

Madame Chair and House Transportation Committee Members, Thank you for inviting me here today to talk about an issue that is extremely important to many Vermonters, and yet not well understood or known by most Vermonters.

It's important to preface that this bill is not anti-towing. We understand the important role towers play in helping us when our cars are inoperable, when we're stuck in a snowbank, or get into a car accident. Towers have a hard job and an important one. Their work is risky, and often is done in the dark of night and in the worst of weather conditions. Towers deserve to be paid for their work, and to be paid fairly.

Towing is a valued service but most of it is unregulated. Transparency and accountability protections are needed to ensure that towing companies which enforce street parking law through nonconsensual (nonemergency) tows are accountable to the people they tow.

This bill and my testimony also do not blame or criticize the DMV. They are doing their job as is defined by Vermont's current laws. They are not doing anything wrong. The issue lies with our laws.

Let me share how I got so passionate and persistent about making changes to Vermont's bizarre laws related to Nonconsensual towing. In 2016, through my work as a commissioner on the Burlington Parallel Justice commission, I learned that victims of crime sometimes have their vehicles towed. One example was a woman who was assaulted, and sent to ambulance to the hospital and then admitted for medical treatment. While she was in the hospital, her car was towed, because Vermont law considers a car abandoned after just 48 hours. This woman racked up both towing and storage charges that she had to pay before she could get her car back, adding insult to injury. The staff shared with me that under Vermont law, they'd seen people lose their cars permanently due to an inability to pay these charges. In 2016, the staff shared that they had 12 victims of crime have their vehicles towed in the 10 year period from 2006-2016. One of the victim advocates shared that she often went to the towing company to try and plead with them to reduce the fees of these victims. She said she saw the staff talk about which cars would be there's soon, after the 28 day waiting period that allows the tower to take possession of the automobile. The way she described it, it seemed too weird to be true.

The staff asked me if I would look into changing the Vermont laws, which is what I did.

At the time, NCSL shared information they had on the states that had passed towing bill of rights and my first bill was modeled after some of this legislation. I learned that while we shared many of the same towing issues that people experienced in other states, there was one issue that made Vermont an outlier, which I will get to shortly.

Yesterday, a reporter at VT digger contacted me when he saw I was testifying about my towing bill today. He asked why I keep introducing towing reform legislation when it's not received any action or movement.

I thought you'd be interested in knowing the answer to that question as well.

First, I know that you will hear from the towing association that this is a Burlington problem, while there are more cases that happen in Burlington, these problems happen statewide. I share with you today the data I have from DMV by county.

My district covers a parts of UVM and Champlain College, streets that have large portions of students who live off campus as well as single family homes in the Hill

Section. Because of the predatory practices of towers in downtown Burlington, students and renters are often the targets of these nonconsensual tows.

Several of my UVM interns have embraced this issue, including my intern Jack this year, who gathered extensive research and talked with victims of nonconsensual towing, as well as the legislator in Colorado who led the charge to change Colorado's towing laws this past year. Jack is in class now, but we can get you details on data he collected.

Many legislators and advocates know that I've been working on this issue, and I have heard from people in other parts of the state who have had problems with being towed.

In 2021, Car and Driver magazine came out with an article, entitled "tow your rights: when your car is taken, rules vary wildly between states" the article goes on to say, "if you do get towed, Illinois, Maryland, Missouri, and New Mexico have some of the strongest protections for drivers, Indiana, Iowa, Mississippi, New Hampshire, South Dakota and Vermont have some of the worst"

This is not a list I want Vermont to be on, and the fact that it was drawing national attention refueled my passion.

The article was based on an extensive report that in 2021, the US Public Interest Research Organization produced. The report which you all have, ranks Vermont as among the worst states for consumers who get towed, and includes recommendations for consumer protection reforms and a state by state comparison of the 14 common sense towing protections that PIRG says should be law in every state.

Since 2016, I have watched other states pass these reforms as my towing bill stayed on the wall for the past few bienniums. Towers have a lobbyist. Consumers do not. Every session we do nothing we provide zero protections for consumers against the mostly legal ways that predatory towing does little to ensure public safety and does much to hurt Vermonters.

According to the report, Vermont lacks protections as basic as towing and storage fee maximums, requiring invoices for tows, accepting forms of payment other than cash, restricting patrolling of tow lots, and marking tow-away zones with visible signage. (If you look to the appendix of the PIRG report, there's a nice overview of the protections Vermont is lacking compared to other states).

While other states across the country including New Mexico, Colorado, and Florida have instituted policies in the last few years to improve consumer protections in the towing sector, Vermont has yet to pass strong consumer protection regulations of the same kind.

