**South Carolina General Assembly**

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**S. 1140**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Campbell and Grooms

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Companion/Similar bill(s): 5017

Introduced in the Senate on March 3, 2020

Currently residing in the Senate Committee on **Transportation**

Summary: Vehicles on private property without permission or abandoned

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/3/2020 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\sj\20200303.docx))

3/3/2020 Senate Referred to Committee on **Transportation** ([Senate Journal‑page 5](file:///h:\sj\20200303.docx))

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**VERSIONS OF THIS BILL**

[3/3/2020](file:///p:\pprever\2019-20\1140_20200303.docx)

**A** **BILL**

TO AMEND SECTION 16-11-760(B) OF THE 1976 CODE, RELATING TO VEHICLES PARKED ON PRIVATE PROPERTY WITHOUT PERMISSION, TO PROVIDE THAT ONLY CERTAIN STORAGE COSTS MAY BE CHARGED TO THE OWNER AND LIENHOLDER OF A VEHICLE PARKED ON PRIVATE PROPERTY WITHOUT PERMISSION; TO AMEND SECTION 29-15-10(A), (B), AND (E) OF THE 1976 CODE, RELATING TO LIENS FOR REPAIRS OR STORAGE, TO PROHIBIT THE COLLECTION OF STORAGE COSTS BY A TOWING COMPANY, STORAGE FACILITY, GARAGE, OR REPAIR SHOP PRIOR TO SENDING NOTICE TO THE OWNER AND LIENHOLDER; TO AMEND SECTION 56-5-5630(A) AND (C) OF THE 1976 CODE, RELATING TO PAYMENTS FOR THE RELEASE OF ABANDONED VEHICLES AND RELATED PROVISIONS, TO PROVIDE THAT A TOWING COMPANY AND STORAGE FACILITY MAY NOT CHARGE ANY STORAGE COSTS BEFORE NOTICE IS SENT TO THE OWNER AND LIENHOLDER; TO AMEND SECTION 56-5-5635 OF THE 1976 CODE, RELATING TO LAW ENFORCEMENT TOWING AND STORAGE PROCEDURES AND RELATED PROVISIONS, TO PROVIDE THAT A TOWING COMPANY, STORAGE FACILITY, GARAGE, OR REPAIR SHOP MAY NOT CHARGE ANY STORAGE COSTS BEFORE NOTICE IS SENT TO THE OWNER AND LIENHOLDER; AND TO AMEND SECTION 56-5-5640 OF THE 1976 CODE, RELATING TO THE SALE OF UNCLAIMED VEHICLES, TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16-11-760(B) of the 1976 Code is amended to read:

“(B) A vehicle found parked on private property may be towed and stored at the expense of the registered owner or lienholder.~~, and charges~~ However, pursuant to Section 29‑15‑10(B), the only storage costs that may be charged to an owner and lienholder of a vehicle are those storage costs that accrue for the time period after notice of the location of the vehicle is sent by registered or certified mail, return receipt requested, or electronic certified mail with tracking. Charges for towing the vehicle, ~~storing~~ any allowed storage of the vehicle, preserving the vehicle, and expenses incurred if the owner and lienholder are notified pursuant to Section 29‑15‑10 constitute a lien against the vehicle, provided that the towing company makes notification to the law enforcement agency pursuant to Section 56‑5‑2525.”

SECTION 2. A. Section 29-15-10(A) and (B) of the 1976 Code is amended to read:

“Section 29-15-10. (A)(1) A proprietor, an owner, or an operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or furnishes any material for repairs to an article may sell the article at public auction to the highest bidder if:

~~(1)~~(a) the article has been left at the shop for repairs or storage and the repairs have been completed or the storage contract has expired;

~~(2)~~(b) the article has been continuously retained in his possession; and

~~(3)~~(c) thirty days have passed since written notice was given to the owner of the article and to any lienholder by registered or certified mail, return receipt requested, or electronic certified mail with tracking that the repairs have been completed or the storage contract has expired.

(2) The article must be sold by a magistrate of the county in which the repairs were done or the article was stored.

(B) ~~Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the article. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner's and lienholders' identities. If the notice is not mailed within this period, storage costs after the five‑day period must not be charged until the notice is mailed~~ A proprietor, an owner, or an operator of any towing company, storage facility, or repair shop or any person who repairs or furnishes materials for repairs to an article may not charge an owner and lienholder any storage costs for the time period before notice of the location of the article is sent by registered or certified mail, return receipt requested, or electronic certified mail with tracking to the owner and lienholder of the article. The notice must be sent within five days after receiving the owner’s and lienholder’s title information from the appropriate titling facility, including, but not limited to, the Department of Motor Vehicles or the Department of Natural Resources, or a vendor authorized by the state of last title to provide real‑time access to such records and must include a description of the article and the amount of daily storage costs that will accrue after the notice is sent. The only storage costs that may be charged are those costs that accrue for the time period after notice of the location of the article is sent to the owner and lienholder.”

