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H.201

Introduced by Representatives Rachelson of Burlington, Burke of Brattleboro,
Cina of Burlington, Colburn of Burlington, Donovan of
Burlington, Killacky of South Burlington, LaLonde of South
Burlington, Lippert of Hinesburg, Masland of Thetford,
McCarthy of St. Albans City, Sullivan of Burlington, and Till of
Jericho

Referred to Committee on

Date:

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

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

- (1) establish consumer rights in connection with involuntary towing and subsequent storage of motor vehicles;
- (2) require the Department of Motor Vehicles to maintain and keep current on its website a list of vehicles for which an application for a certificate of abandoned motor vehicle has been filed; and
- (3) establish a working group to consider and develop recommendations as to whether Vermont laws that grant private and public entities the authority to involuntarily tow motor vehicles and govern the disposition of abandoned motor vehicles should be amended.

1 An act relating to consumer protections related to involuntary towing and
2 storage of motor vehicles and abandoned motor vehicles

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

4 * * * Involuntary Towing and Storage; Consumer Protection * * *

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

6 CHAPTER 41. TOWING BILL OF RIGHTS

7 § 4201. INVOLUNTARY TOWING AND STORAGE; FEES; CONSUMER

8 RIGHTS

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

10 (1) “Drop fee” means a charge offered instead of an involuntary tow that
11 allows an owner to stop an involuntary tow that is in process.

12 (2)(A) “Involuntary tow” means the towing of a motor vehicle by a
13 towing operator without the consent of the owner.

14 (B) “Involuntary storage” means the storage of a motor vehicle
15 subsequent to an involuntary tow and prior to transfer of possession of the
16 vehicle to the owner.

17 (C) “Involuntary tow” and “involuntary storage” do not include the
18 towing or storage of a lawfully repossessed motor vehicle.

19 (3) “Owner” means the owner as defined in subdivision 4(26) of this
20 title or authorized operator of a motor vehicle.

21 (4) “Storage operator” means any person who stores a motor vehicle that
22 has been towed.

1 (5) "Towing operator" means any person who tows a motor vehicle.

2 (b) Towing and storage fees.

3 (1) A towing operator shall not charge more than \$40.00 for an
4 involuntary tow or more than \$15.00 for a drop fee. However, fees for towing

an abandoned motor vehicle from public property shall be in accordance with
section 2158 of this title and fees for towing a motor vehicle pursuant to
municipal ordinance shall be as established by the municipality in accordance
with section 1753 of this title.

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

(3) A storage operator shall not charge an owner an additional fee of
more than \$25.00 for allowing the owner to do any of the following after
normal business hours, which shall be, at a minimum, 8:00 a.m.–6:00 p.m.
17 Monday–Friday plus 8:00 a.m.–6:00 p.m. on at least one weekend day

18 excluding federal and State holidays:

19 (A) retrieve the owner's personal possessions from the vehicle;

20 (B) inspect the vehicle; or

21 (C) reclaim the vehicle.

this paragraph confuses two issues. It sets expectations for standard business hours, and it sets a fee limit for after hours access to the vehicle. It does not answer the question "how much can an operator charge for access during business hours?" Extract "owner's rights" portion to place under "(d) Owner rights and protections." in sequence with (d) (3)

1 (4) Neither a towing operator nor a storage operator shall charge an
2 owner any fee related to involuntary towing and storage that is not authorized
3 under this subsection.

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

9 (d) Owner rights and protections.

10 (1)(A) An owner shall not be required to waive or limit the liability of a
11 towing or storage operator for damage to the motor vehicle caused by the
12 operator in the course of an involuntary tow or storage in order to:

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

14 (ii) inspect the vehicle; or

15 (iii) reclaim the vehicle.

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

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

20 (i) the owner is within the line of sight of the towing operator and
21 communicates or signals to the towing operator not to tow the owner's motor

1 vehicle, and the owner consents to move the vehicle to a lawful location and
2 pays the towing operator's drop fee; or

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

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

7 (3) The owner of a motor vehicle subject to involuntary towing and
8 storage shall have the right at no additional charge to retrieve his or her
9 personal possessions from the vehicle and inspect the vehicle, and the right to
10 retrieve the vehicle, during normal business hours as established in subdivision
11 (b)(3) of this section.

12 (4) At a minimum, towing and storage operators shall accept cash, a
13 certified or bank check, and at least two national bank credit cards in payment
14 for any involuntary towing, involuntary storage, or related fees.

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

18 (6) A towing operator, within one hour of towing a motor vehicle, shall
19 notify the law enforcement agency with authority over the location from which
20 the vehicle was towed of:

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

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

4 (C) contact information for the storage company, if applicable.

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

7 § 4202. ENFORCEMENT

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

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

17 § 1753. ORDINANCES AUTHORIZING REMOVAL

18 The selectboard of a town, the trustees of a village, or the board of aldermen
19 or council of a city may enact ordinances authorizing the removal of motor
20 vehicles parked without authorization on publicly or privately owned land and
21 including, by illustration and not limitation, public, municipal, or private

1 parking lots, drives, and ways. The owner of the motor vehicle may be
2 required to pay reasonable towing and storage charges, as determined by the
3 legislative body of the municipality, for which a lien may be imposed against
4 the motor vehicle and its owner, or both, which may be in addition to any
5 ~~criminal~~ penalty.

