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SENATE BILL NO. 705

Offered January 21, 2022

A *BILL to amend and reenact §§ 2.2-517, 46.2-100, 46.2-118, 46.2-119, 46.2-644.01, 46.2-1212, and 46.2-1213 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-118.1, by adding in Chapter 1 of Title 46.2 a section numbered 46.2-120, and by adding a section numbered 46.2-1209.1, relating to vehicle towing.*

Patrons—Marsden and Ebbin

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-100, 46.2-118, 46.2-119, 46.2-644.01, 46.2-1212, and 46.2-1213 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-118.1, by adding in Chapter 1 of Title 46.2 a section numbered 46.2-120, and by adding a section numbered 46.2-1209.1 as follows:

§ 2.2-517. Division of Consumer Counsel created; duties.

A. There is created in the Department of Law a Division of Consumer Counsel (the Division) that shall represent the interests of the people as consumers.

B. The duties of the Division shall be to:

1. Appear before governmental commissions, agencies and departments, including the State Corporation Commission, to represent and be heard on behalf of consumers' interests, and investigate such matters relating to such appearance.

2. Make such studies related to enforcing consumer laws of the Commonwealth as deemed necessary to protect the interests of the consumer and recommend to the Governor and General Assembly the enactment of such legislation deemed necessary to promote and protect the interests of the people as consumers.

C. In addition, the Division shall:

1. Establish mechanisms by which to receive complaints and related inquiries from the Commonwealth's consumers involving violations or alleged violations of any law designed to protect the integrity of consumer transactions in the Commonwealth. Such mechanisms shall include establishing a statewide, toll-free telephone hotline to be administered by the Division; publicizing the existence of such hotline through public service announcements on television and radio and in newspapers and other media deemed necessary, convenient, or appropriate; and enhancing electronic communication with the Division through the Internet;

2. Establish and administer programs that facilitate resolution of complaints and related inquiries from the Commonwealth's consumers involving violations or alleged violations of any law designed to protect the integrity of consumer transactions in the Commonwealth. Such programs may utilize paid or unpaid personnel, law schools or other institutions of higher education, community dispute resolution centers, or any other private or public entity, including any local offices of consumer affairs established pursuant to § 15.2-963 that volunteer to participate in a program;

3. Promote consumer education in cooperation with the Department of Education and inform the public of policies, decisions, and legislation affecting consumers;

4. Serve as a central coordinating agency and clearinghouse for receiving and investigating complaints by the Commonwealth's consumers of illegal, fraudulent, deceptive or dangerous practices and referring appropriate complaints to the federal, state, and local departments or agencies charged with enforcement of consumer laws;

5. Maintain records of consumer complaints and their eventual disposition, which records shall be open for public inspection, provided that information disclosing the business interests of any person, trade secrets, or the names of customers shall be held confidential except to the extent that disclosure of such matters may be necessary for the enforcement of laws; and

6. Have the authority, in the same manner as provided in § 59.1-308.2, to inquire into consumer complaints regarding violations of § 46.2-1231 or 46.2-1233.1 involving businesses engaged in towing vehicles or to refer the complaint directly to the appropriate local enforcement officials.

D. In addition, the Division may inquire into consumer complaints involving towing and recovery operators and tow truck drivers regarding violations of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1.

E. The Division, in all investigations connected with enforcing consumer laws and appearances before governmental bodies shall, on behalf of the interests of the consumer, cooperate and coordinate

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59 its efforts with such commissions, agencies and departments in ensuring that any matters adversely
60 affecting the interests of the consumer are properly controlled and regulated. The appearance of a
61 representative of the Division before any governmental body shall in no way limit or alter the duties of
62 such governmental body.

63 F. The Attorney General may employ and fix the salaries of such attorneys, employees and
64 consultants, within the amounts appropriated to the Attorney General for providing legal service for the
65 Commonwealth, and other services as may be provided for by law, as he may deem necessary in the
66 operation of the Division of Consumer Counsel to carry out its functions.

