



# HOUSE BILL 411: Driving without Insurance/Tow Vehicle.

2021-2022 General Assembly

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<b>Committee:</b>	House Judiciary 1. If favorable, re-refer to Transportation. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 27, 2021
<b>Introduced by:</b>	Rep. Cleveland	<b>Prepared by:</b>	Brad Krehely
<b>Analysis of:</b>	PCS to First Edition H411-CSR-N-12		Committee Co-Counsel

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**OVERVIEW:** *House Bill 411 would require the towing and storage of a motor vehicle when the owner is charged with operating or allowing his or her vehicle to be operated without insurance and outlines various procedures relating to disposing of the motor vehicle. The Proposed Committee Substitute makes technical changes only.*

**CURRENT LAW:** G.S. 20-313 sets forth punishment and evidence requirements for owners of vehicles registered in this State who are operating or permitting their vehicles to be operated without insurance. Violators are guilty of a Class 3 misdemeanor.

## **BILL ANALYSIS:**

**Section 1** would amend G.S. 20-313 by adding the following new subsections:

- **Subsection (c)** would require a law enforcement officer, at the time an owner is charged for not having insurance, to have the vehicle towed and stored, and a stored vehicle would be released to the owner when both of the following conditions were met:
  - The owner provides proof of at least six months of insurance coverage to the charging law enforcement agency or the prosecuting district attorney. Either entity would then provide documentation acknowledging compliance by the owner.
  - The owner presents the compliance document to the person in custody of the stored vehicle and pays any towing and storage fees.
- **Subsection (d)** would require the charging law enforcement agency to contact the Division of Motor Vehicles (Division) within one business day to inform the Division that a vehicle has been towed and to provide the name and address where the vehicle is stored. The Division must notify any lienholder by first-class mail or email regarding where the vehicle is stored no later than 48 hours after receiving the information from the law enforcement agency.
- **Subsection (e)** would provide that no sooner than 14 days after a motor vehicle is towed and stored, a person in custody of the vehicle must allow a lienholder access to the motor vehicle during business hours upon a showing that the lienholder has title to the vehicle with a perfected security interest. The lienholder must be allowed to take possession of the vehicle if the lienholder pays any towing and storage fees.
- **Subsection (f)** would provide that if the owner of the vehicle does not obtain release of the vehicle or a lienholder has not recovered possession of the vehicle, then the person in custody of the vehicle

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has a lien for full amount of towing and storage costs and may dispose of the vehicle as allowed by statutes governing possessory liens on personal property.

- **Subsection (g)** would allow the owner of a motor vehicle to petition the clerk of superior court of the county where the vehicle was towed for a determination that there was no lapse in insurance. The clerk must schedule a hearing no later than seven business days or as soon thereafter as may be feasible. Notice of the hearing must be given to the owner, the charging law enforcement agency, and the prosecuting district attorney. If the judge determines that there was no violation, the judge must enter an order releasing the motor vehicle to the innocent owner upon payment of all towing and storing charges.
- **Subsection (h)** would provide that if the owner is charged with a violation arising out of the same transaction that also requires seizure of the vehicle, nothing in the bill would alter or supersede that law.
- **Subsection (i)** would provide that a law enforcement officer acting in good faith would not be subject to civil liability for charging a person with a violation or for damages arising from towing and storing a motor vehicle under the statute.

**EFFECTIVE DATE:** The act would become effective December 1, 2021, and would apply to offenses committed on or after that date.

Howard Marsilio, Staff Attorney for the Legislative Analysis Division, contributed to the drafting of this summary.