

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4338**

4
5 By Delegates Butcher, Stowers, Barill, Barker,
6 R. Phillips, Hunt, Varner, Perdue, Moore,
7 D. Poling and Cann)

8
9 February 9, 2012

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11 A BILL to amend and reenact §17-24A-4 of the Code of West Virginia,
12 1931, as amended, relating to raising the maximum value amount
13 of an abandoned motor vehicle \$2,500 to \$7,500 before someone
14 may sell that vehicle; allowing towing companies to obtain
15 title to abandoned vehicles acquired in a manner other than
16 the request of law enforcement; and clarifying definitions.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §17-24A-4 of the Code of West Virginia, 1931, as amended,
19 be amended and reenacted to read as follows:

20 **ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR**
21 **VEHICLES, AND ABANDONED OR INOPERATIVE HOUSEHOLD**
22 **APPLIANCES.**

23 **§17-24A-4. Abandoned or junked motor vehicles; notification to**
24 **motor vehicle owner and lienholder; charges and**
25 **fees; exceptions.**

1 (a) The enforcement agency which takes into custody and
2 possession an abandoned motor vehicle or junked motor vehicle
3 shall, within fifteen days after taking custody and possession
4 thereof, notify the last-known registered owner of the motor
5 vehicle and all lienholders of record that the motor vehicle has
6 been taken into custody and possession, the notification to be by
7 registered or certified mail, return receipt requested. The notice
8 shall:

9 (1) Contain a description of the motor vehicle, including the
10 year, make, model, manufacturer's serial or identification number
11 or any other number which may have been assigned to the motor
12 vehicle by the Commissioner of Motor Vehicles and any
13 distinguishing marks;

14 (2) Set forth the location of the facility where the motor
15 vehicle is being held and the location where the motor vehicle was
16 taken into custody and possession;

17 (3) Inform the owner and any lienholders of record of their
18 right to reclaim the motor vehicle within ten days after the date
19 notice was received by the owner or lienholders, upon payment of
20 all towing, preservation and storage charges resulting from taking
21 and placing the motor vehicle into custody and possession; and

22 (4) State that the failure of the owner or lienholders of
23 record to exercise their right to reclaim the motor vehicle within
24 the ten-day period shall be deemed a waiver by the owner and all

1 lienholders of record of all right, title and interest in the motor
2 vehicle and of their consent to the sale or disposal of the
3 abandoned motor vehicle or junked motor vehicle at a public auction
4 or to a licensed salvage yard or demolisher.

5 (b) If the identity of the last registered owner of the
6 abandoned motor vehicle or junked motor vehicle cannot be
7 determined or if the certificate of registration or certificate of
8 title contains no address for the owner or if it is impossible to
9 determine with reasonable certainty the identity and addresses of
10 all lienholders, notice shall be published as a Class I legal
11 advertisement in compliance with the provisions of article three,
12 chapter fifty-nine of this code, the publication area shall be the
13 county wherein the motor vehicle was located at the time the
14 enforcement agency took custody and possession thereof and the
15 notice shall be sufficient to meet all requirements of notice
16 pursuant to this article. Any notice by publication may contain
17 multiple listings of abandoned motor vehicles and junked motor
18 vehicles. The notice shall be published within fifteen days after
19 the motor vehicle is taken into custody and possession and shall
20 have the same contents required for a notice pursuant to subsection
21 (a) of this section, except that the ten-day period shall run from
22 the date the notice is published as aforesaid.

23 (c) An enforcement agency which hires any person or entity to
24 take into custody and possession an abandoned motor vehicle or

1 junked motor vehicle pursuant to this section shall notify the
2 person or entity hired of the name and address of the registered
3 owner of the motor vehicle, if known, and all lienholders of
4 record, if any, within fifteen days after the vehicle is taken into
5 custody and possession: *Provided*, That the requirements of this
6 subsection shall not apply to motor vehicles for which the
7 registered owner cannot be ascertained by due diligence or
8 investigation.

9 (d) The person or entity hired by an enforcement agency to
10 take into custody or possession an abandoned motor vehicle or
11 junked motor vehicle shall, within thirty days after the
12 possession, notify the registered owner of the vehicle and all
13 lienholders of record, if any, as identified by the enforcement
14 agency pursuant to subsection (c) of this section, by registered
15 mail, return receipt requested, that the motor vehicle has been
16 taken into custody and possession. The notice shall have the same
17 contents required for a notice pursuant to subsection (a) of this
18 section, including the ten-day period the owner or lienholder has
19 to reclaim the motor vehicle. Upon the issuance of the notice, the
20 identified owner of the motor vehicle is liable and responsible for
21 all costs for towing, preservation and storage of the motor
22 vehicle: *Provided*, That failure to issue the notice required by
23 this subsection within thirty days after possession of the motor
24 vehicle relieves the identified owner of the motor vehicle of any

1 liability for charges for towing, preservation and storage in
2 excess of the sum of the first five days of the charges: *Provided,*
3 *however,* That the requirements of this subsection do not apply to
4 motor vehicles for which the registered owner thereof cannot be
5 ascertained by due diligence or investigation.

6 (e) For an abandoned motor vehicle or junked vehicle having a
7 loan value of ~~\$2,500~~ \$7,500 or less, as ascertained by values
8 placed upon motor vehicles using a standard industry reference
9 book, a person or entity hired by an enforcement agency to tow the
10 abandoned motor vehicle or junked motor vehicle may, if the motor
11 vehicle is not claimed by the owner or a lienholder after notice
12 within the time set forth in subsection (d) of this section or if
13 the identity of the last registered owner of the abandoned motor
14 vehicle or junked motor vehicle cannot be determined or if the
15 certificate of registration or certificate of title contains no
16 address of the owner or if it is impossible to determine with
17 reasonable certainty the identity and address of all lienholders
18 after publication as set forth in subsection (b) of this section,
19 file an application with the Division of Motor Vehicles for a
20 certificate of title and registration which, upon payment of the
21 appropriate fees, shall be issued. The person or entity may then
22 sell the motor vehicle at private sale or public auction.

23 (f) For an abandoned motor or junked motor vehicle having a
24 loan value of ~~\$2,500~~ \$7,500 or less, as ascertained by values

1 placed upon motor vehicles using a standard industry reference
2 book, a licensed motor vehicle dealer, as defined in section one,
3 article one, chapter seventeen-a of this code, or a motor vehicle
4 repair facility may, if a motor vehicle is abandoned on the
5 property or place of business of the dealer or a motor vehicle
6 repair facility or a towing company registered with the Public
7 Service Commission pursuant to section two-a, article two, chapter
8 twenty-four-a of this code and is not claimed by the owner or a
9 lienholder after notice within the time set forth in subsection (d)
10 of this section or if the identity of the last registered owner of
11 the abandoned motor vehicle cannot be determined or if the
12 certificate of registration or certificate of title contains no
13 address of the owner or if it is impossible to determine with
14 reasonable certainty the identity and address of all lienholders
15 after publication as set forth in subsection (b) of this section,
16 file an application with the Division of Motor Vehicles for a
17 certificate of title and registration which, upon payment of the
18 appropriate fees, shall be issued. The dealer or motor vehicle
19 repair facility may then sell the motor vehicle at private sale or
20 public auction.

21 (g) For purposes of this section motor vehicle repair
22 facilities and towing companies are not used motor vehicle dealers
23 as that term is defined by subdivision (2), subsection (a), section

1 one, article six, chapter seventeen-a of this code.