67 **§ 46.2-100. Definitions.**

68 As used in this title, unless the context requires a different meaning:

69 "All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor
70 and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles
71 commonly known as "go-carts" that have low centers of gravity and are typically used in racing on
72 relatively level surfaces, nor does the term include any riding lawn mower.

73 "Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually
74 manufactured or designated by the manufacturer as a model manufactured in a calendar year not less
75 than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

76 "Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually
77 manufactured or designated by the manufacturer as a model manufactured in a calendar year not less
78 than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

79 "Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not
80 require the operator to straddle or sit astride and is manufactured to comply with federal safety
81 requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a
82 motorcycle.

83 "Automobile transporter" means any tractor truck, lowboy, vehicle, or combination, including
84 vehicles or combinations that transport motor vehicles on their power unit, designed and used
85 exclusively for the transportation of motor vehicles or used to transport cargo or general freight on a
86 backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

87 "Bicycle" means a device propelled solely by human power, upon which a person may ride either on
88 or astride a regular seat attached thereto, having two or more wheels in tandem, including children's
89 bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800
90 et seq.), a bicycle shall be a vehicle while operated on the highway.

91 "Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for
92 the preferential use of bicycles, electric power-assisted bicycles, motorized skateboards or scooters, and
93 mopeds.

94 "Business district" means the territory contiguous to a highway where 75 percent or more of the
95 property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more
96 along the highway, is occupied by land and buildings actually in use for business purposes.

97 "Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but
98 may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

99 "Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or
100 terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and
101 reapplication may be made at any time after cancellation.

102 "Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and
103 every person who drives a motor vehicle while in use as a public or common carrier of persons or
104 property.

105 "Circular intersection" means an intersection that has an island, generally circular in design, located
106 in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections
107 include roundabouts, rotaries, and traffic circles.

108 "Commission" means the State Corporation Commission.

109 "Commissioner" means the Commissioner of the Department of Motor Vehicles of the
110 Commonwealth.

111 "Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has
112 been modified subsequent to its manufacture to replace an internal combustion engine with an electric
113 propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and
114 model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this
115 section unless it has been materially altered from its original construction by the removal, addition, or
116 substitution of new or used essential parts other than those required for the conversion to electric
117 propulsion.

118 "Crosswalk" means that part of a roadway at an intersection included within the connections of the
119 lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the
120 absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an

intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) and a driver privilege card issued pursuant to § 46.2-328.3, issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power, (ii) a seat for the use of the rider, and (iii) an electric motor with an input of no more than 750 watts. Electric power-assisted bicycles shall be classified as follows:

1. "Class one" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of 20 miles per hour;

2. "Class two" means an electric power-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour; and

3. "Class three" means an electric power-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour.

For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Emergency towing" means the towing of a vehicle due to a motor vehicle collision, a mechanical breakdown on a public roadway, or any other emergency-related incident necessitating the vehicle's removal for public safety purposes.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer

182 and that has not been registered in the Commonwealth.

183 "Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their
184 equipment on a golf course.

185 "Governing body" means the board of supervisors of a county, council of a city, or council of a
186 town, as context may require.

187 "Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load
188 thereon.

189 "Highway" means the entire width between the boundary lines of every way or place open to the use
190 of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys,
191 and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads
192 or private streets that have been specifically designated "highways" by an ordinance adopted by the
193 governing body of the county, city, or town in which such private roads or streets are located and (ii)
194 the entire width between the boundary lines of every way or place used for purposes of vehicular travel
195 on any property owned, leased, or controlled by the United States government and located in the
196 Commonwealth.

197 "Intersection" means (i) the area embraced within the prolongation or connection of the lateral
198 curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one
199 another at, or approximately at, right angles, or the area within which vehicles traveling on different
200 highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways
201 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting
202 highway shall be regarded as a separate intersection, in the event such intersecting highway also
203 includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways
204 shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of
205 traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

206 "*Keeper of vehicles*" means a garage keeper, a person keeping any vehicles, including a self-storage
207 facility, and a tow truck driver or towing and recovery operator furnishing services involving the towing
208 and recovery of vehicles.

209 "Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of
210 specific lanes of a roadway or to indicate the impending prohibition of such use.

