

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 hours on public property
11 illegally or lacking vital component parts, or has remained for a period of more than
12 forty-eight hours on private property without consent of the person in control of
13 ~~such~~the property or in an inoperable condition ~~such that it~~ in which the vehicle has no
14 substantial potential further use consistent with its usual functions unless it is kept in
15 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, a private tow operating service acting
5 as an agent of a unit of government, or private party in possession of an abandoned
6 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,

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

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

9 3. If the removal and storage costs have not been paid within thirty days after the date of
10 notice, the qualified entity may request that the department of transportation cancel
11 the vehicle's certificate of title, remove any perfected security interest, and reissue the
12 certificate of title to the qualified entity. In the request, the qualified entity shall certify
13 that the required notice was given and that the owner or lienholder has not made
14 payment as required in section 39-26-07. A copy of the notice must be attached to the
15 request.

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

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

24 **39-26-07. Right of owner to reclaim abandoned vehicle.**

25 1. The owner, secured parties, or any lienholder of an abandoned motor vehicle has a
26 right to reclaim ~~such~~the vehicle from the ~~unit of government~~qualified entity taking it into
27 custody upon payment of all towing and storage charges resulting from taking the
28 vehicle into custody within fifteen days after the date of the notice required by section
29 39-26-06.

30 2. Nothing in this chapter may be construed to impair any lien of a garagekeeper under
31 the laws of this state or the right of a lienholder or secured parties to foreclose. For the

1 purposes of this section, "garagekeeper" is an operator of a parking place or
2 establishment, an operator of a motor vehicle storage facility, or an operator of an
3 establishment for the servicing, repair, or maintenance of motor vehicles.

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

6 **39-26-08. Public sale - Disposition of proceeds.**

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

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

24 **39-26-09. Disposal of vehicles not sold.**

25 ~~When no~~a bid has not been received for an abandoned motor vehicle, the ~~unit of~~
26 ~~government~~qualified entity may dispose of it ~~pursuant to~~the vehicle by contract under section
27 39-26-10.

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

1 **39-26-10. Contracts for disposal - Issuance of licenses by state department of health -**
2 **Reimbursement of ~~units of government~~qualified entity for costs.**

- 3 1. A ~~unit of government~~qualified entity may contract with any qualified licensed scrap iron
4 processor for collection, storage, incineration, volume reduction, transportation, or
5 other services necessary to prepare abandoned motor vehicles and other scrap metal
6 for recycling or other methods of disposal. ~~Such~~The contract may authorize the
7 contracting scrap iron processor to pay to the owner of any abandoned motor vehicle
8 an incentive payment for ~~such~~the vehicle if it is voluntarily surrendered and delivered
9 to the scrap iron processor. For the purposes of this section, an owner of an
10 abandoned motor vehicle includes only a person who has owned and operated the
11 vehicle for the person's personal or business use.
- 12 2. The department may issue a license to any qualified scrap iron processor desiring to
13 participate in ~~such~~ a contract who meets the requirements for solid waste disposers
14 established by the department.
- 15 3. When a ~~unit of government~~qualified entity enters into a contract with a scrap iron
16 processor duly licensed by the department, the department may review the contract to
17 determine whether it conforms to the department's plan for solid waste disposal. A
18 contract that ~~does so conform~~conforms may be approved by the department.
19 ~~When~~After a contract has been approved, the department may reimburse the unit of
20 government for the costs incurred under the contract, including incentive payments
21 authorized and made under the contract, subject to the limitations of legislative
22 appropriations.
- 23 4. The department may demand that a ~~unit of government~~qualified entity contract for the
24 disposal of abandoned motor vehicles and other scrap metal ~~pursuant to~~under the
25 department's plan for solid waste disposal. ~~When~~If the ~~unit of government~~qualified
26 entity fails to ~~so~~ contract within one hundred eighty days of the demand, the
27 department, on behalf of ~~such unit of government~~the qualified entity, may contract with
28 any scrap iron processor duly licensed by the department for ~~such~~the disposal.