

1 S.129

2 Introduced by Senators Campion, Pearson, and Sirotkin

3 Referred to Committee on

4 Date:

5 Subject: Motor vehicles; involuntary towing and storage; consumer protection;  
6 abandoned motor vehicles

7 Statement of purpose of bill as introduced: This bill proposes to:

8 (1) establish consumer rights in connection with involuntary towing and  
9 subsequent storage of motor vehicles;

10 (2) require the Department of Motor Vehicles to maintain and keep  
11 current on its website a list of vehicles for which an application for a certificate  
12 of abandoned motor vehicle has been filed; and

13 (3) establish a working group to consider and develop recommendations  
14 as to whether Vermont laws that grant private and public entities the authority  
15 to involuntarily tow motor vehicles and govern the disposition of abandoned  
16 motor vehicles should be amended.

17 An act relating to consumer protections related to involuntary towing and  
18 storage of motor vehicles and abandoned motor vehicles

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 \* \* \* Involuntary Towing and Storage; Consumer Protection \* \* \*

3 Sec. 1. 23 V.S.A. chapter 41 is added to read:

4 CHAPTER 41. INVOLUNTARY TOWING AND STORAGE

5 § 4201. INVOLUNTARY TOWING AND STORAGE; FEES; CONSUMER

6 RIGHTS

7 (a) Definitions. As used in this chapter:

8 (1)(A) “Involuntary towing and storage” means the towing of a motor  
9 vehicle by a towing operator without the consent of the owner, and the  
10 subsequent storage of the vehicle until transfer of possession of the vehicle to  
11 the owner.

12 (B) “Involuntary towing and storage” does not include the towing or  
13 storage of a lawfully repossessed motor vehicle.

14 (2) “Normal business hours” means 8:00 a.m.–6:00 p.m.  
15 Monday–Friday plus 8:00 a.m.–6:00 p.m. on either Saturday or Sunday, except  
16 for federal holidays.

17 (3) “Owner” means the owner or authorized operator of a motor vehicle,  
18 or agent thereof.

19 (4) “Storage operator” means any person who, for consideration, stores  
20 a motor vehicle that has been towed without consent of the owner.

1           (5) “Towing operator” means any person who, for consideration, tows a  
2 motor vehicle without consent of the owner.

3           (b) Towing and storage fees.

4           (1) A towing operator shall not charge more than \$40.00 for a tow.  
5 However, fees for towing an abandoned motor vehicle from public property  
6 shall be in accordance with section 2158 of this title and fees for towing a  
7 motor vehicle pursuant to municipal ordinance shall be as established by the  
8 municipality in accordance with section 1753 of this title.

9           (2) A storage company shall not charge a storage fee of more than  
10 \$12.00 per 24-hour period, even if the 24-hour period spans two calendar days.  
11 However, fees for storing a motor vehicle following a tow pursuant to  
12 municipal towing ordinance shall be as established by the municipality in  
13 accordance with section 1753 of this title.

14           (3) A storage operator shall not charge an owner a fee of more than  
15 \$25.00 for allowing the owner after normal business hours to:

16           (A) retrieve the owner’s personal possessions from the vehicle;

17           (B) inspect the vehicle; or

18           (C) reclaim the vehicle.

19           (4) A towing or storage operator shall not charge an owner any fee  
20 related to involuntary towing and storage that is not authorized under this  
21 subsection.

1       (c) Posting of fees; itemized invoices. A towing or storage operator shall  
2       post in a conspicuous location at the operator's place of business the fees  
3       authorized under subsection (b) of this section. Towing and storage operators  
4       shall provide owners an itemized invoice detailing any towing, storage, or  
5       related fees.

6       (d) Owner rights and protections.

7           (1)(A) An owner shall not be required to waive or limit the liability of a  
8       towing or storage operator for damage to the motor vehicle caused by the  
9       operator in order to:

10           (i) retrieve the owner's personal possessions from the vehicle;

11           (ii) inspect the vehicle; or

12           (iii) reclaim the vehicle.

13           (B) Any waiver or limitation of liability described in this subdivision  
14       (d)(1) shall be unenforceable.

15           (2)(A) A towing operator shall not tow a motor vehicle, even if the  
16       vehicle has been attached to any towing apparatus, if:

17           (i) the owner is within the line of sight of a towing operator and  
18       communicates or signals to the towing operator not to tow the owner's motor  
19       vehicle, and the owner consents to move the vehicle to a lawful location; or

20           (ii) an animal or person is in the vehicle, unless the vehicle's  
21       location poses an immediate threat to public safety.

1           (B) This subdivision (d)(2) is not intended to modify any liability of  
2           the owner for unlawful parking that may exist under law.

