

LEGALIZED WRECK CHASING

House Bill 2041 is legalized wreck chasing or reversed wreck chasing on behalf of the insurance industry and introduced through the House Insurance Committee. Legislated Wreck Chasing equates to making it legal for the insurance company to take over the automobile investment of the unaware consumer and delivering the damaged automobile to the insurance company's contracted direct repair facility. The ultimate anti-consumer act of controlling the property of the policyholder or claimant and eliminating a consumer's choice of their repair facility. Utilizing their vast market power to lobby this legislation onto the desks of legislators who do not fully grasp the problems of insurance company consumer steering the insurance industry has taken the ugly world of the wreck chaser and sophisticated it through automated dispatch centers and motor clubs for their financial benefits of cost cutting and cheap repairs. Many insurance companies such as Allstate, Geico and AAA Keystone operate their own national and regional 1-800-motor clubs. Sold as a benefit to motorists as an emergency roadside assistance program. The club member purchases membership to protect themselves in the event of an automobile breakdown, accident or need other than towing. Dialing the 1-800-number will send out an insurance company contracted towing vendor who retrieves the damaged vehicle and delivers it to another contracted Direct Repair Partner of the same insurance company such as Allstate's Pro-shop and Geico's Geico's Express Repair.

State Farm Insurance Company, Progressive Insurance Company, Nationwide Insurance and others utilize towing motor clubs such as Cross Country Motor Club and Asurion Motor Club where the tower is contracted to the Motor Club, which in turn is contracted with the insurance company. The situation is the same as the tower is directed by the motor club as to destination of the consumer's vehicle.

The only deterrent in this scenario is the consumer's right to choose where the vehicle is transported and who repairs the automobile investment. House Bill 2041 is focused

on eliminating the consumer's consent in both definition and language content. Consumer steering and directing is illegal in Pennsylvania however to enforce the law which governs consumer steering (367) one must apply to the Department of Insurance for enforcement. The Department of Insurance will usually turn a blind eye to the violation of consumer steering by asking the insurance company representative if they in fact steered the consumer. Did you break the law? Then using the insurance companies answer to send out a non-enforcement letter making enforcement issues mute throughout the Commonwealth. Consumers who have taken the same steering issues to the Pa. Attorney General's office are advised the complaints are outside of the AG's jurisdiction and must be handled through the Insurance Department.

House Bill 2041 encourages a continued disregard for the consumer as the legislation falls again between the administrative responsibility of the Insurance Department and the Attorney General's Office.

Stephen E. Behrnt

Crawford's Auto Center, Inc., President

Pennsylvania Collision Trade Guild, Director

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FYI: We have included House Bill 2041 with our comments and questions regarding the reasons we believe House Bill 2041 should be stopped.

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2041 Session of
2009

INTRODUCED BY DeLUCA, MICOZZIE, BELFANTI, COHEN, D. COSTA,
DEASY, GILLESPIE, JOSEPHS, MURT, SABATINA, SIPTROTH, THOMAS
AND WATERS, OCTOBER 16, 2009

REFERRED TO COMMITTEE ON INSURANCE, OCTOBER 16, 2009

AN ACT

Providing for standards for towing and for violations.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Towing
Standards Act.

Section 2. Definitions.

The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Tow truck operator." A person or entity performing towing
in this Commonwealth.

"Towing." The moving or removing of a motor vehicle upon the
direction of a police officer or of a damaged or disabled motor
vehicle from public or private property, including a storage
facility, regardless of whether the owner or vehicle operator
consents and for which a fee, not including dues to a club or

association which provides such services, is charged.

Comment:

Within the definitions of this proposed act you will read the goals of those (insurers) who seek to take possession of the consumer's property through proposed legislated insurance company wreck chasing. The moving of the motor vehicle from private property, which includes as stated, a tower's storage facility regardless of whether the owner or vehicle operator consents.

Questions:

- 1) *"Regardless" "of whether the owner or vehicle operator consents" Doesn't this language disturb you? No consumer rights within the definition?*
- 2) *What right does the insurance company have to remove one's personal property without the owner's consent?*
- 3) *Does House Bill 2041 take into consideration the claimant's property where the liable insurance carrier is responsible and there is no policy contract?*
- 4) *What right would a wrongful Insurance carrier have to take possession of the claimant's damaged vehicle?*
- 5) *Does HB 2041 create the insurance company policeman regarding a consumer's property?*

Section 3. Towing standards.

Comment:

House Bill 2041 is being introduced and sponsored by the House Insurance Committee as a Towing Standards Bill however the legislation seems to be skewed towards vehicles that are towed due to automobile accidents where an insurance policy is utilized to pay for the cost of repairs.

