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H.104

Introduced by Representatives Corcoran of Bennington, Emmons of  
Springfield, Bock of Chester, and Forguites of Springfield  
Referred to Committee on

Date:

Subject: Highways; motor vehicles; torts

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

- (1) clarify the authority and process for removing certain vehicles or cargo from a highway under specified circumstances; and
- (2) limit the liability of a person acting at the direction of an enforcement officer who removes from a highway a vehicle or cargo that is obstructing traffic or maintenance activities or is creating a hazard to traffic.

An act relating to removal of vehicles and cargo from highways

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

Sec. 1. 23 V.S.A. § 1102 is amended to read:

§ 1102. ~~REMOVAL OF STOPPED VEHICLES~~

~~(a) Any enforcement officer is authorized to:~~

- ~~(1) move a vehicle stopped, parked, or standing contrary to section 1101 of this title, or to require the driver or other person in charge to move the vehicle to a position off the paved or main-traveled part of the highway;~~

1           ~~(2) remove an unattended vehicle which is an obstruction to traffic or to~~  
2           ~~maintenance of the highway to a garage or other place of safety;~~

3           ~~(3) remove any vehicle found upon a highway, as defined in 19 V.S.A.~~  
4           ~~§ 1, to a garage or other place of safety when:~~

5                     ~~(A) the officer is informed by a reliable source that the vehicle has~~  
6                     ~~been stolen or taken without the consent of its owner; or~~

7                     ~~(B) the person in charge of the vehicle is unable to provide for its~~  
8                     ~~removal; or~~

9                     ~~(C) the person in charge of the vehicle has been arrested under~~  
10                    ~~circumstances which require his or her immediate removal from control of the~~  
11                    ~~vehicle.~~

12           ~~(b) Any enforcement officer causing the removal of a motor vehicle under~~  
13           ~~this section shall notify the Department as to the location and date of discovery~~  
14           ~~of the vehicle, date of removal of the vehicle, name of the towing service~~  
15           ~~removing the vehicle, and place of storage. The officer shall record and~~  
16           ~~remove from the vehicle, if possible, any information which might aid the~~  
17           ~~Department in ascertaining the ownership of the vehicle and forward it to the~~  
18           ~~Department. A motor vehicle towed under authority of this section may qualify~~  
19           ~~as an abandoned motor vehicle under subchapter 7 of chapter 21 of this title.~~

20           [Repealed.]

1 Sec. 2. 23 V.S.A. § 1604 is amended to read:

2 § 1604. SEIZURE, REMOVAL OF MOTOR VEHICLES, CARGO, OR  
3 STOLEN VEHICLES; LIMITATION ON LIABILITY

4 (a) An enforcement officer is authorized to:

5 (1) cause the removal of a motor vehicle stopped, parked, or standing  
6 contrary to section 1101 of this title, or require the driver or other person in  
7 charge to move the vehicle in accordance with law;

8 (2) cause the removal of an unattended motor vehicle or cargo that is  
9 obstructing traffic or maintenance of the highway or is creating a hazard to  
10 traffic;

11 (3) cause the removal of a motor vehicle or cargo upon a highway, as  
12 defined in 19 V.S.A. § 1 when:

13 (A) the person in charge of the vehicle or cargo is unable to provide  
14 for its removal; or

15 (B) the person in charge of the vehicle or cargo has been arrested  
16 under circumstances that require his or her immediate removal from control of  
17 a vehicle; or

18 (4) in accordance with section 2152 (authorized removal of abandoned  
19 motor vehicles) of this title.

20 (b)(1) An enforcement officer, without process, may seize cause removal of  
21 a motor vehicle, snowmobile, motorboat, or all-terrain vehicle;

1           (A) found by him or her on which the manufacturer's serial or motor  
2           number or any of the identifying numbers placed on ~~the motor vehicle,~~  
3           ~~snowmobile, motorboat, or all-terrain vehicle~~ it by the manufacturer of ~~the~~  
4           ~~motor vehicle, snowmobile, motorboat, or all-terrain vehicle~~ or any of the parts  
5           thereof have been obliterated, defaced, or tampered with; or

6           (B) when in his or her judgment ~~the motor vehicle, snowmobile,~~  
7           ~~motorboat, or all-terrain vehicle~~ based on reliable information it has been  
8           ~~stolen, and~~ or taken without the consent of the owner.

9           (2) The officer may retain possession of the motor vehicle, snowmobile,  
10          motorboat, or all-terrain vehicle until the Commissioner or State's Attorney of  
11          the county where ~~the vehicle, snowmobile, motorboat, or all-terrain vehicle~~ it  
12          is found is satisfied as to ~~the~~ its rightful ownership ~~thereof~~.

13          (3) Immediately on the ~~seizure~~ removal of the motor vehicle,  
14          snowmobile, motorboat, or all-terrain vehicle, the officer shall report the same,  
15          together with all the facts obtainable by him or her, to the Department of Motor  
16          Vehicles in accordance with subsection (c) of this section and to the  
17          Commissioner, and the officer shall notify the State's Attorney of the county in  
18          which ~~the motor vehicle, snowmobile, motorboat, or all-terrain vehicle~~ it was  
19          ~~seized~~ removed and cause ~~the~~ its ownership of ~~the motor vehicle, snowmobile,~~  
20          ~~motorboat, or all-terrain vehicle~~ to be investigated.

1        (c) Unless removed to a location within sight of the original location, an  
2        enforcement officer causing removal of a motor vehicle, snowmobile,  
3        motorboat, all-terrain vehicle, or cargo under this section shall notify the  
4        Department of Motor Vehicles as to the location and date of its discovery, date  
5        of removal, name of any towing service used, and place of storage. If possible,  
6        the officer shall remove and record any information which might aid in  
7        ascertaining the ownership of the vehicle and forward it to the Department of  
8        Motor Vehicles.

9        (d) A motor vehicle removed under authority of this section may qualify as  
10       an abandoned motor vehicle under chapter 21, subchapter 7 of this title.

11       (e) Except for intentionally inflicted damage or gross negligence, a person  
12       who, acting at the direction of an enforcement officer, removes from a  
13       highway a motor vehicle or cargo obstructing traffic or maintenance activities  
14       or creating a hazard to traffic shall not be liable for damage incurred during the  
15       removal.

16       Sec. 3. EFFECTIVE DATE

17       This act shall take effect on passage.