

## **Pennsylvania Collision Trade Guild – Rebuttal**

From: Stephen Behrntd, Director Pennsylvania Collision Trade Guild

**PCTG Rebuttal is highlighted in yellow and marked with >>>**

To: The Honorable Members of the House of Representatives

From: Samuel R. Marshall and Jonathan C. Greer

Re: HB 2041 – reasonable towing standards – what the bill does and doesn't do

**>>> Re: HB 2041 – Unreasonable Search and Seizure - Legalized wreck chasers**

Over the past few days, opponents of the bill, mainly some auto repair shops and tow operators, have raised a number of problems with it. If the problems they've raised were actually in the bill, we'd understand their concerns. All we can ask is that you read the bill itself to determine whether it is a fair protection for consumers.

**>>> Mr. Marshall please understand the Pennsylvania Collision Trade Guild is a consumer oriented organization. PCTG works hard to protect our consumers and for those Representatives who are not aware of our goals and what our organization stands for please go to [www.pctg.org](http://www.pctg.org) and read about us and read our pro-consumer efforts. We also ask our state legislators to read HB 2041, which originally was written to bring Standards to the Towing Industry in Pa. But has somehow found itself in the hands of the insurance industry where the actual business of towing and automobiles is lost within language that only benefits the insurance industry.**

It is easy to say "insurers want this so it must be bad for consumers." Easy, but not true here: The AAA and the Attorney General support this bill as is because it is good for consumers. Yes, those consumers are often our policyholders, so we benefit to the extent they do and we also support it.

**>>> First let us recognize AAA is an insurance company subsidized motor club and we believe will participate in the legalized wreck chasing part of this proposed legislation. Make no doubt about it, we believe AAA has every intention of directing their customers into their Direct Repair Keystone Insurance Company programs every chance they get. Of course AAA likes the BILL. As far as the**

Attorney General's support? Our guess is the AG did not realize the majority of vehicles transported in Pennsylvania are towed to mechanical garages for general repairs and are not insurance related. The typical automobile breakdown, which accounts for approximately 60-70% of towed vehicles in the Commonwealth, will now be subjected to this newly proposed law. Does Mr. Marshall ask us to believe the Attorney General realized the effects HB 2041 will have on the overall transportation business in Pa.? Does anyone believe our Attorney General would permit a tower to illegally search a vehicle owner's private property? We do not believe the Attorney General's office recognized HB 2041 opened the door for legalized wreck chasing.

This is a simple, modest and common sense bill (and a short one). It requires tow operators to do (and not do) the following:

- Tell consumers the fees for towing and storage;
- Tell consumers where the car is towed;

>>> PCTG has no problem with the consumer knowing the cost for services rendered. "Tell consumers where the car is towed;" Not as simple as it sounds especially when towers are required to search the consumer's vehicle for pertinent contact information on behalf of the insurance company. This is where we believe the unreasonable search prior to the seizure occurs.

- Don't make getting the car fixed at a particular place a condition of being towed (that's the real "steering" and "wreck chasing");

>>> We believe the "real steering" belongs to insurance companies who in our opinion break the laws daily to coerce unaware consumers into their DRP repair shops. We believe HB 2041 is just what these companies need to gain nonconsensual access to a damaged vehicle without the car owner's knowledge.

- Release the car to the owner (or – only with the owner's consent - the car's insurer or other third party) upon payment;

>>> What's up with the car's insurer or other third party language? Does this permit the insurers to take over control of the property? We believe "the car's insurer" or other party should be removed to protect the owner of the property

>>> The House Bill's definition states "regardless of whether the owner or vehicle operator consents" §2 – Definitions – Towing. Yes, the word REGARDLESS is spelled out in HB 2041.

- Accept credit cards from consumers (this shouldn't be a cash-only transaction);

>>> What about a mutually agreed upon form of payment? Have we forgotten that

credit card companies charge for transactions and the service provider is the expected to absorb the cost.

- Allow reasonable access to the car once towed – and don't charge for days when you don't allow access as required by existing laws.

>>> What about the occasional vehicle owner who does not want the insurance company to inspect the vehicle? It is the tower's position to allow a nonconsensual inspection? The consumer should have the final say.

Here's what it doesn't do, despite what you may have heard:

- It doesn't allow insurers to take cars off towers' lots without the owner's consent;

>>> Contrary to Mr. Marshall's comments – The definition section within the state's legislation enables lawmakers to interpret the full intent of the law. Here is HB 2041 definition for Towing under Section 2.: "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 We read regardless of "*whether the owner or vehicle operator consents*" ... perhaps Mr. Marshall skipped over this section of HB 2041?

- It doesn't take away a consumer's control of where his car goes or where it gets repaired (the "insurer steering" complaint some repair shops raise);

>>> We beg to differ. We believe HB 2041 provides the insurance company total control over the vehicle.

- It doesn't mean the tower/repair shop can't do the repairs;

>>> Cannot do the repairs if the vehicle is removed by the insurance company

- It doesn't allow for "searches and seizures" of towed cars;

>>> We believe it is exactly what HB 2041 will provide for the insurance company.

- It doesn't give insurers some new or confidential information;

>>> We believe HB 2041 instructs towers to illegally search through the vehicle owner's property for information that helps the insurer take possession of the owner's vehicle. We believe this is unreasonable search and seizure.

- It doesn't pre-empt local ordinances not in conflict with it – but it does ensure that all PA consumers get at least these protections.

>>> We believe HB 2041 is a violation of the 4<sup>th</sup> and 14<sup>th</sup> Amendments of the United States. We believe voting for this proposed legislation is Un-Constitutional.

Again, please read the bill. We believe it is fair, as do the AAA and Attorney General. We believe the objections you've been hearing aren't so much overstated as unfounded – because they aren't in the bill.

>>> Pardon us Mr. Marshall, if our concerns are so unfounded why have there be no public hearings on this proposed legislation on the eastern side of the state? Tell us why the one hearing scheduled in Ambler Pa. was canceled once PCTG asked to testify and the Bill was quickly voted out of the House Insurance Committee? Tell us why the original sponsor of the Bill, the Pennsylvania Towing Association has denounced HB 2041 and is now in opposition?