

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1288

Introduced by

Representatives Toman, Dockter, Schatz, Thoreson

Senators Cook, Poolman, Schaible

1 A BILL for an Act to amend and reenact sections 39-26-02, 39-26-04, 39-26-06, 39-26-07,
2 39-26-08, 39-26-09, and 39-26-10 of the North Dakota Century Code, relating to abandoned
3 vehicles.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 39-26-02 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-26-02. Definitions.**

8 As used in this chapter, unless the context or subject matter otherwise requires:

- 9 1. "Abandoned motor vehicle" means a motor vehicle, ~~as defined in section 39-01-01,~~
10 that has remained for a period of more than ~~forty-eight~~ninety-six hours on public
11 property illegally or lacking vital component parts, or has remained for a period of
12 more than forty-eight hours on private property without consent of the person in control
13 of ~~such~~the property or in an inoperable condition ~~such that it~~in which the vehicle has
14 no substantial potential further use consistent with its usual functions unless it is kept
15 in an enclosed garage or storage building. ~~It also~~In addition, the term means a motor
16 vehicle voluntarily surrendered by its owner to a person duly licensed under section
17 39-26-10. An antique automobile, as defined in section 39-04-10.4, and other motor
18 vehicles to include parts car and special interest vehicles, may not be considered an
19 abandoned motor vehicle within the meaning of this chapter.
- 20 2. "Collector" means the owner of one or more special interest vehicles who collects,
21 purchases, acquires, trades, or disposes of special interest vehicles or parts thereof
22 for the person's own use in order to restore, preserve, and maintain a special interest
23 vehicle or antique vehicle.
- 24 3. "Department" means the state department of health.

- 1 4. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
2 by the collector to furnish parts to restore, preserve, and maintain a special interest
3 vehicle or antique vehicle.
- 4 5. "Qualified entity" means a unit of government, or a private tow operating service acting
5 as an agent of a unit of government, or of a private party in possession of an
6 abandoned vehicle.
- 7 6. "Special interest vehicle" means a motor vehicle which is at least twenty years old and
8 which has not been altered or modified from original manufacturer's specifications
9 and, because of its historic interest, is being preserved by hobbyists.
- 10 6.7. "Unit of government" includes a state department or agency, a county, city, township,
11 or other political subdivision.
- 12 7.8. "Vital component parts" means those parts of a motor vehicle that are essential to the
13 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
14 train, and wheels.

15 **SECTION 2. AMENDMENT.** Section 39-26-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **39-26-04. Custody of abandoned vehicle.**

18 ~~Units of government~~A qualified entity may take into custody and impound any abandoned
19 motor vehicle.

20 **SECTION 3. AMENDMENT.** Section 39-26-06 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **39-26-06. Notice to owner of abandoned vehicle.**

- 23 1. ~~When~~If an abandoned motor vehicle does not fall within the provisions of section
24 39-26-05, the ~~unit of government~~qualified entity taking it into custody shall give notice
25 of the taking within ten days. The notice must ~~set forth~~include the date and place of
26 the taking, the year, make, model, and serial number of the abandoned motor vehicle
27 and the place where the vehicle is being held, must inform the owner and any
28 lienholders or secured parties of their right to reclaim the vehicle under section
29 39-26-07, and must state that failure of the owner or lienholders or secured parties to
30 exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title,

and interest in the vehicle and a consent to the sale of the vehicle at a public auction pursuant to section 39-26-08.

2. The notice must be sent by registered mail with return receipt to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders or secured parties of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice must be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Published notices may be grouped together for convenience and economy.

3. If the removal and storage costs, which may not exceed twenty-five dollars per day or four hundred dollars per calendar month for storage costs, have not been paid within thirty days after the ~~date~~ receipt of notice by the lienholder or secured party, the qualified entity may request that the department of transportation cancel the vehicle's certificate of title, remove any perfected security interest, and reissue the certificate of title to the qualified entity on a form approved by the department. In the request, the qualified entity shall certify that the required notice was given and that the owner or lienholder has not made payment as required in section 39-26-07. A copy of the notice must be attached to the request.

4. Upon receipt of a valid request, the department of transportation ~~shall~~ may cancel the certificate of title to the vehicle and reissue the certificate of title to the qualified entity. The qualified entity shall pay all fees required by the department of transportation for the transfer of title. After the department of transportation has reissued the certificate of title, the former owner or lienholder does not have any further right, title, claim, or interest in or to the vehicle.

