

House Bill 469

By: Representatives Dollar of the 45th, Powell of the 32nd, and Jasperse of the 11th

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:

32 (A) Authorized by a governing authority of a county or municipal corporation; and

33 (B) The towing of such motor vehicle cannot be accomplished pursuant to Code
 34 Section 44-1-13, provided that a towing firm is contacted to tow such motor vehicle
 35 and, after a site evaluation, such towing firm issues a written notation to the private
 36 property owner or the authorized agent entitled to possession of such private property
 37 that access to such private property from the public way is insufficient for clearance of
 38 the towing vehicle or for towing to be accomplished pursuant to regulations of the
 39 Department of Public Safety or of the governing authority of the county or
 40 municipality.

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

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

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

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

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

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

66 44-1A-3.

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

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

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

79 _____ (City or county name)

80 **STATE OF GEORGIA**
 81 **VEHICLE IMMOBILIZATION SERVICE PERMIT**

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

85 This permit was issued on _____ (date). The permit is valid until
 86 _____ (date).

87 This permit is valid for all individuals under the operator's employment or who are acting
 88 on behalf of such operator, including such operator himself or herself or partners, members,
 89 or officers of such operator who are wearing uniforms that clearly identify his or her
 90 employment or affiliation with the operator.

91 OPERATOR: _____ (Name of operator)

92 BUSINESS ADDRESS OF OPERATOR: _____

93 BUSINESS TELEPHONE NUMBER OF OPERATOR: _____

94 This _____ day of _____, 20 _____.

95 _____
96 (City or county official)

97 _____
98 Print name of city or county official'

99 44-1A-4.

100 An operator or any partner, member, officer, employee, or contractor of such operator shall
101 not:

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

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

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

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

113 44-1A-5.

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

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

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

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

127 (A) Displayed on both sides of such vehicle the name of the operator, the address from
 128 which the operator conducts business, and the telephone number of the operator. The
 129 lettering shall be in a contrasting color to the color of the vehicle, or if a vehicle magnet
 130 is used, the lettering shall be in a contrasting color to the color of the magnet. Such
 131 lettering shall be at least one and one-half inches in height; and

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

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

138 44-1A-6.

139 (a) An operator or any partner, member, officer, employee, or contractor of such operator
 140 may conduct vehicle immobilization services 24 hours per day, seven days per week, and
 141 365 days per year.

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

145 44-1A-7.

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

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

155 (1) Written notice of the use of vehicle immobilization services as provided for in a lease
 156 or in the bylaws of an association formed pursuant to Chapter 3 of Title 44; and

157 (2) Actual notice that the use of vehicle immobilization services is pending against such
158 motor vehicle at least 30 days prior to the application of a device on such motor vehicle.
159 For the purposes of this paragraph, notice shall be deemed to have been given to such
160 owner, driver, or person in charge of such motor vehicle upon evidence that:

161 (A) A properly stamped envelope containing a copy of the notice of pending use of
162 vehicle immobilization services was addressed to such owner, driver, or person in
163 charge of such motor vehicle and was placed in the United States mail for registered or
164 certified delivery, and such owner, driver, or person in charge of such motor vehicle
165 acknowledged receipt thereof on a United States Postal Service return receipt form for
166 registered or certified mail delivery; or

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

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

172 44-1A-8.

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

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

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

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

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

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

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

199 44-1A-9.

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

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

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

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

214 44-1A-10.

215 (a) Neither an operator nor any partner, member, officer, employee, or contractor of such
216 operator shall charge the owner, driver, or person in charge of any immobilized motor
217 vehicle an amount in excess of \$65.00 for the removal of vehicle immobilization devices;
218 provided, however, that any outstanding daily parking fees may also be collected when
219 applicable; provided, further, that a local jurisdiction may set a lower maximum amount.
220 Motor vehicles remaining on the private property for more than 24 hours after
221 immobilizing may also be charged an additional fee of \$25.00 per day that such motor
222 vehicle remains on such property without having paid for the removal of any vehicle
223 immobilization devices.

224 (b) If a motor vehicle is immobilized for nonpayment of parking fees or for a failure to
225 properly display any parking fee receipt, upon production of such receipt or proof of
226 payment by the owner, driver, or person in charge of an immobilized vehicle the operator
227 or partner, member, officer, employee, or contractor of such operator shall immediately

228 remove any vehicle immobilization devices from such motor vehicle without the payment
 229 of any fee.

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

232 44-1A-11.

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

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

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

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

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

249 1. WARNING: BOOTING ENFORCED 24/7.

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

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

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

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

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

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

268 1. WARNING: BOOTING ENFORCED 24/7.

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

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

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

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

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

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

283 44-1A-12.

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

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

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

294 44-1A-13.

295 (a) Any person who suffers injury or damages as a result of a violation of this chapter by
 296 an operator or any partner, member, officer, employee, or contractor of such operator may
 297 bring an action in any court of competent jurisdiction for actual damages which shall be
 298 presumed to be not less than \$100.00, together with court costs, against such operator. A

299 court shall award three times actual damages upon a finding of intentional violation of this
300 chapter.

301 (b) This Code section shall only apply to causes of action that occur on or after January 1,
302 2020, and shall not exhaust or limit any causes of action that were pending prior to
303 January 1, 2020.

304 44-1A-14.

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

309 **SECTION 2.**

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

311 **SECTION 3.**

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