



# State of Tennessee

## PUBLIC CHAPTER NO. 1017

### SENATE BILL NO. 1692

By Johnson, Rose, Stevens, Walley

Substituted for: House Bill No. 1731

By McCalmon, Lamberth, Carringer, Gant, Vital, Travis, Littleton, Alexander, Faison, Burkhart, Zachary, Hale, Whitson, Cochran, Marsh, Towns, Jernigan, Rudder, Sherrell, Camper, Hardaway, Kumar

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 39; Title 47; Title 48; Title 55; Title 56; Title 62; Title 66 and Title 67, relative to parking.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 16, is amended by deleting the chapter.

SECTION 2. Tennessee Code Annotated, Title 55, Chapter 23, is amended by deleting the chapter.

SECTION 3. Tennessee Code Annotated, Title 47, Chapter 18, Part 32, is amended by deleting the part.

SECTION 4. Tennessee Code Annotated, Title 55, is amended by adding the following as a new chapter:

#### **55-31-101. Short title.**

This chapter is known and may be cited as the "Modernization of Towing, Immobilization, and Oversight Normalization (MOTION) Act."

#### **55-31-102. Chapter definitions.**

As used in this chapter:

(1) "Abandoned motor vehicle" means a motor vehicle that:

(A) Is over four (4) years old and is left unattended on public property for more than ten (10) days;

(B) Is in an obvious state of disrepair and is left unattended on public property for more than three (3) days;

(C) Has remained illegally on public property for a period of more than forty-eight (48) hours;

(D) Has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours;

(E) Has remained on private residential property without the consent of the owner or person in control of the property; or

(F) Has been stored, parked, or left in a garage, trailer park, or any type of storage or parking lot for more than thirty (30) consecutive days;

(2) "Automatic license plate reader" means one (1) or more mobile or fixed automated high-speed cameras used in combination with computer algorithms to convert images of vehicles or license plates into computer-readable data that can be used to determine the ownership of a motor vehicle;

(3) "Boot", "booted", or "booting" means the act of installing a vehicle immobilization device on a motor vehicle;

(4) "Commercial parking lot" or "lot":

(A) Means a privately owned parking lot or parking garage used for the temporary storage of motor vehicles, either for a fee or for use by customers of the owner of the parking lot or parking garage; and

(B) Does not include a public street, public right-of-way, or publicly owned parking lot or parking garage;

(5) "Commercial parking lot owner" or "lot owner" means the owner or operator of a commercial parking lot;

(6) "Curbstoning" means selling, offering for sale, advertising for sale, or soliciting the sale of:

(A) A motor vehicle without a properly endorsed certificate of title, as required by §§ 55-3-118 and 55-3-127, by a person or entity engaged primarily in the sale of used motor vehicles if the person or entity is not licensed as a motor vehicle dealer pursuant to chapter 17, part 1 of this title; or

(B) More than five (5) motor vehicles in any twelve-month period when the motor vehicles are titled in the person's name or the name of the entity engaged primarily in the sale of used motor vehicles if the person or entity is not licensed as a motor vehicle dealer pursuant to chapter 17, part 1 of this title;

(7) "Demolisher" means a person whose business is to convert a motor vehicle into processed scrap or scrap metal, or to otherwise wreck or dismantle motor vehicles;

(8) "Employee" means a natural person who is required to file a federal form W-2, wage and tax statement, with the federal internal revenue service for the compensation the natural person receives for work performed;

(9) "Garagekeeper" means:

(A) A towing company;

(B) An operator of a parking place or establishment that is not a commercial parking lot;

(C) A motor vehicle storage facility; or

(D) An establishment for the servicing, repair, or maintenance of vehicles;

(10) "Immobile motor vehicle" means a motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer that is immobilized and incapable of moving under its own power due to an accident, mechanical breakdown, weather condition, or other emergency situation;

(11) "Licensed parking attendant" means a parking attendant licensed by a local government pursuant to an ordinance adopted in compliance with § 55-31-203;

(12) "Licensed parking lot" means a commercial parking lot owner licensed by a local government pursuant to an ordinance adopted in compliance with § 55-31-203;

(13) "Local government" means a municipality, county, or county having a metropolitan form of government;

(14) "Motor vehicle portal" means the electronic database or online platform established by the department of revenue pursuant to § 55-31-310;

(15) "Obvious state of disrepair" means a motor vehicle that:

- (A) Is inoperable under its own power;
- (B) Is without one (1) or more wheels or inflated tires;
- (C) Is burned throughout; or
- (D) Has more than one (1) broken window;

(16) "Parking attendant" means an employee of a commercial parking lot owner;

(17) "Police department" means:

- (A) The Tennessee highway patrol;
- (B) The sheriff's department of any county;
- (C) The police department of any city or town; or
- (D) Any department, board, or commission designated by the legislative body of any county with a metropolitan form of government to perform the duties of a police department specified in this chapter;

(18) "Release fee" means a fee charged by a towing company to release a motor vehicle after the towing company has begun to tow the motor vehicle;

(19) "Towing company" means a person engaged in the business of towing motor vehicles by use of a tow truck;

(20) "Unattended motor vehicle" means:

- (A) A motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer, that is on public or private property, unattended by the owner or authorized driver, and that interferes with or impedes the orderly flow of traffic; or
- (B) A motor vehicle that is unattended by reason of the arrest of the driver of the motor vehicle; and

(21) "Vehicle immobilization device" means a device that is designed or adapted to be attached to a parked motor vehicle to prohibit the motor vehicle's usual manner of movement or operation.

