S T A T E O F N E W Y O R K

4214

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. BRENNAN, DINOWITZ -- Multi-Sponsored by -- M. of A. COLTON, FIELDS, HOOPER, JOHN, MAISEL, McENENY, ROBINSON -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to booting of motor vehicles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Title 8 of the vehicle and traffic law is amended by adding a new article 44-B to read as follows:

ARTICLE 44-B

BOOTING OF MOTOR VEHICLES

SECTION 1700. DEFINITIONS.
1701. APPLICABILITY.
1702. LICENSURE AND REGISTRATION.
1703. COMPENSATION AND RECORDS.
1704. APPLICATION, SIGNS, CHARGES AND RELEASE OF VEHICLES.
1705. SUSPENSION, REVOCATION AND RENEWAL OF LICENSE.
1706. ENFORCEMENT AND PENALTIES.
1707. RULES.

S 1700. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "BOOT" OR "BOOTING" SHALL MEAN THE ACT OF PLACING ON A PARKED MOTOR VEHICLE A MECHANICAL DEVICE THAT IS DESIGNED TO BE ATTACHED TO THE WHEEL OR TIRE OR OTHER PART OF SUCH VEHICLE SO AS TO PROHIBIT ITS USUAL MANNER OF MOVEMENT;

2. "PERSON" SHALL MEAN ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, ASSOCIATION, FIRM OR OTHER BUSINESS ENTITY;

3. "PRIVATE PARKING LOT" SHALL MEAN ANY AREA OF PRIVATE PROPERTY NEAR OR CONTIGUOUS TO PREMISES HAVING ONE OR MORE STORES OR BUSINESS ESTABLISHMENTS WHICH IS USED FOR THE PARKING OF MOTOR VEHICLES OF CUSTOMERS OR PATRONS OR ANYONE WHO FREQUENTS SUCH STORES AND BUSINESS ESTABLISH-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD03251-01-9

MENTS, BUT SHALL BE LIMITED TO SUCH AREAS AS ARE PROVIDED TO THE PUBLIC WITHOUT CHARGE; AND

4. "PRIVATE STREET" SHALL MEAN EVERY WAY OR PLACE IN PRIVATE OWNERSHIP THAT IS USED FOR VEHICULAR TRAVEL BY THE OWNER AND THOSE HAVING EXPRESS OR IMPLIED PERMISSION OF THE OWNER OR THAT MAY BE USED BY THE PUBLIC FOR VEHICULAR TRAVEL.

S 1701. APPLICABILITY. 1. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO THE BOOTING OF A MOTOR VEHICLE BY:

(A) A CITY, ANY OTHER POLITICAL SUBDIVISION, OR A PERSON ACTING UNDER THE DIRECTION OF A CITY OR SUCH POLITICAL SUBDIVISION, WHEN SUCH BOOTING IS AUTHORIZED BY ANY OTHER PROVISION OF LAW OR ANY RULE OR REGULATION PROMULGATED PURSUANT THERETO; OR

(B) ANY PERSON WHO HAS A LIEN AND WHO DETAINS SUCH MOTOR VEHICLE IN HIS OR HER LAWFUL POSSESSION.

2. WHERE A POLITICAL SUBDIVISION REGULATES THE PRACTICE OF BOOTING, SUCH REGULATION SHALL AT A MINIMUM COMPLY WITH THE PROVISIONS OF THIS ARTICLE; PROVIDED THAT NOTHING HEREIN SHALL PREEMPT THE PROVISIONS OF ANY LOCAL LAW THAT IMPOSES MORE RESTRICTIVE REQUIREMENTS OR REGULATIONS.

S 1702. LICENSURE AND REGISTRATION. 1. NO PERSON SHALL ENGAGE IN BOOTING WITHOUT HAVING FIRST OBTAINED A LICENSE THEREFOR PURSUANT TO THIS SECTION AND MEET ANY ADDITIONAL CRITERIA ESTABLISHED BY THE POLITICAL SUBDIVISION. NO PERSON SHALL BE AN EMPLOYEE OF A LICENSEE WITHOUT HAVING FIRST SUBMITTED TO A BACKGROUND CHECK, REGISTERED WITH THE POLITICAL SUBDIVISION AND MET ANY ADDITIONAL CRITERIA ESTABLISHED BY THE POLITICAL SUBDIVISION.

2. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, AN INDIVIDUAL SHALL NOT REQUIRE A LICENSE ISSUED PURSUANT TO THIS SECTION WHERE SUCH INDIVIDUAL IS AN EMPLOYEE OF, AND IS AUTHORIZED OR DIRECTED TO ENGAGE IN, BOOTING BY A PERSON REQUIRED TO BE LICENSED BY THIS SECTION OR TO ACCEPT PAYMENT FOR RELEASING VEHICLES BOOTED BY SUCH LICENSEE OR SUCH LICENSEE'S EMPLOYEES.

3. AN APPLICATION FOR ANY LICENSE REQUIRED UNDER THIS SECTION OR FOR ANY RENEWAL THEREOF SHALL BE MADE TO THE POLITICAL SUBDIVISION IN SUCH FORM AND MANNER AS PROVIDED BY SUCH POLITICAL SUBDIVISION. AN APPLICANT FOR ANY SUCH LICENSE SHALL BE FINGERPRINTED FOR THE PURPOSE OF SECURING CRIMINAL HISTORY RECORDS AND SHALL PAY A PROCESSING FEE AS REQUIRED BY THE STATE DIVISION OF CRIMINAL JUSTICE SERVICES. WHERE THE APPLICANT IS A SOLE PROPRIETORSHIP, FINGERPRINTS SHALL BE TAKEN OF THE OWNER THEREOF; WHERE THE APPLICANT IS A PARTNERSHIP, FINGERPRINTS SHALL BE TAKEN OF THE GENERAL PARTNERS THEREOF; WHERE THE APPLICANT IS A CORPORATION, ASSOCIATION, FIRM OR OTHER BUSINESS, FINGERPRINTS SHALL BE TAKEN OF THE OFFICERS, PRINCIPALS, DIRECTORS, AND STOCKHOLDERS OF MORE THAN TEN PERCENT OF THE OUTSTANDING STOCK.

(A) WHERE THE APPLICANT FOR LICENSE TO ENGAGE IN BOOTING OR ANY RENEWAL THEREOF IS A CORPORATION, PARTNERSHIP, ASSOCIATION, FIRM OR OTHER BUSINESS, SUCH APPLICANT SHALL LIST ON HIS OR HER APPLICATION FOR SUCH LICENSE OR SUCH RENEWAL THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF EACH OFFICER, DIRECTOR, PRINCIPAL STOCKHOLDER OWNING MORE THAN TEN PERCENT OF THE OUTSTANDING STOCK, OR OF EACH PARTNER.

(B) WHERE AN APPLICANT FOR LICENSE OR ANY RENEWAL THEREOF CONDUCTS BUSINESS UNDER A TRADE NAME OR THE APPLICANT IS A PARTNERSHIP, THE APPLICATION FOR LICENSE SHALL INCLUDE THE TRADE NAME OR PARTNERSHIP CERTIFICATE DULY CERTIFIED BY THE CLERK OF THE COUNTY IN WHOSE OFFICE SAID CERTIFICATE IS FILED. IF THE APPLICANT IS A CORPORATION, A COPY OF THE FILING RECEIPT OR CERTIFICATE OF INCORPORATION FILED AND STAMPED BY THE NEW YORK STATE SECRETARY OF STATE SHALL BE SUBMITTED WITH A CERTIF-

ICATE OF ASSUMED NAME OR THE FILING RECEIPT THEREOF, IF ASSUMED NAME IS USED.