3           (3) The owner of a motor vehicle subject to involuntary towing and  
4           storage shall have the right at no charge to retrieve his or her personal  
5           possessions from the vehicle and inspect the vehicle, and the right to retrieve  
6           the vehicle, during normal business hours.

7           (4) At a minimum, a towing or storage operator shall accept cash, a  
8           certified or bank check, and at least two national bank credit cards in payment  
9           for any towing, storage, or related fees.

10           (5) An owner of a motor vehicle subject to involuntary towing and  
11           storage shall have the right not to have repairs made to the vehicle unless the  
12           owner authorizes the repairs in writing.

13           (6) A towing company, within one hour of towing a vehicle, shall notify  
14           the law enforcement agency with authority over the location from which the  
15           vehicle was towed of:

16           (A) the make, model, and license plate number, if available, of the  
17           vehicle that was towed;

18           (B) the location where the towed vehicle is stored; and

19           (C) contact information for the storage company.

1           (7) A towing company shall not pay any fee or other consideration to a  
2           person for the privilege of towing motor vehicles from property.

3           § 4202. ENFORCEMENT

4           A violation of this chapter is an unfair or deceptive act or practice under  
5           9 V.S.A. § 2453 and is enforceable by the Attorney General or a State's  
6           Attorney or an owner pursuant to 9 V.S.A. chapter 63, subchapter 1 (consumer  
7           protection; general provisions). In addition, a towing or storage operator who  
8           violates subsection 4201(b) or (d) of this title also shall be liable to the owner  
9           of a motor vehicle subject to involuntary towing and storage for a penalty  
10           payment of \$75.00 per violation, per day, not to exceed \$750.00 for a  
11           continuing violation.

12           Sec. 2. 23 V.S.A. § 1753 is amended to read:

13           § 1753. ORDINANCES AUTHORIZING REMOVAL

14           The selectboard of a town, the trustees of a village, or the board of aldermen  
15           of a city may enact ordinances authorizing the removal of motor vehicles  
16           parked without authorization on publicly or privately owned land and  
17           including, by illustration and not limitation, public, municipal, or private  
18           parking lots, drives, and ways. The owner of the motor vehicle may be  
19           required to pay reasonable towing and storage charges, as determined by the  
20           legislative body of the municipality, for which a lien may be imposed against

1 the motor vehicle and its owner, or both, which may be in addition to any  
2 ~~criminal~~ penalty.

3 Sec. 3. 23 V.S.A. § 304a(e) is amended to read:

4 (e) A person, other than an eligible person, who for his or her own purposes  
5 parks a vehicle in a space for persons with disabilities shall be fined not less  
6 than \$200.00 for each violation and shall be liable for towing charges. ~~He or~~  
7 ~~she shall also be liable for~~ and storage charges ~~not to exceed \$12.00 per day as~~  
8 established under section 4201 of this title, and an artisan's lien may be  
9 imposed against the vehicle for payment of the charges assessed. The person  
10 in charge of the parking space or spaces for persons with a disability or any  
11 duly authorized law enforcement officer shall cause the removal of a vehicle  
12 parked in violation of this section. A violation of this section shall be  
13 considered a traffic violation within the meaning of 4 V.S.A. chapter 29.

14 Sec. 4. 23 V.S.A. § 2155 is amended to read:

15 § 2155. FEES AND CHARGES

16 (a) Towing fees. For towing an abandoned motor vehicle from private  
17 property, a towing service may charge a reasonable fee as established under  
18 section 4201 of this title, to be paid by the vehicle owner or the landowner of  
19 the private property.

20 (b) Storage charges. In addition to any towing fee, an owner or lienholder  
21 reclaiming an abandoned motor vehicle may be charged and shall pay a fee for

1 the costs of storage of the vehicle as established under section 4201 of this  
2 title, except that no fee may be charged for storage for any period preceding  
3 the date upon which the form for abandoned motor vehicle certification is sent  
4 to the Department.

5 \* \* \* Notice of Application for Certificate of

6 Abandoned Motor Vehicle \* \* \*

7 Sec. 5. 23 V.S.A. § 2154 is amended to read:

8 § 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED  
9 MOTOR VEHICLES

10 (a) The Department shall make a reasonable attempt to locate and to  
11 provide notice to an owner of an abandoned motor vehicle.

12 (1) If the abandoned motor vehicle is not identifiable by its registration  
13 plates or public vehicle identification number, and if no owner can be  
14 determined within 21 days of the date of receipt of the abandoned motor  
15 vehicle certification form, the Commissioner shall issue a certificate of  
16 abandoned motor vehicle with an appropriate title or salvage title.