**55-31-201. Booting and towing prohibited on commercial parking lots.**

(a) Except as otherwise provided by subsection (b) and § 55-31-301, it is an offense for a commercial parking lot owner to boot or tow a motor vehicle located on the lot owner's lot if the motor vehicle is not an abandoned, immobile, or unattended motor vehicle.

(b) Notwithstanding subsection (a), it is not an offense for a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow motor vehicles located on the licensed parking lot if the licensed parking lot is located within the jurisdiction of a local government that has passed an ordinance pursuant to § 55-31-203 and the licensed parking lot or licensed parking attendant boots or tows a motor vehicle in compliance with the ordinance.

(c)(1) A violation of this section constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1.

(2) A violation of this section constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to any penalties and remedies established under this part.

(3) The attorney general and reporter has all of the investigative and enforcement authority that the attorney general and reporter has under the Tennessee Consumer Protection Act of 1977 relating to alleged violations of this part. If the attorney general and reporter reasonably believes that a person has violated this part, then the attorney general and reporter may institute a proceeding under this section.

(4) Costs of any kind or nature must not be taxed against the attorney general and reporter or the state in actions commenced under this part.

(d) In addition to the remedy provided in subsection (c), a person injured as a result of a violation of this section is entitled to maintain a private right of action for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator.

**55-31-202. Booting prohibited generally - Booting of motor vehicles identified by USDOT number.**

(a) It is an offense for a person, other than a licensed parking attendant, to knowingly boot a motor vehicle in this state.

(b) It is an offense for a person to knowingly boot a motor vehicle in this state, whether on a commercial or private parking lot, if the motor vehicle is clearly identifiable by:

(1) A United States department of transportation (USDOT) number issued by the federal motor carrier safety administration (FMCSA);

(2) A registration plate issued and attached to the motor vehicle described in § 55-4-113(a)(2); or

(3) A registration plate issued and attached to a trailer described in § 55-4-113(a)(5).

(c) A violation of this section is a Class B misdemeanor.

(d) A violation of this section for a second or subsequent offense is a Class A misdemeanor.

**55-31-203. Local option.**

(a) If, after the effective date of this act, a local government passes an ordinance specifically opting to be governed by this section, then the local government may permit a licensed parking lot, or a licensed parking attendant on the licensed parking lot's behalf, to boot or tow on the licensed parking lot; provided, that the ordinance complies with subsection (b).

(b) A local ordinance passed pursuant to subsection (a) must, at a minimum:

(1) Require the annual licensure of the commercial parking lot owner as a licensed parking lot and the issuance of a license number to the licensed parking lot;

(2) Specify in the annual licensure pursuant to subdivision (b)(1) whether the licensure permits the licensed parking lot to boot, tow, or both boot and tow;

(3) Require the annual licensure of any employee authorized by the licensed parking lot to boot or tow from the lot as a licensed parking attendant and issue a license number and photo identification from the local government to the licensed parking attendant;

(4) Prohibit any person from booting or towing a motor vehicle on a licensed parking lot except by a licensed parking attendant licensed by the local government pursuant to subdivision (b)(3);

(5) Require licensed parking attendants licensed pursuant to subdivision (b)(3) to:

(A) Prominently display the photo identification issued by the local government on the licensed parking attendant's person at all times when the licensed parking attendant is on duty and available to boot or tow a motor vehicle located on a licensed parking lot; and

(B) Wear a distinctive uniform identifying the licensed parking attendant as an employee of the licensed parking lot at all times when the licensed parking attendant is on duty and available to boot or tow a motor vehicle located on the licensed parking lot;

(6) Require a licensed parking lot and licensed parking attendant to accept credit cards and debit cards as methods of payment for the removal of a vehicle immobilization device from a motor vehicle;

(7) Require a licensed parking lot to maintain a phone number that is monitored by a natural person twenty-four (24) hours per day, seven (7) days per week;

(8) Require a licensed parking lot to post signage in conspicuous locations on the property bearing notice:

(A) That the parking policy for the property is strictly enforced;

(B) That a violator's vehicle will be:

(i) Immobilized with a vehicle immobilization device with the owner of the vehicle having to pay to have the device removed, if the licensed parking lot has been licensed by the local government to boot vehicles pursuant to subdivision (b)(2);

(ii) Towed at the owner's expense, if the licensed parking lot has been licensed by the local government to tow vehicles pursuant to subdivision (b)(2); or

(iii) Both, if the licensed parking lot has been licensed by the local government to boot and tow vehicles pursuant to subdivision (b)(2);

(C) Of the name of the licensed parking lot, the licensed parking lot registration number issued by the local government pursuant to subdivision (b)(1), and the phone number required by subdivision (b)(7); and

