

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 723

Short Title: Post-Towing Procedures.

(Public)

Sponsors: Representative Dawkins.

Referred to: Judiciary.

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE POST-TOWING PROCEDURES WHEN VEHICLES
ARE TOWED FROM PUBLIC OR PRIVATE PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-219.11 reads as rewritten:

"§ 20-219.11. Notice and probable cause hearing.

(a) Whenever a vehicle with a valid registration plate or registration is towed as provided in G.S. 20-219.10, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to have the vehicle returned to him; and
- (5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this State, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed within five working days to his last known address unless he or his agent waives this notice in writing. If the notice is not mailed to the owner within five working days, and no written waiver is obtained, the authorizing person shall be responsible for all charges for storage of the vehicle for more than 10 days.

1 (b) Whenever a vehicle with neither a valid registration plate nor registration is
2 towed as provided in G.S. 20-219.10, the authorizing person shall make reasonable
3 efforts, including checking the vehicle identification number, to determine the last
4 known registered owner of the vehicle and to notify him of the information listed in
5 subsection (a). Unless the owner has otherwise been given notice, it is presumed that
6 the authorizing person has not made reasonable efforts, as required under this
7 subsection, unless notice that the vehicle would be towed was posted on the windshield
8 or some other conspicuous place at least seven days before the towing actually
9 occurred; except, no pretowing notice need be given if the vehicle impeded the flow of
10 traffic or otherwise jeopardized the public welfare so that immediate towing was
11 necessary.

12 (c) The owner or any other person entitled to claim possession of the vehicle may
13 request in writing a hearing to determine if probable cause existed for the towing. The
14 request shall be filed with the magistrate in the county where the vehicle was towed. If
15 there is more than one magistrate's office in that county, the request may be filed with
16 the magistrate in the warrant issuing office in the county seat or in any other office
17 designated to receive requests by the chief district court judge. The magistrate shall set
18 the hearing within 72 hours of his receiving the request. The owner, the person who
19 requested the hearing if someone other than the owner, the tower, and the person who
20 authorized the towing shall be notified of the time and place of the hearing.

21 (d) The owner, the tower, the person who authorized the towing, and any other
22 interested parties may present evidence at the hearing. The person authorizing the
23 towing and the tower may submit an affidavit in lieu of appearing personally, but the
24 affidavit does not preclude that person from also testifying.

25 (e) The only issue at this hearing is whether or not probable cause existed for the
26 towing. If the magistrate finds that probable cause did exist, the tower's lien continues.
27 If the magistrate finds that probable cause did not exist, the tower's lien is extinguished.

28 (f) Any aggrieved party may appeal the magistrate's decision to district court."
29 Sec. 2. This act shall become effective July 1, 1989.