

Senate Bill 121

By: Senators Williams of the 19th, Jackson of the 50th and Gillis of the 20th

AS PASSED

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 1 of Title 44 of the Official Code of Georgia Annotated, relating to
 2 general provisions of property, so as to provide that the Department of Motor Vehicle Safety
 3 shall have the authority to regulate the removal and storage of commercial vehicles from
 4 private real property at the request of the private real property owner; to provide for the
 5 regulation of fees associated with the removal and storage of commercial vehicles from
 6 private real property; to provide that the governing authority of a municipality may license
 7 towing and storage firms; to provide for the regulation of rates and fees for such firms; to
 8 provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Chapter 1 of Title 44 of the Official Code of Georgia Annotated, relating to general
 12 provisions of property, is amended by striking subsections (a) and (b) of Code Section
 13 44-1-13, relating to removal of improperly parked cars or trespassing personal property,
 14 procedure, automatic surveillance prohibited, and penalty, and inserting in their places the
 15 following:

16 "(a) Any person or his or her authorized agent entitled to the possession of any parcel or
 17 space of private real property, hereinafter referred to as 'private property,' shall have the
 18 right to remove or cause to be removed from the property any vehicle or trespassing
 19 personal property thereon which is not authorized to be at the place where it is found and
 20 to store or cause to be stored such vehicle or trespassing personal property, provided that
 21 there shall have been conspicuously posted on the private real property notice that any
 22 vehicle or trespassing personal property which is not authorized to be at the place where
 23 it is found may be removed at the expense of the owner of the vehicle or trespassing
 24 personal property ~~along with information as to where the vehicle or trespassing personal~~
 25 ~~property can be recovered;~~ Such notice shall also include information as to the location
 26 where the vehicle or personal property can be recovered, the cost of said recovery, and

1 information as to the form of payment; provided, however, that the owner of private
 2 residential property containing not more than four residential units shall not be required to
 3 comply with the posting requirements of this subsection. Only towing and storage firms
 4 issued permits or licenses by the local governing authority of the jurisdiction in which they
 5 operate or by the Department of Motor Vehicle Safety, and having a secure impoundment
 6 facility, shall be permitted to remove trespassing property and trespassing personal
 7 property at the request of the owner or authorized agent of the private property.

8 ~~(b) Only towing and storage firms issued permits by the Public Service Commission~~
 9 ~~pursuant to Title 46, licensed by the local governing authority of the jurisdiction in which~~
 10 ~~they operate, and having a secure impoundment lot shall be permitted to remove vehicles~~
 11 ~~and trespassing personal property from private real property at the request of a person in~~
 12 ~~possession of such private real property made pursuant to subsection (a) of this Code~~
 13 ~~section. The person or firm removing and storing any such vehicle or trespassing personal~~
 14 ~~property shall have a lien against it for the expenses of the removal and storage. The lien~~
 15 ~~may be asserted and enforced and shall be entitled to the same priorities as those of special~~
 16 ~~liens on personalty authorized by Code Section 44-14-363. Except as provided in~~
 17 ~~subsection (d) of this Code section, the Department of Motor Vehicle Safety, hereinafter~~
 18 ~~referred to as the department, shall have the authorization to regulate and control the~~
 19 ~~towing of trespassing vehicles on private property if such towing is performed without the~~
 20 ~~prior consent or authorization of the owner or operator of the vehicle, including the~~
 21 ~~authority to set just and reasonable rates, fares, and charges for services related to the~~
 22 ~~removal, storage, and required notification to owners of such towed vehicles. No storage~~
 23 ~~fees shall be charged for the first 24 hour period which begins at the time the vehicle is~~
 24 ~~removed from the property, and no such fees shall be allowed for the removal and storage~~
 25 ~~of vehicles removed by towing and storage firms found to be in violation of this Code~~
 26 ~~section. The Department of Motor Vehicle Safety is authorized to impose a civil penalty~~
 27 ~~for any violation of this Code section in an amount not to exceed \$2,500.00."~~

28 SECTION 2.

29 Said Code section is further amended by striking subsection (d) and inserting in its place the
 30 following:

31 "(d) The governing authority of each municipality having towing and storage firms
 32 operating within its territorial boundaries may issue a license or permit to engage in private
 33 trespass towing pursuant to this Code section to any firm meeting the qualifications
 34 imposed by said governing authority. The fee for the license or permit shall be set by such
 35 governing authority. The maximum reasonable costs of removal, relocation, and storage
 36 pursuant to the provisions of this Code section shall be compensatory, as such term is used

1 in the public utility rate-making procedures, and shall be established annually by the
2 governing authority of each municipality having towing and storage firms operating within
3 its territorial boundaries; provided, however, that no storage fees shall be charged for the
4 first 24 hour period ~~running from~~ which begins at the time the vehicle is removed from the
5 property, and no such fees shall be allowed for the removal and storage of vehicles
6 removed by towing and storage firms found to be in violation of this Code section."

7 **SECTION 3.**

8 This Act shall become effective on October 1, 2003.

9 **SECTION 4.**

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