

BY: House Judiciary Committee

AMENDMENTS TO HOUSE BILL NO. 794

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “Impoundment” insert “or Immobilization”; in line 4, strike “requiring a court” and substitute “allowing a court, as a sentence, a part of a sentence, or a condition of probation,”; in line 6, after “offenses” insert “under certain circumstances”; in line 7, after “period;” insert “providing for the consideration of factors by the court in making a determination whether to order an impoundment or immobilization of a vehicle under this Act; allowing a court to require a bond or other security equal to certain costs;”; in line 8, after “owner” insert “who drove the vehicle while the owner’s license was suspended or revoked for certain offenses”; strike beginning with “all” in line 8 through “immobilization” in line 8 and substitute “certain”; in line 9, strike “person in possession” and substitute “police department with custody”; strike beginning with “authorizing” in line 11 down through “circumstances;” in line 12 and substitute “requiring certain notice to certain persons if a police department takes a vehicle into custody under this Act; providing for the contents of a certain notice; providing for the rights and duties of a lienholder of a vehicle impounded or immobilized under this Act; providing that, if a vehicle taken into custody is not reclaimed, the vehicle shall be considered an abandoned vehicle under certain circumstances; altering a certain definition of the term “abandoned vehicle” to include an unclaimed vehicle taken into custody under this Act under certain circumstances; defining a certain term; providing for the construction of this Act; making provisions of this Act severable;”; and strike beginning with “used” in line 13 down through “offenses” in line 14 and substitute “under certain circumstances”.

AMENDMENT NO. 2

On page 1, after line 19, insert:

“BY repealing and reenacting, with amendments,

Article - Transportation

Section 25-201(b)(8) and (9)

(Over)

Annotated Code of Maryland
(1992 Replacement Volume and 1996 Supplement)”;
and in line 22, after “Section” insert “25-201(b)(10) and”.

AMENDMENT NO. 3

On page 3, after line 11, insert:

“25-201.

(b) “Abandoned vehicle” means any motor vehicle, trailer, or semitrailer:

(8) That has been left unattended on any portion of a “controlled access highway” as defined in § 8-101(f) of this article for more than 24 hours; [or]

(9) That has been left unattended on any portion of a primary or secondary highway or controlled access highway, as defined in § 8-101 of this article, and is in violation of any of the provisions of § 22-408 of this article; OR

(10) THAT IS NOT RECLAIMED AS PROVIDED UNDER § 27-111 OF THIS ARTICLE.”.

AMENDMENT NO. 4

On page 3, after line 12, insert:

“(A) IN THIS SECTION, “POLICE DEPARTMENT” HAS THE SAME MEANING INDICATED IN § 25-201 OF THIS ARTICLE.

(B) (1) FOR THE PURPOSE OF IMPOUNDING OR IMMOBILIZING A VEHICLE UNDER THIS SECTION, THE POLICE DEPARTMENT MAY USE ITS OWN PERSONNEL, EQUIPMENT, AND FACILITIES OR, SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS SUBSECTION, USE OTHER PERSONS, EQUIPMENT, AND FACILITIES FOR IMMOBILIZING VEHICLES OR REMOVING, PRESERVING, AND STORING IMPOUNDED VEHICLES.

(2) A POLICE DEPARTMENT MAY NOT AUTHORIZE THE USE OF A TOW TRUCK UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS THE TOW TRUCK IS REGISTERED UNDER § 13-920 OF THIS ARTICLE.”;

in line 13, strike “(A)” and substitute “(C)(1)”; in the same line strike “EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION,” and substitute “AS A SENTENCE, A PART OF A SENTENCE, OR A CONDITION OF PROBATION,”; and in line 14, after “A” insert “SOLELY OWNED”.

AMENDMENT NO. 5

On page 3, in line 14, strike “SHALL ORDER” and substitute “MAY ORDER, FOR NOT MORE THAN 180 DAYS,”; in lines 17 and 18, strike “(1)” and “(2)”, respectively, and substitute “(I)” and “(II)”, respectively; in line 18, strike “UNDER SUSPENSION OR REVOCATION” and substitute “SUSPENDED OR REVOKED”; and after line 19, insert:

“(2) AMONG THE FACTORS THAT A COURT MAY CONSIDER IN DETERMINING WHETHER TO ORDER AN IMPOUNDMENT OR IMMOBILIZATION OF A VEHICLE IS WHETHER THE VEHICLE IS THE PRIMARY MEANS OF TRANSPORTATION AVAILABLE FOR THE USE OF THE INDIVIDUAL’S IMMEDIATE FAMILY.

