

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 192
Local Government Committee Substitute Adopted 3/15/89
House Committee Substitute Favorable 7/12/89

Short Title: Regulate Junked Cars.

(Public)

Sponsors:

Referred to:

February 16, 1989

A BILL TO BE ENTITLED

AN ACT TO ALLOW COUNTIES AND MUNICIPALITIES TO REGULATE THE
ABANDONMENT OF JUNKED MOTOR VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 153A-132.2 reads as rewritten:

"§ 153A-132.2. Regulation, restraint and prohibition of abandonment of junked motor vehicles.

(a) ~~Dare, Halifax, Wake, Iredell, Cabarrus, Moore, Alamance, Ashe, Bladen, Brunswick, Burke, Caldwell, Cumberland, Davie, Gaston, Guilford, Henderson, Jackson, Lincoln, New Hanover, Pender, Rockingham, Rowan, Surry, Wayne, Stokes, Alleghany, Carteret and Columbus Counties~~ A county may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the county's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing and disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon counties. Nothing in this section shall be construed to authorize a county to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

1 For purposes of this section, the term 'junked motor vehicle' means a vehicle that
2 does not display a current license plate and that:

- 3 (1) Is partially dismantled or wrecked; or
- 4 (2) Cannot be self-propelled or moved in the manner in which it originally
5 was intended to move; or
- 6 (3) Is more than five years old and appears to be worth less than one
7 hundred dollars (\$100.00).

8 (a1) Any junked motor vehicle found to be in violation of an ordinance adopted
9 pursuant to this section may be removed to a storage garage or area, but no such vehicle
10 shall be removed from private property without the written request of the owner, lessee,
11 or occupant of the premises unless the board of commissioners or a duly authorized
12 county official or employee finds that the aesthetic benefits of removing the vehicle
13 outweigh the burdens imposed on the private property owner. Such finding shall be
14 based on a balancing of the monetary loss of the apparent owner against the
15 corresponding gain to the public by promoting or enhancing community, neighborhood
16 or area appearance. The following, among other relevant factors, may be considered:

- 17 (1) Protection of property values;
- 18 (2) Promotion of tourism and other economic development opportunities;
- 19 (3) Indirect protection of public health and safety;
- 20 (4) Preservation of the character and integrity of the community; and
- 21 (5) Promotion of the comfort, happiness, and emotional stability of area
22 residents.

23 (a2) The county may require any person requesting the removal of a junked or
24 abandoned motor vehicle from private property to indemnify the county against any
25 loss, expense, or liability incurred because of the removal, storage, or sale thereof.
26 When an abandoned or junked motor vehicle is removed, the county shall give notice to
27 the owner as required by G.S. 20-219.11(a) and (b).

28 (a3) Hearing Procedure. – Regardless of whether a county does its own removal
29 and disposal of motor vehicles or contracts with another person to do so, the county
30 shall provide a hearing procedure for the owner. For purposes of this subsection, the
31 definitions in G.S. 20-219.9 apply.

- 32 (1) If the county operates in such a way that the person who tows the
33 vehicle is responsible for collecting towing fees, all provisions of
34 Article 7A, Chapter 20, apply.
- 35 (2) If the county operates in such a way that it is responsible for collecting
36 towing fees, it shall:
 - 37 a. Provide by contract or ordinance for a schedule of reasonable
38 towing fees,
 - 39 b. Provide a procedure for a prompt fair hearing to contest the
40 towing,
 - 41 c. Provide for an appeal to district court from that hearing,
 - 42 d. Authorize release of the vehicle at any time after towing by the
43 posting of a bond or paying of the fees due, and

e. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the city may destroy it.

(a4) Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

(b) Any ordinance adopted pursuant to this section shall include a prohibition against removing or disposing of any motor vehicle that is used on a regular basis for business or personal use."

Sec. 2. G.S. 160A-303.2 as amended by Chapter 3 of the 1989 Session Laws reads as rewritten:

"§ 160A-303.2. Regulation of abandonment of junked motor vehicles—~~in municipalities in certain counties.~~

(a) ~~A municipality in Dare, Alamance, Ashe, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Cumberland, Davie, Gaston, Guilford, Halifax, Henderson, Iredell, Jackson, Lincoln, Mecklenburg, Moore, New Hanover, Pender, Rockingham, Rowan, Surry, Wake, Wayne, Stokes, Alleghany, Carteret, Columbus or Union Counties~~ may by ordinance regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the municipality's ordinance-making jurisdiction upon a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing or disposing of junked motor vehicles subject to the ordinance according to the procedures prescribed in this section. The authority granted by this section shall be supplemental to any other authority conferred upon municipalities. Nothing in this section shall be construed to authorize a municipality to require the removal or disposal of a motor vehicle kept or stored at a bona fide 'automobile graveyard' or 'junkyard' as defined in G.S. 136-143.

