

ORDINANCE NO. 58-2013

An Ordinance Authorizing Towing and Impound of Vehicles Operated Unlawfully Involved in an Accident for Which an Alabama Uniform Incident/Offense Report or Alabama Uniform Traffic Crash Report Must Be Generated or Impounded Pursuant to Law

WHEREAS, the City Council of the City of Montgomery, Alabama recognizes that a person who operates a motor vehicle on the roadways without a valid driver's license and/or valid motor vehicle liability insurance is acting unlawfully under current laws; and

WHEREAS, the City Council of the City of Montgomery is empowered to enact ordinances to protect and to promote the general public health and welfare; and

WHEREAS, unlicensed drivers generally have denied, cancelled, suspended or revoked driving privileges but continue to unlawfully operate motor vehicles on the roads of the City of Montgomery endangering the public, other motor vehicle operators and pedestrians alike, by contributing to accidents and violations of motor vehicle laws while not authorized to drive; and

WHEREAS, Code of Ala. 1975 § 32-6-19 provides for the impoundment of vehicle for persons operating a motor vehicle whose license or driving privilege has been revoked or otherwise cancelled; and

WHEREAS, Code of Ala. 1975 § 32-7A-16 (c) provides for a motor vehicle to be impounded at the discretion of a law enforcement officer if no evidence of registration and insurance is provided upon request.

WHEREAS, the City Council of the City of Montgomery, Alabama recognizes that by impoundment of a vehicle being operated by a person or persons without insurance or whose license or driving privilege has been otherwise suspended may reduce any threat uninsured or unlicensed drivers pose to others.

NOW BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONTGOMERY, ALABAMA, that the following ordinance is hereby adopted:

Section 1. Definitions. For the purposes of this ordinance, the following terms are defined as hereinafter set forth, to wit:

- a. Insurance* shall mean liability insurance as specified by the provisions of the Mandatory Liability Insurance Act set out in Code of Ala. 1975 § 32-7A-1 *et al.* Said insurance must be in effect at the time of the incident.
- b. Motor Vehicle Accident* shall mean any accident in which one or more motor vehicles is involved that requires an "Alabama Uniform Incident/Offense Report" or an "Alabama Uniform Traffic Crash Report" be completed.
- c. Owner* shall mean the owner of a motor vehicle as shown on the motor vehicle registration records of the Alabama Department of Revenue or the analogous department or agency of another state or country.
- d. Valid Driver's License* shall mean a license as set out in the provisions of Code of Ala. 1975 § 32-6-1, or issued by any other state or otherwise a validly issued license.

Section 2. Unlawful to Operate Motor Vehicle without Driver License

It shall be unlawful for any person to operate a motor vehicle without a valid driver's license on the roadways of the City of Montgomery.

Section 3. Unlawful to Operate Motor Vehicle without Insurance

It shall be unlawful for any person to operate a motor vehicle without insurance and proof of insurance on the roadways of the City of Montgomery.

Section 4. Towing and Impounding of Motor Vehicles

- a. In any instance when a driver of a motor vehicle involved in a motor vehicle accident fails to produce a valid driver's license in response to the lawful request of a duly sworn law enforcement officer, said officer may immediately cause the impoundment of such vehicle, regardless of the ownership or possessory interest therein of the driver, subject to the following provisions.
- b. When involved in an accident as defined hereinabove, the vehicle, regardless of ownership or possessory interest of the operator or person present in the vehicle, except when the owner of the vehicle or his licensed, insured designee, is present in the vehicle and presents a valid driver's license, or the vehicle is not properly insured and proof of insurance is not produced, may be impounded by any duly sworn law enforcement officer. If there is an emergency or medical necessity jeopardizing life or limb, the law enforcement officer may elect not to impound the vehicle. Additionally, if proof of valid insurance on the vehicle is not produced, the vehicle shall be towed as provided herein and as provided by state law.
- c. The law enforcement officer making the impoundment shall direct an approved towing service to tow the vehicle to the garage of the towing service, storage lot, or other place of safety designated by the chief of police and maintain custody and control of the vehicle until the registered owner or authorized agent of the registered owner claims the vehicle by presenting the release document from the Montgomery Police Department as described in hereunder, and paying all reasonable and customary towing and storage fees for the services of the towing company. The vehicle may then be released to the registered owner or an agent of the owner.
 - (1) The officer shall make a reasonable attempt to verify the license and insurance status of a driver who claims to be properly licensed and the vehicle insured, but who is unable to produce the license or proof of insurance upon the demand of the officer. A notation of the officer's attempt to verify that the driver is properly licensed and the vehicle is validly insured shall be noted on the officer's incident/offense report and or accident report. If, after a reasonable attempt, the officer is unable to verify that the driver is a properly licensed driver, or the vehicle is not properly insured, the officer may then cause the impoundment of the vehicle, subject to the exceptions outlined herein below.
 - (2) In the event of impoundment, the officer shall to the extent possible assist the driver and any occupants in securing transportation to a place of safety.
 - (3) The officer shall not impound a motor vehicle pursuant to this section if the license of the driver expired within the preceding sixty (60) days and the driver would have otherwise been properly licensed.
 - (4) The officer shall not impound a motor vehicle pursuant to this section if either the owner of the motor vehicle or another family member of the owner is present in the vehicle and presents a valid driver's license and proof of insurance.