(D) That this chapter protects consumers from booting and towing violations and that violations may be reported to the attorney general and reporter and the phone number for the enforcement division of the local government;

(9) Require that the signage required by subdivision (b)(8) be no less than thirty-six inches (36") in height and twenty-four inches (24") in width and contain lettering that is no less than two inches (2") in height and be located at each designated entrance to the property where parking prohibitions are to be effective, if a dedicated entrance to the licensed parking lot exists, and be erected so as to be clearly visible from each parking space;

(10) Require that immediately upon booting a vehicle, the licensed parking attendant must place a notice conspicuously displayed on the driver's side window of the motor vehicle immediately in front of the driver's seat indicating:

(A) That a vehicle immobilization device has been installed on the motor vehicle and that damage could occur if the vehicle is moved without first removing the vehicle immobilization device;

(B) The information in subdivisions (b)(8)(C) and (D);

(C) The name, license number issued by the local government, and direct contact number for the licensed parking attendant who has booted the motor vehicle; and

(D) The date and time that the vehicle immobilization device was installed on the motor vehicle;

(11) Require a licensed parking lot to pay for any damage done to a motor vehicle if the notice required by subdivision (b)(10) is not posted;

(12) Require a licensed parking lot to have a licensed parking attendant arrive at the licensed parking lot within forty-five (45) minutes of a call requesting the removal of a vehicle immobilization device and immediately remove the device upon satisfactory payment of any parking fee and vehicle immobilization device removal fee;

(13) Prohibit a licensed parking lot from charging a vehicle immobilization device removal fee of greater than seventy-five dollars (\$75.00);

(14) Prohibit a licensed parking lot from charging any fee to remove a vehicle immobilization device to a person who had paid to park and who was improperly booted by the licensed parking lot or a licensed parking attendant;

(15) Provide for the revocation of any license issued pursuant to the ordinance for violations of the ordinance or this chapter; and

(16) Require that all active parking rates must be available online and provided to consumers digitally at the licensed parking lot.

(c) This section does not prohibit a local government from passing an ordinance with requirements that are stricter than the minimum requirements in subsection (b).

(d) This section does not prohibit a local government from booting a motor vehicle that is located on public property; provided, that if the local government boots a motor vehicle on public property, then the local government must immediately, upon booting the motor vehicle, place a notice conspicuously displayed on the driver's side window of the motor vehicle immediately in front of the driver's seat indicating:

(1) That a vehicle immobilization device has been installed on the motor vehicle and that damage could occur if the vehicle is moved without first removing the vehicle immobilization device;

(2) The name of the local government official who booted the motor vehicle;

(3) The date and time the motor vehicle was booted; and

(4) The contact number the owner of the motor vehicle must call to have the vehicle immobilization device removed from the vehicle.

**55-31-204. Requirements of commercial parking lots.**

(a) A commercial parking lot owner in this state shall not utilize an automatic license plate reader to enforce the lot owner's parking requirements without first posting signage that:

(1) Contains red lettering that is no less than six inches (6") in height displayed on a white background;

(2) Contains the language "LICENSE PLATE READER IN USE";

(3) Is located at each designated entrance to the property, if a dedicated entrance to the commercial parking lot exists; and

(4) Is erected so as to be clearly visible from each parking space.

(b) A commercial parking lot owner shall not charge a penalty for non-payment of parking fees unless:

(1) The commercial parking lot posts signage that:

(A) Contains red lettering that is no less than six inches (6") in height displayed on a white background;

(B) Provides notice that motor vehicle owners who leave the commercial parking lot without paying parking fees will be subject to a late fee if the parking fees are not paid within seventy-two (72) hours; and

(C) Is located at each designated exit of the commercial parking lot;

(2) The actual cost of parking owed remains unpaid after seventy-two (72) hours from the time the motor vehicle exited the commercial parking lot; and

(3)(A) If the actual cost of parking owed remains unpaid for thirty (30) days or less from the time the motor vehicle exited the commercial parking lot, the fee is not greater than fifty dollars (\$50.00); or

(B) If the actual cost of parking owed remains unpaid for greater than thirty (30) days from the time the motor vehicle exited the commercial parking lot, the fee is not greater than seventy-five dollars (\$75.00).

(c)(1) A violation of this section constitutes a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1.

(2) A violation of this section constitutes an unfair or deceptive act or practice affecting trade or commerce and is subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to any penalties and remedies established under this part.

(3) The attorney general and reporter has all of the investigative and enforcement authority that the attorney general and reporter has under the Tennessee Consumer Protection Act of 1977 relating to alleged violations of this part. If the attorney general and reporter reasonably believes that a person has violated this part, then the attorney general and reporter may institute a proceeding under this section.

(4) Costs of any kind or nature must not be taxed against the attorney general and reporter or the state in actions commenced under this part.

(d) In addition to any remedy provided in this section, a person injured as a result of a violation of this section is entitled to maintain a private right of action for injunctive relief and to recover compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator.

