

The House Committee on Public Safety and Homeland Security offers the following substitute to HB 774:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 44 of the Official Code of Georgia Annotated, relating to property, so as to  
2 allow for vehicle immobilization devices or boots to be applied to motor vehicles on private  
3 property; to provide for definitions; to provide for rules and standards of operation; to  
4 provide for booting fees; to provide for notice and sign requirements; to require a regulatory  
5 permit issued by a local government for the lawful operation of vehicle immobilization  
6 services; to provide for certain preemptions of local regulation; to provide for criminal  
7 penalties; to provide for regulatory fees to be paid to certain local governments; to provide  
8 for certain causes of action; to provide for applicability; to provide for related matters; to  
9 provide for an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 SECTION 1.

12 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
13 adding a new chapter to read as follows:

14 CHAPTER 1A

15 44-1A-1.

16 As used in this chapter, the term:

- 17 (1) 'Immobilize' means having installed a vehicle immobilization device.
- 18 (2) 'Operator' means any individual or entity, including, but not limited to, a sole  
19 proprietor, independent contractor, partnership, or similar business entity, offering or  
20 operating a vehicle immobilization service.
- 21 (3) 'Private property' means any parcel or space of private real property.
- 22 (4) 'Vehicle immobilization device,' 'device,' or 'boot' means any mechanical device that  
23 is orange or yellow in color and is designed or used to be attached to a wheel, tire, or

24 other part of a parked motor vehicle so as to prohibit the motor vehicle's usual manner  
25 of movement or operation.

26 (5) 'Vehicle immobilization service' means any service whereby motor vehicles are  
27 immobilized.

28 44-1A-2.

29 (a)(1) Unless authorized by a governing authority of a county or municipal corporation,  
30 it shall be unlawful to use vehicle immobilization devices upon parked motor vehicles in  
31 this state.

32 (2) Vehicle immobilization devices used upon parked motor vehicles on private property  
33 shall be lawful only as provided for under this chapter.

34 (b) It shall be unlawful for any person to act as an operator within this state unless such  
35 person has a regulatory permit, as provided for under Code Section 44-1A-3, issued by the  
36 local government within whose jurisdiction such operator is domiciled or has a principal  
37 place of business; provided, however, that any operator offering or operating upon an  
38 annual permit, license, or registration issued by a county or municipal corporation on or  
39 before December 31, 2018, shall be deemed to be in compliance with this subsection until  
40 the date which was given for the expiration of such permit, license, or registration issued  
41 by a county or municipal corporation at the time of issuance.

42 (c)(1) It shall be unlawful for any person to act as an operator or as a partner, member,  
43 officer, employee, or contractor of an operator if such person also has ownership in  
44 private property that is being used for the business of parking or allowing for the parking  
45 of motor vehicles or is engaged in the business of parking lot management or valet  
46 parking operations.

47 (2) This subsection shall not apply to any property owned by any private technical  
48 school, vocational school, college, or university.

49 (d) It shall be unlawful for an operator to receive or maintain a regulatory permit under this  
50 chapter if such operator, or any partner, member, or officer of such operator, has been  
51 convicted of a felony offense within the last 7 years.

52 (e) Each operator coming into existence on and after January 1, 2019, shall exercise due  
53 care to conduct vehicle immobilization services in a local jurisdiction using a name which  
54 is distinguishable from any other existing operator within such local jurisdiction; provided,  
55 however, that nothing in this subsection shall be construed to prevent any operator from  
56 pursuing any remedies under trademark or other law.

57 44-1A-3.

58 (a)(1) The issuance of a regulatory permit provided for under this Code section shall be  
 59 conditioned upon the payment of the regulatory fee provided for under paragraph (2) of  
 60 this subsection; provided, however, that nothing in this Code section shall be construed  
 61 as requiring a local jurisdiction to allow for vehicle immobilization services within its  
 62 jurisdiction by the issuance of regulatory permits under this chapter.

