent with current legislative drafting conventions.

**Committee recommendation (3-0):** Split §30C-1 into two sections, consolidate enforcement provisions into a single section, and make technical and corrective changes throughout Chapter 30C.

#### 2. *Should the law require the Executive to set either maximum rates or flat rates for trespass tows?*

Current law (§30C-2) requires the Executive to set, and review at least every two years, the maximum rates for the following services:

- Attaching the vehicle to be towed to the tow truck;
- Towing the vehicle to a storage site. This rate must be based on the distance the vehicle is towed;
- Storing the vehicle until it is redeemed; and
- Any other service needed to safely remove a vehicle.

As introduced, Bill 17-15 would have authorized the Executive to set flat rates instead of the maximum rates, and would require towing companies to charge rates either not in excess of the maximum rate, or equal to the flat rate, depending on which is set. Flat rates should create certainty and consistency in what vehicle owners would pay, and would eliminate disputes over whether a tow truck took the most direct route to a tow lot. Amendments to the Bill requested by the Executive would not give the Executive a choice, but would mandate the flat rates.

Prince George's County has a flat rate cap for a towing charge, set at \$175,<sup>6</sup> which includes the first calendar day of storage, mileage and hook-up fees. Prince George's allows a storage charge of up to \$50 per day (after the first calendar day), and up to a \$30 charge for a "notification letter" which may be sent to the vehicle owner after 48 hours or two business days. Maximum rates for trespass towing in Fairfax County are set in the law and include rates for "hookup and initial towing" and storage<sup>7</sup> Arlington County's fee structure is generally the same as Fairfax County. None of the local jurisdictions examined allow for the imposition of a storage charge for the first calendar day or 24 hours after towing or delivery to the storage area.

**Committee Recommendation (3-0):** Require the Executive to set flat rate maximum rates for towing (including hook-up, transport to storage area, and the first 24 hours of storage) and storage after the first 24 hours,

**3. *Should the law authorize the Office of Consumer Protection to issue subpoenas in enforcing the Chapter?***

OCP investigates many consumer complaints about trespass towing in the County, and has indicated that allowing the Office to subpoena documents relevant to the investigation of towing complaints would allow it to better enforce the law. Giving OCP subpoena power in investigating towing complaints would be consistent with the subpoena power granted to the Office to enforce the provisions of the County Consumer Protection Law in Chapter 11 of the Code.<sup>8</sup>

**Committee Recommendation (3-0):** Authorize OCP to issue subpoenas for documents and information relevant to the investigation of a complaint filed with the Office.

**4. *Should the law require that tows between 2:00 a.m. and 9:00 a.m. be "specifically authorized" by the property owner?***

Current law exempts tows between 2:00 am and 9:00 am from the general "specific authorization requirement. This exemption exists presumably because of the difficulty in obtaining specific authorization from an owner or property manager during overnight hours. There

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<sup>6</sup> The \$175 charge is for a vehicle with a gross vehicle weight (GVW) up to 10,000 pounds; for vehicles with a GVW between 10,001 and 26,000 pounds, the allowed charge is \$300.

<sup>7</sup> "Hookup and initial towing fee": \$135 for vehicles with GVW up to 7,500 pounds, \$250 for GVW between 7,501 and 10,000, and \$500 for GVW above 10,000 pounds. Storage (after the first 24 hours): \$50 per day for vehicles up to 22 feet long, or \$5 per foot for vehicles over 22 feet long.

<sup>8</sup> County Code § 11-2(b)(2) provides that the Office of Consumer Protection may "issue summonses and subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records, and other evidence in any matter to which this Chapter applies."

was a great deal of testimony from property managers and towing about the need to retain the existing exemption, both for practical as well as public safety reasons. Much of this testimony referenced a perceived need that the property owner or manager be physically present to authorize the tow; the law does not require physical presence to authorize a tow, and under proposed amendments discussed below, the authorization could be made by email or fax.

Prince George's County permits trespass tows between the hours of 9:00 pm and 6:00 am without express authorization, but other local jurisdictions generally do not exempt overnight tows. However, some of these jurisdictions do not have as stringent authorization requirements for trespass tows in general. Representatives of some towing companies have advocated expanding the exemption to begin earlier.

The Committee considered the issue and, in the absence of evidence of pervasive abuse of the exemption, and consideration of the potential hardship on property owners and managers, concluded that the exemption should be retained.

**Committee Recommendation (3-0):** Retain the exemption from the express authorization requirement for tows between 2:00 am and 9:00 pm as it exists in the current law.

**5. *Should the law require photographic evidence of violation or event precipitating the towing of a vehicle?***

OCP has indicated that without photographic evidence of a violation, it is nearly impossible to resolve a consumer complaint. The State of Maryland requires photographic evidence of a violation prior to towing a vehicle,<sup>9</sup> so adding this requirement will make County law consistent with State law. As a practical matter, since local jurisdictions may regulate in this area only more stringently than the State, the State requirement already applies; as noted earlier conforming the County law to State law would allow OCP to enforce the law civilly, rather than having the law enforced by police. Among other local jurisdictions, Prince George's and Fairfax Counties also require photographic evidence in their local laws. Arlington County does not. Prince George's County further requires that the photograph be available for inspection by any interested party for at least one year, and a copy provided to the vehicle owner upon request.

The Committee concluded that additional requirements similar to those in the Prince George's County law would be of value in resolving complaints, and that more proactive disclosure of the photographic evidence with the receipt is also desirable.

**Committee Recommendation (3-0):** Require photographic evidence of violation or event precipitating the towing of a vehicle, and require that photographic evidence to be provided to the vehicle owner along with the receipt required under existing law.

**6. *Should the law authorize OCP investigators to order release of a vehicle?***

Current law (§30C-7(e)) provides that "a police officer may order a towing service to release a vehicle, or to stop attaching a vehicle, at any time." OCP believes that extending the

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<sup>9</sup> MD Transportation Code, §21-10A-04(a)(5)(iii)

authority to order the release of a vehicle prior to completion of the tow to its investigators would allow the investigators to de-escalate certain confrontations between vehicle owners and tow truck operators. The Bill would simply give an OCP investigator the same authority as a police officer to order the release of a vehicle. The Committee determined that the inclusion of certain circumstances when this authority might be exercised is advisable for the benefit of all parties, and to prevent claims of an arbitrary exercise of the power.

**Committee Recommendation (3-0):** Authorize OCP investigators to order release of a vehicle to prevent a breach of the peace or when there is reasonable cause to believe the tow is or would be unlawful.

**7. *Should the law prohibit immobilization of vehicles on private property without the owners' consent?***

Current law provides for certain required procedures to be followed in immobilizing a vehicle on private property without the consent of the owner. Immobilization is generally achieved by using a clamping device on the wheel of a vehicle commonly referred to as a "boot." OCP indicates that the practice is generally not used in the County, and that to immobilize a vehicle would seem counter to property owner's objective in removing the vehicle from a parking space or fire lane. As such, OCP has recommended prohibiting the practice. This prohibition would not prohibit vehicle immobilization for law enforcement purposes.

**Committee Recommendation (3-0):** Prohibit the immobilization of vehicles on private property without the owners' consent.

**8. *Should the law be amended to more closely align with State law?***

The Committee considered a number of amendments to make the County law consistent with the recently enacted State trespass towing law. In areas where the State law is more restrictive, State law applies, but must be enforced by the police. Making the County law consistent with, or more stringent than, the State law would allow OCP to enforce the law, allowing police resources to be directed to more serious criminal matters. This allocation of enforcement authority should render significant public safety benefits in and of itself.

**Committee recommendation (3-0):** make amendments aligning County law with State law as follows:

- Identification, registration, and insurance of tow trucks; age of drivers;
- Number of signs - this amendment would require signs at each vehicle entrance to the property, and in lots with more than 45 spaces, one sign for each 45 spaces<sup>10</sup>;
- Sign specifications;
- Require 72 hours' notice for trespass tows solely for violation of State motor vehicle registration law;
- Storage lot signs and hours of operation (24 hours per day, seven days per week);

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<sup>10</sup> The one sign per 45 spaces is based on the State law requirement of one sign for every 7,500 square feet, and calculated using the minimum size of parking spaces required in the County Zoning Ordinance.

- Inspection and retrieval of personal property; and
- Notice provisions requiring that a towing company provide the same information provided to police under existing law to the vehicle owner, any secured party, and the insurer of record, within seven days after the towing or removal of the vehicle, and authorizing a fee for providing the notice only for vehicles not reclaimed within 48 hours after towing.

**9. *Should the law require disclosures in contracts between a towing company and a property owner?***

OCP has indicated that property owners are often unaware of their responsibilities and liability under Chapter 30C. This problem could be addressed by requiring all new contracts to include reference to the liability and obligations of property owners under the law. The inclusion of these provisions would be a minimal burden on towing companies, and would benefit property owners by ensuring their awareness of the law. This amendment would in no way impede the actual towing of vehicles.

**Committee recommendation (3-0):** Require all new contracts between towing companies and property owners to include reference to the liability and obligations of property owners under Chapter 30C.

**10. *Should the law require property owners who wish to engage in non-consensual towing from commercial lots to first electronically register their commercial lots and provide statistical reports?***

OCP believes that having a registry of commercial lots engaging in trespass towing, combined with regular reporting of the number of vehicles towed and reason for tows would assist the Office in identifying and resolving consumer towing complaints. The amendment would apply only to commercial lots, and would require certain information to be filed with OCP and updated as necessary. Registration could be done electronically with a minimum burden on the property owner. An amendment proposed by the Executive would have required monthly reports on towing activity from each registered lot. The Apartment and Office Building Association of Metropolitan Washington (AOBA) has pointed out that information about every individual trespass tow in the County is already in the possession of the Police Department because of the notice requirements of § 30C-5. AOBA has also suggested that between using Department of Permitting Services (DPS) and Police Department records, OCP could assemble a database of commercial parking lots engaging in trespass towing. Ultimately, AOBA contends the registration and reporting requirements are duplicative, and that OCP could obtain the information through coordination with the Police Department and DPS. The Committee concluded that the monthly reporting requirement may be overly burdensome to property owners, and that the same benefit could be obtained through quarterly reports.

**Council recommendation (3-0):** Require property owners who wish to engage in non-consensual towing from commercial lots to first electronically register their commercial lots and provide quarterly reports on towing activity.

**11. *Should the law allow property owners to have a vehicle towed by placing a notice on the vehicle in lieu of posting all required signs?***

Under existing law, both residential and owners of commercial lots with more than 100 spaces may have unauthorized vehicles towed by following certain notice procedures in lieu of posting signs. The notice procedures include: (1) securely attaching to the vehicle in a conspicuous place, a time-and-dated notice of violation that informs the owner that the vehicle may be towed after 48 hours (24 hours for commercial property); and (2) waiting the 48 (or 24) hours before towing the vehicle, unless there is a repeat violation within a 180 day period.

State law requires signs at each vehicle entrance, and at least one sign for every 7,500 square feet of parking space on a lot. As such, current County law would arguably be less stringent than State law, and the State law would still apply. One way to retain some option for property owners, while making the law at least as stringent as State law could be to allow owners of residential property and commercial lots to retain the option of towing after affixing the required notice to vehicles, but also require signs at each vehicle entrance.

Allowing “stickering” of vehicles strikes a balance between the State law requirements and the need for flexibility for property owners. Allowing towing after 24 or 48 hours’ notice would not add to the pervasive problem of walk-off tows, and would allow property owners not wishing to place large numbers of signs on their property an alternative. There was no compelling reason why only commercial lots with over 100 spaces should have this option, and Council staff does not believe that extending the option to all commercial lots would create any additional problems.

**Committee recommendation (3-0):** Allow all residential and commercial property owners to have unauthorized vehicles towed after following certain notice procedures in lieu of posting all required signs.

**12. *Should the authorization procedure for each tow allow for authorization via fax, email and other electronic means?***

Current law (§30C-4(c)) requires that each tow be expressly authorized<sup>11</sup> by the owner or the owner’s agent, and provides that the authorization may take the form of a tow slip containing certain information. The law is ambiguous as to what other means of express authorization may exist, leading to uncertainty as to whether a particular tow is, in fact, authorized. The proposed change would require a property owner to “authorize the towing of a vehicle in writing via tow authorization form in person, or via fax or email.” The clear requirement of a written authorization should eliminate any confusion over whether a tow is authorized, and the provision allowing this authorization to be provided via fax or email should minimize any additional administrative burden on property owners. With the proliferation of internet enabled smartphones, sending an email is at least as convenient as making a telephone call. With the means of communicating electronically constantly evolving, allowing for other electronic methods of authorization, approved by the Director of OCP, is appropriate.

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<sup>11</sup> Tows between 2:00 am and 9:00 am, as well as towing a vehicle that is blocking a fire lane, access to the property, or a building on the property, are exempt from this express authorization requirement. See § 30C-4(c)(10).

**Committee recommendation (3-0):** Require written authorization for each tow in the form of a tow authorization form provided in person, or via fax, email, or other electronic means approved by the Director of OCP.

**13. *Should the law require towing companies to provide notice required under the law, and retain records?***

Current law requires the property owner or the owner's agent to provide notice to police, and to retain tow slips and records related to tows (§30C-5). As introduced, Bill 17-15 would have amended this to strike owner's agent, and insert "property manager" with regard to recordkeeping requirements. The Executive proposed to go further, and in a different direction, making the towing company exclusively responsible for notification and making both the property owner and the towing company subject to recordkeeping requirements.

Requiring the towing company to notify the police and keep records would solve the problem that the proposed change in Bill 17-15 is intended to address—clarity in what party is responsible for keeping documentation of tows. Extending the change to include §30C's notice requirements, and shifting the responsibility exclusively to the towing company would seem to be more convenient for all parties. The requirement that both the property owner and towing company retain each tow authorization form is important to allow OCP to confirm authorization when investigating complaints, and should be of minimal burden to towing companies and property owners.

**Committee recommendation (3-0):** Make the towing company exclusively responsible for the law's notification requirements, and both the property owner and the towing company subject to tow authorization form retention requirements.

**14. *How should the law treat situations where the vehicle owner returns to the vehicle before towing has been completed?***

Under the current law (§30C-7), a vehicle owner who returns to an unauthorized vehicle after it is attached to a tow truck but before it is towed from private property is entitled to have the vehicle released upon payment of a "drop fee" that may not exceed one half the maximum "attachment fee" set under Chapter 30C.<sup>12</sup> The Executive proposed an amendment that would prohibit the charge of a drop fee, and require the towing company to release the vehicle "without charging any fee."

The Committee considered whether prohibiting any drop fee, without regard to whether the tow was authorized and otherwise proper under Chapter 30C would be unduly punitive to a towing company. A company will incur fuel and labor costs in responding to a call to make an authorized tow. The company should not have to absorb that cost in the event that the owner of an unauthorized vehicle returns to the vehicle prior to its removal from the property. It is also worth noting that the State law, and virtually all local jurisdictions permit the imposition of a drop fee. The Committee also considered the option of limiting the amount of a drop fee beyond the law's current provisions by providing a specific amount in the law, as is done in Fairfax County

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<sup>12</sup> State law also limits a drop fee to "50% of the cost of a full tow." MD Transportation Code, § 21-10A-5(b)(4).

(\$50), Arlington County (\$25), and Prince George's County (\$50/\$100/\$350 depending on the gross vehicle weight of the vehicle).

OCP has expressed concern that the payment of a drop fee appears to the consumer to be a "shady deal" between the vehicle owner and the tow truck driver, rather than a transaction authorized by law and for which the law currently requires the issuance of a receipt. To address this concern, the Committee may want to require that receipts: (1) provide the fee schedule with a reference to the County Code; and (2) identify the violation for which the vehicle would have been towed.

The Committee also considered an additional measure to require that payment of the release fee be accepted by cash *or credit card*, as would be the case under the Bill's provisions when redeeming an impounded vehicle. This change would further improve the appearance of the transaction, and would allow owners that are not carrying cash to reclaim their vehicles prior to the completion of the tow.

**Committee recommendation (3-0):** Retain the existing County law providing for a release fee for incomplete tows, but set the fee at \$25, require receipts required under current law to include reference to the County Code fee provisions, and identify and include photographic evidence of the violation that precipitated the incomplete tow, and require a towing company to accept payment of the release fee by cash or credit card.

**15. *Should the law require storage facilities to accept payment both in cash and by credit card?***

Existing law (§ 30C-8(a) and (b)) requires a storage site to accept cash and either the two "most widely used" credit cards (as set in regulation) or personal checks. The proposal would expressly require that the site accept cash and the two most widely used credit cards. The "personal check option" currently allowed under § 30C-8(b)(4), which permits sites to not accept credit cards, so long as they accept personal checks, would be eliminated. This change would give certainty to what forms of payment are accepted at any particular site, since they would all, at minimum, accept cash and credit cards. In discussing this issue, the Committee also considered public hearing testimony about long waiting periods at storage lots to reclaim towed vehicles. To prevent these circumstances in the future, the Committee recommended requiring that storage sites have personnel onsite for redemption of vehicles 24 hours per day, seven days per week.

**Committee recommendation (3-0):** Require storage sites to accept payment both in cash and by credit card, and have personnel onsite for redemption of vehicles 24 hours per day, seven days per week.

**16. *Should language expressly providing that a property owner is not liable for towing when it is unauthorized be removed from the law?***

Property owners are not liable, under existing law, "for the towing of a vehicle if the property owner did not authorize the towing, expressly or under a standing authorization" (§ 30C-9(b)). The Executive proposed an amendment to Bill 17-15 that would remove this language

entirely. The complete removal of this language could leave unprotected a property owner on whose property an illegal tow is conducted without the property owner's knowledge or consent. As the intention is to ensure that property owners are vigilant in making towing companies with whom they contract comply with the law, a better approach would be to retain the protection for a property owner who has not authorized a tow and "has no business relationship with the towing company" that conducted the tow. This would allow property owners in cases of pure rogue towing to remain protected.

**Committee recommendation (3-0):** Clearly provide that a property owner is not liable for towing when it is not expressly authorized and the property owner does not otherwise have a business relationship with the towing company.

**17. *What is the best way to prevent towing companies from actively and independently identifying vehicles for towing?***

Bill 17-15 would outlaw the use of individuals whose job is essentially to call in tow trucks to remove unauthorized vehicles, commonly known as "spotters." The bill defines a spotter as an individual whose "primary task" is to report the presence of unauthorized parked vehicles for the purpose of towing or removal. "Primary task" is defined as meaning an individual's job function that accounts for more than 50% of the individual's compensation or hours worked." Spotters are one of the major complaints heard by OCP and Council offices.

Where spotters are used, tows are called in often by the spotter, rather than the actual property owner, and the spotter may wrongly identify a violation, leading to an improper tow. In the June 29 worksession, Councilmember Hucker observed that tow truck drivers frequently serve as "spotters." This situation leads to the active "hunting" of vehicles to tow, not because they inconvenience the property owner, but because they represent profits for the towing company. The proper balance in trespass towing is to allow private property owners to protect their private property while avoiding tows that are improper or overly aggressive. The penalty for the driver when their car is towed is severe. For simply walking off property to get a cup of coffee next door, property can be taken and can only be reclaimed by paying a substantial fee.