**55-31-301. Unclaimed or abandoned vehicles – Custody – Removal – Reservation and storage.**

(a) A police department may take into custody a motor vehicle found abandoned, immobile, unattended, or used in curbstoning on public or private property; provided, that a motor vehicle used in curbstoning on residential property must not be taken into custody unless the police department provides notice on the motor vehicle at least forty-eight (48) hours prior to the seizure.

(b) A police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities for the purpose of removing, preserving, and storing motor vehicles that are abandoned, immobile, unattended, or used in curbstoning.

(c) Any motor vehicle used in curbstoning is subject to seizure and forfeiture in the same manner as provided by law for seizure and forfeiture of other items under title 40, chapter 33.

(d) Notwithstanding another law to the contrary, this section does not limit a local government's initiative for more restrictive requirements regarding the sale of curbstoned vehicles.

**55-31-302. Notice; penalty.**

(a) A police department that takes into custody an abandoned, immobile, or unattended motor vehicle, shall, within three (3) business days after taking the motor vehicle into custody, verify ownership of the motor vehicle pursuant to subsection (f). The police department shall, within three (3) business days after receiving verification of ownership, notify by a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery, the last known registered owner of the motor vehicle and all lienholders of record that the vehicle has been taken into custody. The notice must:

(1) Describe the year, make, model, and vehicle identification number of the abandoned, immobile, or unattended motor vehicle;

(2) Stipulate the location of the facility where the motor vehicle is being held;

(3) Inform the owner and any lienholders of the right to reclaim the motor vehicle within twenty (20) days after the date of the notice, upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody; and

(4) State that the failure of the owner or lienholder to exercise the right to reclaim the vehicle within the time provided is deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and consent to the sale of the abandoned, immobile, or unattended motor vehicle at a public auction.

(b)(1) A police department is not required to comply with subsection (a) if it provides preseizure notice to the owner of the motor vehicle and all lienholders of record that the vehicle has been found to be abandoned, immobile, or unattended.

(2) A preseizure notice must be sent by a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery, to the last known address of the owner of record and to all lienholders of record.

(3) The preseizure notice must:

(A) Be written in plain language;

(B) Contain the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable;

(C) Provide the location of the motor vehicle, and a statement advising the owner that the police department will take the abandoned, immobile, or unattended vehicle into custody in no less than twenty (20) days, unless the owner appeals the determination by the police department that the vehicle is abandoned, immobile, or unattended or the owner removes the vehicle from the property within the twenty-day period;

(D) Inform the owner and any lienholders of the right to reclaim the motor vehicle after it is taken into custody but before it is sold or demolished, upon payment of all towing, preservation, storage, or other charges resulting from placing the vehicle in custody; and

(E) State that the failure of the owner or lienholders to exercise the right to reclaim the vehicle will be deemed a waiver by the owner and all lienholders of all right, title, and interest in the vehicle and consent to the demolition of the vehicle or its sale at a public auction.

(4) If the owner or lienholder cannot be located through the exercise of due diligence, then notice on the motor vehicle portal must be given as set out in subsection (c).

(5) If the owner or lienholder of an abandoned, immobile, or unattended motor vehicle fails to appeal the determination that the vehicle is abandoned, immobile, or unattended or fails to remove the motor vehicle within twenty (20) days from receipt of the preseizure notice required by this subsection (b), then the police department may take the vehicle into custody.

(6) If an appeal is made, then the police department shall not take the motor vehicle into custody while the appeal is pending.

(7) Without exception, failure to appeal within the specific time period constitutes a waiver of the right of appeal.

(c) If there is no response to the notice requesting proof of delivery provided for in subsection (a), then the police department shall make notice within three (3) business days of receipt of the delivery confirmation by posting the abandoned, immobile, or unattended motor vehicle on the motor vehicle portal.

(d) The consequences and effect of failure to reclaim an abandoned, immobile, or unattended motor vehicle must be as described in a valid notice given pursuant to this section.

(e) If the owner of a motor vehicle is not present at the time the motor vehicle is towed, then within fifteen (15) minutes of a person, firm, or entity towing the motor vehicle



pursuant to this chapter, such person, firm, or entity must notify local law enforcement of the vehicle identification number (VIN), registration information, license plate number, and description of the vehicle. A violation of this requirement is a Class B misdemeanor. A police department shall keep a record of all information required by this subsection (e) that the police department must make available for public inspection.

(f) If an employee of a public agency, a towing company contracting with a public agency, or a towing company authorized to tow by a private property owner or the private property owner's authorized agent, takes possession of a motor vehicle found abandoned, immobile, or unattended, then an employee of the agency shall verify ownership through the Tennessee information enforcement system (TIES) and shall place the ownership information on the towing sheet or form. The agency shall also provide the ownership information to a garagekeeper with whom the agency has a contract or to a towing company authorized to tow by a private property owner or private property owner's authorized agent, as applicable. If a public agency attempts to verify ownership information through TIES and the response is "Not on File," then the agency shall contact the department of revenue title and registration division, which must search records not contained in TIES for the ownership information. If the title and registration division locates ownership information through this search, then the division must notify the appropriate public agency and the agency must distribute the information as provided in this subsection (f). When any other person takes possession of a motor vehicle found abandoned, immobile, or unattended, the action must be reported immediately to the taxpayer and vehicle services division for verification of ownership on a form prescribed and provided by the registrar of motor vehicles.