63 (2) The fee for a regulatory permit shall be \$250.00 and paid to the governing authority  
 64 of the county if the operator is domiciled or has a principal place of business in the  
 65 unincorporated area of such county or paid to the governing authority of the municipal  
 66 corporation within whose jurisdiction such operator is domiciled or has a principal place  
 67 of business. Such regulatory permit shall expire one year from the date of issuance.

68 (b) Such regulatory permit shall be in the following form and issued by the governing  
 69 authority to whom the fee was paid:

70 \_\_\_\_\_ (City or county name)

71 **STATE OF GEORGIA**

72 **VEHICLE IMMOBILIZATION SERVICE PERMIT**

73 The operator identified below is authorized to perform vehicle immobilization services  
 74 throughout the State of Georgia pursuant to Chapter 1A of Title 44 of the Official Code of  
 75 Georgia Annotated.

76 This permit was issued on \_\_\_\_\_ (date). The permit is valid until  
 77 \_\_\_\_\_ (date).

78 This permit is valid for all individuals under the operator's employment or who are acting  
 79 on behalf of such operator, including such operator himself or herself or partners, members,  
 80 or officers of such operator who are wearing uniforms that clearly identify his or her  
 81 employment or affiliation with the operator.

82 OPERATOR: \_\_\_\_\_ (Name of operator)

83 BUSINESS ADDRESS OF OPERATOR: \_\_\_\_\_

84 BUSINESS TELEPHONE NUMBER OF OPERATOR: \_\_\_\_\_

85 This day of \_\_\_\_\_, 20    .

86 \_\_\_\_\_  
87 (City or county official)

88 \_\_\_\_\_  
89 Print name of city or county official'

90 44-1A-4.

91 An operator or any partner, member, officer, employee, or contractor of such operator shall  
92 not:

93 (1) Procure a regulatory permit by fraudulent conduct or false statement of a material  
94 fact;

95 (2) Pay in the form of a gratuity any person who does not have ownership in private  
96 property that is being used for the business of parking, or allowing for the parking of,  
97 motor vehicles for information as to unauthorized or trespassing parked motor vehicles;

98 (3) Make any payment to an owner, employee, agent, or a person in possession of private  
99 property that is being used for the business of parking, or allowing for the parking of,  
100 motor vehicles in excess of the reasonable and customary fee ordinarily charged by such  
101 person in possession of such private property for parking thereon; or

102 (4) Immobilize any vehicle located on any portion of a public way within this state,  
103 unless such operator is contracted to do so by a governmental agency.

104 44-1A-5.

105 (a) An operator shall issue all individuals under such operator's employment, or who are  
106 acting on behalf of such operator, including such operator himself or herself, or any  
107 partners, members, or officers of such operator, a photo identification with the name of the  
108 operator. Such individuals shall carry this operator issued identification with him or her  
109 at all times while performing vehicle immobilization services.

110 (b)(1) All individuals under an operator's employment, or who are acting on behalf of  
111 such operator, including such operator himself or herself, or any partners, members, or  
112 officers of such operator, shall wear a uniform that clearly identifies the operator while  
113 performing vehicle immobilization services.

114 (2) This subsection shall not apply to any peace officer employed by any private  
115 technical school, vocational school, college, or university.

116 (c)(1) Vehicles being used by operators or individuals under an operator's employment  
117 or direction to perform vehicle immobilization services shall have:

118 (A) Displayed on both sides of such vehicle the name of the operator, the address from  
 119 which the operator conducts business, and the telephone number of the operator. The  
 120 lettering shall be in a contrasting color to the color of the vehicle, or if a vehicle magnet  
 121 is used, the lettering shall be in a contrasting color to the color of the magnet. Such  
 122 lettering shall be at least one and one-half inches in height; and

123 (B) Maintained inside a copy of the regulatory permit as provided for under Code  
 124 Section 44-1A-3 which shall be produced upon request of a law enforcement officer or  
 125 the owner, driver, or person in charge of a motor vehicle to which a device has been  
 126 applied.

