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## HOUSE BILL NO. 1960

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation  
on February 2, 2017)

(Patron Prior to Substitute—Delegate Hugo)

A BILL to amend and reenact §§ 46.2-1231, 46.2-1232, and 46.2-1233.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1233.3, relating to tow truck drivers and towing and recovery operators; requirements; civil penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1231, 46.2-1232, and 46.2-1233.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1233.3 as follows:

§ 46.2-1231. Ticketing, removal, or immobilization of trespassing vehicles by owner or operator of parking or other lot or building; charges.

The owner, operator, or lessee of any parking lot, parking area, or parking space in a parking lot or area or any part of a parking lot or area, or of any other lot or building, including any county, city, or town, or authorized agent of the person having control of such premises may have any vehicle occupying the lot, area, space, or building without the permission of its owner, operator, lessee, or authorized agent of the one having the control of the premises, removed by towing or otherwise to a licensed garage for storage until called for by the owner or his agent if there are posted at all entrances to the parking lot or area signs clearly and conspicuously disclosing that such vehicle, if parked without permission, will be removed, towed, or immobilized. Such signs shall, at a minimum, include the nonemergency telephone number of the local law-enforcement agency or the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from that location. The requirements of this section relating to the posting of signs by an owner, operator, or lessee of any parking lot, parking area or space shall not apply to localities in which the local governing body has adopted an ordinance pursuant to § 46.2-1232.

Whenever a trespassing vehicle is removed or towed as permitted by this section, notice of this action shall forthwith be given by the tow truck operator to the State Police or the local law-enforcement agency of the jurisdiction from which the vehicle was towed. It shall be unlawful to fail to report such tow as required by this section and violation of the reporting requirement of this section shall constitute a traffic infraction punishable by a fine of not more than \$100. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

All businesses engaged in towing vehicles without the consent of their owners shall prominently display (i) at their main place of business and (ii) at any other location where towed vehicles may be reclaimed a comprehensive list of all their fees for towing, recovery, and storage services, or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered, or stored without his consent. *At the time a vehicle owner or agent reclaims a towed vehicle, such towing and recovery operator, if located in Planning District 8, shall provide a written receipt that provides a telephone number or website available for customer complaints. A locality located wholly or partially in Planning District 8 may require additional information to be included on such receipt.*

Notwithstanding the foregoing provisions of this section, if the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to be immobilized by a boot or other device that prevents a vehicle from being moved by preventing a wheel from turning, provided that the boot or other device does not damage the vehicle or wheel. The charge for the removal of any boot or device shall not exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance. In lieu of having the vehicle removed by

60 towing or otherwise, or in lieu of causing the vehicle to be immobilized, the owner, operator, lessee or  
61 authorized agent of the premises on which the trespassing vehicle is parked may cause to have an  
62 authorized local government official or law-enforcement officer issue, on the premises, a notice of the  
63 violation of a parking ordinance or regulation created pursuant to § 46.2-1220 or § 46.2-1221 to the  
64 registered owner of the vehicle.

65 This section shall not apply to police, fire, or public health vehicles or where a vehicle, because of a  
66 wreck or other emergency, is parked or left temporarily on the property of another. The governing body  
67 of every county, city, and town may by ordinance set limits on fees and charges provided for in this  
68 section.

69 **§ 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.**

70 A. The governing body of any county, city, or town may by ordinance regulate the removal of  
71 trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized  
72 agent in charge of the property. In the event that a vehicle is towed from one locality and stored in or  
73 released from a location in another locality, the local ordinance, if any, of the locality from which the  
74 vehicle was towed shall apply.

75 B. No local ordinance adopted under authority of this section shall require that any towing and  
76 recovery business also operate as or provide services as a vehicle repair facility or body shop, filling  
77 station, or any business other than a towing and recovery business.

