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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO MOTOR AND OTHER VEHICLES -- MISCELLANEOUS RULES--MOTOR  
VEHICLE OFFENSES

Introduced By: Senators Sheehan, McCaffrey, and Goodwin

Date Introduced: April 04, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 31-22-23 of the General Laws in Chapter 31-22 entitled  
2 "Miscellaneous Rules" is hereby amended to read as follows:

3 **31-22-23. Tow trucks -- Identification required.**

4 (a) Every motor vehicle used for the purpose of for hire towing or assisting disabled  
5 motor vehicles regulated pursuant to § 39-12-6 shall display, in sharp color contrast to the  
6 background, and be of such size, shape, and color as to be readily legible during daylight hours,  
7 from a distance of fifty feet (50') while the vehicle is not in motion; the name, address, and  
8 telephone number of the registered owner shall be displayed on both sides of the vehicle.

9 (b) Any person violating this section shall be fined as provided in § 31-41.1-4.

10 (c) Any vehicle, except those vehicles exempt from regulation pursuant to the provisions  
11 of § 39-12-3, which are used for the purpose of towing or assisting disabled motor vehicles,  
12 which does not have a towing certificate issued by the division of public utilities ~~must~~ shall have  
13 the name and address of the registered owner displayed on both sides of the vehicle and shall  
14 have the words "~~Limited Towing~~" "Not for Hire" lettered upon the hood or fenders of the vehicle  
15 and shall not display a telephone number nor display the words "tow" or "towing" on the exterior  
16 of the vehicle. The letters must be four inches (4") high in a color which contrasts with the  
17 vehicle color and must be on both sides of the hood or both sides of the front fender.

18 (d) ~~Any person who shall violate this provision shall be fined not more than one hundred~~

1 ~~dollars (\$100) upon conviction for a first offense, not more than two hundred and fifty dollars~~  
2 ~~(\$250) upon conviction for a second offense, and for each subsequent conviction may be fined~~  
3 ~~not more than five hundred dollars (\$500).~~ Any owner of a motor vehicle used for towing who  
4 shall knowingly operate the motor vehicle or knowingly permit the vehicle to be operated for  
5 towing in this state in violation of this section, and any person who shall operate a motor vehicle  
6 for towing in violation of this section shall be fined, and be subject to a suspension of license and  
7 registration as follows:

8 (1) For a first offense, a person may be fined not more than one hundred dollars (\$100);

9 (2) For a second offense, a person may be fined not more than two hundred fifty dollars  
10 (\$250);

11 (3) For a third and subsequent offense, a suspension of a license or registration, or both,  
12 of up to one year. Additionally, any person violating this section a third or subsequent time shall  
13 be punished as a civil violation and may be fined one thousand dollars (\$1,000).

14 (e) An order of suspension and impoundment of a license or registration, or both, shall  
15 state that date on or before which the person is required to surrender the person's license or  
16 certificate of registration and registration plates. The person is deemed to have surrendered the  
17 license or certificate of registration and registration plates, in compliance with the order, if the  
18 person does either of the following:

19 (1) On or before the date specified in the order, personally delivers the license or  
20 certificate of registration and registration plates, or causes the delivery of those items, to the  
21 administrator of the division of motor vehicles or court, whichever issued the order;

22 (2) Mails the license or certificate of registration and registration plates to the  
23 administrator of the division of motor vehicles, in an envelope or container bearing a postmark  
24 showing a date no later than the date specified in the order.

25 (g) The administrator of the division of motor vehicles shall not restore any operating  
26 privileges or registration rights suspended under this section or return any licenses, certificate of  
27 registration, or registration plates impounded under this section unless the rights are not subject to  
28 suspension or revocation under any other law and unless the person, in addition to complying  
29 with all other conditions required by law of reinstatement of operating privileges or registration  
30 rights, pays a reinstatement fee of thirty dollars (\$30.00). The reinstatement fee may be increased,  
31 upon approval of the administrator of the division of motor vehicles, up to an amount not  
32 exceeding fifty dollars (\$50.00).

