

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  
4

As Engrossed: H3/4/05  
**A Bill**

HOUSE BILL 1694

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

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

13 **Subtitle**

14 AN ACT TO PERMIT THE TEMPORARY USE OF  
15 ABANDONED VEHICLES BY *MUNICIPALITIES AND*  
16 *COUNTIES*.  
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 SECTION 1. Arkansas Code § 27-50-1101 is amended to read as follows:  
22 27-50-1101. Procedure to sell abandoned vehicles.

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

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

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

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

35 (C) Having been left for repairs at a vehicle repair  
36 business by the vehicle owner and left unclaimed for forty-five (45) days



1 from the time that the repair work is complete; or

2 (D) Having been left for repairs at a vehicle repair  
3 business by the vehicle owner who has failed to pay for repair work performed  
4 by the vehicle repair business for forty-five (45) days from the time that  
5 the repair work is complete;

6 (2) "Holder" means the person who possesses a vehicle as a  
7 result of the vehicle's abandoned status; and

8 (3) "Person" means any natural person, business, company,  
9 corporation, municipality, county, or state agency.

10 (b)(1) When any vehicle of a type subject to registration under the  
11 laws of this state is found abandoned on private or public property within  
12 this state, the property owner or his or her agent may have the vehicle  
13 removed from the property by a towing and storage firm.

14 ~~(B) Vehicles on the premises of an automobile repair~~  
15 ~~business shall be deemed abandoned if either the vehicle is unclaimed by the~~  
16 ~~vehicle owner within forty five (45) days or the debt is not paid within~~  
17 ~~forty five (45) days from the time the repair work is complete.~~

18 (2)(A) The towing and storage firm which takes possession of and  
19 stores the abandoned vehicle shall notify the local police or sheriff's  
20 department of the removal within six (6) hours of taking possession of the  
21 vehicle.

22 (B) The towing and storage firm may not charge a storage  
23 fee for the vehicle for the time it is stored prior to the notification.

24 (3) Not later than the tenth day after taking possession of and  
25 storing the vehicle or its being deemed abandoned, the towing and storage  
26 firm which takes possession of and stores the abandoned vehicle or the  
27 automobile repair business upon whose premises the vehicle has been deemed  
28 abandoned shall notify by certified mail with return receipt requested the  
29 last known registered owner of the vehicle and all lienholders of record  
30 pursuant to § 27-14-101 et seq. that the vehicle is being held, and unless  
31 claimed within forty-five (45) days will be dismantled, destroyed, or sold at  
32 public sale to the highest bidder. The name of the last known registered  
33 owner of the vehicle and all lienholders of record may be obtained from the  
34 records of the Office of Motor Vehicle, the Arkansas Crime Information Center  
35 records, or the motor vehicle records of any other state where the vehicle  
36 was last registered. Nothing in this section shall preclude the owner or his

1 or her authorized agent from making alternative arrangements with the towing  
2 and storage firm within the ten-day time period and waiving, in writing, his  
3 or her right to the required notice.

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

15 (B) The notice shall also state that the failure of the  
16 owners or lienholders to exercise their right to reclaim the vehicle within  
17 the time provided constitutes a waiver by the owners and lienholders of all  
18 right, title, and interest in the vehicle and constitutes their consent to  
19 the sale, dismantling, or destruction of the abandoned vehicle and that the  
20 towing and storage firm claims a possessory lien for all charges pursuant to  
21 § 27-50-1208.

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

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

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

1 section, to the registered owners and all lienholders of record.

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

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

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

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

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

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

36 (e) If the holder of the vehicle is a municipality or county, upon

1 compliance with the notice provisions of this section and after the  
2 expiration of forty-five (45) days as required by subsection (b) of this  
3 section, the municipality or county may defer the public sale and make use of  
4 the vehicle for law enforcement purposes, but only upon the enactment of an  
5 ordinance that:

6 (1) Declares the municipality's or the county's policy regarding  
7 the deferral for law enforcement purposes;

8 (2) Charges a specific municipal or county official with the  
9 responsibilities of identifying the vehicles to be used by the municipality  
10 or county and declaring a future date to publicly sell the vehicle pursuant  
11 to this section provided that the date of the sale shall be a maximum of six  
12 (6) months from the passage of the forty-five (45) days required by this  
13 section or as soon as is practicable if circumstances arise that prevent the  
14 sale on the declared sale date; and

15 (3) Requires that the official ensure that the public sale  
16 proceed on the sale date declared in the ordinance.

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18 /s/ D. Johnson  
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