211 "Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make
212 arrests for violations of this title or local ordinances authorized by law. For the purposes of access to
213 law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement
214 officer" also includes city and county commissioners of the revenue and treasurers, together with their
215 duly designated deputies and employees, when such officials are actually engaged in the enforcement of
216 §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

217 "License plate" means a device containing letters, numerals, or a combination of both, attached to a
218 motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the
219 Department.

220 "Light" means a device for producing illumination or the illumination produced by the device.

221 "Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a
222 motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a
223 golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per
224 hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal
225 Regulations, § 571.500.

226 "Manufactured home" means a structure subject to federal regulation, transportable in one or more
227 sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in
228 length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis
229 and designed to be used as a dwelling with or without a permanent foundation when connected to the
230 required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained
231 therein. "Manufactured home" does not include a park model recreational vehicle, which is a vehicle that
232 is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal
233 use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single
234 chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American
235 National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.

236 "Military surplus motor vehicle" means a multipurpose or tactical vehicle that was manufactured by
237 or under the direction of the United States Armed Forces for off-road use and subsequently authorized
238 for sale to civilians. "Military surplus motor vehicle" does not include specialized mobile equipment as
239 defined in § 46.2-700, trailers, or semitrailers.

240 "Moped" means every vehicle that travels on not more than three wheels in contact with the ground
241 that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat
242 perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic
243 centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without

pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. "Moped" does not include an electric power-assisted bicycle or a motorized skateboard or scooter. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) is designed to allow an operator to sit or stand, (ii) has no manufacturer-issued vehicle identification number, (iii) is powered in whole or in part by an electric motor, (iv) weighs less than 100 pounds, and (v) has a speed of no more than 20 miles per hour on a paved level surface when powered solely by the electric motor. "Motorized skateboard or scooter" includes vehicles with or without handlebars but does not include electric personal assistive mobility devices or electric power-assisted bicycles.

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of

an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Personal delivery device" means a powered device operated primarily on sidewalks and crosswalks and intended primarily for the transport of property on public rights-of-way that does not exceed 500 pounds, excluding cargo, and is capable of navigating with or without the active control or monitoring of a natural person. Notwithstanding any other provision of law, a personal delivery device shall not be considered a motor vehicle or a vehicle.

"Personal delivery device operator" means an entity or its agent that exercises direct physical control or monitoring over the navigation system and operation of a personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating a personal delivery device. "Personal delivery device operator" does not include (i) an entity or person who requests the services of a personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of a personal delivery device.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and

from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and personal delivery devices.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Storage facility" means a keeper of vehicles when storing motor vehicles that have been removed from another location by a tow truck.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated. *A towing and recovery operator does not include (a) an automobile club as defined in § 38.2-514.1, (b) a motor vehicle dealer as defined in § 46.2-1500 or a franchised motor vehicle dealer as defined in § 46.2-1500 using a tow truck owned by the dealer when transporting a vehicle to or from a repair facility owned by the dealer when the dealer does not receive compensation from the vehicle owner for towing the vehicle or when transporting a vehicle in which the dealer has an ownership or security interest, or (c) an insurance company that solely provides monetary support or reimbursement for towing services.*

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, motorized skateboards or scooters, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel,

pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except personal delivery devices and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, motorized skateboards or scooters, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

§ 46.2-118. Prohibited acts by tow truck drivers and towing and recovery operators.

A. No tow truck driver shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Obtain any fee by fraud or misrepresentation;

5. Remove or tow a trespassing vehicle, as provided in § 46.2-1231, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth; or

6. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services.