(g)(1) In addition to the notification requirements of subsection (a), a garagekeeper that has in its possession an abandoned, immobile, or unattended motor vehicle taken into custody by a police department or authorized by a private property owner or the private property owner's authorized agent to be towed, and in whose possession the motor vehicle was lawfully placed by the police department or authorized to be placed by a private property owner or the private property owner's authorized agent, shall, within three (3) business days after the motor vehicle is taken into its possession, verify ownership of the motor vehicle pursuant to subsection (f). The garagekeeper shall, within three (3) business days after receiving verification of ownership, provide notice to the last known registered owner of the motor vehicle and all lienholders of record. The notification requirements included in subsection (a) apply to the notice required to be provided by a garagekeeper pursuant to this subdivision (g)(1).

(2) A garagekeeper that does not verify ownership of a motor vehicle within three (3) business days after taking possession of the motor vehicle pursuant to this section or that does not notify by requesting proof of delivery in the manner required by subsection (a) the owner of the motor vehicle within three (3) business days after receiving verification of ownership from the appropriate state department or agency is not entitled to receive more than six (6) days of storage-related expenses. A garagekeeper that is found by a court of competent jurisdiction to have failed to release a motor vehicle upon the presentment of payment for towing and storage expenses is subject to civil liability to the motor vehicle owner, secured creditor, lessor, or lienholder who prevails in an action brought under this section for reasonable costs and attorney fees incurred by the person instituting the action.

(3) If the owner of the motor vehicle or the owner's agent is present at the time a garagekeeper commences towing the owner's or agent's motor vehicle, then this subsection (g) does not apply to the garagekeeper; provided, however, that this subdivision (g)(3) does not exempt the garagekeeper from any other notification requirements under this section or other provision of law.

### **55-31-303. Auctions and auctioneers.**

(a) If an abandoned, immobile, or unattended motor vehicle has not been reclaimed as provided for in § 55-31-302, then the police department must sell the abandoned, immobile, or unattended motor vehicle at a public auction.

(b) The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, must receive a sales receipt from the police department, and, upon presentation of the sales receipt, the department of revenue shall issue a certificate of title to the purchaser.

(c) The sales receipt only is sufficient title for purposes of transferring the motor vehicle to a demolisher for demolition, wrecking, or dismantling, and, in this case, further titling of the motor vehicle is not necessary.

(d) The proceeds of the sale of an abandoned, immobile, or unattended motor vehicle must be used for payment of the expenses of the auction, the costs of towing, preserving, and storing the abandoned, immobile, or unattended motor vehicle, and all notice and publication costs, including costs to post the motor vehicle on the motor vehicle portal, incurred pursuant to § 55-31-302.

(e) Any remainder from the proceeds of a sale must be held for the owner of the motor vehicle or entitled lienholder for sixty (60) days, and then must be deposited in a special fund that must remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs, including costs to post the motor vehicle on the motor vehicle portal, that result from placing other abandoned, immobile, or unattended vehicles in custody, whenever the proceeds from a sale of other abandoned, immobile, or unattended motor vehicles are insufficient to meet these expenses and costs.

**55-31-304. Garagekeepers.**

(a) Notwithstanding this chapter to the contrary, the police department through its chief officer, after complying with § 55-31-302, may execute a written waiver of its right to sell a vehicle taken into custody under this chapter in favor of a garagekeeper in whose possession the vehicle was lawfully placed by the police department under this chapter. If a garagekeeper has made repairs to a vehicle for which a waiver has been executed, then the garagekeeper may proceed to enforce the lien as provided in § 66-19-103. If the garagekeeper has not made repairs to a vehicle for which a waiver has been executed, then the garagekeeper may proceed to sell the vehicle in accordance with the procedure established in § 55-31-303.

(b) As to third-party purchasers, the sale of the abandoned, immobile, or unattended vehicle is valid, but the garagekeeper shall sell the vehicle in a commercially reasonable manner.

(c) A person injured as a result of a violation of subsection (b) is entitled to maintain a private right of action for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and reasonable attorney fees against an alleged violator.

**55-31-305. Demolishers.**

(a) A person, firm, corporation, or unit of government, upon whose property or in whose possession is found an abandoned, immobile, or unattended motor vehicle, or a person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may apply to the police department of the jurisdiction in which the vehicle is situated for authority to sell, give away, or dispose of the vehicle to a demolisher.

(b) The application must set out the name and address of the applicant, the year, make, model, and vehicle identification number of the motor vehicle, if ascertainable, together with any other identifying features, and must contain a concise statement of the facts surrounding the abandonment, or that the title of the motor vehicle is lost or destroyed, or the reasons for the defect of title. The applicant must execute an affidavit stating that the facts alleged therein are true and that no material fact has been withheld.