- (5) In the event of an emergency or medical necessity jeopardizing life or limb, the officer may elect not to impound the motor vehicle.

Section 5. Release of Vehicle

A motor vehicle impounded pursuant to this section shall be released by the city police department, subject to the requirements set forth in subsection (c) below, upon the satisfaction of any one of the following sets of conditions:

- (1) The registered owner appears at the city police department and presents:
 - a. His/her valid driver's license; and
 - b. Evidence of insurance legible and sufficient to demonstrate that the impounded motor vehicle currently is covered by a liability insurance policy as required by state law; and
 - c. One of the following documents evidencing ownership:
 1. The original vehicle title; or
 2. A copy of both the front and back of the original title; or
 3. The current vehicle tag receipt in the registered owner's name; or
 4. A copy of the current vehicle tag receipt in the registered owner's name; and
 - d. Payment of a fifty-dollar (\$50.00) processing/administration fee to the city.
- (2) A registered owner not in possession of a valid driver's license appears at the city police department and presents:
 - a. Photo identification clearly establishing his/her identity as the registered owner of the impounded vehicle; and
 - b. Evidence of insurance legible and sufficient to demonstrate that the impounded motor vehicle currently is covered by a liability insurance policy as required by state law; and
 - c. One (1) of the following documents evidencing ownership:
 1. The original vehicle title; or
 2. A copy of both the front and back of the original title; or
 3. The current vehicle tag receipt in the registered owner's name; or
 4. A copy of the current vehicle tag receipt in the registered owner's name; and
 - d. Payment of a fifty-dollar (\$50.00) processing/administration fee to the city.

Additionally, when appearing in the police department to request the release of a vehicle impounded pursuant to this section, a registered owner not in possession of a valid driver's license must be accompanied by at least one (1) validly licensed driver and must execute appropriate documentation certifying the vehicle will be driven from the storage lot by a validly licensed driver or properly removed by other lawful means.

- (3) A representative of the registered owner appears at the city police department and presents:
 - a. His/her valid driver's license; and
 - b. Written notarized authorization from the registered owner allowing for the release of the impounded vehicle to the named representative; and
 - c. Evidence of insurance legible and sufficient to demonstrate that the impounded motor vehicle currently is covered by a liability insurance policy as required by state law; and
 - d. One of the following documents evidencing ownership:
 1. The original vehicle title; or
 2. A copy of both the front and back of the original title; or
 3. The current vehicle tag receipt in the registered owner's name; or
 4. A copy of the current vehicle tag receipt in the registered owner's name; and
 - e. Payment of a fifty-dollar (\$50.00) processing/administration fee to the city.
- (4) An order is entered by a court of competent jurisdiction requiring the release of the impounded vehicle.

Section 6. Retrieving the Vehicle

- (a) After obtaining a lawful release from the city police department, the person redeeming the motor vehicle shall then make payment in full to the wrecker service responsible for the towing and storage of the vehicle for the costs attributable to the towing and storage of said vehicle.
- (c) Upon receipt of said release and making said payment, the motor vehicle shall be considered redeemed and possession given to the registered owner or, if applicable, the authorized representative thereof.
- (d) If a motor vehicle impounded pursuant to this section is not properly redeemed as set out herein within sixty (60) days of the date it is impounded, then the wrecker service onto whose property the motor vehicle was lawfully towed at the written request of a law enforcement officer may advertise and sell said vehicle in accordance with applicable state law, currently Ala. Code sections 32-13-1 et seq., (1975), or as may be hereafter amended.

Section 7. Separate from Fines and Costs for Traffic Violation.

The towing and release of an impounded vehicle is an additional requirement and separate from the fines and costs incurred from a traffic violation or other criminal offense.

Section 8. Impounding Vehicle for No Valid Insurance

The provisions herein relating to impoundment of a vehicle for no valid insurance shall not become immediately effective. Said provisions will become effective only after the City of Montgomery Department of Public Safety determines that information in the centralized database relating to vehicle insurance is accurate.

Section 9. Severability.

If any provision of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such provision and such holding shall not affect the validity of any other provision and, to that end, the provisions of this Ordinance are hereby declared to be severable.

Section 10. Effective Date

This Ordinance shall become effective thirty days after passage.

ADOPTED this 19th day of November, 2013.

/S/
BRENDA GALE BLALOCK
CITY CLERK

APPROVED:11-20-13

/S/

TODD STRANGE, MAYOR