

The Senate Committee on Public Safety offered the following substitute to HB 342:

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 motor vehicles on private
3 property under certain circumstances; to provide for definitions; to provide for rules and
4 standards of operation; to provide for booting fees; to provide for notice and sign
5 requirements; to require a regulatory permit issued by a local government for the lawful
6 operation of vehicle immobilization services; to provide for certain preemptions of local
7 regulation; to provide for criminal penalties; to provide for regulatory fees to be paid to
8 certain local governments; to provide for revocation of permit; to provide for certain causes
9 of action; to provide for applicability; to provide for related matters; to provide for an
10 effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
14 adding a new chapter to read as follows:

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

16 44-1A-1.

17 As used in this chapter, the term:

18 (1) 'Immobilize' means having installed a vehicle immobilization device.

19 (2) 'Operator' means any individual or entity, including, but not limited to, a sole
20 proprietor, independent contractor, partnership, or similar business entity, offering or
21 operating a vehicle immobilization service.

22 (3) 'Private property' means any parcel or space of private real property.

23 (4) 'Vehicle immobilization device,' 'device,' or 'boot' means any mechanical device that
24 is orange or yellow in color and is designed or used to be attached to a wheel, tire, or

25 other part of a parked motor vehicle so as to prohibit the motor vehicle's usual manner
26 of movement or operation.

27 (5) 'Vehicle immobilization service' means any service whereby motor vehicles are
28 immobilized.

29 44-1A-2.

30 (a)(1) It shall be unlawful to use vehicle immobilization devices on parked motor
31 vehicles in this state, unless authorized by a governing authority of a county or municipal
32 corporation.

33 (2) Vehicle immobilization devices used on parked motor vehicles on private property
34 shall be lawful only as provided for under this chapter.

35 (b) It shall be unlawful for any person to act as an operator within this state unless such
36 person has a regulatory permit, as provided for under Code Section 44-1A-3, issued by the
37 local government within whose jurisdiction such operator is domiciled or has a principal
38 place of business; provided, however, that any operator offering or operating upon an
39 annual permit, license, or registration issued by a county or municipal corporation on or
40 before December 31, 2019, shall be deemed to be in compliance with this subsection until
41 the date which was given for the expiration of such permit, license, or registration issued
42 by a county or municipal corporation at the time of issuance.

43 (c)(1) It shall be unlawful for any person to act as an operator or as a partner, member,
44 officer, employee, or contractor of an operator if such person also has ownership in
45 private property that is being used for the business of parking or allowing for the parking
46 of motor vehicles or is engaged in the business of parking lot management or valet
47 parking operations.

48 (2) This subsection shall not apply to any property owned by any private technical
49 school, vocational school, college, or university.

50 (d) It shall be unlawful for an operator to receive or maintain a regulatory permit under this
51 chapter if such operator, or any partner, member, or officer of such operator, has been
52 convicted of a felony offense within the last seven years.

53 (e) Each operator coming into existence on and after January 1, 2020, shall exercise due
54 care to conduct vehicle immobilization services in a local jurisdiction using a name which
55 is distinguishable from any other existing operator within such local jurisdiction; provided,
56 however, that nothing in this subsection shall be construed to prevent any operator from
57 pursuing any remedies under trademark or other law.

58 44-1A-3.

59 (a)(1) The issuance of a regulatory permit provided for under this Code section shall be
60 conditioned upon the payment of the regulatory fee provided for under paragraph (2) of
61 this subsection; provided, however, that nothing in this Code section shall be construed
62 as requiring a local jurisdiction to allow for vehicle immobilization services within its
63 jurisdiction by the issuance of regulatory permits under this chapter.

64 (2) The fee for a regulatory permit shall be \$250.00 and paid to the governing authority
65 of the county if the operator is domiciled or has a principal place of business in the
66 unincorporated area of such county or paid to the governing authority of the municipal
67 corporation within whose jurisdiction such operator is domiciled or has a principal place
68 of business. Such regulatory permit shall expire one year from the date of issuance.

69 (b) Such regulatory permit shall be in the following form and issued by the governing
70 authority to whom the fee was paid:

71 _____ (City or county name)

72 **STATE OF GEORGIA**

73 **VEHICLE IMMOBILIZATION SERVICE PERMIT**

74 The operator identified below is authorized to perform vehicle immobilization services
75 throughout the State of Georgia pursuant to Chapter 1A of Title 44 of the Official Code of
76 Georgia Annotated.

77 This permit was issued on _____ (date). The permit is valid until
78 _____ (date).

79 This permit is valid for all individuals under the operator's employment, including such
80 operator himself or herself or partners, members, or officers of such operator who are
81 wearing uniforms that clearly identify his or her employment with the operator.