Staff looked for other examples of laws banning the practice. Existing State law prohibits the use of spotters,<sup>13</sup> and of local counties, only Howard County prohibits their use. However, other local jurisdictions such as Orange County, Florida<sup>14</sup> ban the use of spotters, and Broward County, Florida<sup>15</sup> and the State of New Jersey,<sup>16</sup> have gone so far as to expressly ban "patrol towing" altogether. None of the jurisdictions that ban spotters specifically include a definition requiring a certain percentage of time or compensation dependent of "spotting" activity, as does

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<sup>13</sup> A lower court ruling held the State's ban on spotters to be unconstitutionally vague, because it lacked a definition of the term "primary task," but the Maryland Court of Appeals has since held that the lower court should have dismissed the towing company's complaint as not ripe, because the company was not facing a specific threat of enforcement at the time it filed its complaint. *Maryland v. G&C Gulf, Inc.*, Misc. No. 4 (Sept. Term 2014) (April 22, 2015). Bill 17-15's definition of "primary task" should ensure that such a County law would survive a vagueness challenge.

<sup>14</sup> [http://www.orangecountyfl.net/Newsroom/NewTowingOrdinanceEnforcementBegins.aspx#.VYwujk\\_JC2w](http://www.orangecountyfl.net/Newsroom/NewTowingOrdinanceEnforcementBegins.aspx#.VYwujk_JC2w)

<sup>15</sup> <http://www.ccfl.net/HOAFLTOWAbuse.html>

<sup>16</sup> <http://www.njconsumeraffairs.gov/News/Consumer%20Briefs/what-you-should-know-about-getting-towed.pdf>

Bill 17-15. Orange County, Florida's law simply provides that "no towing or immobilization service shall employ or otherwise compensate individuals, commonly referred to as 'spotters' who report the presence of unauthorized parked vehicles for purposes of immobilization or towing."

Unlike the Maryland State law, which provides that a spotter is an individual whose "primary task" is to report unauthorized vehicles for towing, the Orange County law appears to ban the activity by towing company employees entirely. Such an approach would avoid possible enforcement difficulties in determining, and proving, how much of an alleged spotter's time is spent on, or compensation derived from, spotting. A law similar to Orange County's may be vulnerable to the same attack on vagueness that resulted in the Maryland provision being struck down, albeit temporarily but, given that it would be a broader general prohibition on the activity, and not dependent on the definition of "primary task," it may well survive such a challenge. An additional challenge of a law generally banning spotting by towing companies would be enforcement. It would be extremely difficult to prove that a tow truck driver is engaged in spotting, versus just waiting near or in a parking lot waiting for a call.

The Committee also discussed the possibility of adding a requirement to the Bill that the property owner or owner's agent initiate a tow. This would also address the problem of tows being motivated by a towing company's profit motive rather than a property owner's interest in keeping spaces open for authorized vehicles. However, OCP indicated that enforcement of such a requirement would be nearly impossible. Council staff was unable to identify any other jurisdiction that has implemented such a requirement.

Another alternative is the approach taken by the State of New Jersey, which makes it unlawful for a trespass towing company to "monitor, patrol, or otherwise surveil a private property for the purposes of identifying vehicles parked for unauthorized purposes and towing a motor vehicle parked for an unauthorized purpose from such private property without having been specifically requested to tow such vehicle by the owner of the property."<sup>17</sup> Like the Orange County law, this approach would prohibit a company, motivated by profits generated by towing a large volume of vehicles, from initiating the tow, but should be somewhat easier to enforce. It should also eliminate the problem, cited by Councilmember Hucker, of tow truck drivers essentially functioning as spotters by trolling private lots for unauthorized vehicles.

**Committee recommendation (3-0):** Prohibit "patrol towing" by providing that a towing company "must not monitor, patrol, or otherwise surveil private property for the purposes of identifying unauthorized parked vehicles for towing and removal."

**18. *Can the County increase the amount of fines for violations of Chapter 30C?***

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<sup>17</sup> New Jersey Statutes, Annotated § 56:13-16(h).

Violations of Chapter 30C are Class A violations under Section 1-19 of the County Code.<sup>18</sup> A Class A violation is punishable as a misdemeanor subject to a maximum fine of \$1,000 or not more than six months in jail, or both. Alternatively, a Class A violation may, in the discretion of the enforcing agency, be punishable as a civil violation subject to a maximum fine of \$500 for the initial offense and \$750 for subsequent offenses. Thus, the enforcing agency, OCP, may choose whether to enforce the law with a criminal or civil citation.

The decision whether to issue a criminal or civil citation is based on a number of factors, and is made by the enforcing agency – in this instance, OCP. Enforcement procedures are set out in Section 1-18 of the Code, and in either case, a summons must be issued along with a citation. There are two key distinctions in the processes for criminal and civil citations that staff understands have been critical in OCP's decision to enforce Chapter 30C by imposing civil penalties. First, a summons issued in conjunction with a civil citation gives the cited person the option to pay the fine in lieu of appearing in court. There is no such option with a criminal summons, so each criminal citation must go to court. Also, in instances where the recipient of a civil citation elects to stand trial, the burden of proof on the County is to show that the defendant is guilty by a preponderance of the evidence. In contrast, a criminal citation trial is governed by State law and the rules of the court, and the burden of proof is higher. The County must show that the defendant is guilty beyond a reasonable doubt. Because of the additional procedural requirements and higher burden of proof, OCP has elected to enforce Chapter 30C through civil citations.

State law does allow the County to enforce its laws by civil fines not exceeding \$1,000. The Committee considered language similar to County Code § 22A-16 (Forest Conservation), which provides that violations of the Forest Conservation law are Class A violations, but expressly authorizes maximum civil fines of \$1,000.

**Committee Recommendation (3-0):** Increase fines for second and subsequent violations of Chapter 30C to \$1,000.

**19. *Should the County require a “waiting period” before an unauthorized vehicle is towed from private property?***

The Committee considered requiring a sort of “grace period” before a vehicle could be towed from private property. Staff looked for examples of other jurisdictions that mandated that

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<sup>18</sup> Section 1-19 sets forth a three tiered schedule of fines and penalties, with Class A being the highest. The schedule is as follows:

Class	Criminal Violation		Civil Violation Maximum Penalty	
	Maximum Fine	Maximum Jail Term	Initial Offense	Repeat Offense
A	\$1000	6 months	\$500	\$750
B	\$200	30 days	\$100	\$150
C	\$50	None if fine is paid; 10 days otherwise	\$50	\$75

a property owner wait a period of time before having an unauthorized vehicle towed. The State of California is the only example identified by Council staff. California law provides that, subject to certain exceptions, “an owner . . . of private property that is held open to the public . . . for parking of vehicles at no fee . . . shall not tow or remove, or cause the towing and removal, of a vehicle within one hour of the vehicle being parked.”<sup>19</sup> Exceptions to California’s “one hour rule” include vehicles “illegally parked within 15 feet of a fire hydrant, in a fire lane, in a manner that interferes with an entrance to, or an exit from, the private property, or in a parking space or stall legally designated for disabled persons.” The rule also does not apply to “property designated for parking at residential property, or to property designated for parking at a hotel or motel where the parking stalls or spaces are clearly marked for a specific room.”

A fundamental problem, in staff’s view, with requiring a property owner to wait a period of time before having an unauthorized vehicle removed is that it arguably amounts to a legislative sanction of an activity that deprives a property owner of the use of the owner’s property, even for a short period of time. It would effectively legislate free short-term parking on private property, with no recourse for the property owner. Requiring a “waiting period” would likely just shift arguments about *whether* a towed vehicle was illegally parked to *how long* the vehicle was illegally parked. While the intent behind such a provision, to reduce overaggressive “walk-off” tows, is certainly in the public interest, staff is concerned that shifting the burden of this problem from vehicle owner to property owner is an inequitable reallocation of costs between two presumably good actors without addressing the actor – the “predatory” towing company – that causes the problem.

Also, staff believes that imposing a California-style waiting period, even if significantly shorter, could hurt small businesses with a relatively small number of dedicated parking spaces. These businesses typically do not do a large volume of business; to prevent them from clearing parking spaces of unauthorized vehicles immediately could cost them a small number of customers that nonetheless represent a significant share of their business.

**Committee Recommendation (3-0):** Require a towing company to wait at least 15 minutes after a vehicle has been parked on private property held open to the public for parking before towing the vehicle or attaching the vehicle to a tow truck.

This packet contains:	<u>Circle #</u>
Bill 17-15	1
Legislative Request Report	31
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Selected Public Hearing Testimony	
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<sup>19</sup>California Vehicle Code, § 22953.

Bill McClain	46
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Bill No. 17-15  
Concerning: Motor Vehicle Towing and  
Immobilization on Private Property –  
Amendments  
Revised: July 8, 2015 Draft No. 4  
Introduced: April 14, 2015  
Expires: October 14, 2016  
Enacted:  
Executive:  
Effective:  
Sunset Date: None  
Ch.       , Laws of Mont. Co.       

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Councilmember Berliner  
Co-sponsors: Councilmembers Rice, Katz, Navarro, Hucker, Riemer, Elrich, Council Vice President Floreen and Council President Leventhal

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### AN ACT to:

- (1) [[authorize]] require the County Executive to set flat rates for certain towing services;
- (2) add certain notice and towing procedure requirements;
- (3) provide certain additional enforcement powers for the Office of Consumer Protection;
- (4) prohibit the immobilization of certain vehicles; and
- (5) generally amend the law governing motor vehicle towing and immobilization on private property

By amending

Montgomery County Code  
Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property  
Sections 30C-1, 30C-2, 30C-3, 30C-4, 30C-5, 30C-6, 30C-7, 30C-8, 30C-9, 30C-10, and  
30C-11

By adding

Montgomery County Code  
Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property  
Sections 30C-2 and 30C-12

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<u>[[Double boldface brackets]]</u>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1       **Sec. 1. Sections 30C-1, 30C-2, 30C-3, 30C-4, 30C-5, 30C-6, 30C-7, 30C-8,**  
2       **30C-9, 30C-10, and 30C-11 are amended, and Sections 30C-2 and 30C-12 are**  
3       **added, as follows:**

4       **30C-1. [[Definitions; scope]] Scope; purpose.**

5           (a)    [[*Definitions*. As used in this Chapter, unless the context indicates  
6              otherwise;

7              (1)    *Office* means the Office of Consumer Protection.

8              (2)    *Immobilize* means to use any method, object, or device, including  
9              a clamp or lock, to prevent or inhibit the movement of a motor  
10             vehicle.

11             (3)    *Owner* includes any person in lawful possession or control of a  
12             property or a motor vehicle. The “owner” of general common  
13             elements of a condominium is the council of unit owners, or the  
14             council’s agent for parking management. The “owner” of limited  
15             common elements of a condominium is the unit owner or owners  
16             who have the exclusive right to use the common elements, or the  
17             agent of that unit owner or owners.

18             (4)    *Redemption area* means any area or building where a vehicle  
19             owner may pay any charges necessary to redeem a vehicle.

20             (5)    *Storage site* means any land or building used by a towing service  
21             to store towed vehicles.

22             (6)    *Towing* means the removal, or preparation to remove, any motor  
23             vehicle by another motor vehicle for compensation.

24             (7)    *Trespass towing service or towing service* means any person who  
25             tows any motor vehicle from private property for compensation  
26             without the consent of the vehicle owner

27                   (8) *Tow truck* includes any motor vehicle used to tow, or attempt to  
28                   tow, a motor vehicle from private property.

29                   (9) *Unauthorized vehicle* means any motor vehicle which a property  
30                   owner has not consented to have parked on the property.

31                  (b)] *Scope.*

32                  (1) This Chapter applies to the towing of a motor vehicle from  
33                   private property, or the immobilization of a motor vehicle on  
34                   private property, without the consent of the vehicle owner.

35                  (2) This Chapter does not apply to:

36                  [a.](A)     [[Towing]] towing initiated by the vehicle owner;

37                  [b.](B)     [[Towing]] towing approved or requested by a  
38                   police officer, firefighter, or rescue squad member in the  
39                   course of [[duty]] a criminal investigation or under [[the  
40                   state]] State law [[on]] regulating abandoned vehicles; or

41                  [c.](C)     [[Towing]] towing a [[motor]] vehicle while  
42                   repossessioning it.

43                  (D)     towing from the yard or driveway of a single-family  
44                   dwelling; or

45                  (E)     towing from land immediately adjoining an electric or  
46                   telephone utility building or structure that is not open to  
47                   the general public.

48                  (3) [[Sections 30C-4 and 30C-6 do]] Section 30C-5 does not apply  
49                   to[[:]]

50                  [a.](A)     Towing]] towing from designated handicapped  
51                   parking spaces[[:]]

52                  [b.](B)     Towing from the yard or driveway of a one-family  
53                   dwelling; or

54 [c.](C) Towing from land immediately adjoining an electric  
55 or telephone utility building or structure that is not open to  
56 the general public]].

57 [(c)][(b)] Purpose. The purpose of this Chapter is to protect the health,  
58 safety, and welfare of County residents and to regulate and authorize the  
59 County Executive to set maximum rates for the towing of vehicles from  
60 private property without the consent of the vehicle owner. This Chapter  
61 does not authorize the immobilization, towing or holding of any vehicle.  
62 To the extent that legal authority to immobilize, tow or hold a vehicle  
63 without the consent of its owner exists, that authority must be derived  
64 from other statutes or the common law. [This] [[The purpose of this]]  
65 This Chapter [[is to protect public safety by restricting]] [restricts]  
66 restricts the exercise of any such legal authority.

67 **30C-2.** **Definitions.**

68 In this Chapter:

69 Commercial property means real estate approved and designed for retail  
70 or wholesale trade, hotel, restaurant, offices, clinics, warehouses, light  
71 manufacturing, and other such uses but not for residential purposes.

72 GVWR means gross vehicle weight rating for the vehicle.

73 Immobilize means to use any method, object, or devise, including a  
74 clamp or lock, to prevent or inhibit the movement of a vehicle.

75 Office means the Office of Consumer Protection.

76 Property manager means any person who manages real property on  
77 behalf of the owner.

78 Property owner means the person in whose name the property is titled.  
79 The owner of general common elements of a condominium is the  
80 Council of unit owners or the Council's agent for parking management.

81     The owner of limited common elements of a condominium is the unit  
82     owner or owners who have the exclusive right to use the common  
83     elements, or the agent of that unit owner or owners.

84     Redemption area means an area or building where a vehicle owner may  
85     pay any charges necessary to redeem a vehicle.

86     Residential property means real estate containing either a single family  
87     or multifamily structure that is available for occupation for non-business  
88     purposes.

89     Storage site means any land or building used by a towing service to  
90     store towed vehicles.

91     Tow or towing means use of a tow truck to remove a vehicle from  
92     private property for compensation without the consent of the vehicle  
93     owner.

94     Tow truck includes any vehicle which may tow or attempt to tow a  
95     vehicle from private property.

96     Trespass towing company or towing company means any person who  
97     tows any vehicle from private property for compensation without the  
98     consent of the vehicle owner.

99     Unauthorized vehicle means any vehicle which a property owner has  
100     not consented to have parked on the property owner's property.

101     Vehicle means a device that is able to transport persons or property on a  
102     public highway and is required to be registered pursuant to Title 13 of  
103     the Transportation Article of the Annotated Code of Maryland.

104     [[30C-2]] **30C-3. Maximum rates.**

- 105       (a) When [[charging for]] towing a motor vehicle from private property  
106       without the consent of the owner, a towing [[service]] company must  
107       [not] not charge[[:

- 108                   (1) a flat rate established by the Executive under this Section; or  
109                   (2) a rate that is not] more than a maximum rate [which the county  
110                   executive must establish by regulation under method (2)]  
111                   [[established by the Executive under this Section]] which the  
112                   County Executive must establish by regulation under method (2).  
113                   [The executive must review the rates at least every two (2) years.]  
114                   The Executive must review the rates at least every two (2) years.
- 115                   (b) The [executive] Executive must set [[by method (2) regulation, and  
116                   review at least every two years, either]] fair and reasonable [[flat rates  
117                   or]] maximum rates for each of the following acts:  
118                   (1) towing, which includes [[Attaching]] attaching the vehicle to be  
119                   towed to the tow truck, towing the vehicle to a storage site, and  
120                   the first 24 hours of storage;  
121                   (2) [[Towing the vehicle to a storage site. This rate must be based on  
122                   the distance the vehicle is towed;  
123                   (3)] [[Storing]] storing the vehicle until it is redeemed; and  
124                   [[(4)]](3) [[Any]] any other service needed to safely remove a  
125                   vehicle.
- 126                   (c) The fee for releasing a vehicle under section [[30C-7]] 30C-8 must not  
127                   exceed [[one-half the attachment fee set under subsection (b)(1)]] \$25.  
128                   (d) A towing company may charge a vehicle owner a fee for providing  
129                   notice under section 30C-6(e) only if the vehicle has not been reclaimed  
130                   within 48 hours after the towing or removal of the vehicle; the fee must  
131                   not exceed the actual cost of providing that notice.
- 132                   (e) A towing [[service]] company must not charge for any act not listed in  
133                   this section unless that act was expressly requested by the vehicle  
134                   owner.

135    [[30C-3]] **30C-4. Administration; rates.**

- 136    (a) Each tow truck operated by a trespass towing company must be  
137    identified, registered, and insured as required under State law, except  
138    that any required lettering must be placed on both sides of the truck.  
139    Each driver employed by a trespass towing service must be at least 18  
140    years of age and must have a valid license to operate a tow truck.
- 141    (b) Every trespass towing [[service]] company must [[file]] register with the  
142    Office and must file a schedule of its rates for each action connected  
143    with the towing or storage of unauthorized vehicles. The Office may  
144    disapprove a rate that[[:  
145        (1) is different from a flat rate set under Section 30C-2; or  
146        (2)] exceeds [the] a maximum rate set under Section 30C-2.
- 147    (c) A trespass towing [[service]] company must not charge a rate that is  
148    higher than the rate on file with the Office for any action in connection  
149    with the towing or storage of any unauthorized vehicle.
- 150    (d) Each trespass towing [[service]] company must furnish the Office proof  
151    that it carries the insurance required under Section 31A-15(b). Each  
152    trespass towing [[service]] company must inform the Office of the type  
153    of business organization or ownership in which the [[service]] company  
154    operates and the names and current addresses of all owners or, if the  
155    [[service]] company is a corporation, of the officers of the corporation  
156    and the name and address of a person authorized to accept service of  
157    process.
- 158    (e) A property owner must not order the towing of an unauthorized vehicle  
159    unless the property owner has entered into a written contract that  
160    authorizes a towing [[service]] company to tow vehicles from the  
161    owner's property. This provision does not apply if the towing

162       [[service]] company is the record owner of the property from which a  
163       [[motor]] vehicle is towed. The property owner and the towing  
164       company must keep on file each contract that is in effect, or that was  
165       terminated within the previous 12 months. The Office, the Police  
166       Department, and the owner of any vehicle towed by the [[service]]  
167       company may inspect and copy any contract during normal business  
168       hours. The Office may issue model contracts that meet the requirements  
169       of this Chapter.

170       Any new written contract must include:

- 171       (1) a statement that the property owner is responsible for posting  
172       proper and sufficient signage to notify the public of parking  
173       restrictions;
- 174       (2) a statement that the property owner is responsible for expressly  
175       authorizing the towing of a particular vehicle, except as allowed  
176       under 30C-4(c)(10), and that the existence of this contract does  
177       not constitute express authorization;
- 178       (3) a statement that a property owner is liable for a violation of any  
179       duty imposed on the property owner by Chapter 30C, and the  
180       damages payable are three times the amount of any towing,  
181       release or storage fees charged; and
- 182       (4) a statement that any violation of any duty imposed on the  
183       property owner by Chapter 30C subjects the property owner to a  
184       potential fine of \$500.00.