(3) (I) SUBJECT TO THE PROVISIONS OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, IMPOUNDMENT OR IMMOBILIZATION OF A VEHICLE MAY NOT BE ORDERED UNDER THIS SECTION, IF THE REGISTERED OWNER OF THE VEHICLE MADE A BONA FIDE SALE, GIFT, OR OTHER TRANSFER OF THE VEHICLE TO ANOTHER PERSON BEFORE THE DATE OF THE FINDING OF A VIOLATION OF § 16-303(C) OR (D) OF THIS ARTICLE.

(II) THE REGISTERED OWNER OF THE VEHICLE HAS THE BURDEN OF PROVING THAT A BONA FIDE SALE, GIFT, OR OTHER TRANSFER OF THE VEHICLE HAS OCCURRED.”.

AMENDMENT NO. 6

On page 3, strike beginning with “(B)” in line 20 down through “(2)” in line 23 and substitute “(D)(1)”; in line 24, after “ALL” insert “ACTUAL”; in line 25, strike “IMPOUNDMENT AND STORAGE OR IMMOBILIZATION OF THE” and substitute “IMMOBILIZING OF THE VEHICLE, OR THE TOWING, PRESERVING, AND STORING OF THE IMPOUNDED”; and after line 26, insert:

“(2) THE COURT MAY REQUIRE THE REGISTERED OWNER OF A VEHICLE IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION TO POST A BOND OR OTHER ADEQUATE SECURITY TO EQUAL THE ACTUAL COSTS OF IMMOBILIZING THE VEHICLE, OR TOWING, PRESERVING, AND STORING THE VEHICLE, AND PROVIDING THE NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION.”.

AMENDMENT NO. 7

On page 3, in lines 27 and 28, strike “A PERSON IN POSSESSION OF A VEHICLE IMPOUNDED OR IMMOBILIZED” and substitute “SUBJECT TO THE PROVISIONS OF THIS SECTION, A POLICE DEPARTMENT THAT IMPOUNDS A VEHICLE BY TAKING THE VEHICLE INTO CUSTODY OR IMMOBILIZES A VEHICLE”; and strike beginning with the colon in line 29 down through “CHARGES” in line 34 and substitute “PAYMENT OF ALL ACTUAL COSTS OF IMMOBILIZING THE VEHICLE, OR TOWING, PRESERVING, AND STORING THE IMPOUNDED VEHICLE, AND PROVIDING THE NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION”.

AMENDMENT NO. 8

On page 3, in line 35, strike “(C)” and substitute “(E)”; in line 37, after “BY” insert “A POLICE DEPARTMENT”; and strike beginning with the colon in line 37 down through “OR” in line 39 and substitute a period.

AMENDMENT NO. 9

On page 4, in line 1, strike “(3) ANOTHER PERSON CONSIDERED QUALIFIED BY THE COURT.” and substitute:

“(F) (1) IF A COURT ORDERS THE IMPOUNDMENT OR IMMOBILIZATION OF A VEHICLE UNDER THIS SECTION, THE POLICE DEPARTMENT THAT EXECUTES THE IMMOBILIZATION, OR THE IMPOUNDMENT BY TAKING THE VEHICLE INTO CUSTODY, SHALL, AS SOON AS REASONABLY POSSIBLE AND WITHIN 7 DAYS AFTER THE POLICE DEPARTMENT EXECUTES THE COURT ORDER, SEND A NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, BEARING A POSTMARK FROM THE UNITED STATES POSTAL SERVICE, TO:

(I) EACH REGISTERED OWNER OF THE VEHICLE AS SHOWN IN THE RECORDS OF THE ADMINISTRATION; AND

(II) EACH SECURED PARTY, AS SHOWN IN THE RECORDS OF THE ADMINISTRATION.

(2) THE NOTICE SHALL:

(I) STATE THAT THE VEHICLE HAS BEEN IMMOBILIZED, OR IMPOUNDED BY BEING TAKEN INTO CUSTODY;

(II) DESCRIBE THE YEAR, MAKE, MODEL, AND VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE;

(III) PROVIDE THE LOCATION OF WHERE THE VEHICLE IS IMMOBILIZED OR THE LOCATION OF THE FACILITY WHERE THE VEHICLE IS IMPOUNDED;

(IV) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF IMMOBILIZATION, OR TOWING, PRESERVATION, AND STORAGE OF AN IMPOUNDED VEHICLE;

(V) INCLUDE THE AMOUNT OF THE ACTUAL COSTS OF THE NOTICES REQUIRED UNDER THIS PARAGRAPH; AND

(VI) PROVIDE THAT, IF AN IMPOUNDED VEHICLE IS NOT RECLAIMED AS REQUIRED UNDER THIS SUBSECTION, WITHIN 10 DAYS AFTER THE DATE SPECIFIED IN THE COURT ORDER, THE IMPOUNDED VEHICLE WILL BE CONSIDERED AN ABANDONED VEHICLE AND SUBJECT TO THE PROVISIONS OF TITLE 25, SUBTITLE 2 OF THIS ARTICLE.

