

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**H. B. 4338**

(By Delegates Butcher, Stowers, Barill, Barker,  
R. Phillips, Hunt, Varner, Perdue, Moore,  
D. Poling and Cann)

[Introduced January 30, 2012; referred to the  
Committee on Roads and Transportation then Finance.]

**FISCAL  
NOTE**

A BILL to amend and reenact §17-24A-4 of the Code of West Virginia,  
1931, as amended, relating to raising the maximum value amount  
of an abandoned motor vehicle \$2,500 to \$7,500 before someone  
hired by an enforcement agency may sell that vehicle;  
requiring an additional fee be paid to the Division of Motor  
Vehicles for titling an abandoned vehicle; and clarifying  
definitions.

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

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

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

**§17-24A-4. Abandoned or junked motor vehicles; notification to  
motor vehicle owner and lienholder; charges and  
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 a~~  
21 fee of \$10 to be deposited in the Motor Vehicle Fees Fund in  
22 addition to all other appropriate fees, shall be issued. The  
23 person or entity may then sell the motor vehicle at private sale or  
24 public auction.

1 (f) For an abandoned motor or junked motor vehicle having a  
2 loan value of ~~\$2,500~~ \$7,500 or less, as ascertained by values  
3 placed upon motor vehicles using a standard industry reference  
4 book, a licensed motor vehicle dealer, as defined in section one,  
5 article one, chapter seventeen-a of this code, or a motor vehicle  
6 repair facility may, if a motor vehicle is abandoned on the  
7 property or place of business of the dealer or a motor vehicle  
8 repair facility or a towing company registered with the Public  
9 Service Commission pursuant to section two-a, article two, chapter  
10 twenty-four-a of this code and is not claimed by the owner or a  
11 lienholder after notice within the time set forth in subsection (d)  
12 of this section or if the identity of the last registered owner of  
13 the abandoned motor vehicle cannot be determined or if the  
14 certificate of registration or certificate of title contains no  
15 address of the owner or if it is impossible to determine with  
16 reasonable certainty the identity and address of all lienholders  
17 after publication as set forth in subsection (b) of this section,  
18 file an application with the Division of Motor Vehicles for a  
19 certificate of title and registration which, upon payment of ~~the a~~  
20 fee of \$10 to be deposited in the Motor Vehicle Fees Fund in  
21 addition to all other appropriate fees, shall be issued. The  
22 dealer or motor vehicle repair facility may then sell the motor  
23 vehicle at private sale or public auction.

1        (g) For purposes of this section motor vehicle repair  
2 facilities and towing companies are not used motor vehicle dealers  
3 as that term is defined by subdivision (2), subsection (a), section  
4 one, article six, chapter seventeen-a of this code.

NOTE: The purpose of this bill is to raise the maximum value amount of an abandoned motor vehicle \$2,500 to \$7,500 before someone hired by an enforcement agency may sell that vehicle at a private sale or auction. The bill requires an additional \$10 fee be paid to the Division of Motor Vehicles for titling an abandoned vehicle. The bill also clarifies two definitions.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.