185       (f) [[The Office may issue subpoenas to compel the production of  
186       documents, papers, books, records, and other evidence in any matter to  
187       which this Chapter applies.]] Any property owner wishing to engage in  
188       the non-consensual towing of vehicles from their property must first

189 register each commercial parking lot with the Office of Consumer  
190 Protection using an electronic registration program. The property owner  
191 must provide:

- 192 (1) the name and contact information for the property owner;
- 193 (2) the name and contact information of all individuals who may  
194 authorize the towing of each vehicle;
- 195 (3) a copy of the contract between the property owner and the towing  
196 firm; and
- 197 (4) a diagram of the dimensions of the parking lot including a mark  
198 indicating the locations of each sign stating the parking  
199 restrictions and disclosures required by County and State law.

200 (g) [[Any violation of this chapter is a class A violation.]] A property owner  
201 must update the information provided to the Office of Consumer  
202 Protection within 24 hours of any changes to the information provided  
203 under subsection (f).

204 (h) A property owner must provide quarterly reports regarding the number  
205 of vehicles towed and the reason why each vehicle was towed.

206 **[[30C-4]] 30C-5. Public notice; tow procedures.**

207 (a) *Requirement.* Before towing a motor vehicle from private property  
208 without the consent of the vehicle owner, the property owner and the  
209 towing [[service]] company must comply with all applicable provisions  
210 of this section.

211 (b) *Signs.*

212 (1) A property owner must post a sign, notifying the public of  
213 parking restrictions, at least 24 hours before towing or ordering  
214 the towing of an unauthorized vehicle.

- 215                   (2) [[Sufficient numbers of signs must be posted permanently so that  
216                   at least one sign is clearly readable from each parking area and  
217                   each vehicle entrance to the property at all times.]]  
218                   [Alternatively] [[Additionally, in a parking lot with more than  
219                   100 parking spaces, at least one sign must be posted in a  
220                   conspicuous place for each [75] 25 parking spaces, and each sign  
221                   must be readable from all affected spaces.]] The property owner  
222                   must post a sufficient number of signs so that:  
223                   (A) at least one sign is clearly readable from each parking area  
224                   and each vehicle entrance to the property at all times; or  
225                   (B) in a parking lot with more than 45 parking spaces, at least  
226                   one sign must be posted in a conspicuous place for each 45  
227                   parking spaces and each sign can be read from all affected  
228                   spaces.  
229                   (3) Each sign must:  
230                   [a.](A) be at least 24 inches high by 30 inches wide;  
231                   (B) [[Summarize]] summarize all parking restrictions on the  
232                   property enforced by towing unauthorized vehicles,  
233                   including time and area restrictions;  
234                   [b.][(B)](C) [[Indicate]] state that a [[vehicles violating]]  
235                   vehicle parked in violation of the restrictions may be  
236                   towed at the vehicle owner's expense; [[and]]  
237                   [c.][(C)](D) state that County and State law require that  
238                   towed vehicles be available for redemption 24 hours per  
239                   day, seven days per week;

- 240           (E) state the maximum amount that the owner of the vehicle  
241           may be charged for the towing or removal of an  
242           unauthorized vehicle;
- 243           (F) [[List]] list the name and telephone number of each towing  
244           [[service]] company hired to tow unauthorized vehicles  
245           from the property, [[or a telephone number that is  
246           answered personally at all times of the day and night by  
247           the property owner or an agent of the owner who is  
248           informed of each vehicle towed from the property]] and  
249           the location to which the vehicle will be towed;
- 250           (G) be sized and made of reflective material that can be seen in  
251           low light, and located so that it is able to be read by  
252           motorists in daylight at night; and
- 253           (H) be maintained in a legible and unobstructed condition.
- 254        II(4) Each sign must be sized, printed and located so that it is readable  
255           by motorists in daylight and at night.
- 256        (5) The property owner must maintain each sign in legible and  
257           unobstructed condition.
- 258        (6)](4) An owner of residential property, including a  
259           condominium, cooperative or homeowners' association, may also  
260           have an unauthorized vehicle towed from that property [[without  
261           posting the signs required by this subsection if]] by posting the  
262           signs required in subsection (b)(2) only at the entrances to that  
263           property and:
- 264        [a.](A)        [[A]] a notice specifying a violation of an applicable  
265           rule or covenant is securely attached to the vehicle in a  
266           conspicuous place;

267 [b.](B) [[The]] the date and time the notice was attached is  
268 written on it;

269 [c.](C) [[The]] the notice informs the vehicle owner that:

270 (i) the violation must be corrected or the vehicle may  
271 be towed at the vehicle owner's expense 48 hours  
272 after the notice is attached; and

273 (ii) an unauthorized vehicle that has received a notice  
274 of the same violation under this Section on the same  
275 property within the previous 180 days may be towed  
276 without any further notice; and

277 [d.](D) [[The]] the vehicle is not towed until at least 48  
278 hours after the notice is attached unless the unauthorized  
279 vehicle received a notice of the same violation under this  
280 Section on the same property within the previous 180 days.

281 [(7)] (5) An owner of a commercial parking lot [[with more than  
282 100 spaces]] may have an unauthorized vehicle towed from that  
283 property [[without posting the signs required by this subsection  
284 if]] by posting the signs required in subsection (b)(2) only at the  
285 entrances to that property and:

286 [a.](A) [[A]] a notice specifying a violation of an applicable  
287 rule or covenant is securely attached to the vehicle in a  
288 conspicuous place;

289 [b.](B) [[The]] the date and time the notice was attached is  
290 written on it;

291 [c.](C) [[The]] the notice informs the vehicle owner that:

- (i) the violation must be corrected or the vehicle may be towed at the vehicle owner's expense 24 hours after the notice is attached; and
  - (ii) an unauthorized vehicle that has received a notice of the same violation under this Section on the same property within the previous 180 days may be towed without any further notice; and

9) [[The]] the vehicle is not towed until at least 24 hours after the notice is attached unless the unauthorized vehicle received a notice of the same violation under this Section on the same property within the previous 180 days.

(c) *Tow procedures.*

- (1) Except as provided in subsection (c)(10), a [[property owner]] towing company must not tow a motor vehicle from [[the owner's]] private property unless the property owner has, directly or through an agent, expressly authorized the towing of the particular vehicle.
  - (2) [[The authorization to tow may take the form of a tow slip.]] The property owner must authorize the towing of a vehicle in writing via tow authorization form in person, or via fax, email, or other electronic means approved by the Director of the Office of Consumer Protection.
  - (3) The Office may issue a model tow [[slip]] authorization form.
  - (4) [[If a tow slip is used, the property owner or the owner's agent must sign the slip immediately before the vehicle is towed. A legible copy of the slip must be securely attached to the vehicle.]]

- 318 (5)] Any property owner or any person acting as an agent of a  
319 property owner, must not:
- 320 [a.](A) [[Falsely]] falsely state that a property owner  
321 authorized the towing of a particular vehicle; or
- 322 [b.](B) [[Record]] record any false information about the  
323 towing of a particular vehicle[]; or
- 324 [c.](C) Sign a tow slip before all of the information relating  
325 to the towing of a particular vehicle is recorded on the  
326 slip]].
- 327 [(6)][(5) A towing [[service]] company must not charge a vehicle  
328 owner any fee for the services of another agent of the property  
329 owner.
- 330 [(7) In this subsection, "owner" means the person in whose name title  
331 to the property is registered. The "owner" of general common  
332 elements of a condominium is the council of unit owners. The  
333 "owner" of limited common elements of a condominium is the  
334 unit owner or owners who have the exclusive right to use the  
335 common elements. "Property manager" means a person who  
336 generally manages the property on behalf of the owner.
- 337 (8)][(6) A person must not act as a property owner's agent for the  
338 purpose of ordering the towing of an unauthorized vehicle, unless  
339 the owner or property manager has expressly authorized in  
340 writing the person to so act.
- 341 [(9)][(7) An agent of a property owner, for the purpose of ordering  
342 the towing of an unauthorized vehicle, must not:

343 [a.](A) [[Be]] be employed by, or have any member of his  
344 or her immediate family employed by, any towing  
345 [[service]] company; or

346 [b.](B) [[Have]] have any financial interest in any towing  
347 [[service]] company or the towing of any motor vehicle.

348 This provision does not apply if the towing [[service]] company is the  
349 record owner of property from which a motor vehicle is towed.

350 [(10)](8) An unauthorized vehicle may be towed from private  
351 property without the express authorization of the property owner  
352 or the owner's agent only[;

353 a. Between 2:00 a.m. and 9:00 a.m.; or

354 b. If];

355 (A) Between 2:00 a.m. and 9:00 a.m.; or

356 (B) if the vehicle is [[directly]] blocking a clearly marked fire  
357 lane or access to another vehicle, the property or a building  
358 on the property.

359 (11) Before towing or authorizing the towing of an unauthorized  
360 vehicle from private property [[, a person]] under this Section,  
361 [[the towing company]] a person must obtain photographic  
362 evidence of the violation or event that precipitated the towing of  
363 the vehicle. The photograph must be available for inspection by  
364 any interested party for at least one year, and a copy of the  
365 photograph must be provided to the vehicle owner along with the  
366 receipt required under Section 30C-9.

367 (12) A towing company must not attach to a tow truck or tow an  
368 unauthorized vehicle from private property that is held open to

- 369                   the public for parking within 15 minutes of the vehicle being  
370                   parked, unless the vehicle is:
- 371                   (A) blocking a clearly marked fire lane;  
372                   (B) blocking access to another vehicle;  
373                   (C) blocking access to the property or a building on the  
374                   property; or  
375                   (D) parked in a parking space reserved for disabled persons  
376                   without a valid handicapped registration plate or valid  
377                   disabled person's parking permit.
- 378               (d) (1) A property owner may move a vehicle within a parking lot  
379                   without prior notice to the vehicle owner, but must not remove  
380                   the vehicle from the lot, when moving the vehicle is necessary  
381                   to:  
382                   [a.](A)     [[Remove]] remove large quantities of snow or  
383                   debris;  
384                   [b.](B)     [[Repair]] repair the parking lot; or  
385                   [c.](C)     [[Respond]] respond to a threat to a person's safety  
386                   or health.  
387               (2) In moving a vehicle within a parking lot, a property owner must:  
388                   [a.](A)     [[Take]] take reasonable care not to damage the  
389                   vehicle;  
390                   [b.](B)     [[Pay]] pay any cost of moving the vehicle; and  
391                   [c.](C)     [[Inform]] inform the vehicle owner where the  
392                   vehicle was relocated or return the vehicle to its original  
393                   location as soon as possible.  
394               (e) A vehicle must not be towed from private property solely for a violation  
395                   of failure to display a valid current registration under Section 13-411 of

396           the Transportation Article of the Annotated Code of Maryland until 72  
397           hours after a notice of violation is placed on the vehicle.

398       (f)    [[A property owner or towing]] [[service]] [[company must not employ  
399           or use the services of an individual commonly referred to as a "spotter,"  
400           whose primary task is to report the presence of unauthorized parked  
401           vehicles for the purpose of towing or removal. For the purposes of this  
402           subsection, "primary task" means an individual's job function that  
403           accounts for more than 50% of the individual's compensation or hours  
404           worked.]] Except between 2:00 a.m. and 9:00 a.m., a towing company  
405           must not monitor, patrol, or otherwise surveil private property for the  
406           purposes of identifying unauthorized parked vehicles for towing and  
407           removal.

408       [[30C-5]] **30C-6. Notice [[to police]].**

409       (a)    [[If a]] A towing [[service]] company that tows an unauthorized vehicle  
410           from private property[[, the property owner or the owner's agent]] must  
411           notify the County or municipal Police Department with jurisdiction over  
412           the site of the tow before the towing [[service]] company leaves the  
413           property. The [[owner or agent]] towing company must tell the Police  
414           Department:

- 415       (1)    [[The]] the name of the towing [[service]] company;
- 416       (2)    [[The]] the make, model, color, year [[(if known)]], vehicle  
417           identification number and registration plate number of the towed  
418           vehicle;
- 419       (3)    [[The]] the address the vehicle was towed from;
- 420       (4)    [[The]] the time the vehicle was towed; and
- 421       (5)    [[The]] the storage site where the vehicle will be stored.

- 422           (b) The [[property owner or the owner's agent]] towing company must  
423           promptly notify the police department if the towing [[service]] company  
424           moves the vehicle to another storage site.
- 425           (c) The property owner [[or]] [the owner's agent] [[property manager]] and  
426           the towing company must retain each tow [[slip]] authorization form  
427           [[and, for those vehicles towed without a tow slip, a record of the  
428           information furnished to the police,]] for one year after the tow. [[For  
429           each vehicle towed without a tow slip, the property owner or [agent]  
430           property manager must record and retain the name of the owner of the  
431           property and, if the tow was authorized by an agent, the name of the  
432           agent.]] The Police Department, the Office, and the owner of any  
433           vehicle towed by the service may inspect and copy [[this information]]  
434           tow authorization forms at any time during normal business hours.
- 435           (d) The [[property owner or the owner's agent]] towing company must  
436           promptly notify the County Police Department by telephone of each  
437           vehicle that has remained in a towing [[service's]] company's  
438           possession for 72 hours. The [[property owner or the owner's agent]]  
439           towing company must tell the Police Department:  
440               (1) [[All]] all information required under subsection (a); and  
441               (2) [[The]] the vehicle identification number of the towed vehicle.
- 442           (e) Within seven days after the towing or removal of the vehicle, the towing  
443           company must notify the owner, any secured party, and the insurer of  
444           record by certified mail, return receipt requested, and first class mail, of  
445           the same information required to be given to the Police Department  
446           under subsection (a) of this Section.

447           (f) The towing Company must provide to the owner, any secured party, and  
448           the insurer of record the itemized actual costs of providing notice under  
449           this Section.

450       **[30C-6] 30C-7. Handicapped vehicle owners.**

451       A property owner must not authorize a towing [[service]] company to tow a  
452       vehicle with a valid handicapped registration plate or valid disabled person's  
453       parking permit conspicuously displayed from private property without the  
454       consent of the vehicle owner unless:

- 455       (a) [[The]] the tow is expressly authorized by a police officer at the request  
456       of the property owner; or
- 457       (b) [[The]] the vehicle is blocking a clearly marked fire lane or access to  
458       another vehicle, the property or a building on the property.

459       **[30C-7] 30C-8. Incomplete tows.**

460       (a) If a vehicle owner returns to an unauthorized vehicle at any time after  
461       the vehicle is attached to the tow truck but before it is towed from  
462       private property, the towing [[service]] company must release the  
463       vehicle to the owner if the owner pays a release fee as provided in  
464       Section [[30C-2(c)]] 30C-3(c). The towing service must accept  
465       payment by cash or credit card as under Section 30C-9(b) and must not  
466       charge any other fee for attaching or releasing the vehicle.

467       (b) A towing [[service]] company must not charge for releasing an  
468       unauthorized vehicle unless the service has physically attached the  
469       vehicle to the tow truck and lifted the vehicle at least 6 inches off the  
470       ground before the vehicle owner returns. If the towing [[service]]  
471       company has begun to attach the vehicle to the tow truck but has not  
472       completed the attachment or lifted the vehicle, the towing [[service]]  
473       company must release the vehicle without charging the owner any fee.

- 474           (c) A towing [[service]] company must not block an unauthorized vehicle  
475           with a tow truck to obtain payment from the vehicle owner before  
476           attaching the vehicle to the tow truck.
- 477           (d) The towing [[service]] company must provide a receipt that includes a  
478           reference to the County Code provisions setting the release fee and  
479           meets all of the requirements [[of section 30C- 8(f)]] for receipts under  
480           Section 30C-9(e), indicating the release fee paid and the date of the  
481           incomplete tow.
- 482           [[e) A police officer or investigator employed by the Office may order a  
483           towing service to release a vehicle, or to stop attaching a vehicle, at any  
484           time.]]

485       [[30C-8]] **30C-9. Redemption and storage procedures.**

- 486           (a) *Storage of towed vehicles.* A [[property owner must have an authorized  
487           vehicle towed]] towing company must immediately deliver a towed  
488           vehicle directly to a storage site that complies with the following  
489           conditions:
- 490           (1) A storage site must not be more than [[12]] 15 miles from the  
491           origin of the tow. [[Each vehicle must be towed to the nearest  
492           storage site available to the towing service.]] Every storage site  
493           must be located in Montgomery County, unless the nearest  
494           storage site is within one mile of the County line.
- 495           (2) A storage site must be brightly lit at all times.
- 496           (3) A towed vehicle must not be stored more than a reasonable  
497           walking distance from a redemption area.
- 498           (4) The towed vehicle and its contents must be kept secured at all  
499           times.

- 500                   (5) The storage site must remain open and have personnel on-site for  
501                   redemption of vehicles at [[least 2 hours after the completion of  
502                   the last tow]] 24 hours per day, seven days a week.
- 503                   (6) The storage site must be identified by a sign at the entrance  
504                   indicating the name and telephone number of the tow service.
- 505                   (b) *Payment and promise to pay.*
- 506                   (1) *Cash payment.* A trespass towing [[service]] company must  
507                   accept payment in cash, or by a traveler's check accompanied by  
508                   reasonable identification.
- 509                   (2) [[Options.
- 510                   [a.](A)       Each trespass towing service must accept as full  
511                   payment either a credit card slip or a personal check, at the  
512                   option of the towing service, validly signed by the vehicle  
513                   owner or the owner's agent for the amount of all valid  
514                   charges.
- 515                   [b.](B)       Each trespass towing service must notify the Office  
516                   on the rate schedule filed under Section 30C-3 whether it  
517                   opts to accept credit cards or personal checks or both. The  
518                   towing service must notify the Office if it changes that  
519                   option.
- 520                   [c.](C)       The option chosen by a trespass towing service must  
521                   be available to the owners of all vehicles towed by that  
522                   service without the consent of their owners.
- 523                   (3)]] *Credit card [[option]] payment.*
- 524                   [[[a.](A)]]]   Each trespass towing [[service]] company must  
525                   accept the [[2]] two most widely used major credit cards.  
526                   The Office must define, in regulations under method (2),

which major credit cards are the [[2]] two most widely used.

532 (4) *Personal check option.* A trespass towing service must, if it does  
533 not accept the 2 most widely used credit cards under subsection  
534 (c)(3), accept a personal check, with reasonable identification, if  
535 the vehicle is registered in Maryland.

536 (5)](3) *Withholding payment.* If:

537 [a.](A) [[The]] the vehicle owner withholds payment in a  
538 credit card transaction with a towing service under this  
539 Chapter; and

540 [b.](B) [[A]] a court in any subsequent civil action finds  
541 that the tow was valid and the amount charged was correct;  
542 the vehicle owner must pay the towing [[service]]  
543 company, in addition to the amount validly charged,  
544 liquidated damages of [[2]] two times the amount validly  
545 charged (but not more than \$1,000.00) and all reasonable  
546 costs of collection, including court costs and a reasonable  
547 attorney's fee.

