

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 46.2-1150, 46.2-1231, and 46.2-1232 of the Code of Virginia, relating to towing; vehicles with expired registration; civil penalty.

[H 925]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1150, 46.2-1231, and 46.2-1232 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1150. Towing certain unlicensed or uninspected vehicles.

Nothing in this title shall prohibit towing an unlicensed motor vehicle or motor vehicle which has not been inspected pursuant to Article 21 (§ 46.2-1157 et seq.) or 22 (§ 46.2-1176 et seq.) of Chapter 10 of this title, *except for such a time period as required by the provisions of § 46.2-1231 or an ordinance created pursuant to the provisions of § 46.2-1232.*

Nothing in this title shall prohibit the towing of an unlicensed trailer or semitrailer used on a construction site as an office or for storage or a trailer or semitrailer which has been used on a construction site as an office or for storage, but which has not been inspected pursuant to Article 21 of Chapter 10 of this title, provided that any such unlicensed or uninspected trailer or semitrailer (i) is towed by a tow truck or other vehicle designed and equipped for the towing of inoperable or disabled vehicles; (ii) is operated only in intrastate commerce; (iii) has an actual gross weight, including contents, of no more than 15,000 pounds; (iv) is secured to the towing vehicle by means of safety chains; and (v) is equipped with rear-mounted bar lights which function as tail lights, brake lights, and turn signals as provided in Article 3 (§ 46.2-1010 et seq.) of Chapter 10 of this title. However, nothing in this section shall authorize the towing or drawing of an unlicensed or uninspected trailer or semitrailer by means of a tractor truck except for the purpose of having such trailer or semitrailer inspected as provided in § 46.2-1157.

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

A. 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.

B. 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.

C. 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

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57 vehicle owner or agent reclaims a towed vehicle, such towing and recovery operator, if located in
 58 Planning District 8, shall provide a written receipt that provides a telephone number or website available
 59 for customer complaints. A locality located wholly or partially in Planning District 8 may require
 60 additional information to be included on such receipt.

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

67 E. In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator,
 68 lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause the
 69 vehicle to be immobilized in a manner that prevents its removal or lawful operation, provided that any
 70 device used to immobilize the trespassing vehicle does not damage the vehicle or any part of the
 71 vehicle. The charge for the removal of any device used to immobilize a trespassing vehicle shall not
 72 exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance.
 73 In lieu of having the vehicle removed by towing or otherwise, or in lieu of causing the vehicle to be
 74 immobilized, the owner, operator, lessee or authorized agent of the premises on which the trespassing
 75 vehicle is parked may cause to have an authorized local government official or law-enforcement officer
 76 issue, on the premises, a notice of the violation of a parking ordinance or regulation created pursuant to
 77 § 46.2-1220 or 46.2-1221 to the registered owner of the vehicle.

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

82 G. For purposes of this subsection:

83 *"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building,*
 84 *including townhomes. "Multifamily dwelling unit" does not include any lot within a development created*
 85 *pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.), any unit within a condominium*
 86 *created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), any apartment within a*
 87 *horizontal property regime created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), any*
 88 *unit within a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et*
 89 *seq.), any time-share unit within a project created pursuant to the Virginia Real Estate Time-Share Act*
 90 *(§ 55.1-2200 et seq.), or any lot within a subdivision created pursuant to the Subdivided Land Sales Act*
 91 *(§ 55.1-2300 et seq.).*

92 *"Resident's vehicle" means any vehicle that is (i) owned, leased, or used by a resident of a*
 93 *multifamily dwelling unit in which the parking lot is owned and maintained by the landlord; (ii) known*
 94 *to the landlord to be associated with such resident, by means of a permit, registry, or other document*
 95 *designated by the landlord for such identification purposes; and (iii) in compliance with any*
 96 *requirements set forth in such lease or other agreement regarding such vehicle.*

97 *"Towing operator" means any individual or company that has contracted with a landlord for the*
 98 *provision of parking enforcement.*

99 Notwithstanding the foregoing provisions of this section, for a resident's vehicle parked in the
 100 parking lot of a multifamily dwelling unit, for which the parking lot is owned and maintained by the
 101 landlord, the towing operator for such parking lot prior to the towing of such vehicle for an expired
 102 vehicle registration or expired vehicle inspection sticker, shall post written notice on the vehicle, which
 103 shall include the date of posting of such notice, that such vehicle will be towed due to an expired
 104 registration or expired vehicle inspection sticker after 48 hours from the date of the posting of such
 105 notice and that such vehicle will not be removed or towed until such period of time has passed. The
 106 towing operator shall, in addition to posting such notice on the vehicle, transmit a copy of such notice
 107 to the landlord with which he contracts for parking enforcement of the multifamily dwelling unit's
 108 parking lot. If a towing operator fails to post such notice on the vehicle, or does not wait the required
 109 period of time prior to removing or requesting the towing of such vehicle, he shall be required to
 110 reimburse the resident whose vehicle was towed the value of the charges imposed for the towing,
 111 storage, and safekeeping of the vehicle and he shall also be subject to a civil penalty not to exceed
 112 \$100.

