

House Bill 774

By: Representatives Powell of the 32nd, Burns of the 159th, Epps of the 144th, Clark of the 147th, and Kelley of the 16th

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 trespassing vehicles on
3 certain property; to provide for definitions; to provide for rules and standards of operation;
4 to provide for booting fees; to provide for notice and sign requirements; to authorize the
5 Department of Public Safety to regulate and control the immobilization and booting of
6 trespassing vehicles; to provide for application fees; to provide for the issuance of vehicle
7 immobilization permits and renewal permits; to provide for preemption of local regulation;
8 to provide for related matters; to repeal conflicting laws; and for 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 by
12 adding a new chapter to read as follows:

13 style="text-align:center">"CHAPTER 1A

14 44-1A-1.

15 As used in this chapter, the term:

16 (1) 'Department' means the Department of Public Safety.

17 (2) 'Impound' means having installed a vehicle immobilization device.

18 (3) '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 (4) 'Vehicle immobilization device,' 'device,' or 'boot' means any mechanical device that
22 is designed or used to be attached to a wheel, tire, or other part of a parked motor vehicle
23 so as to prohibit the motor vehicle's usual manner of movement or operation.

24 (5) 'Vehicle immobilization service' means any service whereby vehicles are impounded.

25 44-1A-2.

26 (a) Vehicle immobilization devices may be used upon trespassing motor vehicles as
27 provided for under this chapter.

28 (b) It shall be unlawful for any person to act as an operator within this state unless such
29 person has obtained a current permit issued by the department pursuant to this chapter.

30 (c) It shall be unlawful for any person to act as an operator if such person also has
31 ownership in property or a lot that is being used for the business of parking or allowing for
32 the parking of motor vehicles or is engaged in the business of parking lot management or
33 valet parking operations.

34 (d) Each operator shall conduct vehicle immobilization services using a name which is
35 distinguishable from any other existing operator.

36 44-1A-3.

37 (a) Every operator shall obtain the permit required by this chapter by filing an application
38 with the department. Such application shall state the name of the operator's business; the
39 address of such business or the proposed location of such business; if a partnership, the
40 names of all partners; if a limited liability company, the names of all members; and if a
41 corporation, the names of all officers; and shall include a certificate of insurance showing
42 the department as certificate holder; the applicant's business license issued by a county or
43 municipality; and if a corporation, limited liability company, or limited partnership, proof
44 of current registration with the Secretary of State.

45 (b) Applicants shall furnish all data, information, and records relevant to their application
46 and requested of them by the department. Failure to furnish such data, information, or
47 records within 30 days from the date of any such request shall automatically result in the
48 dismissal, with prejudice, of the application.

49 (c) It shall be unlawful for an operator to receive or maintain a permit issued by the
50 department if such operator, or any partner, member, or officer of such operator, has been
51 convicted of a felony offense within the last 15 years.

52 (d) No permit under this chapter shall be issued to any operator who has been convicted
53 in this or any other country, within three years immediately prior to such application for
54 a permit under this chapter, of a crime involving solicitation for prostitution, distribution
55 or possession of illegal drugs, sex offenses, or any crime involving moral turpitude. Each
56 operator, or its officers, partners, or members, shall possess a current driver's license or
57 identification card issued pursuant to Chapter 5 of Title 40. Any person denied a permit
58 under this chapter or any person whose permit is revoked under this chapter shall have the
59 right to appeal such denial or revocation to the department.

60 (e) Should any operator with a permit obtained pursuant to this chapter, or an officer,
 61 partner, or member thereof, be convicted of committing any criminal offense described in
 62 subsection (d) of this Code section, then such conviction shall constitute a basis for adverse
 63 action under this chapter, including, but not limited to, suspension or revocation of the
 64 operator's permit.

65 44-1A-4.

66 (a) The application fee for a vehicle immobilization service permit shall be \$1,000.00.
 67 The application fee shall be paid to the department by methods provided for by the
 68 department and shall be nonrefundable.

69 (b) Upon approval of an application for a vehicle immobilization service permit, a permit
 70 shall be issued and be valid for a period of 12 months from the date of issuance unless
 71 revoked or suspended. Such permit shall be renewed annually upon approval by the
 72 department of a renewal application and payment of a renewal fee of \$1,000.00.

73 (c) All applications under this chapter shall be submitted by means designated by the
 74 department. Renewal applications shall be submitted no sooner than 30 days and no later
 75 than 10 days prior to the expiration date of the permit.

76 44-1A-5.

77 (a) An operator shall not:

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

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

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

86 (4) Charge fees in excess of those provided for in Code Section 44-1A-6; or

87 (5) Impound any vehicle located on any portion of a public way within this state, unless
 88 such operator is contracted to do so by a governmental agency.

89 (b)(1) An operator shall issue all individuals under such operator's employment, or who
 90 are acting on behalf of such operator, including such operator himself or herself, or
 91 partners, members, or officers of such operator, a photo identification with the name of
 92 the operator. Such individuals shall carry this operator issued identification with him or
 93 her at all times while performing vehicle immobilization services.

94 (2) All individuals under an operator's employment, or who are acting on behalf of such
95 operator, including such operator himself or herself, or partners, members, or officers of
96 such operator, shall wear a uniform that clearly identifies the operator while performing
97 vehicle immobilization services.

98 (3) Vehicles being used by operators or individuals under an operator's employment to
99 perform vehicle immobilization services shall have displayed on both sides of such
100 vehicle the name of the operator, the address from which the operator conducts business,
101 and the telephone number of the operator. The lettering shall be in a contrasting color to
102 the color of the vehicle, or if a vehicle magnet is used, the lettering shall be in a
103 contrasting color to the color of the magnet. Such lettering shall be at least one and
104 one-half inches in height.

