

COMMITTEE SUBSTITUTE

FOR

H. B. 4338

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

(Originating in the Committee on Roads and Transportation)
[February 9, 2012]

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 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
8 receipt 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 within
25 the ten-day period shall be deemed a waiver by the owner and
26 all lienholders of record of all right, title and interest in the
27 motor vehicle and of their consent to the sale or disposal of the
28 abandoned motor vehicle or junked motor vehicle at a public
29 auction or to a licensed salvage yard or demolisher.

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

48 day period shall run from the date the notice is published as
49 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

66 section, by registered mail, return receipt requested, that the
67 motor vehicle has been taken into custody and possession.
68 The 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
72 owner of the motor vehicle is liable and responsible for all
73 costs for towing, preservation and storage of the motor
74 vehicle: *Provided*, That failure to issue the notice required
75 by this subsection within thirty days after possession of the
76 motor vehicle relieves the identified owner of the motor
77 vehicle of any liability for charges for towing, preservation
78 and storage in excess of the sum of the first five days of the
79 charges: *Provided, however*, That the requirements of this
80 subsection do not apply to motor vehicles for which the
81 registered owner thereof cannot be ascertained by due
82 diligence or investigation.

83 (e) For an abandoned motor vehicle or junked vehicle
84 having a loan value of ~~\$2,500~~ \$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 an
97 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 ~~\$2,500~~ \$7,500 or less, as ascertained
103 by values placed upon motor vehicles using a standard
104 industry reference book, a licensed motor vehicle dealer, as
105 defined in section one, article one, chapter seventeen-a of
106 this code, or a motor vehicle repair facility may, if a motor
107 vehicle is abandoned on the property or place of business of
108 the dealer or a motor vehicle repair facility or a towing
109 company registered with the Public Service Commission
110 pursuant to section two-a, article two, chapter twenty-four-a
111 of this code and is not claimed by the owner or a lienholder
112 after notice within the time set forth in subsection (d) of this
113 section or if the identity of the last registered owner of the
114 abandoned motor vehicle cannot be determined or if the
115 certificate of registration or certificate of title contains no
116 address of the owner or if it is impossible to determine with
117 reasonable certainty the identity and address of all
118 lienholders after publication as set forth in subsection (b) of

119 this section, file an application with the Division of Motor
120 Vehicles for a certificate of title and registration which, upon
121 payment of the appropriate fees, shall be issued. The dealer
122 or motor vehicle repair facility may then sell the motor
123 vehicle at private sale or public auction.

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