

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 2283

4  
5 By: Representative P. Malone  
6  
7

## For An Act To Be Entitled

8  
9 "AN ACT TO PROHIBIT ANY JUDGE OF A MUNICIPAL COURT,  
10 ANY STATE, COUNTY, OR MUNICIPAL LAW ENFORCEMENT AGENCY  
11 OR OFFICER, OR ANY TOWING OR RECOVERY BUSINESS FROM  
12 SEIZING, IMPOUNDING, DETAINING, OR KEEPING IN CUSTODY  
13 ANY AUTOMOBILE, TRUCK OR OTHER MOTOR VEHICLE FOR THE  
14 ENFORCEMENT OF ANY STATE MOTOR VEHICLE OR TRAFFIC LAW  
15 WITHOUT THE SPECIFIC AUTHORITY OF STATE LAW OR THE  
16 ARKANSAS RULES OF CRIMINAL PROCEDURE; AND FOR OTHER  
17 PURPOSES. "

## Subtitle

18  
19  
20 "TO PROHIBIT A MUNICIPAL COURT, LAW  
21 ENFORCEMENT AGENCY, OR A TOWING BUSINESS  
22 FROM SEIZING OR IMPOUNDING ANY MOTOR  
23 VEHICLE WITHOUT SPECIFIC AUTHORITY OF  
24 STATE LAW. "

25  
26  
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. In accordance with the principle stated in Article 2,  
30 Section 22 of the Arkansas Constitution of 1874 that the right to property in  
31 Arkansas is "before and higher than any constitutional sanction", the Arkansas  
32 General Assembly states the purpose of this act is to guarantee that the  
33 citizens of Arkansas should be free to feel their personal property will be  
34 free from any unreasonable detention and impoundment by government authorities  
35 and by those acting under the color of government authority and that their  
36 property should be subject to their control and not be detained, impounded, or

1 held in custody, or taxed for the cost of doing so, without some procedural  
2 recourse or other due process of law.

3  
4 SECTION 2. On and after the effective date of this act, the judges of  
5 the municipal courts of Arkansas shall not have any authority to order the  
6 seizure, impoundment, detention, or any other custodial taking of any  
7 automobile, truck, semi truck, truck and trailer, or any other motor vehicle  
8 for the enforcement of any Arkansas traffic or motor vehicle laws, except  
9 where the seizure, impoundment, detention, or custody of the motor vehicle is  
10 specifically authorized under a specific procedure by a state law or is taken  
11 in to custody in compliance with the Arkansas Rules of Criminal Procedure.

12  
13 SECTION 3. On and after the effective date of this act, no law  
14 enforcement authority or officer of the State of Arkansas, no county sheriff  
15 or sheriff's deputy, no municipal police authority or police officer, or city  
16 or town marshal, and no constable shall have any authority to seize, impound,  
17 detain, or perform any other custodial taking of any automobile, truck,  
18 semi truck, truck and trailer, or any other motor vehicle for the enforcement  
19 of any Arkansas traffic or motor vehicle laws, except where the seizure,  
20 impoundment, detention, or custody of the motor vehicle is specifically  
21 authorized under a specific procedure by a state law, where the motor vehicle  
22 is taken into custody pursuant to an arrest, or where the motor vehicle is  
23 taken into custody in compliance with the Arkansas Rules of Criminal  
24 Procedure.

25  
26 SECTION 4. On and after the effective date of this act, no person,  
27 firm, corporation, or other entity under contract to or under order of any  
28 state or a local government law enforcement agency shall tow, haul, impound,  
29 detain, or otherwise take into custody any automobile, truck, semi truck, truck  
30 and trailer, or any other motor vehicle under the authority of the state or  
31 local government for the enforcement of any Arkansas traffic or motor vehicle  
32 laws, except where the seizure, impoundment, detention, or custody of the  
33 motor vehicle is specifically authorized under a specific procedure by a state  
34 law, where the motor vehicle is taken into custody pursuant to an arrest, or  
35 where the motor vehicle is taken into custody in compliance with the Arkansas  
36 Rules of Criminal Procedure.

1  
2 SECTION 5. (a) When any automobile, truck, semi truck, truck and trailer,  
3 or any other motor vehicle is found in an unauthorized or posted area for no  
4 parking on private or public property, the owner of the private or public  
5 property, or an agent, can order the immediate removal of any unattended  
6 vehicle from its property.

7 (b) As used in this section, "unauthorized or posted area for no  
8 parking" means an area or particular parking space where a specific  
9 automobile, truck, semi truck, truck and trailer, or any other motor vehicle is  
10 not authorized to park and which is posted with a warning sign or an area or  
11 particular space which is designated by the owner of the property for no  
12 parking of vehicles and which is posted with a warning sign. The warning sign  
13 shall include regulatory language, such as "AUTHORIZED PARKING ONLY - TOWING  
14 ENFORCED" or "NO PARKING AREA (OR SPACE) -TOWING ENFORCED". Further, the  
15 warning sign shall contain the name, location, and telephone number of the  
16 towing-storage firm requested to remove the vehicle or it shall state that the  
17 information is available on request and shall contain the name of the property  
18 owner or agent who may be contacted for the information.

19 (c) Upon request, any owner of private or public property, or an agent,  
20 who orders a removal pursuant to this section shall provide to the owner or  
21 person in charge of the removed vehicle the name, location, and telephone  
22 number of the towing-storage firm requested to remove and store the vehicle.

23 (d) Any person, firm, corporation, or other entity in the business of  
24 towing and storing motor vehicles which removes a vehicle from private or  
25 public property under an order from the owner or his agent who has complied  
26 with the requirements of this section shall be liable to any person for any  
27 damages for towing or detaining his or her vehicle.

28  
29 SECTION 6. (a) Except as provided for in Section 5 of this act, if any  
30 person, firm, corporation, or other entity in the business of towing and  
31 storing any automobile, truck, semi truck, truck and trailer, or any other  
32 motor vehicle shall tow, haul, carry away, or otherwise detain any motor  
33 vehicle in which he has no property interest or right, which is not his own,  
34 or shall wilfully detain the motor vehicle not his own without permission,  
35 then the person, firm, corporation, or other entity so detaining the motor  
36 vehicle shall be liable to pay the owner treble the value of the motor vehicle

1 so towed, hauled, carried away, or otherwise detained, with costs and attorney  
2 fees.

3 (b) If on the trial of any action brought under the provisions of this  
4 section it shall appear that the defendant person, firm, corporation, or other  
5 entity had reasonable cause to believe that the motor vehicle which was towed,  
6 hauled, carried away, or otherwise detained was taken and held under specific  
7 authority of state law or was taken by consent of the owner then the owner  
8 shall recover single damages only, with costs and attorney fees.

9  
10 SECTION 7. All provisions of this act of general and permanent nature  
11 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
12 Revision Commission shall incorporate the same in the Code.

13  
14 SECTION 8. If any provisions of this act or the application thereof to  
15 any person or circumstance is held invalid, the invalidity shall not affect  
16 other provisions or applications of the act which can be given effect without  
17 the invalid provisions or application, and to this end the provisions of this  
18 act are declared to be severable.

19  
20 SECTION 9. All laws and parts of laws in conflict with this act are  
21 hereby repealed.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36