

24102071D

SENATE BILL NO. 94

Offered January 10, 2024

Prefiled January 2, 2024

A BILL to amend and reenact § 46.2-118 of the Code of Virginia, relating to tow truck drivers and towing and recovery operators; prohibited acts; certain solicitation and offering of services; penalty.

Patron—Stanley

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:**1. That § 46.2-118 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-118. Prohibited acts by tow truck drivers and towing and recovery operators.**

A. No tow truck driver shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Obtain any fee by fraud or misrepresentation;

5. Remove or tow a trespassing vehicle, as provided in § 46.2-1231, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth; or

6. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the offering or delivery of towing and recovery services.

B. No towing and recovery operator shall:

1. Use fraud or deceit in the offering or delivering of towing and recovery services;

2. Conduct his business or offer services in such a manner as to endanger the health and welfare of the public;

3. Use alcohol or drugs to the extent such use renders him unsafe to provide towing and recovery services;

4. Neglect to maintain on record at the towing and recovery operator's principal office a list of all drivers employed by the towing and recovery operator;

5. Obtain any fee by fraud or misrepresentation;

6. Advertise services in any manner that deceives, misleads, or defrauds the public;

7. Advertise or offer services under a name other than one's own name;

8. Fail to accept for payment cash, insurance company check, certified check, money order, or at least one of two commonly used, nationally recognized credit cards, except those towing and recovery operators who have an annual gross income of less than \$10,000 derived from the performance of towing and recovery services shall not be required to accept credit cards, other than when providing police-requested towing as defined in § 46.2-1217, but shall be required to accept personal checks;

9. Fail to display at the towing and recovery operator's principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles;

10. Fail to have readily available at the towing and recovery operator's principal office, at the customer's request, the maximum fees normally charged by the towing and recovery operator for basic services for towing and initial hookup of vehicles;

11. Knowingly charge excessive fees for towing, storage, or administrative services or charge fees for services not rendered;

12. Fail to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service;

13. Willfully invoice payment for any services not stipulated or otherwise incorporated in a contract for services rendered between the towing and recovery operator and any locality or political subdivision of the Commonwealth;

14. Employ a driver required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1;

15. Remove or tow a trespassing vehicle, as provided in § 46.2-1231, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth;

16. Refuse, at the towing and recovery operator's place of business, to make change, up to \$100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle;

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59 17. Violate, or assist, induce, or cooperate with others to violate, any provision of law related to the
60 offering or delivery of towing and recovery services;

61 18. Fail to provide the owner of a stolen vehicle written notice of his right under law to be
62 reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for
63 criminal charges as required in § 46.2-1209; or

64 19. Refuse to allow, consistent with the protections detailed in the provisions of subsection E of
65 § 46.2-644.01, the owner of the vehicle towed, upon proof of ownership of the vehicle, to access and
66 recover any personal items without retrieving the vehicle and without paying any fee.

67 C. No tow truck driver as defined in § 46.2-116 or towing and recovery operator as defined in
68 § 46.2-100 shall knowingly permit another person to occupy a motor vehicle as defined in § 46.2-100
69 while such motor vehicle is being towed.

70 D. No tow truck driver or towing and recovery operator as defined in § 46.2-116 shall solicit or
71 offer towing services or cause any other person to solicit or offer towing services in any manner,
72 directly or indirectly, at the scene of any wrecked or disabled motor vehicle upon a highway, as defined
73 in § 46.2-100, when such wrecked or disabled motor vehicle reasonably necessitates removal by a tow
74 truck. In addition to any penalty authorized pursuant to this title, any tow truck driver or towing and
75 recovery operator violating the provisions of this subsection shall be guilty of a Class 1 misdemeanor.