

1 HB87
2 135667-1
3 By Representative McClendon
4 RFD: Public Safety and Homeland Security
5 First Read: 07-FEB-12
6 PFD: 02/02/2012

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8 SYNOPSIS: Under existing law, a law enforcement
9 officer may have a motor vehicle towed if the motor
10 vehicle has been unattended on a public street,
11 road, or highway for seven days or more. Under this
12 law, the towing agent or wrecker service has a lien
13 for the towing charge and storage.

14 This bill would further define an abandoned
15 motor vehicle and would specify that a law
16 enforcement officer may have a motor vehicle towed
17 if the driver of the motor vehicle has been
18 arrested or injured or the motor vehicle needs to
19 otherwise be removed from a public street or
20 highway, or if the vehicle is subject to an
21 impoundment order of law enforcement officers for
22 outstanding traffic or parking violations.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To amend Sections 32-13-1 and 32-13-2 of the Code of
2 Alabama 1975, relating to abandoned motor vehicles, to further
3 define an abandoned motor vehicle and to specify when a law
4 enforcement officer may have a motor vehicle towed if the
5 driver has been arrested or is injured or the motor vehicle
6 otherwise needs to be removed from a public street or highway.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 32-13-1 and 32-13-2 of the Code
9 of Alabama 1975, are amended to read as follows:

10 "§32-13-1.

11 "For the purposes of this chapter, an abandoned
12 motor vehicle shall mean a motor vehicle as defined in Section
13 32-8-2:

14 "(1) Which has been left by the owner, or some
15 person acting for the owner, with an automobile dealer,
16 repairman, or wrecker service for repair or for some other
17 reason and has not been called for by the owner or other
18 person within a period of 60 days after the time agreed upon
19 and within 60 days after the vehicle is turned over to a
20 dealer, repairman, or wrecker service when no time is agreed
21 upon, or within 60 days after the completion of necessary
22 repairs.

23 "(2) Which is left unattended on a public street,
24 road, or highway or other public property for a period of at
25 least seven days; or which is unattended because the driver of
26 the vehicle has been arrested or is impaired by an accident or
27 for any other reason which causes the need for the vehicle to

1 be immediately removed as determined necessary by the law
2 enforcement officer, or which is subject to an impoundment
3 order for outstanding traffic or parking violations; or left
4 unattended continuously for at least seven days in a business
5 district or a residence district; or if left unattended in a
6 business district that has at least one posted notice in an
7 open and conspicuous place indicating that there is a time
8 limitation on the length of time a motor vehicle may remain
9 parked in the district and the motor vehicle remains
10 unattended for a period of time in excess of that posted on
11 the notice; or left unattended in a business district or
12 residence district that has at least one posted notice
13 indicating that only authorized motor vehicles may park in
14 that district and the owner of the motor vehicle or his or her
15 agent has not received the required authority prior to leaving
16 the motor vehicle unattended; or left unattended on a private
17 road or driveway without the express or implied permission of
18 the owner or lessee of the driveway or their agent. A posted
19 notice when required by this chapter shall meet the following
20 specifications:

21 "a. The notice shall be prominently placed at each
22 driveway access or curb cut allowing vehicular access to the
23 property, within five feet from the public right-of-way line.
24 If there are no curbs or access barriers, the signs must be
25 posted not less than one sign each 25 feet of lot frontage.

26 "b. The notice shall clearly indicate, in not less
27 than two-inch high light-reflective letters on a contrasting

1 background, that unauthorized vehicles will be towed away at
2 the owner's expense. The words "tow away zone" shall be
3 included on the sign in not less than four-inch high letters.

4 "c. The notice shall also provide the name and
5 current telephone number of the person or firm towing or
6 removing the vehicles, if the property owner, lessor, or
7 person in control of the property has a written contract with
8 a wrecker service.