While the bill I introduced is based on a model towing bill that was crafted by NATIONAL COUNCIL OF INSURANCE LEGISLATORS (NCOIL) Consumer Protection Towing Model Act, I am here today to bring to your attention the worst problems that the status quo allows. Specifically, those concerning vulnerable, young, and low-income Vermonters.

I know you will get a walk through of this bill. I ask this committee to consider taking some of the specific elements and recommendations and move those forward this year.

Some change can make a world of difference. If you wait and say this is too much, and nothing happens, Vermonters will lose out again for a few years.

Basic accountability protections and a commitment to protect our consumers extends beyond Burlington alone

and affects all districts of the state - with complaints lodged from consumers all over.

The problems are tied to two issues:

1. Vermont's failure to put into place consumer protections for non-consensual towing.
2. Vermont's failure to enforce the few protections we do have in our current law.

1.) Vermont's failure to put into place consumer protections for non-consensual towing

Here's the Weird law that only Vermont

**Vermont is the only state that sets up a perverse incentive for towers. It allows towers to not only quickly gain title to someone's abandoned car but to keep the entire proceeds of the sale of the car and its contents. I have had constituents lose all kinds of property. Car seats, tools, expensive sun glasses, medication, electronics, etc.**

Couple this law with Vermont's abandoned vehicle laws. In Vermont, a vehicle is considered abandoned if it has remained on public or private property for 48 hours without the consent of the person who owns the property.

Upon reporting from a landowner, or law enforcement officer, a tow operator comes to pick up the vehicle. Oftentimes, as many tow operators will note, these cars are worth very little. Once the vehicle is in the tow operator's possession, they can send a request to the DMV to possess the title of the abandoned vehicle. The DMV then sends out letters to the last known addresses tied to the vehicle registration to notify the owner that their vehicle is in possession, and they can retrieve it by paying off the associated towing and storage fees.

Without response, or payment on the fees, owners are subject to lose their vehicle title and vehicle contents to the tow operator.

In every state we've looked at, including those mentioned in (state comparison for abandoned vehicle fund allocation), once put up for sale, profits from the abandoned vehicles go back to a state fund. Tow operators are then reimbursed for the costs associated with towing and



storage, and are oftentimes reimbursed by the overseeing agency for additional costs of towing. In Vermont, towers are reimbursed with \$40 by the DMV for towing abandoned vehicles from public property, but those reimbursements are in addition to the profits they receive from selling these abandoned vehicles, and charging whatever they wish to charge for all the other tows.

DMV told us that they get many of the letter returned because the address is no longer valid. This is one way that our current laws disproportionately hurt poor people. People who have unstable housing, people who move frequently, and often top of mind are not remembering to update their address with DMV.

In looking at other states efforts, so much more is built into other state laws for how to reach the people who's cars have been taken. From fantastic websites that Alabama and Chicago have, to requirements to post the information on the cars in local and state newspapers, and a couple of states hotlines that people can call to see if their car was towed.

So, you will hear that the cars taken and not retrieved are not worth much. How many of your constituents drive older cars because they can't afford a newer car? I

certainly drive my cars until they die. For most of us our cars are our first or second most expensive possessions. Vermonters NEED their cars.

Even though, again, many of these cars are worth little, many are concerned this added benefit gives towing companies an incentive to resell the car and make more profit than they otherwise would by giving the money back to the state treasury, investment fund, or DMV and being reimbursed with a set amount.

Why do we do this? We don't do this with hospitals or other services. Even liens are an unusual and dangerous way to hurt consumers. Don't get me wrong, towers need to be paid, just like the hospital does, when you are rushed there by ambulance and receive services that you didn't schedule or plan to receive.

Let me share one recent example.

One constituent, Xana, left their motorcycle parked outside illegally and it was towed. They were never notified, and reported the vehicle as stolen to the police as they were unaware they parked illegally. A month and a half later, a friend drove by a tow yard in Chittenden County, where they hold abandoned vehicles before sale, and let the constituent know that it could be there. They went, found the motorcycle repainted, and when they asked the police why the vehicle was never reported as

being at the tow yard, the police said the tow yard could not verify the Vehicle Identification Number as the bike was likely stolen. Though, upon the constituent's arrival at the tow yard, the towing company was able to verify Xana's ownership by looking to the vehicle identification number. They then charged this constituent \$3,000, only to negotiate down to a price point below \$500 to cover the storage and tow charges.

Constituents should not have to worry about losing their vehicle to a tower after they had already assumed it was stolen by somebody else. Removing the incentive to hold onto these vehicles reduces the likelihood that consumers will lose their personal belongings (or junk vehicles), as the incentive for resale is reduced.

