

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:

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



22 Existing law imposes certain requirements on the owner of a property who
23 wishes to have a vehicle towed from the property, including a requirement that
24 relevant parking restrictions be displayed in plain view and that local law
25 enforcement be notified of any such towing. (NRS 487.038) **Section 4** of this bill
26 newly authorizes the owner of a multilevel parking garage or multilevel parking
27 structure that is operated by or for a resort hotel with a nonrestricted gaming license
28 to immobilize vehicles which are parked in an unauthorized manner. The
29 requirement for the displaying of parking restrictions remains. The cost of having
30 the boot, clamp or device removed must also be displayed and must not exceed
31 \$100. **Section 3** of this bill makes a conforming change to existing provisions
32 which makes it unlawful to temporarily prevent the useful operation of a vehicle.
33 (NRS 205.274) **Section 5** of this bill makes a conforming change to existing law
34 concerning the process by which a person who believes that his or her vehicle was
35 illegally towed may file a civil action against the person who had the vehicle towed.
36 (NRS 487.039)

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

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

3 706.4477 1. If towing is requested by a person other than the
4 owner, or an agent of the owner, of the motor vehicle or a law
5 enforcement officer:

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

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

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

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

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

22 (a) *Must:*

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

24 (2) *If the vehicle is being towed pursuant to subparagraph*
25 *(1), (2) or (3) of paragraph (b), notify the owner or operator of the*
26 *vehicle of the tow not less than 48 hours before the tow by affixing*
27 *to the vehicle a sticker which provides the date and time at which*
28 *the vehicle will be towed.*



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

2 (1) *Because of a parking violation;*

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

5 (3) *If the registration of the vehicle has been expired for*
6 *not less than 60 days; or*

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

11 (I) *Blocking egress or ingress to the residential complex;*

12 (II) *Blocking access to a fire hydrant;*

13 (III) *Preventing the movement of another vehicle; or*

14 (IV) *Emitting toxic substances.*

15 3. If towing is requested by a county or city pursuant to NRS
16 244.3605 or 268.4122, as applicable:

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

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

21 ~~13~~ 4. The registered owner of a motor vehicle towed pursuant
22 to the provisions of subsection 1 ~~for 2~~, 2 or 3:

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

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

27 ~~14~~ 5. The registered owner may rebut the presumption in
28 subsection ~~13~~ 4 by showing that:

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

31 (1) Pursuant to the provisions set forth in NRS 482.399 to
32 482.420, inclusive; or

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

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

40 6. *As used in this section:*

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

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

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



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

6 **Sec. 2.** (Deleted by amendment.)

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

8 205.274 1. ~~Any~~ ***Except as otherwise provided in section 4***
9 ***of this act, any*** person who shall individually or in association with
10 one or more other persons willfully break, injure, tamper with or
11 remove any part or parts of any vehicle for the purpose of injuring,
12 defacing or destroying such vehicle, or temporarily or permanently
13 preventing its useful operation, or for any purpose against the will or
14 without the consent of the owner of such vehicle, or who shall in
15 any manner willfully or maliciously interfere with or prevent the
16 running or operation of such vehicle, shall be guilty of a public
17 offense proportionate to the value of the loss resulting therefrom.

18 2. Any person who shall without the consent of the owner or
19 person in charge of a vehicle climb into or upon such vehicle with
20 the intent to commit any crime, malicious mischief, or injury
21 thereto, or who while a vehicle is at rest and unattended shall
22 attempt to manipulate any of the levers, starting crank or other
23 starting device, brakes or other mechanism thereof, or to set such
24 vehicle in motion, shall be guilty of a misdemeanor; but the
25 foregoing provisions shall not apply when any such act is done in an
26 emergency in furtherance of public safety or convenience or by or
27 under the direction of an officer in the regulation of traffic or
28 performance of any other official duty.

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

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

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

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



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

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

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

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

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

20 6. As used in this section:

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

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

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

26 487.039 1. If a vehicle is towed pursuant to NRS 487.037 or
27 487.038 *or immobilized pursuant to section 4 of this act* and the
28 owner of the vehicle believes that the vehicle was unlawfully towed
29 **‡** *or immobilized*, the owner of the vehicle may file a civil action
30 pursuant to paragraph (b) of subsection 1 of NRS 4.370 in the
31 justice court of the township where the property from which the
32 vehicle was towed *or on which the vehicle was immobilized* is
33 located, on a form provided by the court, to determine whether the
34 towing *or immobilizing* of the vehicle was lawful.

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

38 3. Upon the filing of a civil action pursuant to subsection 1, the
39 court shall schedule a date for a hearing. The hearing must be held
40 not later than 4 working days after the action is filed. The court shall
41 affix the date of the hearing to the form and order a copy served by
42 the sheriff, constable or other process server upon the owner or
43 person in lawful possession of the property who authorized the
44 towing *or immobilization* of the vehicle.

45 4. The court shall **‡**



1 ~~—(a) If~~, if it determines that the vehicle was:
2 ~~{(1)}~~ (a) Lawfully towed, order the owner of the vehicle to
3 pay the cost of towing and storing the vehicle and order the person
4 who is storing the vehicle to release the vehicle to the owner upon
5 payment of that cost; ~~{or}~~
6 ~~{(2)}~~ (b) Unlawfully towed, order the owner or person in
7 lawful possession of the property who authorized the towing to pay
8 the cost of towing and storing the vehicle, ~~{and}~~ order the person
9 who is storing the vehicle to release the vehicle to the owner
10 immediately ~~{and}~~
11 ~~—(b) Determine} and determine~~ the actual cost incurred in towing
12 and storing the vehicle ~~{}~~;
13 (c) *Lawfully immobilized, order the owner of the vehicle to pay*
14 *the cost of removing from the vehicle the boot, wheel clamp or*
15 *other mechanical device used to immobilize the vehicle and order*
16 *the person who immobilized the vehicle to remove the boot, clamp*
17 *or device upon payment of that cost; or*
18 (d) *Unlawfully immobilized, order the owner or person in*
19 *lawful possession of the property who authorized the immobilizing*
20 *to pay the cost of removing the boot, clamp or device and order the*
21 *person who immobilized the vehicle to remove the boot, clamp or*
22 *device from the vehicle immediately.*
23 5. The operator of any facility or other location where vehicles
24 which are towed are stored shall display conspicuously at that
25 facility or location a sign which sets forth the provisions of this
26 section.
27 **Sec. 6.** This act becomes effective on July 1, 2017.

