

Assembly Bill No. 32—Committee on Judiciary

CHAPTER.....

AN ACT relating to motor vehicles; revising provisions relating to the towing or immobilization of a motor vehicle; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) authorizes the owner of a towed or immobilized vehicle to file a civil action in justice court to determine whether the towing or immobilization of the vehicle was unlawful; and (2) requires the justice court to hold a hearing within 4 working days after such a civil action is filed, to determine whether the towing or immobilization was lawful or unlawful and to enter a corresponding order regarding payment of costs and release of the vehicle. (NRS 4.370, 487.039)

This bill creates a new process for filing a complaint for expedited relief in justice court. This bill: (1) requires such a complaint to be filed within 21 calendar days after the towing or immobilization of a vehicle; (2) requires that a hearing on the complaint be held within 7 calendar days after the filing of the complaint; (3) requires the court to determine whether the towing or immobilization was lawful or unlawful and to enter an order declaring liability for certain costs; and (4) if the court determines that the towing or immobilization was unlawful, requires the person or entity who has stored or immobilized the vehicle, as applicable, to release the vehicle to the owner or remove the boot, clamp or device from the vehicle immediately upon presentation of a certified copy of the order by the owner of the vehicle.

Existing law requires the operator of any facility or location where vehicles which are towed are stored to display at the facility or location a conspicuous sign which sets forth the provisions of existing law for determining the lawfulness of a towing or immobilization. (NRS 487.039) This bill requires that the sign also include information concerning the availability of certain legal assistance.

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

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

Section 1. NRS 487.039 is hereby amended to read as follows:

487.039 1. ~~If a~~ *In addition to the remedy provided pursuant to paragraph (b) of subsection 1 of NRS 4.370 for civil damages, the owner of a vehicle may file a complaint for expedited relief based upon the unlawful towing or immobilization of the vehicle 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 if:*

(a) *The* vehicle is towed pursuant to NRS 487.037 or 487.038 or immobilized pursuant to NRS 487.0385 ~~and the~~;

(b) *The* owner of the vehicle believes that the vehicle was unlawfully towed 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;~~

(c) *For 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 ~~[]~~ ; and*

(d) *The vehicle is being stored or is still currently immobilized as a result of the towing or immobilization.*

2. *Such a complaint:*

(a) *Must be filed within 21 calendar days after the towing or immobilization of the vehicle; and*

(b) *Must be filed against:*

(1) *The owner or person in lawful possession of the real property or the authorized agent of the owner of the real property who authorized the tow of the vehicle and the tow company which towed the vehicle;*

(2) *The operator of an off-street parking facility who authorized the tow of the vehicle and the tow company which towed the vehicle; or*

(3) *The owner or person in lawful possession of a multilevel parking garage or other parking structure who authorized the immobilization of the vehicle.*

3. *A complaint filed pursuant to subsection 1 that does not meet the criteria in subsections 1 and 2 may be dismissed by the court, without prejudice. Such dismissal does not affect the right of the owner of the vehicle to pursue civil damages.*

4. *Upon the filing of a ~~[civil action]~~ complaint pursuant to subsection 1, the court shall schedule a date for a hearing. The hearing must be held not later than ~~[4 working]~~ 7 calendar days after the ~~[action]~~ complaint is filed. The court shall affix the date of the hearing to the form and order a copy served by the sheriff, the constable or ~~[other]~~ a process server licensed pursuant to chapter 648 of NRS upon the ~~[owner or person in lawful possession of the property who authorized the towing or immobilization of the vehicle.~~*

~~—4.]~~ *person identified in subparagraph (1), (2) or (3) of paragraph (b) of subsection 2.*



5. The court shall ~~[, if it determines that]~~ *determine whether the vehicle was ~~[]~~ lawfully or unlawfully towed or immobilized and:*

(a) ~~[Lawfully]~~ *If the court determines the vehicle was lawfully towed, enter an order declaring the owner of the vehicle ~~[to pay]~~ liable for 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. ~~[]~~*

(b) ~~[Unlawfully]~~ *If the court determines the vehicle was unlawfully towed, enter an order declaring the owner or person in lawful possession of the property or the authorized agent of the owner of the property who authorized the towing ~~[to pay]~~ liable for 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 determine the actual cost incurred in towing and storing the vehicle;]~~*

(c) ~~[Lawfully]~~ *If the court determines the vehicle was lawfully immobilized, enter an order declaring the owner of the vehicle ~~[to pay]~~ liable for 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]~~ *If the court determines the vehicle was unlawfully immobilized, enter an order declaring the owner or person in lawful possession of the property who authorized the immobilizing ~~[to pay]~~ liable for 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.]~~ 6. *Upon presentation of a certified copy of an order entered pursuant to paragraph (b) or (d) of subsection 5 by the owner of a vehicle, the person storing the vehicle or the person who immobilized the vehicle, as applicable, shall release the vehicle to the owner immediately or remove the boot, clamp or device from the vehicle immediately.*

7. 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]~~ :

(a) *The provisions of this section ~~[]~~; and*

(b) *A statement regarding the availability of assistance from a program for legal aid, self-help center operated or overseen by a court or other similar program in the city or county in which the facility or other location is located.*

