

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 308
Committee Substitute Favorable 4/11/17
PROPOSED COMMITTEE SUBSTITUTE H308-PCS40551-TG-12

Short Title: No Insurance While Driving/Tow Vehicle.

(Public)

Sponsors:

Referred to:

March 13, 2017

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE TOWING AND STORAGE OF A VEHICLE BEING OPERATED BY A DRIVER WHO IS CHARGED WITH FAILING TO MAINTAIN FINANCIAL RESPONSIBILITY.

The General Assembly of North Carolina enacts:

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

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

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

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

(c) Towing and Storage. – At the time the owner of a motor vehicle is charged with a violation of subsection (a) of this section, the charging law enforcement officer shall have the motor vehicle towed and stored utilizing that law enforcement agency's current rotation system and regulations pertaining to towing and storage. A person in custody of a motor vehicle towed and stored pursuant to this subsection shall release the motor vehicle to its owner when both of the following conditions are met:

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

(2) The owner submits to the person in custody of the motor vehicle (i) the documentation provided by the charging law enforcement agency or prosecuting district attorney pursuant to subdivision (1) of this subsection 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 towed and stored pursuant to subsection (c) of this
12 section shall, upon presentation of a copy of the title to the motor vehicle showing a perfected
13 security interest and without delay during regular business hours, allow a lienholder access to
14 the motor vehicle. Upon payment of any towing and storage fees, a lienholder shall be allowed
15 to take possession of the motor vehicle. The lienholder may thereafter exercise any rights
16 reserved to it under any 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 that was towed and stored, or a lienholder has not recovered
20 possession of the motor vehicle, the person in custody of the motor vehicle has a lien on the
21 motor vehicle for the full amount of the towing and storage costs incurred since the motor
22 vehicle was towed and stored and may dispose of the motor vehicle pursuant to Article 1 of
23 Chapter 44A of the General Statutes.

24 (f) Release of Motor Vehicle to Innocent Owner. – An owner of a motor vehicle
25 charged with a violation of subsection (a) of this section may file a petition with the clerk of
26 superior court seeking a determination that he or she has not had a lapse in financial
27 responsibility. The clerk shall schedule a hearing before a judge in the Division no later than 10
28 regular business days or as soon as thereafter may be feasible. Notice of the hearing shall be
29 given to the owner, the charging law enforcement agency, and the prosecuting district attorney.
30 If it is determined that there was no violation of subsection (a) of this section, the clerk of court
31 shall enter an order releasing the motor vehicle to the owner upon payment of all towing and
32 storing charges incurred as a result of the seizure. For purposes of this subsection, an "innocent
33 owner" is an owner of a motor vehicle registered in this State who has maintained financial
34 responsibility as required by G.S. 20-309 and who has not violated subsection (a) of this
35 section.

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

40 **SECTION 2.** This act becomes effective December 1, 2017, and applies to charges
41 filed on or after that date.