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HOUSE BILL NO. 1368

Offered January 22, 2010

A BILL to amend and reenact § 46.2-1209 of the Code of Virginia, relating to unattended vehicles; engine idling.

Patron—LeMunyon

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 immobilized or unattended on or adjacent to any roadway if it constitutes a hazard in the use of the highway. No person shall leave any immobilized or 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 or successor in interest to ownership 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. *Nothing in this section, however, shall be construed to prohibit the idling of the engine of an unattended motor vehicle on any residential street maintained by the Commonwealth, provided the idling of the engine of such vehicle is for the purpose of warming or cooling the interior of the vehicle.*

When a 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 of the vehicle at the time of the theft or used without his authorization, express or implied, it shall be forthwith returned to its owner or the owner's successor in interest, other than an insurance company, who shall be relieved of the payment of any costs charged by the towing operator or storage facility for its daily storage, towing, and recovery fees, provided that the owner removes the vehicle within five business days following the owner's receipt of written notice by certified mail, return receipt requested. If the vehicle's owner fails to remove the vehicle within five days of receipt of such notice, the vehicle shall be released to the owner upon payment of the full costs of storage, towing, and recovery fees, and the owner shall then be entitled to seek reimbursement from the state treasury from the appropriation for criminal charges. The owner shall produce a valid motor vehicle registration or other proof of ownership to the employees of the facility wherein the motor vehicle, trailer, semitrailer or part or combination thereof is being stored. 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 daily storage, towing, and recovery fees of the vehicle shall be reimbursed to the towing and recovery operator and paid out of the state treasury from the appropriation for criminal charges. Payment from the treasury shall be made no later than 45 days from the application for such payment. In all cases where an insurance company is the stolen vehicle owner's successor in interest, the motor vehicle, trailer, semitrailer, or part or combination thereof shall be released to the insurance company upon presentation of a valid motor vehicle registration and payment by the insurance company to the towing operator or storage facility for its daily storage, towing, and recovery fees. The insurance company shall be entitled to seek reimbursement for the costs of the daily storage, towing, and recovery fees through 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

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59 combination as hereafter provided in this section.

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