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HOUSE BILL NO. 1126

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact §§ 46.2-1200 and 46.2-1209 of the Code of Virginia, relating to abandoned, unattended, or immobile vehicles; minimum weight.*

Patron—Davis

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1200 and 46.2-1209 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-1200. Definitions.

As used in this article:

"Abandoned motor vehicle" means a motor vehicle, trailer, or semitrailer that:

1. *Weights at least 75 pounds; and*

2. *(i) Is left unattended on public property for more than 48 hours in violation of a state law or local ordinance or;*

2. ~~Has~~ *(ii) has* remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or

3. ~~Is~~ *(iii) is* left unattended on the shoulder of a primary highway.

"Scrap metal processor" means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle removal certificate" means a transferable document issued by the Department for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

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

A. *The provisions of this article shall not apply to any motor vehicle, trailer, semitrailer, or part or combination thereof that weighs less than 75 pounds.*

B. 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 24 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 or other uniformed employee of the local law-enforcement agency who specifically is authorized to do so by the chief law-enforcement officer or his designee 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.

C. 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

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59 that this section was not violated, the costs of daily storage, towing, and recovery fees of the vehicle
60 shall be reimbursed to the towing and recovery operator and paid out of the state treasury from the
61 appropriation for criminal charges. Payment from the treasury shall be made no later than 45 days from
62 the application for such payment. In all cases where an insurance company is the stolen vehicle owner's
63 successor in interest, the motor vehicle, trailer, semitrailer, or part or combination thereof shall be
64 released to the insurance company upon presentation of a valid motor vehicle registration and payment
65 by the insurance company to the towing operator or storage facility for its daily storage, towing, and
66 recovery fees. The insurance company shall be entitled to seek reimbursement for the costs of the daily
67 storage, towing, and recovery fees through the state treasury from the appropriation for criminal charges.
68 If any person convicted of violating this section fails or refuses to pay these costs or if the identity or
69 whereabouts of the owner is unknown and unascertainable after a diligent search has been made or after
70 notice to the owner at his address as indicated by the records of the Department and to the holder of
71 any lien of record with the Department, against the motor vehicle, trailer, semitrailer, or combination,
72 the Commissioner may, after 30 days and after having the value of such motor vehicle, trailer,
73 semitrailer, or combination determined by three disinterested dealers dispose of it by public or private
74 sale. The proceeds from the sale shall be forthwith paid by him into the state treasury and shall be set
75 aside as a special fund to be used to meet the expenses of the Department in carrying out the duties
76 required by this section and to reimburse the owner of such motor vehicle, trailer, semitrailer, or
77 combination as hereafter provided in this section.

78 *D.* If after the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination the
79 ownership of a motor vehicle, trailer, or semitrailer at the time of its removal is established satisfactorily
80 to the Commissioner by the person claiming its ownership, the Commissioner shall pay him so much of
81 the proceeds from the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination
82 as remains after paying the costs of daily storage, towing, and recovery fees, investigation of ownership,
83 appraisal, and sale.