

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 220*
Judiciary I Committee Substitute Adopted 5/4/93
House Committee Substitute Favorable 7/22/93

Short Title: Wrecker Service System.

(Public)

Sponsors:

Referred to:

February 18, 1993

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE SECRETARY OF CRIME CONTROL AND PUBLIC SAFETY TO ESTABLISH A WRECKER SERVICE SYSTEM, TO CREATE A MISDEMEANOR OFFENSE RELATED TO TOWING SOLICITATIONS, AND TO MODIFY THE PROCEDURES FOR REMOVAL OF UNAUTHORIZED VEHICLES FROM PRIVATE PARKING LOTS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the General Statutes is amended by adding the following new section to read:

"§ 20-196.4. Wrecker service system required.

(a) Establishment. – The Secretary of Crime Control and Public Safety shall establish a wrecker service system for utilizing qualified 24-hour wrecker services to remove or store vehicles from highways, roads, rights-of-way, or adjacent areas. The wrecker service system shall include rotation of wrecker services by the State Highway Patrol when a motorist does not express a preference for a particular wrecker service. The State Highway Patrol shall use the wrecker service system established by the Secretary for the removal or storage of any of the following:

- (1) A wrecked or disabled vehicle.
- (2) An abandoned or derelict vehicle.
- (3) A vehicle whose owner, operator, or person in apparent control is arrested, incapacitated, or authorizes procurement of a wrecker by the State Highway Patrol.

1 **(b) Standards.** – The Secretary shall establish minimum wrecker service
2 standards for safety, equipment, financial responsibility, experience, and reliability. As
3 part of this system, the State Highway Patrol shall adopt a local plan for each district to
4 implement as many of the rules as feasible based upon the needs of the district and the
5 available resources. Any wrecker service included in the system shall be in substantial
6 compliance with all applicable federal, State, and local laws. Any wrecker service that
7 applies and meets the minimum standards shall be qualified and utilized in the wrecker
8 service system.

9 **(c) Deviation.** – The State Highway Patrol may deviate from the wrecker service
10 system and local plan and call the closest wrecker on the system when a member of the
11 State Highway Patrol determines that public safety requires deviation from the system.
12 The State Highway Patrol may also deviate from the wrecker service system under any
13 of the following situations:

14 **(1)** No wrecker service on the system is available.

15 **(2)** A municipal or county government has established a zone or other
16 wrecker system, and the State Highway Patrol determines that use of
17 the zone or other system is in the best interest of the public.

18 **(3)** The owner, operator, or person in apparent control of the vehicle
19 requests a specific wrecker service.

20 **(d) Removal.** – The Secretary shall provide for removal of a wrecker service
21 from the system for:

22 **(1)** Failing to comply with the wrecker service system rules or district
23 plan.

24 **(2)** Arriving at the location of a vehicle described in subsection (a) of this
25 section for the purpose of soliciting towing business and without being
26 requested to provide wrecker service by the State Highway Patrol or a
27 person acting on behalf of the owner of the vehicle.

28 **(e) Informal Settlement.** – The Secretary shall establish an informal departmental
29 procedure for reviewing any dispute concerning the wrecker service system. This
30 procedure shall provide for participation of wrecker services in the process.
31 Notwithstanding Chapter 150B of the General Statutes, the Secretary shall make the
32 final decision on all such disputes, and there shall be no further appeals from the
33 Secretary's decision.

34 **(f) Construction.** – Nothing in this section shall be construed as creating a
35 contract between the State Highway Patrol or its employees and the wrecker service, or
36 between the State Highway Patrol or its employees and the owner, operator, or person in
37 apparent control of any vehicle towed or stored. Neither the Secretary of Crime Control
38 and Public Safety, the State Highway Patrol, nor any employee of those departments
39 performing any act under this section shall be subject to monetary liability or shall be
40 named as a defendant in any civil action between the wrecker service or its agents or
41 employees and the owner, operator, or person in apparent control of any vehicle towed,
42 stored, or subject to be towed or stored under this section.

43 **(g) Rules.** – The Secretary of Crime Control and Public Safety shall adopt rules
44 to implement this section."