B. No towing and recovery operator shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Neglect to maintain on record at the towing and recovery operator's principal office a list of all drivers employed by the towing and recovery operator;

5. Obtain any fee by fraud or misrepresentation;

6. Advertise services in any manner that deceives, misleads, or defrauds the public;

7. Advertise or offer services under a name other than one's own name;

8. Fail to accept for payment cash, insurance company check, certified check, money order, or at least one of two commonly used, nationally recognized credit cards, except those towing and recovery operators who have an annual gross income of less than \$10,000 derived from the performance of

towing and recovery services shall not be required to accept credit cards, other than when providing police-requested towing as defined in § 46.2-1217, but shall be required to accept personal checks;

9. Fail to display at the towing and recovery operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles;

10. Fail to have readily available at the towing and recovery operator's principal office, at the customer's request, the maximum fees normally charged by the towing and recovery operator for basic services for towing and initial hookup of vehicles;

11. Knowingly charge excessive *or unfairly discriminatory* fees for towing, storage, or administrative services or charge fees for services not rendered, *perform unnecessary towing, storage, or administrative services in order to unjustly increase fees, or engage the services of another towing and recovery operator to perform unnecessary services so as to unjustly increase the total fees charged;*

12. Fail to maintain all towing records, which shall include itemized fees, for a period of ~~one year~~ *two years* from the date of service;

13. Willfully invoice payment for any services not stipulated or otherwise incorporated in a contract for services rendered between the towing and recovery operator and any locality or political subdivision of the Commonwealth;

14. Employ a driver required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;

15. Remove or tow a trespassing vehicle, as provided in § 46.2-1231, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth;

16. Refuse, at the towing and recovery operator's place of business, to make change, up to \$100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle;

17. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services; ~~or~~

18. Fail to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § 46.2-1209;

19. *Falsely represent, either expressly or by implication, that the towing and recovery operator represents or is approved by any organization that provides emergency road service for disabled vehicles;*

20. *Require the owner or operator of a disabled vehicle to preauthorize repair work or more than 24 hours of storage as a condition to providing towing service for the disabled vehicle;*

21. *Charge more than one towing fee when the owner or operator of a disabled vehicle requests transport of the vehicle to a repair facility owned or operated by the towing company; or*

22. *Tow a vehicle to a repair facility, unless either the owner of the vehicle or the owner's designated agent gives consent prior to the vehicle being towed. This subdivision does not apply to a tow to a storage facility that has a repair facility on the same site, provided that the vehicle is not moved into the repair facility without the consent of the owner or his designated agent.*

C. No tow truck driver as defined in ~~§ 46.2-116~~ or towing and recovery operator as defined in ~~§ 46.2-100~~ shall knowingly permit another person to occupy a motor vehicle as defined in ~~§ 46.2-100~~ while such motor vehicle is being towed.

D. No towing and recovery operator or storage facility shall:

1. Refuse to permit a properly identified person who owns or holds a lien on a motor vehicle or a representative of an insurance company with a lawful interest in the vehicle to inspect the motor vehicle before all costs incurred against the motor vehicle are paid or the motor vehicle is released; or

2. Charge any storage fee for a stored motor vehicle for any day on which release of the motor vehicle or inspection of the motor vehicle by the owner, lienholder, or insurance company is not permitted during normal business hours by the towing and recovery operator or storage facility.

§ 46.2-118.1. Towing fee notice and documentation requirements.

A. Prior to performing any towing and recovery services, a towing and recovery operator shall furnish the vehicle owner or operator, if the owner or operator is present at the scene of the tow, a rate sheet listing all rates for towing services, including all rates for towing and associated fees, cleanup charges, labor costs, storage fees, and any other services provided by the towing and recovery operator. If the owner or operator is not present at the scene, the towing and recovery operator shall make reasonable efforts to contact the owner prior to performing any towing and recovery services. A charge in excess of what is reflected on the rate sheet for any service, or any charge that is included in the invoice required pursuant to this section that is not specifically delineated on the rate sheet shall be deemed excessive and therefore prohibited pursuant to § 46.2-118. The rate sheet shall also be posted at the towing and recovery operator's place of business and be made available to consumers upon request.

B. An itemized invoice of actual towing charges assessed by a towing and recovery operator for a completed tow shall be made available to the owner of the motor vehicle or the owner's authorized agent, which may be a motor vehicle insurance company, not later than (i) one business day after the tow is completed or (ii) after the towing and recovery operator has obtained all necessary information to be included on the invoice, including any charges submitted by subcontractors used by the towing and recovery operator to complete the tow, whichever occurs later.