"Towing." The majority of towed or transported vehicles in Pennsylvania are not vehicles moved at the direction of a police officer. The larger percentages of towed vehicles are at the direction of the vehicle owner who is in need of service or for

whatever reason a vehicle owner desires to move their automobile property from one location to another.

This legislation is titled a Towing Standards Bill but does not recognize the overall towing industry within the scope of its legislative responsibility. A significant problem is the enforcement of House Bill 2041 which is written under the administrative authority of the Pa Department of Insurance Act 367 (Pa Motor Vehicle Physical Damage Appraiser Act) and The Attorney General's Office. P.L.1224, No. 387 and Title 75 Pa.C.S. § 1799.4 (relating to examination of vehicle repairs).

Question:

1) *Towing and vehicle transport should be regulated through the Pa Department of Transportation. Why is this law introduced by the House Insurance Committee?*

(a) Fees.--A tow truck operator shall clearly and conspicuously disclose its fees for towing, storage and other related services and its hours of operation on preprinted contracts or written schedules and shall post its fees and hours of operation at its storage facility.

Comment:

Professional towing operations explain the cost of the towing service to the consumer prior to the service rendered. This rate explanation is necessary as towers expect to be paid for their services before the vehicle is delivered to the customer's desired location. Already covered in Title 13 COMMERCIAL CODES and Chapter 301. AUTOMOTIVE INDUSTRY TRADE PRACTICES towers have a legal and professional responsibility to discuss rates prior to services being rendered.

Questions:

1) *Already an existing law under the Commercial Codes and Automotive Trades Practices why recreate another law?*

2) *Towing Companies face a multitude of service requests. Are towers expected to list*

each and every facet of their operations?

- (b) Time of notice.--A tow truck operator shall provide the information required under subsection (a) to a vehicle owner prior to towing. If the vehicle owner is not present or is incapacitated when the vehicle is towed, a tow truck operator shall provide such information upon being contacted by the owner or at the time the owner or his representative is presented with a bill for towing.
- (c) Accident or disabled motor vehicle.--A tow truck operator shall render towing at the scene of a motor vehicle accident or a disabled motor vehicle only if summoned to the scene by the owner or operator of the motor vehicle or a police officer.
- (d) Repair and storage.--A tow truck operator shall not secure the signature of the owner or operator of the motor vehicle on a document that includes authorization to repair the vehicle or to authorize storage of the vehicle for more than 24 hours.

Comment:

An authorization to repair signed by the vehicle owner prior to the repairs started is general business practice. Automobile repairers call this a repair contract and the requirement follows the Attorney General's guidelines to protect both consumer and business see Title 13 COMMERCIAL CODES and Chapter 301. AUTOMOTIVE INDUSTRY TRADE PRACTICES.

Questions:

1) Many automotive repair businesses both general repair and collision repair are also

in the business of towing. If an authorization to repair is not signed how can the automotive business protect it's right for services rendered?

2) The authorization to repair guarantees payment to the repairer. How can the service provider protect its services without a repair contract?

3) The authorization to repair protects the repairer from 3^d party interference.

4) Would a non-contracted repair be protected from 3^d party steering?

5) Why would the insurance industry be focused on eliminating a repairer's authorization to repair with the consumer?

6) What right would an insurer have to eliminate a consumer's repair authorization on a vehicle towed by customer's request?

7) If the repair facility can not get a signed authorization within the first 24 hours then the insurance industry should also be restricted from contacting the consumer to discuss their Direct Repair Program options within the first 24-hours. >>> Prime time for Steering the uninformed consumer!

Comment:

The above language also is vague and confusing whether the tower / repairer must wait for a period 24 hours before repairs can begin. This 24 hour period may create unnecessary delay time for the vehicle owner as the tower / repairer cannot begin repairs until the authorization is signed.

- (e) Release of towed vehicle.--A tow truck operator shall not refuse during its posted hours of operation to release a towed motor vehicle upon request from the owner of the vehicle, the insurer of the vehicle or a salvor acting on behalf of such an insurer accompanied by tender of cash, credit card from a common issuer or insurance company check for towing and storage charges.

Comment:

Under current Pa State Law and Regulation - Title 367 Motor Vehicle Physical Damage Appraiser Act and corresponding Pa. Chapter 62 -

(2) The Appraiser must obtain the consumer's consent before authorizing the removal of a motor vehicle from one location to another.

Comment: Pa State's Administrative Code Chapter 62 - Purpose to safeguard against a 3rd party entity taking possession of the vehicle owner's property -

Questions:

1) Chapter 62 Regulation safeguards the manner in which The Department of Insurance protects and interprets the rights of the consumer. Does HB 2041 not contradict the current law? –

2) Would not House Bill 2041 contradict current administrative code?

