

Assembly Bill No. 301—Assemblymen C.H. Miller; Anderson, Considine, Flores, González, Monroe-Moreno, Peters, Summers-Armstrong, Thomas and Watts

Joint Sponsor: Senator Spearman

CHAPTER.....

AN ACT relating to motor vehicles; revising provisions governing the release of a motor vehicle connected to a tow car at the point of origination of the towing; revising provisions relating to the towing of a motor vehicle from a residential complex or a common-interest community; revising provisions restricting the keeping of unregistered vehicles on real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an operator of a tow car to allow the owner, or agent of the owner, of a motor vehicle that has been connected to a tow car to obtain the release of the vehicle at the point of origination of the towing if: (1) a request is made to release the vehicle; and (2) the owner or agent pays a fee established by the operator for releasing the vehicle. (NRS 706.4469) If a vehicle that has been connected to a tow car due to the vehicle not being registered and the owner of the motor vehicle or agent of the owner of the motor vehicle provides proof that the motor vehicle is registered, **section 1** of this bill: (1) requires the operator to immediately release the motor vehicle to the owner or agent of the motor vehicle; and (2) provides that the owner or agent is not responsible for paying the fee established by the operator for releasing the vehicle.

Existing law imposes certain conditions on the towing of a motor vehicle which is requested by a person other than the owner of the vehicle, an agent of the owner of the vehicle or a law enforcement officer. (NRS 706.4477) **Section 2** of this bill provides that the conditions also do not apply to a person that is employed by a local government to enforce the laws, ordinances or codes of the local government. Existing law provides that the owner of real property on which a residential complex is located, or an authorized agent of the owner, may only have a vehicle towed: (1) because of a parking violation; (2) if the vehicle is not registered; (3) if the registration of the vehicle has been expired for not less than 60 days or is expired; or (4) if the vehicle is blocking a fire hydrant, fire lane or parking space designated for the handicapped or is posing an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of a residential complex. (NRS 706.4477) **Section 2** prohibits the owner or agent from having a motor vehicle towed solely because the registration of the vehicle is expired. **Section 5** of this bill makes a conforming change as a result of this prohibition.

Existing law provides that, in certain situations, a registered owner of a motor vehicle that is towed is responsible for the cost of removal and storage of the motor vehicle and further provides that an operator of a tow car may impose a fee on the owner of the motor vehicle for the towing and storage of the vehicle. (NRS 706.4477, 706.4479) **Section 2** provides that the operator shall not charge any fee or cost for the storage of the motor vehicle until at least 48 hours has passed since the motor vehicle arrived and was registered at the place of storage. If a vehicle has



been towed due to the vehicle not being registered and the owner of the vehicle does not provide proof that the vehicle is registered, **section 2** provides that the owner shall pay a hardship tariff for the removal and storage of a towed motor vehicle if, for reasons outside of the owner's control, the owner is incapable of paying the normal rate for the removal and storage of the towed motor vehicle. **Section 2** requires the Nevada Transportation Authority to adopt regulations to carry out the hardship tariff program.

Sections 1 and 2 provide that a person may provide proof of registration of a vehicle by providing current registration documents in a physical format or in certain electronic formats that predate the date on which the vehicle was connected or towed.

Existing law authorizes the unit-owners' association of a common-interest community to direct the removal of vehicles improperly parked on property owned or leased by the association. (NRS 116.3102) **Section 4** of this bill prohibits an association from having a vehicle that is parked on property owned or leased by the association removed solely because the registration of the vehicle is expired. **Section 5** makes a conforming change as a result of this prohibition.

With certain exceptions, existing law makes it a misdemeanor for a person to keep more than two unregistered cars on real property owned by or under possession or control of the person if the vehicles are no longer intended for or in condition for lawful use on the highway. (NRS 487.290, 487.300) **Section 5** exempts from prosecution for this crime the owner of real property on which a residential complex is located or an agent thereof and the association of a common-interest community or an agent thereof.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 706.4469 is hereby amended to read as follows:

706.4469 **1.** The operator shall allow the owner, or agent of the owner, of a motor vehicle that has been connected to a tow car to obtain the release of the vehicle at the point of origination of the towing if:

~~1.~~ **(a)** A request is made to release the vehicle; and

~~2. The~~

(b) Except as otherwise provided in subsection 2, the owner or agent pays a fee established by the operator for releasing the vehicle.