4. AS A CONDITION OF THE ISSUANCE OF A LICENSE TO ENGAGE IN BOOTING, EACH APPLICANT SHALL FURNISH TO THE POLITICAL SUBDIVISION A SURETY BOND IN THE SUM OF FIVE THOUSAND DOLLARS, PAYABLE TO THE LOCAL AUTHORITY, EXECUTED BY THE APPLICANT AND A SURETY APPROVED BY THE AUTHORITY. SUCH BOND SHALL BE CONDITIONED UPON THE APPLICANT'S COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, LOCAL ORDINANCE AND ANY RULES OR REGULATIONS PROMULGATED THEREUNDER, AND UPON THE FURTHER CONDITION THAT THE APPLICANT SHALL PAY TO THE LOCAL AUTHORITY ANY FINE, PENALTY OR OTHER OBLIGATION WITHIN THIRTY DAYS OF ITS IMPOSITION, OR ANY FINAL JUDGMENTS AWARDING FROM DAMAGES OCCASIONED TO ANY PERSON BY REASON OF ANY MISREPRESENTATION, FRAUD, OR DECEIT, OR ANY UNLAWFUL ACT OR OMISSION OF SUCH LICENSEE, HIS OR HER AGENTS OR EMPLOYEES, WHILE ACTING WITHIN THE SCOPE OF THEIR EMPLOYMENT, MADE, COMMITTED OR OMITTED IN THE BUSINESS OF BOOTING. THE LOCAL AUTHORITY MAY, AFTER A PUBLIC HEARING, INCREASE THE AMOUNT OF THE SURETY BOND REQUIRED BY THIS SECTION TO AN AMOUNT NOT TO EXCEED TWENTY THOUSAND DOLLARS. THE POLITICAL SUBDIVISION MAY BY LOCAL ORDINANCE OR BY REGULATION AUTHORIZE THE APPLICANT TO, IN LIEU OF A BOND, DEPOSIT CASH TO SATISFY THE REQUIREMENTS OF THIS SECTION IN AN AMOUNT EQUAL TO THE SUM OF THE SURETY BOND REQUIRED BY THIS SECTION.

5. (A) NO PERSON SHALL BE EMPLOYED BY A LICENSEE TO ENGAGE IN BOOTING OR TO ACCEPT PAYMENT FOR RELEASING VEHICLES BOOTED BY SUCH LICENSEE OR SUCH LICENSEE'S EMPLOYEES WITHOUT HAVING FIRST SUBMITTED AN APPLICATION FOR A BACKGROUND CHECK AND REGISTRATION WITH THE POLITICAL SUBDIVISION WHICH SHALL INCLUDE BUT NOT BE LIMITED TO FINGERPRINTING FOR THE PURPOSE OF SECURING CRIMINAL HISTORY RECORDS AND REGISTERED WITH SUCH AUTHORITY. SUCH PERSON SHALL PAY A PROCESSING FEE AS REQUIRED BY THE STATE DIVISION OF CRIMINAL JUSTICE SERVICES. AN APPLICATION FOR A BACKGROUND CHECK AND REGISTRATION WITH THE POLITICAL SUBDIVISION REQUIRED UNDER THIS SECTION OR FOR ANY RENEWAL THEREOF SHALL BE MADE TO THE LOCAL AUTHORITY IN SUCH FORM AND MANNER AS PROVIDED BY SUCH POLITICAL SUBDIVISION.

(B) NO PERSON WHO IS REQUIRED TO OBTAIN A LICENSE UNDER THIS SECTION, SHALL PERMIT OR AUTHORIZE A PERSON TO ENGAGE IN BOOTING OR TO ACCEPT PAYMENT FOR RELEASING VEHICLES BOOTED BY SUCH LICENSEE OR SUCH LICENSEE'S EMPLOYEES WHO HAS NOT SUBMITTED TO A BACKGROUND CHECK BY AND REGISTERED WITH THE POLITICAL SUBDIVISION AS REQUIRED UNDER THIS SECTION. IN ANY PROSECUTION FOR VIOLATION OF THIS ARTICLE, LOCAL ORDINANCE OR ANY RULES OR REGULATIONS PROMULGATED THEREUNDER IT SHALL NOT BE NECESSARY TO PROVE THAT SUCH LICENSEE KNEW OR SHOULD HAVE KNOWN THAT THE EMPLOYEE DID NOT REGISTER AND THAT THERE SHALL BE A REBUTTABLE PRESUMPTION THAT SUCH PERSON ENGAGED IN BOOTING OR ACCEPTED PAYMENT WITH THE PERMISSION OR AUTHORIZATION OF SUCH LICENSEE. IN ANY SUCH PROSECUTION, IT SHALL BE AN AFFIRMATIVE DEFENSE THAT PRIOR TO BEING CITED FOR SUCH VIOLATION, SUCH PERSON SUBMITTED TO THE BACKGROUND CHECK AND REGISTERED WITH THE POLITICAL SUBDIVISION.

