

MOTION AND ORDER FOR RELEASE OF VEHICLE

Commonwealth of Virginia Va. Code § 46.2-301.1

Case No.

HEARING DATE
AND TIME

..... General District Court

COURT NAME

REGISTERED OWNER

OFFENDER/OPERATOR (If different from owner)

LIEN HOLDER

.....
NAME

.....
NAME

.....
NAME

.....
ADDRESS

.....
ADDRESS

.....
ADDRESS

.....
CITY

STATE

ZIP

.....
CITY

STATE

ZIP

.....
CITY

STATE

ZIP

.....
SOCIAL SECURITY NUMBER

.....
SOCIAL SECURITY NUMBER

REASON FOR IMPOUNDMENT/IMMOBILIZATION

Virginia Code § 46.2-301.1. Operating a motor vehicle

- (i) when the driver's license, learner's permit or privilege to drive a motor vehicle has been suspended or revoked for a violation of § 18.2-51.4 or driving while intoxicated in violation of §§ 18.2-266, 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction (30-day impoundment);
- (ii) after adjudication as a habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense (30-day impoundment);
- (iii) when the driver's license has been administratively suspended pursuant to Virginia Code § 46.2-391.2 (30-day impoundment);
- (iv) when the driver's license, learner's permit or privilege to drive a motor vehicle has been suspended or revoked for unreasonable refusal of tests in violation of §§18.2-268.3, 46.2-341.26:3 or a substantially similar ordinance or law in any other jurisdiction (30 day impoundment); or
- (v) without an operator's license in violation of § 46.2-300 after having been previously convicted of such or substantially similar offense (maximum 3-day impoundment).

Other

VEHICLE DESCRIPTION:

.....
MAKE/MODEL

.....
YEAR

.....
COLOR

.....
LICENSE PLATE NUMBER

.....
STATE

VEHICLE LOCATION:

Vehicle immobilized Vehicle impounded

.....
LOCATION OF VEHICLE

.....
DATE OF IMPOUNDMENT

JUDICIAL REVIEW OF IMPOUNDMENT/IMMOBILIZATION

Any driver who is the owner of the motor vehicle that is impounded or immobilized may, during the period of the impoundment, petition the general district court of the jurisdiction in which the arrest was made to review that impoundment. If the person proves to the court by a preponderance of the evidence that the arresting law-enforcement officer did not have probable cause for the arrest, or that the magistrate did not have probable cause to issue the warrant, the court will rescind the impoundment. Upon rescission, the motor vehicle shall be released and the Commonwealth shall pay or reimburse the person for all reasonable costs of impoundment or immobilization, including removal or storage costs paid or incurred by him. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The owner or co-owner of any motor vehicle impounded or immobilized who was not the driver at the time of the violation, may petition the general district court in the jurisdiction where the violation occurred for the release of the motor vehicle. The motor vehicle shall be released if the owner or co-owner proves by a preponderance of the evidence that he (i) did not know that the offender's driver's license was suspended or revoked when he authorized the offender to drive such motor vehicle; or (ii) did not know that the offender had no operator's license and that offender had previously been convicted of driving without an operator's license; or (iii) did not consent to the operation of the motor vehicle by the offender. If the owner proves by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if that motor vehicle is impounded or immobilized for 30 days, the court, in its discretion, may release the vehicle after some period of less than 30 days.

NOTE: Unless the vehicle is released and the impoundment is rescinded pursuant to either dismissal or acquittal of the charge of driving without an operator's license or of driving on a suspended or revoked license, or upon a finding that there was not probable cause for the arrest or for the issuance of the warrant, all reasonable costs of impoundment and immobilization must be paid by the offender prior to release of the vehicle.

Any person who knowingly authorizes the operation of a motor vehicle by a person he knows has had his privilege to drive a motor vehicle suspended or revoked or by a person who he knows has no operator's license and who he knows has been previously convicted of driving a motor vehicle without an operator's license in violations of § 46.2-300 or a substantially similar ordinance of any county, city or town or law in any other jurisdiction shall be guilty of a class I misdemeanor.

I,, the undersigned, do hereby petition the Court to review the impoundment or immobilization of the above-identified vehicle.

..... DATE [] OPERATOR [] OWNER

ORDER

- I grant the petition and find that the impounded vehicle should be released for the following reason:
 - No probable cause for arrest or warrant.
 - Owner did not know that offender's license was suspended or revoked.
 - Owner did not consent to operation of the motor vehicle by offender.
 - Owner proved by a preponderance of the evidence that his immediate family has only one motor vehicle and will suffer a substantial hardship if motor vehicle is impounded.
 - Owner did not know offender had no operator's license and had been previously convicted of driving without an operator's license in violation of § 46.2-300.
- I deny petitioner's request.
- Right to review waived. Driver/petitioner failed to appear.
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Nothing in this order shall impede or infringe upon the right of a valid lienholder to cure a default pursuant to an existing security agreement. Va. Code § 46.2-301.1(F).

..... DATE JUDGE