

19101660D

## SENATE BILL NO. 1432

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend and reenact §§ 46.2-1216 and 46.2-1231 of the Code of Virginia, relating to immobilization of vehicles.*

Patron—Obenshain

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:****1. That §§ 46.2-1216 and 46.2-1231 of the Code of Virginia are amended and reenacted as follows:****§ 46.2-1216. Removal or immobilization of motor vehicles, vehicles, and trailers against which there are outstanding parking violations; ordinances.**

The governing body of any county, city, or town may provide by ordinance that any motor vehicle, vehicle, or trailer parked on the public highways or public grounds against which there are three or more unpaid or otherwise unsettled parking violation notices may be removed to a place within such county, city, or town or in an adjacent locality designated by the chief law-enforcement officer for the temporary storage of the motor vehicle, vehicle, or trailer, or the motor vehicle, vehicle, or trailer may be immobilized in a manner ~~which~~ *that* will prevent its removal or *lawful* operation except by authorized law-enforcement personnel. The governing body of Fairfax County, and any town adjacent to such county, Loudoun County, Prince William County, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park, and Virginia Beach may also provide by ordinance that whenever any motor vehicle, vehicle, or trailer against which there are three or more outstanding unpaid or otherwise unsettled parking violation notices is found parked upon private property, including privately owned streets and roads, the motor vehicle, vehicle, or trailer may, by towing or otherwise, be removed or immobilized in the manner provided above; provided that no motor vehicle, vehicle, or trailer may be removed or immobilized from property which is owned or occupied as a single family residence. Any such ordinance shall further provide that no such motor vehicle, vehicle, or trailer parked on private property may be removed or immobilized unless written authorization to enforce this section has been given by the owner of the property or an association of owners formed pursuant to Chapter 4.1 (§ 55-79.1 et seq.) or Chapter 4.2 (§ 55-79.39 et seq.) of Title 55 and that the local governing body has provided written assurance to the owner of the property that he will be held harmless from all loss, damage, or expense, including costs and attorney fees, that may be incurred as a result of the towing or otherwise of any motor vehicle, vehicle, or trailer pursuant to this section. The ordinance shall provide that the removal or immobilization of the motor vehicle, vehicle, or trailer shall be by or under the direction of, an officer or employee of the police department or sheriff's office.

Any ordinance shall provide that it shall be the duty of the law-enforcement personnel removing or immobilizing the motor vehicle, vehicle, or trailer or under whose direction such motor vehicle, vehicle, or trailer is removed or immobilized, to inform as soon as practicable the owner of the removed or immobilized motor vehicle, vehicle, or trailer of the nature and circumstances of the prior unsettled parking violation notices for which the motor vehicle, vehicle, or trailer was removed or immobilized. In any case involving immobilization of a motor vehicle, vehicle, or trailer pursuant to this section, there shall be placed on the motor vehicle, vehicle, or trailer, in a conspicuous manner, a notice warning that the motor vehicle, vehicle, or trailer has been immobilized and that any attempt to move the motor vehicle, vehicle, or trailer might damage it.

Any ordinance shall provide that the owner of an immobilized motor vehicle, vehicle, or trailer, or other person acting on his behalf, shall be allowed at least 24 hours from the time of immobilization to repossess or secure the release of the motor vehicle, vehicle, or trailer. Failure to repossess or secure the release of the motor vehicle, vehicle, or trailer within that time period may result in the removal of the motor vehicle, vehicle, or trailer to a storage area for safekeeping under the direction of law-enforcement personnel.

Any ordinance shall provide that the owner of the removed or immobilized motor vehicle, vehicle, or trailer or other person acting on his behalf, shall be permitted to repossess or to secure the release of the motor vehicle, vehicle, or trailer by payment of the outstanding parking violation notices for which the motor vehicle, vehicle, or trailer was removed or immobilized and by payment of all costs incidental to the immobilization, removal, and storage of the motor vehicle, vehicle, or trailer and the efforts to locate the owner of the motor vehicle, vehicle, or trailer. Should the owner fail or refuse to pay such fines and costs, or should the identity or whereabouts of the owner be unknown and unascertainable, the ordinance

INTRODUCED

SB1432

59 may provide for the sale of the motor vehicle, vehicle, or trailer in accordance with the procedures set  
60 forth in § 46.2-1213.