33 SECTION 2. Section 31-27-2.1 of the General Laws in Chapter 31-27 entitled "Motor  
34 Vehicle Offenses" is hereby amended to read as follows:

1           **31-27-2.1. Refusal to submit to chemical test.**

2           (a) Any person who operates a motor vehicle within this state shall be deemed to have  
3 given his or her consent to chemical tests of his or her breath, blood, and/or urine for the purpose  
4 of determining the chemical content of his or her body fluids or breath. No more than two (2)  
5 complete tests, one for the presence of intoxicating liquor and one for the presence of toluene or  
6 any controlled substance, as defined in § 21-28-1.02(8), shall be administered at the direction of a  
7 law enforcement officer having reasonable grounds to believe the person to have been driving a  
8 motor vehicle within this state while under the influence of intoxicating liquor, toluene, or any  
9 controlled substance, as defined in chapter 28 of title 21, or any combination of these. The  
10 director of the department of health is empowered to make and file, with the secretary of state,  
11 regulations that prescribe the techniques and methods of chemical analysis of the person's body  
12 fluids or breath and the qualifications and certification of individuals authorized to administer the  
13 testing and analysis.

14           (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the  
15 person may file an affidavit with the division of motor vehicles stating the reasons why he or she  
16 cannot be required to take blood tests and a notation to this effect shall be made on his or her  
17 license. If that person is asked to submit to chemical tests as provided under this chapter, the  
18 person shall only be required to submit to chemical tests of his or her breath or urine. When a  
19 person is requested to submit to blood tests, only a physician or registered nurse, or a medical  
20 technician certified under regulations promulgated by the director of the department of health,  
21 may withdraw blood for the purpose of determining the alcoholic content in it. This limitation  
22 shall not apply to the taking of breath or urine specimens. The person tested shall be permitted to  
23 have a physician of his or her own choosing, and at his or her own expense, administer chemical  
24 tests of his or her breath, blood, and/or urine in addition to the tests administered at the direction  
25 of a law enforcement officer. If a person, having been placed under arrest, refuses upon the  
26 request of a law enforcement officer to submit to the tests, as provided in § 31-27-2, none shall be  
27 given, but a judge or magistrate of the traffic tribunal or district court judge or magistrate, upon  
28 receipt of a report of a law enforcement officer: that he or she had reasonable grounds to believe  
29 the arrested person had been driving a motor vehicle within this state under the influence of  
30 intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or  
31 any combination of these; that the person had been informed of his or her rights in accordance  
32 with § 31-27-3; that the person had been informed of the penalties incurred as a result of  
33 noncompliance with this section; and that the person had refused to submit to the tests upon the  
34 request of a law enforcement officer; shall promptly order that the person's operator's license or

1 privilege to operate a motor vehicle in this state be immediately suspended, however, said  
2 suspension shall be subject to the hardship provisions enumerated in § 31-27-2.8. Each person  
3 who refuses the request of a law enforcement officer to submit to the tests, as provided in § 31-  
4 27-2.1 shall have the vehicle driven by the operator impounded for a period of twelve (12) hours  
5 after the operator's refusal, with the costs of towing, storage and maintenance of the vehicle to be  
6 borne by the operator. A traffic tribunal judge or magistrate, or a district court judge or  
7 magistrate, pursuant to the terms of subsection (c), shall order as follows:

8 (1) Impose, for the first violation, a fine in the amount of two hundred dollars (\$200) to  
9 five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of  
10 public community restitution. The person's driving license in this state shall be suspended for a  
11 period of six (6) months to one year. The traffic tribunal judge or magistrate shall require  
12 attendance at a special course on driving while intoxicated or under the influence of a controlled  
13 substance and/or alcohol or drug treatment for the individual. The traffic tribunal judge or  
14 magistrate may prohibit that person from operating a motor vehicle that is not equipped with an  
15 ignition interlock system as provided in § 31-27-2.8.