548 [|(6) *Stopping payment.* If:

549 [a.](A) The vehicle owner stops payment on a check written  
550 to a towing service under this chapter;

551 [b.] The towing service follows the procedures in state  
552 law for collection of dishonored checks; and

- 553 [c.](C) A court in any subsequent civil action finds that the  
554 tow was valid and the amount charged was correct; the  
555 vehicle owner must pay the towing service, in addition to  
556 the amount validly charged, liquidated damages of 2 times  
557 the amount validly charged (but not more than \$1,000.00)  
558 and a collection fee of \$25.00.]]
- 559 [(7)](4) *Applicability.* This subsection applies to payment of any  
560 charge arising from the towing or storage of a vehicle without the  
561 owner's consent, and to payment for an incomplete tow under  
562 Section [[30C-7]] 30C-8.
- 563 [(8)](5) *Purpose.* This subsection and Section [[30C-7]] 30C-8 do  
564 not create or imply a lien in favor of a towing [[service]]  
565 company when such a lien would not otherwise exist. This  
566 subsection and Section [[30C-7]] 30C-8 do not give a towing  
567 [[service]] company a right to retain possession of any vehicle it  
568 would otherwise have to return to the vehicle owner.
- 569 (c) *Rates displayed.* Every trespass towing [[service]] company must  
570 display prominently, at each redemption area, a copy of its current rates  
571 and a statement that these rates do not exceed the rates filed with the  
572 Office. Every trespass towing [[service]] company must also display  
573 prominently a sign, furnished at a reasonable fee by the Office, listing  
574 the Office's telephone number and summarizing the vehicle owner's  
575 rights under this Chapter.
- 576 (d) *Storage fee.* A trespass towing [[service]] company must not charge a  
577 storage fee for any time before the vehicle actually reaches the storage  
578 site [[or the service notifies the Police Department under Section 30C-5,  
579 whichever is later]].

- 580           (e) *Receipt.* Upon receiving payment, a towing [[service]] company must  
581           furnish the vehicle owner a receipt on a form approved by the Office.  
582           The receipt must:  
583           (1) [[Record]] record the amount paid to redeem the vehicle, the  
584           actions for which the vehicle owner paid, and the date and time of  
585           the redemption;  
586           (2) [[Be]] be signed legibly by an agent of the towing [[service]]  
587           company, and list the name, address and telephone number of the  
588           towing [[service]] company;  
589           (3) identify the violation or event that precipitated the towing of the  
590           vehicle;  
591           (4) include photographic evidence of the violation required under  
592           subsection 30C-5(c)(11); and  
593           (5) [[Briefly]] briefly inform the vehicle owner that the Office can  
594           explain the vehicle owner's rights and how to enforce them in  
595           small claims court or another appropriate forum if the vehicle  
596           owner believes that any provision of County law has been  
597           violated, and that the owner may obtain a copy of the law from  
598           the Office.  
599           (f) *Damage waiver.* A trespass towing [[service]] company must not  
600           require a vehicle owner to sign any waiver of the owner's right to  
601           receive compensation for damages to the vehicle.  
602           (g) *Inspection and retrieval of personal property.* A storage site that is in  
603           the possession of a towed vehicle shall make the vehicle available,  
604           without charge, to the owner, the owner's agent, a secured party, or  
605           the insurer of record, under the supervision of the storage site, for:  
606           (1) inspection; or

607           (2) retrieval from the vehicle of personal property that is not  
608           attached to the vehicle.

609   **[[30C-9]] 30C-10. Liability for damages.**

610           (a) Any trespass towing [[service]] company, and any private property  
611           owner who authorizes, expressly or under a standing authorization, the  
612           towing of a vehicle from private property, are liable for violation of any  
613           duty imposed on the [[service]] company or owner by this Chapter with  
614           regard to:

615           (1) [[Any]] any towing of a vehicle that does not comply with this  
616           [[chapter]] Chapter;

617           (2) [[Any]] any towing of a vehicle in the mistaken belief that the  
618           vehicle was not authorized to park in the place from which it was  
619           towed; and

620           (3) [[Any]] any damages to a towed vehicle incurred during the tow  
621           or storage and caused by a lack of reasonable care by the towing  
622           [[service]] company, the property owner or an agent of either.

623           (b) A property owner is not liable for the towing of a vehicle if the property  
624           owner did not expressly authorize the towing, [[expressly or under a  
625           standing authorization]] and does not otherwise have a business  
626           relationship with the towing company.

627           (c) Except as provided in subsection (b), a] A property owner and a towing  
628           [[service]] company are jointly and severally liable for the violation of  
629           any duty imposed by this Chapter on the towing [[service]] company,  
630           with a right of contribution or indemnification.

631           [[d]](c) A vehicle owner must mitigate any damages recoverable under  
632           this [[chapter]] Chapter.

633       [[e]](d) Damages payable under subsections (a)(1) and (a)(2) are [[3]]  
634                     three times the amount of any towing, release or storage fees charged.

635       **[30C-10] 30C-11. Rebates prohibited.**

636       A towing [[service]] company must not pay or offer to pay a property owner,  
637 and a property owner must not accept payment, for authorizing the towing of a  
638 vehicle from any private property.

639       **30C-12. Enforcement, police power, subpoena authority.**

640       (a) The Office of Consumer Protection and the Montgomery County Police  
641                     Department enforce this Chapter.

642       (b) A police officer or Office of Consumer Protection investigator may  
643                     order a towing company to release a vehicle, or to stop attaching a  
644                     vehicle, at any time to prevent a breach of the peace or if the  
645                     investigator or officer has reasonable cause to believe that the tow  
646                     would be or was unlawful.

647       (c) The Office may issue subpoenas to compel the production of  
648                     documents, papers, books, records, and other evidence relevant to the  
649                     investigation of a complaint filed with the Office in any matter to which  
650                     this Chapter applies.

651       (1) If any person does not comply with any subpoena issued under this  
652                     Chapter, the County may enforce the subpoena by appropriate legal  
653                     action.

654       (2) Any court with jurisdiction may grant injunctive or other  
655                     appropriate relief to enforce a subpoena.

656       (3) A person must comply with any subpoena issued under this  
657                     Chapter.

658       (d) Any violation of this Chapter is a Class A violation. The maximum  
659                     civil fine is \$500 for a first offense, and \$1,000 for subsequent offenses.

660    [[30C-11]] **30C-13. Immobilization [restrictions] prohibited.**

- 661            (a) *Applicability.* A person must not immobilize a motor vehicle owned by  
662 another person [without complying with all requirements of this section]  
663 on private property, without the consent of the vehicle owner.
- 664            (b) *[Signs.* The owner of the property on which a vehicle is immobilized  
665 must permanently post a sufficient number of signs which meet all  
666 requirements of Section 30C-4(b)(1)-(5) on the property at least 24  
667 hours before a person immobilizes an unauthorized vehicle. The text of  
668 the sign must reflect that vehicles may be immobilized rather than, or in  
669 addition to, being towed, and must specify the rate charged to release a  
670 vehicle. The Department of Housing and Community Affairs may by  
671 regulation prescribe the text, graphics, symbols, shape, size, color, or  
672 other elements necessary for a sign to comply with this section.
- 673            (c) *Requirements.* A person must not immobilize an unauthorized vehicle  
674 unless:
- 675              (1) the owner of the property where the vehicle is located has  
676 expressly authorized the person to immobilize unauthorized  
677 vehicles on the property;
- 678              (2) the person, and any business that employs the person to  
679 immobilize vehicles, has registered with the Department of  
680 Housing and Community Affairs under Section 31A-2 as if  
681 Chapter 31A applies to that person and business;
- 682              (3) the person has been adequately trained to apply an immobilizing  
683 device;
- 684              (4) signs meeting all requirements of subsection (b) have been  
685 properly posted on the property;

- 686 (5) the person attaches to the vehicle's front windshield a notice  
687 prominently warning the operator not to move the vehicle;  
688 (6) the person takes reasonable care not to damage the vehicle; and  
689 (7) the owner of the property carries at least \$25,000 in liability  
690 insurance which will cover any damage to the vehicle.

691 (d) *Entrapment not allowed.* A person must not immobilize a motor vehicle  
692 on private property if:

693 (1) the property is a parking garage or lot which is normally used for  
694 paid public parking and operated by an attendant;  
695 (2) the vehicle entered the garage or lot between 6 p.m. and 8 a.m.;  
696 and  
697 (3) the garage or lot was unattended, and access to the garage or lot  
698 was not physically blocked, when the vehicle entered.

699 (e) *Release of vehicle.* A person who is authorized to release immobilized  
700 vehicles must:

701 (1) arrive as promptly as possible, but in any case within 30 minutes  
702 after the owner or operator of an immobilized vehicle calls the  
703 telephone number listed on the sign posted at the property and  
704 requests the release of the vehicle;  
705 (2) immediately release the vehicle after a lawful release fee is paid;  
706 (3) not require the vehicle owner or operator to waive any right to  
707 receive compensation for damages to the vehicle; and  
708 (4) give the operator of the vehicle a receipt which legibly shows:  
709 (A) the release fee paid,  
710 (B) the date, time, and location of the release, and  
711 (C) the name of the person who received the payment and any  
712 business for which the person acted.

713           (f) *Maximum rate.* A person must not charge more to release an  
714         unauthorized vehicle than a maximum rate set by the County Executive  
715         by regulation under method (2). The Executive must set a maximum  
716         rate which fairly compensates the property owner for the reasonable  
717         cost of immobilization, but which does not exceed \$50, and must review  
718         the maximum rate at least every 2 years.

719           (g) *Payment and promise to pay.* A person who is authorized to release  
720         immobilized vehicles must accept payment:

- 721             (1) in cash, or by a traveler's check accompanied by reasonable  
722                 identification;
- 723             (2) by a personal check, accompanied by reasonable identification, if  
724                 the vehicle is registered in Maryland; or
- 725             (3) by the 2 most widely used major credit cards, as defined by the  
726                 Department of Housing and Community Affairs. In addition, if  
727                 the person, or the business which employs the person, accepts  
728                 any other credit card for any other purpose, the person must  
729                 accept that credit card for this purpose.

730         The remedies in Section 30C-8(b)(5)-(6) apply to any payment under  
731         this section.

732           (h) *No lien.* This section does not create or imply a lien in favor of any  
733         person when such a lien would not otherwise exist. This section does  
734         not give any person a right to retain possession of any vehicle it would  
735         otherwise have to return to the vehicle owner.

736           (i) *Public property.* Only a properly authorized agent of a government  
737         agency with jurisdiction over a public road or other public property may  
738         immobilize a motor vehicle on that road or property.

739           (j) *Enforcement; police power.* The Department of Housing and  
740           Community Affairs and the Police Department enforce this section. A  
741           police officer may order a person not to immobilize a vehicle, or to  
742           release an immobilized vehicle without payment, at any time to prevent  
743           a breach of the peace or if the officer has reasonable cause to believe  
744           that the immobilization would be or was unlawful.

745           (k)] *Civil remedy.* Any person whose vehicle has been unlawfully  
746           immobilized, unlawfully held after being lawfully immobilized, or  
747           damaged while immobilized, may recover from the owner of the  
748           property or any other person responsible for immobilizing the vehicle,  
749           in a civil action, the greater of:

- 750           (1) all actual damages sustained; or  
751           (2) liquidated damages of \$100.

752           This remedy does not replace or limit any other remedy available by  
753           law.

754         *Approved:*

755

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George Leventhal, President, County Council

Date

756         *Approved:*

757

---

Isiah Leggett, County Executive

Date

758         *This is a correct copy of Council action.*

759

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Linda M. Lauer, Clerk of the Council

Date

## LEGISLATIVE REQUEST REPORT

Bill 17-15

*Motor Vehicle Towing and Immobilization on Private Property – Amendments*

<b>DESCRIPTION:</b>	Bill 17-15 would amend the County's towing and vehicle immobilization law to authorize the County Executive to set flat rates for certain towing services; add certain notice and towing procedure requirements; provide certain additional enforcement powers for the Office of Consumer Protection; and prohibit the immobilization of certain vehicles.
<b>PROBLEM:</b>	“Trespass towing,” the towing of a motor vehicle from private property for compensation without the consent of the vehicle owner, is subject to certain predatory practices which lead to confrontations that threaten public safety.
<b>GOALS AND OBJECTIVES:</b>	To protect public safety by strengthening the regulation of trespass towing in the County.
<b>COORDINATION:</b>	Office of Consumer Protection
<b>FISCAL IMPACT:</b>	To be requested.
<b>ECONOMIC IMPACT:</b>	To be requested.
<b>EVALUATION:</b>	To be requested.
<b>EXPERIENCE ELSEWHERE:</b>	To be researched.
<b>SOURCE OF INFORMATION:</b>	Josh Hamlin, 240-777-7892
<b>APPLICATION WITHIN MUNICIPALITIES:</b>	To be researched.
<b>PENALTIES:</b>	Subject to Class “A” violation.



ROCKVILLE, MARYLAND

MEMORANDUM

May 5, 2015

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TO: George Leventhal, President, County Council

FROM: Jennifer A. Hughes, Director, Office of Management and Budget  
Joseph F. Beach, Director, Department of Finance *JAH*

SUBJECT: FEIS for Bill 17-15, Motor Vehicle Towing and Immobilization on Private Property - Amendments

Please find attached the fiscal and economic impact statements for the above-referenced legislation.

JAH:fz

cc: Bonnie Kirkland, Assistant Chief Administrative Officer  
Lisa Austin, Offices of the County Executive  
Joy Nurmi, Special Assistant to the County Executive  
Patrick Lacefield, Director, Public Information Office  
Joseph F. Beach, Director, Department of Finance  
Eric Friedman, Director, Office of Consumer Protection  
David Platt, Department of Finance  
Helen Vallone, Office of Management and Budget  
Alex Espinosa, Office of Management and Budget  
Naeem Mia, Office of Management and Budget

**Fiscal Impact Statement**  
**Council Bill 17-15 Motor Vehicle Towing and Immobilization on Private Property**

**1. Legislative Summary.**

The purpose of this legislation is to amend Chapter 30C, Motor Vehicle Towing and Immobilization on Private Property with respect to: setting flat rates for certain towing services, add certain notice and towing procedure requirements, provide certain additional enforcement powers for the Office of Consumer Protection, and prohibit the immobilization of certain vehicles.

**2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

In the event this bill results in an increase in the number of non-consensual towing complaints filed with OCP and this increase results in the number of civil citations filed by OCP; a slight rise in County revenues might be expected. However, no such growth in the number of civil citations is expected.

**3. Revenue and expenditure estimates covering at least the next 6 fiscal years.**

No expected change to response in #2 above.

**4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not Applicable.

**5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

**6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

Not applicable.

**7. An estimate of the staff time needed to implement the bill.**

Two OCP investigators examine and handle non-consensual towing complaints. This bill may result in a slight rise in the number of complaints filed with OCP. However, it is anticipated that OCP staff would absorb any moderate increase in the number of complaints.

**8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable.

**9. An estimate of costs when an additional appropriation is needed.**

Not Applicable.

**10. A description of any variable that could affect revenue and cost estimates.**

Additional investigative and support staff may be needed to investigate and handle complaints if there is a significant increase in the number of non-consensual towing complaints filed with OCP.

**11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

It is difficult to predict with any certainty if there will be a significant increase in the number of complaints filed with OCP, or the amount of time it would take to educate property owners and towing firms regarding the amendments.

**12. If a bill is likely to have no fiscal impact, why that is the case.**

Not Applicable.

**13. Other fiscal impacts or comments.**

The County Executive's Office will provide legislative suggestions to enhance amendments to Chapter 30C in an effort to curb overly aggressive non-consensual towing practices in Montgomery County.

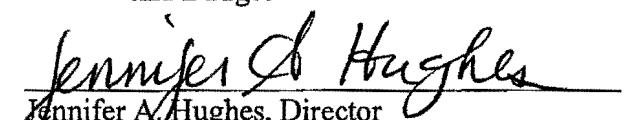
**14. The following contributed to and concurred with this analysis:**

Eric Friedman, Director Office of Consumer Protection

Marsha Carter, Management and Budget Specialist III, Office of Consumer Protection

Edward Lattner, Chief, Office of the County Attorney

Helen P. Vallone, Senior Management and Budget Specialist, Office of Management and Budget

  
\_\_\_\_\_  
Jennifer A. Hughes, Director  
Office of Management and Budget

5/5/15  
\_\_\_\_\_  
Date

**Economic Impact Statement**  
**Bill 17-15, Motor Vehicle Towing and Immobilization on Private Property –**  
**Amendments**

**Background:**

This legislation would:

- Authorize the County Executive to set flat rates for certain towing services,
- Add certain notice and towing procedure requirements,
- Provide certain additional enforcement powers for the Office of Consumer Protection (OCP), and
- Prohibit the immobilization of certain vehicles.

Specifically, Bill 17-15 provides for the following:

- adds public safety to the purpose of the law,
- establishes flat rates,
- gives subpoena authority to OCP under Chapter 30C of the County Code,
- requires more low signage to be posted on properties,
- requires that a tow be authorized at all times of the day,
- required photographic evidence of violation,
- prohibits the use of “spotters”, and
- prohibits the immobilization or booting on private property.

**1. The sources of information, assumptions, and methodologies used.**

Source of information and data is the Office of Consumer Protection. The assumption is that the flat rate would be similar to the overall average of the current towing fees. There are no methodologies used in the preparation of the economic impact statement. OCP provided data on the estimate of the economic impact.

**2. A description of any variable that could affect the economic impact estimates.**

Currently there are three sets of towing fees: hookup fee, mileage fee, and storage fee. The most controversial fee is the per mileage fee. According to OCP, the overall average of the sum of the three fees is \$168. Bill 17-15 would eliminate the three-fee structure and set a fixed rate. As such, OCP assumes that an average fixed rate could be \$168 which is the same as the overall average of the sums of the current three sets of fees. Therefore, since the flat fee structure would replicate the overall average of the current rates, there is no net economic impact.

However, on a case-by-case basis, if the fixed rate is set at a level that is less than the current sum of the individual towing fees, a towing company would receive less revenue than with a fixed rate. If the fixed rate is set at a level that is greater than the current sum of the individual towing rates, a towing company would receive more revenue than with a fixed rate. Overall, the result would be a zero sum effect for the County's economy, that is, the revenue differentials from towing companies and individuals would offset each other. Therefore, according to OCP the impact from

**Economic Impact Statement**  
**Bill 17-15, Motor Vehicle Towing and Immobilization on Private Property –**  
**Amendments**

the fixed rate would be similar to the average of the current rates, and there would be no overall “net” economic impact to the County.

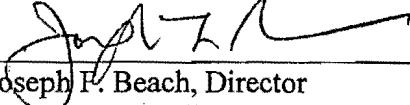
- 3. The Bill's positive or negative effect, if any on employment, spending, savings, investment, incomes, and property values in the County.**

Given the assumption that the flat rate would be the same as the overall average of the current fees, there is no effect on employment, spending, savings, investment, incomes, and property values in the County. However, since Bill 17-15 would require more tow signage, the cost to the towing company would increase for purchasing and installing the signs. Since, Finance assumes that each sign would range between \$10 and \$20, the additional expenditure would be minimal and have no significant impact on business spending.

- 4. If a Bill is likely to have no economic impact, why is that the case?**

See #3 above.

- 5. The following contributed to or concurred with this analysis:** David Platt and Rob Hagedoorn, Finance; Eric Friedman, Director, Office of Consumer Protection.

  
\_\_\_\_\_  
Joseph I. Beach, Director  
Department of Finance

5-3-15  
\_\_\_\_\_  
Date



## OFFICE OF CONSUMER PROTECTION

Isiah Leggett  
County Executive

Eric S. Friedman  
Director

### TESTIMONY ON BEHALF OF THE COUNTY EXECUTIVE ON BILL 17-15, MOTOR VEHICLE TOWING AND IMMOBILIZATION ON PRIVATE PROPERTY-AMENDMENTS

June 16, 2015

Good evening Chairman Elrich and Members of the Public Safety Committee. I am Eric Friedman, Director of the Office of Consumer Protection, and I am here to testify on behalf of County Executive Ike Leggett in support of Bill 17-15. Thank you for the opportunity to share 25 years of experience investigating complaints regarding what is commonly referred to as “non-consensual”, “trespass”, or “impound” towing practices in Montgomery County.

