

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
1999 Legislative Session

Bill No. CB-23-1999

Chapter No. _____

Proposed and Presented by Council Member Scott

Introduced by _____

Co-Sponsors _____

Date of Introduction _____

BILL

1 AN ACT concerning

2 Towing from Private Property

3 For the purpose of providing that no officer, agent or employee of the County or towing
 4 company may act as an agent of a private property owner for the purpose of authorizing the
 5 impoundment of a vehicle, amending the hearing and notice provisions, amending impoundment
 6 provisions, and to revise gender specific language.

7 BY repealing and reenacting with amendments:

8 SUBTITLE 26. VEHICLES AND TRAFFIC.

9 Sections 26-142.04, 26-142.10, 26-168, and 26-169,

10 The Prince George's County Code

11 (1995 Edition, 1998 Supplement).

12 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
 13 Maryland, that Sections 26-142.04, 26-142.10, 26-168, and 26-169 of the Prince George's
 14 County Code be and the same are hereby repealed and reenacted with the following
 15 amendments:

16 SUBTITLE 26. VEHICLES AND TRAFFIC.

17 DIVISION 10. TOWING AND IMPOUNDMENT OF MOTOR VEHICLES
 18 FROM PRIVATE PROPERTY.

19 Sec. 26-142.04. Complaint by property owner.

20 (a) Any property owner or property owner's agent may, when a vehicle is parked without
 21 authorization upon [his] private property without [his] the consent of the owner, make a

1 complaint to an authorized towing company stating that [he] the property owner requests that
 2 said vehicle be removed from [his] the property. Said complaint shall be on a form approved by
 3 the Chief of Police and shall contain a statement made by the property owner or property owner's
 4 agent, under oath, that the vehicle which [he] the owner seeks to have removed was parked on
 5 [his] the property without [his] consent and that the vehicle was parked in an area from which a
 6 sign prohibiting unauthorized parking was clearly visible.

7 (b) An agent of a property owner, for the purpose of ordering the towing of an
 8 unauthorized vehicle, must not:

- 9 (1) be an officer, employee or agent of the County;
- 10 (2) be an officer, employee or agent of an authorized towing company; or
- 11 (3) have any financial interest in any authorized towing company or in the towing of
 12 the motor vehicle.

13 **Sec. 26-142.10. Hearing; determination; appeals.**

14 (a) Within twenty-one (21) days from the date notice is mailed by the County Police
 15 pursuant to Sections 26-142.08 or 26-142.09 of this Division, the owner or secured party of a
 16 vehicle which has been impounded may request that a hearing be held to determine whether the
 17 vehicle was properly towed and impounded under the provisions of this Division. The request
 18 for a hearing shall be made by filing a request-for-hearing form with the County Police.

19 (b) The hearing shall be held within three (3) working days after the request for a hearing
 20 is filed with the County Police. Notice of the place, date and time of the hearing shall be
 21 provided to the property owner or owner's agent who authorized the impoundment. The hearing
 22 shall be before a hearing officer designated by the County Attorney of Prince George's County.
 23 Such hearing officer shall not be a member of any state or local police department.

24 (c) Determination as to whether vehicle was parked illegally.

25 (1) If it is determined at the hearing that the vehicle was not parked on private
 26 property in violation of this Division, then the hearing officer shall issue an order that the vehicle
 27 be returned to the owner and that such owner is not liable for any of the towing, storage, or other
 28 charges incurred by the County Police in connection with the impoundment. If the owner has
 29 already paid such towing, storage, and other charges to the County Police, he shall be entitled to
 30 receive reimbursement of all such payments from the County Police which, in turn, shall be
 31 entitled to payment of all such charges from the property owner who filed the complaint which

1 caused the towing and impoundment of the vehicle.

2 (2) If the hearing officer shall determine that the vehicle was illegally parked on
3 private property in violation of this Division, then the owner of the vehicle may not reclaim it
4 until he has paid to the County Police all towing and storage charges and costs of notice incurred
5 by the County Police.