SECTION 4. AMENDMENT. Section 39-26-07 of the North Dakota Century Code is amended and reenacted as follows:

39-26-07. Right of owner to reclaim abandoned vehicle.

1. The owner, secured parties, or any lienholder of an abandoned motor vehicle has a right to reclaim ~~such~~the vehicle from the ~~unit of government~~qualified entity taking it into custody upon payment of all towing and storage charges resulting from taking the

vehicle into custody within ~~fifteen~~thirty days after the date of the notice required by section 39-26-06.

2. Nothing in this chapter may be construed to impair any lien of a garagekeeper under the laws of this state or the right of a lienholder or secured parties to foreclose. For the purposes of this section, "garagekeeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.

SECTION 5. AMENDMENT. Section 39-26-08 of the North Dakota Century Code is amended and reenacted as follows:

39-26-08. Public sale - Disposition of proceeds.

1. An abandoned motor vehicle not more than seven model years of age taken into custody and not reclaimed under section 39-26-07 must be sold to the highest bidder at public auction or sale, following reasonable published notice thereof. The purchaser must be given a receipt in a form prescribed by the department which ~~shall be~~is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The license plates displayed on an abandoned vehicle must be removed and destroyed ~~prior to~~before the purchaser taking possession of the vehicle.
2. From the proceeds of the sale of an abandoned motor vehicle, the ~~unit of~~government~~qualified entity~~ shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all notice and publication costs incurred pursuant to this chapter. Any remainder from the proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or secured parties for ninety days and then must be ~~deposited in the state treasury as provided in section 1 of article IX of the Constitution of North Dakota and credited to the permanent school fund~~reported to the state unclaimed property division to be administered under chapter 47-30.1.

SECTION 6. AMENDMENT. Section 39-26-09 of the North Dakota Century Code is amended and reenacted as follows:

1 **39-26-09. Disposal of vehicles not sold.**

2 ~~When not~~ a bid has not been received for an abandoned motor vehicle, the ~~unit of~~
3 ~~government~~qualified entity may dispose of it ~~pursuant to~~ the vehicle by contract under section
4 39-26-10.

5 **SECTION 7. AMENDMENT.** Section 39-26-10 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **39-26-10. Contracts for disposal - Issuance of licenses by state department of health -**
8 **~~Reimbursement of units of government~~qualified entity for costs.**

9 1. A ~~unit of government~~qualified entity may contract with any qualified licensed scrap iron
10 processor for collection, storage, incineration, volume reduction, transportation, or
11 other services necessary to prepare abandoned motor vehicles and other scrap metal
12 for recycling or other methods of disposal. ~~Such~~The contract may authorize the
13 contracting scrap iron processor to pay to the owner of any abandoned motor vehicle
14 an incentive payment for ~~such~~the vehicle if it is voluntarily surrendered and delivered
15 to the scrap iron processor. For the purposes of this section, an owner of an
16 abandoned motor vehicle includes only a person who has owned and operated the
17 vehicle for the person's personal or business use.

18 2. The department may issue a license to any qualified scrap iron processor desiring to
19 participate in ~~such~~ a contract who meets the requirements for solid waste disposers
20 established by the department.

21 3. When a ~~unit of government~~qualified entity enters into a contract with a scrap iron
22 processor duly licensed by the department, the department may review the contract to
23 determine whether it conforms to the department's plan for solid waste disposal. A
24 contract that ~~does so conform~~conforms may be approved by the department.
25 ~~When~~After a contract has been approved, the department may reimburse the unit of
26 government for the costs incurred under the contract, including incentive payments
27 authorized and made under the contract, subject to the limitations of legislative
28 appropriations.

29 4. The department may demand that a ~~unit of government~~qualified entity contract for the
30 disposal of abandoned motor vehicles and other scrap metal ~~pursuant to~~under the
31 department's plan for solid waste disposal. ~~When~~If the ~~unit of government~~qualified

- 1 entity fails to ~~se~~ contract within one hundred eighty days of the demand, the
- 2 department, on behalf of ~~such unit of government~~ the qualified entity, may contract with
- 3 any scrap iron processor duly licensed by the department for ~~such~~ the disposal.