82 OPERATOR: _____ (Name of operator)

83 BUSINESS ADDRESS OF OPERATOR: _____

84 BUSINESS TELEPHONE NUMBER OF OPERATOR: _____

85 This _____ day of _____, 20_____.

86
87
88
89

(City or county official)

Print name of city or county official'

90 44-1A-4.

91 An operator or any partner, member, officer, employee, or contractor of such operator shall
92 not:

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

95 (2) Pay in the form of a gratuity, reimbursement, or anything of material value to
96 employees or anyone acting on behalf of the operator for the placement or removal of a
97 vehicle immobilization device. Nothing in this Code section shall prohibit an operator
98 from paying a salary or hourly wage to an employee, provided that such salary or hourly
99 wage is not based on the total number of vehicle immobilization devices placed or
100 removed; or

101 (3) Immobilize any vehicle located on any portion of a public way within this state,
102 unless such operator is contracted to do so by a governmental agency.

103 44-1A-5.

104 (a) An operator shall issue all individuals under such operator's employment, or who are
105 acting on behalf of such operator, including such operator himself or herself, or any
106 partners, members, officers, or contractors of such operator, a photo identification with the
107 name of the operator. Such individuals shall carry this operator issued identification with
108 him or her at all times while performing vehicle immobilization services.

109 (b)(1) All individuals under an operator's employment, or who are acting on behalf of
110 such operator, including such operator himself or herself, or any partners, members,
111 officers, or contractors of such operator, shall wear a uniform that clearly identifies the
112 operator while performing vehicle immobilization services.

113 (2) This subsection shall not apply to any peace officer employed by any private
114 technical school, vocational school, college, or university.

115 (c)(1) Vehicles being used by operators or individuals under an operator's employment
116 or direction to perform vehicle immobilization services shall have:

117 (A) Displayed on both sides of such vehicle the name of the operator, the address from
118 which the operator conducts business, and the telephone number of the operator. The
119 lettering shall be in a contrasting color to the color of the vehicle, or if a vehicle magnet

120 is used, the lettering shall be in a contrasting color to the color of the magnet. Such
 121 lettering shall be at least one and one-half inches in height; and

122 (B) Maintained inside a copy of the regulatory permit as provided for under Code
 123 Section 44-1A-3 which shall be produced upon request of a law enforcement officer or
 124 the owner, driver, or person in charge of a motor vehicle to which a device has been
 125 applied.

126 (2) This subsection shall not apply to any peace officer employed by any private
 127 technical school, vocational school, college, or university.

128 44-1A-6.

129 (a) An operator or any partner, member, officer, employee, or contractor of such operator
 130 may conduct vehicle immobilization services 24 hours per day, seven days per week, and
 131 365 days per year.

132 (b) An operator shall maintain a telephone number that is staffed by a live individual 24
 133 hours per day and 365 days per year to communicate immediately with a driver or owner
 134 of an immobilized vehicle.

135 44-1A-7.

136 (a)(1) It shall be unlawful for an operator or any partner, member, officer, employee, or
 137 contractor of such operator to immobilize vehicles on any private property without having
 138 entered into a valid written contract for vehicle immobilization services with the private
 139 property owner, lawful lessee, managing agent, or other person in control of the property.

140 (2) It shall be unlawful and punishable by a fine of \$1,000.00 for any operator or any
 141 partner, member, officer, employee, or contractor of such operator, permitted or
 142 unpermitted, licensed or unlicensed, to enter into any agreement with any person in
 143 possession of private property to provide automatic or systematic surveillance of such
 144 property for purposes of immobilizing any such vehicle except upon call by such person
 145 in possession of such private property to such operator or any partner, member, officer,
 146 employee, or contractor of such operator for each individual case; provided, further, that
 147 it shall be unlawful and punishable by a fine of \$1,000.00 for any operator or any partner,
 148 member, officer, employee, or contractor of such operator to pay to any private property
 149 owner, manager, or person in possession of private property any fee or emolument,
 150 directly or indirectly, for the right to immobilize a vehicle on such private property.

151 (b) No operator or any partner, member, officer, employee, or contractor of such operator
 152 shall immobilize any motor vehicle in a driveway, parking lot, or parking area that is
 153 designated for residential parking or residential use by the owner, driver, or person in
 154 charge of such motor vehicle, unless:

155 (1) Written notice from the owner, manager, or person in possession of the property
 156 stating that such vehicle does not belong to a resident or is not otherwise authorized to
 157 park at the location; or

158 (2) Such owner, driver, or person in charge of such motor vehicle has been provided with
 159 the use of vehicle immobilization services as provided for in a lease or in the bylaws of
 160 an association formed pursuant to Chapter 3 of Title 44; and

161 (3) Actual notice that the use of vehicle immobilization services is pending against such
 162 motor vehicle at least 30 days prior to the application of a device on such motor vehicle.