(3) IF AN IMPOUNDED VEHICLE IS NOT RECLAIMED WITHIN 10 DAYS AFTER THE DATE SPECIFIED IN A COURT ORDER UNDER THIS SECTION, THE VEHICLE SHALL BE CONSIDERED AN ABANDONED VEHICLE SUBJECT TO THE PROVISIONS OF

TITLE 25, SUBTITLE 2 OF THIS ARTICLE.

(G) (1) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT A LIENHOLDER FROM EXERCISING ITS RIGHTS UNDER APPLICABLE LAW, INCLUDING THE RIGHT TO SELL A VEHICLE THAT HAS BEEN IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION, IN THE EVENT OF A DEFAULT IN THE OBLIGATION GIVING RISE TO THE LIEN.

(2) (I) A LIENHOLDER EXERCISING THE RIGHT TO SELL A VEHICLE THAT HAS BEEN IMPOUNDED OR IMMOBILIZED UNDER THIS SECTION SHALL NOTIFY, IN WRITING, THE POLICE DEPARTMENT WITH CUSTODY OF THE VEHICLE OF THE LIENHOLDER'S INTENTION TO SELL THE VEHICLE.

(II) THE NOTICE SHALL BE ACCOMPANIED BY COPIES OF DOCUMENTS GIVING RISE TO THE LIEN AND SHALL INCLUDE AN AFFIDAVIT UNDER OATH BY THE LIENHOLDER THAT THE UNDERLYING OBLIGATION IS IN DEFAULT AND THE REASONS FOR THE DEFAULT.

(III) ON REQUEST OF THE LIENHOLDER AND ON PAYMENT OF ALL COSTS REQUIRED UNDER THIS SECTION, THE VEHICLE SHALL BE RELEASED TO THE LIENHOLDER.

(3) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, THE RIGHTS AND DUTIES PROVIDED BY LAW TO THE LIENHOLDER FOR THE SALE OF COLLATERAL SECURING AN OBLIGATION IN DEFAULT SHALL GOVERN THE REPOSSESSION AND SALE OF THE VEHICLE.

(4) (I) THE LIENHOLDER MAY NOT BE REQUIRED TO TAKE POSSESSION OF THE VEHICLE BEFORE A SALE OF THE VEHICLE.

(II) THE PROCEEDS OF ANY SALE SHALL BE APPLIED FIRST TO THE ACTUAL COSTS OF IMMOBILIZATION, OR TOWING, PRESERVATION, AND STORAGE OF AN IMPOUNDED VEHICLE, AND THE ACTUAL COSTS OF THE NOTICES REQUIRED UNDER SUBSECTION (F) OF THIS SECTION, THEN AS PROVIDED BY LAW FOR

DISTRIBUTION OF PROCEEDS OF A SALE BY THE LIENHOLDER.

(5) (I) IF THE INTEREST OF THE OWNER IN THE VEHICLE IS REDEEMED, THE LIENHOLDER SHALL, WITHIN 10 DAYS AFTER THE REDEMPTION, MAIL A NOTICE OF THE REDEMPTION TO THE PERSON WHO IMPOUNDED OR IMMOBILIZED THE VEHICLE.

(II) IF THE VEHICLE HAS BEEN REPOSSESSED OR OTHERWISE LAWFULLY TAKEN BY THE LIENHOLDER AND THE TIME SPECIFIED BY A COURT ORDER UNDER THIS SECTION HAS NOT EXPIRED, THE LIENHOLDER SHALL RETURN THE VEHICLE WITHIN 21 DAYS AFTER THE REDEMPTION TO THE POLICE DEPARTMENT WHO IMPOUNDED OR IMMOBILIZED THE VEHICLE.”.

AMENDMENT NO. 10

On page 4, strike in their entirety lines 2 through 10, inclusive, and substitute:

“(H) THIS SECTION DOES NOT AFFECT THE REQUIREMENTS OF TITLE 25, SUBTITLE 2 OF THIS ARTICLE REGARDING ABANDONED VEHICLES.

SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.”.

AMENDMENT NO. 11

On page 4, in line 11, strike “2.” and substitute “3.”.