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HOUSE BILL NO. 867

Offered January 12, 2022

Prefiled January 12, 2022

A BILL to amend and reenact §§ 46.2-1231 and 46.2-1232 of the Code of Virginia, relating to private towing; one-hour limitation.

 Patron—Lopez

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

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

§ 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~~ subsection 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. *No trespassing vehicle parked on premises at which there is no fee for parking shall be towed as permitted by this section within one hour of the vehicle being parked. The provisions of this subsection shall not prohibit towing (i) any vehicle parked in violation of any other provision of this title or (ii) any vehicle parked on property designated for parking at residential property or on property designated for parking at a hotel or motel where the parking stalls or spaces are clearly marked for a specific room. Any person in violation of this subsection shall be civilly liable to the owner of the towed vehicle or his agent for double the amount of the towing and storage fees incurred.*

C. 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~~ subsection and violation of the reporting requirement of this ~~section~~ subsection shall constitute a traffic infraction punishable by a fine of not more than \$100. Such failure to report shall limit the amount ~~which~~ that 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.

D. 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.

E. 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

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59 towing. *No such fee shall be charged if the vehicle is prohibited from being towed pursuant to*
60 *subsection B.*

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

73 G. This section shall not apply to police, fire, or public health vehicles or where a vehicle, because
74 of a wreck or other emergency, is parked or left temporarily on the property of another.

75 H. The governing body of every county, city, and town may by ordinance set limits on fees and
76 charges provided for in this section.

77 **§ 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.**

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

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

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

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

120 E. Any local ordinance adopted under the authority of this section shall provide that no trespassing

121 vehicle parked on premises at which there is no fee for parking shall be towed as permitted by the
122 ordinance within one hour of the vehicle being parked. The provisions of this subsection shall not
123 prohibit towing (i) any vehicle parked in violation of any other provision of this title or any
124 corresponding ordinance or (ii) any vehicle parked on property designated for parking at residential
125 property or on property designated for parking at a hotel or motel where the parking stalls or spaces
126 are clearly marked for a specific room. Such ordinance shall provide that any person in violation of the
127 requirements described in this subsection shall be civilly liable to the owner of the towed vehicle or his
128 agent for double the amount of the towing and storage fees incurred.

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