

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 2001

By: Rep. Barclay

"AN ACT TO AMEND SECTION 1 OF ACT 344 OF 1953 AS AMENDED,
[ARK. STAT. 75-1034] AND SECTION 1 OF ACT 816 OF 1973 [ARK.
STAT. 75-1034.1], TO REQUIRE NOTICE TO OWNERS AND LIEN HOLDERS
OF ABANDONED VEHICLES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1 of Act 344 of 1953, as amended, the same being
Arkansas Statute 75-1034, is hereby amended to read as follows:

"Section 1. (a) When any vehicles of a type subject to registration
under the laws of this State are found abandoned within this State, the same
shall be stored and their owners located. The person, firm, corporation,
county or city on whose premises said abandoned vehicles are stored shall
notify not later than the 10th day after taking the vehicle into custody, by
certified mail the last known registered owner of the vehicle and all lien
holders of record pursuant to Act 142 of 1949, as amended, that the vehicle or
vehicles are being held and that unless claimed within thirty (30) days will
be sold at public sale to the highest bidder. The notice shall describe the
year, make, model, and vehicle identification number of the abandoned motor
vehicle, set forth the location of the facility where the motor vehicle is
being held, inform the owner and any lien holders of their right to reclaim
the motor vehicle not later than the 90th day after the date of the notice, on
payment of all towing and storage charges resulting from placing the vehicle
in custody. The notice shall also state that the failure of the owner or lien
holders to exercise their right to reclaim the vehicle within the time pro-
vided constitutes a waiver by the owner and lien holders of all right, title,
and interest in the vehicle and their consent to the sale of the abandoned
motor vehicle at a public auction.

(b) If the identity of the last registered owner cannot be determined,

if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this Act. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) Thirty (30) days after such notice has been given as described above, the holder of said vehicles and the peace officer who found said abandoned vehicles shall execute an affidavit stating that said vehicles have been found abandoned and are stored with said holder and that notice has been given, as provided in this Act, to their registered owners and all lien holders of record. Said affidavit shall describe the vehicles by make, year, model, serial number and body style, and set forth the retail market value of said vehicles. Said person, firm, corporation, county or city shall then apply to the nearest Revenue Office for title of said vehicles, submitting said affidavit and paying all license fees, title fees and taxes required by law. Upon receipt of a certificate of title on said vehicles and upon giving written notice to the National Automobile Theft Bureau in Dallas, Texas, said holder shall then sell said vehicles at the best available price and after deducting all towing, storage and expense charges of whatever nature, shall hold the balance of the purchase price for ninety (90) days from the sale thereof. After ninety (90) days from the date of sale, if the owner has not been located, or if no claim has been made on such vehicles, then the balance of the proceeds of said sale shall go to the State Highway Department General Fund, accompanied by a written notarized statement, itemizing the various deductions from the gross sales price of said vehicles, signed by the selling party.

The provisions of this Act shall apply to any abandoned vehicle of a type subject to registration under the laws of this State.

(d) If the person who has custody of an abandoned vehicle fails to comply with the notice requirement of subsection (a) of this section within (10) days, the amount recoverable for storage of such vehicle shall be limited to the amount ordinarily charged for ten (10) days."

SECTION 2. Section 1 of Act 816 of 1973, the same being Arkansas Statute 75-1034.1, is hereby amended to read as follows:

"Section 1. (a) Any inoperable motor vehicle heretofore or hereafter abandoned on the private property of a person other than the owner of such motor vehicle, may be dismantled or destroyed by the owner of the property on which the vehicle is abandoned in the manner herein prescribed. Any owner of property upon which an inoperable motor vehicle is abandoned shall notify not later than the 10th day after discovery of the motor vehicle on the property, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record pursuant to Act 142 of 1949, as amended, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the 30th day after the date of the notice, on payment of all towing and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale or dismantling or destruction of the abandoned motor vehicle.

(b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this article. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The owner of private property upon which any abandoned inoperable motor vehicle is located and which is not claimed by the rightful owner for a period of ninety (90) days may petition to the county court of the county in which such abandoned vehicle is located for an order authorizing the vehicle to be dismantled or destroyed. Petition to the court for such order shall contain the address or description of the property where the vehicle is

located, a description of the vehicle and the vehicle serial or identification number if available, the name of the owner of such vehicle if known, all lien holders and a copy of the title to such vehicle if available. Upon the filing of any such petition, the county court shall cause to be published in a newspaper of general circulation in the county a notice that such petition has been filed, the address or description of the property where the vehicle is located, the name of the owner of such property and the owner of the vehicle if known, all lien holders, if known, and that unless objection to the issuance of an order for the dismantling or destruction of the vehicle is made within thirty (30) days, the order therefor will be issued by the court. If the owner of the vehicle or a person having an interest therein, does not remove the vehicle or file objection to the issuance of such order with the court within thirty (30) days after the publication of such notice, the court shall issue an order authorizing the owner of the property on which the vehicle is located to dismantle or destroy the vehicle or cause the same to be dismantled and destroyed. Upon issuance of the order the owner of the property on which the vehicle is located shall notify the Motor Vehicle Division of the Department of Finance and Administration that such order has been issued and shall file a copy of the petition and the order with the Division and may proceed to dismantle or destroy the vehicle.

(d) If the person who has custody of an abandoned vehicle fails to comply with the notice requirement of subsection (a) of this section within ten (10) days, the amount recoverable for storage of such vehicle shall be limited to the amount ordinarily charged for ten (10) days."

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