163 For the purposes of this paragraph, notice shall be deemed to have been given to such
 164 owner, driver, or person in charge of such motor vehicle upon evidence that:

165 (A) The owner, manager, or person in possession of the property has sent a properly
 166 stamped envelope containing a copy of the notice of pending use of vehicle
 167 immobilization services was addressed to such owner, driver, or person in charge of
 168 such motor vehicle and was placed in the United States mail for registered or certified
 169 delivery, and such owner, driver, or person in charge of such motor vehicle
 170 acknowledged receipt thereof on a United States Postal Service return receipt form for
 171 registered or certified mail delivery; or

172 (B) Such actual notice was sent to such owner, driver, or person in charge of such
 173 motor vehicle by statutory overnight delivery and a receipt therefor obtained as
 174 provided in Code Section 9-10-12.

175 (c) Any device applied to any such motor vehicle in violation of this Code section shall
 176 be removed without the payment of any fee.

177 44-1A-8.

178 (a) An operator or any partner, member, officer, employee, or contractor of such operator
 179 who has immobilized a vehicle shall immediately affix a notice to the driver's side window
 180 or passenger's side window or, if practicable both windows, containing the following
 181 minimum information:

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

184 (2) The fee required to remove the boot, the name of the operator, and the telephone
 185 number to call to have the boot removed which shall be the number provided for in
 186 subsection (b) of Code Section 44-1A-6.

187 (b)(1) It shall be unlawful for an operator or any partner, member, officer, employee, or
 188 contractor of such operator to fail to arrive on the site where a motor vehicle was
 189 immobilized within one hour of being contacted by the owner, driver, or person in charge
 190 of such vehicle at the number provided for on the notice.

191 (2) If an operator or any partner, member, officer, employee, or contractor of such
192 operator fails to comply with paragraph (1) of this subsection, the vehicle immobilization
193 device shall be removed by the operator without the payment of any fee.

194 (c) It shall be unlawful for an operator or any partner, member, officer, employee, or
195 contractor of such operator to fail to release a vehicle from immobilization within one hour
196 after receipt of payment from the owner, driver, or person in charge of such vehicle that has
197 been immobilized.

198 (d) It shall be unlawful for a vehicle immobilization service, operator, or any partner,
199 member, officer, employee, or contractor of such operator to fail to provide a receipt of
200 payment of the booting fee to the owner, driver, or person in charge of an immobilized
201 vehicle. The receipt shall have the name, address, and telephone number of the operator
202 and the name of the individual employee or company identification number of such
203 employee of such operator who removed the boot.

204 (e) While a vehicle is immobilized, the operator or any partner, member, officer,
205 employee, or contractor of such operator shall be deemed to be in possession and control
206 of the immobilized vehicle, shall be a bailee, and shall have all protections and
207 responsibilities as contemplated by Article 3 of Chapter 12 of this title.

208 44-1A-9.

209 (a)(1) If the application of a vehicle immobilization device damages a motor vehicle, the
210 operator shall pay the cost of repairs for such damage.

211 (2) If the owner, driver, or person in charge of a motor vehicle to which a device has
212 been applied attempts to remove the device, then the operator is not liable for any damage
213 to such vehicle resulting from such attempt.

214 (3) If the owner, driver, or person in charge of a motor vehicle to which a device has
215 been applied attempts to operate such motor vehicle, then the operator is not liable for
216 any damage to such vehicle resulting from such attempt, provided that notice has been
217 affixed to such motor vehicle as provided for in Code Section 44-1A-8, so as to provide
218 such owner, driver, or person in charge of such motor vehicle notification of the
219 application of the device.

220 (b) An operator shall maintain minimum insurance coverage in the amount of \$1 million
221 in commercial general liability and \$1 million in umbrella coverage and shall have workers'
222 compensation coverage on all employees.

223 44-1A-10.

224 (a) Neither an operator nor any partner, member, officer, employee, or contractor of such
225 operator shall charge the owner, driver, or person in charge of any immobilized motor

226 vehicle an amount in excess of \$65.00 for the removal of vehicle immobilization devices;
227 provided, however, that any outstanding daily parking fees may also be collected when
228 applicable; provided, further, that a local jurisdiction may set a lower maximum amount.
229 Motor vehicles remaining on the private property for more than 24 hours after
230 immobilizing may also be charged an additional fee of \$25.00 per day that such motor
231 vehicle remains on such property without having paid for the removal of any vehicle
232 immobilization devices.

233 (b) If a motor vehicle is immobilized for nonpayment of parking fees or for a failure to
234 properly display any parking fee receipt, upon production of such receipt or proof of
235 payment by the owner, driver, or person in charge of an immobilized vehicle the operator
236 or partner, member, officer, employee, or contractor of such operator shall immediately
237 remove any vehicle immobilization devices from such motor vehicle without the payment
238 of any fee.