3) What right does the insurance company have to a consumer's automobile investment?

4) What right does the insurance company's salvage company have to the consumer's automobile investment?

5) Why would the Pa Department of Insurance allow legislative changes that disregard existing rights to protect consumers?

(f) Notice of vehicle location.--A tow truck operator within 24 hours of completing a tow shall notify the owner of the vehicle and, if known to the tow truck operator, the insurer of the vehicle of the address and telephone number of the location to which the vehicle was taken.

Comment:

A tow truck operator within 24 hours of completing a tow shall notify the owner of the

vehicle if known to the tow truck operator? The tower's responsibility is to move the vehicle at the request of the police department or owner of the vehicle. Police Departments, in most cases will not provide the information necessary for tow operators to complete this segment of the House Bill. In fact, Police Department accident reports are not available for public reading until several days and sometimes weeks depending on the investigation.

Questions:

- 1) How are towers to know the owner of the vehicle towed from an accident?*
- 2) Do towers have legal authority to search the property of the vehicle without the owner's consent?*
- 3) Does HB 2041 require towers subject themselves to sharp metal and broken glass to learn the identity of the vehicle owner?*
- 4) Does HB 2041 require towers and their employees subject themselves to blood, tissue, possible disease, and other contaminants found in accident related vehicles?*
- 5) Does HB 2041 require towers subject themselves to high voltage electrical systems found in Hybrid vehicles to gain access of owner's property?*
- 6) Does HB 2041 require towers to break open the glove compartments of vehicles towed in to access owner's contact information?*
- 7) Does HB 2041 subject towers to allegations of stolen property from vehicle owner's who allege items were stolen as ownership was ascertained.*

(g) Access to vehicle.--A tow truck operator shall grant reasonable access to the towed vehicle during its posted hours of operation for the purpose of inspection and retrieval.

Comment:

Only at the request of the vehicle owner - No insurance company or a salvage company should have legal access to a consumer's property without the consent of the registered owner of the property.

Questions:

1) Would not releasing a customer's personal property to a non-registered owner be considered as a co-conspirator in a theft of vehicle crime?

2) Releasing the care & custody of a customer's property without their consent would be considered unprofessional?

(h) Storage fee prohibited.--A tow truck operator shall not charge a storage fee for any period during which it has refused to allow authorized inspection of the vehicle under inspection rights in 75 Pa.C.S. § 1799.4 (relating to examination of vehicle repairs) or section 11 of the act of December 29, 1972 (P.L.1713, No.367), known as the Motor Vehicle Physical Damage Appraiser Act.

Section 4. Violations.

A violation of this act is also a violation of the act of December 17, 1968 (P.L.1224, No.387), known as the Unfair Trade Practices and Consumer Protection Law.

Section 5. Coordination of laws.

Comments:

Storage fee prohibited.-- A tow truck operator shall not charge a storage fee for any period during which it has refused to allow authorized inspection of the vehicle under inspection rights in 75 Pa.C.S. § 1799.4 (relating to examination of vehicle repairs) or section 11 of the act of December 29, 1972 (P.L.1713, No.367), known as the Motor Vehicle Physical Damage Appraiser Act.

§ 1799.4. Examination of vehicle repairs.

Upon request of the insurer, an insurance adjuster shall be afforded a reasonable opportunity to enter a repair facility and examine covered repairs

being made to a specific insured's vehicle during regular business hours.

Questions:

- 1) *What right does a 3^d party insurance carrier have to inspect the personal property of the damaged consumer if the vehicle owner says no to appraiser inspection?*
- 2) *What right does an insurance company have by sending multiple inspectors to re-inspect the same loss?*
- 3) *Should vehicles towed at the request of police officers and impounded by order of the police departments be subject to being exempt from a daily storage fee?*
- 4) *Should vehicles stuck in the middle of insurance company's administrative liability decisions be exempt from a daily storage fee?*
- 5) *Should claim disputes be exempt from storage charges?*
- 6) *Should vehicles that sit in storage and wait while the insurance company decides whether to accept liability be exempt from storage charges?*
- 7) *Should vehicles that have been underestimated and cannot move forward with proper repairs become subject to storage charges?*
- 8) *Are repair facilities to absorb the storage cost while insurance companies low-ball repair appraisals?*

(a) Local and municipal ordinances.--This act supersedes local or municipal ordinances only to the extent that those ordinances permit towing and storage activities or charges that are in conflict with this act.

(b) Federal law.--If any portion of this act is preempted or superseded by Federal law or is declared invalid by any court of competent jurisdiction, the remainder of this act shall remain in effect.

Section 6. Effective date.

This act shall take effect in 60 days.