6. A LICENSEE SHALL ISSUE A TAMPER-PROOF IDENTIFICATION BADGE TO EACH INDIVIDUAL WHO IS AN EMPLOYEE OF THE LICENSEE AND WHO IS AUTHORIZED BY THE LICENSEE TO ENGAGE IN BOOTING, AND TO EACH PERSON WHO IS AUTHORIZED TO ACCEPT PAYMENT FOR RELEASING VEHICLES BOOTED BY SUCH LICENSEE OR SUCH LICENSEE'S EMPLOYEES. SUCH BADGE SHALL BE MADE FROM FORMS TO BE FURNISHED BY THE POLITICAL SUBDIVISION. AT A MINIMUM THE NAME OF THE INDIVIDUAL, THE LICENSEE'S BUSINESS NAME AND THE LICENSEE NUMBER SHALL BE PRINTED ON THE BADGE. SUCH BADGE SHALL BE DISPLAYED CONSPICUOUSLY.

7. THE POLITICAL SUBDIVISION MAY DENY AN APPLICATION FOR A LICENSE OR RENEWAL OF A LICENSE OR, AFTER NOTICE AND HEARING, REVOKE OR SUSPEND ANY

LICENSE ISSUED PURSUANT TO THIS SECTION AND LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO, AND/OR IMPOSE A CIVIL PENALTY NOT EXCEEDING TEN THOUSAND DOLLARS ON A LICENSEE, IF IT FINDS THAT AN APPLICANT, A LICENSEE, ANY OFFICER, DIRECTOR, PARTNER, OR OWNER OF MORE THAN TEN PERCENT OF THE OUTSTANDING STOCK OF AN APPLICANT OR LICENSEE, OR THE CHIEF EXECUTIVE OFFICER OF AN APPLICANT OR LICENSEE HAS INCLUDING BUT NOT LIMITED TO:

(A) MADE A MATERIAL MISSTATEMENT OR MISREPRESENTATION ON AN APPLICATION FOR SUCH A LICENSEE OR THE RENEWAL THEREOF; OR

(B) MADE A MATERIAL MISREPRESENTATION OR OMISSION OR COMMITTED A FRAUDULENT OR UNLAWFUL ACT WHILE ENGAGED IN THE BUSINESS OF BOOTING; OR

(C) CONVICTED OF BRIBING OR ATTEMPTING TO BRIBE ANY OFFICER OR EMPLOYEE OF THE LOCAL AUTHORITY; OR

(D) VIOLATED ANY APPLICABLE RULE OF THE AUTHORITY.

8. THE POLITICAL SUBDIVISION MAY DENY AN APPLICATION FOR A BACKGROUND CHECK AND REGISTRATION WITH THE POLITICAL SUBDIVISION, AFTER NOTICE AND HEARING, REVOKE OR SUSPEND ANY REGISTRATION PURSUANT TO THIS SECTION AND LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO, AND/OR IMPOSE A CIVIL PENALTY NOT EXCEEDING TWENTY-FIVE HUNDRED DOLLARS ON A REGISTRANT, IF IT FINDS THAT AN APPLICANT, OR A REGISTRANT HAS INCLUDING BUT NOT LIMITED TO:

(A) MADE A MATERIAL MISSTATEMENT OR MISREPRESENTATION ON AN APPLICATION FOR SUCH REGISTRATION OR THE RENEWAL THEREOF; OR

(B) MADE A MATERIAL MISREPRESENTATION OR OMISSION OR COMMITTED A FRAUDULENT OR UNLAWFUL ACT WHILE ENGAGED IN BOOTING OR ACCEPTING PAYMENT FOR RELEASING VEHICLES BOOTED BY A LICENSEE; OR

(C) CONVICTED OF BRIBING OR ATTEMPTING TO BRIBE ANY OFFICER OR EMPLOYEE OF THE LOCAL AUTHORITY; OR

(D) VIOLATED ANY APPLICABLE RULE OF THE POLITICAL SUBDIVISION.

S 1703. COMPENSATION AND RECORDS. 1. A LICENSEE SHALL NOT MAKE THE COMPENSATION OF ANY EMPLOYEE DIRECTLY DEPENDENT, IN PART OR IN WHOLE UPON THE NUMBER OF VEHICLES BOOTED.

2. A PROPERTY OWNER AUTHORIZING THE BOOTING OF VEHICLES SHALL NOT MAKE THE COMPENSATION OF ANY LICENSEE DIRECTLY DEPENDENT, IN PART OR IN WHOLE UPON THE NUMBER OF VEHICLES BOOTED.