127 (2) This subsection shall not apply to any peace officer employed by any private  
 128 technical school, vocational school, college, or university.

129 44-1A-6.

130 (a) An operator or any partner, member, officer, employee, or contractor of such operator  
 131 may conduct vehicle immobilization services 24 hours per day, seven days per week, and  
 132 365 days per year.

133 (b) An operator shall maintain a telephone number that is staffed by a live individual 24  
 134 hours per day and 365 days per year to communicate immediately with a driver or owner  
 135 of an immobilized vehicle.

136 44-1A-7.

137 (a) It shall be unlawful for an operator or any partner, member, officer, employee, or  
 138 contractor of such operator to immobilize vehicles on any private property without having  
 139 entered into a valid written contract for vehicle immobilization services with the private  
 140 property owner, lawful lessee, managing agent, or other person in control of the property.

141 (b) No operator or any partner, member, officer, employee, or contractor of such operator  
 142 shall immobilize any motor vehicle in a driveway, parking lot, or parking area that is  
 143 designated for residential parking or residential use by the owner, driver, or person in  
 144 charge of such motor vehicle, unless such owner, driver, or person in charge of such motor  
 145 vehicle has been provided with:

146 (1) Written notice of the use of vehicle immobilization services as provided for in a lease  
 147 or in the bylaws of an association formed pursuant to Chapter 3 of Title 44; and

148 (2) Actual notice that the use of vehicle immobilization services is pending against such  
 149 motor vehicle at least 30 days prior to the application of a device on such motor vehicle.

150 For the purposes of this paragraph, notice shall be deemed to have been given to such  
 151 owner, driver, or person in charge of such motor vehicle upon evidence that:

152 (A) A properly stamped envelope containing a copy of the notice of pending use of  
153 vehicle immobilization services was addressed to such owner, driver, or person in  
154 charge of such motor vehicle and was placed in the United States mail for registered or  
155 certified delivery, and such owner, driver, or person in charge of such motor vehicle  
156 acknowledged receipt thereof on a United States Postal Service return receipt form for  
157 registered or certified mail delivery; or

158 (B) Such actual notice was sent to such owner, driver, or person in charge of such  
159 motor vehicle by statutory overnight delivery and a receipt therefor obtained as  
160 provided in Code Section 9-10-12.

161 (c) Any device applied to any such motor vehicle in violation of this Code section shall  
162 be removed without the payment of any fee.

163 44-1A-8.

164 (a) An operator or any partner, member, officer, employee, or contractor of such operator  
165 who has immobilized a vehicle shall immediately affix a notice to the driver's side window  
166 or passenger's side window or, if practicable both windows, containing the following  
167 minimum information:

168 (1) A warning that any attempt to move the vehicle may result in damage to the vehicle;  
169 and

170 (2) The fee required to remove the boot, the name of the operator, and the telephone  
171 number to call to have the boot removed which shall be the number provided for in  
172 subsection (b) of Code Section 44-1A-6.

173 (b)(1) It shall be unlawful for an operator or any partner, member, officer, employee, or  
174 contractor of such operator to fail to arrive on the site where a motor vehicle was  
175 immobilized within one hour of being contacted by the owner, driver, or person in charge  
176 of the vehicle at the number provided for on the notice.

177 (2) If an operator or any partner, member, officer, employee, or contractor of such  
178 operator fails to comply with paragraph (1) of this subsection, the vehicle immobilization  
179 device shall be removed by the operator without the payment of any fee.

180 (c) It shall be unlawful for an operator or any partner, member, officer, employee, or  
181 contractor of such operator to fail to release a vehicle from immobilization within one hour  
182 after receipt of payment from the owner, driver, or person in charge of such vehicle that has  
183 been immobilized.

