

**CITY OF BALTIMORE
COUNCIL BILL 11-0695
(First Reader)**

Introduced by: Councilmembers Curran, Henry, Cole, Branch, Reisinger, Welch, Clarke,
President Young, Councilmembers Holton, Middleton

Introduced and read first time: May 2, 2011

Assigned to: Judiciary and Legislative Investigations Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Police Department, Department of
Transportation, Baltimore City Parking Authority Board, Department of Finance

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Surcharge on Trespass Towing**

3 FOR the purpose of imposing a surcharge on towing companies who engage in the trespass
4 towing of vehicles; providing for the administration and collection of the surcharge; defining
5 certain terms; prohibiting certain activities; imposing certain penalties; providing for a
6 special effective date; and generally relating to surcharges on trespass towing activities.

7 BY adding

8 Article 28 - Taxes

9 Section(s) 29-1 to 29-18, to be under the new subtitle,

10 “Subtitle 29. Surcharge on Trespass Towing”

11 Baltimore City Code

12 (Edition 2000)

13 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
14 Laws of Baltimore City read as follows:

15 **Baltimore City Code**

16 **Article 28. Taxes**

17 **SUBTITLE 29. SURCHARGE ON TRESPASS TOWING**

18 **§ 29-1. DEFINITIONS.**

19 (A) *IN GENERAL.*

20 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

21 (B) *PERSON.*

22 (1) “PERSON” MEANS:

23 (i) AN INDIVIDUAL;

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

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1 (II) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
2 KIND; OR

3 (III) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY,
4 OR REPRESENTATIVE OF ANY KIND.

5 (2) "PERSON" DOES NOT INCLUDE A GOVERNMENTAL ENTITY OR AN INSTRUMENTALITY OR
6 UNIT OF A GOVERNMENTAL ENTITY.

7 (c) *Tow.*

8 (1) "TOW" MEANS TO USE A VEHICLE TO MOVE, REMOVE, OR PREPARE TO MOVE OR
9 REMOVE ANOTHER VEHICLE, FOR WHICH A CHARGE IS IMPOSED DIRECTLY OR
10 INDIRECTLY.

11 (2) "TOW" INCLUDES THE PHYSICAL ENGAGEMENT OF A VEHICLE TO BE TOWED, EVEN IF
12 THE VEHICLE IS SUBSEQUENTLY DISCONNECTED OR DROPPED FOR A "DROP FEE".

13 (d) *TOWING COMPANY.*

14 "TOWING COMPANY" MEANS ANY PERSON WHO ENGAGES IN THE TRESPASS TOWING OF
15 ONE OR MORE VEHICLES IN BALTIMORE CITY.

16 (e) *TRESPASS TOWING.*

17 "TRESPASS TOWING" MEANS THE INVOLUNTARY TOWING OF A VEHICLE UNDER THE
18 AUTHORITY OR COLOR OF CITY CODE ARTICLE 15, SUBTITLE 22 {"TOWING SERVICES –
19 TRESPASS TOWING"}.

20 (f) *VEHICLE.*

21 "VEHICLE" HAS THE MEANING STATED IN STATE TRANSPORTATION ARTICLE § 21-176.

22 **§ 29-2. SURCHARGE IMPOSED.**

23 A SURCHARGE IS IMPOSED ON EVERY TOWING COMPANY WHO ENGAGES IN THE TRESPASS
24 TOWING OF ONE OR MORE VEHICLES IN BALTIMORE CITY

25 **§ 29-3. AMOUNT OF SURCHARGE.**

26 THE AMOUNT OF THE SURCHARGE IMPOSED IS \$30 FOR EACH TRESPASS TOW.

27 **§ 29-4. WHEN PAYABLE.**

28 THE SURCHARGE IMPOSED BY THIS SUBTITLE:

29 (1) IS DUE BY THE TOWING COMPANY WHENEVER A VEHICLE IS TOWED;

30 (2) MUST BE PAID ON OR BEFORE THE 25TH DAY OF THE MONTH FOLLOWING THE MONTH IN
31 WHICH THE VEHICLE IS TOWED; AND

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1 (3) IN NO EVENT MAY BE CHARGED TO THE OWNER, LESSEE, OR RENTER OF THE TOWED
2 VEHICLE OR TO THE OWNER OR OPERATOR OF THE PROPERTY FROM WHICH THE
3 VEHICLE WAS TOWED .

4 **§ 29-5. TRANSACTIONAL REPORTS.**

5 BEFORE A TOWING COMPANY PHYSICALLY ENGAGES A VEHICLE FOR A TRESPASS TOW, THE
6 TOWING COMPANY MUST:

- 7 (1) NOTIFY THE POLICE DEPARTMENT OF THE PENDING TOW; AND
8 (2) PROVIDE THE POLICE DEPARTMENT WITH THE INFORMATION ABOUT THE TOW THAT
9 THE POLICE COMMISSIONER REQUIRES.

10 **§ 29-6. MONTHLY REPORTS.**

11 (A) *GENERAL.*

12 THE TOWING COMPANY MUST REMIT THE SURCHARGE TO THE DIRECTOR OF FINANCE,
13 TOGETHER WITH A MONTHLY REPORT OF ALL TOWING OPERATIONS (WHETHER TRESPASS
14 TOWS OR OTHERS) ENGAGED IN DURING THE MONTH.

