

March 8, 2021

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Co-Chairs, Co-Vice Chairs and Members of the Committee
Joint Committee on Transportation
Oregon State Capitol
Salem, Oregon

RE: Senate Bill 300, establishing State Board of Towing

Dear Co-Chairs, Co-Vice Chairs and Members of the Committee,

I urge your support for Senate Bill 300. There has been a long-standing need for a venue for Oregonians who believe that their vehicle has been wrongfully towed to seek redress other than through Small Claims court, and laws and statutes on the books to protect the public from involuntary towing (Private Property Impound or PPI) are often loosely enforced or not at all.

For example, under **ORS 646.608** Unlawful Trade Practices:

(1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:

(ddd) Violates **ORS 98.854** (Prohibitions placed on tower)

ORS 98.854 Prohibitions placed on tower

(1) A tower may not:

(h) Provide consideration to obtain the privilege of towing motor vehicles from a parking facility. For the purposes of this paragraph, the provision of:

(A) Signs by a tower under ORS 98.862 ... does not constitute consideration.

(B) Goods or services by a tower below fair market value constitutes consideration.

Despite both the ORS and City statute, PPI towers in Portland developed a system where they provide their goods and services to certain property owners for free in exchange for the privilege of towing motor vehicles from the property.

I first became involved with predatory towing practices in Oregon during the 2005 legislative session while I was serving as Senator Avel Gordly's legislative staff.

The issue came to my attention on a Saturday morning when I looked out my window and saw that both of my cars were gone. They had been parked where I had been parking for the past three years, in my driveway behind my house on my own property.

Two years prior, a developer had built two triplexes on a flag lot behind my house and a small parking lot to serve them. I own an easement to travel through their lot to access my driveway. The triplexes are owned by Hacienda CDC.

Just the day before, I had noticed a new sign in their driveway, stating that a parking permit was now required to park in their lot. However, I do not park in their lot.

I called the offsite apartment manager, but no one answered. I called the number on the sign, which belonged to Retriever Towing, and they confirmed that they had both of my cars. They were demanding a total of \$ 399 to release them, or I could wait until Monday if I wanted to talk to a manager, but that there would be additional charges. I called the property owner's board president, but she would not get involved. She told me to either wait until Monday or call the police.

I called the police. A motorcycle officer responded. I showed him my plat map to verify my property boundaries and he offered to go over to the tow yard and see if they would release the cars. He called me from the yard to tell me that they would not do so. The incident had cost the public the value of more than an hour of a police officer's time.

Eventually, later in the day, Retriever Towing agreed to release the cars without charge, but no one was offering an apology or admitting that anyone had trespassed on my property. The property owner, property manager and their towing company all denied responsibility for having towed my cars.

The story did not end with the return of my cars but grew more complex when I saw the invoices and learned how and why the towers treated the two cars the way that they did.

Retriever Towing had dispatched two trucks in the middle of the night to tow my cars from the same place, under identical circumstances, and at the same time, but the invoices were different. No line item matched nor did the totals, yet it was an apples-to-apples comparison.

Retriever towed one car to its lot at NE 143rd and Sandy, less than two miles from my property. The invoice for that car listed three charges: Tow Fee, City Data Services Fee and City Service Fee, totaling \$ 177.00.

Retriever towed the other car clear across town to its lot at 1551 NW Quimby more than six miles away, and the invoice for that car listed six charges: Towing Fee, Mileage Fee, Dolly Fee, Fuel Fee, Photo Fee and Dispatch Fee, totaling \$ 189.00.

Retriever insisted that both invoices were correct. It was at this point that I began researching Portland city statutes and the ORS on towing laws and practices, and learned that there was a line in the ORS that barred municipalities from regulating private property impound (PPI) towing if the parking facility held fewer than ten cars, and it was under this authority that Retriever towed my car to NW 15th and Quimby and charged me for mileage, the dolly and the fuel they say they burned, etc.

