

# Insurance Institute of Kentucky

## 2021 Session Agenda Items

1. Towing Abuses – NCOIL Model Act
2. Require Hands-free Cell Phone Usage

### Towing Bill – Based on NCOIL Model Act

#### **Background**

In 2020, IIK was part of a coalition of insurance interests working for the passage of [SB 211](#) which was based on the [NCOIL Model Towing Act](#). Among the abuses that were addressed by SB 211 and the model were:

- Lack of rate transparency
- Restrictions on insurer access to vehicles
- High gate fees
- High storage fees due to law enforcement holds, restricted access to the vehicle, and difficulty in contacting the storage facility.

We have a revised bill draft that will be filed for the 2021 session, and we are currently discussing it with other stakeholder groups to see if we can come to agreement on its provisions before the session.

#### **Key provisions of the Draft Bill**

- Sections 1 and 2: Definitions, including the following:
  - Towing and towing companies operating under regulations currently in place. No new regulations are created. Local governments, auto clubs, repossession companies, and others are excluded.
  - Emergency, private property, and seizure towing and recovery services involved in towing.
  - Lienholder and owner of vehicles.
- Section 3: Emergency Towing
  - Requires a photograph, video, or other documentation of vehicle damages prior to the vehicle being removed from the tow truck.
  - Prohibits towers from stopping at a scene unsolicited.
  - Requires that towers secure the vehicle to prevent further damage.
- Section 4: Private Property Towing:
  - Permits tow-away zones on private property. Vehicle owners arriving on the scene before the tow may pay 50% of the regular tow rate to secure release of the vehicle.
  - Requires photographic or other evidence of vehicle condition before the tow.
  - Towed vehicles must be taken to a storage facility within 25 miles.
  - Notice of the tow must be given to law enforcement within 2 hours.

- Section 5: Emergency Towing and Storage Rates
  - Requires that a rate sheet must be provided to the owner if present at the scene of a disabled vehicle as well as posted at the towing company's business. Any charges in excess of the rate sheet will be deemed unreasonable and excessive (not including private contract tows).
  - Any invoices must be provided within 24 hours of request from an insurance company.
- Section 6: Storage of Towed Vehicles
  - Notice must be provided within ten days to an owner and lienholder of towed vehicles.
  - KYTC is required to provide owner and lienholder information upon request.
- Section 7: Release of vehicles
  - Upon payment of all costs, a vehicle must be released to the owner, lienholder, or insurance company representative.
  - Physical inspection of the vehicle by the owner, lienholder, or insurance company representative shall not be refused.
  - Storage facilities are required to be accessible during posted business hours and shall provide a phone number for calls during and outside business hours.
- Section 8: Excessive Fees Prohibited
  - Excessive and unfairly discriminatory fees are prohibited.
  - Services are required to be recorded on an invoice which shall be retained for two years.
- Section 9: Towing Companies
  - May not falsely represent that they are approved by law enforcement.
  - May not require the preauthorization of more than 24 hours of storage before a tow.
  - May not tow a vehicle to a repair facility without proper authorization.
  - Upon payment of all costs incurred against a motor vehicle that is towed and stored, the vehicle must be released to a representative of the responsible insurance company; and
- Sections 10-12: Mostly conforming changes
  - Does include provisions in Section 11 regarding storage yards obtaining title to vehicles abandoned by the owners.

# Require Hands-free Cell Phone Use

## **Background**

IHK Members have long supported highway safety measures. Due to the growing problem of distracted driving and its impact on claims, a consensus among members has emerged that IHK should take an active role in the legislation.

## **What's Going on Elsewhere?**

- 24 states plus D.C. have hands free laws, including Tennessee, Indiana, West Virginia, Virginia, and Illinois.
- 9 states have passed laws since 2018.
- Another 19 states considered hands free legislation in 2020 before the pandemic hit.
- 96 times more wireless data traffic was used in 2019 than was used in 2010.

## **NCOIL Model Act**

The National Conference of Insurance Legislators (NCOIL) is currently working on a model act dealing with distracted driving. The model act would require that any cell phone usage or the operation of a similar device must be done in a hands-free manner. This act was discussed at the September 24 NCOIL meeting and is scheduled to be discussed again in December when it is possible that a final version of the bill may be passed.

The provisions of the current draft of the model are:

- Section 1: Definitions
  - Stand-alone electronic device
  - Utility service
  - Wireless telecommunications device
  - Voice-operated or hands-free feature or function
- Section 2: Operation
  - Prohibits use of wireless telecommunication device by school bus drivers when loading or unloading passengers or when in motion.
  - Drivers required to use due care to avoid distractions.
  - Prohibits the following:
    - Physically holding a stand-alone electronic device or wireless telecommunications device.
    - Writing, sending, or reading text messages.
    - Making phone calls or sending voice messages unless using a voice-operated or hands-free feature or function.
    - Entering text or numbers into applications.
    - Watching videos or participating in a video conference.
  - Commercial operators are limited on reaching for devices and may not use more than a single button to initiate or terminate calls.
- Section 3: Penalties
  - Stepped up penalties for repeated offenses
  - First-time offenders may provide proof of the purchase of compliant devices to mitigate the charge.
  - Enhances speeding penalties when distracted.
  - Criminal penalties for physical damage or injury caused by distracted driving.
  - Exceptions provided for law enforcement and others acting within the scope of their employment.