Not only do other states have the money either go into the lost property program or into a state or local fund (after the tower was paid their reasonable towing and storage fees), but even Vermont has that same protection for boat owners who have had their abandoned boats towed, despite the fact that very few if any people depend on their boats in the same way that Vermonters rely on their cars.

In addition, the new language in S.99 expands the definition of “abandoned motor vehicle” to include vehicles that are missing a valid registration plate or the public VIN has been removed or destroyed. This could bring additional claims of predatory behavior from consumers who delay on getting stock plates removed, or some other malfunction occurs. Expanding the definition would only make it more difficult for residents to get their cars back.

Another important issue is the consideration of “reasonable fees.” States with the best towing protections place maximum towing and storage fees to prevent consumers being piled up with dues, and unable to pay back the tower. This is a common problem among low-income vermonters. Through surveys sent around the state, we’ve found wide discrepancies in the costs of towing across consumers towed for similar reasons. Oftentimes, these costs for storage and towing often range between \$200 total fees, and \$500 or \$600 total fees, including any municipal parking tickets tacked on to the total.

But frankly, without itemized receipts, people have been very unclear as to what charges are for what, despite the fact that current Vermont law doesn’t allow a tower to

charge storage charges until the letter has gone out to the owner.

In Colorado, where towing protections have been bolstered in the last year, a possessory lien is in place, capping the cost at 15% of total fees, and a payment plan to pay the tower back overtime. In Vermont, there is no provision to protect consumers from having to pay compiled fees upfront, and delaying the time in which they can retrieve their vehicle -- often resulting in higher and higher fee amounts.

VT Legal Aid and the parallel justice commission pointed to this concern when towing from hospital lots. Patients undergoing an emergency who park their car in an emergency lot can be towed, and have faced compounded storage fees upon discharge from the hospital.

Without clear rates, or methods of recourse to dispute these charges, consumers are left with high fees and few options.

In current VT law, “reasonable fees” are the basis for pricing on storage and towing. We find this is too vague, and results in unequal charges across similar circumstances. In order to standardize, we should align

with other states by setting rates - which is negotiable based on the towers' profit concerns - and require that those set rates be displayed at the tower's place of business to maintain transparency with consumers.

Another issue with non-consensual tow is tow patrolling. In 14 states, towing companies are strictly not allowed to patrol or scan for illegally parked cars, according to the PIRG report.

Tow patrolling allows companies to scan for vehicles that are illegally parked, or have multiple tickets on record. This justifies companies in towing vehicles that have not been reported specifically by private property owners or law enforcement. Constituents have reported leaving their car parked outside of a local shop, and towers hooking up the vehicle before they even walked out. On private property, towers scan lots looking for vehicles without tags and tow them back to lots for violating tag requirements. While patrols themselves are authorized in Vermont, the individual tows are often not. This results in a confusion of enforcement, and another perverse incentive for towers to remove vehicles and later collect profit off of removal - even if the reason for the tow is questionable.

Very few states including Vermont have a law banning kick backs given by towers to spotters.

the second concern we aim to address:

2.) The lack of accountability and enforcement of current law

Currently, incidental damage to vehicles in the process of a tow is not protected. Several consumers have pointed out that some damage was done to their car in the process of a tow, and because they lacked proof that the tower caused the damage, they have no recourse to fund the repairs, other than pulling out of their own pockets.

Currently at least 23 states require towers to reimburse consumers if they do damage to the car or property.

Vermont towers take no responsibility for damage or theft.

Ive had former employees.

Florida's laws made tow truck companies liable for any damages negligently caused to the vehicle. If someone's car is towed out of compliance with the statute, they are entitled to damages and can later recover their attorney fees and other related costs.

In addition, five states have photo requirements both to prove the circumstance for the tow was justified, and to push the towers to prove they did not negligently cause damage to a vehicle.

Over and over we have heard about damages done to cars. A constituent found the suspension arms in their car were broken, resulting in \$2,000 worth of repairs.

Photos help to justify the validity of the tow as well. As

A few others saw their vehicles break down soon after leaving the tow yard, to find they had massive repair issues immediately after being towed.

One consumer responded to the question of whether any damage was done to their vehicle with the following: "Spillanes broke a wheel bearing in the process of towing the car. They did not refute this; however they were not responsible for the repair because they said the bearing was going to fail soon anyways. They offered to tow the car to a mechanic (for a fee!) or to do the repair in-house using a used part. It was the best financial option, so I took the discount repair from Spillanes. BUT I had to pay for another 3 days of impound fees because that's how



long it took to repair!” - this example shows how the issues themselves intersect. These consumers are exploited without any recourse to help them.

