

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 308
PROPOSED COMMITTEE SUBSTITUTE H308-PCS40474-BH-3

Short Title: No Insurance While Driving/Tow Vehicle. (Public)

Sponsors:

Referred to:

March 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE TOWING AND STORAGE OF A VEHICLE BEING
3 OPERATED BY A DRIVER WHO IS CHARGED WITH FAILING TO MAINTAIN
4 FINANCIAL RESPONSIBILITY.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 20-313 reads as rewritten:

7 "§ 20-313. Operation of motor vehicle without financial responsibility a misdemeanor.

8 (a) Punishment. – On or after July 1, 1963, any owner of a motor vehicle registered or
9 required to be registered in this State who shall operate or permit such motor vehicle to be
10 operated in this State without having in full force and effect the financial responsibility required
11 by this Article shall be guilty of a Class 3 misdemeanor.

12 (b) Evidence. – Evidence that the owner of a motor vehicle registered or required to be
13 registered in this State has operated or permitted such motor vehicle to be operated in this State,
14 coupled with proof of records of the Division of Motor Vehicles indicating that the owner did
15 not have financial responsibility applicable to the operation of the motor vehicle in the manner
16 certified by him for purposes of G.S. 20-309, shall be prima facie evidence that such owner did
17 at the time and place alleged operate or permit such motor vehicle to be operated without
18 having in full force and effect the financial responsibility required by the provisions of this
19 Article.

20 (c) Towing and Storage. – At the time the owner of a motor vehicle is charged with a
21 violation of subsection (a) of this section, the charging law enforcement officer shall have the
22 motor vehicle towed and stored. A person in custody of a motor vehicle towed and stored
23 pursuant to this subsection may charge a reasonable fee for storage not to exceed ten dollars
24 (\$10.00) per calendar day. A person in custody of a motor vehicle towed and stored pursuant to
25 this subsection shall release the motor vehicle to its owner when both of the following
26 conditions are met:

27 (1) The owner presents proof of financial responsibility required by this Article
28 covering the motor vehicle for a period of at least six months to the charging
29 law enforcement agency or the prosecuting district attorney. The charging
30 law enforcement agency or prosecuting district attorney shall present the
31 owner with documentation acknowledging that the owner has complied with
32 the requirement set forth in this subdivision.

33 (2) The owner submits to the person in custody of the motor vehicle (i) the
34 documentation provided by the charging law enforcement agency or
35 prosecuting district attorney pursuant to subdivision (1) of this subsection
36 and (ii) payment of any towing and storage fees.



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1 (d) Notice to the Lienholder and Right to Take Possession. – Notwithstanding any other
2 provision of this section, if a motor vehicle is towed and stored under subsection (c) of this
3 section, the charging law enforcement agency shall contact the Division within one regular
4 business day after the motor vehicle is towed and stored to obtain the name and address of any
5 lienholder who has a perfected security interest in the motor vehicle. The Division shall provide
6 the requested information to the charging law enforcement agency within one regular business
7 day. The charging law enforcement agency must then notify any lienholder by first-class mail
8 of the name and address of where the motor vehicle is stored. The notification to the lienholder
9 must be sent as soon as practical but not later than 24 hours after receipt of the information
10 from the Division.

11 A person in custody of a motor vehicle pursuant to subsection (c) of this section shall, upon
12 presentation of a copy of the title to the motor vehicle showing a perfected security interest and
13 without delay during regular business hours, allow a lienholder access to the motor vehicle.
14 Upon payment of any towing and storage fees, a lienholder shall be allowed to take possession
15 of the motor vehicle. The lienholder may thereafter exercise any rights reserved to it under any
16 note, contract, and security agreement.

17 (e) Failure of Owner to Obtain Release. – Notwithstanding G.S. 44A-2(d), if the owner
18 of a motor vehicle towed and stored pursuant to subsection (c) of this section does not obtain
19 release of the motor vehicle within 90 days from the date the motor vehicle was towed and
20 stored, or a lienholder has not recovered possession of the motor vehicle within this period of
21 time, the person in custody of the motor vehicle has a lien on the motor vehicle for the full
22 amount of the towing and storage costs incurred since the motor vehicle was towed and stored
23 and may dispose of the motor vehicle pursuant to Article 1 of Chapter 44A of the General
24 Statutes.

25 (f) Pretrial Release of Motor Vehicle. – An owner of a motor vehicle may file a petition
26 with the clerk of court of superior court seeking a pretrial release of the motor vehicle. The
27 clerk shall consider the petition and make a determination as soon as feasible.

28 (g) Construction. – If the person charged with a violation of subsection (a) of this
29 section is also charged with a violation of law arising out of the same transaction that requires
30 seizure of the motor vehicle, nothing in this section shall be construed to alter or supersede the
31 law requiring seizure of the motor vehicle."

32 **SECTION 2.** G.S. 44A-2(d) reads as rewritten:

33 "(d) Any person who repairs, services, tows, or stores motor vehicles in the ordinary
34 course of the person's business pursuant to an express or implied contract with an owner or
35 legal possessor of the motor vehicle, except for a motor vehicle seized pursuant to ~~G.S.~~
36 ~~20-28.3~~, G.S. 20-28.3 or towed and stored pursuant to G.S. 20-313, has a lien upon the motor
37 vehicle for reasonable charges for such repairs, servicing, towing, storing, or for the rental of
38 one or more substitute vehicles provided during the repair, servicing, or storage. This lien shall
39 have priority over perfected and unperfected security interests. Payment for towing and storing
40 a motor vehicle seized pursuant to G.S. 20-28.3 shall be as provided for in G.S. 20-28.2
41 through G.S. 20-28.5. Payment for towing and storing a motor vehicle pursuant to G.S. 20-313
42 shall be as provided in G.S. 20-313."

43 **SECTION 3.** This act becomes effective December 1, 2017, and applies to charges
44 filed on or after that date.