16 (2) Every person convicted of a second violation within a five-year (5) period, except  
17 with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall  
18 be imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred  
19 dollars (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of  
20 public community restitution; and the person's driving license in this state shall be suspended for  
21 a period of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug  
22 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from  
23 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §  
24 31-27-2.8.

25 (3) Every person convicted for a third or subsequent violation within a five-year (5)  
26 period, except with respect to cases of refusal to submit to a blood test, shall be guilty of a  
27 misdemeanor; and shall be imprisoned for not more than one year; fined eight hundred dollars  
28 (\$800) to one thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of  
29 public community restitution; and the person's operator's license in this state shall be suspended  
30 for a period of two (2) years to five (5) years. The sentencing judge or magistrate shall prohibit  
31 that person from operating a motor vehicle that is not equipped with an ignition interlock system  
32 as provided in § 31-27-2.8. The judge or magistrate shall require alcohol or drug treatment for the  
33 individual. Provided, that prior to the reinstatement of a license to a person charged with a third  
34 or subsequent violation within a three-year (3) period, a hearing shall be held before a judge or

1 magistrate. At the hearing, the judge or magistrate shall review the person's driving record, his or  
2 her employment history, family background, and any other pertinent factors that would indicate  
3 that the person has demonstrated behavior that warrants the reinstatement of his or her license.

4 (4) For a second violation within a five-year (5) period with respect to a case of a refusal  
5 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand  
6 dollars (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public  
7 community restitution; and the person's driving license in this state shall be suspended for a  
8 period of two (2) years. The judicial officer shall require alcohol and/or drug treatment for the  
9 individual. The sentencing judicial officer shall prohibit that person from operating a motor  
10 vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8. Such a  
11 violation with respect to refusal to submit to a chemical blood test shall be a civil offense.

12 (5) For a third or subsequent violation within a five-year (5) period with respect to a case  
13 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one  
14 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of  
15 public community restitution; and the person's driving license in this state shall be suspended for  
16 a period of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from  
17 operating a motor vehicle that is not equipped with an ignition interlock system as provided in §  
18 31-27-2.8. The judicial officer shall require alcohol and/or drug treatment for the individual. Such  
19 a violation with respect to refusal to submit to a chemical test of blood shall be a civil offense.  
20 Provided, that prior to the reinstatement of a license to a person charged with a third or  
21 subsequent violation within a three-year (3) period, a hearing shall be held before a judicial  
22 officer. At the hearing, the judicial officer shall review the person's driving record, his or her  
23 employment history, family background, and any other pertinent factors that would indicate that  
24 the person has demonstrated behavior that warrants the reinstatement of their license.

25 (6) For purposes of determining the period of license suspension, a prior violation shall  
26 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.

27 (7) In addition to any other fines, a highway safety assessment of five hundred dollars  
28 (\$500) shall be paid by any person found in violation of this section, the assessment to be  
29 deposited into the general fund. The assessment provided for by this subsection shall be collected  
30 from a violator before any other fines authorized by this section.

31 (8) In addition to any other fines and highway safety assessments, a two-hundred-dollar  
32 (\$200) assessment shall be paid by any person found in violation of this section to support the  
33 department of health's chemical testing programs outlined in § 31-27-2(4), that shall be deposited  
34 as general revenues, not restricted receipts.

1 (9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on  
2 driving while intoxicated or under the influence of a controlled substance, or public community  
3 restitution provided for under this section can be suspended.