184 (d) It shall be unlawful for a vehicle immobilization service, operator, or any partner,  
185 member, officer, employee, or contractor of such operator to fail to provide a receipt of  
186 payment of the booting fee to the owner, driver, or person in charge of an immobilized  
187 vehicle. The receipt shall have the name, address, and telephone number of the operator

188 and the name of the individual employee or company identification number of the  
189 employee of such operator who removed the boot.

190 44-1A-9.

191 (a)(1) If the application of a vehicle immobilization device damages a motor vehicle, the  
192 operator shall pay the cost of repairs for such damage.

193 (2) If the owner, driver, or person in charge of a motor vehicle to which a device has  
194 been applied attempts to remove the device, then the operator is not liable for any damage  
195 to such vehicle resulting from such attempt.

196 (3) If the owner, driver, or person in charge of a motor vehicle to which a device has  
197 been applied attempts to operate such motor vehicle, then the operator is not liable for  
198 any damage to such vehicle resulting from such attempt, provided that notice has been  
199 affixed to such motor vehicle as provided for in Code Section 44-1A-8, so as to provide  
200 such owner, driver, or person in charge of such motor vehicle notification of the  
201 application of the device.

202 (b) An operator shall maintain minimum insurance coverage in the amount of \$1 million  
203 in commercial general liability and \$1 million in umbrella coverage and shall have workers'  
204 compensation coverage on all employees.

205 44-1A-10.

206 (a) Neither an operator nor any partner, member, officer, employee, or contractor of such  
207 operator shall charge the owner, driver, or person in charge of any immobilized motor  
208 vehicle an amount in excess of \$65.00 for the removal of vehicle immobilization devices;  
209 provided, however, that any outstanding daily parking fees may also be collected when  
210 applicable; provided, further, that a local jurisdiction may set a lower maximum amount.  
211 Motor vehicles remaining on the private property for more than 24 hours after  
212 immobilizing may also be charged an additional fee of \$25.00 per day that such motor  
213 vehicle remains on such property without having paid for the removal of any vehicle  
214 immobilization devices.

215 (b) If a motor vehicle is immobilized for nonpayment of parking fees or for a failure to  
216 properly display any parking fee receipt, upon production of such receipt or proof of  
217 payment by the owner, driver, or person in charge of an immobilized vehicle the operator  
218 or partner, member, officer, employee, or contractor of such operator shall immediately  
219 remove any vehicle immobilization devices from such motor vehicle without the payment  
220 of any fee.

221 (c) Operators shall allow for fees to be paid by cash, credit card, or debit card at no  
222 additional charges based on payment methods.

223 44-1A-11.

224 (a) It shall be unlawful for an operator or any partner, member, officer, employee, or  
 225 contractor of such operator to install or attach a device to any motor vehicle without  
 226 posting signs meeting the requirements of this Code section.

227 (b)(1) At least one sign shall be located at each designated entrance to a parking lot or  
 228 parking area where parking prohibitions are to be effective, and where there is no  
 229 designated entrance, such signs shall be erected so as to be clearly visible from each and  
 230 every parking space;

231 (2) Signs shall be a minimum of 18 inches by 24 inches with lettering a minimum height  
 232 of one and one-half inches; and

233 (3) The bottom of such signs located at a designated entrance to a parking lot shall be  
 234 between four and six feet above the site grade, and where there is no designated entrance,  
 235 the bottom of such signs shall be six feet above site grade.

236 (c) Except the word 'warning' as provided for below which shall be at least six inches in  
 237 height, signs for a parking lot or parking area for which no fee is charged for parking shall  
 238 clearly state the following minimum language in lettering at least one and one-half inches  
 239 in height and in a solid color that contrasts with the background:

240 '1. WARNING: BOOTING ENFORCED 24/7.

241 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED (BOOTED) AT  
 242 OWNER'S RISK AND EXPENSE.

