

# WEST VIRGINIA LEGISLATURE

## 2023 REGULAR SESSION

Introduced

### House Bill 3198

FISCAL  
NOTE

By Delegates Ferrell, Honaker, Worrell, Kelly, Foggin,

Clark, Tully, Ward, W. Hall, Brooks, and Chiarelli

[Introduced February 02, 2023; Referred to the  
Committee on Technology and Infrastructure]

1 A BILL to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended, relating  
 2 to obtaining title to abandoned or junked motor vehicles abandoned on the property or  
 3 place of business of an automobile dealer, licensed automobile auction, motor vehicle  
 4 repair facility or towing company; and removing the requirement that the loan value of the  
 5 motor vehicle be less than \$9500 to allow the automobile dealer, licensed automobile  
 6 auction, motor vehicle repair facility or towing company to obtain a certificate of title and  
 7 registration for the abandoned motor vehicle or junked vehicle.

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

**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 possession an abandoned  
 2 motor vehicle or junked motor vehicle shall, within 15 days after taking custody and possession  
 3 thereof, notify the last-known registered owner of the motor vehicle and all lienholders of record  
 4 that the motor vehicle has been taken into custody and possession, the notification to be by  
 5 registered or certified mail, return receipt requested. The notice shall:

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

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

11 (3) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle  
 12 within ten days after the date notice was received by the owner or lienholders, upon payment of all

13 towing, preservation and storage charges resulting from taking and placing the motor vehicle into  
14 custody and possession; and

15 (4) State that the failure of the owner or lienholders of record to exercise their right to  
16 reclaim the motor vehicle within the ten-day period shall be deemed a waiver by the owner and all  
17 lienholders of record of all right, title and interest in the motor vehicle and of their consent to the  
18 sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a  
19 licensed salvage yard or demolisher.

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

32 (c) An enforcement agency which hires any person or entity to take into custody and  
33 possession an abandoned motor vehicle or junked motor vehicle pursuant to this section shall  
34 notify the person or entity hired of the name and address of the registered owner of the motor  
35 vehicle, if known, and all lienholders of record, if any, within fifteen days after the vehicle is taken  
36 into custody and possession: *Provided*, That the requirements of this subsection shall not apply to  
37 motor vehicles for which the registered owner cannot be ascertained by due diligence or  
38 investigation.

39           (d) The person or entity hired by an enforcement agency to take into custody or possession  
40 an abandoned motor vehicle or junked motor vehicle shall, within thirty days after the possession,  
41 notify the registered owner of the vehicle and all lienholders of record, if any, as identified by the  
42 enforcement agency pursuant to subsection (c) of this section, by registered mail, return receipt  
43 requested, that the motor vehicle has been taken into custody and possession. The notice shall  
44 have the same contents required for a notice pursuant to subsection (a) of this section, including  
45 the ten-day period the owner or lienholder has to reclaim the motor vehicle. Upon the issuance of  
46 the notice, the identified owner of the motor vehicle is liable and responsible for all costs for towing,  
47 preservation and storage of the motor vehicle: *Provided*, That failure to issue the notice required  
48 by this subsection within thirty days after possession of the motor vehicle relieves the identified  
49 owner of the motor vehicle of any liability for charges for towing, preservation and storage in  
50 excess of the sum of the first five days of the charges: *Provided, however*, That the requirements  
51 of this subsection do not apply to motor vehicles for which the registered owner thereof cannot be  
52 ascertained by due diligence or investigation.

53           (e) For an abandoned motor vehicle or junked vehicle having a loan value of \$7,500 or  
54 less, as ascertained by values placed upon motor vehicles using a standard industry reference  
55 book, a person or entity hired by an enforcement agency to tow the abandoned motor vehicle or  
56 junked motor vehicle may, if the motor vehicle is not claimed by the owner or a lienholder after  
57 notice within the time set forth in subsection (d) of this section or if the identity of the last registered  
58 owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the  
59 certificate of registration or certificate of title contains no address of the owner or if it is impossible  
60 to determine with reasonable certainty the identity and address of all lienholders after publication  
61 as set forth in subsection (b) of this section, file an application with the Division of Motor Vehicles  
62 for a certificate of title and registration which, upon payment of the appropriate fees, shall be  
63 issued. The person or entity may then sell the motor vehicle at private sale or public auction.

64           (f) A licensed motor vehicle dealer, as defined in §17A-1-1 of this code, a licensed

65 automobile auction as defined in §17A-6C-1 of this code, or a motor vehicle repair facility or a  
66 towing company registered with the Public Service Commission pursuant to §24A-2-2a of this  
67 code may file an application with the Division of Motor Vehicles for a certificate of title and  
68 registration for an abandoned motor vehicle or junked vehicle. Upon payment of the appropriate  
69 fees, the division shall deliver the certificate of title and registration to the applicant, if:

70 ~~(1) The vehicle has a loan value of \$9,500 or less, as ascertained by values placed upon~~  
71 ~~motor vehicles using a standard industry reference book; and~~

72 ~~(2) (1) The motor vehicle is abandoned on the property or place of business of the dealer,~~  
73 ~~licensed automobile auction, motor vehicle repair facility or towing company; and~~

74 ~~(3) This amount will be increased every five years on September 1 of the fifth year based~~  
75 ~~on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index;~~  
76 ~~and~~

77 ~~(4) (2) One of the following situations applies:~~

78 (A) The identity of the last registered owner of the abandoned motor vehicle cannot be  
79 determined; or

80 (B) The certificate of registration or certificate of title contains no address of the owner; or

81 (C) It is impossible to determine with reasonable certainty the identity and address of all  
82 lienholders after publication as set forth in subsection (b) of this section.

83 (D) The motor vehicle is not claimed by the owner or a lienholder after notice within the  
84 time set forth in subsection (d) of this section.

85 (g) Upon receipt of the certificate of title and registration, the dealer, licensed automobile  
86 auction, motor vehicle repair facility or towing company may sell the vehicle at private sale or  
87 public auction.

88 (h) For purposes of this section motor vehicle repair facilities and towing companies are not  
89 used motor vehicle dealers as that term is defined by §17A-6-1(a)(2) of this code.

NOTE: The purpose of this bill is to remove the requirement that the loan value of the motor vehicle be less than \$9500 to allow an automobile dealer, licensed automobile auction, motor vehicle repair facility or towing company upon whose property or place of business an abandoned or junked motor vehicle has been abandoned to obtain a certificate of title and registration for the abandoned motor vehicle or junked vehicle.

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