

Amendment No. 768

Assembly Amendment to Senate Bill No. 320 Second Reprint (BDR 58-1143)

Proposed by: Assembly Committee on Transportation

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

DLJ/JRS



Date: 5/18/2017

S.B. No. 320—Sets forth certain conditions relating to the towing or immobilizing of a motor vehicle. (BDR 58-1143)



SENATE BILL NO. 320—SENATOR DENIS

MARCH 20, 2017

Referred to Committee on Transportation

SUMMARY—Sets forth certain conditions relating to the towing or immobilizing of a motor vehicle. (BDR 58-1143)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to motor vehicles; setting forth certain conditions relating to the towing of a motor vehicle from a residential complex; authorizing the immobilization of a vehicle under certain circumstances in certain parking structures; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes certain conditions on the towing of a motor vehicle which is requested by a person other than the owner of the vehicle, an agent of the owner or a law enforcement officer. Those conditions require that: (1) the person requesting the tow must be the owner of the real property from which the vehicle is being towed, or an authorized agent of the owner of the real property; (2) the person requesting the tow must sign a specific request for the towing; (3) the area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements; (4) notice must be given to the appropriate law enforcement agency pursuant to state or local requirements; and (5) the operator of the tow car may be directed to terminate the towing by a law enforcement officer. (NRS 706.4477) **Section 1** of this bill sets forth certain additional conditions if the real property from which the vehicle is to be towed is a residential complex. Those conditions state that the owner of the real property, or an authorized agent of the owner: (1) may only have a vehicle towed for a parking violation, for an issue related to the health, ~~and~~ safety or welfare of the residents of the complex or because the vehicle is unregistered or the registration on the vehicle ~~has been~~ is expired; ~~for not less than 60 days~~; and (2) may not have a vehicle towed until 48 hours after affixing a notice to the vehicle which explains when the vehicle is to be towed, unless the tow is requested for an issue relating to the health, ~~and~~ safety or welfare of the residents of the residential complex. Existing law makes a violation of any of these provisions a misdemeanor. (NRS 706.756)

Existing law imposes certain requirements on the owner of a property who wishes to have a vehicle towed from the property, including a requirement that relevant parking restrictions be displayed in plain view and that local law enforcement be notified of any such towing. (NRS 487.038) **Section 4** of this bill newly authorizes the owner of a multilevel parking garage or multilevel parking structure that is operated by or for a resort hotel with a nonrestricted gaming license to immobilize vehicles which are parked in an unauthorized manner. The requirement for the displaying of parking restrictions remains. The cost of

having the boot, clamp or device removed must also be displayed and must not exceed \$100. **Section 3** of this bill makes a conforming change to existing provisions which makes it unlawful to temporarily prevent the useful operation of a vehicle. (NRS 205.274) **Section 5** of this bill makes a conforming change to existing law concerning the process by which a person who believes that his or her vehicle was illegally towed may file a civil action against the person who had the vehicle towed. (NRS 487.039)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 706.4477 is hereby amended to read as follows:

706.4477 1. If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

(a) The person requesting the towing must be the owner of the real property from which the vehicle is towed or an authorized agent of the owner of the real property and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

(b) The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

(c) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(d) The operator may be directed to terminate the towing by a law enforcement officer.

2. *If, pursuant to subsection 1, the owner of the real property or authorized agent of the owner of the real property requests that a vehicle be towed from a residential complex at which the vehicle is located, the owner of the real property or authorized agent of the owner:*

(a) *Must:*

(1) *Meet the requirements of subsection 1.*

(2) *If the vehicle is being towed pursuant to subparagraph (1), (2) or (3) of paragraph (b), notify the owner or operator of the vehicle of the tow not less than 48 hours before the tow by affixing to the vehicle a sticker which provides the date and time ~~that~~ after which the vehicle will be towed.*

(b) *May only have a vehicle towed:*

(1) *Because of a parking violation;*

(2) *If the vehicle is not registered pursuant to chapter 482 or 706 of NRS or in any other state;*

(3) *If the registration of the vehicle ~~has~~ :*

(I) Has been expired for not less than 60 days ~~that~~, if the vehicle is owned or operated by a resident of the residential complex or does not meet the requirements of sub-subparagraph (II); or

(II) Is expired, if the owner of real property or authorized agent of the owner verifies that the vehicle is not owned or operated by a resident of the residential complex; or

(4) ~~For any issue that is related to the health and safety of the residents of the residential complex that requires the removal of~~ If the vehicle ~~from the residential complex, including, without limitation, a vehicle that~~ is:

(I) Blocking ~~egress or ingress to the residential complex,~~

(II) Blocking access to a fire hydrant ~~;~~

(III) Preventing the movement of another vehicle; or

~~(IV) Emitting toxic substances;~~ fire lane or parking space designated for the handicapped; or

(II) Posing an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the residents of the residential complex.

3. If towing is requested by a county or city pursuant to NRS 244.3605 or 268.4122, as applicable:

(a) Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

(b) The operator may be directed to terminate the towing by a law enforcement officer.

~~4.~~ 4. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1 ~~for 2~~, 2 or 3:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) Is responsible for the cost of removal and storage of the motor vehicle.

