Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 2	State of Arkansas 85th General Assembly	A Bill	
3	Regular Session, 2005		HOUSE BILL 1694
4			
5	By: Representative D. Johnso	n	
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8		For An Act To Be Entitled	
9	AN ACT T	O PERMIT THE TEMPORARY USE OF ABA	NDONED
10	VEHICLES	BY MUNICIPALITIES; AND FOR OTHER	ł
11	PURPOSES	•	
12			
13		Subtitle	
14	AN AC	T TO PERMIT THE TEMPORARY USE OF	
15	ABAND	ONED VEHICLES BY MUNICIPALITIES.	
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18	BE IT ENACTED BY THE G	ENERAL ASSEMBLY OF THE STATE OF A	RKANSAS:
19			
20	SECTION 1. Arkansas Code § 27-50-1101 is amended to read as follows:		
21	27-50-1101. Pro	cedure to sell abandoned vehicles	•
22	(a) <del>(l)(A) When (</del>	any vehicles of a type subject to	-registration under
23	the laws of this state	are found abandoned on private o	<del>r public property</del>
24	within this state, the	property owners or their agents	may have the vehicle
25	removed from their prop	perty by a towing and storage fir	<del>m.</del> <u>For purposes of</u>
26	this section:		
27	<u>(1)</u> "Abane	doned" means the state of:	
28	<u>(A)</u>	Being unattended by the owner who	<u>o has overtly</u>
29	manifested some intent	ion to not retake possession;	
30	<u>(B)</u>	Remaining unattended, whether in	the location first
31	found or in another lo	cation that the vehicle has been	removed to pursuant to
32	this subchapter, for a	period of thirty (30) days, duri	ng which the owner has
33	given no evidence of a	n intent to retake possession;	
34	<u>(C)</u>	Having been left for repairs at a	<u>a vehicle repair</u>
35	business by the vehicle owner and left unclaimed for forty-five (45) days		
36	from the time that the	repair work is complete; or	



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1	(D) Having been left for repairs at a vehicle repair		
2	business by the vehicle owner who has failed to pay for repair work performed		
3	by the vehicle repair business for forty-five (45) days from the time that		
4	the repair work is complete;		
5	(2) "Holder" means the person who possesses a vehicle as a		
6	result of the vehicle's abandoned status; and		
7	(3) "Person" means any natural person, business, company,		
8	corporation, municipality, county, or state agency.		
9	(b)(1) When any vehicle of a type subject to registration under the		
10	laws of this state is found abandoned on private or public property within		
11	this state, the property owner or his or her agent may have the vehicle		
12	removed from the property by a towing and storage firm.		
13	(B) Vehicles on the premises of an automobile repair		
14	business shall be deemed abandoned if either the vehicle is unclaimed by the		
15	vehicle owner within forty-five (45) days or the debt is not paid within		
16	forty-five (45) days from the time the repair work is complete.		
17	(2)(A) The towing and storage firm which takes possession of and		
18	stores the abandoned vehicle shall notify the local police or sheriff's		
19	department of the removal within six (6) hours of taking possession of the		
20	vehicle.		
21	(B) The towing and storage firm may not charge a storage		
22	fee for the vehicle for the time it is stored prior to the notification.		
23	(3) Not later than the tenth day after taking possession of and		
24	storing the vehicle or its being deemed abandoned, the towing and storage		
25	firm which takes possession of and stores the abandoned vehicle or the		
26	automobile repair business upon whose premises the vehicle has been deemed		
27	abandoned shall notify by certified mail with return receipt requested the		
28	last known registered owner of the vehicle and all lienholders of record		
29	pursuant to § 27-14-101 et seq. that the vehicle is being held, and unless		
30	claimed within forty-five (45) days will be dismantled, destroyed, or sold at		
31	public sale to the highest bidder. The name of the last known registered		
32	owner of the vehicle and all lienholders of record may be obtained from the		
33	records of the Office of Motor Vehicle, the Arkansas Crime Information Center		
34	records, or the motor vehicle records of any other state where the vehicle		
35	was last registered. Nothing in this section shall preclude the owner or his		
36	or her authorized agent from making alternative arrangements with the towing		

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and storage firm within the ten-day time period and waiving, in writing, his
 or her right to the required notice.