(c) If the police department finds that the application is executed in proper form and shows that the motor vehicle has been abandoned, immobile, or unattended upon the property of the applicant or if it shows that the motor vehicle is not abandoned, immobile, or unattended but that the applicant appears to be the rightful owner, then the police department shall follow the notification procedures set forth in § 55-31-302.

(d) If an abandoned, immobile, or unattended motor vehicle is not reclaimed in accordance with § 55-31-302, then the police department shall give the applicant a certificate of authority to sell the motor vehicle to any demolisher for demolition, wrecking, or dismantling. The demolisher shall accept the certificate in lieu of the certificate of title to the motor vehicle.

(e) Notwithstanding this part to the contrary, a person, firm, corporation, or unit of government upon whose property or in whose possession is found an abandoned, immobile, or unattended motor vehicle, or a person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of the motor vehicle to a demolisher

without that title and without the notification procedures of § 55-31-302, if the motor vehicle is over ten (10) years old and has no engine or is otherwise totally inoperable.

(f)(1) If a vehicle does have an engine, and is properly licensed but otherwise fits the description of this section, then such vehicle left on a public highway or street and pulled in at the direction of local or state law enforcement officials must be held at least ten (10) days. If, at the end of that period, no claim has been received for the vehicle, then the vehicle may then be disposed of in accordance with this section.

(2) Subdivision (f)(1) does not apply in counties with a metropolitan form of government, in which counties subsection (e) remains in full force and effect.

**55-31-306. Demolishers; surrender of certificate of title or auction sales receipt for cancelation; records and recordation.**

(a) A demolisher who purchases or otherwise acquires a motor vehicle for purposes of wrecking, dismantling, or demolition is not required to obtain a certificate of title for the motor vehicle in the demolisher's name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender for cancelation the certificate of title or auction sales receipt. The taxpayer and vehicle services division shall issue forms and rules governing the surrender of auction sales receipts and certificates of title as are appropriate.

(b) A demolisher shall keep an accurate and complete record of all motor vehicles purchased or received in the course of the demolisher's business. Such records must contain the name and address of the person from whom each motor vehicle was purchased or received and the date when the purchase or receipt occurred. The demolisher shall make the records open for inspection by any police department at any time during normal business hours. A record required by this section must be kept by the demolisher for at least one (1) year after the date of the transaction to which it applies.

**55-31-307. Time for towing.**

(a) Notwithstanding another law to the contrary, a vehicle must not be towed without authorization by the owner of the vehicle until twelve (12) hours have elapsed since it was first observed to be abandoned, immobile, or unattended unless the vehicle is creating a hazard, blocking access to public or private property, or parked illegally.

(b) A tow truck operator shall immediately release a motor vehicle that the operator has begun to tow but which has not left the parking area if the motor vehicle owner arrives and pays a release fee.

(c) A violation of this section is a Class B misdemeanor.

(d)(1) In addition to any other penalty provided for in this section, a violation of subsection (b) is also a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1. A violation of subsection (b) constitutes an unfair or deceptive act or practice affecting trade or commerce, and is subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to the penalties and remedies provided in this section.

(2) The attorney general and reporter has all of the investigative and enforcement authority that the attorney general and reporter has under the Tennessee Consumer Protection Act of 1977 relating to alleged violations of subsection (b). The attorney general and reporter may institute any proceedings involving alleged violations of this part in Davidson County circuit or chancery court or any other venue otherwise permitted by law.

(3) Costs of any kind or nature must not be taxed against the attorney general and reporter or the state in actions commenced under this section.

**55-31-308. Express written authorization.**

(a) Notwithstanding this part or title 66, chapter 19, part 1, in order for a garagekeeper to tow or store a vehicle, the garagekeeper shall obtain an express written authorization for towing and storage of each vehicle from a law enforcement officer with appropriate jurisdiction, from the owner of the vehicle, or from the owner or the authorized agent of the owner, of the private property from which the vehicle is to be towed. The authorization must include all of the information required by § 66-19-103(d). In addition to any other penalty

provided by this part or by title 66, chapter 19, part 1, a violation of this section is a Class B misdemeanor.

(b) This section and § 66-19-103(a) do not apply to new or used motor vehicle dealers licensed under chapter 17 of this title.

**55-31-309. Towing firms; referral; penalty.**

(a) Notwithstanding this chapter to the contrary, a towing firm shall not make, confer, or offer any payment or other pecuniary benefit to an owner or manager of property from which the firm has towed a vehicle with the intent of rewarding the owner or manager for referring the vehicle for towing.

(b) Notwithstanding this chapter to the contrary, an owner or manager of property from which a towing firm has towed a vehicle shall not solicit or receive any payment or other pecuniary benefit from a towing firm in exchange for referring a vehicle for towing to the firm.

(c) A violation of subsection (a) or (b) is a Class B misdemeanor.

**55-31-310. Motor vehicle portal created.**

(a) The department of revenue shall create and implement an electronic database or online platform that, on and after July 1, 2025, allows a police department or another user to input abandoned, immobile, or unattended vehicle information for public notice to be made through the motor vehicle portal as required by § 55-31-302(c).