15 (B) *UNDER OATH.*

16 THE REPORT MUST UNDER OATH, IN THE FORM THAT THE DIRECTOR OF FINANCE
17 REQUIRES.

18 **§ 29-7. RECORDS.**

19 EVERY TOWING COMPANY MUST:

- 20 (1) KEEP COMPLETE AND ACCURATE RECORDS OF ALL ITS TRESPASS TOWING ACTIVITIES,
21 AS NECESSARY OR OTHERWISE REQUIRED BY THE DIRECTOR TO DETERMINE WHETHER
22 ALL SURCHARGES DUE UNDER THIS SUBTITLE HAVE BEEN PAID; AND
23 (2) MAKE THESE RECORDS AVAILABLE, AT ALL TIMES DURING BUSINESS HOURS, FOR
24 INSPECTION AND AUDIT BY THE DIRECTOR.

25 **§§ 29-8 TO 29-9 {RESERVED}**

26 **§ 29-10. INTEREST AND CIVIL PENALTIES.**

27 IF TOWING COMPANY FAILS TO PAY THE SURCHARGE IMPOSED BY THIS SUBTITLE WHEN DUE,
28 THE TOWING COMPANY MUST PAY THE DIRECTOR, IN ADDITION TO THE SURCHARGE DUE:

- 29 (1) INTEREST AT THE RATE OF 1% FOR EACH MONTH OR FRACTION OF A MONTH THAT THE
30 SURCHARGE IS OVERDUE; AND
31 (2) A PENALTY OF 10% OF THE AMOUNT OF THE SURCHARGE DUE.

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1 **§ 29-11. SURCHARGE DETERMINATION BY DIRECTOR.**

2 (A) *DIRECTOR TO OBTAIN INFORMATION.*

3 IF ANY PERSON FAILS TO MAKE THE REPORT AND REMIT THE SURCHARGE WHEN DUE AND
4 FAILS TO KEEP SUITABLE RECORDS AS REQUIRED BY THIS SUBTITLE, THE DIRECTOR OF
5 FINANCE MAY ATTEMPT TO OBTAIN OTHER AVAILABLE INFORMATION ON WHICH TO BASE
6 AN ESTIMATE OF THE SURCHARGE DUE.

7 (B) *DIRECTOR TO ESTIMATE SURCHARGE.*

8 AS SOON AS THE DIRECTOR OBTAINS THIS INFORMATION, THE DIRECTOR MAY PROCEED TO
9 DETERMINE THE SURCHARGE DUE AND ASSESS THAT SURCHARGE, PLUS INTEREST AND
10 PENALTIES, AGAINST THE PERSON LIABLE FOR THE SURCHARGE.

11 (C) *NOTICE AND PAYMENT.*

12 (1) THE DIRECTOR MAY THEN NOTIFY THE PERSON BY MAIL, SENT TO THAT PERSON'S LAST
13 KNOWN ADDRESS, OF THE TOTAL AMOUNT OF THE SURCHARGE, INTEREST, AND
14 PENALTIES.

15 (2) THE TOTAL AMOUNT IS PAYABLE WITHIN 10 DAYS FROM THE DATE OF THIS NOTICE.

16 **§ 29-12. CLOSING OR SALE OF BUSINESS.**

17 IF A PERSON REQUIRED TO PAY A SURCHARGE UNDER THIS SUBTITLE SELLS HIS, HER, OR ITS
18 BUSINESS OR OTHERWISE CEASES TO DO BUSINESS:

19 (1) ANY SURCHARGE PAYABLE UNDER THIS SUBTITLE BECOMES IMMEDIATELY DUE AND
20 PAYABLE; AND

21 (2) WITHIN 3 DAYS OF THE SALE OR OTHER CESSATION OF BUSINESS, THAT PERSON MUST
22 SUBMIT THE REQUIRED REPORT AND REMIT THE TOTAL AMOUNT OF THE SURCHARGE
23 DUE.

24 **§ 29-13. LIEN ON PROPERTY.**

25 THE SURCHARGE, INTEREST, AND PENALTIES IMPOSED BY THIS SUBTITLE ARE A LIEN ON THE
26 PROPERTY OF ANY PERSON LIABLE FOR THEIR PAYMENT.

27 **§§ 29-14 TO 29-15 {RESERVED}**

28 **§ 29-16. RULES AND REGULATIONS.**

29 (A) *DIRECTOR MAY ADOPT.*

30 THE DIRECTOR MAY ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE
31 TO:

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1 (1) GOVERN THE PAYMENT, COLLECTION, AND ACCOUNTING OF THE SURCHARGE
2 IMPOSED BY THIS SUBTITLE;

3 (2) DEFINE ANY TERMS USED IN CONNECTION WITH THE IMPOSITION AND COLLECTION
4 OF THE SURCHARGE IMPOSED UNDER THIS SUBTITLE;

5 (3) PROVIDE FOR THE REFUND OF ANY SURCHARGE, INTEREST, OR PENALTY
6 ERRONEOUSLY OR ILLEGALLY PAID; AND

7 (5) OTHERWISE ADMINISTER, ENFORCE, AND CARRY OUT THIS SUBTITLE.

8 (B) *COPIES TO BE FILED WITH LEGISLATIVE REFERENCE.*

9 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED
10 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

11 **§ 29-17. {RESERVED}**

12 **§ 29-18. PENALTIES.**

13 ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY RULE OR
14 REGULATION ADOPTED UNDER THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND, ON
15 CONVICTION, IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT
16 MORE THAN 12 MONTHS OR TO BOTH FINE AND IMPRISONMENT FOR EACH OFFENSE.

17 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
18 are not law and may not be considered to have been enacted as a part of this or any prior
19 Ordinance.

20 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on July 1,
21 2011.