17 (2) If the abandoned motor vehicle is identifiable by its registration  
18 plates or public vehicle identification number, ~~the~~

19 (A) The Department shall, within three business days of receipt of the  
20 form for certification of abandoned motor vehicle, send notice to the last  
21 known registered owner and lienholder of the vehicle. The notice shall be sent



1 by certified mail, return receipt requested, and shall advise the last known  
2 registered owner of the motor vehicle's location and a telephone number where  
3 additional information about the motor vehicle may be obtained. If the receipt  
4 is not returned to the Department within seven business days, the  
5 Commissioner shall, by first class mail, send a second notice. Within 21 days  
6 of sending the second notice, the last known registered owner or lienholder  
7 may reclaim and retrieve the motor vehicle by presenting to the Department  
8 satisfactory evidence of ownership, and paying or arranging to pay any fees or  
9 charges authorized by section 2155 of this title. If the last known registered  
10 owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days  
11 of the second mailing, the Commissioner shall issue a certificate of abandoned  
12 motor vehicle with appropriate title or salvage title.

13 (B) The Department shall maintain and keep current on its website a  
14 list of vehicles for which an application for a certificate of abandoned motor  
15 vehicle has been filed, and contact information for Department personnel to  
16 whom evidence of ownership may be presented under subsection (b) of this  
17 section. At a minimum, the list shall include the vehicle's make; registration  
18 plate number or public vehicle identification number, or both if available;  
19 model; model year; and the name and contact information of the person who  
20 applied for the certificate of abandoned motor vehicle.

1 (b) An owner or lienholder may reclaim an abandoned motor vehicle by  
2 presenting to the Department satisfactory evidence of ownership, and paying or  
3 reimbursing, or making arrangements to pay or reimburse, the towing agency,  
4 the Department, or the landowner, as the case may be, any towing fee or  
5 storage charges permitted under section 2155 of this title.

6 \* \* \* Involuntary Towing and Abandoned

7 Motor Vehicle Working Group \* \* \*

8 Sec. 6. INVOLUNTARY TOWING AND ABANDONED MOTOR  
9 VEHICLE WORKING GROUP

10 (a) Creation and charge. An Involuntary Towing and Abandoned Motor  
11 Vehicle Working Group is created to consider and develop recommendations  
12 as to whether Vermont laws that grant private and public entities the authority  
13 to involuntarily tow motor vehicles and govern the disposition of abandoned  
14 motor vehicles should be amended.

15 (b) Membership. The Working Group shall be composed of the following  
16 members:

17 (1) the Commissioner of Motor Vehicles or designee;

18 (2) the Commissioner of Public Safety or designee;

19 (3) the Attorney General or designee;

20 (4) a representative of municipal government designated by the Vermont  
21 League of Cities and Towns;

1           (5) a representative of municipal law enforcement designated by the  
2           Vermont Association of Chiefs of Police; and

3           (6) an individual designated by the Vermont Towing Association to  
4           represent the interests of towing service operators.

5           (c) Required review. In fulfilling its charge under subsection (a) of this  
6           section, the Working Group shall consult with interested stakeholders  
7           including representatives of insurance companies and AAA of Northern New  
8           England and shall review current Vermont law and the laws of other  
9           jurisdictions concerning:

10           (1) when a motor vehicle is deemed to be abandoned;

11           (2) the process for disposition of abandoned motor vehicles;

12           (3) notice to owners and lienholders of abandoned motor vehicles;

13           (4) the allocation of proceeds of the sale of abandoned motor vehicles;

14           (5) when a motor vehicle may be towed without the consent of the  
15           owner or operator; and

16           (6) any other topics relevant to fulfilling its charge.

17           (d) Assistance. The Working Group shall have the administrative,  
18           technical, and legal assistance of the Department of Motor Vehicles.

19           (e) Report. On or before January 15, 2018, the Working Group shall  
20           submit a written report to House and Senate Committees on Transportation, the  
21           House Committee on Commerce and Economic Development, and the Senate

1 Committee on Economic Development, Housing and General Affairs, with its  
2 findings and any recommendations for legislative action.

3 (f) Meetings.

4 (1) The Commissioner of Motor Vehicles shall call the first meeting of  
5 the Working Group to occur on or before July 15, 2017.

6 (2) The Committee shall select a chair from among its members at the  
7 first meeting.

8 (g) Reimbursement. Members of the Working Group who are not  
9 employees of the State of Vermont and who are not otherwise compensated or  
10 reimbursed for their attendance shall be entitled to per diem compensation and  
11 reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four  
12 meetings.

13 \* \* \* Effective Dates \* \* \*

14 Sec. 7. EFFECTIVE DATES

15 (a) This section and Sec. 6 (Working Group) shall take effect on passage.

16 (b) All other sections shall take effect on July 1, 2017.