

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 411
Committee Substitute Favorable 4/27/21

Short Title: Driving without Insurance/Tow Vehicle.

(Public)

Sponsors:

Referred to:

March 29, 2021

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE TOWING AND STORAGE OF A VEHICLE BEING OPERATED BY A DRIVER WHO IS CHARGED WITH FAILING TO MAINTAIN FINANCIAL RESPONSIBILITY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-313 reads as rewritten:

"§ 20-313. **Operation of motor vehicle without financial responsibility a misdemeanor.**

(a) Punishment. – On or after July 1, 1963, any owner of a motor vehicle registered or required to be registered in this State who shall operate or permit such motor vehicle to be operated in this State without having in full force and effect the financial responsibility required by this Article shall be guilty of a Class 3 misdemeanor.

(b) Evidence. – Evidence that the owner of a motor vehicle registered or required to be registered in this State has operated or permitted such motor vehicle to be operated in this State, coupled with proof of records of the Division of Motor Vehicles indicating that the owner did not have financial responsibility applicable to the operation of the motor vehicle in the manner certified by him for purposes of G.S. 20-309, shall be prima facie evidence that such owner did at the time and place alleged operate or permit such motor vehicle to be operated without having in full force and effect the financial responsibility required by the provisions of this Article.

(c) Towing and Storage. – At the time the owner of a motor vehicle is charged with a violation of subsection (a) of this section, the charging law enforcement officer shall have the motor vehicle towed and stored utilizing that law enforcement agency's current rotation system and regulations pertaining to towing and storage. A person in custody of a motor vehicle towed and stored pursuant to this subsection shall release the motor vehicle to its owner when both of the following conditions are met:

(1) The owner presents proof of financial responsibility required by this Article covering the motor vehicle for a period of at least six months to the charging law enforcement agency or the prosecuting district attorney. The charging law enforcement agency or prosecuting district attorney shall present the owner with documentation acknowledging that the owner has complied with the requirement set forth in this subdivision.

(2) The owner submits to the person in custody of the motor vehicle (i) the documentation provided by the charging law enforcement agency or prosecuting district attorney pursuant to subdivision (1) of this subsection and (ii) payment of any towing and storage fees.

(d) Notice to the Lienholder and Right to Take Possession. – Notwithstanding any other provision of this section, if a motor vehicle is towed and stored under subsection (c) of this



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1 section, the charging law enforcement agency shall contact the Division within one business day
2 to notify the Division that a vehicle has been towed and stored pursuant to subsection (c) of this
3 section and provide the name and address of where the motor vehicle is stored. The Division
4 must then notify any lienholder by first-class mail or electronic mail of the name and address of
5 where the motor vehicle is stored. The notification to the lienholder must be sent as soon as
6 practical but not later than 48 hours after receipt of the information from the law enforcement
7 agency.

8 (e) Release to Lienholder. – No sooner than 14 days after a motor vehicle is towed and
9 stored pursuant to subsection (c) of this section, a person in custody of a motor vehicle towed
10 and stored shall, upon presentation of a copy of the title or an electronic lien system title to the
11 motor vehicle showing a perfected security interest and without delay during business hours,
12 allow a lienholder access to the motor vehicle. Upon payment of any towing and storage fees, a
13 lienholder shall be allowed to take possession of the motor vehicle. The lienholder may thereafter
14 exercise any rights reserved to it under any note, contract, and security agreement.

15 (f) Failure of Owner to Obtain Release. – Notwithstanding G.S. 44A-2(d), if the owner
16 of a motor vehicle towed and stored pursuant to subsection (c) of this section does not obtain
17 release of the motor vehicle pursuant to subsection (c) or (g) of this section, or a lienholder has
18 not recovered possession of the motor vehicle pursuant to subsection (e) of this section, the
19 person in custody of the motor vehicle has a lien on the motor vehicle for the full amount of the
20 towing and storage costs incurred since the motor vehicle was towed and stored and may dispose
21 of the motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes.

22 (g) Release of Motor Vehicle to Innocent Owner. – An owner of a motor vehicle charged
23 with a violation of subsection (a) of this section may file a petition with the clerk of superior
24 court of the county where the vehicle was towed seeking a determination that the owner has not
25 had a lapse in financial responsibility. The clerk shall schedule a hearing before a judge in the
26 county no later than seven business days or as soon thereafter as may be feasible. Notice of the
27 hearing shall be given to the owner, the charging law enforcement agency, and the prosecuting
28 district attorney. If it is determined that there was no violation of subsection (a) of this section,
29 the judge shall enter an order releasing the motor vehicle to the innocent owner upon payment of
30 all towing and storing charges incurred as a result of the seizure. For purposes of this subsection,
31 an "innocent owner" is an owner of a motor vehicle registered in this State who has maintained
32 financial responsibility as required by G.S. 20-309 and who has not violated subsection (a) of
33 this section.

34 (h) Construction. – If the person charged with a violation of subsection (a) of this section
35 is also charged with a violation of law arising out of the same transaction that requires seizure of
36 the motor vehicle, nothing in this section shall be construed to alter or supersede the law requiring
37 seizure of the motor vehicle.

38 (i) Law Enforcement Liability for Motor Vehicles. – In addition to any other applicable
39 immunity or limitation on civil liability, a law enforcement officer who, acting in good faith,
40 charges a person with a violation of subsection (a) of this section and directs that a motor vehicle
41 is towed and stored pursuant to subsection (c) of this section shall not be subject to civil liability
42 for filing charges or for damages arising from the disposition of a motor vehicle towed and stored
43 pursuant to this section."

44 **SECTION 2.** This act becomes effective December 1, 2021, and applies to offenses
45 committed on or after that date.