1 Sec. 2. Chapter 20 of the General Statutes is amended by adding a new
2 section to read:

3 **"§ 20-196.5. Certain towing solicitations prohibited.**

4 (a) Offense. – No operator of a wrecker or person acting on behalf of a wrecker
5 service shall stop, park, or leave standing a vehicle on a highway right-of-way at any
6 accident scene for the purpose of soliciting towing business unless previously contacted
7 by a vehicle operator, a person acting on behalf of the operator, or by a law enforcement
8 agency.

9 (b) Applicability. – This section applies regardless of participation in a wrecker
10 service system established under G.S. 20-196.4.

11 (c) Classification. – A violation of this section is a misdemeanor punishable by a
12 fine of not more than five hundred dollars (\$500.00), imprisonment not to exceed 30
13 days, or both."

14 Sec. 3. G.S. 20-219.2 reads as rewritten:

15 **"§ 20-219.2. Removal of unauthorized vehicles from private lots.**

16 (a) It shall be unlawful for any person other than the owner or lessee of a
17 privately owned or leased parking space to park a ~~motor or other~~ vehicle in ~~such the~~
18 private parking space without the express permission of the owner or lessee of ~~such~~
19 ~~space; provided, the space.~~ At the written request of the owner or lessee of a privately
20 owned parking space, a vehicle parked in the space in violation of this section may be
21 removed to a place of storage if all of the following conditions are met:

22 (1) ~~that such~~ The private parking lot ~~be is~~ clearly designated as such by a
23 sign no smaller than 24 inches by 24 inches prominently displayed at
24 the entrance ~~thereto and~~ of the lot and at one other location within the
25 lot.

26 (2) The signs can be easily read at all times, including night.

27 (3) The signs contain the address and telephone number of the location of
28 the place of storage to which any towed vehicle will be removed and
29 the telephone number given is answered 24 hours a day.

30 (4) The signs contain the name and the telephone number of the person
31 who authorizes the towing of a vehicle from the lot.

32 (5) ~~the~~ The parking spaces within the lot ~~be are~~ clearly marked by signs
33 setting forth the name of each individual lessee or ~~owner; a vehicle~~
34 ~~parked in a privately owned parking space in violation of this section~~
35 ~~may be removed from such space upon the written request of the~~
36 ~~parking space owner or lessee to a place of storage; owner.~~

37 (6) Unless the vehicle to be towed is violating a law, blocking the
38 driveway or entrance to the business, or directly interfering with the
39 operation of the business, the vehicle has been parked for at least one
40 hour.

41 (7) If the operator of the vehicle objects to its removal before it is towed
42 from the premises, it is released at no cost.

1 If the conditions in the above subdivisions are met, then and the registered owner of
2 such motor vehicle shall become liable for removal and storage charges. Payment of
3 these charges may be made by check or valid, creditworthy credit card.

4 (a1) The due process provisions of Article 7A of this Chapter shall apply.

5 (a2) Any person who removes a vehicle pursuant to this section shall not be held
6 liable for damages for the removal of the vehicle to the owner, lienholder or other
7 person legally entitled to the possession of the vehicle removed; however, any person
8 who intentionally or negligently damages a vehicle in the removal of such vehicle, or
9 intentionally or negligently inflicts injury upon any person in the removal of such
10 vehicle, may be held liable for damages.

11 (a3) If any person removes a vehicle in violation of any of the conditions in
12 subsection (a) of this section, then that person shall release the vehicle without the
13 payment of any removal or storage charges and shall be liable to the owner of the
14 vehicle for liquidated damages in the same amount as the removal and storage charges
15 that were to be charged and for actual damages caused by the unlawful removal of the
16 vehicle, whichever is more.

17 (b) Any person violating any of the provisions of subsection (a), (a1), or (a2) of
18 this section shall be guilty of a misdemeanor and upon conviction shall be fined not
19 more than ~~ten one hundred~~ dollars (~~\$10.00~~)-(\$100.00) in the discretion of the court.

20 (b1) It shall be unlawful for any person who removes vehicles pursuant to this
21 section to kick back, rebate, return, or in any other way pay to the owner or lessee of the
22 property from which vehicles are removed any portion of the removal or storage
23 charges. A violation of this subsection shall be a misdemeanor.

24 (c) This section shall apply only to the Counties of Craven, Dare, Forsyth,
25 Gaston, Guilford, New Hanover, Orange, Robeson, Wake, and Wilson and to the Cities
26 of Durham, Jacksonville, Charlotte, and Fayetteville."

27 Sec. 4. This act becomes effective January 1, 1994.