For purposes of this section, the term 'junked motor vehicle' means a vehicle that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00).

(a1) Any junked motor vehicle found to be in violation of an ordinance adopted pursuant to this section may be removed to a storage garage or area, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the council or a duly authorized city official or employee finds that the aesthetic benefits of removing the vehicle outweigh the burdens

1 imposed on the private property owner. Such finding shall be based on a balancing of
2 the monetary loss of the apparent owner against the corresponding gain to the public by
3 promoting or enhancing community, neighborhood or area appearance. The following,
4 among other relevant factors, may be considered:

- 5 (1) Protection of property values;
- 6 (2) Promotion of tourism and other economic development opportunities;
- 7 (3) Indirect protection of public health and safety;
- 8 (4) Preservation of the character and integrity of the community; and
- 9 (5) Promotion of the comfort, happiness, and emotional stability of area
10 residents.

11 (a2) The city may require any person requesting the removal of a junked or
12 abandoned motor vehicle from private property to indemnify the city against any loss,
13 expense, or liability incurred because of the removal, storage, or sale thereof. When an
14 abandoned or junked motor vehicle is removed, the city shall give notice to the owner as
15 required by G.S. 20-219.11(a) and (b).

16 (a3) Hearing Procedure. – Regardless of whether a city does its own removal and
17 disposal of motor vehicles or contracts with another person to do so, the city shall
18 provide a hearing procedure for the owner. For purposes of this subsection, the
19 definitions in G.S. 20-219.9 apply.

- 20 (1) If the city operates in such a way that the person who tows the vehicle
21 is responsible for collecting towing fees, all provisions of Article 7A,
22 Chapter 20, apply.
- 23 (2) If the city operates in such a way that it is responsible for collecting
24 towing fees, it shall:
 - 25 a. Provide by contract or ordinance for a schedule of reasonable
26 towing fees,
 - 27 b. Provide a procedure for a prompt fair hearing to contest the
28 towing,
 - 29 c. Provide for an appeal to district court from that hearing,
 - 30 d. Authorize release of the vehicle at any time after towing by the
31 posting of a bond or paying of the fees due, and
 - 32 e. Provide a sale procedure similar to that provided in G.S. 44A-4,
33 44A-5, and 44A-6, except that no hearing in addition to the
34 probable cause hearing is required. If no one purchases the
35 vehicle at the sale and if the value of the vehicle is less than the
36 amount of the lien, the city may destroy it.

37 (a4) Any person who removes a vehicle pursuant to this section shall not be held
38 liable for damages for the removal of the vehicle to the owner, lienholder or other
39 person legally entitled to the possession of the vehicle removed; however, any person
40 who intentionally or negligently damages a vehicle in the removal of such vehicle, or
41 intentionally or negligently inflicts injury upon any person in the removal of such
42 vehicle, may be held liable for damages.

1 (b) Any ordinance adopted pursuant to this section shall include a prohibition
2 against removing or disposing of any motor vehicle that is used on a regular basis for
3 business or personal use."

4 Sec. 3. G.S. 20-219.10 reads as rewritten:

5 **"§ 20-219.10. Coverage of Article.**

6 (a) This Article applies to each towing of a vehicle that is carried out pursuant to
7 G.S. 115C-46(d) or G.S. 143-340(19), or pursuant to the direction of a law-enforcement
8 officer except:

9 (1) This Article applies to towings pursuant to G.S. 115D-21, 116-44.4,
10 116-229, 153A-132, 153A-132.2, ~~and 160A-303~~, and 160A-303.2 only
11 insofar as specifically provided;

12 (2) This Article does not apply to a seizure of a vehicle under G.S. 14-
13 86.1, 18B-504, 90-112, 113-137, or to any other seizure of a vehicle
14 for evidence in a criminal proceeding or pursuant to any other statute
15 providing for the forfeiture of a vehicle;

16 (3) This Article does not apply to a seizure of a vehicle pursuant to a levy
17 under execution.

18 (b) A person who authorizes the towing of a vehicle covered by this Article, G.S.
19 115D-21, 116-44.4, 116-229, 153A-132, ~~or 153A-132.2~~, 160A-303 or 160A-303.2 is a
20 legal possessor of the vehicle within the meaning of G.S. 44A-1(1)."

21 Sec. 4. This act is effective upon ratification and does not affect any
22 ordinance passed prior to the effective date of this act.