4 (c) Upon suspending or refusing to issue a license or permit as provided in subsection (a),  
5 the traffic tribunal or district court shall immediately notify the person involved in writing, and  
6 upon his or her request, within fifteen (15) days, shall afford the person an opportunity for a  
7 hearing as early as practical upon receipt of a request in writing. Upon a hearing, the judge may  
8 administer oaths and may issue subpoenas for the attendance of witnesses and the production of  
9 relevant books and papers. If the judge finds after the hearing that:

10 (1) The law enforcement officer making the sworn report had reasonable grounds to  
11 believe that the arrested person had been driving a motor vehicle within this state while under the  
12 influence of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of  
13 title 21, or any combination of these;

14 (2) The person, while under arrest, refused to submit to the tests upon the request of a law  
15 enforcement officer;

16 (3) The person had been informed of his or her rights in accordance with § 31-27-3; and

17 (4) The person had been informed of the penalties incurred as a result of noncompliance  
18 with this section, the judge shall sustain the violation. The judge shall then impose the penalties  
19 set forth in subsection (b). Action by the judge must be taken within seven (7) days after the  
20 hearing or it shall be presumed that the judge has refused to issue his or her order of suspension.

21 (d) For the purposes of this section, any test of a sample of blood, breath, or urine for the  
22 presence of alcohol that relies, in whole or in part, upon the principle of infrared light absorption  
23 is considered a chemical test.

24 (e) If any provision of this section, or the application of any provision, shall, for any  
25 reason, be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the  
26 section, but shall be confined in this effect to the provisions or application directly involved in the  
27 controversy giving rise to the judgment.

28 SECTION 3. Sections 39-12.1-2 and 39-12.1-12 of the General Laws in Chapter 39-12.1  
29 entitled "The Towing Storage Act" are hereby amended to read as follows:

30 **39-12.1-2. Definitions.**

31 As used in this chapter, the following words shall have the meaning as set forth in this  
32 section.

33 (1) "Abandoned vehicle" means (i) a vehicle that is inoperable and over eight (8) years  
34 old and is left unattended on public property for more than forty-eight (48) hours, or (ii) a vehicle

1 that has remained illegally on public property for a period of more than three (3) days, or (iii) a  
2 vehicle that has remained on private property without the consent of the owner or person in  
3 control of the property for more than three (3) days.

4 (2) "Abandoned vehicle of no value" means (i) a motor vehicle that is inoperable and  
5 over ten (10) years old and is left unattended on public property for more than forty-eight (48)  
6 hours, or (ii) a vehicle that has remained illegally on public property for a period of more than  
7 three (3) days, or (iii) a vehicle that has remained on private property without the consent of the  
8 owner or person in control of the property for more than three (3) days, and meets the following  
9 criteria:

10 (A) The vehicle has no evidence of current registration in or upon the vehicle; and

11 (B) The vehicle has a fair market value of five hundred dollars (\$500) or less; and

12 (C) The vehicle does not have a valid inspection sticker.

13 (3) "Accident debris" means debris that is broken off or away from a vehicle which can  
14 include broken glass, plastics or bumper covers or other vehicle parts. Accident debris does not  
15 include any type of cargo or any illicit discharge of any hazardous material (engine oil, gasoline,  
16 transmission oil, anti-freeze, axle grease or battery acid).

17 (4) "Administration fee" means a fee associated with making proper notification to the  
18 last registered owner and lien holder of the vehicle. A fee for the cost of a lien sale for an  
19 abandoned vehicle left at a tower's storage yard.

20 (5) "After hours release of a vehicle" means the release or return of an operable motor  
21 vehicle by a tow vehicle operator to the vehicle owner, the owner's agent or an authorized  
22 operator, beyond the tow vehicle operator's normal business hours, as required by the public  
23 utilities commission.

24 (6) "Cargo" means goods, product or property that is being transported and carried by the  
25 vehicle being towed or recovered.

26 ~~(3)~~(7) "Certificated tower" means a carrier possessing a certificate of public convenience  
27 and necessity issued by the public utilities administrator for the purpose of transporting vehicles  
28 by tow-away method.

29 (8) "Collision debris" means broken or damaged vehicle parts that are separated or  
30 removed from the vehicle to include, but not limited to: shattered glass, body panels, bumpers,  
31 wheels or drive train. Collision debris shall not include any cargo or fluids including, but not  
32 limited to: engine oil, gasoline, transmission oil, antifreeze or battery acid.