9 "d. The sign structure containing the required
10 notices shall be permanently installed with the bottom of the
11 sign not less than four feet above ground level, and be
12 continuously maintained on the property for not less than 24
13 hours prior to the towing or removal of any vehicles.

14 "(3) Which has been lawfully towed onto the property
15 of another at the written request of a law enforcement officer
16 and left there for a period of not less than 60 days without
17 anyone having made claim thereto.

18 "(4) Which has been abandoned, has an expired
19 license plate, or is inoperable in a parking area on private
20 property maintained by the property owner or his or her agent
21 for use by his or her tenants, residents, or their guests. A
22 vehicle shall be defined as abandoned or inoperable under this
23 subdivision if it has an expired license plate or has remained
24 in the same parking lot for a period of 30 days or more. To
25 bring a vehicle within the provisions of this subdivision, the
26 property owner or his or her agent shall post a dated notice
27 in a conspicuous place on the vehicle in question stating:

1 "a. That the vehicle has been determined to be
2 abandoned or inoperable and will be removed at the direction
3 of the property owner or his or her agent upon the expiration
4 of seven days from the date of the notice.

5 "b. The name and address of the last registered
6 owner of the vehicle in question and the name and address of
7 the property owner or his or her agent and a daytime phone
8 number for the person giving the notice.

9 "A copy of the notice shall be mailed by regular
10 mail to the last known address of the registered owner, if
11 ascertainable, on the date of posting or not later than the
12 next business day. Calculation of the seven-day notice period
13 shall commence on the date of posting of the notice on the
14 vehicle.

15 "§32-13-2.

16 "(a) Any ~~peace~~ law enforcement officer who finds a
17 motor vehicle which has been left unattended on a public
18 street, road, or highway or other property for a period of at
19 least seven days, ~~shall be authorized to,~~ or which is
20 unattended because the driver of the vehicle has been arrested
21 or is impaired by an accident or for any other reason which
22 causes the need for the vehicle to be immediately removed as
23 determined necessary by the law enforcement officer, or which
24 is subject to an impoundment order for outstanding traffic or
25 parking violations, may cause the motor vehicle to be removed
26 to the nearest garage or other place of safety.

1 "(b) Any ~~peace~~ law enforcement officer who pursuant
2 to this section causes any motor vehicle to be removed to a
3 garage or other place of safety shall be liable for gross
4 negligence only and any person removing the vehicle or other
5 property at the direction of a ~~peace~~ law enforcement officer
6 in accordance with this section shall have a lien on the motor
7 vehicle for a reasonable fee for the removal and for the
8 storage of the motor vehicle.

9 "(c) Any ~~peace~~ law enforcement officer who under
10 this section causes the removal of any motor vehicle to a
11 garage or other place of safety shall within five days give
12 written notice of the removal, which notice shall include a
13 complete description of the motor vehicle serial number and
14 license number thereof, provided the information is available,
15 to both the Secretary of State, ~~State of Alabama,~~ and the
16 Department of Public Safety, ~~State of Alabama.~~

17 "(d) The owner or lessee of real property or their
18 agent upon which an abandoned motor vehicle as defined in
19 Section 32-13-1 has become abandoned ~~shall be authorized to~~
20 may cause the abandoned motor vehicle to be removed to a
21 secure place. Any owner or lessee of the real property or
22 their agent who shall cause the abandoned motor vehicle to be
23 removed from their real property shall, within 24 hours of the
24 removal, give written notice to the county or municipal law
25 enforcement agency in whose jurisdiction the abandoned motor
26 vehicle was situated. Any person or corporation removing the
27 vehicle or other property at the direction of the owner or

1 lessee of real property or their agent in accordance with this
2 section have a lien on the motor vehicle for a reasonable fee
3 for the removal and for storage of the motor vehicle.

4 "(e) The owner or lessee or agent of the real
5 property owner, lien holder, and the towing agent or wrecker
6 service employed shall be liable to the owner or party in
7 possession of the vehicle only for gross negligence under this
8 section."

9 Section 2. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.