3. A LICENSEE SHALL MAINTAIN AN UPDATED, COMPLETE, ACCURATE AND LEGIBLE RECORD OF ALL IDENTIFICATION BADGES ISSUED AS PROVIDED IN THIS SECTION. SUCH RECORD AT A MINIMUM SHALL INCLUDE THE IDENTIFICATION NUMBER ASSIGNED TO EACH EMPLOYEE AND TO WHOM IT WAS ISSUED, THE DATE ON WHICH THE INDIVIDUAL WAS FIRST EMPLOYED OR AUTHORIZED TO ACCEPT PAYMENT OF THE RELEASE OF BOOTED VEHICLES, THE DATE THE BADGE WAS ISSUED AND THE DATE ON WHICH THE BADGE WAS RETURNED BY SUCH INDIVIDUAL, WHERE APPROPRIATE. UPON REQUEST, SUCH RECORD SHALL BE MADE AVAILABLE FOR INSPECTION BY THE LOCAL AUTHORITY EITHER AT THE LICENSEE'S PLACE OF BUSINESS OR AT THE OFFICES OF THE POLITICAL SUBDIVISION.

4. A LICENSEE SHALL ALSO MAINTAIN COMPLETE, ACCURATE AND LEGIBLE RECORDS AND RECEIPTS TO SUBSTANTIATE THAT VEHICLES ARE BOOTED IN COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE, LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO. THE RECORDS FOR EACH PROPERTY SHALL BE IDENTIFIED WITH THE NAME OF THE OWNER OF SAID PROPERTY AND SHALL BE KEPT CHRONOLOGICALLY.

S 1704. APPLICATION, SIGNS, CHARGES AND RELEASE OF VEHICLES. 1. NO MOTOR VEHICLE MAY BE BOOTED UNLESS A SUFFICIENT NUMBER OF SIGNS AT AND ADJACENT TO A PRIVATE PARKING LOT WHERE VEHICLES ARE BOOTED IS CONSPICUOUSLY POSTED AND MAINTAINED BY THE OWNER OF THE PROPERTY IN THE FORM, MANNER AND LOCATION PRESCRIBED BY THE POLITICAL SUBDIVISION. SUCH SIGNS

SHALL CONTAIN SUCH INFORMATION AS THE POLITICAL SUBDIVISION SHALL PRESCRIBE INCLUDING, BUT NOT LIMITED TO, THE NAME, BUSINESS ADDRESS, BUSINESS TELEPHONE NUMBER AND LICENSE NUMBER OF THE PERSON AUTHORIZED BY THE PROPERTY OWNER TO BOOT THE VEHICLE, THE NAME OF THE PROPERTY OWNER, THE HOURS DURING WHICH AND THE CIRCUMSTANCES UNDER WHICH VEHICLES ARE PROHIBITED FROM PARKING ON SUCH PROPERTY AND ARE SUBJECT TO BOOTING, THE FEES TO BE CHARGED FOR BOOTING AND THE TELEPHONE NUMBER OF THE OFFICE AT THE POLITICAL SUBDIVISION RESPONSIBLE FOR RECEIVING COMPLAINTS REGARDING BOOTING.

2. NOTWITHSTANDING SUBDIVISION ONE OF THIS SECTION, THE PROVISIONS OF THIS SECTION SHALL BE SATISFIED WITH RESPECT TO A PRIVATE STREET IF (I) A SIGN CONTAINING THE INFORMATION REQUIRED BY THIS SUBDIVISION IS POSTED AND MAINTAINED BY THE OWNER OF SUCH PRIVATE STREET AT EACH PLACE WHERE SUCH PRIVATE STREET INTERSECTS A PUBLIC STREET AND SUCH SIGNS ARE SITUATED IN SUCH A MANNER AS TO BE READILY VISIBLE AND READABLE BY THE OPERATOR OF A MOTOR VEHICLE TRAVELING FROM A PUBLIC STREET ONTO SUCH PRIVATE STREET, AND (II) THERE ARE ALSO A SUFFICIENT NUMBER OF SIGNS ON EVERY OTHER PRIVATE STREET THAT IS IN THE SAME OWNERSHIP STATING THAT VEHICLES PARKED ON SUCH STREET WITHOUT THE PERMISSION OF SUCH OWNER MAY BE BOOTED AND CONTAINING THE BUSINESS TELEPHONE NUMBER OF THE PERSON AUTHORIZED BY THE OWNER TO BOOT THE VEHICLE, WHICH SIGNS ARE READILY VISIBLE AND READABLE BY AN OPERATOR OF A MOTOR VEHICLE TRAVELING ON SUCH STREET.

