

2018 -- H 8148 SUBSTITUTE A

LC005564/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

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

Introduced By: Representatives McEntee, and Craven

Date Introduced: May 02, 2018

Referred To: House 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~~

~~dollars (\$100) upon conviction for a first offense, not more than two hundred and fifty dollars (\$250) upon conviction for a second offense, and for each subsequent conviction may be fined not more than five hundred dollars (\$500).~~

(e) Any owner of a motor vehicle used for towing who shall knowingly operate the motor vehicle or knowingly permit the vehicle to be operated for towing in this state in violation of this section, and any person who shall operate a motor vehicle for towing in violation of this section shall be fined, and be subject to suspension of license and registration as follows:

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

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

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

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

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

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

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

SECTION 2. Section 31-27-2.1 of the General Laws in Chapter 31-27 entitled "Motor 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 for the towing, storage and maintenance of the vehicle
6 to be 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 for 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; and shall pay a fine in the amount of six hundred
19 dollars (\$600) to one thousand dollars (\$1,000), order the person to perform sixty (60) to one
20 hundred (100) hours of public community restitution; and the person's driving license in this state
21 shall be suspended for a period of one year to two (2) years. The judge or magistrate shall require
22 alcohol and/or drug treatment for the individual. The sentencing judge or magistrate shall prohibit
23 that person from operating a motor vehicle that is not equipped with an ignition interlock system
24 as provided in § 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
33 the individual. Provided, that prior to the reinstatement of a license to a person charged with a
34 third or subsequent violation within a three-year (3) period, a hearing shall be held before a judge

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

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

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

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

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

32 (8) In addition to any other fines and highway safety assessments, a two hundred dollar
33 (\$200) assessment shall be paid by any person found in violation of this section to support the
34 department of health's chemical testing programs outlined in § 31-27-2(4), that shall be deposited

1 as general revenues, not restricted receipts.

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

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

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

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

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

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

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

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

29 SECTION 3. Sections 39-12.1-2, 39-12.1-12 and 39-12.1-15 of the General Laws in
30 Chapter 39-12.1 entitled "The Towing Storage Act" are hereby amended to read as follows:

31 **39-12.1-2. Definitions.**

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

34 (1) "Abandoned vehicle" means (i) a vehicle that is inoperable and over eight (8) years

1 old and is left unattended on public property for more than forty-eight (48) hours, or (ii) a vehicle
2 that has remained illegally on public property for a period of more than three (3) days, or (iii) a
3 vehicle that has remained on private property without the consent of the owner or person in
4 control of the property for more than three (3) days.

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

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

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

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

14 (3) "After hours release of a vehicle" means the release or return of an operable motor
15 vehicle by a tow vehicle operator to the vehicle owner, the owner's agent or an authorized
16 operator.

17 ~~(3)~~(4) "Certificated tower" means a carrier possessing a certificate of public convenience
18 and necessity issued by the public utilities administrator for the purpose of transporting vehicles
19 by tow-away method.

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

24 (6) "Complicated recovery" means the recovery of a vehicle that:

25 (i) Requires the use of multiple tow vehicles to recover the vehicle from a hazard
26 situation;

27 (ii) Requires the unloading of cargo or a load prior to towing;

28 (iii) Requires the removal of substantial collision debris prior to or related to the towing;

29 (iv) Involves water recovery of a vehicle submerged in excess of twelve inches (12") of
30 water;

31 (v) Involves the loading, reloading or removal of cargo, vehicle load, trailer, livestock or
32 camper; or

33 (vi) Involves conditions or circumstances extraordinary in nature.

34 ~~(4)~~(7) "Legal owner" means the person who has obtained ownership of a vehicle by any

1 legal means but has not caused the vehicle to be registered with the division of motor vehicles.

2 ~~(5)~~(8) "Police department" means the police department of a city or town or the Rhode
3 Island state ~~department~~ police.

4 ~~(6)~~(9) "Possessory lien" means the right to retain possession of a vehicle and motor
5 vehicle registration plates against all claims of the owner and/or security lien or until all charges
6 are paid for recovery, towing, storage in accordance with the certificated tower's tariff.

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

9 (11) "Recovery" means the moving, lifting or righting of a vehicle from a position of
10 hazard or from a position or location from which the vehicle is incapable of being operated under
11 the vehicle's own power.

12 ~~(8)~~(12) "Registered owner" means the person recorded in the division of motor vehicles
13 as being the one to whom the registration of the vehicle was issued.

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

16 (14) "Seizure" means any vehicle removed from a public roadway pursuant to a lawful
17 police order to a police department impound lot for investigation.

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

20 ~~(9)~~(16) "Tow truck" means any motor vehicle designed and/or ordinarily used for the
21 purpose of towing or removing vehicles or assisting disabled motor vehicles.

22 ~~(10)~~(17) "Unattended vehicle" means any vehicle other than an "abandoned vehicle" or
23 "abandoned vehicle of no value" as which meets the following criteria:

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

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

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

30 ~~(11)~~(18) "Vehicle" means any motor vehicle as defined in § 39-12-2(m).

31 ~~(12)~~(19) "Vehicle survey report" means a report printed in the form provided in § 31-42-
32 1(f).

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 for 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 **39-12.1-15. Enforcement and administration of chapter.**

26 The public utilities administrator shall supervise, regulate, and enforce the provisions of
27 this chapter. [The administrator shall have the power to promulgate rules and regulations to
28 include, but not limited to: recovery of vehicles; simple water recovery and complicated recovery
29 of vehicles; removal of collision debris; after hours release of a vehicle; and secure storage of
30 vehicles.](#)

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

33 **39-12.1-12.1. Seizure of vehicle by police.**

34 [\(a\) Any vehicle removed from a public roadway pursuant to a lawful order issued by a](#)

1 police officer for investigation and transported to the police station for processing shall not be
2 released to the registered owner, lessor and/or a rental car company by the police until the cost of
3 the removal has been paid either to the police department or the tow truck operator.

4 (b)(1) Any unregistered motor vehicle removed from a public roadway pursuant to a
5 lawful order issued by a police officer and transported to the tow truck operator's storage facility
6 shall not be released to the legal owner, lessor and/or a rental car company by the tow truck
7 operator until the cost of the removal and storage have been paid and proof of a valid registration
8 is presented.

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

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

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

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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

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

8 This act would take effect upon passage.

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