33 (9) "Complicated recovery" means the recovery of a vehicle that:

34 (i) Requires the use of multiple tow vehicles to recover the vehicle from a hazard

- 1 situation;
- 2 (ii) Requires the unloading of cargo or a load prior to towing;
- 3 (iii) Requires the removal of substantial collision debris prior to or related to the towing;
- 4 (iv) Involves water recovery of a vehicle submerged in excess of twelve inches (12") of
- 5 water;
- 6 (v) Involves the loading, reloading or removal of cargo, vehicle load, trailer, livestock or
- 7 camper; or
- 8 (vi) Involves conditions or circumstances extraordinary in nature.
- 9 (10) "Consensual tow" is defined as when a vehicle owner calls or agrees to having his or
- 10 her vehicle towed by a certified tower to a destination of his or her choice.
- 11 (11) "Consumer" means the vehicle owner or operator who has permission to operate the
- 12 vehicle.
- 13 (12) "Decoupling" is defined as when a truck, tractor or other towing vehicle needs to
- 14 separate a towing vehicle from a trailer to safely tow a vehicle over the road.
- 15 (13) "Flat bed tow truck" means a tow truck that is designed to tow or transport one or
- 16 two (2) vehicles on it bed and tow one vehicle behind it on a towing device.
- 17 ~~(14)~~ (14) "Legal owner" means the person who has obtained ownership of a vehicle by any
- 18 legal means but has not caused the vehicle to be registered with the division of motor vehicles.
- 19 (15) "Limited tower" means a limited tow by a licensed automotive related business,
- 20 including, but not limited to, auto repair garage, auto body shop, auto sales business, auto salvage
- 21 business or any other certified motor carrier, that owns its own tow truck and tows its own
- 22 vehicles or its customer's vehicles to and from its place of business. All tow trucks shall be
- 23 properly registered and insured in the minimum coverage amount as required by the public
- 24 utilities commission and shall be registered to the commercial business address on its business
- 25 license. All trucks operated by a limited tower must be lettered with the business name as it
- 26 appears on its business license.
- 27 (16) "Mileage" means the total mileage that the tow truck travels from when it leaves the
- 28 carrier's terminal until its return to the carrier's terminal during a non-consensual tow.
- 29 (17) "Motor vehicle" means a vehicle that is powered by gasoline, diesel or electricity as
- 30 a power source to move the vehicle.
- 31 (18) "Non-consent storage" means the storing of a vehicle in a tower's storage yard before
- 32 the vehicle owner is properly notified of the location of the vehicle by certified mail, a verifiable
- 33 phone call or electronic communication to or from the tow company, or by a visit to the storage
- 34 yard with signed notification.



1 (19) "Non-consensual tow" means towing of a motor vehicle without the consent of the  
2 owner or legal operator of the vehicle, including, but not limited to, towing of a motor vehicle at  
3 the order of a police officer from the roadway or towing of a motor vehicle from private property  
4 at the property owner or his or her designee's order.

5 ~~(5)~~(20) "Police department" means the police department of a city or town or the Rhode  
6 Island state department.

7 ~~(6)~~(21) "Possessory lien" means the right to retain possession of a vehicle and motor  
8 vehicle registration plates against all claims of the owner and/or security lien or until all charges  
9 are paid for recovery, towing, storage in accordance with the certificated tower's tariff.

10 ~~(7)~~(22) "Private trespass" means the unattended presence of a vehicle on private property  
11 without the consent of the owner or person in control thereof.

12 (23) "Recovery" means the moving, lifting or righting of a vehicle from a position of  
13 hazard or from a position or location from which the vehicle is incapable of being operated under  
14 the vehicle's own power or towed from the scene.

15 ~~(8)~~(24) "Registered owner" means the person recorded in the division of motor vehicles  
16 as being the one to whom the registration of the vehicle was issued.

17 (25) "Secure storage facility" means vehicle storage that is either indoors or an area that  
18 is lighted and enclosed by a fence, wall or barrier that is at least six feet (6') high.