6 **SUBTITLE 26. VEHICLES AND TRAFFIC.**

7 **DIVISION 18. IMPOUNDMENT.**

8 **Sec. 26-168. Impoundment; notice to owner.**

9 (a) Within two (2) full County working days after impoundment of any vehicle pursuant to
10 Section 26-166 (a)(1) through [(7)] (8) of this Code, the police department or Parking Authority
11 shall mail a notice by registered mail to the last known registered owner of the vehicle and to
12 each secured party, as may be disclosed by the vehicle license number, if such be obtainable, and
13 to any other person who claims the right to possession of the vehicle, if such a claim is actually
14 known to an officer, agent, or employee of the police department who has knowledge of the
15 impoundment. If a police officer who has knowledge of the impoundment has reason to believe
16 that an owner or one who claims the right to possession of the vehicle is residing or is in custody
17 at some different address which is known to the officer, a copy of the notice shall also be mailed
18 by regular mail to such owner or claimant at the known address. If a vehicle is redeemed prior to
19 the mailing of such notice, then notice need not be mailed.

20 (b) The notice shall contain the following:

- 21 (1) A statement as to the reason why the vehicle has been impounded;
- 22 (2) The year, make, model, and vehicle identification number of the vehicle;
- 23 (3) The location of the impoundment facility where the vehicle is being held;
- 24 (4) A statement that the vehicle owner or secured party has the right to a hearing to
25 contest the validity of the impoundment at any time within twenty-one (21) calendar days of the
26 date of such notice by filing a request for hearing with the Police Department on a request form
27 which shall be included with such notice; and
- 28 (5) A statement that the owner or the secured party may have a right, depending upon
29 the reason for the impoundment, to reclaim the vehicle upon payment of all outstanding parking
30 violations and all towing and storage charges resulting from the storage and towing of the
31 vehicle.

1 **Sec. 26-169. Same; hearings.**

2 (a) Within twenty-one (21) calendar days from the date notice is mailed by the Police
3 Department pursuant to Section 26-168, the owner or secured party of a vehicle which has been
4 impounded may request that a hearing be held to determine whether there was probable cause to
5 impound the vehicle. The request for a hearing shall be made by filing a request for hearing
6 form with the Police Department.

7 (b) A hearing shall be conducted before a hearing officer designated by the County
8 Attorney within twenty-four (24) hours of receipt of a written demand therefor from the person
9 seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays,
10 and County holidays are to be excluded from the twenty-four (24) hour period. Notice of the
11 place, dated and time of the hearing shall be provided to the property owner or owner's agent
12 who authorized the impoundment for an impoundment for a violation of Section 142.04.

13 (c) The sole issue before the hearing officer shall be whether there was probable cause to
14 impound the vehicle in question. "Probable cause to impound" shall mean such a state of facts as
15 would lead a person with ordinary care and prudence to believe that there was sufficient breach
16 of local, state, or federal law to grant legal authority for the removal of the vehicle.

17 (d) The hearing officer shall conduct the hearing in an informal manner so as to provide
18 fundamental fairness and shall not be bound by formal rules of evidence. The person demanding
19 the hearing shall carry the burden of establishing that such person has the right to possession of
20 the vehicle. The police department or the person who authorized an impoundment for a violation
21 of Section 142.04 shall carry the burden of establishing that there was probable cause to impound
22 the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a
23 written decision which shall be made available to all interested parties. The hearing officer's
24 decision in no way affects any criminal proceeding in connection with the impoundment in
25 question and any criminal charges shall only be challenged in the appropriate court. The
26 decision of the hearing officer is final. Failure of the registered or legal owner to request or
27 attend a scheduled hearing shall be deemed a waiver of the right to such hearing.

SECTION 2. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this _____ day of _____, 1999.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
M. H. Jim Estepp
Chairman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.