243 3. PARKING IS RESERVED FOR CURRENT PATRONS OF (insert name of  
 244 shopping center or other property complex or individual stores or property addresses  
 245 if not applicable to an entire shopping center or other property complex) ONLY.  
 246 WHEN YOU LEAVE YOU MUST TAKE YOUR VEHICLE WITH YOU. DO NOT  
 247 PARK AND LEAVE THIS PROPERTY FOR ANY REASON OR YOUR VEHICLE  
 248 WILL BE BOOTED AT YOUR EXPENSE.

249 4. BOOT REMOVAL FEE: \$65.00 (or other amount that does not exceed the  
 250 maximum fee provided for by the local jurisdiction). UNPAID PARKING FEES  
 251 MAY ALSO BE COLLECTED, IF APPLICABLE.

252 5. (Insert name of vehicle immobilization service that is permitted pursuant to this  
 253 chapter).

254 6. FOR BOOT REMOVAL, CALL (insert operator's telephone number).'

255 (d) Except the word 'warning' as provided for below which shall be at least six inches in  
 256 height, signs for a parking lot or parking area for which a fee is charged for parking shall  
 257 clearly state the following minimum language in lettering at least one and one-half inches  
 258 in height and in a solid color that contrasts with the background:

259 '1. WARNING: BOOTING ENFORCED 24/7.



260 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED (BOOTED) AT  
 261 OWNER'S RISK AND EXPENSE.

262 3. NO FREE PARKING ANYTIME. (Insert additional terms of parking regarding  
 263 payment in advance, display of receipt on dashboard of a motor vehicle,  
 264 nontransferability of ticket, exceeding parking time expirations, and in and out  
 265 prohibitions, as applicable.)

266 4. BOOT REMOVAL FEE: \$65.00 (or other amount that does not exceed the  
 267 maximum fee provided for by the local jurisdiction). UNPAID PARKING FEES  
 268 MAY ALSO BE COLLECTED, IF APPLICABLE.

269 5. (Insert name of vehicle immobilization service that is permitted pursuant to this  
 270 chapter).

271 6. FOR BOOT REMOVAL, CALL (insert operator's telephone number).'

272 (e) No abbreviations shall be used on the signs required by subsections (c) and (d) of this  
 273 Code section.

274 44-1A-12.

275 (a) An operator or any partner, member, officer, employee, or contractor of such operator  
 276 that violates any provision of this chapter or commits an unlawful act under this chapter  
 277 shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished as  
 278 provided by Code Section 17-10-4.

279 (b) A local government may revoke or suspend the regulatory permit of an operator where,  
 280 upon investigation or inspection, it has been determined that any operator, or an officer,  
 281 partner, or member thereof, has violated provisions of this chapter.

282 (c) Any operator whose regulatory permit has been revoked pursuant to this chapter shall  
 283 be disqualified from reapplying for such permit for 12 months immediately following the  
 284 revocation.

285 44-1A-13.

286 (a) Any person who suffers injury or damages as a result of a violation of this chapter by  
 287 an operator or any partner, member, officer, employee, or contractor of such operator may  
 288 bring an action in any court of competent jurisdiction for actual damages which shall be  
 289 presumed to be not less than \$100.00, together with court costs, against such operator. A  
 290 court shall award three times actual damages upon a finding of intentional violation of this  
 291 chapter.

292 (b) This Code section shall only apply to causes of action that occur on or after January 1,  
 293 2019, and shall not exhaust or limit any causes of action that were pending prior to  
 294 January 1, 2019.

295 44-1A-14.

296 If the governing authority of a county or municipal corporation adopts an ordinance  
297 authorizing the use of vehicle immobilization devices on private property, such ordinance  
298 shall be identical to the provisions of this chapter or may impose additional requirements  
299 that exceed the minimum requirements of this chapter."

300 **SECTION 2.**

301 This Act shall become effective on January 1, 2019.

302 **SECTION 3.**

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