

HOUSE No. 4170

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act RELATIVE TO THE CONSUMER PROTECTION AND SAFETY OF PERSONS
TOWED IN THE COMMONWEALTH..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Section 6B of chapter 159B of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by inserting after the third paragraph the following
3 paragraph;

4 Notwithstanding any General or special law, or rule or regulation to the contrary, an
5 owner and any lien holder of a motor vehicle which has been involuntarily towed under the
6 provisions of this section, by any carrier with a certificate of authority to transport property for
7 hire, may pay for any and all towing charges, storage fees and any other fees associated with any
8 bill for the towing or storage of any such vehicle either by cash, by debit card or by a major
9 credit card backed by any federal or state chartered bank, provided, however, it shall not include a
10 credit card issued by a retail establishment the use of which is exclusively limited for purchases
11 at said establishment. Failure of any tow truck operator or motor vehicle storage facility to
12 comply with the provisions of this paragraph shall result in a one hundred dollar (\$100.00) fine,
13 payable to the department, for each such non-compliance and complete reimbursement of all

towing and storage charges and fees to the owner and any lien holder or any authorized individual who attempted to pay said fees pursuant to this paragraph.

SECTION 2. Section 6B of chapter 159B of the General Laws, as appearing in the 2006 Official Edition, is hereby further amended by inserting after the fourth paragraph the following

paragraphs;

Notwithstanding any General or special law, or any rule or regulation to the contrary, no person may own or operate a business which engages in the involuntary towing of a motor vehicle in the Commonwealth without holding a certificate to transport property for hire issued by the Department of Public Utilities. Prior to the granting of any such certificate, whether a first time application or any renewal thereof, the Department of Public Utilities shall have submitted and received the results of a request with the state criminal history systems board to conduct a Criminal Offender Records Information background check on said person pursuant to the provision of sections 168 to section 178B of Chapter of the General Laws. Said person shall not own or operate any tow truck used to tow motor vehicles in the Commonwealth, and the department shall not issue such certificate, if such person as a result of said background check is a sex offender, as defined in section 178C of chapter 6, or who has been convicted of the use, sale, manufacture or distribution of or possession with intent to distribute any of the controlled substances which are unlawful under the provisions of section 31 of chapter 94C, or to any person who has been convicted of operating a motor vehicle while under the influence of intoxicating liquor or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of said chapter 94C, or of the vapors of glue, within the preceding five year

36 period under the provisions of section 24 of said chapter. Any person who has consented to have
37 any such case disposed of under the provisions of section 24D of Chapter 94C shall, for the
38 purposes of this section, be deemed to have been convicted. If a person, owning or operating a
39 business certified by this paragraph, is found by the department to have knowingly operated such
40 a business in the towing of a motor vehicle in the Commonwealth and who has been convicted of
41 any of the aforementioned offenses, the department may, after a hearing before said department,
42 suspend or revoke said certificate for such period of time as said department may determine. Said
43 person shall submit to the department, when applying for such certificate or for the renewal
44 thereof, the fee required by the provisions of section 172A of chapter 6 of the General laws and
45 by the criminal history systems board for such criminal offender record information.

46
47 Notwithstanding any General or special law, or any rule or regulation to the contrary,
48 prior to permitting any person, whether as an employee or a volunteer of said owner, to operate a
49 motor vehicle used in the towing of motor vehicles in the Commonwealth, said owner shall
50 submit to the chief of police in the city or town, wherein such tow truck has been registered with
51 the Massachusetts Registry of Motor Vehicles a request with the state criminal history systems
52 board to conduct a Criminal Offender Records Information background check on said employee
53 or volunteer pursuant to the provision of sections 168 to section 178B of Chapter of the General
54 Laws . Said owner shall not hire as an employee, nor permit a person to volunteer, to operator
55 any tow truck used to tow motor vehicles in the Commonwealth owned or under supervision said
56 owner if such employee or volunteer as a result of said background check is a sex offender, as
57 defined in section 178C of chapter 6, or who has been convicted of the use, sale, manufacture or
58 distribution of or possession with intent to distribute any of the controlled substances which are

59 unlawful under the provisions of section 31 of chapter 94C, or to any person who has been
60 convicted of operating a motor vehicle while under the influence of intoxicating liquor or of
61 marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of said
62 chapter 94C, or of the vapors of glue, within the preceding five year period under the provisions
63 of section 24 of said chapter. Any person who has consented to have any such case disposed of
64 under the provisions of section 24D of Chapter 94C shall, for the purposes of this section, be
65 deemed to have been convicted. If a person,

66 owning or operating a business certified by this section, is found by the department to
67 have knowingly hired an employee, or used as a volunteer, to work for said person in the towing
68 of a motor vehicle in the Commonwealth and who has been convicted of any of the
69 aforementioned offenses, the department may, after a hearing before said department, suspend or
70 revoke said certificate for such period of time as said department may determine. Said person
71 shall submit said chief, at the time of each such request, the fee required by the provisions of
72 section 172A of chapter 6 of the General laws and by the criminal history systems board for such
73 criminal offender record information for each person they seek to hire as an employee, or use as
74 a volunteer, to engage in the towing of motor vehicles in the Commonwealth,.