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

241 44-1A-11.

242 (a) It shall be unlawful for an operator or any partner, member, officer, employee, or
243 contractor of such operator to install or attach a device to any motor vehicle without
244 posting signs meeting the requirements of this Code section.

245 (b)(1) At least one sign shall be located at each designated entrance to a parking lot or
246 parking area where parking prohibitions are to be effective, and where there is no
247 designated entrance, such signs shall be erected so as to be clearly visible from each and
248 every parking space;

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

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

254 (c) Except the word 'warning' as provided for below which shall be at least six inches in
255 height, signs for a parking lot or parking area for which no fee is charged for parking shall
256 clearly state the following minimum language in lettering at least one and one-half inches
257 in height and in a solid color that contrasts with the background:

258 1. WARNING: BOOTING ENFORCED 24/7.

259 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED (BOOTED) AT
260 OWNER'S RISK AND EXPENSE.

261 3. PARKING IS RESERVED FOR CURRENT PATRONS OF (insert name of
 262 shopping center or other property complex or individual stores or property addresses
 263 if not applicable to an entire shopping center or other property complex) ONLY.
 264 WHEN YOU LEAVE YOU MUST TAKE YOUR VEHICLE WITH YOU. DO
 265 NOT PARK AND LEAVE THIS PROPERTY FOR ANY REASON OR YOUR
 266 VEHICLE WILL BE BOOTED AT YOUR EXPENSE.

267 4. BOOT REMOVAL FEE: \$65.00 (or other amount that does not exceed the
 268 maximum fee provided for by the local jurisdiction). UNPAID PARKING FEES
 269 MAY ALSO BE COLLECTED, IF APPLICABLE.

270 5. (Insert name of vehicle immobilization service that has a regulatory permit
 271 pursuant to this chapter).

272 6. FOR BOOT REMOVAL, CALL (insert operator's telephone number).'

273 (d) Except the word 'warning' as provided for below which shall be at least six inches in
 274 height, signs for a parking lot or parking area for which a fee is charged for parking shall
 275 clearly state the following minimum language in lettering at least one and one-half inches
 276 in height and in a solid color that contrasts with the background:

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

278 2. UNAUTHORIZED VEHICLES MAY BE IMMOBILIZED (BOOTED) AT
 279 OWNER'S RISK AND EXPENSE.

280 3. NO FREE PARKING ANYTIME. (Insert additional terms of parking regarding
 281 payment in advance, display of receipt on dashboard of a motor vehicle,
 282 nontransferability of ticket, exceeding parking time expirations, and in and out
 283 prohibitions, as applicable.)

284 4. BOOT REMOVAL FEE: \$65.00 (or other amount that does not exceed the
 285 maximum fee provided for by the local jurisdiction). UNPAID PARKING FEES
 286 MAY ALSO BE COLLECTED, IF APPLICABLE.

287 5. (Insert name of vehicle immobilization service that has a regulatory permit
 288 pursuant to this chapter).

289 6. FOR BOOT REMOVAL, CALL (insert operator's telephone number).'

290 (e) No abbreviations shall be used on the signs required by subsections (c) and (d) of this
 291 Code section.

292 44-1A-12.

293 (a) An operator or any partner, member, officer, employee, or contractor of such operator
 294 that violates any provision of this chapter or commits an unlawful act under this chapter
 295 shall be guilty of a misdemeanor of a high and aggravated nature and shall be punished as
 296 provided by Code Section 17-10-4.

297 (b) A local government may revoke or suspend the regulatory permit of an operator where,
298 upon investigation or inspection, it has been determined that any operator, or an officer,
299 partner, or member thereof, has violated provisions of this chapter.

300 (c) Any operator whose regulatory permit has been revoked pursuant to this chapter shall
301 be disqualified from reapplying for such permit for 12 months immediately following the
302 revocation.

303 44-1A-13.

304 (a) Any person who suffers injury or damages as a result of a violation of this chapter by
305 an operator or any partner, member, officer, employee, or contractor of such operator may
306 bring an action in any court of competent jurisdiction for actual damages which shall be
307 presumed to be not less than \$100.00, together with court costs, against such operator. A
308 court shall award three times actual damages upon a finding of intentional violation of this
309 chapter.

310 (b) This Code section shall only apply to causes of action that occur on or after January 1,
311 2020, and shall not exhaust or limit any causes of action that were pending prior to
312 January 1, 2020.

313 44-1A-14.

314 If the governing authority of a county or municipal corporation adopts an ordinance
315 authorizing the use of vehicle immobilization devices on private property, such ordinance
316 shall be identical to the provisions of this chapter or may impose additional requirements
317 that exceed the minimum requirements of this chapter."

318 **SECTION 2.**

319 This Act shall become effective on January 1, 2020.

320 **SECTION 3.**

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