

House Bill 1150 (COMMITTEE SUBSTITUTE)

By: Representatives Smith of the 13th, Post 2, Parham of the 94th, Greene of the 134th, Snow of the 1st, Smith of the 110th, and others

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 provide for qualifications for towing and storage firms to serve on a rotation list providing
3 wrecker services for this state or any political subdivision thereof; to provide that the
4 commissioner of the Department of Motor Vehicle Safety may establish rules and regulations
5 for eligibility to serve on rotation lists; to provide for inspections and fees; to provide that the
6 governing authority of a county may license towing and storage firms in the county; to
7 provide for related matters; to provide effective dates; to repeal conflicting laws; and for
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended in Code
12 Section 44-1-13, relating to removal of improperly parked cars or trespassing personal
13 property, by striking subsections (a) and (d) and inserting in lieu thereof new subsections (a),
14 (d), (d.1), and (d.2) to read as follows:

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

1 posting requirements of this subsection. Only towing and storage firms issued permits or
 2 licenses by the ~~local~~ municipal or county governing authority of the jurisdiction in which
 3 they operate or by the Department of Motor Vehicle Safety, and having a secure
 4 impoundment facility, shall be permitted to remove trespassing ~~property~~ vehicles and
 5 trespassing personal property at the request of the owner or authorized agent of the private
 6 property. The licensing authority of a county governing authority shall be limited to
 7 towing and storage firms located in the county."

8 "(d) The municipal or county governing authority of ~~each municipality~~ having towing and
 9 storage firms operating within its territorial boundaries may issue a license or permit to
 10 engage in private trespass towing pursuant to this Code section to any firm meeting the
 11 qualifications imposed by said governing authority. The licensing authority of a county
 12 governing authority shall be limited to towing and storage firms located in the county. The
 13 fee for the license or permit shall be set by such governing authority. The maximum
 14 reasonable costs of removal, relocation, and storage pursuant to the provisions of this Code
 15 section shall be compensatory, as such term is used in the public utility rate-making
 16 procedures, and shall be established annually by the governing authority of each
 17 municipality or county having towing and storage firms operating within its territorial
 18 boundaries; provided, however, that no storage fees shall be charged for the first 24 hour
 19 period which begins at the time the vehicle is removed from the property, and no such fees
 20 shall be allowed for the removal and storage of vehicles removed by towing and storage
 21 firms found to be in violation of this Code section.

22 (d.1) Towing and storage firms operating in multiple jurisdictions shall be subject to
 23 regulation by the Department of Motor Vehicle Safety. Any towing and storage firm that
 24 is issued a permit by the Department of Motor Vehicle Safety shall not be required to
 25 obtain any additional trespass towing licenses or permits from the municipality, county, or
 26 consolidated government.

27 (d.2) The Department of Motor Vehicle Safety may establish rules and regulations
 28 regarding the disposition of trespassing vehicles, vehicle contents, and other trespassing
 29 personal property."

30 SECTION 2.

31 Said title is further amended by inserting a new Code Section 44-1-13.1 to read as follows:

32 "44-1-13.1.

33 (a) Any towing and storage firm which serves on a rotation list providing wrecker services
 34 for this state or any political subdivision thereof shall, upon funding, be certified by the
 35 department. The commissioner may establish by rule and regulation the criteria for a
 36 towing and storage firm to obtain a permit of eligibility for the rotation list. A towing and

1 storage firm must maintain the minimum amount of liability insurance prescribed by the
2 department to be eligible to serve on a rotation list providing wrecker services for this state
3 or any political subdivision thereof.

4 (b) A towing and storage firm that applies for inclusion on a rotation list providing
5 wrecker services for this state or any political subdivision thereof shall comply with the
6 relevant safety laws, regulations, and policies of the department. To ensure compliance,
7 prior to approval to serve on a rotation list, each towing and storage firm within the state
8 and each vehicle utilized by such towing and storage firm must successfully pass an annual
9 inspection by a department law enforcement officer who is certified to perform such
10 inspection. The department shall require safety and mechanical inspections at least on an
11 annual basis for each vehicle utilized by such towing and storage firm. The commissioner
12 shall provide, by rule and regulation, for the scope of such inspections, the qualifications
13 of persons who may conduct facility inspections, and the manner by which the results of
14 such inspections shall be reported to the department. Such inspections shall be performed
15 annually and shall satisfy the requirements for this state or any political subdivision thereof
16 regarding inspection and certification of vehicles utilized as towing vehicles by such
17 towing and storage firms.

18 (c) The commissioner may establish such fees as deemed appropriate for the certification
19 and inspection of the facilities and vehicles as provided in subsection (b) of this Code
20 section."

21 SECTION 3.

22 This section and Sections 1 and 4 of this Act shall become effective on October 1, 2004.
23 Section 2 of this Act shall become effective on January 1, 2005.

24 SECTION 4.

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