3. NO CHARGE FOR THE RELEASE OF A VEHICLE THAT HAS BEEN BOOTED IN EXCESS OF THAT WHICH IS CONTAINED IN THE SIGNS REQUIRED BY THIS SUBDIVISION MAY BE IMPOSED.

4. IN ADDITION TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, NO MOTOR VEHICLE MAY BE BOOTED:

(A) UNLESS SUCH VEHICLE IS UNLAWFULLY PARKED;

(B) WHERE SUCH VEHICLE IS OCCUPIED BY ANY PERSON OR LIVE ANIMAL;

(C) WHEN SUCH VEHICLE IS PARKED ON THE ROADWAY SIDE OF A VEHICLE STOPPED, STANDING OR PARKED AT THE CURB;

(D) WHERE SUCH VEHICLE IS PARKED IN A FIRE LANE, OR IN FRONT OF OR IMMEDIATELY ADJACENT TO A FIRE HYDRANT, FIRE CONNECTION OR BUILDING EMERGENCY EXIT;

(E) UNLESS THE EXPRESS WRITTEN AUTHORIZATION OF THE OWNER OF A PRIVATE DRIVEWAY BLOCKED BY SUCH VEHICLE HAS BEEN OBTAINED, WHICH AUTHORIZATION INCLUDES THE LOCATION, MAKE, MODEL, COLOR AND LICENSE PLATE NUMBER OF SUCH VEHICLE;

(F) IF SUCH VEHICLE IS AN AMBULANCE, CORRECTION VEHICLE, POLICE VEHICLE, FIRE VEHICLE, CIVIL DEFENSE EMERGENCY VEHICLE, EMERGENCY AMBULANCE SERVICE VEHICLE, ENVIRONMENTAL EMERGENCY RESPONSE VEHICLE, SANITATION PATROL VEHICLE, HAZARDOUS MATERIALS EMERGENCY VEHICLE, ORDINANCE DISPOSAL VEHICLE OF THE ARMED FORCES OF THE UNITED STATES; AND

(G) WHERE SUCH VEHICLE BEARS A SPECIAL VEHICLE IDENTIFICATION PARKING PERMIT OR "MD" NEW YORK REGISTRATION PLATES.

5. IMMEDIATELY AFTER A VEHICLE IS BOOTED, THE PERSON BOOTING SUCH VEHICLE, THE OWNER OF THE PROPERTY WHERE SUCH VEHICLE WAS BOOTED, OR AN EMPLOYEE OR AGENT OF SUCH PERSON OR OWNER, SHALL AFFIX AT THE REAR-MOST PORTION OF THE WINDOW ADJACENT TO THE DRIVER'S SEAT OF SUCH VEHICLE A STICKER MEASURING EIGHT AND ONE-HALF INCHES BY ELEVEN INCHES CONTAINING A WARNING THAT ANY ATTEMPT TO MOVE THE VEHICLE MAY RESULT IN DAMAGE TO THE VEHICLE, AND STATING THE TIME THE VEHICLE WAS BOOTED AND THE NAME, BUSINESS ADDRESS AND THE LICENSE NUMBER OF THE PERSON WHO BOOTED SUCH VEHICLE AS WELL AS A BUSINESS TELEPHONE NUMBER WHICH WILL FACILITATE THE DISPATCH OF PERSONNEL RESPONSIBLE FOR REMOVING THE BOOT WITHIN THIRTY MINUTES OF THE TIME SUCH REQUEST IS MADE. UPON PAYMENT OF THE BOOTING

FEE, THE LICENSEE SHALL REMOVE THE WINDOW STICKER IMMEDIATELY AT NO EXTRA CHARGE.