19 (26) "Seizure" means any vehicle removed from a public roadway pursuant to a lawful  
20 police order to a police department impound lot for investigation.

21 (27) "Simple water recovery" means the recovery of a vehicle which is partially  
22 submerged in twelve inches (12") of water or less and the water impedes the recovery effort.

23 (28) "Tow" means the routine or standard tow that does not require any special  
24 techniques or special equipment as defined in recovery. For purposes of this section, tow  
25 equipment is the normal use of a tow sling, wheel lift, or a winch cable to winch the vehicle onto  
26 a flatbed tow truck. A tow is the act of moving or removing a vehicle from the area of a roadway,  
27 or parking lot from which it is parked or has become inoperable. Tow shall have the following  
28 classifications:

29 (i) "Light duty tow" means of the act of moving or removing a vehicle with a gross  
30 vehicle weight rating of one thousand (1,000) through eight thousand pounds (8,000 lbs);

31 (ii) "Medium duty tow" means the act of moving or removing a vehicle with a gross  
32 vehicle weight rating of eight thousand one pounds (8,001 lbs) through fifteen thousand pounds  
33 (15,000 lbs);

34 (iii) "Heavy duty tow" means the act of moving or removing a vehicle with a gross

1 vehicle weight rating of fifteen thousand one pounds (15,001 lbs) through twenty-six thousand  
2 pounds (26,000 lbs); gross vehicle weight rating of twenty-six thousand one pounds (26,001 lbs)  
3 through thirty-three thousand pounds (33,000 lbs); and gross vehicle weight rating of thirty-three  
4 thousand one pounds (33,001 lbs) through eighty thousand pounds (80,000 lbs).

5 ~~(9)~~(29) "Tow truck" means any motor vehicle designed and/or ordinarily used for the  
6 purpose of towing or removing vehicles or assisting disabled motor vehicles.

7 (30) "Tow truck registration" means the registration card issued by the department of  
8 motor vehicles to all tow trucks, specifying that all tow trucks must be registered with the word  
9 "tow" on the registration card.

10 ~~(10)~~(31) "Unattended vehicle" means any vehicle other than an "abandoned vehicle" or  
11 "abandoned vehicle of no value" as which meets the following criteria:

12 (i) Left unoccupied in a place or for a time period prohibited by law or municipal  
13 ordinance or so as to cause traffic congestion or hazard; or

14 (ii) From which the operator or owner thereof has been removed by any member of a  
15 police department in the performance of his or her official duties; or

16 (iii) Left on public or private property without the consent of the owner or person in  
17 control thereof, or one having the exclusive right to the use thereof.

18 ~~(11)~~(32) "Vehicle" means any motor vehicle as defined in § 39-12-2(m).

19 ~~(12)~~(33) "Vehicle survey report" means a report printed in the form provided in § 31-42-  
20 1(f).

21 (34) "Waiting time" means the time that a tow truck operator has to wait on the scene of a  
22 police ordered tow before it can begin working. For purposes of this section, waiting time  
23 includes waiting for a police investigation, waiting for the scene to be safe to work, waiting for  
24 rescue efforts to clear or other instances that cause the tow truck operator's work to be delayed by  
25 no fault of its own.

26 (35) "Winching" means to move a vehicle by means of a winch cable to either free it  
27 from a position from which it cannot move or to reposition it to a position from which it can be  
28 loaded onto a tow truck. For purposes of this section, winching does not include using a tow  
29 truck's winch to load the vehicle onto its flatbed.

30 (36) "Wrecker" means a tow truck designed to lift or flat tow a motor vehicle, and tow or  
31 transport the vehicle with one set or all of the towed vehicle's wheels in contact with the public  
32 roadway.

