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SENATE BILL NO. 228

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 46.2-1216 of the Code of Virginia, relating to vehicle and trailer immobilization.

Patron—Herring

Referred to Committee on Transportation**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-1216 of the Code of Virginia is amended and reenacted as follows:**

§ 46.2-1216. Removal or immobilization of motor vehicles, vehicles, and trailers against which there are outstanding parking violations; ordinances.

The governing body of any county, city, or town may provide by ordinance that any motor vehicle, vehicle, or trailer parked on the public highways or public grounds against which there are three or more unpaid or otherwise unsettled parking violation notices may be removed to a place within such county, city, or town or in an adjacent locality designated by the chief law-enforcement officer for the temporary storage of the motor vehicle, vehicle, or trailer or the motor vehicle, vehicle, or trailer may be immobilized in a manner which will prevent its removal or 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's attorney fees, that may be incurred as a result of the towing or otherwise of any motor vehicle, vehicle, or trailer pursuant to this section. The ordinance shall provide that the removal or immobilization of the motor vehicle, vehicle, or trailer shall be by or under the direction of, an officer or employee of the police department or sheriff's office.

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

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

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

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SB228

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