C. The itemized invoice required by this section shall contain the following information:

1. An invoice number;
2. The location from which the motor vehicle was towed;
3. The location to which the motor vehicle was towed;
4. The name, address, and telephone number of the towing and recovery operator;
5. The name of the tow truck driver;
6. A description of the towed motor vehicle, including the motor vehicle's (i) make, (ii) model, (iii) manufacture year, (iv) vehicle identification number, (v) color, (vi) license plate number, and (vii) state of registration;

7. An itemized description of the cost of all towing and recovery services performed utilizing only the services expressly listed at or below the rates stated on the rate sheet, including a description of all vehicles and equipment used by the towing and recovery operator and any charges related to such vehicles or equipment, the number and hourly rates of personnel employed for such services and any hourly charges, and any per pound rates and charges for recovery;

8. The cost of any vehicle storage fees, expressed as a daily rate; and

9. The costs for services that were performed under a warranty or that were otherwise performed at no cost to the owner of the motor vehicle.

D. Any reasonable service or fee in addition to the services or fees described in subsection C shall be set forth individually as a single line item on the invoice required pursuant to subsection C, with an explanation and the exact charge for the service or the exact amount of the fee.

E. A copy of each invoice and receipt submitted by a towing and recovery operator in accordance with this section shall be retained by the towing and recovery operator for a period of two years from the date of issuance. During such two-year period, the copy of each invoice and receipt shall be made available for inspection and copying not later than two business days after receiving a written request for inspection from:

1. A law-enforcement agency;
2. The Office of the Attorney General;
3. Any city attorney, county attorney, or attorney for the Commonwealth having jurisdiction in the location of any of the towing and recovery operator's business locations; or
4. The disabled motor vehicle's owner or his agent, which may be a motor vehicle insurance company.

F. An owner, a lienholder, or an insurance company representative has the right to inspect a motor vehicle during normal business hours before accepting return of the motor vehicle.

G. Upon receiving payment for all costs incurred against a motor vehicle, a towing and recovery operator or storage facility shall provide to the person making payment an itemized receipt that includes the information set forth in this section, to the extent the information is known or available.

H. Any towing and recovery operator or storage facility shall (i) be open for business and accessible by telephone during normal business hours and (ii) provide a telephone number that is available on a 24-hour basis to receive calls and messages from callers. All calls made to a towing and recovery operator or storage facility shall be returned within 24 hours of the time received. However, if adverse weather, an act of God, an emergency situation, or another act over which the towing and recovery operator or storage facility has no control prevents the towing and recovery operator or storage facility from returning calls within 24 hours, the towing service or storage facility shall return all calls received as quickly as possible.

§ 46.2-119. Complaints against tow truck drivers or towing and recovery operators; enforcement by the Office of the Attorney General.

A. Any consumer aggrieved by the actions of a (i) tow truck driver for an alleged violation of subsection A or C of § 46.2-118 or § 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1 or (ii) towing and recovery operator for an alleged violation of subsection B or C of § 46.2-118 or § 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1 may file a complaint with the Division of Consumer Counsel of the Office of the Attorney General for appropriate action in accordance with this section and any other applicable law.

B. The Attorney General may cause an action to be brought in the appropriate circuit court in the name of the Commonwealth to enjoin any violation of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1. The circuit court having jurisdiction may enjoin such violations notwithstanding the existence of an adequate remedy at law. In any action under this section, it shall not be necessary that

damages or intent be proved to establish a violation. The standard of proof at trial shall be a preponderance of the evidence. The circuit court may issue temporary or permanent injunctions to restrain and prevent violations of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1.

C. In any action brought under this section, the Attorney General may recover damages and such other relief allowed by law, including restitution on behalf of consumers injured by violations of § 46.2-118, 46.2-1217, 46.2-1231, or 46.2-1233.1, as well as costs and reasonable expenses incurred by the Commonwealth in investigating and preparing the case, including attorney fees. *In addition to any other relief described in this section or the Virginia Consumer Protection Act (§ 59.1-196 et seq.), the Attorney General may recover a civil penalty of not more than \$2,500 for each violation of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1.*

D. *Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in any violation of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply mutatis mutandis to civil investigative demands issued pursuant to this section.*

E. Any violation of the provisions of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1 shall constitute a prohibited practice pursuant to the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).

