

HOUSE BILL NO. 925

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Transportation

on _____)

(Patron Prior to Substitute--Delegate Shin)

A BILL 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.

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.

27 **§ 46.2-1231. Ticketing, removal, or immobilization of trespassing vehicles by owner or**
28 **operator of parking or other lot or building; charges.**

29 A. The owner, operator, or lessee of any parking lot, parking area, or parking space in a parking
30 lot or area or any part of a parking lot or area, or of any other lot or building, including any county, city,
31 or town, or authorized agent of the person having control of such premises may have any vehicle
32 occupying the lot, area, space, or building without the permission of its owner, operator, lessee, or
33 authorized agent of the one having the control of the premises, removed by towing or otherwise to a
34 licensed garage for storage until called for by the owner or his agent if there are posted at all entrances to
35 the parking lot or area signs clearly and conspicuously disclosing that such vehicle, if parked without
36 permission, will be removed, towed, or immobilized. Such signs shall, at a minimum, include the
37 nonemergency telephone number of the local law-enforcement agency or the telephone number of the
38 responsible towing and recovery operator to contact for information related to the location of vehicles
39 towed from that location. The requirements of this section relating to the posting of signs by an owner,
40 operator, or lessee of any parking lot, parking area or space shall not apply to localities in which the local
41 governing body has adopted an ordinance pursuant to § 46.2-1232.

42 B. Whenever a trespassing vehicle is removed or towed as permitted by this section, notice of this
43 action shall forthwith be given by the tow truck operator to the State Police or the local law-enforcement
44 agency of the jurisdiction from which the vehicle was towed. It shall be unlawful to fail to report such tow
45 as required by this section and violation of the reporting requirement of this section shall constitute a
46 traffic infraction punishable by a fine of not more than \$100. Such failure to report shall limit the amount
47 which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than
48 that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle
49 owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

50 C. All businesses engaged in towing vehicles without the consent of their owners shall prominently
51 display (i) at their main place of business and (ii) at any other location where towed vehicles may be
52 reclaimed a comprehensive list of all their fees for towing, recovery, and storage services, or the basis of
53 such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed

54 vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who
55 reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle
56 owner whose vehicle is towed, recovered, or stored without his consent. At the time a vehicle owner or
57 agent reclaims a towed vehicle, such towing and recovery operator, if located in Planning District 8, shall
58 provide a written receipt that provides a telephone number or website available for customer complaints.
59 A locality located wholly or partially in Planning District 8 may require additional information to be
60 included on such receipt.

61 D. Notwithstanding the foregoing provisions of this section, if the owner or representative or agent
62 of 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 such
65 other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

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

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

81 G. For purposes of this subsection:

82 "Multifamily dwelling unit" includes townhouses.

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

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

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

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

108 § 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.

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

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

117 C. Any such local ordinance may also require towing and recovery operators to (i) obtain and
118 retain photographs or other documentary evidence substantiating the reason for the removal; (ii) post signs
119 at their main place of business and at any other location where towed vehicles may be reclaimed
120 conspicuously indicating (a) the maximum charges allowed by local ordinance, if any, for all their fees
121 for towing, recovery, and storage services and (b) the name and business telephone number of the local
122 official, if any, responsible for handling consumer complaints; (iii) obtain at the time the vehicle is towed,
123 verbal approval of an agent designated in the local ordinance who is available at all times; and (iv) obtain,
124 at the time the vehicle is towed, if such towing is performed during the normal business hours of the owner
125 of the property from which the vehicle is being towed, the written authorization of the owner of the
126 property from which the vehicle is towed, or his agent. Such written authorization, if required, shall be in
127 addition to any written contract between the towing and recovery operator and the owner of the property
128 or his agent, except for vehicles being towed from a locality within Planning District 8 or Planning District
129 16, which shall not require written authorization if such written contract is in place. Any such written
130 contract governing a property located within Planning District 8 or Planning District 16 shall clearly state
131 the terms on which towing and recovery operators may monitor private lots on behalf of property owners.
132 For the purposes of this subsection, "agent" shall not include any person who either (a) is related by blood
133 or marriage to the towing and recovery operator or (b) has a financial interest in the towing and recovery
134 operator's business.

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

150 E. For purposes of this subsection:

151 "Multifamily dwelling unit" includes townhouses.

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

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

159 Any such local ordinance shall include a provision that requires for the towing of a resident's
160 vehicle from a parking lot owned and maintained by the landlord of a multifamily dwelling unit the towing
161 operator for such parking lot prior to the towing of such vehicle for an expired vehicle registration or

162 expired vehicle inspection sticker, to post written notice on the vehicle, which shall include the date of
163 posting of such notice, that such vehicle will be towed due to an expired registration or expired vehicle
164 inspection sticker after 48 hours from the date of the posting of such notice and that such vehicle will not
165 be removed or towed until such period of time has passed. The towing operator shall, in addition to posting
166 such notice on the vehicle, transmit a copy of such notice to the landlord with which he contracts for
167 parking enforcement of the multifamily dwelling unit's parking lot, and the landlord shall transmit a copy
168 of that written notice to the resident. If a towing operator fails to post such notice on the vehicle, or does
169 not wait the required period of time prior to removing or requesting the towing of such vehicle, he shall
170 be required to reimburse the resident whose vehicle was towed the value of the charges imposed for the
171 towing, storage, and safekeeping of the vehicle and he shall also be subject to a civil penalty not to exceed
172 \$100. If the landlord fails to transmit a copy of the written notice to the resident, he shall be required to
173 reimburse the resident whose vehicle was towed the value of the charges imposed for the towing, storage,
174 and safekeeping of the vehicle.

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

177

#