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SENATE JOINT RESOLUTION NO. 330

Offered January 12, 2005

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Establishing a joint subcommittee to study regulation of the vehicle towing and recovery industry by the Department of Professional and Occupational Regulation. Report.

Patron—O'Brien

Referred to Committee on Rules

WHEREAS, a considerable portion of the work performed by vehicle towing and recovery businesses involves the towing and storage of vehicles at the request of persons other than the vehicles' owners; and WHEREAS, such non-consensual towing poses difficulties both to towing and recovery businesses that seek just compensation for towing and storing of the effected vehicles and for the vehicle owners who may feel the tows were unjustified and who seek to have their vehicles returned to them without having to comply with arbitrary requirements or pay exorbitant fees; and WHEREAS, sometimes apparently inconsistent or outdated state statutes and a patchwork of local ordinances have been ineffective in ensuring fairness for either those in the towing and recovery business or those owners whose vehicles such businesses towed without their consent; and WHEREAS, it may be in the best interest of the towing and recovery businesses, the owners of vehicles towed by them, and the general public for the towing and recovery industry to be regulated by the Department of Professional and Occupational Regulation as many other business, occupations, and professions are regulated; now, therefore, be it RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established to study regulation of the vehicle towing and recovery industry by the Department of Professional and Occupational Regulation. The joint subcommittee shall have a total membership of eight members appointed as follows: three members of the Senate to be appointed by the Senate Committee on Rules and five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. The joint subcommittee shall elect a chairman and vice-chairman from among its membership. In conducting its study, the joint subcommittee shall consider the following: 1. The real estate, equipment, and other costs borne by towing and recovery businesses; 2. The fees charged by towing and recovery businesses, the ceilings and other limitations placed on such fees by state law and local ordinances and the justification, if any, for such limitations; 3. The desirability of and mechanism for ensuring a fair review process and periodic, timely adjustment of any limitations on such fees; 4. The desirability of requiring local governments to establish local towing advisory boards; 5. The need for criminal background checks for and fingerprinting of persons engaged in the towing and recovery business; 6. The ability of local governments to prevent and eliminate price gouging by towing and recovery businesses through handling of complaints by local consumer affairs offices; 7. The practice of imposing storage charges even when the business having custody of the stored vehicle is closed; 8. The need for a simple and effective mechanism by which recovered stolen vehicles and other towed vehicles can be released to insurance companies when a release of the vehicles to their owners is not involved; 9. Time limits for notice by towing and recovery businesses to owners of towed vehicles and persons having security interests in such vehicles; 10. The payment of towing and storage fees through mediums other than cash, the imposition of additional fees for acceptance of credit cards, and the need for towing and recovery businesses to be able to make change for customers who pay in cash; 11. A simple and reliable mechanism for reimbursing towing and recovery businesses for towing of abandoned, inoperable, and immobile vehicles at the request of law-enforcement officers and agencies; 12. Improved and uniform requirements as to posting of signs to warn vehicle operators that trespassing vehicles will be towed away; 13. Means for expedited disposal of abandoned vehicles; 14. Time limits for response by the Department of Motor Vehicles to requests from towing and recovery businesses for vehicle owner information; 15. Clarification of which, if any, local towing ordinances apply in the case where vehicles are towed from one locality, stored in another, and the principal place of business of the towing and recovery business may be in a third; 16. The desirability of having towing and recovery operators notify the Department of Motor Vehicles, rather than the vehicle's owner, within 15 days when a vehicle is towed without the owner's consent; 17. The need for better communication between homeowners' associations and local governments regarding removal of vehicles abandoned on homeowners' association property; 18. The need for photographic or other documentary evidence to substantiate reasons for towing of allegedly trespassing vehicles; 19. The need for educating the public as to the various costs borne by towing and recovery businesses; 20. The fairness of local ordinances that require towing and recovery businesses to also be body shops, service stations, or other businesses as well; 21. The ability of towing and recovery businesses to charge separate fees for obtaining vehicle owner data from the Department of Motor Vehicles and for releasing vehicles to their owners; and

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59 22. Such other issues and items as the joint subcommittee may in the course of its deliberations deem
60 necessary or desirable. Administrative staff support shall be provided by the Office of the Clerk of the
61 Senate. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be
62 provided by the Division of Legislative Services. All agencies of the Commonwealth shall provide
63 assistance to the joint subcommittee for this study, upon request. The joint subcommittee shall be limited to
64 four meetings for the 2005 interim, and the direct costs of this study shall not exceed \$8,000 without
65 approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require
66 the written authorization of the chairman of the joint subcommittee and the Clerk of the Senate. If a
67 companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be
68 required. No recommendation of the joint subcommittee shall be adopted if a majority of the Senate
69 members or a majority of the House members appointed to the joint subcommittee (i) vote against the
70 recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint
71 subcommittee. The joint subcommittee shall complete its meetings by November 30, 2005, and the chairman
72 shall submit to the Division of Legislative Automated Systems an executive summary of its findings and
73 recommendations no later than the first day of the 2006 Regular Session of the General Assembly. The
74 executive summary shall state whether the joint subcommittee intends to submit to the General Assembly
75 and the Governor a report of its findings and recommendations for publication as a House or Senate
76 document. The executive summary and report shall be submitted as provided in the procedures of the
77 Division of Legislative Automated Systems for the processing of legislative documents and reports and shall
78 be posted on the General Assembly's website. Implementation of this resolution is subject to subsequent
79 approval and certification by the Joint Rules Committee. The Committee may approve or disapprove
80 expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional
81 meetings during the 2005 interim.