Other states have systems set up to help consumers more effectively. In New Mexico, one of the higher-rated states for towing, towing complaints are overseen by consumer relations division of the Public Regulation Commission. In Missouri, it's overseen by the department of revenue, and people can easily lodge complaints with the State highway Patrol Motor Vehicle Division. Accountability is most successful where systems are set up for lodging and addressing complaints. In Vermont, we use CAP through the AG office, which accepts a variety of complaints related to consumers. Without photo requirements, it's often on consumers to prove a tow did damage retrospectively, putting them at a disadvantage when they don't know their car is going to be towed in the first place.

In very few states is all the burden placed on the DMV. We want to take that burden off and find a way to address consumer complaints on this issue more effectively - as

we know cars hold a special importance for vermonters who live far from where they work.

Short of the AG's office or going to small claim's court or the better business bureau, there is no place to try and recover damages.

One constituent whose car was towed from their own driveway in 2013 sent a letter to the Burlington City Attorney to dispute tow charges, laid out their concern, and provided evidence that their vehicle was towed off-site and left with a door ajar and personal items missing. The letter was left with no response. (barbara, you can find that [here](#)).

Without any real ability to challenge these claims, and no provisions giving consumers the expressed capability to bring these claims to court, or provisions requiring the tower document what they do with your vehicle, Vermonters are left with few options but to eat the cost - something many don't have the liberty to do, and may risk losing their vehicles to the abandoned vehicle provision in the process.

- no real ability to challenge fees in court, fees charged without the owner's knowledge, etc.

i.) Examples, examples, examples

The rationale, these cars are barely worth anything and hardly pay for the towing and storage charges.

While that may be true in some cases, let's remember that for most Vermonters, their car is likely their most expensive possession, second only to their home, if they are lucky enough to own a home.

Their car is their livelihood, their way to get to work, to access services and medical care, groceries, etc.

This brings me to the second issue that needs to be addressed, While current VT law says: .....reasonable towing charge.

Non consensual towing and storage fees are pricey and very often not reasonable, so much so, that often people must forfeit their cars because they cannot afford to pay these fees to collect their vehicle.

These vehicles are then sold and the tower again keeps 100 percent of the proceeds and the contents.

In the information we have gathered and what we learned from the AG's consumer division, over and over the issue ends up being

lost possessions and damage to the car, Currently, towers almost always state that they are not responsible for loss of items in a car or damage.

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have had former employees lose computers, cell phones, and other possessions that they had in their car despite the car being in chain of command.

In Vermont, we have no protection from towers "trolling" or predatory tows, cars being towed without a complaint being issued, despite what Vermont law currently says.

And there are such great financial incentives to do this, given the lack of regulation allowing towers to charge whatever they wish for a non municipal tow and storage, with the possibility of gaining access to the car and its

contents with each tow. especially when cars are towed from students or others who cannot afford the bill.

What have other states done to address these issues?

The best ways to address these issues are:

Change the law of who gets the proceeds

Assure law enforcement's involvement in authorizing tows

Require photos

Regulate the price that can be charged

Eliminate liens and or allow people to have payment plans like Co does

Towing companies in Vermont are also permitted to seek the title of vehicles deemed abandoned, including the personal belongings inside the vehicle within 28 days of possessing it. With no restrictions on storage fees, some have lost their vehicles to "abandonment tows," and faced sky high prices upon attempting to retrieve the vehicle, or personal belongings (like laptops, chargers, etc.) from the car.

In 2019 and 2020, there were 440 title transfers in Chittenden County from drivers to tow companies as approved by the DMV, in the same period there were 72 such transfers in Windham County, according to the Vermont Department of Motor Vehicles. These problems amount to clear accountability concerns for towing companies, and place undue burden on consumers.

### Bill Solutions

H.143 would require photo evidence of parking violations, access to personal belongings prior to retrieval, institution of drop fees set at \$15, low-cost access to belongings outside hours of operation, inclusion of payment methods aside from cash, invoice requirements, maximum fees set at \$3.50 per/mile for private tows, set charges for storage only after the vehicle owner has been notified, and more.

Passing this bill is more than just saving consumers money on their average tow. It's allowing for better regulatory mechanisms and trust. Dissatisfaction with towing companies is high and confusion is widespread. Better regulation could reduce the likelihood of

predatory practices in towing and increase the legitimacy of towing as a law enforcement mechanism, used to facilitate public safety and road efficiency rather than seek out and punish small violations.