2. If a vehicle that has been connected to a tow car was requested to be towed pursuant to subparagraph (2) of paragraph (b) of subsection 2 of NRS 706.4477 and the owner, or agent of the owner, provides proof that the vehicle is registered pursuant to this chapter or chapter 482 of NRS or in any other state:



(a) The operator shall immediately release the motor vehicle to the owner or agent; and

(b) The owner or agent is not responsible for paying the fee established by the operator for releasing the vehicle.

3. As used in this section, "provide proof" includes, without limitation, providing current registration documents in a physical format or in an electronic format as set forth in NRS 482.255 that predate the date on which the vehicle was connected to the tow car.

Sec. 2. NRS 706.4477 is hereby amended to read as follows:

706.4477 1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer ~~§~~ *or other person who is employed to enforce the laws, ordinances and codes of a local government:*

(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing. Except as otherwise provided in subsection 2, for the purposes of this section, the operator is not an authorized agent of the owner of the real property.

(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(d) The operator may be directed to terminate the towing by a law enforcement officer.

2. If, pursuant to subsection 1, the owner of the real property or authorized agent of the owner of the real property requests that a vehicle be towed from a residential complex at which the vehicle is located, the owner of the real property or authorized agent of the owner, which may be the tow operator if the tow operator has entered into a contract for that purpose with the owner of the real property:

(a) Must:

(1) Meet the requirements of subsection 1.

(2) Except as otherwise provided in this subparagraph, if the vehicle is being towed pursuant to subparagraph (1) ~~§~~ *or* (2) ~~§~~ ~~(3)~~ of paragraph (b), notify the owner or operator of the vehicle of the tow not less than 48 hours before the tow by affixing to the vehicle a sticker which provides the date and time after which the vehicle will be towed. The provisions of this subparagraph do not apply and the vehicle may be immediately towed if it is a vehicle for which a notice was previously affixed:



(I) For the same or a similar reason within the same residential complex.

(II) Three or more times during the immediately preceding 6 months within the same residential complex for any reason, regardless of whether the vehicle was subsequently towed.

(b) May only have a vehicle towed:

(1) Because of a parking violation;

(2) If the vehicle is not registered pursuant to this chapter or chapter 482 of NRS or in any other state; *or*

(3) ~~If the registration of the vehicle:~~

~~(I) Has been expired for not less than 60 days, if the vehicle is owned or operated by a resident of the residential complex or does not meet the requirements of sub-subparagraph (II); or~~

~~(II) Is expired, if the owner of real property or authorized agent of the owner verifies that the vehicle is not owned or operated by a resident of the residential complex; or~~

~~(4)] If the vehicle is:~~

(I) Blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(II) Posing an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the residential complex, which may include, without limitation, if the vehicle is parked in a space that is clearly marked for a specific resident or the use of a specific unit in the residential complex.

(c) May not have a vehicle towed solely because the registration of the vehicle is expired.

3. If towing is requested by a county or city pursuant to NRS 244.3605 or 268.4122, as applicable:

(a) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(b) The operator may be directed to terminate the towing by a law enforcement officer.

4. The ~~registered~~ owner of a motor vehicle towed pursuant to the provisions of subsection 1, 2 or 3:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) ~~Is~~ *Subject to the provisions of subsection 7, is* responsible for the cost of removal and storage of the motor vehicle.

5. The ~~registered~~ owner may rebut the presumption in subsection 4 by showing that:

(a) The ~~registered~~ owner transferred the ~~registered~~ owner's interest in the motor vehicle:



(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the **[registered]** owner; or

(b) The vehicle is stolen, if the **[registered]** owner submits evidence that, before the discovery of the vehicle, the **[registered]** owner filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

6. *An operator shall not charge any fee or cost for the storage of the motor vehicle until at least 48 hours after the motor vehicle arrives and is registered at the place of storage. If the motor vehicle arrives at the place of storage after the regular business hours of the place of storage, the 48-hour period begins when the regular business hours of the place of storage next begin.*

7. *The owner of the vehicle shall pay a hardship tariff for the cost of removal and storage of the motor vehicle if:*

(a) *A vehicle has been towed pursuant to subparagraph (2) of paragraph (b) of subsection 2;*