Montgomery County’s towing law (Chapter 30C) was first enacted in 1989. The challenge was, and continues to be, how to enact legislation that results in the appropriate balance between the need to establish parking restrictions and the need for fairness and civility with respect to enforcement.

This is no easy task and unfortunately, we are today faced with a situation in which the balance has tipped and resulted in a climate in which several towing firms are exploiting the intent of Chapter 30C by engaging in overly aggressive towing practices; also sometimes referred to as predatory towing.

It is important to note that this type of towing is an extraordinary act which in any other context would be considered a theft. Approximately 30,000 vehicles are towed out of shopping centers and residential parking lots each year in Montgomery County. The average cost to retrieve each vehicle is \$160. Accordingly, the relatively few towing firms that engage in non-consensual towing are generating 4.8 million dollars in revenue each year in Montgomery County.

The Office of Consumer Protection currently has 2 investigators in Montgomery County that receive and investigate towing complaints filed by consumers. You will be hearing firsthand from some of these consumers just how frustrating this experience can be and how such overly aggressive behavior is a powerful force in discouraging consumers from ever returning to the business districts in Bethesda, Silver Spring, Wheaton, and Rockville.

County Executive Ike Leggett applauds the efforts of Councilmember Roger Berliner in recognizing this problem and taking the initiative to amend Chapter 30C. In supporting this initiative, the County Executive has several recommendations to enhance the intent and effort to curb overly aggressive towing practices and to restore an appropriate balance.

The County Executive's recommendations include:

- ✓ Prohibit any charge if the consumer returns to the vehicle before towing has been completed.
- ✓ Require certain disclosures in the contract between the towing company and property owner to ensure that the property owner is aware of its liabilities and obligations.
- ✓ Modernize the property owner's procedures for authorizing each tow by establishing documentation via fax and email.
- ✓ Require property owners who wish to engage in non-consensual towing to first electronically register their parking lots and provide statistical reports.
- ✓ Update the definitions and the requirements regarding signs and photographs to align with the State towing law.
- ✓ Clarify that vehicle owners cannot be charged to inspect or retrieve their personal property from their vehicles.
- ✓ Add definitions for commercial and residential property.
- ✓ Allow property owners to have a vehicle towed by placing a notice on the vehicle in lieu of posting all of the signs required by current law.

The Office of Consumer Protection looks forward to working with the County Council to craft legislation that will help to establish the needed balance in the marketplace. Thank you.

## Towing issues from the side of a business that relies on having parking

I have consistently been amazed at the total lack of understanding people, including our elected leaders, have in regards to the enforcement of private parking. No business wants to tow we just do not have any other viable alternative.

Eric Freidman believes that 200 people complained out of an estimated 40,000 tows. This means there were at least 40,000 instances of parking poaching. In the meantime the county parking enforcement wrote over 180000 tickets last fiscal year with over 4500 hearings contesting those tickets. I think the assertion that towing is costing business in these areas is short sighted and shifting the blame.

We have 7 parking spaces for our store in Bethesda. Every time someone parks and walks off it could end up costing us thousands or tens of thousands of dollars in business. Most people do not realize the damage caused by parking for just a few minutes

People park in our lot even when there is plenty of parking in the garage and the street.

To avoid county parking tickets the drivers of a delivery service across the street will park in our lot, watch the street and then run out at the last minute to move the car and avoid the tow.

At night people will park in our lot thinking that because we are seemingly not open that we are no longer entitled to our spaces. Aside from the fact that I work when the store is closed and the sign on the door says "or by appointment" are we to go look for other parking when shop or eat because somebody is parked in our lot? We also have a deal with a valet service to use our lot at night on the weekend so every parking poacher costs them money.

On occasion when we attempt to nicely ask poachers to move or put a polite printed note on the windshield we are met with foul language and physical threats.

When potential customers call to make an appointment and learn where we are in Bethesda they are hesitant to come until we explain that we have parking. When they arrive and find all the spaces taken by 3 or 4 "just a few minutes" they drive to another store on their list. When this happens I lose that customer and all their referrals forever.

To give you an idea how important the customer parking is I spend more for the parking spaces per month than I do on my mortgage payment every month.

Mr. Berliner asserts that the towing problem is worse now than 20 years ago. The reason is the county parking became more restrictive and expensive. Twenty years ago we could park free in the evenings and weekends. The day the county changed from free parking on Saturday's in Bethesda the parking

predatory practices of county parking enforcement by poaching private parking. I know this is true because my lot will be full of poachers while there is a half empty garage next door and there will be empty parking meters up and down the street. People avoiding the meters and county parking enforcement results in more tows and more lost business for the lot owners.

Most people think the tow company can not get there fast enough but they know the parking enforcement is always on the prowl. Additionally, the cost of paying the meter has gone way up and so have the parking ticket fines. In front of my store the meters are \$2.00 per hour and \$45.00 if you make an error.

I was told by Eric Friedman to put up a gate or chain and suggested that I leave my store to open the gate when the customer arrives. Even if this was a viable option I do not have the whole lot. We can call the police but do we really want to take the time of the police for this? We are not allowed to boot or to ticket and this does not free up the space anyway. Allowing walk off towing frees up the lot owners time to run their business.

We have had people walk into the store and walk out then across the street to another store so they can claim they were a customer. Why should a business who has the foresight to provide parking be punished because a neighboring store did not do the same? Why is it so hard for people to ask the store owner first before going to the next store?

When I walk into the lot and see my parking taken how am I to know how long the car will be there or to wait before calling for a tow? How am I to know they will just be a minute?

Is the county prepared to limit the towing company's costs as well as its charges? Are you aware the county may charge \$271.00 when they tow?

If there are around 100 valid complaints from 40,000 tows and the Eric Friedman thought the actual complaints would be higher the reason they were illegal tows is based mostly technicalities due to the complex set of rules and not that the person wasn't parked where they should not be parked. It's like beating a speeding ticket because the officer missed some detail on the ticket and not because you were not speeding. They also fail to address the number of times a person steals parking and does not get towed.

Eric Friedman also suggested that towing practices were less than civil. Is it civil to steal parking?

The implication that the business owners are in cahoots with the towing companies for profit is so preposterous it is laughable. The loss of a parking space costs businesses so much more than any potential small sum from the towing company. No towing company has ever suggested this.

The signage requirements are very costly for businesses and what I have found is people have torn down and defaced signs in order to get around being towed. This makes this requirement costly and an ongoing cost.

The best solution would be for the county officials to launch a campaign of education about the parking problem. Making residents aware they are the problem and that we would not have a towing issue if people would respect private parking. It is like the speed cameras, if you want them to go away then stop speeding.

The best and only defense parking lot owners have is towing enforced by towing companies without having to interrupt business owners every time someone poaches a spot.

As you can see by now the idea that the person towed is a victim is false. The victim is the business who was without the space for their customers.

I am asking the council to consider that the owners of private lots need help against the predatory parkers 200 times more than the people who claim to be wrongfully towed. Find a way to protect the lot owner. They are the ones entitled to defend their rights. These new regulations are an invitation to private parking abusers.

Lastly, I ask that you consider that the county itself makes more money on the county parking enforcement and engages in exactly the same behavior it apparently finds abhorrent in the tow companies.

Please feel free to contact me on this issue. My number is 301 523 5821

Thank you,

Matt Palmer



**STATEMENT OF THE APARTMENT AND OFFICE BUILDING ASSOCIATION OF  
METROPOLITAN WASHINGTON  
FOR THE JUNE 16, 2015 PUBLIC HEARING ON**

**BILL 17-15 MOTOR VEHICLE TOWING AND IMMOBILIZATION ON PRIVATE PROPERTY**

Good evening President Leventhal, Vice President Floreen, members of the Council and staff. My name is Nicola Whiteman, and I am the Senior Vice President of Government Affairs for the Apartment and Office Building Association of Metropolitan Washington (AOBA), a non-profit trade association whose members are owners and managers of more than 112,000 apartment units and over 33 million square feet of office space in suburban Maryland, including over 24 million square feet of office space and more than 57,000 apartment units in Montgomery County. I appear today to testify on Bill 17-15 Motor Vehicle Towing and Immobilization on Private Property. Bill 17-15 proposes numerous changes to the County's towing and immobilization current law, some of which will be problematic for AOBA members. AOBA's primary concerns are with the proposals to: (1) grant the Office of Consumer Protection (OCP) broad subpoena power; (2) increase the signage posting requirements for property owners; and (3) require a property owner or property manager's consent to tow an unauthorized vehicle from private property between 2:00am and 9:00am.

**I. Process of Towing Motor Vehicles Must Be Fair and Transparent to Affected Parties.**

AOBA's commercial and multifamily members believe that the process of towing vehicles must be fair and that specific procedures must be followed to verify and document unauthorized parking. Ensuring that only vehicles belonging to parking violators are removed from private property requires the property owner/manager or other person to monitor the parking areas to distinguish between authorized and unauthorized vehicles. Taking the necessary steps to ensure that a violation did occur is consistent with the statutory intent to prevent unauthorized towing and preserve consumer confidence in the process.

## **II. AOBA Opposes Eliminating Statutory Language Allowing Towing of Unauthorized Vehicles from Private Property without the Property Owner/Agent's Consent Between 2:00am and 9:00am.**

The legislation proposes to delete language allowing towing of unauthorized vehicles from private property without the property owner or agent's consent between 2:00am-9:00am. The bill instead would only allow the towing of unauthorized vehicles from private property without the property owner or agent's consent if the vehicle is blocking a fire lane or building/property access. AOBA recommends that the Council maintain existing law or revise the bill to clarify that the property owner's consent for each separate tow during these hours is not required and that the property owner can grant such consent via contract.

Many AOBA members own or manage commercial and/or multifamily properties in the County where there is no on-site staff available to grant consent between the hours of 2:00am-9:00am. Additionally, building owners and managers need to safely clear unauthorized vehicles from private property to ensure that adequate parking spaces are available to authorized vehicles belonging to tenants, visitors and employees. AOBA commercial and multifamily building owners and managers routinely respond to tenant complaints about the lack of parking due to parking violators. For commercial retail tenants, the lack of available parking could result in the loss of revenues if, due to the lack of reliable parking, customers elect to patronize other businesses.

## **III. AOBA Supports Retaining Current Statutory Language Allowing a Property Owner or the *Owner's Agent* to Maintain Towing Slips.**

Current law requires a property owner *or the owner's agent* to maintain towing slips and a record of information provided to the police. The legislation proposes to substitute "property manager" for "owner's agent." AOBA supports retaining the existing statutory language. Current law provides the necessary flexibility for property owners to designate their towing company as the agent. A towing company designated as an owner's agent then assumes the responsibility for retaining the towing slips or information provided to the police for those vehicles towed without a towing slip. The legislation unnecessarily shifts this burden to the property owner by removing the ability of owners to allow their agent to perform this function. Notably, current law mirrors towing laws in Prince George's County, Maryland.

### **EXAMPLES OF BEST PRACTICES IN THE REGION**

**Prince George's County, Maryland Sec. 26-142.05. Tow slip.**(a) The towing company shall present to the property owner or property owner's agent a tow slip, approved by the Director as to form and content, which shall consist of one (1) original and two (2) copies. The towing company and the property owner or the property owner's agent shall cause said tow slip to be completed by filling in all pertinent data. Before towing or removing the subject vehicle, the towing company shall cause the property owner or property owner's agent to sign said tow slip in the place provided. The tow truck operator shall keep the signed tow slip with them while towing the vehicle to the approved tow storage facility, at which time it will be placed with the licensee's daily tow log.

#### **IV. Current Signage Requirements Provide Adequate Notice.**

Posting parking permit and restriction signs on private property is one of the most important actions a property owner can take to ensure and enforce compliance. With effective signage, residents, visitors, staff and vendors should never have any question about where to park. Current County signage requirements coupled with recent changes to state law are designed to inform the public about the applicable parking restrictions for a property. State law, for example sets forth requirements governing both the size and visibility of the signs. Specifically, the signs must be at least 24 inches in height and 30 inches in width. Additionally, the signs must be clearly visible to the driver of a motor vehicle entering or being parked in a parking lot.<sup>1</sup> AOBA understands that the proposed signage changes are in response to the desire to ensure signage visibility. These concerns are addressed by the existing statutory requirements.

Current law affords property owners two alternatives for posting signage. First, a sufficient number of signs must be permanently posted so that at least one sign is readable from each parking space and vehicle entrance at all times. OCP's concerns are met if a property owner meets the "sufficient number" standard under existing law. If, for example a sign is not visible from a space then there is an *insufficient* number of signs and the owner is in noncompliance. Alternatively, for large parking lots with more than 100 spaces, the owner must post one notice for every 75 spaces. Here again adequate is provided, as these notices are in addition to the state-requirement for posting notices at the entrance. Current law thus achieves the stated intent -- to notify drivers of any parking restrictions and the applicable procedures for noncompliance. Too many unnecessary signs can be unsightly to occupants and customers and could harm the desired aesthetic of a property or community. Current law appropriately addresses the need to inform the public about any parking restrictions while minimizing the visual clutter that occurs when numerous signs are placed on property.

#### **V. Proposed Expansion of OCP's Enforcement Powers.**

The legislation proposes to vest OCP with the authority to issue subpoenas. While it is certainly appropriate to grant such authority to the applicable enforcement agency, AOBA is concerned that the bill as introduced is overbroad and grants OCP expansive subpoena powers without any statutory guidance on the use of such authority. Currently, the bill will allow OCP to "issue subpoenas to compel the production of documents, papers, books, records, and other evidence in any matter to which this Chapter applies." AOBA strongly recommends defining the scope of the documents subject to the subpoena authority to include, for example, the information required by Montgomery County Code §§ 30C-3 (valid license, schedule of rates, proof of insurance, and contracts) and 30C-5 (towing slips and other information provided to the police).

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<sup>1</sup>See MD Transportation Code § 21-10A-02. Signs ("(a) In general. – "The owner or operator of a parking lot or the owner's or operator's agent may not have a vehicle towed or otherwise removed from the parking lot unless the owner, operator, or agent has placed in conspicuous locations, as described in subsection (b) of this section, signs that: (1) Are at least 24 inches high and 30 inches wide; (2) Are clearly visible to the driver of a motor vehicle entering or being parked in the parking lot; ... (b) Location: The signs described in subsection (a) of this section shall be placed to provide at least 1 sign for every 7,500 square feet of parking space in the parking lot.")

## **VI. Conclusion.**

Thank you for the opportunity to testify and AOBA looks forward to working with the Council on this important issue.

### **EXCERPTS MONTGOMERY COUNTY CODE**

#### **Montgomery County Code Sec. 30C-3. Administration; rates.**

- (a) Each driver employed by a trespass towing service must have a valid license to operate a tow truck.
- (b) Every trespass towing service must file with the Office a schedule of its rates for each action connected with the towing or storage of unauthorized vehicles. The Office may disapprove a rate that exceeds the maximum rate set under Section 30C-2.

...

- (d) Each trespass towing service must furnish the Office proof that it carries the insurance required under Section 31A-15(b). Each trespass towing service must inform the Office of the type of business organization or ownership in which the service operates and the names and current addresses of all owners or, if the service is a corporation, of the officers of the corporation.
- (e) A property owner must not order the towing of an unauthorized vehicle unless the property owner has entered into a written contract that authorizes a towing service to tow vehicles from the owner's property. This provision does not apply if the towing service is the record owner of the property from which a motor vehicle is towed. The property owner must keep on file each contract that is in effect, or that was terminated within the previous 12 months. The Office, the Police Department, and the owner of any vehicle towed by the service may inspect and copy any contract during normal business hours. The Office may issue model contracts that meet the requirements of this Chapter.

#### **Montgomery County Code Sec. 30C-5. Notice to police.**

- (a) If a towing service tows an unauthorized vehicle from private property, the property owner or the owner's agent must notify the County or municipal Police Department with jurisdiction over the site of the tow before the towing service leaves the property. The owner or agent must tell the Police Department:
  - (1) The name of the towing service;
  - (2) The make, model, color, year (if known), and registration plate number of the towed vehicle;
  - (3) The address the vehicle was towed from;
  - (4) The time the vehicle was towed; and
  - (5) The storage site where the vehicle will be stored.
- (b) The property owner or the owner's agent must promptly notify the police department if the towing service moves the vehicle to another storage site.
- (c) The property owner or the owner's agent must retain each tow slip and, for those vehicles towed without a tow slip, a record of the information furnished to the police, for one year after the tow. For each vehicle towed without a tow slip, the property owner or agent must record and retain the name of the owner of the property and, if the tow was authorized by an agent, the name of the agent. The Police Department, the Office, and the owner of any vehicle towed by the service may inspect and copy this information at any time during normal business hours.
- (d) The property owner or owner's agent must promptly notify the County Police Department by telephone of each vehicle that has remained in a towing service's possession for 72 hours. The property owner or owner's agent must tell the Police Department:
  - (1) All information required under subsection (a); and
  - (2) The vehicle identification number of the towed vehicle.

June 16, 2015

**Comments Involving Bill 17-15 Motor Vehicle Towing**

Good evening. I thought maybe we should talk a little more about how towing really works, and why it is done. My name is Bill McClain, and I have been a property manager in this area for more than 20 years.

**Fairness:**

There seems to be a feeling, at least in the press that towing is a scam or a crime of some sort against tax paying citizen. Nothing could be further from the truth. The Property Owners, the Management Companies, and even the Tow Companies don't direct how towing takes place or where it takes place. All of us are responding to the often desperate concerns of our Tenants. They are residents on apartments, who find someone in their parking space when they come home from work at 4AM or they are the small business whose hard won clients say they are going somewhere else because there is no parking left near their business. Both these examples are of tax paying people who need and require that we defend their rights. So we hire towing companies to put up signs and to tow violators away.

**2AM Towing:**

Not many of our property managers (or you) would want to have to confront a drunken or angry person about to have his/her car towed away at 2AM. Also, I have 28 buildings which I manage, and I would not like to be called all night to confirm multiple towing at all these buildings, any more than I would want to be called all night for each pass of a snow plow in winter at all my properties.

**Owners Agent:**

For large properties in particular, we hire the towing companies to be the Owners' Agent and our Agent, just as we do for snow removal, grass cutting, etc. The towing company maintains the towing records, towing slips, etc. We would use them or review them if a question arose regarding a disputed tow.

**Signage:**

I can only tell you that I have never been towed because the signs are good (and better than most municipal "no parking" signs). I have received those kind of tickets before because someone acting in good faith still often cannot figure out

where on when parking is OK on city streets. Most people who get towed know they are trying to take advantage of others, just as if I drove home today and parked in my neighbors' driveway down the street, and then walked to my house. I would know that what I did was not right, even if my driveway was full of my family cars/visitors. Signage is not the problem. At some properties, I have actually put signs inside frequent "destinations/offices/businesses", telling people that if they have parked and left our lot, they will be towed. Even that signage doesn't seem to make much difference. Signage is really not the problem

**Spotters:**

Perhaps the silliest thing I hear is that "spotters" should not be used. I'm 69 and I have stood outside in this kind of 95 degree weather watching just 30 spots in a 200 spot parking lot. In one hour I turned away more than 30 people from those 30 spots (one telling me it OK because my GPS took me here).

The only way to keep track on a big parking lot (we are not a police force) of who should be towed is to use someone (usually a tow company person) to record that someone drove into the lot in this model car, with this license plate, at this time, and left (went to the metro, got into a construction truck with several others to go to work, or went to the doctors' offices next door).

