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SENATE BILL NO. 1432

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation
on February 12, 2019)

(Patron Prior to Substitute—Senator Obenshain)

A BILL to amend and reenact §§ 46.2-1054, 46.2-1216 and 46.2-1231 of the Code of Virginia, relating to immobilization of vehicles.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1054, 46.2-1216 and 46.2-1231 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1054. Suspension of objects or alteration of vehicle so as to obstruct driver's view.

It shall be unlawful for any person (i) to drive a motor vehicle on a highway in the Commonwealth with any object or objects, other than a rear view mirror, sun visor, or other equipment of the motor vehicle approved by the Superintendent, suspended from any part of the motor vehicle in such a manner as to obstruct the driver's clear view of the highway through the windshield, the front side windows, or the rear window; or (ii) to alter a passenger-carrying vehicle in such a manner as to obstruct the driver's view through the windshield. However, this section shall not apply ~~(i)~~ (a) when the driver's clear view of the highway through the rear window is obstructed if such motor vehicle is equipped with a mirror on each side, so located as to reflect to the driver a view of the highway for at least 200 feet to the rear of such vehicle, ~~(ii)~~ (b) to safety devices installed on the windshields of vehicles owned by private waste haulers or local governments and used to transport solid waste, or ~~(iii)~~ (c) to bicycle racks installed on the front of any bus operated by any city, county, transit authority, or transit or transportation district. *The provisions of clause (ii) shall not apply to the lawful immobilization of vehicles pursuant to § 46.2-1216 or 46.2-1231.*

§ 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

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

65 Any ordinance shall provide that the owner of the removed or immobilized motor vehicle, vehicle, or
66 trailer or other person acting on his behalf, shall be permitted to repossess or to secure the release of the
67 motor vehicle, vehicle, or trailer by payment of the outstanding parking violation notices for which the
68 motor vehicle, vehicle, or trailer was removed or immobilized and by payment of all costs incidental to
69 the immobilization, removal, and storage of the motor vehicle, vehicle, or trailer and the efforts to locate
70 the owner of the motor vehicle, vehicle, or trailer. Should the owner fail or refuse to pay such fines and
71 costs, or should the identity or whereabouts of the owner be unknown and unascertainable, the ordinance
72 may provide for the sale of the motor vehicle, vehicle, or trailer in accordance with the procedures set
73 forth in § 46.2-1213.

74 **§ 46.2-1231. Ticketing, removal, or immobilization of trespassing vehicles by owner or operator**
75 **of parking or other lot or building; charges.**

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

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

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

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

115 In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee
116 or authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to
117 be immobilized by a boot or other device that prevents a vehicle from being moved by preventing a
118 wheel from turning in a manner that prevents its removal or lawful operation, provided that the boot or
119 other any device used to immobilize the trespassing vehicle does not damage the vehicle or wheel any
120 part of the vehicle. The charge for the removal of any boot or device used to immobilize a trespassing
121 vehicle shall not exceed \$25 or such other limit as the governing body of the county, city, or town may

122 set by ordinance. In lieu of having the vehicle removed by towing or otherwise, or in lieu of causing the
123 vehicle to be immobilized, the owner, operator, lessee or authorized agent of the premises on which the
124 trespassing vehicle is parked may cause to have an authorized local government official or
125 law-enforcement officer issue, on the premises, a notice of the violation of a parking ordinance or
126 regulation created pursuant to § 46.2-1220 or 46.2-1221 to the registered owner of the vehicle.
127 This section shall not apply to police, fire, or public health vehicles or where a vehicle, because of a
128 wreck or other emergency, is parked or left temporarily on the property of another. The governing body
129 of every county, city, and town may by ordinance set limits on fees and charges provided for in this
130 section.