

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 4338

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



Passed March 7, 2012

To Take Effect Ninety Days From Passage

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H. B. 4338

(BY DELEGATES BUTCHER, STOWERS, BARILL, BARKER,
R. PHILLIPS, HUNT, VARNER, PERDUE, MOORE,
D. POLING AND CANN)

[Passed March 7, 2012; to take effect ninety days from passage.]

AN ACT 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 may sell that vehicle; allowing towing companies to obtain title to abandoned vehicles acquired in a manner other than the request of law enforcement; 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
3 vehicle shall, within fifteen days after taking custody and
4 possession thereof, notify the last-known registered owner of
5 the motor vehicle and all lienholders of record that the motor
6 vehicle has been taken into custody and possession, the
7 notification to be by registered or certified mail, return receipt
8 requested. The notice shall:

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

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

23 (4) State that the failure of the owner or lienholders of
24 record to exercise their right to reclaim the motor vehicle
25 within the ten-day period shall be deemed a waiver by the
26 owner and all lienholders of record of all right, title and
27 interest in the motor vehicle and of their consent to the sale
28 or disposal of the abandoned motor vehicle or junked motor
29 vehicle at a public auction or to a licensed salvage yard or
30 demolisher.

31 (b) If the identity of the last registered owner of the
32 abandoned motor vehicle or junked motor vehicle cannot be
33 determined or if the certificate of registration or certificate of
34 title contains no address for the owner or if it is impossible to
35 determine with reasonable certainty the identity and
36 addresses of all lienholders, notice shall be published as a
37 Class I legal advertisement in compliance with the provisions
38 of article three, chapter fifty-nine of this code, the publication
39 area shall be the county wherein the motor vehicle was
40 located at the time the enforcement agency took custody and
41 possession thereof and the notice shall be sufficient to meet
42 all requirements of notice pursuant to this article. Any notice
43 by publication may contain multiple listings of abandoned
44 motor vehicles and junked motor vehicles. The notice shall
45 be published within fifteen days after the motor vehicle is
46 taken into custody and possession and shall have the same
47 contents required for a notice pursuant to subsection (a) of
48 this section, except that the ten-day period shall run from the
49 date the notice is published as aforesaid.

50 (c) An enforcement agency which hires any person or
51 entity to take into custody and possession an abandoned
52 motor vehicle or junked motor vehicle pursuant to this
53 section shall notify the person or entity hired of the name and
54 address of the registered owner of the motor vehicle, if
55 known, and all lienholders of record, if any, within fifteen
56 days after the vehicle is taken into custody and possession:

57 *Provided*, That the requirements of this subsection shall not
58 apply to motor vehicles for which the registered owner
59 cannot be ascertained by due diligence or investigation.

60 (d) The person or entity hired by an enforcement agency
61 to take into custody or possession an abandoned motor
62 vehicle or junked motor vehicle shall, within thirty days after
63 the possession, notify the registered owner of the vehicle and
64 all lienholders of record, if any, as identified by the
65 enforcement agency pursuant to subsection (c) of this section,
66 by registered mail, return receipt requested, that the motor
67 vehicle has been taken into custody and possession. The
68 notice shall have the same contents required for a notice
69 pursuant to subsection (a) of this section, including the ten-
70 day period the owner or lienholder has to reclaim the motor
71 vehicle. Upon the issuance of the notice, the identified owner
72 of the motor vehicle is liable and responsible for all costs for
73 towing, preservation and storage of the motor vehicle:
74 *Provided*, That failure to issue the notice required by this
75 subsection within thirty days after possession of the motor
76 vehicle relieves the identified owner of the motor vehicle of
77 any liability for charges for towing, preservation and storage
78 in excess of the sum of the first five days of the charges:
79 *Provided, however*, That the requirements of this subsection
80 do not apply to motor vehicles for which the registered owner
81 thereof cannot be ascertained by due diligence or
82 investigation.

83 (e) For an abandoned motor vehicle or junked vehicle
84 having a loan value of \$7,500 or less, as ascertained by
85 values placed upon motor vehicles using a standard industry
86 reference book, a person or entity hired by an enforcement
87 agency to tow the abandoned motor vehicle or junked motor
88 vehicle may, if the motor vehicle is not claimed by the owner
89 or a lienholder after notice within the time set forth in
90 subsection (d) of this section or if the identity of the last

91 registered owner of the abandoned motor vehicle or junked
92 motor vehicle cannot be determined or if the certificate of
93 registration or certificate of title contains no address of the
94 owner or if it is impossible to determine with reasonable
95 certainty the identity and address of all lienholders after
96 publication as set forth in subsection (b) of this section, file
97 an application with the Division of Motor Vehicles for a
98 certificate of title and registration which, upon payment of the
99 appropriate fees, shall be issued. The person or entity may
100 then sell the motor vehicle at private sale or public auction.

101 (f) For an abandoned motor or junked motor vehicle
102 having a loan value of \$7,500 or less, as ascertained by
103 values placed upon motor vehicles using a standard industry
104 reference book, a licensed motor vehicle dealer, as defined in
105 section one, article one, chapter seventeen-a of this code, a
106 motor vehicle repair facility or a towing company registered
107 with the Public Service Commission pursuant to section two-
108 a, article two, chapter twenty-four-a of this code may, if a
109 motor vehicle is abandoned on the property or place of
110 business of the dealer or a motor vehicle repair facility or
111 towing company and is not claimed by the owner or a
112 lienholder after notice within the time set forth in subsection
113 (d) of this section or if the identity of the last registered
114 owner of the abandoned motor vehicle cannot be determined
115 or if the certificate of registration or certificate of title
116 contains no address of the owner or if it is impossible to
117 determine with reasonable certainty the identity and address
118 of all lienholders after publication as set forth in subsection
119 (b) of this section, file an application with the Division of
120 Motor Vehicles for a certificate of title and registration
121 which, upon payment of the appropriate fees, shall be issued.
122 The dealer or motor vehicle repair facility or towing company
123 may then sell the motor vehicle at private sale or public
124 auction.

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

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2012.

Governor