B. Section 29-15-10(E) of the 1976 Code is amended to read:

“(E) A proprietor, an owner, or an operator of the towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article may hold the license tag of any vehicle until all towing and storage costs allowed under this section have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold.”

SECTION 3. A. Section 56-5-5630(A) of the 1976 Code is amended to read:

“Section 56-5-5630. (A)(1)(a) For purposes of this article, ‘vehicle’ means a motor vehicle, trailer, mobile home, watercraft, or any other item or object that is subject to towing and storage, and applies to any vehicle in custody at the time of the enactment of this section. ‘Vehicle’ includes:

~~(a)~~(i) items that are towed and left in the possession of a towing, storage, garage, or repair facility;

~~(b)~~(ii) contents contained in the vehicle; and

~~(c)~~(iii) personal property affixed to the vehicle.

(b) Storage costs for those vehicles in custody at the time of the enactment of this section must not exceed sixty days.

(2) When an abandoned vehicle has been taken into custody, the towing company and storage facility having towed and received the vehicle shall notify by registered or certified mail, return receipt requested, or electronic certified mail with tracking the last known registered owner of the vehicle and all lienholders of record that the vehicle has been taken into custody. Notification of the owner and all lienholders by ~~certified or~~ registered or certified mail, return receipt requested, or electronic certified mail with tracking constitutes notification for purposes of this section. The towing company and storage facility may not charge any storage costs to the owner and lienholders for the time period before notice of the location of the vehicle is sent to the owner and lienholders. This notification must satisfy the notification requirements contained in Section 29‑15‑10. The notice must:

(a) give a description of the year, make, model, and identification number of the vehicle;

(b) set forth the location where the vehicle is being held;

(c) inform the owner and all lienholders of the right to reclaim the vehicle within thirty days beginning the day after the notice is mailed by registered or certified mail, return receipt requested, or electronic certified mail with tracking upon payment of all towing, preservation, storage charges accruing for the time period after notice to the owner and lienholders is sent pursuant to Section 29‑15‑10(B), notification, publication, and court costs resulting from placing the vehicle in custody; and

(d) state that the failure of the owner and all lienholders to exercise their right to reclaim the vehicle within the time provided is considered a waiver by the owner and lienholders of all rights, title, and interest in the vehicle and is considered as their consent to the sale of the vehicle at a public auction.

(3) If a vehicle has been towed pursuant to the provisions of this section, then the towing company and storage facility must accept as payment for the release of the vehicle the same manner of payment that they would accept if the owner of the vehicle had requested his vehicle towed.”

B. Section 56-5-5630(C) of the 1976 Code is amended to read:

“(C)(1) A lienholder is not subject to a criminal penalty imposed by law in this State for abandonment unless the vehicle is abandoned by the lienholder or his agent or if a false statement or report to a law enforcement officer is made as provided by Section 16‑17‑722. The owner of a vehicle which has been stolen, whether or not the vehicle was subsequently abandoned, is liable for:

~~(1)~~(a) actual recovery and towing charges; and

~~(2)~~(b) only such storage costs that accrue ~~beginning seven days after the vehicle was towed~~ for the time period after notice is sent to the owner and lienholder pursuant to Section 29‑15‑10(B).

(2) The law enforcement agency must, within two days after the vehicle's towing, notify the owner that the vehicle has been recovered, provide the owner with the location of the vehicle, and explain that daily storage charges will begin to accrue ~~if the vehicle is not reclaimed within seven days of the towing date~~ for the time period after notice is sent to the owner and lienholder pursuant to Section 29‑15‑10(B).

(3) A vehicle is considered to be stolen when the registered owner notifies a police officer and files a report which is accepted and placed on the records of the sheriff or chief of police as a stolen vehicle. The law enforcement agency that requested the tow must provide the towing company and storage facility, at no cost to the towing company and storage facility, the owner's name and address. A law enforcement agency is not liable for any costs or fees associated with the towing and storage of a vehicle as provided by this section.”

SECTION 4. Section 56-5-5635 of the 1976 Code is amended to read:

“Section 56-5-5635. (A) Notwithstanding another provision of law, a law enforcement officer who directs that a vehicle be towed for any reason, whether on public or private property, must use the established towing procedure for his jurisdiction. A request by a law enforcement officer resulting from a law enforcement action including, but not limited to, a vehicle collision, vehicle breakdown, or vehicle recovery incident to an arrest, is considered a law enforcement towing for purposes of recovering costs associated with the towing and storage of the vehicle unless the request for towing is made by a law enforcement officer at the direct request of the owner or operator of the vehicle.