§ 46.2-120. Individual action for damages or penalty.

A. Any person who suffers loss as the result of the provisions of § 46.2-118, 46.2-118.1, 46.2-1217, 46.2-1231, or 46.2-1233.1 shall be entitled to initiate an action to recover actual damages, or \$1,000, whichever is greater. If the trier of fact finds that the violation was willful, it may increase damages to an amount not exceeding three times the actual damages sustained, or \$5,000, whichever is greater. Any person who accepts a cure offer under this chapter may not initiate or maintain any other or additional action based on any cause of action arising under any other statute or common law theory if such other action is substantially based on the same allegations of fact on which the action initiated under this chapter is based.

B. Notwithstanding any other provision of law to the contrary, in addition to any damages awarded, such person also may be awarded reasonable attorney fees and court costs.

C. No cure offer shall be admissible in any proceeding initiated under this section unless the cure offer is delivered by a towing and recovery operator to the person claiming loss or to any attorney representing such person prior to the filing of the towing and recovery operator's initial responsive pleading in such proceeding. If the cure offer is timely delivered by the towing and recovery operator, then the towing and recovery operator may introduce the cure offer into evidence at trial. The towing and recovery operator shall not be liable for such person's attorney fees and court costs incurred following delivery of the cure offer unless the actual damages found to have been sustained and awarded, without consideration of attorney fees and court costs, exceed the value of the cure offer.

D. In any action in which the parties desire to settle all matters in dispute, the question of whether the plaintiff shall be awarded reasonable attorney fees and court costs in accordance with subsections B and C may be tendered to the court for consideration of the amount of such an award, if any.

§ 46.2-644.01. Lien of keeper of vehicles.

A. For purposes of this section, "keeper of vehicles" means a garage keeper; a person keeping any vehicles, including a self-storage facility; and a tow truck driver or towing and recovery operator furnishing services involving the towing and recovery of vehicles.

B. Every keeper of vehicles shall have a lien upon such vehicles for the amount that may be due him for the towing, storage, recovery, and care thereof, until such amount is paid.

Such lien shall be in addition to any lien under § 46.2-644.02. Any garage keeper to whom a vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 shall, within 30 days from the date of delivery, have a lien upon such vehicle pursuant to this section, provided that action has not been taken pursuant to such sections for the sale of the vehicle.

C. B. In the case of any vehicle for which the title shows an existing lien, the keeper of vehicles shall have a lien upon the vehicle for his reasonable charges for storage under this section not to exceed \$500; however, the keeper of vehicles shall also be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens. In addition, any tow truck driver or towing and recovery operator shall have a lien for all normal costs incident to any towing and recovery services furnished for the vehicle.

In the case of any vehicle not subject to an existing lien on the title, the keeper of vehicles shall have a lien thereon for his reasonable charges for storage under this section, alone or in combination with a lien under § 46.2-644.02 not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1.

D. C. The keeper of vehicles, or the authorized agents of such, shall ascertain from the Department whether the certificate of title for the vehicle shows a lien in accordance with the provisions of

§ 46.2-644.03 within seven business days of taking possession of the vehicle. The owner or lienholder shall have 10 business days from the date of the notice sent by the Department pursuant to § 46.2-644.03 to reclaim the vehicle. The terms for such reclamation shall be the payment of the amount due to the keeper of the vehicles or other amount as agreed by the parties. If the vehicle remains unclaimed, the keeper of the vehicles may enforce the lien under the provisions of § 46.2-644.03 or relinquish the lien under the provisions of § 46.2-644.04.

For purposes of this subsection, the date of possession for a garage keeper to whom a vehicle has been delivered pursuant to § 46.2-1209, 46.2-1213, or 46.2-1215 shall be the date such lien attaches, and the date of possession for a self-storage facility shall be the date on which the facility owner learns that a leased space subject to default contains a motor vehicle.

