

Amendment No. 5 to HB0972

Hicks G
Signature of Sponsor

AMEND Senate Bill No. 1068

House Bill No. 972*

by adding the following new appropriately designated subdivisions to § 55-31-102 in SECTION 1:

(_) "Contracted property" means private or public property, including a commercial parking lot or property owned by a public institution of higher education, that is located within the jurisdiction of a local government that has adopted an ordinance, resolution, regulation, or rule in compliance with § 55-31-201(c), and for which the owner or lessee of the property has entered into a contract with a licensed parking enforcement vendor for the enforcement of parking rules or restrictions on the property or a designated portion of the property;

(_) "Employee" means a natural person who is required to file a federal form W-2, wage and tax statement, with the federal internal revenue service for the compensation the natural person receives for work performed;

(_) "Licensed booting operator" means a natural person who:

(A) Is an employee of a licensed parking enforcement vendor;

(B) Holds a valid license issued by a local government pursuant to an ordinance, resolution, regulation, or rule adopted in compliance with § 55-31-201(c) and whose license has not expired, been suspended, or revoked; and

(C) Is employed to enforce parking rules or restrictions on contracted property;

(_) "Licensed parking enforcement vendor" means a person, other than a natural person, who:

(A) Holds a valid license issued by a local government pursuant to an ordinance, resolution, regulation, or rule adopted in compliance with § 55-31-201(c) and whose license has not expired, been suspended, or revoked;

(B) Is contracted to engage in parking enforcement activities on contracted property; and

(C) Has recorded the required surety bond with the register of deeds in the county where the vendor operates as required by the local government pursuant to an ordinance, resolution, rule, or regulation adopted in compliance with § 55-31-201(c);

(_) "Self-releasing device" means a vehicle immobilization device that:

(A) Allows the vehicle owner or vehicle operator to remove the device without third-party assistance;

(B) Is equipped with an automated or electronic release mechanism that enables removal of the device immediately upon payment of the fees described in § 55-31-201(b)(5);

(C) Permits the electronic processing of payment of the fees listed in § 55-31-201(b)(5) by credit card or debit card;

(D) Provides clear, written, and visual instructions for how to make payment of fees and for device removal; and

(E) Ensures the device can be safely removed by the vehicle owner or vehicle operator without damaging the vehicle or presenting a hazard;

AND FURTHER AMEND by deleting § 55-31-201 in SECTION 1 and substituting:

55-31-201. Booting.

(a) It is an offense for any person to boot a motor vehicle, including, but not limited to, a tractor or trailer, as those terms are defined in § 55-8-101, in this state, if the motor vehicle is clearly identifiable by:

(1) A United States department of transportation (USDOT) number issued by the federal motor carrier safety administration (FMCSA);

(2) A registration plate issued and attached to the motor vehicle described in § 55-4-113(a)(2); or

(3) A registration plate issued and attached to a trailer described in § 55-4-113(a)(5).

(b) It is an offense for any person to boot any other motor vehicle not described in subsection (a) unless:

(1) The vehicle immobilization device is a self-releasing device;

(2) The motor vehicle is located on a commercial parking lot or on contracted property;

(3) The person attaching the vehicle immobilization device is an employee of a commercial parking lot owner or is a licensed booting operator;

(4) The commercial parking lot or contracted property posts signage in conspicuous locations on the commercial parking lot or contracted property bearing notice that:

(A) Any motor vehicle not authorized to park on the lot or property is subject to booting;

(B) Is designed and placed in a manner that ensures clear visibility and readability by consumers parking on the lot or property;

(C) Is located at each designated entrance and exit of the lot or property;

(D) Contains:

(i) The phone number that a consumer can call for support with removing the vehicle immobilization device and that is monitored by a natural person twenty-four (24) hours per day, seven (7) days per week; and

(ii) The license number issued by the local government to the licensed parking enforcement vendor contracted to boot on the lot or property, if any; and

(E) This chapter protects consumers from booting violations and that violations may be reported to the attorney general and reporter;

(5) The cost to remove the vehicle immobilization device is not greater than the actual cost of the parking fees owed that led to the attachment of the vehicle immobilization device, if any, plus a vehicle immobilization device removal fee of not greater than seventy-five dollars (\$75.00); and

(6) A fee is not charged to remove a vehicle immobilization device to a person who had paid to park and who was improperly booted.

(c)

(1) On or after the effective date of this act, a local government may adopt an ordinance, resolution, regulation, or rule to provide for the licensure of licensed booting operators and licensed parking enforcement vendors; provided, that the ordinance, resolution, regulation, or rule complies with subdivision (c)(2).

(2) An ordinance, resolution, regulation, or rule adopted pursuant to subdivision (c)(1) must:

(A) Require the annual licensure of licensed booting operators and licensed parking enforcement vendors;

(B) Establish minimum identification standards for licensed booting operators to ensure that a person attaching a vehicle immobilization device to motor vehicles can be clearly identified as licensed by the local government;

(C) Issue a unique license number to each licensed booting operator and each licensed parking enforcement vendor;

(D) Establish a method by which consumers may file and track complaints against a licensed booting operator or licensed parking enforcement vendor;

(E) Provide for the suspension or revocation of a license for good cause shown;

(F) Require timely investigation of consumer complaints;

(G) Require, as a condition of licensure, that a licensed parking enforcement vendor file a surety bond in an amount of no less than two hundred fifty thousand dollars (\$250,000) with the local government, which must be recorded with the register of deeds in the county where the vendor operates;

(H) Ensure that each commercial parking lot or contracted property complies with the signage requirements of subdivision (b)(4);

(I) Provide for referral of any licensee to the attorney general and reporter, a law enforcement agency, or both, for a suspected violation of this chapter; and

(J) Maintain a publicly accessible registry of all licensed booting operators and licensed parking enforcement vendors, including license number, license status, and contact information.

(d) Notwithstanding subdivision (b)(5), if a vehicle owner or operator intentionally damages a vehicle immobilization device or fails to return the vehicle immobilization device to a clearly designated on-site storage location, the vehicle owner or operator may be subject to an additional fee not to exceed one hundred dollars (\$100).

(e) If an employee of a commercial parking lot owner or a licensed booting operator removes or causes the removal of a vehicle immobilization device from a vehicle that has been immobilized on the commercial parking lot or contracted property for the purpose of having the motor vehicle towed from the commercial parking lot or

contracted property, then the motor vehicle owner or operator must not be assessed the vehicle immobilization device removal fee permitted pursuant to subdivision (b)(5). This subsection (e) does not prohibit a towing company from charging the owner or operator of the motor vehicle any fee authorized by this chapter.

(f) In addition to the remedies in § 55-31-103, a person injured as a result of a violation of this section by a licensed booting operator or licensed parking enforcement vendor may file a claim against the surety bond required under subdivision (c)(2)(G) to recover actual damages incurred as a result of the violation. The surety must be liable up to the amount of the bond for any damages shown to have been caused by a licensee's unlawful or negligent conduct while acting within the scope of parking enforcement activities on a commercial parking lot or contracted property.