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PENNSYLVANIA

Towing and Towing Storage Facility Standards Act



Gary N. Stewart

Pennsylvania Governor Tom Corbett recently signed into law the Towing and Towing Storage Facility Standards Act. The law became effective September 3, 2012. Prior to the passage of the Towing and Towing Storage Facility Standards Act, Pennsylvania's towing industry – including tow-truck operators and storage facilities – was unregulated, which left all motorists open to being



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victimized by inflated towing and storage charges, difficulties involving inspection, and refusals to release property without invoice payment.

So how does the new law change the current problem in Pennsylvania?

The Towing and Towing Storage Facility Standards Act enacts reasonable consumer protections for those who are forced to enlist the service of a tow-truck operator at the scene of an accident. It ensures some regular and standardized business practices for all towing companies in Pennsylvania, including the following:

- Requires tow operators and towing storage facilities to post their towing fees, hours of operation, and maintain a physical street address.
- Requires all tow trucks to be properly registered.
- Requires tow operators, at the scene of an accident, to provide the owner with a notice as to the location where the vehicle is to be towed and stored.

The law discards the unfair “rotation lists.” The Act also prohibits towers from undertaking towing at the scene unless summoned by the owner or operator of the vehicle, by law enforcement, or authorized municipal personnel. Thus, the Act now gives the owner or operator a choice or right to designate a tow-truck operator unless the owner or operator is incapacitated. The choice of the owner or operator may only be superseded by law enforcement if the tow-truck operator cannot respond in a timely fashion and the vehicle is a hazard, impedes the flow of traffic, or cannot legally remain in its current location.

The Act also:

- Prohibits the towing company from securing the signature of an owner or operator to authorize repair of the vehicle as a condition to towing.
- Prohibits the towing company from attempting to secure the signature of an owner or operator to authorize storage of the vehicle for more than 24 hours.

Further, a tow-truck operator and storage facility must provide hours of operation and reasonable access to the towed vehicle for inspection and retrieval. Storage fees are prohibited for any period of time in which the tow-truck operator or storage facility refuses to allow inspection of the vehicle.

Upon request from the vehicle owner or authorized company representative, a towing company may not refuse release of the towed vehicle unless law enforcement has requested that the vehicle be held. The release is conditioned on payment for towing, storage and related services. However, the invoice, including all charges, must be itemized and in writing.

Of significant importance is that any violation of this Act is also a violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law which entitles aggrieved motor carriers to seek penalties, fees, damages, and reasonable attorney's fees from the tow-truck operator or towing company.

We believe that towing companies will interpret the law in their favor where it states that the vehicle is released upon payment of towing, storage, and other related charges. In order to combat this self-serving notion, and in light of the changes in the law, we recommend that trucking companies that are familiar with, and have good business relationships with, towing companies in Pennsylvania provide their operators with a list of towers to be called should an accident happen. If a trucking company has the misfortune of dealing with a disreputable towing company where the invoice, though itemized, still appears excessive and release of property is refused until full and complete payment is made, we recommend written communication of a reasonable offer and an immediate demand of the property. The written correspondence can be utilized in subsequent litigation for seizure of property and evidence of violation of the Act and consumer protection laws.

Gary N. Stewart is a partner in the Commercial Motor Vehicle Section in our Harrisburg office. He concentrates his practice in the area of commercial motor vehicle defense. He has defended cases in Pennsylvania, New Jersey, Connecticut, Rhode Island, Massachusetts and Vermont. Gary is admitted to practice in Pennsylvania, New Jersey, Massachusetts, Connecticut, Vermont and Rhode Island as well as before the U.S. District Courts for the Eastern, Middle and Western Districts of Pennsylvania, the District of New Jersey, the District of Massachusetts, the District of Rhode Island, the District of Connecticut and the U.S. Court of Appeals for the First and Third Circuits.

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