33 **39-12.1-12. Private trespass towing.**

34 (a) The owner or person in control of any parcel of property may cause to be removed

1 from the property vehicles which are trespassing upon the property without the consent of the  
2 owner or person in control of the property by retaining, in writing, a certificated tower to remove  
3 the trespassing vehicle and relocate the vehicle to its private impoundment lot; and this procedure  
4 may be undertaken and accomplished without the need to resort to the judicial process; provided,  
5 however, that the impoundment lot shall be within ten (10) miles of the point of removal; and  
6 provided further that the lot shall be open for business to release the vehicle the same hours it is  
7 open to receive the vehicle; and provided further that there shall be posted on the outside of the  
8 office of the lot the business hours.

9 (b) All charges for towing, in accordance with the published tariff and storage shall be  
10 borne by the last registered and/or legal owner of the vehicle for which charges the certificated  
11 tower shall have a possessory lien as set forth elsewhere in this chapter; provided, however, that  
12 should the last registered and/or legal owner prove through judicial process that the vehicle was  
13 not in fact trespassing on the property of the owner or person in control, the charges shall be  
14 borne by the owner or person in control of the property who ordered the towing, removal,  
15 relocation and storage. The last registered and/or legal owner shall, however, as a prerequisite to  
16 procedure to recover the charges from the owner or person in control of the property, pay in full  
17 all charges assessed due the certificated tower in accordance with its published tariff.

18 (c) A certificated tower shall remove vehicles from private property at the direction of the  
19 owner or person in control thereof only upon receiving the direction in writing, which writing and  
20 notice shall be kept in the records of the certificated tower and which writing shall be a complete  
21 defense to any civil and criminal charges resulting from removal of the vehicle. A certificated  
22 tower shall receive a separate writing of each vehicle towed, and the vehicle to be towed shall be  
23 specifically identified in the writing. An electronic notification may satisfy the writing provisions  
24 of this section.

25 SECTION 4. Chapter 39-12.1 of the General Laws entitled "The Towing Storage Act" is  
26 hereby amended by adding thereto the following section:

27 **39-12.1-12.1. Seizure of vehicle by police.**

28 (a) Any vehicle removed from a public roadway pursuant to a lawful order issued by a  
29 police officer for investigation and transported to the police station for processing shall not be  
30 released to the registered owner, lessor or a rental car company by the police until the cost of  
31 removal has been paid either to the police department or the tow truck operator.

32 (b)(1) Any unregistered motor vehicle removed from a public roadway pursuant to a  
33 lawful order issued by a police officer and transported to the tow truck operator's storage facility  
34 shall not be released to the legal owner, lessor or rental car company by the tow truck operator

1 until the cost of the removal and storage have been paid and proof of a valid registration is  
2 presented.

3 (2) In the event the legal owner, lessor or rental car company fails to present a valid  
4 certificate of registration, the vehicle may be towed out of the storage facility, by any certificated  
5 tower of the legal owner's choice, to wherever the legal owner wishes, upon payment of the  
6 original towing cost, and associated storage fees and any additional towing costs associated with  
7 the towed-removal of the vehicle from the storage lot.

8 (c) A tow truck operator with a certificate of public convenience and necessity issued  
9 pursuant to § 39-12-6 shall not be liable for any civil or criminal action for release or return of an  
10 unregistered vehicle to the legal owner, an authorized agent of the owner, or lessor or rental car  
11 company.

12 SECTION 5. This act shall take effect upon passage.

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LC002299  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO MOTOR AND OTHER VEHICLES -- MISCELLANEOUS RULES--MOTOR  
VEHICLE OFFENSES

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1           This act would amend the towing storage act and clarify issues related to the towing and  
2 storage of vehicles. The act would provide that non-certificated towers have “Not for hire”  
3 lettered on their vehicle. The act would provide for penalties up to and including a one thousand  
4 dollar (\$1,000) fine and suspension of license and/or registration for third and subsequent  
5 offenses for violation by a non-certificated tower. The act would also provide that an operator of  
6 a motor vehicle who refuses to submit to a chemical test would have the vehicle impounded for  
7 twelve (12) hours.

8           This act would take effect upon passage.

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LC002299  
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