61 **§ 46.2-1231. Ticketing, removal, or immobilization of trespassing vehicles by owner or operator**  
62 **of parking or other lot or building; charges.**

63 The owner, operator, or lessee of any parking lot, parking area, or parking space in a parking lot or  
64 area or any part of a parking lot or area, or of any other lot or building, including any county, city, or  
65 town, or authorized agent of the person having control of such premises may have any vehicle  
66 occupying the lot, area, space, or building without the permission of its owner, operator, lessee, or  
67 authorized agent of the one having the control of the premises, removed by towing or otherwise to a  
68 licensed garage for storage until called for by the owner or his agent if there are posted at all entrances  
69 to the parking lot or area signs clearly and conspicuously disclosing that such vehicle, if parked without  
70 permission, will be removed, towed, or immobilized. Such signs shall, at a minimum, include the  
71 nonemergency telephone number of the local law-enforcement agency or the telephone number of the  
72 responsible towing and recovery operator to contact for information related to the location of vehicles  
73 towed from that location. The requirements of this section relating to the posting of signs by an owner,  
74 operator, or lessee of any parking lot, parking area or space shall not apply to localities in which the  
75 local governing body has adopted an ordinance pursuant to § 46.2-1232.

76 Whenever a trespassing vehicle is removed or towed as permitted by this section, notice of this  
77 action shall forthwith be given by the tow truck operator to the State Police or the local  
78 law-enforcement agency of the jurisdiction from which the vehicle was towed. It shall be unlawful to  
79 fail to report such tow as required by this section and violation of the reporting requirement of this  
80 section shall constitute a traffic infraction punishable by a fine of not more than \$100. Such failure to  
81 report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle  
82 to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is  
83 removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee  
84 for the removal and storage.

85 All businesses engaged in towing vehicles without the consent of their owners shall prominently  
86 display (i) at their main place of business and (ii) at any other location where towed vehicles may be  
87 reclaimed a comprehensive list of all their fees for towing, recovery, and storage services, or the basis  
88 of such charges. This requirement to display a list of fees may also be satisfied by providing, when the  
89 towed vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the  
90 person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any  
91 motor vehicle owner whose vehicle is towed, recovered, or stored without his consent. At the time a  
92 vehicle owner or agent reclaims a towed vehicle, such towing and recovery operator, if located in  
93 Planning District 8, shall provide a written receipt that provides a telephone number or website available  
94 for customer complaints. A locality located wholly or partially in Planning District 8 may require  
95 additional information to be included on such receipt.

96 Notwithstanding the foregoing provisions of this section, if the owner or representative or agent of  
97 the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises  
98 before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or  
99 agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed \$25 or  
100 such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of  
101 towing.

102 In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee  
103 or authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to  
104 be immobilized by a boot or other device that prevents a vehicle from being moved by preventing a  
105 wheel from turning in a manner that prevents its removal or lawful operation, provided that the boot or  
106 other any device used to immobilize the trespassing vehicle does not damage the vehicle or wheel any  
107 part of the vehicle. The charge for the removal of any boot or device used to immobilize a trespassing  
108 vehicle shall not exceed \$25 or such other limit as the governing body of the county, city, or town may  
109 set by ordinance. In lieu of having the vehicle removed by towing or otherwise, or in lieu of causing the  
110 vehicle to be immobilized, the owner, operator, lessee or authorized agent of the premises on which the  
111 trespassing vehicle is parked may cause to have an authorized local government official or  
112 law-enforcement officer issue, on the premises, a notice of the violation of a parking ordinance or  
113 regulation created pursuant to § 46.2-1220 or 46.2-1221 to the registered owner of the vehicle.

114 This section shall not apply to police, fire, or public health vehicles or where a vehicle, because of a  
115 wreck or other emergency, is parked or left temporarily on the property of another. The governing body  
116 of every county, city, and town may by ordinance set limits on fees and charges provided for in this  
117 section.