(b) *The owner of the vehicle does not provide proof that the vehicle was registered pursuant to this chapter or chapter 482 of NRS or in any other state at the time the vehicle was towed; and*

(c) *The owner, for reasons outside of his or her control as determined by the regulations adopted pursuant to this section, is incapable of paying the normal rate charged for the removal and storage of the motor vehicle.*

↳ *The Authority shall adopt regulations to carry out the provisions of this section, including, without limitation, establishing a range of hardship tariffs a person may pay pursuant to this section and setting forth what qualifies as a reason that is outside of the control of the owner.*

8. As used in this section:

(a) "Parking violation" means a violation of any:

(1) State or local law or ordinance governing parking; or

(2) Parking rule promulgated by the owner or manager of the residential complex that applies to vehicles on the property of the residential complex.

(b) *"Provide proof" includes, without limitation, providing current registration documents in a physical format or in an electronic format as set forth in NRS 482.255 that predate the date on which the vehicle was towed.*

(c) "Residential complex" means a group of apartments, condominiums or townhomes intended for use as residential units



and for which a common parking area is provided, regardless of whether each resident or unit has been assigned a specific parking space in the common parking area.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in this chapter, and subject to the provisions of the declaration, the association:

(a) Shall adopt and, except as otherwise provided in the bylaws, may amend bylaws and may adopt and amend rules and regulations.

(b) Shall adopt and may amend budgets in accordance with the requirements set forth in NRS 116.31151, may collect assessments for common expenses from the units' owners and may invest funds of the association in accordance with the requirements set forth in NRS 116.311395.

(c) May hire and discharge managing agents and other employees, agents and independent contractors.

(d) May institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community. The association may not institute, defend or intervene in litigation or in arbitration, mediation or administrative proceedings in its own name on behalf of itself or units' owners with respect to an action for a constructional defect pursuant to NRS 40.600 to 40.695, inclusive, unless the action pertains to:

(1) Common elements;

(2) Any portion of the common-interest community that the association owns; or

(3) Any portion of the common-interest community that the association does not own but has an obligation to maintain, repair, insure or replace because the governing documents of the association expressly make such an obligation the responsibility of the association.

(e) May make contracts and incur liabilities. Any contract between the association and a private entity for the furnishing of goods or services must not include a provision granting the private entity the right of first refusal with respect to extension or renewal of the contract.

(f) May regulate the use, maintenance, repair, replacement and modification of common elements.

(g) May cause additional improvements to be made as a part of the common elements.



(h) May acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) May grant easements, leases, licenses and concessions through or over the common elements.

(j) May impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners, including, without limitation, any services provided pursuant to NRS 116.310312.

(k) May impose charges for late payment of assessments pursuant to NRS 116.3115.

(l) May impose construction penalties when authorized pursuant to NRS 116.310305.

(m) May impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) May impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) May impose a reasonable fee for opening or closing any file for each unit. Such a fee:

(1) Must be based on the actual cost the association incurs to open or close any file.

(2) Must not exceed \$350.

(3) Must not be charged to both the seller and the purchaser of a unit.

(4) Except as otherwise provided in this subparagraph and subject to the limitation set forth in subparagraph (2), may increase, on an annual basis, by a percentage equal to the percentage of increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. The fee must not increase by more than 3 percent each year.



(p) May provide for the indemnification of its officers and executive board and maintain directors and officers liability insurance.

(q) May assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(r) May exercise any other powers conferred by the declaration or bylaws.

(s) May exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(t) ~~May~~ ***Except as otherwise provided in this paragraph, may*** direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. ***An association may not direct the removal of a vehicle parked on property owned or leased by the association solely because the registration of the vehicle is expired.*** In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(u) May exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not limit the power of the association to deal with the declarant if the limit is more restrictive than the limit imposed on the power of the association to deal with other persons.

3. The executive board may determine whether to take enforcement action by exercising the association's power to impose sanctions or commence an action for a violation of the declaration, bylaws or rules, including whether to compromise any claim for unpaid assessments or other claim made by or against it. The executive board does not have a duty to take enforcement action if it determines that, under the facts and circumstances presented:



(a) The association's legal position does not justify taking any or further enforcement action;

(b) The covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with current law;

(c) Although a violation may exist or may have occurred, it is not so material as to be objectionable to a reasonable person or to justify expending the association's resources; or

(d) It is not in the association's best interests to pursue an enforcement action.

