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SENATE BILL NO. 978

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 2, 2023)

(Patron Prior to Substitute—Senator Marsden)

A *BILL to amend and reenact § 46.2-644.01 of the Code of Virginia, relating to keeper of vehicles; liens; certain towing and recovery drivers and operators.*

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-644.01 of the Code of Virginia is amended and reenacted as follows:

§ 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 *or clean up related to vehicle collisions.*

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. *In the case of a tow truck driver or towing and recovery operator furnishing services to a truck, tractor truck, or combination of vehicles, any such lien held shall apply to any power unit, tractor, trailer, or semitrailer in the combination.*

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. 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. 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. Any lien created under this section shall not extend to any personal property *or cargo* 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 *of the vehicle or cargo* to access the vehicle in order to recover his personal property *or cargo*, provided *that* 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 *or cargo*.

F. 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, *and the keeper of vehicles of any such vehicle shall have an immediate lien upon any truck, tractor truck, or combination of vehicles, including any power unit, tractor, 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.