I believe anyone parking correctly should want "spotters" for the proof in the records that they provide. If you were not that car, and you still got towed, then we can prove it. We can actually retrace your steps. The spotter records are the best protection for an innocent person. Most of the time, however, we use the records to prove that the person who arrived in the "No WALK OFF" lot at 10AM, left the lot to go across the street to a friend's apartment or a doctor's office at 10:05AM, got towed at 11AM, and did not come back until 12PM. That person would very often then walk into a store, buy a pack of gum, and tell me (and any newsman available) that he/she is a "customer" of the shopping center and he/she was doing nothing wrong when their car was inexplicably towed.

I've also had nearby apartment tenants tell me at one property that they will park in our office lot next door if they want to. "It is their right", and they will also not pay the parking fee to an attendant either.

**Bottom-line :**

**Businesses and Residential Renters need more protection from people who want to do as they please and take parking (and vital business) from those who have paid for their rights to have parking available to them and to their clients. That is really the bigger problem. Conversely, I have found in all these years a very, very small number of people towed from lots who should not have been towed. Towing should be fair and transparent, but it should not be made too-hard to do when needed.**

**William McClain**

**Towing Legislation**

6/16/2015

7:00 PM

Rick Chambers 301-370-1790 Cell

Owner &amp; Operator of Three Towing Companies, Operating in Three Counties.

Silver Spring Towing: Montgomery &amp; Prince Georges Counties

Authorized Parking Management: Montgomery County

Prince George's Towing and Parking Management: Anne Arundel and Prince George's Counties

1. Price Comparison and towing hours between Counties (Data from County Websites)
2. Cost of doing business in Montgomery County
3. Growing concerns for safety of Property Management and Tow Personnel ( Data from A.O.B.A. & PMA)
4. Business Afraid to Enforce Towing (Negative News Coverage Hurting their Business)
5. This Legislation is protecting the wrong people(Violators of Parking Rules)
6. Rate Structure (How can a rate be established without knowing the costs?)
7. In favor of a set tow fee (Eliminating mileage charges)
8. Trespass Towing is not Predatory Towing (Protects Private Property Owners TAX PAYERS)

# **Rates and Fees**

**Per the towing codes of Prince Georges County  
And Anne Arundel County**

## **Prince Georges County**

### **HOOKUP AND INITIAL TOWING FEE**

- \$175.00 VEHICLES GVWR UP TO 10,000 LBS.
- \$300.00 VEHICLES GVWR BETWEEN 10,001 LBS. THRU 26,000 LBS.
- \$750.00 VEHICLES GVWR FROM 26,001 LBS. OR MORE.

### **STORAGE**

- \$50.00 After the first 18 hour period
- \$50.00 for each calendar day

## **Anne Arundel County**

### **HOOKUP AND INITIAL TOWING FEE**

- \$285.00 VEHICLES GVW UP TO 9,999 LBS.
- \$350.00 VEHICLES GVW BETWEEN 10,000 LBS. THRU 14,000 LBS.
- \$500.00 VEHICLES GVW BETWEEN 14,001 LBS. THRU 19,500 LBS.
- \$750.00 VEHICLES GVW FROM 19,501 LBS. OR MORE.

### **STORAGE**

- \$50.00 PER DAY AFTER THE FIRST DAY OF STORAGE

## **ADMINISTRATIVE FEES**

- \$50.00 AFTER THE FIRST BUSINESS DAY

## Sec. 26-142.05. - Tow slip.

~~REPEALED~~

- (a) The towing company shall present to the property owner or property owner's agent a tow slip, approved by the Director as to form and content, which shall consist of one (1) original and two (2) copies. The towing company and the property owner or the property owner's agent shall cause said tow slip to be completed by filling in all pertinent data. Before towing or removing the subject vehicle, the towing company shall cause the property owner or property owner's agent to sign said tow slip in the place provided. The tow truck operator shall keep the signed tow slip with them while towing the vehicle to the approved tow storage facility, at which time it will be placed with the licensee's daily tow log.
- (b) The tow slip shall provide, as a minimum, spaces for filling in pertinent data as make and model of the vehicle, vehicle identification number, date and time of towing, license plate number, location towed from, name of complaining party, specific reason for the towing of the unauthorized vehicle, name and phone number of towing company, the tow company's license number, and location where vehicle will be stored.
- (c) If the property owner has a written contract with the licensed towing company, the property owner or property owner's agent shall not be required to either sign a complaint or tow slip prior to the towing or removal of an unauthorized vehicle from his property in the following instances:
  - (1) If the towing occurs during the hours of 9:00 P.M. and 6:00 A.M.; or
  - (2) If the vehicle is directly blocking a clearly marked fire lane, no parking zone, a handicapped parking space or access to the property or a building on the property.
- (d) Prior to the towing or removal of an unauthorized vehicle pursuant to this Section, the towing company shall photograph the vehicle in a manner that clearly documents the unauthorized parking of the vehicle. A copy of the photograph shall be kept with the vehicle while being transported and at the location where the vehicle is stored. The photograph shall be available for inspection by any interested party for a period of at least one (1) year. A copy of the photograph shall be provided to the vehicle owner upon request.
- (e) A receipt shall be provided upon release of the vehicle. The receipt shall specify the name, address and phone number of the towing company, the make, model and Vehicle Identification Number (VIN) of the vehicle, the license plate number, the tow company's license number, the time at which the vehicle was towed, the location from which the vehicle was towed, the reason for the towing, the location where the vehicle was towed and any other location at which the vehicle was stored. The receipt shall also include information on the legal right of the vehicle owner to request a hearing pursuant to Section 26-142.10 of this Code.
- (f) Each towing company shall provide to the property owner a written list of all vehicles towed for which a signed towing slip was not obtained within twenty-four (24) hours of the tow. The list shall specifically identify each vehicle, including make, model, Vehicle Identification Number (VIN), and license plate number. The property owner shall be responsible for keeping this list for at least ninety (90) days.

(CB-27-1987; CB-101-2001; CB-82-2004; CB-41-2005; CB-40-2009)

**Sec. 26-142.01. - Parking on posted property; determination of owner.**

It shall be unlawful for any person to park or cause to be parked a vehicle on private property which has been posted against parking pursuant to this Division without the consent of the owner of said property. The last owner of record of a vehicle found parked illegally on private property, as shown by the files of the Motor Vehicle Administration, a comparable agency in any other state or by any other evidence, shall be presumed to have been the owner of such vehicle at the time it was parked and the person who parked or caused to be parked said vehicle. Any property owner desiring to utilize the procedures provided by this Division shall enter into a contract for such towing service with a towing company licensed by the Department.

(CB-27-1987; CB-40-2009)

My name is Jason Bradford. I have been a towing professional in Montgomery County for over 20 years. As the sole provider for my household, I supplement my income by performing private property towing, in which Custom Towing holds contrasts. Having to contact an authorized agent of the property at 2, 3 or 4 am, wake them and their household, potentially multiple times, to have them sign a ticket for a vehicle that is unauthorized is unreasonable. I know I would not be happy if this was taking place in my home, would you? Putting a sign every 25 spaces for a lot holding over 100 cars will look cluttered and trashy, is this how you want visitors to see our county? I feel the current rate that is set by the county is fair and reasonable. I understand having your car towed is frustrating, I myself have had to deal with it not only as a tow truck operator but, on a personal level as well. Thank you for your time and for letting me speak.

Jason Bradford

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Attorney At Law  
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Rockville, Maryland 20850

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June 16, 2015

COMMENTS ON

Bill No. 17-15 - Motor Vehicle Towing and Immobilization  
On Private Property - Amendments

In behalf of G&C Gulf, Inc., I submit the following comments on a number of provisions of Bill No. 17-15- Motor Vehicle Towing and Immobilization On Private Property- Amendments.

I.

Police Power / Public Safety - Applicable Law

As it is proposed to be amended, Section 30C-1.(c) of the Montgomery County Code would state:

"The purpose of this Chapter is to protect public safety by restricting the exercise of any such legal authority."

With respect to questions of the "constitutionality" of a county ordinance, the Court Of Appeals of Maryland has stated:

i. the test for "constitutionality under the Due Process Clause" is whether the ordinance, as an exercise of the police power, bears a real and substantial relationship to the public health, morals, safety, and welfare of citizens. Bowie Inn, Inc. v. Bowie, 274 Md. 230, 236, 335 A.2d 679, 683 (1975); and,

ii. the use of the police police power will not be interfered with unless it is shown to have been misused or abused, or where it is shown to have been exercised arbitrarily, oppressively or unreasonably. Salisbury Beauty Schools v. State Board of Cosmetologists, 268 Md. 32, 48, 300 A. 367, 377-378 (1973).

II.  
Tows Between 2:00 a.m. And 9:00 a.m.

A. The proposed amendments to Section 30C-4.(c)(10) of the would operate to diminish, not to enhance, the safety of residents of apartment buildings, condominium regimes and townhouse developments, who arrive home somewhat before 2:00 a.m. through 9:00 a.m. and find there is no parking space to park their vehicles in safe proximity to their residences because: either (i) their own assigned parking spaces are occupied by an unauthorized vehicle or (ii) non-assigned parking spaces are occupied by unauthorized vehicles and (iii) neither the property owner nor the property owner's agent is present on the property to take the required photographic evidence of the violations and to then authorize the tow of the unauthorized vehicles.

B. Under current Section 30C-4.(c)(10):

"An unauthorized vehicle may be towed from private property without the express authorization of the property owner or the owner's agent only;

a. Between 2:00 a.m. and 9:00 a.m.; or

b. If the vehicle is directly blocking a clearly marked fire lane or access to the property or a building on the property."

C. The proposed amendment of Section 30C-4.(c)(10) deletes a. above thereby prohibiting the towing of an unauthorized vehicle between 2:00 a.m. and 9:00 a.m. without the express authorization of the property owner or the owner's agent. At 2:00 a.m. - the middle of the night - a resident entitled to use either her/his assigned or an un-assigned parking space is prevented from so doing because an unauthorized vehicle is occupying the parking space. It is this resident - a member of the public - whose safety will be put at risk by the deletion of a. above.

D. There is no "real and substantial relationship" to enhancing public safety by eliminating the authority to tow an unauthorized vehicle from private property without the express authorization of the property owner or the owner's agent between 2:00 a.m. and 9:00 a.m.; rather, eliminating such authority will adversely affect public safety.

E. There is a "real and substantial relationship" to maintaining public safety by not eliminating the authority to tow an unauthorized vehicle from private property without the express authorization of the property owner or the owner's

agent between 2:00 a.m. and 9:00 a.m.

F. There is a "real and substantial relationship" to enhancing public safety if the time frame for towing an unauthorized vehicle from private property without the express authorization of the property owner or the owner's agent is expanded to be between 9:00 p.m. and 9:00 a.m.

F. Does a property owner have potential liability to a resident who was unable to park his vehicle in either the resident's assigned parking space or in an unassigned parking space and who then sustains injury as a result having to park somewhere else?

III.  
Signage Requirements

A. Currently, Section 30C-4(b) (2) provides:

"(2) Sufficient numbers of signs must be posted permanently so that at least one sign is clearly readable from each parking area and each vehicle entrance to the property at all times. Alternately, in a parking lot with more than 100 parking spaces, at least one sign must be posted in a conspicuous place for each 75 parking spaces, and each sign must be readable from all affected areas."

B. Section 21-10A-02(b) of the current State towing law (effective on October 1, 2012), provides:

"(a) In general. -- The owner or operator of a parking lot or the owner's or operator's agent may not have a vehicle towed or otherwise removed from the parking lot unless the owner, operator, or agent has placed in conspicuous locations, as described in subsection (b) of this section, signs that:

(1) Are at least 24 inches high and 30 inches wide;

(2) Are clearly visible to the driver of a motor vehicle entering or being parked in the parking lot;

(3) State the location to which the vehicle will be towed or removed and the

name of the towing company;

(4) State that State law requires that the vehicle be available for reclamation 24 hours per day, 7 days per week;

(5) State the maximum amount that the owner of the vehicle may be charged for the towing or removal of the vehicle; and

(6) Provide the telephone number of a person who can be contacted to arrange for the reclaiming of the vehicle by its owner or the owner's agent.

(b) Location. -- The signs described in subsection (a) of this section shall be placed to provide at least 1 sign for every 7,500 square feet of parking space in the parking lot."

C. G&C Gulf expended over \$85,000.00 for new signs to comply with the current State towing law's additional signage requirements.

D. The proposed change to Section 30C-4.(b)(2) would substitute "Additionally" for "Alternately":

---

"(2) Sufficient numbers of signs must be posted permanently so that at least one sign is clearly readable from each parking area and each vehicle entrance to the property at all times. Additionally, in a parking lot with more than 100 parking spaces, at least one sign must be posted in a conspicuous place for each 25 parking spaces, and each sign must be readable from all affected areas.

E. To comply with the proposed "Additional" requirement of 1 sign for every 25 spaces for parking lots with more than 100 parking spaces, a towing company would be required to post 2 additional signs for each 75 parking spaces. G&C Gulf estimates its cost would approximate \$200,000.00 for new signs to comply with the proposed requirement of 2 additional signs for each 75 parking spaces.

F. There is no "real and substantial relationship" to the public safety of the proposed amendment to increase the signage requirement, and making what now is an "alternative" into an "additional" requirement" would be an arbitrary,

oppressive and unreasonable exercise of the police power.

i. Section 30C-4(b)(2) of the Montgomery County Code now requires: "Sufficient numbers of signs must be posted permanently so that at least one sign is clearly readable from each parking area and each vehicle entrance to the property at all times."; thus, under current Montgomery County law 'public notice' is already mandated.

ii. Additional signage requirements are now imposed by Section 21-10A-02(b) of the current State towing law which now requires: "The signs described in subsection (a) of this section shall be placed to provide at least 1 sign for every 7,500 square feet of parking space in the parking lot."

iii. The proposed "Additional" signage requirement would be an arbitrary and oppressive exercise of the police power because it serves no public safety purpose that is not now fully accomplished by current County and State law, and it would impose unnecessary and large costs on towing companies to give the same 'public notice' as is provided by current County and State law signage requirements.

vi. The proposed signage requirement would be an unreasonable exercise of the police power because it serves no purpose that is not now fully accomplished by current County and State law and cannot be connected to an existing need to give the 'public notice' because there is no such existing need.

#### IV.

Proposed New Requirement For Obtaining Photographic Evidence Of Violation Before Towing An Unauthorized Vehicle And Proposed New Limitation On Using Individuals To Report On The Presence Of Unauthorized Vehicles

A. Proposed Section 30C-4.(c)(11) provides:

"Before towing an unauthorized vehicle from private property, a person must obtain photographic evidence of the violation or event that precipitated the towing of the vehicle."

B. Proposed Section 30C-4.(e) provides:

"A property owner or towing service must not employ or use the services of an individual commonly referred to as a

"spotter", whose primary task is to report the presence of unauthorized parked vehicles for the purpose of towing or removal. For the purposes of this subsection, "primary task" means an individual's job function that accounts for more than 50% of the individual's compensation or hours worked."

C. These proposed new sections are incongruous, neither has a relationship to public safety, and their passage would be an arbitrary exercise of the police power.

D. It is not illegal under Maryland law for an individual to be a "spotter" whose "primary task" (however defined) or whose non-"primary task" "is to report the presence of unauthorized parked vehicles for the purpose of towing or removal".

E. What is the qualitative difference between a report being made by individual whose "primary task" (however defined) "is to report the presence of unauthorized parked vehicles for the purpose of towing or removal" and a report being made by an individual whose non-"primary task" "is to report the presence of unauthorized parked vehicles for the purpose of towing or removal".

F. What is the nexus - the "real and substantial relationship" to public safety of making it illegal [and a Class A criminal violation under the Montgomery County Code] for a "property owner or towing service" to "employ or use the services of an individual commonly referred to as a "spotter" if it is not illegal for an individual to be a "spotter" who reports "the presence of unauthorized parked vehicles for the purpose of towing or removal"? That the "primary task" (however defined) of an individual may be to "report the presence of unauthorized parked vehicles for the purpose of towing or removal" has no relationship to public safety, let alone a "real and substantial relationship" to public safety.

G. How is public safety enhanced by prohibiting the employment or use of the services of an individual whose whose "primary task" (however defined) is to "report the presence of unauthorized parked vehicles for the purpose of towing or removal"? It is not. What is the public safety rationale for the proposed prohibition? There is none.

i. While proposed Section 30C-4.(c)(11) requires "photographic evidence of the violation or event that precipitated the towing of the vehicle", proposed Section 30C-4.(e) operates to impede the gathering of that required "photographic evidence" and to then "report the presence of

unauthorized parked vehicles for the purpose of towing or removal". There is no logic to nor rationale for this.

ii. What is the logic for preventing employment of an individual having as his "primary task" (however defined) the gathering of the required "photographic evidence" and to then "report the presence of unauthorized parked vehicles for the purpose of towing or removal". The required "photographic evidence" would exist or not exist irrespective of whether the "primary task" (however defined) of the individual taking the photograph is to "report the presence of unauthorized parked vehicles for the purpose of towing or removal".

iii. How is public safety enhanced if a "property owner or towing service must not employ or use the services of an individual commonly referred to as a "spotter", whose primary task is to report the presence of unauthorized parked vehicles for the purpose of towing or removal"? By what logic or rationale does the "primary task" (however defined) of the individual reporting "the presence of unauthorized parked vehicles for the purpose of towing or removal" (a) relate to the who gathers or the existence of the required "photographic evidence" or (b) to who reports "the presence of unauthorized parked vehicles for the purpose of towing or removal"?

V.

Proposed Exclusion Of Property Owner's Agent As A Person Who Can Retain Tow Information.

A. The proposed revision of Section 30C-5.(c) excludes "the owner's agent" as a person who can retain and record tow information. By what logic or rationale is public safety promoted by preventing "the owner's agent" from being the keeper of that information? There is no "real and substantial relationship" to the public safety of preventing "the owner's agent" from being the keeper of that information.

VI.

Proposed Delegation Of Authority To "investigator employed by this Office" To Order A Release Of A Vehicle Or To Stop Attaching Vehicle At Any Time.

A. The proposed revision of Section 30C-7.(e) would vest an "investigator employed by this Office" with the power to order a "towing service to release a vehicle, or to stop attaching a vehicle, at any time." It is an arbitrary exercise of the police power to grant the exercise of these powers without any substantive or procedural safeguards and controls.

i. What determination(s) is the "investigator" required to make in order to exercise the power and how does the "investigator" obtain that necessary information to make such determination(s)?

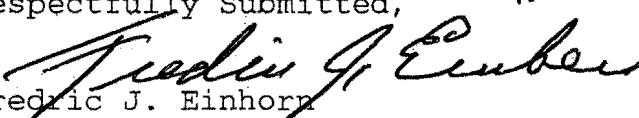
ii. Does the "investigator" need to be personally at the site of the tow in order to exercise the power or may the "investigator" exercise the power by phone?

iii. Is the "investigator" required to examine the required "photographic evidence of the violation or event that precipitated the towing of the vehicle" before determining whether to order the release of the vehicle?

iv. How does the "investigator" get the required "photographic evidence of the violation or event that precipitated the towing of the vehicle" before determinming whether to order the release of the vehicle?

Thank you for your consideration of the above.

