

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

HOUSE BILL

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By: Representative Mills

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE ANNOTATED §§27-50-1101 AND 27-50-1102 TO PROVIDE AN ALTERNATIVE METHOD FOR PROPERTY OWNERS TO DISPOSE OF ABANDONED VEHICLES; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code of 1987 Annotated §27-50-1101 is hereby amended to read as follows:

"(a) (1) When any vehicle of a type subject to registration under the laws of this state are found abandoned on private property within this state except premises of auto repair businesses the property owner or his agent may have the vehicle removed from their property by a towing-storage firm.

(2) The towing-storing firm which takes possession of and stores the abandoned vehicle shall notify the local police or sheriff's department of the removal within twenty-four (24) hours. The towing-storage firm may not charge a storage fee for the vehicle for the time it is stored prior to the notification.

(3) The towing-storage firm which takes possession of and stores the abandoned vehicle shall notify, not later than the tenth day after taking the vehicle into custody, by certified mail, the last known registered owner of the vehicle and all lienholders of record pursuant to §27-14-101 et seq. 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.

(A) The notice shall describe the year, make, model, and vehicle identification number of the abandoned vehicle, set forth the location of the facility where the vehicle is being held, inform the owner and any lienholders of their right to reclaim the vehicle not later than the ninetieth day after the date of the notice, on payment of all towing and storage charges

resulting from placing the vehicle in custody.

(B) As to vehicles abandoned on premises of auto repair businesses, the notice as provided herein shall advise the owner of the vehicle that the vehicle may be picked up from the auto repair business within thirty (30) days without charge to the owner of the auto.

(C) The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned vehicle at a public auction.

(D) 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 lienholders, notice by one (1) publication in one (1) newspaper of general circulation in the area where the vehicle was abandoned is sufficient notice under this section.

(E) 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.

(3) Thirty (30) days after the notice has been given as described, the holder of the vehicles or the owner or operator of an automobile repair business on whose premises the vehicle was abandoned shall execute an affidavit stating that the vehicles have been found abandoned and are stored with the holder and that notice has been given, as provided in this section, to their registered owners and all lienholders of record.

(4) The affidavit shall describe the vehicles by make, year, model, serial number, and body style, and set forth the retail market value of the vehicles.

(5) The towing-storage firm or the automobile repair business shall then apply to the nearest revenue office for title of the vehicles, submitting the affidavit and paying all license fees, title fees, and taxes required by law.

(6) Upon receipt of a certificate of title on the vehicles and upon giving written notice to the National Automobile Theft Bureau in Dallas, Texas, the holder shall then sell the vehicles at the best available price.

After deducting all towing, storage, and expense charges of whatever nature, and reimbursing the property owner for whatever towing charges were paid, the holder shall hold the balance of the purchase price for ninety (90) days from the sale thereof.

(7) After ninety (90) days from the date of sale, if the owner has not been located or if no claim has been made on the vehicles, then the balance of the proceeds of the sale shall go to the State Highway and Transportation Department Fund, accompanied by a written notarized statement, itemizing the various deductions from the gross sales price of the vehicles, signed by the selling party.

(b) The provisions of this section shall apply to any abandoned vehicle of a type subject to registration under the laws of this state. Vehicles on the premises of an automobile repair business which are unclaimed by the vehicle owner for a period of ninety (90) days and which are not being stored for the vehicle owner shall be considered abandoned under this section.

(c) 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 the vehicle shall be limited to the amount ordinarily charged for ten (10) days."

SECTION 2. Arkansas Code of 1987 Annotated §27-50-1102 is hereby amended to read as follows:

"27-50-1102. Procedure to dismantle or destroy abandoned vehicles.

(a) Any vehicle abandoned on the private property of a person other than the owner of the motor vehicle may be sold, dismantled, or destroyed by the owner of the property on which the vehicle is abandoned in the manner prescribed in this section.

(b) (1) Any owner of property upon which an vehicle is abandoned shall notify, not later than the tenth day after discovery of the vehicle on the property, by certified mail, the last known registered owner of the vehicle and all lienholders of record pursuant to §27-14-101 et seq. that the vehicle has been taken into custody.

(2) The notice shall describe the year, make, model, and vehicle identification number of the abandoned vehicle, set forth the location of the facility where the vehicle is being held, inform the owner and any lienholders of their right to reclaim the vehicle not later than the thirtieth day after

the date of the notice, on payment of all towing and storage charges resulting from placing the vehicle in custody.

(3) The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lienholders of all right, title, and interest in the vehicle and their consent to the sale or dismantling or destruction of the abandoned vehicle.

(c) 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 lienholders, notice by one (1) publication in one (1) newspaper of general circulation in the area where the vehicle was abandoned is sufficient notice under this section.

(d) 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.

(e) (1) The owner of private property upon which any abandoned 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 the abandoned vehicle is located for an order authorizing the vehicle to be sold, dismantled, or destroyed.

(2) Petition to the court for this 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 the vehicle and all lienholders, if known, and a copy of the title to the vehicle if available.

(3) 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 the petition has been filed, the address or description of the property where the vehicle is located, the name of the owner of the property and the owner of the vehicle if known, all lienholders, if known, and that, unless objection to the issuance of an order for the selling, dismantling, or destruction of the vehicle is made within thirty (30) days, the order therefor will be issued by the court.

(4) 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 the order with the court within thirty (30) days after the publication of the notice, the court shall issue an order authorizing the owner of the property on which the vehicle is located to sell, dismantle, or destroy the vehicle or cause it to be sold, dismantled, and destroyed.

(5) Upon issuance of the order, the owner of the property on which the vehicle is located shall notify the Office of Motor Vehicle of the Department of Finance and Administration that the order has been issued and shall file a copy of the petition and the order with the office and may proceed to sell, dismantle, or destroy the vehicle.

(f) 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 the vehicle shall be limited to the amount ordinarily charged for ten (10) days."

SECTION 3. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 4. All laws and parts of laws in conflict with this act are hereby repealed.