E. D. Any lien created under this section shall not extend to any personal property that is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of vehicles to permit the owner to access the vehicle in order to recover his personal property, provided the owner claims and retrieves the items at least two business days prior to the auction date. The keeper of vehicles may dispose of any unclaimed personal property.

F. E. For the purposes of this section, in the case of a truck or combination of vehicles, the owner, or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck, shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

F. Any violation of the provisions of this section by a tow truck driver or towing and recovery operator shall be subject to any and all of the enforcement provisions of §§ 46.2-119 and 46.2-120.

§ 46.2-1209.1. Requirements for removal.

A. Prior to removing a vehicle from a tow truck pursuant to § 46.2-1209, 46.2-1210, 46.2-1211, 46.2-1212, or 46.2-1212.1, a towing and recovery operator shall take photographs, video, or other visual documentation to evidence the vehicle damages, debris, damaged cargo or property, and any complications to the recovery process.

B. Except as provided in subsection C, a towing and recovery operator shall not stop or cause a person to stop at the scene of a vehicle crash or near a disabled vehicle (i) if there is an injury as the result of a vehicle crash or (ii) for the purpose of (a) soliciting an engagement for emergency towing services, (b) moving a motor vehicle from a highway, or (c) accruing charges in connection with an activity in clause (a) or (b).

C. The provisions of subsection B shall not apply if:

1. The towing and recovery operator is requested to stop or to perform a towing service by a law-enforcement officer or by authorized state, county, or municipal personnel;

2. The towing and recovery operator is summoned to the scene or requested to stop by the owner or operator of a disabled vehicle;

3. The owner of a disabled motor vehicle has previously provided consent to the towing and recovery operator to stop or perform a towing service;

4. The towing and recovery operator has a reasonable belief that a motorist or pedestrian is in need of immediate assistance. However, this subdivision shall not authorize the towing and recovery operator to offer towing or recovery services unless he is so authorized pursuant to another subdivision.

D. Except as provided in subsection E or F, the owner or operator of a disabled motor vehicle may:

1. Summon to the disabled motor vehicle's location the towing and recovery operator of his choice, either directly or through an emergency service arrangement of an insurance company or an automobile club as defined in § 38.2-514.1; and

2. Designate the location to which the disabled motor vehicle is to be towed. If the location designated by the owner or operator is not a storage facility owned or operated by the towing and recovery operator, the owner or operator shall make arrangements for payment to the towing and recovery operator at the time the towing and recovery operator is summoned.

E. The provisions of subsection D shall not apply in the event of a declared emergency or in any case in which the owner or operator of a disabled motor vehicle (i) is incapacitated, absent, or otherwise unable to summon a towing and recovery operator or (ii) defers to law enforcement or to authorized state or local personnel as to (a) the towing and recovery operator to be summoned or (b) the location to which the disabled motor vehicle is to be towed.

F. The provisions of subsection D shall be superseded by a law-enforcement officer or by authorized state or local personnel if the towing and recovery operator of choice of the owner or operator (i) is unable to respond to the location of the disabled motor vehicle in a timely fashion and (ii) the disabled motor vehicle is a hazard, impedes the flow of traffic, or may not legally remain in its location as determined by the law-enforcement officer or authorized state or local personnel.

G. If a disabled motor vehicle is causing or poses a safety hazard to any party at the scene of the

disabled motor vehicle, the disabled motor vehicle may be moved by a towing and recovery operator to a safe location after being released by a law-enforcement officer or by authorized state or local personnel for that purpose.

H. If a towing and recovery operator is summoned for emergency towing by the owner or operator of a disabled motor vehicle, the towing and recovery operator shall make a record, to the extent available, consisting of:

1. The first and last name and telephone number of the person who summoned the towing and recovery operator to the scene; and

2. The make, model, year, vehicle identification number, and license plate number of the disabled motor vehicle.

I. If a towing and recovery operator is summoned for emergency towing by a law-enforcement officer or by authorized state or local personnel, the towing and recovery operator shall make a record, to the extent available, consisting of:

1. The identity of the law-enforcement agency or authorized state or local personnel requesting the emergency towing;

2. The make, model, year, vehicle identification number, and license plate number of the disabled motor vehicle.

J. A towing and recovery operator shall maintain any record created under subsection H or I and provide said record to any law-enforcement agency from the time the towing and recovery operator appears at the scene of the disabled motor vehicle until the time the motor vehicle is towed and released to an authorized third party, upon request.