Respectfully Submitted,

  
Fredric J. Einhorn

**MEADOWS AT NORTH LAKE  
HOMEOWNERS ASSOCIATION, INC.**  
**P.O. BOX 1130**  
**GERMANTOWN, MD 20875**  
**Telephone: 301-258-7711 X 160 Fax: 301-258-8362**  
**[www.meadowsatnorthlake.com](http://www.meadowsatnorthlake.com)**

May 27, 2015

Roger Berliner  
Councilmember, District 1  
Chair, Transportation, Infrastructure, Energy & Environment Committee  
100 Maryland Avenue, 6<sup>th</sup> Floor  
Rockville, MD 20850

**RE: Bill 17-15, Motor Vehicle Towing and Immobilization on  
Private Property, Amendments**

Dear Councilmember Berliner:

I am writing as an Officer and sixteen-year member of the Meadows at North Lake Homeowners Association, Inc., a 294-townhome community in Germantown, MD 20874. The other members of the Board of Directors, as well as several members of the community, have asked me to write to you to express our disagreement with the proposed amendments to Bill 17-15 and how the amendments will negatively affect the people who live in our community.

I'd like to begin by saying that parking is probably the most difficult issue that my community grapples with. On a regular basis, we discuss it within the HOA board and with residents who express concerns to us.

We have had rules in place regarding parking since 1992. Those rules were revised in 2005, and have been unchanged since. We are fortunate in that those rules provide each home with two reserved spaces and still allow for more than thirty visitor spaces for our community guests.

The motivation for instituting our community's current parking rules came in response to resident requests. Despite the generous number of spaces available, many residents were having trouble finding a place to park near the homes they lived in. This was due to a growing number of residents who disregarded the limit of two vehicles per home, and began keeping three, four, and even five vehicles in our lots. Multiple residents complained that upon arriving home after work and/or after dark, they could find nowhere to park—leaving them no options other than to park up to half a mile or more away on adjacent county-maintained streets, then walk to their homes. People were afraid for their personal safety while making those walks.

Under such circumstances, contacting the owners of the offending vehicles was difficult, if not impossible. In addition, the police were unable to assist our community members because our parking lots are private.

Our current rules and our ability as a board to regulate our community's parking lots have become increasingly important as our community ages. Many of our families have become multi-generational and own several vehicles. More than 30 percent of our residents are tenant families, and the community vestment that was present when the community was younger is diminishing.

Homeowners in our community generally support our parking rules because they focus on maintaining safety and preventing crime by eliminating unauthorized vehicle parking and storage. By having a neutral third-party towing company, we have eliminated the fear of reprisal from neighbors. Because the tow company patrols our community at night, they may deter other crime. Additionally, the towing service and the associated benefits come at no cost to the homeowners.

As the amendments to Bill 17-15 are written, my community could no longer operate within our practice and budget. To employ our management agent to patrol our community for unauthorized or stored vehicles would be very costly to the homeowners, and unreasonable to delegate to a Board volunteer. Additionally, the costs associated with our management company signing, storing, and maintaining tow files will add to our fees, whereas our contracted towing company previously provided this free.

While the issue of predatory towing may be a very serious concern for county residents using commercial lots, the amendments to Bill 17-15 do not clearly differentiate practices between commercial and residential property owners, as it pertains to tow procedures and notice to police. We do not support the current amendments to Bill 17-15, and are interested in the additional amendments that you have indicated you will be proposing, to ensure the property rights of homeowner and condominium associations, such as the Meadows at North Lake HOA, Inc.

Cordially,

Jamie Whaley, Treasurer  
Meadows at North Lake HOA, Inc.



# MONTGOMERY VILLAGE FOUNDATION, INC.

10120 APPLE RIDGE ROAD  
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17

## Testimony of Christopher Hitchens, General Counsel

Bill 17-15

### Motor Vehicle Towing and Immobilization on Private Property – Amendments Montgomery County Council Public Hearing, 7:30 pm June 16, 2015

Good Evening.

I'm Christopher Hitchens. I'm the General Counsel for the Montgomery Village Foundation.

The Foundation supports Bill 17-15 if it is revised so that the provisions requiring additional signs and the prohibition on overnight towing do not apply to residential parking lots in community associations.

Within the Foundation, there are 10 homes corporations and 11 condominium associations representing more than 10,000 dwelling units, and 40,000 residents. When the Bill was proposed, we heard consistently from Associations that they have adjusted their practices to comply with changes in Chapter 30C and state law in the past few years, and that the current statutory requirements have been working for Associations, notwithstanding that there are many consumer complaints about towing in commercial lots.

Our Associations generally question why towing procedures for community association parking lots in the County need to be changed, if the impetus for the changes is to regulate abusive towing practices that have occurred on commercial lots.

The two specific concerns MVF Associations have raised are :

- They do not want to be required to place additional signs in their lots. This objection is both to the detrimental appearance of more signs and also to the costs of installing each new sign.
- Associations do not want to be prohibited from towing cars overnight by having to give authorization for the tow immediately before it is towed. This objection reflects the impracticability of having a Board President or a Community Manager available in the after midnight hours.

We brought these concerns to Council Member Berliner and he is willing to address our concerns in additional amendments that would clarify that residential lots would not require additional signs and that cars could continue to be towed from residential parking lots in the overnight hours without property owner authorization immediately prior to the tow.

MVF has also discussed this approach with the Community Associations Institute and we share the view that this approach will be in the best interests of community associations.

Thank you.

I sit on the board of directors for the Oxford Crossing Condominium Association. We have contracted a towing company to enforce our parking rules. The cases involving community members calling in a violation are understood. However, when up to eleven cars are removed and held ransom in one single evening something is not right. I have witnessed firsthand tow truck operators breaking the same rules they enforce such as: parking in fire lanes; driving over landscaping; blocking in cars and driving at night without headlights on. These overzealous and greedy tow truck firms rely heavily on dangerous bullying tactics in order to seize community members private property. Surveying the lot before the times we enforce, ignoring the drop law and dragging tires are all too common practice. I got a chance to ask an employee of the tow truck company who or what was responsible for such predatory behavior. He responded with a shrug of his shoulders and said “well what you gonna do about it?”. His absence of accountability and empathy left me shocked to say the least. He and his employer truly do believe they can’t be touched. They get to play pirate every night and we are expected to just lay down and take it. Well I say NO I’m not going to take it and either are my neighbors. We are going to fight back to keep our own property in our

possession. And it starts with passing this new law into effect. This new law will hold tow truck companies and those that do business with them accountable for predatory towing. No private for profit business should be able to operate without oversight or liability. I have no doubt in my mind that those that oppose this new law will stand to gain from it not being passed. Anyone that puts the profitability of a business before the sovereignty of an entire community has admitted by their own actions just what their true agenda is. Let us be clear why we are here tonight: We are here because property owners rights have been sacrificed on the altar of towing enforcement. The time is now to be on the right side of history and see this law into effect.

Thank you

# Steve Eisen Complaint Page 1 of 3

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## DESCRIBE YOUR COMPLAINT. USE ADDITIONAL PAPER IF NECESSARY.

ON 2-2-15 AT THE KENSINGTON SHOPPING CENTER AT KNOWLES AVE AND CONNECTICUT AVE AT 930AM MY 2011 FORD CROWN VICTORIA MD TAG XFAOOI WAS TOWED BY G&G TOWING OF ROCKVILLE, MD THAT MORNING I DID BUSINESS AT THE 7-11 AND HARDWARE CITY. I THEN WENT ACROSS THE STREET 100 FEET AWAY TO DROP OFF SOME MAIL. I WENT BACK TO 7-11 + THE HARDWARE STORE AND NOTICED MY CAR GONE. I FOUND OUT FROM THE 7-11 THAT G&G HAVE "SPOTTERS" AND TOW TRUCKS READY TO TOW CARS IF CONSUMERS STEP OFF THE CURB. THERE IS ONLY 1 SIGN (NEW) THAT FACES OUT ON KNOWLES AVE THAT STATES THAT. AT THE OTHER 3 ENTRANCES THERE ARE NO SIGNS WARNING PATRONS. THE MANAGERS OF 7-11 AND HARDWARE CITY TOLD ME THEY ARE LOSING BUSINESS BECAUSE OF UNHAPPY CONSUMERS. WHEN I CALLED THE TOW COMPANY, THEY SAID THEY WOULDN'T BRING MY CAR BACK. I WAS HUNG UP ON WHEN I SAID IT MISTAKE WAS MADE. TWO NEARBY SPOTTERS CAME OVER AND I ASKED THEM TO GET MY CAR, ONE LAUGHED AT ME AND SAID, "NO WAY, YOUR TOUGH LUCK, CAN'T YOU READ

## WHAT FORM OF RELIEF ARE YOU SEEKING? (Ex. Exchange, Repair, Money Back, etc.)

SIGNS? I BLEW UP, AND ANGRILY ASKED, "WHAT SIGNS?" CONTINUED	REFUND AMOUNT REQUESTED/EST. VALUE OF CLAIM: \$ 157.09 (Required)
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How did you learn about us?

Bus Ad  Newspaper  Radio  Social Media  TV  Valpak  Other:  MCP POLICE CAPT DIST 2

READ AND UNDERSTAND THE FOLLOWING BEFORE SIGNING BELOW: Once we receive your complaint, it will be reviewed for jurisdiction and to determine the best course of action. If we determine that there is a more suitable agency to handle your dispute, we will make an appropriate referral and advise you in writing. Otherwise, your complaint will be assigned to an investigator. We will send you an acknowledgment letter providing the name and phone number of your investigator, and the case number assigned to the complaint. Please include your case number on any future correspondence you send to us.

I authorize the Office of Consumer Protection and/or its representative to make inquiries on my behalf, into any and all files or accounts that may be necessary to investigate the complaint I have filed with the agency. Further, I authorize the Office of Consumer Protection to use and supply, on my behalf, any private information included in this complaint.

I understand that a copy of this form may be sent to the business against which I have filed this complaint. I understand that this complaint is a public document and is available for inspection by the public and the media.

I do solemnly declare and affirm under the penalties of perjury that the contents of my complaint are true and correct.

Signature:

Steve Eisen

Date:

2-3-15

HAVE YOU ATTACHED PHOTOCOPIES OF DOCUMENTS? DO NOT SEND ORIGINALS.

Office of Consumer Protection  
New Complaint Unit  
100 Maryland Avenue, Suite 330  
Rockville, MD 20850

Revised 02/2014

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Steve Eisen Complaint Page 2 Continued 2-2-15

**DESCRIBE YOUR COMPLAINT. USE ADDITIONAL PAPER IF NECESSARY.**

I ANGRILY TOLD THEM, "IT'S WRONG TO HANG OUT" IN THE CENTER TO MAKE MONEY LIKE THAT UNLESS THEY'RE CALLED. THEY LAUGHED AT ME AGAIN, AND I LOST MY COMPOSURE. I TOLD THEM I'M A NEWS PERSON, AND THERE "MESSING WITH THE WRONG GUY." THE Z-N Mgmt HAS COMPLAINED TO PROPERTY Mgmt, MR DAVID MEIT. TO NO AVAIL. HE FELT SORRY FOR ME AND DROVE ME TO DOVER RD, IN ROCKVILLE, SO I COULD PICK UP MY CAR. I CAME BACK 2 HOURS LATER AND TOLD THE TOW MEN I WAS GOING TO TAKE VIDEO OF WHAT THEY WERE DOING. I CALLED THE POLICE CAPT OF BETHESDA, WHO TOLD ME ABOUT OTHER COMPLAINTS, AND COULD E-MAIL THE TOW DIVISION POLICE MONITORING UNIT. SGT THOMAS CALLED ME LATER, AND TOLD ME TO CALL CONSUMER AFFAIRS. APPARENTLY, G+G TRIED TO GET TO COURT TO GET THE "SPOTTER" LAW REVERSED IN THEIR FAVOR 8 MONTHS AGO.

**WHAT FORM OF RELIEF ARE YOU SEEKING? (Ex. Exchange, Repair, Money Back, etc.)**

CONTINUED ON PAGE 3

REFUND AMOUNT REQUESTED/EST. VALUE OF CLAIM:	(Required)
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How did you learn about us?

Bus Ad  Newspaper  Radio  Social Media  TV  Valpak  Other:  MCAD

READ AND UNDERSTAND THE FOLLOWING BEFORE SIGNING BELOW: Once we receive your complaint, it will be reviewed for jurisdiction and to determine the best course of action. If we determine that there is a more suitable agency to handle your dispute, we will make an appropriate referral and advise you in writing. Otherwise, your complaint will be assigned to an investigator. We will send you an acknowledgment letter providing the name and phone number of your investigator, and the case number assigned to the complaint. Please include your case number on any future correspondence you send to us.

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Signature:

Steve Eisen

Date:

2-3-15

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Rockville, MD 20850

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# Continued Comments from Steve Eisen page 3

DESCRIBE YOUR COMPLAINT. USE ADDITIONAL PAPER IF NECESSARY.

MR ROSADO at Consumer Affairs at 2407773636 SAID THE G&G POLICY OF "SPOTTERS" IS CURRENTLY STILL IN LITIGATION AND NOT LEGAL. HE FURTHER STATED THEY ARE UNDER INVESTIGATION AND MANY COMPLAINTS HAVE BEEN NOTED. ANOTHER TOWING COMPANY IS ALSO BEING COMPLAINED ABOUT. I HAVE BEEN BACK SEVERAL TIMES TO SHOOT VIDEO OF "SPOTTER ACTIVITY AND TOWING. MY PHONE CALL TO THE PARKING LOT MANAGEMENT HAS NOT BEEN RETURNED. IT IS MY UNDERSTANDING THAT SEVERAL NEWS AGENCIES HAVE DONE STORIES ON THIS ILLEGAL ACTIVITY, SUCH AS NBC-4 AND 20-20

thank you Steve Eisen

WHAT FORM OF RELIEF ARE YOU SEEKING? (Ex. Exchange, Repair, Money Back, etc.)

my VIDEO IS AVAILABLE FOR ANY INVESTIGATION. Steve Eisen

REFUND AMOUNT REQUESTED/EST. VALUE  
OF CLAIM: \$ 157.09 (Required)

How did you learn about us?

Bus Ad  Newspaper  Radio  Social Media  TV  Valpak  Other:  MCPD

READ AND UNDERSTAND THE FOLLOWING BEFORE SIGNING BELOW: Once we receive your complaint, it will be reviewed for jurisdiction and to determine the best course of action. If we determine that there is a more suitable agency to handle your dispute, we will make an appropriate referral and advise you in writing. Otherwise, your complaint will be assigned to an investigator. We will send you an acknowledgment letter providing the name and phone number of your investigator, and the case number assigned to the complaint. Please include your case number on any future correspondence you send to us.

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I understand that a copy of this form may be sent to the business against which I have filed this complaint. I understand that this complaint is a public document and is available for inspection by the public and the media.

I do solemnly declare and affirm under the penalties of perjury that the contents of my complaint are true and correct.

Signature:

Steve Eisen

Date:

2-3-15

HAVE YOU ATTACHED PHOTOCOPIES OF DOCUMENTS? DO NOT SEND ORIGINALS.

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New Complaint Unit  
100 Maryland Avenue, Suite 330  
Rockville, MD 20850

Revised 02/2014

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OFFICE OF CONSUMER PROTECTION

Isiah Leggett  
County Executive

Eric S. Friedman  
Director

February 10, 2015

Steven H. Eisen  
2510 Jennings Road  
Silver Spring, MD 20902

RE: Case No. 45252  
G & G Towing (I/T)

Dear Consumer:

I will be the investigator reviewing your complaint. As a reminder, if you have not provided the document(s) requested by the Intake team, please submit them to me within ten (10) days. If we do not receive anything from you within thirty (30) days of the date of this letter, we will assume that you do not wish for our office to pursue this matter any further and we will close your case accordingly.

Feel free to contact me if you have any questions or if you have additional information pertinent to your case. Please include your case number and the name of the business involved in any communications.

Sincerely,

**Doug Numbers**

Doug Numbers, Investigator  
(240) 777-3675  
[doug.numbers@montgomerycountymd.gov](mailto:doug.numbers@montgomerycountymd.gov)

**Office of Consumer Protection**

100 Maryland Avenue, Suite 330 Rockville, Maryland 20850 Phone No. 240-777-3636 \* Fax No. 240-777-3768



## OFFICE OF CONSUMER PROTECTION

Isiah Leggett  
County Executive

Eric S. Friedman  
Director

March 25, 2015

Mr. Steven H. Eisen  
2510 Jennings Road  
Silver Spring, MD 20902

RE: Case No. 45252RDN  
G & G Towing  
421 Dover Road  
Rockville, MD 20850

Dear Mr. Eisen:

I am writing to let you know that I was unable to resolve your complaint against G & G Towing. Unfortunately, Montgomery County Code Chapter 30C does not apply within the Town of Kensington. You may have further recourse available through Maryland District Court; a guide to Small Claims Court is available at [www.mdcourts.gov](http://www.mdcourts.gov) and a copy of MD Transportation Code Sec. 21-10A Towing or Removal of Vehicles from Parking Lots is available from <https://govt.westlaw.com/mdc>. This information may be helpful if you choose to pursue the matter through the Maryland court system.

Your case is now closed. I am sorry that we were not able to assist you. Please feel free to contact me at 240-777-3675 or via email at [doug.numbers@montgomerycountymd.gov](mailto:doug.numbers@montgomerycountymd.gov) if you have any questions.

Sincerely,  
The signature of Douglas Numbers, written in cursive ink.  
Douglas Numbers  
Investigator

RDN:g&gtowunresolvd-Kensington.doc



421 Dover Road, Rockville, MD 20850 (301) 762-6023

**Customer**

KENSINGTON SHOPPING CENTER HARSAM

10504 Connecticut Ave  
Kensington, Maryland 20895

552092

02-Feb-2015

adam

**Released To:** Steven Hirsch Eisen

**Police Notified:** 02-Feb-2015 9:42 AM  
**In Storage:** 02-Feb-2015 10:17 AM  
**Released:** 02-Feb-2015 12:26 PM

**Summary**

<b>Location:</b>	10504 CONNECTICUT AVE			
<b>Destination:</b>	LOT 1			
<b>Reason:</b>	Walk Off			
<b>Zone:</b>	LOT 1			
<b>Vehicle:</b>	2011 Ford Crown Victoria LX (Black)			
<b>Owner:</b>				
<b>VIN:</b>	2FABP7EV5BX133087			
<b>Plate/Tag:</b>	XFA001	MD	<b>Truck:</b>	5
<b>Mileage:</b>	Driver: 716			

**Terms:** Net 30

02-Feb-2015 15678		Credit Card Processing Fee 3.35% MC Private Impound	1.00 1.00	5.09 100.00	5.09 100.00
		Starting Odometer: Ending Odometer:	229,454 <u>229,462</u>		
		MC Private Impound Mileage	8.00	4.00	32.00
		Storage (1 Day)			20.00
G and G Towing 421 Dover Road Rockville, MD 20850 301-762-6023					
02/02/2015	12:28:34				
Merchant ID:	XXXXXXXXXX2755				
Device ID:	1100				
Terminal ID:	PD061.				
<b>CREDIT CARD</b>					
<b>VISA SALE</b>					
CARD #	XXXXXXXXXXXX9695				
TRANS #	008				
Invoice #:	552092				
Batch #:	4				
Approval Code:	02562A				
ACI Code:	E				
TRANS ID:	005033628717846				
Entry Method:	Swiped				
Mode:	Online				
<b>SALE AMOUNT</b>	\$157.09				
ALL SALES FINAL NO REFUNDS	Paid By: Visa	Sub Total		157.09	
		TOTAL Payments		157.09	(157.09)
		Balance Owing		0.00	

## Testimony to the Montgomery County Council's Public Safety Committee

Chairman Elrich, members of the Public Safety Committee, thank you for having this hearing.

