

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 46.2-1232 and 46.2-1233.3 of the Code of Virginia and to amend and reenact the second enactment of Chapter 323 of the Acts of Assembly of 2023, relating to towing violations; enforcement; fuel surcharge fee.

[H 959]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1232 and 46.2-1233.3 of the Code of Virginia are amended and reenacted as follows:

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

A. The governing body of any county, city, or town may by ordinance regulate the removal of 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 *and any local ordinance created pursuant to this subsection may regulate the monitoring practices that may be used by such towing and recovery operators.* For the purposes of this subsection, "agent" ~~shall~~ *does* 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.

§ 46.2-1233.3. Improper towing; penalty.

A. This section shall apply only to tow truck drivers and towing and recovery operators removing a

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57 vehicle without the consent of its owner from a location in Planning District 8.

58 B. In addition to any action brought pursuant to subsection B of § 46.2-119, any tow truck driver
59 who violates subsection A of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any ordinance
60 adopted therefrom, or any ordinance adopted pursuant to § 46.2-1233, or any towing or recovery
61 operator who violates subsection B of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any
62 ordinance adopted therefrom, or any ordinance adopted pursuant to § 46.2-1233, is subject to a civil
63 penalty of ~~\$150 per violation~~ *10 times the total amount charged by such tow truck driver or towing and*
64 *recovery operator for such removal, towing, and storage.* Such penalty shall be collected by the Office
65 of the Attorney General, and the proceeds shall be ~~deposited into the Literary Fund~~ *paid to the victim of*
66 *such unlawful towing.*

67 **2. That the second enactment of Chapter 323 of the Acts of Assembly of 2023 is amended and**
68 **reenacted as follows:**

69 **2. That the provisions of this act shall expire on July 1, 2024 2025.**