K. A towing and recovery operator that performs emergency towing shall properly secure all towed vehicles and take all reasonable efforts to prevent further damage, including weather damage, or theft of all towed vehicles, including the vehicle's cargo and contents.

§ 46.2-1212. Authority to provide for temporary removal and disposition of vehicles involved in accidents.

The governing body of any county, city, or town may provide by ordinance that whenever a motor vehicle, trailer, or semitrailer involved in an accident is so located as to impede the orderly flow of traffic, the police 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 (i) at no cost to the owner or operator remove the motor vehicle, trailer, or semitrailer to some point in the vicinity where it will not impede the flow of traffic or (ii) have the vehicle removed to a storage area for safekeeping and shall report the removal to the Department and to the owner of the vehicle as promptly as possible. If the vehicle is removed to a storage area under clause (ii), the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage such rates approved by the county, city, or town for removal and storage of a disabled vehicle. If the county, city, or town has not established rates for the removal and storage of a disabled vehicle, the owner shall pay to the parties entitled thereto such reasonable rates incidental to removal and storage, not to exceed the average of the three highest such rates set by any county, city, or town in the Commonwealth.

§ 46.2-1213. Removal and disposition of unattended, or immobile vehicles; ordinances in counties, cities, and towns.

A. The governing body of any county, city, or town may by ordinance provide for the removal for safekeeping of motor vehicles, trailers, semitrailers, or parts thereof to a storage area at rates approved by such governing body if:

1. It is left unattended on a public highway or other public property and constitutes a traffic hazard;

2. It is illegally parked;

3. It is left unattended for more than 10 days either on public property or on private property without the permission of the property owner, lessee, or occupant; or

4. It is immobilized on a public roadway by weather conditions or other emergency situation.

B. Removal shall be carried out by or under the direction of a 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. The ordinance, however, shall not authorize removal of motor vehicles, trailers, semitrailers, and parts thereof from private property without the written request of the owner, lessee, or occupant of the premises. The ordinance may also provide that the person at whose request the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer is removed from private property shall indemnify the county, city, or town against any loss or expense incurred by reason of removal, storage, or sale thereof. Any such ordinance may also provide that it shall be presumed that such motor vehicle, trailer, semitrailer, or part thereof is abandoned if it (i) lacks either a current license plate; or a current county, city or town license plate or sticker; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location for four days without being moved. As promptly as possible, each removal shall be reported to a local governmental office to

797 be designated in the ordinance and to the owner of the motor vehicle, trailer, or semitrailer. Before
798 obtaining possession of the motor vehicle, trailer, semitrailer, or part thereof, the owner shall pay to the
799 parties entitled thereto all costs incidental to its removal and storage and locating the owner *such rates*
800 *approved by the county, city, or town in which the property was located. If the county, city, or town has*
801 *not established rates for the removal and storage of a disabled vehicle, the owner shall pay to the*
802 *parties entitled thereto such reasonable rates incidental to removal and storage, not to exceed the*
803 *average of the three highest such rates set by any county, city, or town in the Commonwealth.* If the
804 owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable
805 after a diligent search has been made, and after notice to him at his last known address and to the
806 holder of any lien of record with the office of the Department against the motor vehicle, trailer,
807 semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned
808 vehicle under the provisions of Article 1 (§ 46.2-1200 et seq.).

809 *C. Nothing in this section shall permit withholding the cargo of any motor vehicle, trailer,*
810 *semitrailer, or part thereof pending payment. Upon request by the owner, the party in possession of*
811 *such cargo shall permit the owner or a party designated by the owner to, at the owner's expense,*
812 *recover such cargo from the motor vehicle, trailer, semitrailer, or part thereof.*