My name is Jeremy Kommel-Bernstein, and I am here to offer testimony because of my experience with a towing company in Montgomery County. On March 12<sup>th</sup> of this year, after being towed during the night from outside an apartment complex in Bethesda by ATT Towing, I called the company to request that someone meet me to release my car, whereupon I found myself subjected to a profane and racially-charged tirade. I informed the employee of the state law and county code that requires someone be available to release a towed vehicle twenty-four hours a day, at which point the employee made threatening remarks to me. When I did reach the towing company lot, no one was present, nor did anyone arrive for nearly two hours, despite repeated calls to the company, many of which went unanswered. All told, from the time I contacted the towing company until the time my vehicle was released, nearly three hours had elapsed, including well over two hours from when I arrived at the lot. I was forced to wait, in sub 40 degree temperatures, for someone to arrive. This marked a clear violation of the relevant state and county statutes. Having spent my entire adult life working to uphold the law, the nonchalant manner with which this company approached breaking it was anathema to me, but I have since learned that this kind of behavior has been the norm for ATT Towing, and much of that can be blamed on a system of regulation that fails to rein in such abuses. (**please see attached documentation, including the narrative portion from my complaint to the Office of Consumer Protection, my phone records from the day in question with the numerous calls made to ATT Towing highlighted, and a printout of similar complaints made online of similar issues with this company)**)

Testimony to the Montgomery County Council's Public Safety Committee  
The proposed bill will offer citizens and visitors to Montgomery County some small, but valuable, protection against companies like ATT, which employ "spotters," subject towing victims to verbal abuse and threats, and refuse to comply with the law. Thankfully I did not miss any important meetings that morning in March, but I suspect many are not so lucky. Public safety is neither improved nor protected by allowing these companies to operate in their current manner. Strengthening the towing regulations in Montgomery County provides great value, but I strongly encourage you to add additional resources to the Office of Consumer Protection, streamline the process by which complaints are adjudicated, and significantly increase the penalties for violations.

Again, thank you for holding this hearing, and I appreciate the opportunity to offer testimony.

**DESCRIBE YOUR COMPLAINT. USE ADDITIONAL PAPER IF NECESSARY.**

I was towed from 4998 Battery Ln, Bethesda, by ATT Towing (please note, tow slip shows reason as "No Permit," and the spot I was towed from was a "Future Resident Parking" spot that does not require a permit and was well outside office hours). I discovered this at approximately 0645hrs and called ATT Towing at 0649hrs. I spoke with "Julio," who advised me that he had towed my vehicle and advised me where it was located (8115 Fenton St, Silver Spring). I requested that someone meet me within 30 minutes. I was told that they opened at 0800hrs. I informed "Julio" that Maryland Code (ch. 228, sec 21, subsec 10A-02 AND Montgomery County Code 30C) require that a tow company make available an employee to release a vehicle towed from a private parking lot 24 hours a day, 7 days a week. He began berating me using harsh and objectionable language, including calling me a "punk ass nigger," and asking "what, do you think you're tough?" which I interpreted to be fighting words and of a threatening nature based on my training and professional experience in public safety.

Upon reaching ATT Towing at approximately 0725hrs, no one was awaiting me. At 0817hrs and 0818hrs I attempted to call ATT Towing again as no one had arrived. At 0821hrs I called again and spoke with "Anthony," who identified himself as a manager. I advised him of the law and my complaint, as well as the issue I had had with "Julio." "Anthony" advised me that he would speak with "Julio" regarding this, and apologized, but advised me that the lot does not open until 0900 (in direct contradiction of what "Julio" had said and their posted signs). I again advised him of state law and he said someone would be there at 0900hrs. At approximately 0910hrs, a driver arrived but refused to release my vehicle to me. At 0930hrs, an office worker finally arrived and released my vehicle, at a cost of \$140.00 plus a \$3.00 credit card fee (in violation of credit card processor agreements which ban the charging of a monetary fee to use a credit card). See attached copy of receipt. All told it took approximately 2 hours 45 minutes for my vehicle to be released, including waiting outside the business for over 2 hours in the cold.

**WHAT FORM OF RELIEF ARE YOU SEEKING? (Ex: Exchange, Repair, Money Back, etc.)**

Refund of actual charge plus treble damages for willful violation of state law and county code	REFUND AMOUNT REQUESTED/EST. VALUE OF CLAIM: 143+429=\$572 (Required)
--	---

How did you learn about us?

Bus Ad  Newspaper  Radio  Social Media  TV  Valpak  Other:  Sign posted at business

**READ AND UNDERSTAND THE FOLLOWING BEFORE SIGNING BELOW:** Once we receive your complaint, it will be reviewed for jurisdiction and to determine the best course of action. If we determine that there is a more suitable agency to handle your dispute, we will make an appropriate referral and advise you in writing. Otherwise, your complaint will be assigned to an investigator. We will send you an acknowledgment letter providing the name and phone number of your investigator, and the case number assigned to the complaint. Please include your case number on any future correspondence you send to us.

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I understand that a copy of this form may be sent to the business against which I have filed this complaint. I understand that this complaint is a public document and is available for inspection by the public and the media.

I do solemnly declare and affirm under the penalties of perjury that the contents of my complaint are true and correct.

Signature: \_\_\_\_\_

Date: 03/12/2015

HAVE YOU ATTACHED PHOTOCOPIES OF DOCUMENTS? DO NOT SEND ORIGINALS.

Office of Consumer Protection  
New Complaint Unit  
100 Maryland Avenue, Suite 330  
Rockville, MD 20850

Revised 02/2014



JEREMY KOMMEL-BERNSTEIN

Page: 3 of 37  
 Bill Cycle Date: 03/01/15 - 03/28/15  
 Account: [REDACTED]  
 Foundation Account: [REDACTED]

Visit us online at: [www.att.com](http://www.att.com)

[REDACTED] JEREMY KOMMEL-BERNSTEIN [REDACTED]

## Call Detail

Time	Place Called	Number Called	Rate Code	Feature Code	Min	Airtime Charges	LD/Add'l Charges
Saturday, 02/28	[REDACTED]	[REDACTED]	M2AM	M2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	M2AM	M2AM	5	0.00	0.00
Sunday, 03/01	[REDACTED]	[REDACTED]	5KHW		1	0.00	0.00
Wednesday, 03/04	[REDACTED]	[REDACTED]	RM45		11	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		5	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		11	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		11	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		4	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		6	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		24	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	4	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	3	0.00	0.00
	[REDACTED]	[REDACTED]	5KHW		1	0.00	0.00
Thursday, 03/05	[REDACTED]	[REDACTED]	H2AM	H2AM	4	0.00	0.00
Friday, 03/06	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	3	0.00	0.00
Sunday, 03/08	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	27	0.00	0.00
Monday, 03/09	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		4	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		3	0.00	0.00
Tuesday, 03/10	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
Thursday, 03/12	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
06:49a	LAYHIL MD	301-847-0200	RM45		3	0.00	0.00
07:00a	LAYHIL MD	301-847-0200	RM45		1	0.00	0.00
07:00a	LAYHIL MD	301-847-0200	RM45		3	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		2	0.00	0.00
08:17a	LAYHIL MD	301-847-0200	RM45		1	0.00	0.00
08:18a	LAYHIL MD	301-847-0200	RM45		1	0.00	0.00

Time	Place Called	Number Called	Rate Code	Feature Code	Min	Airtime Charges	LD/Add'l Charges
Thursday, 03/12	[REDACTED]	[REDACTED]	RM45		8	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		5	0.00	0.00
09:03a	LAYHIL MD	301-847-0200	RM45		1	0.00	0.00
09:09a	LAYHIL MD	301-847-0200	RM45		2	0.00	0.00
09:14a	LAYHIL MD	301-847-0200	RM45		1	0.00	0.00
09:28a	LAYHIL MD	301-847-0200	RM45		8	0.00	0.00
09:28a	LAYHIL MD	301-847-0200	RM45		3	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	7	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		8	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	18	0.00	0.00
Friday, 03/13	[REDACTED]	[REDACTED]	H2AM	H2AM	3	0.00	0.00
Monday, 03/16	[REDACTED]	[REDACTED]	H2AM	H2AM	8	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	5KHW		15	0.00	0.00
Wednesday, 03/18	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
Friday, 03/20	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
Monday, 03/23	[REDACTED]	[REDACTED]	H2AM	H2AM	9	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		12	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		35	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		4	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	3	0.00	0.00
Tuesday, 03/24	[REDACTED]	[REDACTED]	RM45		5	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	3	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	2	0.00	0.00
Wednesday, 03/25	[REDACTED]	[REDACTED]	5KHW		1	0.00	0.00
Thursday, 03/26	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	RM45		2	0.00	0.00
Friday, 03/27	[REDACTED]	[REDACTED]	RM45		1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
	[REDACTED]	[REDACTED]	H2AM	H2AM	1	0.00	0.00
Subtotal					350	0.00	0.00

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## ATT Towing

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S.P.  
Baltimore, MD  
0 friends  
2 reviews

10/29/2014

Had to use them as the police called them after our car was totaled. had to meet with twice first time the man was 20 min late and then next time he was over an hour late. Very unhelpful. It was pouring with rain when I had to meet him - he did not get out of his truck had to go to him! He also told me that he had no tools to help me take off the license plate. - I do not walk around with tools in my handbag! the garage next door the mechanic was helpful and took of the plate for me.

If you have a choice avoid this place

Sujit B.  
Silver Spring, MD  
39 friends  
87 reviews

7/29/2014

1 check-in

I hate this place. My friend's car got towed here and it was an accident that happened in Rockville--- makes me wonder why they took it to silver spring almost dc. Then we called about 10 times to let them know we were coming, to see if they were open, to see if they should be there and when we got there NO ONE WAS THERE. The "manager" went home early, 3 hrs early. They told us he was on the way back. TOOK HIM 2 HOURS TO GET BACK!!! there were 6 other people waiting for this moron. All around really pissed and think this place should be shut down. Shady location and not any security for the vehicles.

Swatee G.  
Silver Spring, MD  
420 friends  
525 reviews  
Elite '15

4/15/2014

1 check-in

Listed in Yelp 100 Challenge 2014, Run away, All about Silver Spring!

This place is an ABSOLUTE nightmare! They towed my car the FIRST day I parked at my new apartment, because the leasing office did not provide a parking permit (more on that in another review). The establishment (if you can call this place one), is extremely unprofessional - don't think any of these guys know what being professional means. I had to wait for 2.5 hours to get my car back, even though their towing notices clearly state that Montgomery county rules require them to provide 24/7 access to a car owner for him

### Hours

Tara L.  
First to review

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to retrieve his car. They don't return calls/ voice mails - I am pretty sure I called at least 25 times in a span of 2 hours (well, it was my beloved Pearl, my car in their mean possession and i was going berserk).

After waiting in the sun for 2.5 hours, the guy finally saunters in, smirks at me when I tell him he should have been here before and then proceeds to tell me he does not have "office" keys which means i cant get a receipt. (@#\$%^&\*&%\$#%&\*). Regardless, I am only happy to get out of here - he did end up emailing the receipt to me, so I am not complaining about that.

I would not ever want to be dragged back here..

 Anonymous A.  
Henrico, VA  
0 friends  
9 reviews

 1/4/2014

This is a horrible towing company. Their location is very shady and they are not readily available. They towed my car from the parking lot in front of my apartment and they took it more than 20 miles away! They charged me about \$170 and I had to wait for 2 days before I could get my car back. They tow the cars very badly and damage them in the process. They damaged the front passenger door when they tried to tow the car. I also had the hand breaks on - so apparently they just dragged the car like that and I could see dark black tire tracks in the parking lot!

Stay away from this company. They will just damage your car.

 Pascha B.  
Silver Spring, MD  
0 friends  
2 reviews

 10/8/2013

My vehicle was towed from in front of my parking complex sometime before 12:30am on October 8, 2013. I proceeded to locate the sign for the towing company and found that ATT Towing was the responsible party. On their signage, it also states that "State law requires the vehicle to be available for reclamation 24 hours a day, 7 days a week." I promptly call the phone number listed on the sign and it went straight to a forwarded number's voicemail with no business information given—only the generic message with the phone number. After repeatedly calling both numbers for 45 min I finally received a call back from a third number. The man on the other line asked me where my car was towed from and after I told him said he would call back in a minute, this was at 1:14am. I called the first number back at 2:07am and continued to make calls to all three numbers until 3:11am to no avail. All of my calls were sent to the one phone number's voice mail. When I called again at 6:01am someone finally answered the phone and then when I said that I had been calling since 12:30am regarding my towed vehicle the man who answered told me that I would have to wait until 10am to get my car. When I told him that was unacceptable he said there was no one available and then hung up on me. Any property that chooses to use them for a towing company should reconsider. EXTREMELY unprofessional. 8 hours later I am still without my car and have already started filing claims against them.

 Bradley S.  
Boulder, CO  
26 friends  
55 reviews  
Elite '15

 1/7/2013

These guys are the epitome of a horrible towing service. I had my car towed at 2:30 AM from a visitors lot (the wall said visitor parking across it). Even the apartment complex I was parked out said this was an "out of line" tow, as I wasn't in the wrong. They tried to charge me \$125.00 but I called their bullshit and got it lowered a bit, but still had to pay a good chunk of change for their error. They also tow cars WITH E-brakes still on. This has the potential to totally damage the vehicle. As an individual, if you get towed by these guys, stand your ground. They operate in a completely shady environment, office included. They didn't even have a ticket for my tow, the driver said he never wrote one. I've reported them to the state for inquiry, hopefully they are done by years end. If you are a property owner, parking lot owner, or someone needing a tow, DO NOT USE THESE GUYS. Bad Business, Bad Attitude, and

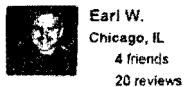
#### Work Here? Claim this Business

- Respond to reviews and privately message customers
- Claiming is free, and only takes a minute

#### People Viewed This After Searching For...

Towing Service Silver Spring

Shady Company. Fails all across the board, I hope to see them go.



8/2/2011

Maybe 1 1/2 stars, but OK...

I called and got a quote of \$55 for a tow +\$3 per mile. The dispatcher said the driver would call me soon to let me know when he was on his way. 20 mins later he does and says he'll be there in 30 mins. So far so good. That was at 1:55pm.

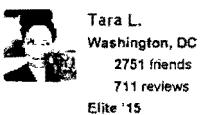
50 minutes later, at 2:45pm, he calls to say he'll be there in 15 minutes.

35 minutes later, at 3:20pm, I call him to find out what's going on and he tells me he ran into traffic, it'll be 10 minutes. 10 minutes, really? Yes, really he says.

20 minutes later at 3:40pm he finally arrives, an hour and 15 minutes after he said he would.

Picking up the car went smoothly, then we set it down and the next adventure begins. He asks me what price I was quoted and I tell him what the dispatcher told me; \$55+\$3. He calls in. The dispatcher disagrees, saying she said \$65+\$3. At this point, I throw up my hands. Fine, whatever, just unhook my car and leave.

Bottom line, for me, they did the job but took 3 1/2 times as long as they said they would and upped the price once the work was done. Buyer beware.



10/11/2009

First to Review

As far as towing companies are concerned, they all suck. Nothing can blow the high of a wonderful day like returning to your car to find that it's not there.

Such was the case for me on this beautiful Sunday afternoon! I parked in what I thought was an open lot in downtown Silver Spring. There was a sign that detailed the hourly rates to park there Monday-Friday and also Saturday. There was nothing listed for Sunday and there was no one working in the booth. Come to find out, there was a smaller sign that said parking without permit is reinforced 24/7.

Damnit.

So I give the towing number a call. Well actually, I gave the number a few calls.

Call #1

Me: Hey, I believe my car has been towed. Where was it towed to?

Tow guy: 8115 Fenton Street

Me: That's walking distance from the lot it was towed from, right?

Tow guy: Yes, it's about a 15 minute walk

Me: How much is it going to cost me?

Tow guy: \$114...cash

Call #2

Me: Can you confirm that you actually have my car?

Tow guy: Are you a gray Corolla

Me: Yes.

Tow guy: I have your car

Me: Ok, I'm on my way

Call #3

Me: What time are you closing?

Tow guy: I will wait for you man

Me: Ok, thanks. Is the lot obvious?

Tow guy: No. Pass the big brick building after Silver Spring Avenue, turn left up the long driveway and then walk up the stairs in the back.

Me: Ok, be there soon.

Trust me, it looked shady. The driveway was bare, the lot was isolated, and this building with the creepy stairs in the back look semi-abandoned. I was on edge.

I open the door, and a young guy was waiting in his office for me. He wrote me a receipt, took my money and even chatted me up. In fact, he was so nice that some of my towing bitterness subsided. Oh, and apparently Tabi Bonney just recently shot part of a music video here?? Grity.

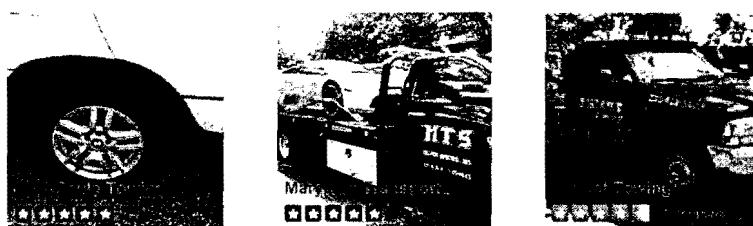
He walked me to my car in the gravel filled parking lot, where his dog was chilling. His huge dog that looked like he SHOULD be mean, but wasn't.

The same way this towing company looks like it SHOULD be shady, but isn't.

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3 other reviews that are not currently recommended

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## What Happened to Me do to being towed wrongfully

Good evening to the Public Safety Committee my name is Shannon Nanni I'm speaking tonight about my own experience that I have had with 2 of the local towing companies. I had my vehicle towed from my residence 2 times due to my handicap tag falling from my mirror causing me to be late to work and having to pay \$160 dollars both times from money that I didn't have. The towing company didn't care that I proved I had a tag they made me pay any way. That company is Advanced Towing out of Rockville.

The other company I have had an issue with is Montrose Towing they towed my vehicle from the parking lot of my client's apartment in which I had been parking in for 3 weeks with no problems until Martin Luther King Day I parked in a different spot in the lot and they towed it within 5 minutes of my departure from his apartment. I called the towing company up with 15 minutes after picking up my vehicle telling them that when I turned right I would hear a grinding noise coming from the back of my vehicle the lady that took my complaint gave me the website to go to to file my complaint. I went on the site filed my complaint waited 2 days heard nothing from them so I called again getting the same response she also took down my number and told me that someone would call me to talk about my issue.

I never heard from them so I called the complaint committee told them what I had been through with both of these companies they first went to Advanced Towing they said that they wouldn't refund me because even though I showed them my tag they said it wasn't hanging when they towed my car. After a month of the Complaint Committee trying to get a hold of Montrose Towing they refused to fix my vehicle because they never received my complaints which is a lie. They just didn't want to pay for something that they did due to towing my vehicle wrongfully.

I feel these towing companies should return calls to costumers when they file complaints because that would be the right things to do. I had to get it fixed myself luckily I have a friend that knows about vehicles. I think the way the rules are for parking in company parking lots is wrong to if you are their conducting services to their occupants you shouldn't have to have a parking permit to park

there. I hope understand what these towing companies are doing to get a cheap buck but in some cases an expensive buck. I have seen towing companies sit to see how long the person is going to be and tow their vehicle to make space for someone else which is not right at all.

That is all I have to say to this matter tonight I hope the new order is changed soon so these companies will quit towing cars for no reason.

Thank You again for hearing me out on my own experiences with 2 of the local towing companies.