Retriever towed the other car to NE 143rd and Sandy under the invoice where Portland City statutes apply, and those statutes at the time forbade charging for mileage, dollies, fuel, etc.

If they had only towed one of my cars and I had seen only one invoice, it is possible that Senator Gordly's office would not have gone deeper into predatory towing issues when we did, however the story that the invoices told, the fact that what a tower could demand and for what "service" depended on the size of the parking facility indicated that there was a systemic problem in law, and the fact that drivers from both Retriever Towing and its successor Sergeant's Towing harassed and intimidated the residents of the two triplexes repeatedly over time brought other examples of predatory practices, some of which I was a direct witness, plus the fact that both tow drivers and tow lot employees routinely displayed hostile and disdainful attitudes to vehicle owners all added up to a need to take action.

Senator Gordly tasked me with researching the issue during the interim and we introduced several legislative concepts for the 2007 session. Several of Senator Gordly's concepts were added to the Attorney General's predatory towing bill, SB 116, and the others became SB 431, which passed on unanimous votes in both House and Senate. I led Senator Gordly's workgroup on SB 431 and participated in the Attorney General's workgroup on SB 116. The A.G.'s bill was looking at predatory practices taking place after a car is towed, including auction houses, finance companies, chop shops. etc., while SB 431 focused on (consumer) protections in multi-family housing and related circumstances.

Among her concerns were how PPI towers were treating vulnerable populations living in low-income multifamily housing, such as my neighbors, who were all immigrants with limited English skills and unfamiliar with how things are done here. The triplex parking lot became a Petri dish uncovering predatory practices. If it was happening here, it was likely happening elsewhere. Some residents were unable to pay the fees towers were demanding and ended up losing their vehicles to the towers.

Another concern was the burden PPI disputes were placing on law enforcement, and another was the fact that tow employees are paid on a commission basis and encouraged to be aggressive in their work.

The principles that guided our work in 2007 were fair notice, the safety of vehicle owners and their families, and specifically to end the private property impound system as it is run in Portland and elsewhere, where towers provide illegal consideration in the

form of free goods and services to certain of their customers in exchange for the privilege of towing vehicles from their properties in open violations of the ORS, a provision that we moved into the Unfair Trade Practices statute in 2007 that is yet to be enforced.

The City of Portland has taken the position that, since all of the patrol towers have colluded to provide goods and services for free to apartment owners and managers, the fair market value of the towing in those situations is zero.

As for fair notice, we required in 2007 that signs be posted at every entrance to a patrolled property. More than ten years later, it is easy to spot patrolled properties without proper signage and the City of Portland allows the patrol towers to add in a hidden fee of \$ 20 dollars per tow into perpetuity to compensate the tower for the cost of the signs, which may or may not exist.

We required that a tower provides a printed rate sheet stating the prices the tower charges for goods and services before the vehicle is towed, but that is not happening in actual practice. Towers only provide information about what they unilaterally deem to be “applicable”, which is not the intent of the law.

Fair notice to apartment residents would mean that – prior to signing the rental agreement – the prospective tenant is fully informed about the risks and costs of tenancy.

The prospective tenant should be provided with the information that the tenant would need to know in the event that a patrol tower seized the vehicle, including the exact amount of cash the tenant would have to keep on hand to satisfy the tow truck driver on site and on demand, the distance to and location of the facility where the vehicle will be towed, what the cost will be if the vehicle is taken there, and the like. These costs are known to the property owners and managers and to the towing companies but informing tenants in advance could cut down the revenue stream.

Apartment tenants may be presented with rental agreements that require them to sign away their rights regarding their vehicles as a condition of occupancy.

These and other issues speak to the need for an Oregon Tow Board, and I urge the Committee to pass Senate Bill 300 to the floor with a Do Pass recommendation.

Very Sincerely Yours,

s/Sean Aaron Cruz

Sean Aaron Cruz