78 C. Any such local ordinance may also require towing and recovery operators to (i) obtain and retain  
79 photographs or other documentary evidence substantiating the reason for the removal; (ii) post signs at  
80 their main place of business and at any other location where towed vehicles may be reclaimed  
81 conspicuously indicating (a) the maximum charges allowed by local ordinance, if any, for all their fees  
82 for towing, recovery, and storage services and (b) the name and business telephone number of the local  
83 official, if any, responsible for handling consumer complaints; (iii) obtain at the time the vehicle is  
84 towed, verbal approval of an agent designated in the local ordinance who is available at all times; and  
85 (iv) obtain, at the time the vehicle is towed, if such towing is performed during the normal business  
86 hours of the owner of the property from which the vehicle is being towed, the written authorization of  
87 the owner of the property from which the vehicle is towed, or his agent. Such written authorization, if  
88 required, shall be in addition to any written contract between the towing and recovery operator and the  
89 owner of the property or his agent, *except for vehicles being towed from a locality within Planning*  
90 *District 8, which shall not require written authorization if such written contract is in place. Any such*  
91 *written contract governing a property located within Planning District 8 shall clearly state the terms on*  
92 *which towing and recovery operators may monitor private lots on behalf of property owners.* For the  
93 purposes of this subsection, "agent" shall not include any person who either (a) is related by blood or  
94 marriage to the towing and recovery operator or (b) has a financial interest in the towing and recovery  
95 operator's business.

96 D. Any such ordinance adopted by a locality within Planning District 8 may require towing  
97 companies that tow vehicles from the county, city, or town adopting the ordinance to other localities,  
98 provided that the stored or released location is within the Commonwealth of Virginia and within 10  
99 miles of the point of origin of the actual towing, (i) to obtain from the locality from which such  
100 vehicles are towed a permit to do so and (ii) to submit to an inspection of such towing company's  
101 facilities to ensure that the company meets all the locality's requirements, regardless of whether such  
102 facilities are located within the locality or elsewhere. The locality may impose and collect reasonable  
103 fees for the issuance and administration of permits as provided for in this subsection. Such ordinance  
104 may also provide grounds for revocation, suspension, or modification of any permit issued under this  
105 subsection, subject to notice to the permittee of the revocation, suspension, or modification and an  
106 opportunity for the permittee to have a hearing before the governing body of the locality or its  
107 designated agent to challenge the revocation, suspension, or modification. *Any tow truck driver who*  
108 *removes or tows a vehicle, pursuant to any such ordinance, that is occupied by an unattended*  
109 *companion animal as defined in § 3.2-6500 shall, upon such removal, immediately notify the animal*  
110 *control office of the locality in which the vehicle is being removed or towed.* Nothing in this subsection  
111 shall be applicable to public safety towing.

112 **§ 46.2-1233.2. Advisory board.**

113 Prior to adopting or amending any ordinance pursuant to § 46.2-1232 or § 46.2-1233, the local  
114 governing body shall appoint an advisory board to advise the governing body with regard to the  
115 appropriate provisions of the ordinance. ~~Voting members~~ *Members* of the advisory board shall *only*  
116 consist of an equal number of representatives of local law-enforcement agencies and representatives of  
117 licensed towing and recovery operators, and one member of the general public. Any such advisory board  
118 shall meet at least once per year at the call of the chairman of the advisory board, who shall be elected  
119 annually from among the ~~voting~~ members of the advisory board by a majority vote. *The chairmanship*  
120 *of any such advisory board for any locality within Planning District 8 shall serve for one year and*  
121 *rotate annually between a representative of a local law-enforcement agency, a representative of a*

122 licensed towing and recovery operator, and one member of the general public.

123 **§ 46.2-1233.3. Improper towing; penalty.**

124 A. This section shall apply only to tow truck drivers and towing and recovery operators removing a  
125 vehicle without the consent of its owner from a location in Planning District 8.

126 B. In addition to any action brought pursuant to subsection B of § 46.2-119, any tow truck driver  
127 who violates subsection A of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any ordinance  
128 adopted therefrom, or any ordinance adopted pursuant to § 46.2-1233, or any towing or recovery  
129 operator who violates subsection B of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any  
130 ordinance adopted therefrom, or any ordinance adopted pursuant to § 46.2-1233, is subject to a civil  
131 penalty of \$150. Such penalty shall be collected by the Office of the Attorney General, and the proceeds  
132 shall be deposited into the Literary Fund.