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

7 (e)(1) A person, other than an eligible person, who for his or her own
8 purposes parks a vehicle in a space for persons with disabilities shall be subject
9 to a civil penalty of not less than \$200.00 for each violation and shall be liable
10 for towing and storage charges.

11 (2) A person, other than an eligible person, who displays a special
12 registration plate or removable windshield placard not issued to him or her
13 under this section and parks a vehicle in a space for persons with disabilities,
14 shall be subject to a civil penalty of not less than \$400.00 for each violation
15 and shall be liable for towing and storage charges.

16 (3) A person who violates this section ~~also~~ shall be liable for towing and
17 storage charges not to exceed \$12.00 per day as established under section 4201
18 of this title, and an artisan's lien may be imposed against the vehicle for
19 payment of the charges assessed.

20 * * *

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

2 § 2155. FEES AND CHARGES

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

7 (b) Storage charges. In addition to any towing fee, an owner or lienholder
8 reclaiming an abandoned motor vehicle may be charged and shall pay a fee for
9 the costs of storage of the vehicle as established under section 4201 of this
10 title, except that no fee may be charged for storage for any period preceding
11 the date upon which the form for abandoned motor vehicle certification is sent
12 to the Department.

13 * * * Notice of Application for Certificate
14 of Abandoned Motor Vehicle and Disposal * * *

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

16 § 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED
17 MOTOR VEHICLES

18 (a) The Department of Motor Vehicles shall make a reasonable attempt to
19 locate and provide notice to an owner of an abandoned motor vehicle.

20 (1) If the abandoned motor vehicle is not identifiable by its registration
21 plates or public vehicle identification number, and if no owner can be

1 determined within 21 days of the date of receipt of the abandoned motor
2 vehicle certification form, the Commissioner shall issue a certificate of
3 abandoned motor vehicle with an appropriate title or salvage title.

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

6 (A) The Department shall, within three business days of receipt of the
7 form for certification of abandoned motor vehicle, send notice to the last
8 known registered owner and lienholder of the vehicle. The notice shall be sent
9 by certified mail, return receipt requested, and shall advise the last known
10 registered owner of the motor vehicle's location and a telephone number where
11 additional information about the motor vehicle may be obtained. If the receipt
12 is not returned to the Department within seven business days, the
13 Commissioner shall, by first class mail, send a second notice. Within 21 days
14 of sending the second notice, the last known registered owner or lienholder
15 may reclaim and retrieve the motor vehicle by presenting to the Department
16 satisfactory evidence of ownership, and paying or arranging to pay any fees or
17 charges authorized by section 2155 of this title. If the last known registered
18 owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days
19 of the second mailing, the Commissioner shall issue a certificate of abandoned
20 motor vehicle with appropriate title or salvage title.

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

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

14 Sec. 6. 23 V.S.A. § 2156 is amended to read:

15 § 2156. DISPOSAL OF ABANDONED MOTOR VEHICLES

16 (a) If the Commissioner issues the certificate of abandoned motor vehicle,
17 title to the motor vehicle shall pass to the holder of the certificate of abandoned
18 motor vehicle, ~~free from all claims of the owner or prior holder of the motor~~
19 ~~vehicle, and of all persons claiming through or under the owner or prior holder~~
20 who may sell the motor vehicle in a commercially reasonable manner as
21 described in 9A V.S.A. § 9-610 (disposition of collateral after default). The

1 Commissioner shall issue an appropriate title or salvage title of the motor
2 vehicle at no charge.

3 (b) The holder of the certificate of abandoned motor vehicle shall pay the
4 balance of the proceeds of the sale, if any, after payment of liens, towing and
5 storage charges, and other reasonable expenses incident to the sale, to the
6 owner or lienholder, if claimed at any time within one year after the date of the
7 sale. If the owner or lienholder does not claim the balance within one year, the
8 holder of the certificate of abandoned motor vehicle shall retain the proceeds.

9 (c) Except for intentionally inflicted damage or gross negligence, neither
10 the State nor any of its agents or employees shall be liable to the owner for any
11 damage to the motor vehicle during the period in which the State retains
12 custody.

13 * * * Involuntary Towing and Abandoned Motor Vehicle Working Group * * *

14 Sec. 7. INVOLUNTARY TOWING AND ABANDONED MOTOR
15 VEHICLE WORKING GROUP

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

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



- 3 (1) the Commissioner of Motor Vehicles or designee;
4 (2) the Commissioner of Public Safety or designee;
5 (3) the Attorney General or designee;
6 (4) a representative of municipal government designated by the Vermont
7 League of Cities and Towns;
8 (5) a representative of municipal law enforcement designated by the
9 Vermont Association of Chiefs of Police; and
10 (6) an individual designated by the Vermont Towing Association to
11 represent the interests of towing service operators.

Trade group is
represented but not
consumers?

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

- 17 (1) when a motor vehicle is deemed to be abandoned;
18 (2) the process for disposition of abandoned motor vehicles;
19 (3) notice to owners and lienholders of abandoned motor vehicles;
20 (4) the allocation of proceeds of the sale of abandoned motor vehicles;

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

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

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

6 (e) Report. On or before January 15, 2020, the Working Group shall
7 submit a written report to the House and Senate Committees on Transportation,
8 the House Committee on Commerce and Economic Development, and the
9 Senate Committee on Economic Development, Housing and General Affairs,
10 with its findings and any recommendations for legislative action.

11 (f) Meetings.

12 (1) The Commissioner of Motor Vehicles shall call the first meeting of
13 the Working Group to occur on or before July 15, 2019.

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

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

