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SENATE BILL NO. 364

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 46.2-1209, 46.2-1211, 46.2-1212, 46.2-1213, and 46.2-1215 of the Code of Virginia, relating to towing of unattended or immobile vehicles.

Patron—Deeds

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1209, 46.2-1211, 46.2-1212, 46.2-1213, and 46.2-1215 of the Code of Virginia are amended and reenacted as follows:

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

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 twenty-four 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 authorized by the local police department* 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.

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

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59 combination as hereafter provided in this section.

60 If after the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination the
61 ownership of a motor vehicle, trailer, or semitrailer at the time of its removal is established satisfactorily
62 to the Commissioner by the person claiming its ownership, the Commissioner shall pay him so much of
63 the proceeds from the sale or other disposition of the motor vehicle, trailer, semitrailer, or combination
64 as remains after paying the costs of daily storage, towing, and recovery fees, investigation of ownership,
65 appraisal, and sale.

66 § 46.2-1211. Removal of motor vehicles obstructing movement; storage; payment of costs.

67 Whenever any motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer
68 interferes with the free ingress, egress, or movement on any premises, driveway, or parking area,
69 without the permission of the owner of that property, any law-enforcement officer *or other uniformed*
70 *employee authorized by the local police department* may remove it or have it removed to a storage area
71 for safekeeping and shall report the removal to the Department and to the owner of the motor vehicle,
72 trailer, semitrailer, or other vehicle as promptly as possible. Before obtaining the possession of his
73 property, the owner shall pay to the parties entitled thereto all costs incidental to its removal or storage.

74 § 46.2-1212. Authority to provide for temporary removal and disposition of vehicles involved in
75 accidents.

76 The governing body of any county, city, or town may provide by ordinance that whenever a motor
77 vehicle, trailer, or semitrailer involved in an accident is so located as to impede the orderly flow of
78 traffic, the police *or other uniformed employee authorized by the local police department* may (i) at no
79 cost to the owner or operator remove the motor vehicle, trailer, or semitrailer to some point in the
80 vicinity where it will not impede the flow of traffic or (ii) have the vehicle removed to a storage area
81 for safekeeping and shall report the removal to the Department and to the owner of the vehicle as
82 promptly as possible. If the vehicle is removed to a storage area under clause (ii), the owner shall pay to
83 the parties entitled thereto all costs incidental to its removal and storage.

84 § 46.2-1213. Removal and disposition of unattended, or immobile vehicles; ordinances in counties,
85 cities, and towns.

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

- 88 1. It is left unattended on a public highway or other public property and constitutes a traffic hazard;
89 2. It is illegally parked;
90 3. It is left unattended for more than ~~ten~~ 10 days either on public property or on private property
91 without the permission of the property owner, lessee, or occupant;
92 4. It is immobilized on a public roadway by weather conditions or other emergency situation.

93 B. Removal shall be carried out by or under the direction of a law-enforcement officer *or other*
94 *uniformed employee authorized by the local police department*. The ordinance, however, shall not
95 authorize removal of motor vehicles, trailers, semitrailers, and parts thereof from private property
96 without the written request of the owner, lessee, or occupant of the premises. The ordinance may also
97 provide that the person at whose request the motor vehicle, trailer, semitrailer, or part of a motor
98 vehicle, trailer, or semitrailer is removed from private property shall indemnify the county, city, or town
99 against any loss or expense incurred by reason of removal, storage, or sale thereof. Any such ordinance
100 may also provide that it shall be presumed that such motor vehicle, trailer, semitrailer, or part thereof is
101 abandoned if it (i) lacks either a current license plate; or a current county, city or town license plate or
102 sticker; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location
103 for four days without being moved. As promptly as possible, each removal shall be reported to a local
104 governmental office to be designated in the ordinance and to the owner of the motor vehicle, trailer, or
105 semitrailer. Before obtaining possession of the motor vehicle, trailer, semitrailer, or part thereof, the
106 owner shall pay to the parties entitled thereto all costs incidental to its removal and storage and locating
107 the owner. If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and
108 unascertainable after a diligent search has been made, and after notice to him at his last known address
109 and to the holder of any lien of record with the office of the Department against the motor vehicle,
110 trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer, the vehicle shall be treated as an
111 abandoned vehicle under the provisions of Article 1 (§ 46.2-1200 et seq.) ~~of this chapter~~.

112 § 46.2-1215. Leaving vehicles on private property prohibited; authority of counties, cities, and towns
113 to provide for removal and disposition; notice of disposition.

114 No person shall leave any motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or
115 semitrailer on the private property of any other person without his consent. The governing body of any
116 county, city, or town may by ordinance provide, that on complaint of the owner of the property on
117 which such motor vehicle, trailer, semitrailer, or part thereof has been left for more than seventy-two
118 hours, that such motor vehicle, trailer, semitrailer, or part thereof, may be removed by or under the
119 direction of a law-enforcement officer *or other uniformed employee authorized by the local police*
120 *department* to a storage area. The ordinance shall require the owners of private property which is

normally open to the public for parking to post or cause to be posted signs warning that vehicles left on the property for more than seventy-two hours will be towed or removed at their owners' expense. The ordinance may also provide that the person at whose request the vehicle, trailer, semitrailer, or part thereof is so removed shall indemnify the county, city, or town against any loss or expense incurred by reason of removal, storage, or sale thereof.

In the case of the removal of a motor vehicle, trailer, semitrailer, or part of a motor vehicle, trailer, or semitrailer from private property, when it cannot be readily sold, the motor vehicle, trailer, semitrailer, or part may be disposed of in whatever manner the governing body of the county, city, or town may provide.

In all other respects, the provisions of §§ 46.2-1213 and 46.2-1217 shall apply to these removals. Disposal of a motor vehicle, trailer, or semitrailer may at the option of the governing body of the county, city, or town be carried out under either the provisions of § 46.2-1213, or under the provisions of this section after a diligent search for the owner, after notice to him at his last known address and to the holder of any lien of record in the office of the Department against the motor vehicle, trailer, or semitrailer, and after the motor vehicle, trailer, or semitrailer has been held at least sixty days.

The Department shall be notified of the disposition of any motor vehicle, trailer, or semitrailer under § 46.2-1213 or the provisions of this section.