113 No towing operator shall remove such vehicle until the 48 hours have passed from the date of the
 114 posting of such notice.

115 **§ 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.**

116 A. The governing body of any county, city, or town may by ordinance regulate the removal of
 117 trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized

agent in charge of the property. In the event that a vehicle is towed from one locality and stored in or released from a location in another locality, the local ordinance, if any, of the locality from which the vehicle was towed shall apply.

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

C. Any such local ordinance may also require towing and recovery operators to (i) obtain and retain photographs or other documentary evidence substantiating the reason for the removal; (ii) post signs at their main place of business and at any other location where towed vehicles may be reclaimed conspicuously indicating (a) the maximum charges allowed by local ordinance, if any, for all their fees for towing, recovery, and storage services and (b) the name and business telephone number of the local official, if any, responsible for handling consumer complaints; (iii) obtain at the time the vehicle is towed, verbal approval of an agent designated in the local ordinance who is available at all times; and (iv) obtain, at the time the vehicle is towed, if such towing is performed during the normal business hours of the owner of the property from which the vehicle is being towed, the written authorization of the owner of the property from which the vehicle is towed, or his agent. Such written authorization, if required, shall be in addition to any written contract between the towing and recovery operator and the owner of the property or his agent, except for vehicles being towed from a locality within Planning District 8 or Planning District 16, which shall not require written authorization if such written contract is in place. Any such written contract governing a property located within Planning District 8 or Planning District 16 shall clearly state the terms on which towing and recovery operators may monitor private lots on behalf of property owners. For the purposes of this subsection, "agent" shall not include any person who either (a) is related by blood or marriage to the towing and recovery operator or (b) has a financial interest in the towing and recovery operator's business.

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

E. For purposes of this subsection:

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building, including townhomes. "Multifamily dwelling unit" does not include any lot within a development created pursuant to the Property Owners' Association Act (§ 55.1-1800 et seq.), any unit within a condominium created pursuant to the Virginia Condominium Act (§ 55.1-1900 et seq.), any apartment within a horizontal property regime created pursuant to the Horizontal Property Act (§ 55.1-2000 et seq.), any unit within a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55.1-2100 et seq.), any time-share unit within a project created pursuant to the Virginia Real Estate Time-Share Act (§ 55.1-2200 et seq.), or any lot within a subdivision created pursuant to the Subdivided Land Sales Act (§ 55.1-2300 et seq.).

"Resident's vehicle" means any vehicle that is (i) owned, leased, or used by a resident of a multifamily dwelling unit in which the parking lot is owned and maintained by the landlord; (ii) known to the landlord to be associated with such resident, by means of a permit, registry, or other document designated by the landlord for such identification purposes; and (iii) in compliance with any requirements set forth in such lease or other agreement regarding such vehicle.

"Towing operator" means any individual or company that has contracted with a landlord for the provision of parking enforcement.

Any such local ordinance shall include a provision that requires for the towing of a resident's vehicle from a parking lot owned and maintained by the landlord of a multifamily dwelling unit the towing operator for such parking lot prior to the towing of such vehicle for an expired vehicle registration or expired vehicle inspection sticker, to post written notice on the vehicle, which shall

179 include the date of posting of such notice, that such vehicle will be towed due to an expired registration
180 or expired vehicle inspection sticker after 48 hours from the date of the posting of such notice and that
181 such vehicle will not be removed or towed until such period of time has passed. The towing operator
182 shall, in addition to posting such notice on the vehicle, transmit a copy of such notice to the landlord
183 with which he contracts for parking enforcement of the multifamily dwelling unit's parking lot. If a
184 towing operator fails to post such notice on the vehicle, or does not wait the required period of time
185 prior to removing or requesting the towing of such vehicle, he shall be required to reimburse the
186 resident whose vehicle was towed the value of the charges imposed for the towing, storage, and
187 safekeeping of the vehicle and he shall also be subject to a civil penalty not to exceed \$100.
188 No towing operator shall remove such vehicle until the 48 hours have passed from the date of the
189 posting of such notice.