75 In likewise manner, notwithstanding any General or special law, or any rule or regulation
76 to the contrary, no person may be licensed to own or operate, or hired to work or volunteer at a
77 motor vehicle storage facility in the Commonwealth to which motor vehicles are involuntarily
78 towed, under the provisions of this section , until said owner shall have submitted to the chief of
79 police in the city or town, wherein such facility is located, a request with the state criminal
80 history systems board to conduct a Criminal Offender Records Information background check on
81 said owner or operator, and for all persons hired as a employee or used as a volunteer, pursuant

to the provision of sections 168 to section 178B of Chapter of the General Laws . Said person shall not own, operate, employ or use as a volunteer any person who if as a result of said background check any such person is a sex offender, as defined in section 178C of chapter 6, or who has been convicted of the use, sale, manufacture or distribution of or possession with intent to distribute any of the controlled substances which are unlawful under the provisions of section 31 of chapter 94C, or to any person who has been convicted of operating a motor vehicle while under the influence of intoxicating liquor or of marijuana, narcotic drugs, depressants or stimulant substances, all as defined in section 1 of said chapter 94C, or of the vapors of glue, within the preceding five year period under the provisions of section 24 of said chapter. Any person who has consented to have any such case disposed of under the provisions of section 24D of Chapter 94C shall, for the purposes of this section, be deemed to have been convicted. If a person owning or operating a business, licensed by a municipality to operate in said municipality as a motor vehicle storage facility, is found by the local licensing authority of said municipality to have knowingly hired an employee, or used as a volunteer, to work for said person in such a facility and who has been convicted of any of the aforementioned offenses, said authority may, after a hearing before said authority, suspend or revoke said license for such period of time as said authority determine. Said person shall submit to said chief of police, at the time of each such request, the fee required by the provisions of section 172A of chapter 6 of the General laws and by the criminal history systems board for such criminal offender record information for each person who seeks own, operate, work or volunteer at said motor vehicle storage facility.

SECTION 3. Section 25 of chapter 255 of the General Laws, as appearing in the 2008

Official Edition, is hereby amended by inserting, after the first paragraph, the following

paragraph:-

Whenever a motor vehicle has been towed to motor vehicle storage facility, under the provisions of section 6B of chapter 159B of the General laws, the owner of said facility shall, after consultation with the police department in the city or town wherein said facility is located, request the name of the owner and any lien holder and the address of the owner and lien holder(s) of the vehicle towed to said facility. Said owner shall notify both the owner and lien holder(s) of record, as listed in the Massachusetts Registry of Motor Vehicle records that he is in possession of said motor vehicle. Such notification shall be sent via certified mail no later than 15 days from the date of the receipt of said vehicle and shall state the name of the vehicle owner, the date possession was obtained, the make and model of the vehicle and an itemization of the storage charges and any other duly authorized work performed on the vehicle. If notification is not provided as indicated in this paragraph then any charges shall not exceed the total sum of 10 days of storage charges and any other work performed as listed in the notification.

SECTION 4. Section 26 of chapter 255 of the General Laws, as appearing in the 2008 Official

Edition, is hereby amended by deleting in line 6 the word “twenty-five”, and inserting in line 7,

after “within ten days”, the following text:-

or in the case of a lien described in section twenty-five within 15 days of the date of the letter notifying both the owner and the lien holder as referenced in section twenty-five,

124 SECTION 4. Section 26 of chapter 255 of the General Laws, as appearing in the 2008
125 Official

126 Edition, is hereby amended by adding, at the end of the first sentence in line 13, the
127 following

128 sentence:-

129 As part of said civil action if notification is not provided to owner and the lien holder as
130 provided for in section twenty-five and this section then any lien described in section twenty-five
131 shall not exceed the total sum of 10 days of storage charges, and any other work performed as
132 listed in the notifications required by those sections.

133 SECTION 5. Section 39A of chapter 255 of the General Laws, as appearing in the 2008
134 Official

135 Edition, is hereby amended by inserting, at the end of the second paragraph, the
136 following

137 sentence:-

138 The owner of the garage shall also notify the both the owner and any lien holder of its
139 possession of the vehicle in the manner referenced in section 25 of chapter 255 of the General
140 laws.

141 SECTION 6. Section 39A of chapter 255 of the General Laws, as appearing in the 2008
142 Official

143 Edition, is hereby amended by inserting in line 20 after “If the registered owner” the
144 following

145 text:- and lien holder of record

146 SECTION 7. Section 39A of chapter 255 of the General Laws, as appearing in the 2008
147 Official

148 Edition, is hereby amended by inserting in line 20 after “assents” the following text: in
149 writing

150 SECTION 8. Section 39A of chapter 255 of the General Laws, as appearing in the 2008
151 Official

152 Edition, is hereby amended by inserting in line 24 after “motor vehicle” the following
153 text: and

154 lien holder of record

155 SECTION 9. Section 39A of chapter 255 of the General Laws, as appearing in the 2008
156 Official

157 Edition, is hereby amended by inserting in line 29 after “owner” the following text:- and
158 lien

159 holder of record.

160 SECTION 10. Section 39A of chapter 255 of the General Laws, as appearing in the 2008

161 Official Edition, is hereby amended by deleting in line 29 the word “has” and replacing it
162 with

163 the word: “have”

164 SECTION 11. Section 39A of chapter 255 of the General Laws, as appearing in the 2008

165 Official Edition, is hereby amended by deleting in line 30 the word “may” and replacing
166 it with

167 the word “shall”

168 SECTION 12. Section 39A of chapter 255 of the General Laws, as appearing in the 2008

169 Official Edition, is hereby amended by inserting in line 30 after “owner” the following

170 text:-

171 and lien holder of record.

172 SECTION 13. Section 39A of chapter 255 of the General Laws, as appearing in the 2008

173 Official Edition, is hereby amended by deleting in line 31 the word “his” and replacing it
174 with

175 the word “their”

176 SECTION 14. Section 39A of chapter 255 of the General Laws, as appearing in the 2008

177 Official Edition, is hereby amended by inserting in line 33 after “owner” the following

178 text:-

179 and lien holder of record.

180 SECTION 15. Section 39A of chapter 255 of the General Laws, as appearing in the 2008
181 Official Edition, is hereby amended by inserting in line 42 after “owner” the following
182 text:-
183 and lien holder of record.