6. NO RELEASE OR WAIVER OF ANY KIND PURPORTING TO LIMIT OR AVOID LIABILITY FOR DAMAGES TO A VEHICLE THAT HAS BEEN BOOTED SHALL BE VALID. IN ADDITION, ANY PERSON WHO BOOTED A VEHICLE, OR OTHER PERSON AUTHORIZED TO ACCEPT PAYMENT OF ANY CHARGES FOR SUCH BOOTING, SHALL PROVIDE A SIGNED RECEIPT TO THE INDIVIDUAL PAYING THE BOOTING CHARGES AT THE TIME SUCH CHARGES ARE PAID. SUCH RECEIPT SHALL STATE THE NAME, BUSINESS ADDRESS, BUSINESS TELEPHONE NUMBER AND LICENSE NUMBER OF THE PERSON WHO HAS BOOTED SUCH VEHICLE AS SUCH INFORMATION APPEARS ON THE LICENSE TO ENGAGE IN BOOTING, AND SUCH RECEIPT SHALL ALSO INCLUDE A TELEPHONE NUMBER FOR THE OFFICE WITHIN THE POLITICAL SUBDIVISION RESPONSIBLE FOR RECEIVING COMPLAINTS WITH RESPECT TO BOOTING. THE BOOTING RECEIPT SHALL ALSO ADVISE THE OWNER OF THE VEHICLE THAT SUCH PERSON IS ENTITLED TO ASK AND HAVE A HEARING BEFORE THE POLITICAL SUBDIVISION IF HE OR SHE DISPUTES THE JUSTIFICATION GIVEN OR THE AMOUNT CHARGED FOR THE BOOTING OF SUCH VEHICLE, FOR OTHER VIOLATIONS OF LAW OR THE RULES GOVERNING BOOTING OR FOR DAMAGES AS A RESULT OF BOOTING. SUCH NOTICE SHALL ALSO INDICATE THAT NO RELEASE OR WAIVER OF ANY KIND PURPORTING TO LIMIT OR AVOID LIABILITY FOR DAMAGES TO A VEHICLE THAT HAS BEEN BOOTED SHALL BE VALID.

7. THE CHARGE TO RELEASE A MOTOR VEHICLE THAT HAS BEEN BOOTED ON A PRIVATE PARKING LOT SHALL BE NO MORE THAN ONE HUNDRED DOLLARS. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, WHERE A MOTOR VEHICLE HAS BEEN BOOTED ON A PRIVATE PARKING LOT AND SUBSEQUENTLY TOWED FROM SUCH PARKING LOT, NO ADDITIONAL CHARGE MAY BE IMPOSED FOR THE TOWING OF SUCH VEHICLE. THE OWNER OR PERSON IN CONTROL OF A VEHICLE WHICH HAS BEEN BOOTED BY A LICENSEE OR SUCH LICENSEE'S EMPLOYEE OR AGENT SHALL BE PERMITTED TO PAY ANY CHARGE FOR BOOTING AT THE LOCATION WHERE SUCH VEHICLE WAS BOOTED AND THE LICENSEE, OR OTHER PERSON AUTHORIZED TO ACCEPT PAYMENT, SHALL ACCEPT SUCH PAYMENT, IN PERSON BY CREDIT CARD IN ACCORDANCE WITH GENERALLY ACCEPTED BUSINESS PRACTICES.

8. NO CHARGE SHALL BE IMPOSED FOR THE BOOTING OF A VEHICLE IN VIOLATION OF THIS SECTION OR ANY LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO AND ANY SUCH UNLAWFUL CHARGE SHALL BE REIMBURSED BY ANY PERSON FOUND TO HAVE VIOLATED THIS SECTION OR ANY LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO.

9. ANY PERSON WHO HAS BOOTED A MOTOR VEHICLE SHALL RELEASE SUCH VEHICLE WITHIN THIRTY MINUTES OF RECEIVING THE REQUEST FOR SUCH VEHICLE'S RELEASE; PROVIDED, HOWEVER, THAT PAYMENT OF ANY CHARGE FOR BOOTING IS MADE AT OR PRIOR TO THE TIME OF SUCH VEHICLE'S RELEASE. THE OWNER OR PERSON IN CONTROL OF A VEHICLE WHICH HAS BEEN BOOTED BY A LICENSEE OR SUCH LICENSEE'S EMPLOYEE OR AGENT SHALL BE PERMITTED TO PAY ANY CHARGE FOR BOOTING AT THE LOCATION WHERE SUCH VEHICLE WAS BOOTED AND THE LICENSEE, OR THE PERSON AUTHORIZED TO ACCEPT PAYMENT, SHALL ACCEPT SUCH PAYMENT IN PERSON BY CREDIT CARD IN ACCORDANCE WITH GENERALLY ACCEPTED BUSINESS PRACTICES.