~~4~~ 5. The registered owner may rebut the presumption in subsection ~~4~~ by showing that:

(a) The registered owner transferred the registered owner's interest in the motor vehicle:

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or

(b) The vehicle is stolen, if the registered owner submits evidence that, before the discovery of the vehicle, the registered owner filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

6. *As used in this section:*

(a) *"Parking violation" means a violation of any:*

(1) *State or local law or ordinance governing parking; or*

(2) *Parking rule promulgated by the owner or manager of the residential complex that applies to vehicles on the property of the residential complex.*

(b) *"Residential complex" means a group of apartments, condominiums or townhomes intended for use as residential units and for which a common parking area is provided, regardless of whether each resident or unit has been assigned a specific parking space in the common parking area.*

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 205.274 is hereby amended to read as follows:

205.274 1. ~~Any~~ Except as otherwise provided in section 4 of this act, any person who shall individually or in association with one or more other persons willfully break, injure, tamper with or remove any part or parts of any vehicle for the purpose of injuring, defacing or destroying such vehicle, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner of such vehicle, or who shall in any manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, shall be guilty of a public offense proportionate to the value of the loss resulting therefrom.

2. Any person who shall without the consent of the owner or person in charge of a vehicle climb into or upon such vehicle with the intent to commit any crime, malicious mischief, or injury thereto, or who while a vehicle is at rest and unattended shall attempt to manipulate any of the levers, starting crank or other starting device, brakes or other mechanism thereof, or to set such vehicle in motion, shall be guilty of a misdemeanor; but the foregoing provisions shall not apply when

any such act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the regulation of traffic or performance of any other official duty.

Sec. 4. Chapter 487 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 3, the owner or person in lawful possession of a multilevel parking garage or other parking structure that is operated by or for the owner or operator of a resort hotel with a nonrestricted license may, after giving notice pursuant to subsection 2, immobilize a vehicle parked in an unauthorized manner in the garage or structure by means of a boot, wheel clamp or other mechanical device which prevents the movement of the vehicle until the boot, clamp or other device is removed if a sign is displayed in plain view on each level of the parking garage or parking structure which:

(a) Declares public parking to be prohibited or restricted in a certain manner and setting forth the provisions of NRS 487.039;

(b) Shows the telephone number of the police department or sheriff's office; and

(c) Provides the procedures that must be followed and the total amount of the charges to remove the boot, clamp or other mechanical device.

2. The total amount of the charges to remove the boot, clamp or other mechanical device must not exceed \$100.

3. Any vehicle which is parked in a space designated for persons with disabilities must not be immobilized pursuant to this section but may instead be towed.

4. Except as otherwise provided in NRS 487.039, the total amount of all charges incurred under the provisions of this section for the removal of a boot, wheel clamp or other mechanical device which prevents the movement of the vehicle must be borne by the owner of the vehicle, as that term is defined in NRS 484A.150.

5. The provisions of this section do not limit or affect any rights or remedies which the owner or person in lawful possession of a multilevel parking garage or parking structure as provided in subsection 1 may have by virtue of other provisions of the law authorizing the removal or immobilization of a vehicle parked in the garage or structure.

6. As used in this section:

(a) "Nonrestricted license" has the meaning ascribed to it in NRS 463.0177; and

(b) "Resort hotel" has the meaning ascribed to it in NRS 463.01865.

Sec. 5. NRS 487.039 is hereby amended to read as follows:

487.039 1. If a vehicle is towed pursuant to NRS 487.037 or 487.038 *or immobilized pursuant to section 4 of this act* and the owner of the vehicle believes that the vehicle was unlawfully towed ~~or~~ *or immobilized*, the owner of the vehicle may file a civil action pursuant to paragraph (b) of subsection 1 of NRS 4.370 in the justice court of the township where the property from which the vehicle was towed *or on which the vehicle was immobilized* is located, on a form provided by the court, to determine whether the towing *or immobilizing* of the vehicle was lawful.

2. An action *relating to a vehicle that was towed* may be filed pursuant to this section only if the cost of towing and storing the vehicle does not exceed \$15,000.

3. Upon the filing of a civil action pursuant to subsection 1, the court shall schedule a date for a hearing. The hearing must be held not later than 4 working days after the action is filed. The court shall affix the date of the hearing to the form and order a copy served by the sheriff, constable or other process server upon the

owner or person in lawful possession of the property who authorized the towing *or immobilization* of the vehicle.

4. The court shall ~~+~~

~~—(a) If~~, if it determines that the vehicle was:

~~+(+) (a)~~ Lawfully towed, order the owner of the vehicle to pay the cost of towing and storing the vehicle and order the person who is storing the vehicle to release the vehicle to the owner upon payment of that cost; ~~for~~

~~+(2) (b)~~ Unlawfully towed, order the owner or person in lawful possession of the property who authorized the towing to pay the cost of towing and storing the vehicle, ~~and~~ order the person who is storing the vehicle to release the vehicle to the owner immediately ~~+~~ ~~and~~

~~—(b) Determine~~ and *determine* the actual cost incurred in towing and storing the vehicle ~~+~~;

(c) Lawfully immobilized, order the owner of the vehicle to pay the cost of removing from the vehicle the boot, wheel clamp or other mechanical device used to immobilize the vehicle and order the person who immobilized the vehicle to remove the boot, clamp or device upon payment of that cost; or

(d) Unlawfully immobilized, order the owner or person in lawful possession of the property who authorized the immobilizing to pay the cost of removing the boot, clamp or device and order the person who immobilized the vehicle to remove the boot, clamp or device from the vehicle immediately.

5. The operator of any facility or other location where vehicles which are towed are stored shall display conspicuously at that facility or location a sign which sets forth the provisions of this section.

Sec. 6. This act becomes effective on July 1, 2017.