(B) Within ten days following a law enforcement's towing request, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop must provide to the sheriff or chief of police a list describing the vehicles remaining in the possession of the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop. ~~A person who fails to provide the law enforcement agency with this list forfeits recovery of any storage fees that have accrued from the date of towing until the day after the mailing of the notification to the owner and all lienholders by certified or registered mail, return receipt requested, pursuant to Section 29‑15‑10.~~ Within ten days of receipt of this list, the sheriff or chief of police must provide to the towing company or storage facility, the current owner's name, address, and a record of all lienholders along with the make, model, and identification number or a description of the vehicle at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop.

(C) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop having towed or received the vehicle must notify by registered or certified mail, return receipt requested, or electronic certified mail with tracking the last known registered owner and all lienholders of record that the vehicle has been taken into custody and the location of the vehicle within five days after receiving the owner’s and lienholder’s identities. Pursuant to Section 29‑15‑10(B), a proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may not charge the owner and lienholder any storage costs for the time period before notice of the location of the vehicle is sent by registered or certified mail, return receipt requested, or electronic certified mail with tracking to the owner and lienholder. The notice must include a description of the vehicle and the amount of daily storage costs that will accrue after the notice is sent. The only storage costs that may be charged to an owner and lienholder are the costs that accrue during the time period after notice is sent. If the vehicle is not reclaimed within thirty days after the notice is sent, then the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in Section 29‑15‑10.

~~(C)~~(D) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, then the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must provide notice by one publication in one newspaper of general circulation in the area from which the vehicle was abandoned which is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles.

~~(D)~~(E) Before a vehicle is sold, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must apply to the appropriate titling facility including, but not limited to, the Department of Motor Vehicles or the Department of Natural Resources for the name and address of any owner or lienholder. For nontitled vehicles, where the owner's name is known, a search must be conducted through the Secretary of State's Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the vehicle has an out‑of‑state registration, then an application must be made to that state's appropriate titling facility. When the vehicle is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may apply to the sheriff or chief of police in the jurisdiction where the vehicle is stored to determine the state where the vehicle is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the vehicle's identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the name of the state in which the vehicle is titled.

~~(E)~~(F) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop that has towed and stored a vehicle has a lien against the vehicle and may have the vehicle sold at public auction pursuant to Section 29‑15‑10. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may hold the license tag of any vehicle until all towing and storage costs allowed under Section 29‑15‑10(B) have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold. ~~Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the vehicle. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner's and lienholders' identities from the appropriate law enforcement agency. If the notice is not mailed within this period, storage costs after the five‑day period must not be charged until the notice is mailed. If the vehicle is not reclaimed within thirty days after the day the notice is mailed, return receipt requested, the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in Section 29‑15‑10.~~

~~(F)~~(G) After the vehicle is in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the owner of the vehicle as demonstrated by providing a certificate of registration has one opportunity to remove from the vehicle any personal property not attached to the vehicle. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.

~~(G)~~(H) When a law enforcement agency stores a vehicle at a law enforcement facility, the agency must follow the notification procedures contained in this section and submit vehicle information to a magistrate in the county where the vehicle is stored to provide for the sale of the vehicle at public auction. A law enforcement agency is exempt from paying filing fees in any matter related to the towing and storing of a vehicle.”

SECTION 5. Section 56-5-5640 of the 1976 Code is amended to read:

“Section 56-5-5640. If an abandoned vehicle has not been reclaimed pursuant to Section 56‑5‑5630, then the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to Section 29‑15‑10. The vehicle's purchaser shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a magistrate's order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The Office of Court Administration shall design a uniform magistrate's order of sale for purposes of this section, Section 56‑5‑5670, and Section 56‑5‑5945, and shall make the order available for distribution to the magistrates. The magistrate's order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher or secondary metals recycler for demolition, wrecking, or dismantling, and in such case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle allowed under Section 29‑15‑10(B) which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to Section 29‑15‑10 must be reimbursed up to the amount of the auction sale price from the vehicle's sale proceeds. The remaining sale proceeds must be held for the vehicle's owner or entitled lienholder for ninety days. The magistrate shall notify the vehicle's owner and all lienholders by ~~certified or~~ registered or certified mail, return receipt requested, or electronic certified mail with tracking that the vehicle's owner or lienholder has ninety days to claim the proceeds from the vehicle's sale. If the vehicle's proceeds are not collected within ninety days from the day after the notice to the vehicle's owner and all lienholders is mailed, then the vehicle's proceeds must be deposited in the county or municipality's general fund.”

SECTION 6. This act takes effect upon approval by the Governor.

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