

Re: Raised Bill 866 AN ACT CONCERNING THE NON-CONSENSUAL TOWING OR TRANSPORTING OF MOTOR VEHICLES

MTAC Opposes

Co-Chair Leone, Co-Chair Lemar, Ranking Member Martin, Ranking Member Devlin, thank you for the opportunity to testify on this proposal. I am Joe Sculley, President of Motor Transport Association of Connecticut (MTAC).

CIRCUMVENTION OF REGULATED RATES

This bill appears to be an attempt to circumvent the regulation of towing and storage rates. CT DMV currently sets the rates that wreckers are allowed to charge for a non-consensual tow.

Towing rates can be found here: <https://www.ct.gov/dmv/lib/dmv/20/29/K-11.pdf>

Storage rates can be found here: <https://www.ct.gov/dmv/lib/dmv/20/29/K-89.pdf>

As you will see, for non-consensual tows of commercial trucks, the hourly rate (Recovery Included) is \$390 per hour (Minimum 1 hour charge), and allows for 15 minute increments charge thereafter. The per-day storage charges range anywhere from \$30 per day to \$68 per day, depending on whether storage was inside or outside, and for how many days it is stored.

CONSUMER PROTECTION

The regulation of non-consensual tows is an important aspect of consumer protection for both individuals and small businesses who own and operate vehicles. Without this, wreckers have been known to charge tens of thousands of dollars for non-consensual tows and subsequent storage, although some have referred to these as ransom charges rather than storage charges. It should be noted that this type of situation is sometimes the cause of an abandoned vehicle, whether it be a passenger vehicle, or commercial motor vehicle or commercial trailer. Owners may decide that it is less expensive to just go purchase a new vehicle.

Some of the excessive charges that have been seen are driven by an attitude that the insurance company will pay for it, rather than the individual or small business owner. All that this does is drive up the cost of insurance for everybody, regardless of whether or not the policy holder will ever be a part of a non-consensual tow.

The current consumer protections must not be weakened by allowing a surcharge to be attached. It defeats the purpose of the regulated rate. If anything, towers should petition CT DMV and prove that they need to add \$10 to each tow. However, CT DMV should take any comments about the cost of equipment or worker's compensation rates (which are actually decreasing, contrary to popular claims) with a grain of salt and consider them in the bigger picture. After all, no one is ordering any towing company to participate in the state's non-consensual tow system. If a tower



feels that it doesn't make sense financially for them to conduct regulated non-consensual tows, they should choose not to participate.

COURT RULING STRENGTHENED CURRENT SYSTEM

Not only should the current system not be weakened, it must continue to be strengthened. A recent Connecticut Supreme Court ruling helped to further strengthen the regulated system, but even with that, MTAC is still told by a member from time to time that a tower is demanding that they pay many thousands of dollars for storage charges after a non-consensual tow. Fortunately, the Supreme Court ruled against that practice, but it must be enforced.

Here is a summary of the recent Supreme Court ruling which was written by Bob Pitcher of American Trucking Associations (ATA).

The Connecticut Supreme Court has held that federal law did not preempt various aspects of the state's regulation of nonconsensual towing. The plaintiff towing company had been called by the state police to remove a disabled trailer from the highway following a traffic accident. For its services it had charged the trailer's owner some \$16,700. On the owner's appeal to the state regulator, all but less than \$4,000 had been disallowed. In court, the plaintiff argued that federal law, 49 U.S. Code section 14501(c)(2)(C) – often referred to as FAAAA, preempted the state's power to regulate all or part of the services it had provided. The FAAAA generally preempts state authority to regulate the prices, routes, or services of motor carriers, but contains an exception for "transportation by a tow truck" in nonconsensual towing. The trial court found that the state could regulate the charge for the actual movement of the damaged trailer itself, but was preempted from regulating the provision of pre- and post-tow services, including storage of the trailer until its owner reclaimed it. The state supreme court, however, ruled that state regulation of all aspects of nonconsensual towing was allowable under the FAAAA, since the Act was intended by Congress to be read broadly in this respect. Modzelewski's Towing & Recovery, Inc. v. Comm'r of Motor Vehicles, docket no. SC 19453, decided July 12, 2016

Connecticut has a system that is working and has been strengthened by a Supreme Court Ruling. It should not be tinkered with by adding an unregulated surcharge that will likely see frequent attempts to increase it.

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ABOUT CT TRUCKING INDUSTRY:

85.8%: number of Connecticut communities that depend exclusively on trucks to move their goods

94%: percent of manufactured tonnage transported by truck in Connecticut

\$3.2 billion: total trucking industry wages paid in Connecticut (2017)

58,400: trucking industry jobs in Connecticut (2017)

\$53,3500: average annual salary in Connecticut (2017)

\$8,610: average annual CT-imposed highway user fees paid by tractor trailers (as of 4/1/2018)

\$8,906: average annual fed-imposed highway user fees paid by tractor trailers (as of 4/1/2018)