105 (c)(1) An operator may conduct vehicle immobilization services 24 hours per day, seven
106 days per week, and 365 days per year.

107 (2) An operator shall maintain a telephone number that is staffed by a live individual 24
108 hours per day and 365 days per year to communicate immediately with a driver or owner
109 of an impounded vehicle.

110 (d) An operator who has impounded a vehicle shall immediately affix a notice to the
111 driver's side window containing, at minimum, the following information:

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

114 (2) The fee required to remove the boot, the name of the operator, and the telephone
115 number to call to have the boot removed.

116 (e) It shall be unlawful for an operator to impound vehicles on any private property
117 without having entered into a valid written contract for vehicle immobilization services
118 with the private property owner, lawful lessee, managing agent, or other person in control
119 of the property.

120 (f) It shall be unlawful for an operator to fail to arrive on the site where a vehicle was
121 impounded within one hour of being contacted by the owner, driver, or person in charge
122 of the vehicle. It shall be unlawful for an operator to fail to release a vehicle from
123 immobilization within one hour after receipt of payment from the owner, driver, or person
124 in charge of such vehicle that has been impounded.

125 (g) It shall be unlawful for a vehicle immobilization service or operator to fail to provide
126 a receipt of payment of the booting fee to the owner, driver, or person in charge of an
127 impounded vehicle. The receipt shall have the name, address, and telephone number of the
128 operator and the name of the individual employee or company identification number of the
129 employee of such operator who removed the boot.

130 (h)(1) If the application of a vehicle immobilization device damages a vehicle, the
131 operator shall pay the cost of repairs for that damage.

132 (2) If the owner, driver, or person in charge of a motor vehicle to which a device has
133 been applied attempts to operate such motor vehicle or to remove the device, then the
134 operator is not liable for any damage to such vehicle resulting from such attempt. In such
135 an instance, such owner, driver, or person in charge of the vehicle shall be liable to the
136 operator for the cost of damage to the vehicle immobilization device.

137 (i) An operator shall maintain minimum insurance coverage in the amount of \$1 million
138 in commercial general liability, \$1 million in commercial automobile liability, \$1 million
139 in garage liability, \$1 million in professional liability, and \$1 million in umbrella coverage
140 and shall have workers' compensation coverage on all employees.

141 44-1A-6.

142 (a) No operator shall charge the owner of any impounded motor vehicle an amount in
143 excess of \$85.00 for the removal of vehicle immobilization devices; provided, however,
144 that any outstanding daily parking fees may also be collected when applicable. Motor
145 vehicles remaining on the property for more than 24 hours after impounding may also be
146 charged an additional fee of \$25.00 per day that such motor vehicle remains on such
147 property without having paid for the removal of any vehicle immobilization devices.

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

150 44-1A-7.

151 (a) It shall be unlawful for any operator to install or attach a device to any motor vehicle
152 without posting signs meeting the following requirements:

153 (1) Signs shall be located at each designated entrance to a parking lot or parking area
154 where parking prohibitions are to be effective, and where there is no designated entrance,
155 such signs shall be erected so as to be clearly visible from each and every parking space;

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

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

161 (b)(1) In lettering at least one and one-half inches in height and in a solid color that
162 contrasts with the background, signs shall clearly state the following minimum language:

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

164 2. UNAUTHORIZED VEHICLES MAY BE IMPOUNDED (BOOTED) AT
 165 OWNER'S RISK AND EXPENSE.

166 3. BOOT REMOVAL FEE: \$85.00. UNPAID PARKING FEES MAY ALSO BE
 167 COLLECTED.

168 4. (Insert name of vehicle immobilization service that has been issued a permit
 169 pursuant to this chapter).

170 5. FOR BOOT REMOVAL, CALL (insert operator's telephone number).'

171 (2) No abbreviations shall be used on signs required by this Code section.

172 44-1A-8.

173 (a) The commissioner of public safety, or his or her designee, may recommend the
 174 imposition of a fine upon an operator or the revocation, suspension, or nonrenewal of a
 175 permit for due cause.

176 (b) No adverse action shall be taken regarding any permit issued pursuant to this chapter
 177 until and after notice has been provided and a hearing has been held by the department for
 178 such action. Notice of such hearing shall be given in writing and served at least 30 days
 179 prior to the date of a hearing. The notice shall state the grounds of the complaint against
 180 the holder of such permit and shall designate the time and place where such hearing shall
 181 be held. The notice shall be served upon the permit holder via certified mail, signature
 182 required, addressed to the permit holder at the address provided on the operator's current
 183 application.

184 (c) Any operator whose permit has been revoked pursuant to this chapter shall be
 185 disqualified from reapplying for such a permit for 12 months immediately following the
 186 revocation. The violation of any provision of this chapter by any person with any
 187 ownership interest in an operator may result in the revocation of the operator's permit.

188 (d) The maximum fine for any violation of this chapter shall be \$1,000.00. The maximum
 189 suspension for any one violation of this chapter shall be 30 days.

190 44-1A-9.

191 The commissioner of public safety shall have the power to promulgate all necessary rules
 192 and regulations for the implementation and enforcement of this chapter.

193 44-1A-10.

194 No county or municipal corporation shall regulate vehicle immobilization services on
 195 private property in any manner, including, but not limited to, by zoning, by ordinance, or
 196 by resolution."

197

SECTION 2.

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