

House Bill 1261

By: Representatives Lumsden of the 12th, Powell of the 33rd, Corbett of the 174th, and Prince of the 132nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 40 and 44 of the Official Code of Georgia Annotated, relating to motor
2 vehicles and traffic and property, respectively, so as to clarify notice requirements and forms
3 of payments for fees relative to towing and storage firms; to provide for a towing and storage
4 firm to send all owners a required notification letter within five days; to provide for forms
5 of payment as cash, credit card, and debit card with no additional charge; to provide for
6 related matters; to provide for an effective date; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is
11 amended by revising subsection (a) of Code Section 40-11-19, relating to notification letter
12 to owners, advertisement, lien upon vehicle, recoverable fees, form disclaiming ownership,
13 and demand letter, as follows:

14 "(a)(1) Within ~~15~~ five calendar days of removal or initial storage of a motor vehicle, a
15 towing and storage firm shall send all owners the notification letter form developed by
16 the Council of Magistrate Court Judges for such purpose. Such notification shall be by

17 certified mail or by hand delivery with acknowledgment of such receipt by signature of
18 the owner and a copy of such owner's driver's license. Such notification letter shall
19 include, at a minimum:

20 (A) The location of the vehicle;

21 (B) The fees connected with the removal of the vehicle, which shall be the maximum
22 allowable charge for the removal of the motor vehicle as set forth by rule and regulation
23 of the Department of Public Safety for maximum state-wide rate tariffs or the rate
24 specified pursuant to an agreement with a local governing authority, except when
25 otherwise exempted or provided for by federal law, rule, or regulation;

26 (C) The daily fees for storage of the vehicle, which shall be the maximum allowable
27 daily rate for the storage of the motor vehicle as set forth by rule and regulation of the
28 Department of Public Safety for maximum state-wide rate tariffs or the rate specified
29 pursuant to an agreement with a local governing authority;

30 (D) A statement informing the recipient that daily fees will accrue until full payment
31 has been made;

32 (E) A statement informing the recipient that the fees which are recoverable by a towing
33 and storage firm include costs for obtaining the owner's information and notifying the
34 owner, court filing costs, attorney's fees, and interest;

35 (F) A statement informing the recipient that the towing and storage firm has the right
36 to petition a court to foreclose a lien for all amounts owed after ten calendar days from
37 the date such notice is sent;

38 (G) A statement informing the recipient that a court may order the sale of the vehicle
39 to satisfy the debt; and

40 (H) A form to disclaim ownership interest in the motor vehicle by oath or affirmation
41 as set forth in Code Section 40-11-19.5.

42 (2) If the identity of the owner cannot be ascertained by the department or the department
43 fails to timely furnish the owner information requested pursuant to Code

44 Section 40-11-15 or 40-11-16, the towing and storage firm shall, within 60 days of such
45 removal, place an advertisement in a newspaper of general circulation or the legal organ
46 in the county where such vehicle was obtained. Any advertisement required by this
47 paragraph shall run in the newspaper once a week for two consecutive weeks. The
48 advertisement shall be in the form provided by the Council of Magistrate Court Judges
49 for such purpose. Such advertisement form shall include a space for describing the motor
50 vehicle's year, make, model, and manufacturer's vehicle identification number, the
51 present location of such vehicle, the fact that such vehicle is subject to a lien which can
52 be foreclosed upon, and the fact that such vehicle may be ordered sold to satisfy such
53 lien.

54 (3) If the identity of an owner which was previously not ascertained becomes known
55 while an advertisement is run pursuant to paragraph (2) of this subsection, the towing and
56 storage firm shall send a notification letter pursuant to the same requirements set forth in
57 paragraph (1) of this subsection within ten days of obtaining such information."

58 **SECTION 2.**

59 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
60 revising subsections (a.1) and (c) of Code Section 44-1-13, relating to removal of improperly
61 parked cars or trespassing personal property, concurrent jurisdiction, procedure; automatic
62 surveillance prohibited, and penalty, as follows:

63 "(a.1) Any person or his or her authorized agent entitled to the possession of any private
64 property shall have the right to remove or cause to be removed from the property any
65 vehicle or trespassing personal property thereon which is not authorized to be at the place
66 where it is found and to store or cause to be stored such vehicle or trespassing personal
67 property, provided that there shall have been conspicuously posted on the private property
68 notice that any vehicle or trespassing personal property which is not authorized to be at the
69 place where it is found may be removed at the expense of the owner of the vehicle or

70 trespassing personal property. Such notice shall also include information as to the location
71 where the vehicle or personal property can be recovered, the cost of said recovery, and
72 information as to the form forms of payment, which shall include cash, credit card, and
73 debit card at no additional charge; provided, however, that the owner of residential private
74 property containing not more than four residential units shall not be required to comply
75 with the posting requirements of this subsection. Only towing and storage firms issued
76 permits or licenses by the local governing authority of the jurisdiction in which they
77 operate or by the department, and having a secure impoundment facility, shall be permitted
78 to remove trespassing property and trespassing personal property at the request of the
79 owner or authorized agent of the private property."

80 "(c) In all municipalities, except a consolidated city-county government, having a
81 population of 100,000 or more according to the United States decennial census of 1970 or
82 any future such census a person entitled to the possession of an off-street parking area or
83 vacant lot within an area zoned commercial by the municipality shall have the right to
84 remove any vehicle or trespassing personal property parked thereon after the regular
85 activity on such property is concluded for the day only if access to such property from the
86 public way is blocked by a sturdy chain, cable, or rope stretched at least 18 inches above
87 grade across all driveways or other ways providing access to the off-street parking area or
88 vacant lot and there is conspicuously posted in the area a notice, the location of which must
89 be approved by the municipality's police department, that any vehicle or trespassing
90 personal property parked thereon which is not authorized to be in such area may be
91 removed at the expense of the owner along with information as to where the vehicle or
92 trespassing personal property may be recovered, the cost of said recovery, and information
93 regarding the form forms of payment, which shall include cash, credit card, and debit card
94 at no additional charge."

95 **SECTION 3.**

96 This Act shall become effective upon its approval by the Governor or upon its becoming law
97 without such approval.

98 **SECTION 4.**

99 All laws and parts of laws in conflict with this Act are repealed.