3 (A) The notice shall describe the year, make, model, and 4 vehicle identification number of the abandoned vehicle, set forth the name, 5 address, and telephone number of the facility where the vehicle is being 6 held, and inform the owner and any lienholders of their right to reclaim the 7 vehicle not later than the forty-fifth day after the date of the notice upon 8 payment of all towing and storage charges resulting from placing the vehicle 9 in the custody of the towing and storage firm or upon payment of all 10 outstanding bills due the automobile repair business. Notices to owners of 11 vehicles deemed abandoned on the premises of automobile repair facilities 12 shall also advise that the auto repairman holds an absolute lien on the vehicle pursuant to § 18-45-201 et seq. 13

(B) The notice shall also state that the failure of the owners or lienholders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owners and lienholders of all right, title, and interest in the vehicle and constitutes their consent to the sale, dismantling, or destruction of the abandoned vehicle and that the towing and storage firm claims a possessory lien for all charges pursuant to § 27-50-1208.

(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 address of each lienholder, notice by publication one (1) time 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.

(4) (A) Forty-five (45) days after the notice has been given as described, the holder of the vehicle or the owner or operator of the automobile repair business on whose premises the vehicle was abandoned shall execute an affidavit stating that the vehicle has been found abandoned and is stored with the holder and that notice has been given, as provided in this section, to the registered owners and all lienholders of record.

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1 2 (B) The affidavit shall describe the vehicle by make, year, model, and vehicle identification number.

3 (5) The towing and storage firm or the owner or operator of the 4 automobile repair business shall obtain written verification that the 5 Arkansas Crime Information Center records do not list the vehicle as having 6 been reported stolen. The verification shall be on a form prescribed by the 7 Arkansas State Highway and Transportation Department, a municipal police 8 department, a county sheriff's department, or the Department of Arkansas 9 State Police. Upon receipt of the form, the holder shall then sell the 10 vehicle at public sale to the highest bidder.

11 (6) The towing and storage firm or automobile repair business 12 shall supply the buyer with the necessary documentation required in this 13 section for the sale of the vehicle, and the buyer shall then apply to the 14 nearest revenue office for the title of the vehicle, submitting the affidavit 15 and documentation and paying all license fees, title fees, and taxes required 16 by law.

17 (7) If the sale of the vehicle produces more funds than the sum 18 of all charges, including the costs of the sale and including a reasonable 19 charge for processing the paperwork, then after forty-five (45) days from the date of the sale if no claim has been made by any owner or lienholder for the 20 21 balance of the proceeds, the balance of the proceeds of the sale shall go to 22 the Treasurer of State for deposit in the State Highway and Transportation 23 Department Fund, accompanied by a written statement itemizing the various 24 deductions from the gross sales price of the vehicle signed by the selling 25 party.

26 (b)(c) If the person who has custody of an abandoned vehicle fails to 27 comply with the notice requirement of subsection (a)(b) of this section 28 within ten (10) days of the date the vehicle is obtained or deemed abandoned, 29 the amount recoverable for storage shall be forfeited.

30 (e)(d) Upon presentation of documentation to the office establishing 31 compliance with the sale procedure in this section protecting the rights of 32 the owner or lienholder, the purchaser of the vehicle shall be entitled to 33 receive a new title to the vehicle upon meeting other applicable 34 administrative requirements of the title and registration laws.

35 (e) If the holder of the vehicle is a municipality, upon compliance
 36 with the notice provisions of this section and after the expiration of forty-

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1	five (45) days as required by subsection (b) of this section, the	
2	municipality may defer the public sale and make use of the vehicle for law	
3	enforcement purposes, but only upon the enactment of a local ordinance that:	
4	(1) Declares the municipality's policy regarding the deferral	
5	for law enforcement purposes;	
6	(2) Charges a specific municipal official with the	
7	responsibilities of identifying the vehicles to be used by the municipality	
8	and declaring a future date to publicly sell the vehicle pursuant to this	
9	section provided that the date of the sale shall be a maximum of six $(6)$	
10	months from the passage of the forty-five (45) days required by this section	
11	or as soon as is practicable if circumstances arise that prevent the sale on	
12	the declared sale date; and	
13	(3) Requires that the official ensure that the public sale	
14	proceed on the sale date declared in the ordinance.	
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