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SENATE BILL NO. 1255

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Newman)

(Patron Prior to Substitute—Senator Marsh)

Senate Amendments in [] — February 4, 1999

A BILL to amend and reenact §§ 46.2-1213, 46.2-1216, and 46.2-1220 of the Code of Virginia, relating to towing, removal, and immobilization of certain vehicles.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1213, 46.2-1216, and 46.2-1220 of the Code of Virginia are amended and reenacted as follows:

§ 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 a motor ~~vehicles vehicle, trailers trailer, semitrailers semitrailer, or parts any part~~ thereof to a storage area 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 ten days either on public property or on private property without the permission of the property owner, lessee, or occupant;
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~~ *officers or, in any city having a population of at least 203,000 but less than 260,000, under the direction of other uniformed city employees or uniformed personnel acting under contract with the city.* 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 be designated in the ordinance and to the owner of the motor vehicle, trailer, or semitrailer. Before obtaining possession of the motor vehicle, trailer, semitrailer, or part thereof, the owner shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating the owner. If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the office of the Department against the motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an abandoned vehicle under the provisions of Article 1 (§ 46.2-1200 et seq.) of this chapter.

§ 46.2-1216. Removal or immobilization of motor vehicles 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 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 vehicle, or the vehicle may be immobilized in a manner which will prevent its removal or operation except by authorized law-enforcement personnel *or, in any city having a population of at least 203,000 but less than 260,000, by other uniformed city employees or uniformed personnel acting under contract with the city.* The governing body of any county having the urban county executive form of government and any county, city, or town adjacent to such county except any county having the county manager plan of government and any city having a 1980 census population of more than 262,000 but less than 265,000 may also provide by ordinance that whenever any motor vehicle 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 vehicle may, by towing or otherwise, be removed or immobilized in the manner provided above; provided that no motor vehicle 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 vehicle parked on private property may

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60 be removed or immobilized unless written authorization to enforce this section has been given by the
61 owner of the property or an association of owners formed pursuant to Chapter 4.1 (§ 55-79.1 et seq.) or
62 Chapter 4.2 (§ 55-79.39 et seq.) of Title 55 and that the local governing body has provided written
63 assurance to the owner of the property that he will be held harmless from all loss, damage, or expense,
64 including costs and attorney's fees, that may be incurred as a result of the towing or otherwise of any
65 motor vehicle pursuant to this section. The ordinance shall provide that the removal or immobilization of
66 the vehicle shall be by or under the direction of, an officer or employee of the police department or
67 sheriff's office.

68 Any ordinance shall provide that it shall be the duty of the law-enforcement personnel *or, in any city*
69 *having a population of at least 203,000 but less than 260,000, the duty of other uniformed city*
70 *employees or uniformed personnel acting under contract with the city,* removing or immobilizing the
71 motor vehicle or under whose direction such vehicle is removed or immobilized, to inform as soon as
72 practicable the owner of the removed or immobilized vehicle of the nature and circumstances of the
73 prior unsettled parking violation notices for which the vehicle was removed or immobilized. In any case
74 involving immobilization of a vehicle pursuant to this section, there shall be placed on the vehicle, in a
75 conspicuous manner, a notice warning that the vehicle has been immobilized and that any attempt to
76 move the vehicle might damage it.

77 Any ordinance shall provide that the owner of an immobilized vehicle, or other person acting on his
78 behalf, shall be allowed at least twenty-four hours from the time of immobilization to repossess or
79 secure the release of the vehicle. Failure to repossess or secure the release of the vehicle within that
80 time period may result in the removal of the vehicle to a storage area for safekeeping under the
81 direction of law-enforcement personnel *or, in any city having a population of at least 203,000 but less*
82 *than 260,000, under the direction of other uniformed city employees or uniformed personnel acting*
83 *under contract with the city.*

84 Any ordinance shall provide that the owner of the removed or immobilized motor vehicle, or other
85 person acting on his behalf, shall be permitted to repossess or to secure the release of the vehicle by
86 payment of the outstanding parking violation notices for which the vehicle was removed or immobilized
87 and by payment of all costs incidental to the immobilization, removal, and storage of the vehicle, and
88 the efforts to locate the owner of the vehicle. Should the owner fail or refuse to pay such fines and
89 costs, or should the identity or whereabouts of the owner be unknown and unascertainable, the ordinance
90 may provide for the sale of the motor vehicle in accordance with the procedures set forth in
91 § 46.2-1213.

92 § 46.2-1220. Parking, stopping, and standing regulations in cities, towns, and certain counties;
93 parking meters; presumption as to violation of ordinances.

94 The governing bodies of Albemarle, Arlington, Campbell, Chesterfield, Dinwiddie, Fairfax, Hanover,
95 Henrico, Henry, Isle of Wight, James City, King George, Loudoun, Prince George, Prince William,
96 Roanoke, Rockbridge, Spotsylvania, Stafford, and Tazewell Counties and the governing body of any city
97 or town may by ordinance provide for the regulation of parking, stopping, and standing of vehicles
98 within its limits, including the installation and maintenance of parking meters. The ordinance may
99 require the deposit of a coin of a prescribed denomination, determine the length of time a vehicle may
100 be parked, and designate a department, official, or employee of the local government to administer the
101 provisions of the ordinance. The ordinance may delegate to that department, official, or employee the
102 authority to make and enforce any additional regulations concerning parking that may be required,
103 including, but not limited to, penalties for violations, deadlines for the payment of fines, and late
104 payment penalties for fines not paid when due. In a city having a population of at least 100,000, the
105 ordinance may also provide that a summons or parking ticket for the violation of the ordinance or
106 regulations may be issued by law-enforcement officers, other uniformed city employees, or by uniformed
107 personnel serving under contract with the city *and, in any city having a population of at least 203,000*
108 *but less than 260,000, may also provide that the vehicle in violation of such ordinance may be towed*
109 *under the direction of other uniformed city employees, or uniformed personnel acting under contract*
110 *with the city.* The governing bodies of Augusta and Rockingham Counties may by ordinance provide for
111 the regulation of parking, stopping, and standing of vehicles within their limits, but no such ordinance
112 shall authorize or provide for the installation and maintenance of parking meters.

113 If any ordinance regulates parking on an interstate highway or any arterial highway or any extension
114 of an arterial highway, it shall be subject to the approval of the Transportation Commissioner.

115 In any prosecution charging a violation of the ordinance or regulation, proof that the vehicle
116 described in the complaint, summons, parking ticket citation, or warrant was parked in violation of the
117 ordinance or regulation, together with proof that the defendant was at the time the registered owner of
118 the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title, shall constitute in evidence a
119 prima facie presumption that the registered owner of the vehicle was the person who committed the
120 violation.

121 [2. Any city having a population of at least 203,000, but less than 260,000 which contracts for the

122 towing, removal and immobilization of vehicles with a third party, as directed by uniformed city
123 employees or a second party contractor utilizing uniformed personnel, shall ensure that any
124 contract with such second party contractor provides for (i) background checks in substantial
125 conformity with 22.1-296.2 of the Code of Virginia, and (ii) training in defined procedures to be
126 followed and constitutional requirements and limitations, conforming to the training given to a
127 uniformed police officer involved in this same particular area of responsibility. Such city shall
128 have continuance oversight over all such contracted services authorized pursuant to the provisions
129 of this act.]

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