S 1705. SUSPENSION, REVOCATION AND RENEWAL OF LICENSE. AFTER DUE NOTICE AND OPPORTUNITY TO BE HEARD, THE POLITICAL SUBDIVISION MAY SUSPEND, REVOKE OR REFUSE TO RENEW ANY LICENSE REQUIRED BY THIS ARTICLE OR SUSPEND, REVOKE OR REFUSE TO REGISTER ANY EMPLOYEE OF A LICENSEE UPON A DETERMINATION THAT THE LICENSEE OR ANY EMPLOYEE OR ANY AGENT OF SUCH LICENSEE HAS VIOLATED ANY PROVISION OF THIS ARTICLE, ANY LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO OR WHERE:

1. THE LICENSEE OR ANY EMPLOYEE OR ANY AGENT OR WHERE APPLICABLE ITS OFFICERS, PRINCIPALS, DIRECTORS, OR STOCKHOLDERS OWNING MORE THAN TEN

PERCENT OF THE OUTSTANDING STOCK OF THE CORPORATION WERE FOUND TO HAVE BOOTED A VEHICLE IN A GROSSLY NEGLIGENT MANNER OR IN A MANNER SHOWING A RECKLESS DISREGARD FOR LIFE OR PROPERTY; OR

2. THE LICENSEE OR ANY EMPLOYEE OR WHERE APPLICABLE ITS OFFICERS, PRINCIPALS, DIRECTORS OR STOCKHOLDERS OWNING MORE THAN TEN PERCENT OF THE OUTSTANDING STOCK OF THE CORPORATION HAVE MADE A MATERIAL FALSE STATEMENT OR CONCEALED A MATERIAL FACT IN CONNECTION WITH THE FILING OF ANY APPLICATION PURSUANT TO THIS SECTION OR ANY LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO.

S 1706. ENFORCEMENT AND PENALTIES. 1. NO LICENSEE SHALL BOOT, PERMIT OR AUTHORIZE BOOTING IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE, LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO.

2. A LICENSEE SHALL BE LIABLE FOR ANY VIOLATION BY SUCH LICENSEE'S EMPLOYEES OR AGENTS OF THIS ARTICLE, LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO.

3. AUTHORIZED EMPLOYEES OF THE POLITICAL SUBDIVISION OR ANY POLICE OFFICER, SHALL HAVE THE POWER TO ENFORCE ANY PROVISION OF THIS ARTICLE OR ANY RULE PROMULGATED PURSUANT THERETO. ANY PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION, LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO SHALL BE LIABLE FOR A CIVIL PENALTY OF NOT LESS THAN FIVE HUNDRED NOR MORE THAN ONE THOUSAND DOLLARS TO THE POLITICAL SUBDIVISION. ANY PROPERTY OWNER WHO AUTHORIZES THE LICENSEE TO BOOT ON SAID PROPERTY SHALL ALSO BE LIABLE FOR ANY VIOLATION OF THE LICENSEE FOR A CIVIL PENALTY OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS TO THE POLITICAL SUBDIVISION.

4. THE POLITICAL SUBDIVISION SHALL ARRANGE FOR THE REDRESS OF ANY INJURIES CAUSED BY VIOLATION OF THIS SECTION, LOCAL ORDINANCE OR ANY RULE PROMULGATED PURSUANT THERETO BY PROVIDING FOR HEARINGS AND SHALL OTHERWISE PROVIDE FOR COMPLIANCE WITH THE PROVISIONS AND PURPOSES OF THIS SECTION. PROVIDED HOWEVER, WHERE A VEHICLE WAS WRONGFULLY BOOTED OR DAMAGED AS A RESULT OF THE BOOTING, THE OWNER OF SUCH VEHICLE SHALL NOT ONLY HAVE A MEANS OF REDRESS FOR DAMAGES AGAINST THE LICENSEE BUT SHALL ALSO HAVE REDRESS FOR DAMAGES AGAINST THE OWNER OF THE PROPERTY WHO AUTHORIZED THE BOOTING. UPON PETITION OF THE OWNER OF SAID VEHICLE, THE POLITICAL SUBDIVISION MAY IN ADDITION TO ORDERING THE PAYMENT OF ANY DAMAGES OR RESTITUTION, DIRECT THE LICENSEE AND OWNER OF SAID PROPERTY TO PAY THE OWNER OF THE VEHICLE OTHER OUT-OF-POCKET EXPENSES NOT TO EXCEED ONE HUNDRED FIFTY DOLLARS.

S 1707. RULES. THE POLITICAL SUBDIVISION IS AUTHORIZED TO PROMULGATE SUCH RULES AS THE POLITICAL SUBDIVISION DEEMS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS ARTICLE.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.