

# 2004 SESSION

LEGISLATION NOT PREPARED BY DLS  
ENGROSSED

049830832

## SENATE BILL NO. 418

Senate Amendments in [ ] — February 17, 2004

A BILL to amend and reenact § 46.2-1209 of the Code of Virginia, relating to unattended or immobile vehicles, generally; disposition of recovered stolen vehicles.

Patron Prior to Engrossment—Senator Wagner

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-1209 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1209. Unattended or immobile vehicles, generally.

No person shall leave any motor vehicle, trailer, semitrailer, or part or combination thereof unattended on or adjacent to any roadway if it constitutes a hazard in the use of the highway. No person shall leave any unattended motor vehicle, trailer, semitrailer, or part or combination thereof longer than twenty-four hours on or adjacent to any roadway outside the corporate limits of any city or town, or on an interstate highway or limited access highway, expressway, or parkway inside the corporate limits of any city or town. Any law-enforcement officer may remove it or have it removed to a storage area for safekeeping and shall report the removal to the Department and to the owner of the motor vehicle, trailer, semitrailer, or combination as promptly as possible. Before obtaining possession of the motor vehicle, trailer, semitrailer, or combination, its owner shall pay to the parties entitled thereto all costs incidental to its removal or storage. In any violation of this section the owner of such motor vehicle, trailer, semitrailer or part or combination of a motor vehicle, trailer, or semitrailer, shall be presumed to be the person committing the violation; however, this presumption shall be rebuttable by competent evidence. Where it is shown to the satisfaction of the court that the motor vehicle, trailer, semitrailer, or part or combination of a motor vehicle, trailer, or semitrailer was stolen or illegally used by a person other than the owner without his authorization, express or implied, it shall be forthwith returned to its owner who shall be relieved of the payment of any costs. [ ~~The owner's request for possession may be made to any court or magistrate wherever venue is permissible under code § 8.01-262 on an expedited basis with the sole issues being the ownership and theft status of the vehicle. In a contested case the prevailing party shall be entitled to recover costs, such reasonable attorneys fees and loss of diminished value during the pendency of possession, as the court may award. If the owner produces (i) a valid motor vehicle registration and (ii) a copy of the stolen car report to the employees of the facility wherein the car is being stored, and possession of the vehicle is not returned forthwith to the owner, without payment of any costs, then the owner shall be entitled to recover his costs including such reasonable attorney fees and loss of diminished value during the pendency of the storage facility's possession of the vehicle, as the court may award in any action brought by the owner against the storage facility to recover possession of the vehicle. ] [ If the title of ownership changes during the term of storage which resulted after removal and towing, it shall be the responsibility of that new owner to file with the court appropriate requests for reimbursement of costs associated with the removal and storage. This filing shall be done on behalf of and for payment to the entity responsible for the removal and storage of the motor vehicle, trailer or semi-trailer at such time that possession is granted. ] In any case in which the identity of the violator cannot be determined, or where it is found by a court that this section was not violated, the costs of the removal and storage of the vehicle shall be paid out of the state treasury from the appropriation for criminal charges. If any person convicted of violating this section fails or refuses to pay these costs or if the identity or whereabouts of the owner is unknown and unascertainable after a diligent search has been made or after notice to the owner at his address as indicated by the records of the Department and to the holder of any lien of record with the Department, against the motor vehicle, trailer, semitrailer, or combination, the Commissioner may, after thirty days and after having the value of such motor vehicle, trailer, semitrailer, or combination determined by three disinterested dealers dispose of it by public or private sale. The proceeds from the sale shall be forthwith paid by him into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department in carrying out the duties required by this section and to reimburse the owner of such motor vehicle, trailer, semitrailer, or combination as hereafter provided in this section.~~

If after the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination the ownership of a motor vehicle, trailer, or semitrailer at the time of its removal is established satisfactorily to the Commissioner by the person claiming its ownership, the Commissioner shall pay him so much of the proceeds from the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination as remains after paying the costs of removal, storage, investigation of ownership, appraisal, and sale.

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