4. The executive board's decision under subsection 3 not to pursue enforcement under one set of circumstances does not prevent the executive board from taking enforcement action under another set of circumstances, but the executive board may not be arbitrary or capricious in taking enforcement action.

5. Notwithstanding any provision of this chapter or the governing documents to the contrary, an association may not impose any assessment pursuant to this chapter or the governing documents on the owner of any property in the common-interest community that is exempt from taxation pursuant to NRS 361.125. For the purposes of this subsection, "assessment" does not include any charge for any utility services, including, without limitation, telecommunications, broadband communications, cable television, electricity, natural gas, sewer services, garbage collection, water or for any other service which is delivered to and used or consumed directly by the property in the common-interest community that is exempt from taxation pursuant to NRS 361.125.

Sec. 5. NRS 487.038 is hereby amended to read as follows:

487.038 1. Except as otherwise provided in subsections 3 and 4 ~~and~~ *and NRS 116.3102 and 706.4477*, the owner or person in lawful possession of any real property may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard if:

(a) A sign is displayed in plain view on the property declaring public parking to be prohibited or restricted in a certain manner; and

(b) The sign shows the telephone number of the police department or sheriff's office.

2. Unless notice has been provided pursuant to NRS 706.4477, oral notice must be given to the police department or sheriff's office, whichever is appropriate, indicating:

(a) The time the vehicle was removed;

(b) The location from which the vehicle was removed; and



(c) The location to which the vehicle was taken.

3. Any vehicle which is parked in a space designated for persons with disabilities and is not properly marked for such parking may be removed if notice is given to the police department or sheriff's office pursuant to subsection 2, whether or not a sign is displayed pursuant to subsection 1.

4. The owner or person in lawful possession of residential real property upon which a single-family dwelling is located may, after giving notice pursuant to subsection 2, utilize the services of any tow car operator subject to the jurisdiction of the Nevada Transportation Authority to remove any vehicle parked in an unauthorized manner on that property to the nearest public garage or storage yard, whether or not a sign is displayed pursuant to subsection 1.

5. All costs incurred under the provisions of this section for the towing, storage and disposition of the vehicle, as applicable, must be borne by the owner of the vehicle, as that term is defined in NRS 484A.150.

6. The provisions of this section do not limit or affect any rights or remedies which the owner or person in lawful possession of real property may have by virtue of other provisions of the law authorizing the removal of a vehicle parked on that property.

7. If the owner or person in lawful possession of real property and the tow operator agree that the vehicle is likely to be ultimately disposed of as an abandoned vehicle and that the estimated disposition value of a vehicle to be towed pursuant to this section is less than the estimated cost for the towing, storage and disposal of the vehicle, the owner or person in lawful possession of real property and the tow operator may enter into an agreement whereby the owner or person in lawful possession of real property makes a voluntary payment to the tow operator. Such a payment:

(a) Does not reduce the costs incurred by the owner of the vehicle pursuant to subsection 5.

(b) May not be a condition for the towing of the vehicle.

Sec. 6. NRS 487.290 is hereby amended to read as follows:

487.290 1. Unless the person first obtains a license pursuant to NRS 487.050 or 487.410, a person shall not for any reason keep more than two unregistered vehicles on real property owned by or under possession or control of the person if the vehicles are no longer intended for or in condition for lawful use on the highway.

2. The provisions of subsection 1 do not apply to:

(a) Premises used by a licensed dealer, manufacturer, distributor or rebuilder.



(b) Vehicles to be restored or used as a source of parts in conjunction with the operation or maintenance of a fleet of vehicles for the carriage of persons or property.

(c) Premises used as a farm, ranch, mine or repair shop for motor vehicles.

(d) Any person engaged in the restoration of one or more vehicles entitled to registration as a Horseless Carriage or otherwise having classic or historic significance.

(e) The owner of real property on which a residential complex is located or an agent thereof.

(f) The unit-owners' association of a common-interest community or an agent thereof.

3. *As used in this section:*

(a) "Common-interest community" has the meaning ascribed to it in NRS 116.021.

(b) "Residential complex" has the meaning ascribed to it in NRS 706.4477.

(c) "Unit-owners' association" has the meaning ascribed to it in NRS 116.011.

