

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 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1694

4
5 By: Representative D. Johnson
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For An Act To Be Entitled

8
9 AN ACT TO PERMIT THE TEMPORARY USE OF ABANDONED
10 VEHICLES BY MUNICIPALITIES; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 AN ACT TO PERMIT THE TEMPORARY USE OF
15 ABANDONED VEHICLES BY MUNICIPALITIES.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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20 SECTION 1. Arkansas Code § 27-50-1101 is amended to read as follows:
21 27-50-1101. Procedure to sell abandoned vehicles.

22 (a)~~(1)(A)~~ ~~When any vehicles of a type subject to registration under~~
23 ~~the laws of this state are found abandoned on private or public property~~
24 ~~within this state, the property owners or their agents may have the vehicle~~
25 ~~removed from their property by a towing and storage firm. For purposes of~~
26 this section:

27 (1) "Abandoned" means the state of:

28 (A) Being unattended by the owner who has overtly
29 manifested some intention to not retake possession;

30 (B) Remaining unattended, whether in the location first
31 found or in another location that the vehicle has been removed to pursuant to
32 this subchapter, for a period of thirty (30) days, during which the owner has
33 given no evidence of an intent to retake possession;

34 (C) Having been left for repairs at a vehicle repair
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



1 and storage firm within the ten-day time period and waiving, in writing, his
 2 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
 13 vehicle pursuant to § 18-45-201 et seq.

14 (B) The notice shall also state that the failure of the
 15 owners or lienholders to exercise their right to reclaim the vehicle within
 16 the time provided constitutes a waiver by the owners and lienholders of all
 17 right, title, and interest in the vehicle and constitutes their consent to
 18 the sale, dismantling, or destruction of the abandoned vehicle and that the
 19 towing and storage firm claims a possessory lien for all charges pursuant to
 20 § 27-50-1208.

21 (C) If the identity of the last registered owner cannot be
 22 determined, if the registration contains no address for the owner, or if it
 23 is impossible to determine with reasonable certainty the identity and address
 24 of each lienholder, notice by publication one (1) time in one (1) newspaper
 25 of general circulation in the area where the vehicle was abandoned is
 26 sufficient notice under this section.

27 (D) The notice by publication may contain multiple
 28 listings of abandoned vehicles, shall be published within the time
 29 requirements prescribed for notice by certified mail, and shall have the same
 30 contents required for a notice by certified mail.

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

1 (B) The affidavit shall describe the vehicle by make,
 2 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
 20 date of the sale if no claim has been made by any owner or lienholder for the
 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-

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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