(b) On and after July 1, 2025, the department of revenue may charge a police department or another user of the portal a fee to cover the cost of creating and administering the motor vehicle portal created pursuant to this section.

(c) The commissioner of revenue is authorized to promulgate rules to effectuate this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) All revenues received from the fees must be earmarked and used for the administration and maintenance of the motor vehicle portal. All funds generated pursuant to this section must be deposited into a special account earmarked solely for the purposes set forth in this section and any unexpended funds do not revert to the general fund and must be held in the account for use in accordance with this section.

**55-31-401. Part definitions.**

As used in this part, unless the context otherwise requires:

(1) "Motor vehicle":

(A) Means a self-propelled vehicle that is designed for use upon the highway, including trailers and semitrailers designed for use with the vehicle, and every vehicle that is propelled by electric power obtained from overhead wires but not operated upon rails, except traction engines, road rollers, and farm tractors; and

(B) Does not include a motorized bicycle as defined in § 55-8-101; and

(2) "Person" includes a natural person, firm, association, corporation, or partnership.

**55-31-402. Fees; period exceeding twenty-one (21) days.**

(a) A person engaged in the business of towing motor vehicles by tow truck or otherwise or the storing of such motor vehicles for any type of remuneration, whether as the principal business of the person or as an incidence to the person's principal business, shall not charge the owner or lienholder of a stored motor vehicle a storage fee for a period exceeding twenty-one (21) days without the consent of the owner or lienholder, except as otherwise provided in § 55-31-403.

(b) A person engaged in a business described in subsection (a) shall not charge a storage fee for any day on which the vehicle is not available for release to the owner, lienholder, or insurer, unless the failure to release is based on a hold placed on the vehicle by law enforcement.

(c) Upon provision of documentation from an insurer or lienholder showing its right to take custody of a vehicle, a person engaged in a business described in subsection (a) shall release the vehicle to the insurer or lienholder, or an authorized agent or representative for such insurer or lienholder, upon the insurer's or lienholder's payment of reasonable charges due, without requiring additional consent from the owner of the motor vehicle. The insurer or lienholder shall indemnify and hold harmless the releasing person or entity from any action, cause of action, claim, judgment, loss, liability, damage, or cost that it may incur due to wrongful release of the motor vehicle to an authorized agent or representative of the insurer or lienholder.

**55-31-403. Fees – Period exceeding twenty-one (21) days – Notice.**

A person engaged in the business of towing and storing motor vehicles may charge a storage fee for a period exceeding twenty-one (21) days if the last known registered owner of the motor vehicle and all lienholders of record are notified using a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery, of the intent to charge a storage fee for a period to exceed twenty-one (21) days. The notice must be given at least ten (10) days prior to the imposition of any additional storage fee.

**55-31-404. Towing and storage fees.**

A person engaged in the business of towing motor vehicles by tow truck or otherwise or the storing of such motor vehicles for any type of remuneration, whether as the principal business of the person or incidental to the person's principal business, shall not charge a person for the towing or storage of a motor vehicle:

- (1) A fee charged at a higher rate than the maximum fee that has been approved by the Tennessee highway patrol district to be charged for the same service by persons engaged in a business described in this section;
- (2) A gate, access, or release fee during normal business hours for any day during which daily storage is also being charged; or
- (3) A release fee of more than one hundred dollars (\$100).

SECTION 5. Tennessee Code Annotated, Section 66-19-103, is amended by deleting the section and substituting:

(a) As used in this section:

- (1) "Garagekeeper" has the same meaning as defined in § 55-31-101; and
- (2) "Rental vehicle company" means a person or entity, or a subsidiary or affiliate of a person or entity, including a franchisee, in the business of renting motor vehicles to the public.

(b)(1)

(A) Garagekeepers are entitled to a lien upon all motor vehicles that lawfully come into their possession and are retained in their possession until all reasonable charges due are paid. A garagekeeper may, after thirty (30) days, enforce such lien in the manner prescribed for the enforcement of artisans' liens under §§ 66-14-102 – 66-14-106; except, that the garagekeeper:

- (i) Is only required to advertise the sale on the department of revenue website developed pursuant to § 55-31-302(c); and
- (ii) Shall include the vehicle identification number (VIN), if it is ascertainable, in the notice required pursuant to § 66-14-103 and in the advertisement of the sale described in § 66-14-104.

(B) If the motor vehicle, including any associated rental equipment, clearly identifies a rental vehicle company, the United States department of transportation (USDOT) number issued by the federal motor carrier safety administration (FMCSA), a registration plate issued and attached to the motor vehicle described in § 55-4-113(a)(2), or a registration plate issued and attached to a trailer described in § 55-4-113(a)(5), and a garagekeeper lawfully comes into possession of the vehicle and any associated equipment,

then the garagekeeper shall notify the rental vehicle company, the owner of the motor vehicle identified by the USDOT number, or the owner assigned to the registration plate issued and attached to the motor vehicle described in § 55-4-113(a)(2) or a registration plate issued and attached to the trailer described in § 55-4-113(a)(5), at the address identified with the USDOT number, rental equipment information, or the vehicle's registration within three (3) business days of taking possession of such vehicle or equipment using a nationally recognized overnight delivery carrier, other than the United States postal service, requesting proof of delivery.

(2) The commissioner of commerce and insurance or the commissioner's designee shall notify the commissioner of safety of violations of subdivision (b)(1). Upon receiving such notice, the commissioner of safety shall suspend any contract that the state may have for towing services with the garagekeeper for a period of sixty (60) days or notify the appropriate authority to suspend all such contracts with the state.

(3)(A) In addition to any other penalty provided for a violation of this section, a violation of subdivision (b)(1) is also a violation of the Tennessee Consumer Protection Act of 1977, compiled in title 47, chapter 18, part 1. A violation of subdivision (b)(1) constitutes an unfair or deceptive act or practice affecting trade or commerce, and is subject to the penalties and remedies as provided in the Tennessee Consumer Protection Act of 1977, in addition to the penalties and remedies provided in this section.

(B) The attorney general and reporter has all of the investigative and enforcement authority that the attorney general and reporter has under the Tennessee Consumer Protection Act of 1977 relating to alleged violations of subdivision (b)(1). The attorney general and reporter may institute any proceedings involving alleged violations of this part in Davidson County circuit or chancery court or any other venue otherwise permitted by law.

(C) Costs of any kind or nature must not be taxed against the attorney general and reporter or the state in actions commenced under this section.

(D) A rental vehicle company, the owner of the motor vehicle identified by the USDOT number, or the owner assigned to the registration plate issued and attached to the motor vehicle described in § 55-4-113(a)(2) or a registration plate issued and attached to the trailer described in § 55-4-113(a)(5) may seek relief under the Tennessee Consumer Protection Act, in addition to remedies provided under this section.

(4) A garagekeeper shall not collect any storage or related fees for any period of time in which the garagekeeper was in violation of subdivision (b)(1) with respect to a motor vehicle or associated equipment.

(5) The commissioner of commerce and insurance is authorized to promulgate rules to effectuate this section. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(6) Subdivisions (b)(1)(B) and (b)(2)-(5) and § 55-32-308 do not apply to new or used motor vehicle dealers licensed under title 55, chapter 17, part 1.

(c) A person, firm, or entity does not have a right to a lien on a vehicle that has been towed in violation of title 55, chapter 32. If the owner of the vehicle is not present, then within fifteen (15) minutes of a person, firm, or entity towing the vehicle pursuant to this chapter, the person, firm, or entity shall notify local law enforcement of the VIN, registration information, license plate number, and description of the vehicle. A violation of this subsection (c) by a person, firm, or entity is a Class A misdemeanor. Local law enforcement shall keep a record of such information, which must be available for public inspection.

(d)(1) Any authorization made by a police department to tow a vehicle must be made in writing. Such authorization must include:

(A) The name of the officer giving authorization;

(B) The year, make, model, and color of the vehicle to be towed;

(C) The reason for the tow;

(D) The license plate number, if any; and

(E) The VIN, if it is ascertainable.

(2) The officer giving authorization shall post a copy of the authorization with the vehicle and the copy of the authorization must remain with the vehicle until the vehicle is claimed by the owner.

(e) A person, firm, or entity, unless licensed and regulated under title 55, chapter 17, part 1, does not have a right to a lien against a lienor, who is also the seller of such motor vehicle or who retains title under a title retention or conditional sale agreement, for repairs in excess of two hundred fifty dollars (\$250) made on such motor vehicle, unless the person, firm, or entity making the repairs has received a written authorization from the lienor or seller to make such repairs on the motor vehicle.

SECTION 6. Tennessee Code Annotated, Section 47-18-104(b)(59), is amended by deleting the subdivision.

SECTION 7. Tennessee Code Annotated, Section 47-18-104(b), is amended by adding the following as new subdivisions:

( ) Violating § 55-31-201;

( ) Violating § 55-31-204;

( ) Violating § 55-31-307;

( ) Violating § 66-19-103;

SECTION 8. Tennessee Code Annotated, Section 55-5-129(c), is amended by deleting the language "Sections 55-16-105 and 55-16-106 shall govern" and substituting "Sections 55-31-302 and 55-31-303 govern".

SECTION 9. Tennessee Code Annotated, Section 55-17-408(c)(16), is amended by deleting the language "as defined in § 55-16-103" and substituting "as defined in § 55-31-102".

SECTION 10. Tennessee Code Annotated, Section 55-17-114(b)(1)(O), is amended by deleting the language "as defined in § 55-16-103" and substituting "as defined in § 55-31-102".

SECTION 11. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 12. For the purpose of promulgating rules, § 55-31-310 in SECTION 4 takes effect upon becoming a law, the public welfare requiring it. For all other purposes:


(1) SECTIONS 1-3 of this act take effect at 12:00 a.m. on July 1, 2024, the public welfare requiring it; and

(2) All other sections take effect at 12:01 a.m. on July 1, 2024, the public welfare requiring it.


SENATE BILL NO. 1692

PASSED: April 23, 2024

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
\_\_\_\_\_  
CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 28<sup>th</sup> day of May 2024

  
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BILL LEE, GOVERNOR