

HOUSE BILL NO. 1263

Introduced by

Representatives Dockter, Grueneich, D. Ruby

Senator Rust

1 A BILL for an Act to create and enact a new subsection to section 39-26-07 of the North Dakota
2 Century Code, relating to right of an owner to reclaim an abandoned vehicle; to amend and
3 reenact sections 23.1-15-01, 23.1-15-03, 23.1-15-05, 23.1-15-06, ~~and~~ 23.1-15-07, 39-26-02,
4 and 39-26-06 of the North Dakota Century Code, relating to custody and disposition of
5 abandoned motor vehicles; to provide a penalty; and to declare an emergency.

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

7 **SECTION 1. AMENDMENT.** Section 23.1-15-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **23.1-15-01. Definitions. (Contingent effective date - [See note](#))**

10 For purposes of this chapter, unless the context otherwise requires:

- 11 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
12 that has remained for a period of more than forty-eight hours on public property
13 illegally or lacking vital component parts, or ~~has remained for a period of more than~~
14 ~~forty-eight hours~~ is located on private property without consent of the person in control
15 of the property or in an inoperable condition such that it has no substantial potential
16 further use consistent with its usual functions, unless it is kept in an enclosed garage
17 or storage building. It also means a motor vehicle voluntarily surrendered by its owner
18 to a person duly licensed under section 23.1-15-09. An antique automobile, as defined
19 in section 39-04-10.4, and other motor vehicles to include parts car and special
20 interest vehicles, may not be considered an abandoned motor vehicle within the
21 meaning of this chapter.
- 22 2. "Collector" means the owner of one or more special interest vehicles that collects,
23 purchases, acquires, trades, or disposes of special interest vehicles or parts of special

1 interest vehicles for the person's own use in order to restore, preserve, and maintain a
2 special interest vehicle or antique vehicle.

3 3. "Commercial towing service" means a registered business in North Dakota that tows
4 motor vehicles.

5 4. "Department" means the department of environmental quality.

6 4.5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
7 mechanical breakdown on public roadway, or other emergency-related incident
8 necessitating vehicle removal for public safety with or without the owner's consent.

9 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
10 by the collector to furnish parts to restore, preserve, and maintain a special interest
11 vehicle or antique vehicle.

12 5.6.7. "Special interest vehicle" means a motor vehicle that is at least twenty years old and
13 has not been altered or modified from original manufacturer's specifications and,
14 because of its historic interest, is being preserved by hobbyists.

15 6.7.8. "Unit of government" includes a state department or agency, a county, city, township,
16 or other political subdivision.

17 7.8.9. "Vital component parts" means those parts of a motor vehicle that are essential to the
18 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
19 train, and wheels.

20 **SECTION 2. AMENDMENT.** Section 23.1-15-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **23.1-15-03. Custody of abandoned vehicle. (Contingent effective date - [See note](#))**

23 Units of government may take into custody and impound an abandoned motor vehicle. If
24 requested by an owner, lessee, tenant, or occupant of private property, a commercial towing
25 service may remove and take into custody an abandoned motor vehicle located on the private
26 property.

27 **SECTION 3. AMENDMENT.** Section 23.1-15-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **23.1-15-05. Notice to owner and law enforcement of abandoned vehicle. (Contingent**
2 **effective date - [See note](#))**

- 3 1. When an abandoned motor vehicle does not fall within the provisions of section
4 23.1-15-04, the unit of government or commercial towing service taking it into custody
5 shall give notice of the taking within ten days. The notice must set forth the date and
6 place of the taking, the year, make, model, and serial number of the abandoned motor
7 vehicle, and the place where the vehicle is being held, must inform the owner and any
8 lienholders or secured parties of their right to reclaim the vehicle under section
9 23.1-15-06, and must state that failure of the owner or lienholders or secured parties
10 to exercise their right to reclaim the vehicle is deemed a waiver by them of all right,
11 title, and interest in the vehicle and a consent to the sale ~~disposal~~ of the vehicle at a
12 public auction pursuant to section 23.1-15-07.
- 13 2. The notice must be sent by certified mail, return receipt requested, to the registered
14 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
15 or secured parties of record. If it is impossible to determine with reasonable certainty
16 the identity and address of the registered owner and all lienholders, the notice must be
17 published once in a newspaper of general circulation in the area where the motor
18 vehicle was abandoned. Published notices may be grouped together for convenience
19 and economy.
- 20 3. Subject to section 23.1-15-04, a commercial towing service that takes an abandoned
21 motor vehicle into custody shall provide notice to the law enforcement agency having
22 jurisdiction in the location from which the motor vehicle was towed within twelve hours
23 after completing the tow.

24 ~~a. The notice must include:~~

25 ~~(1) The license plate number and state of registration;~~

26 ~~(2) The location from which the motor vehicle was towed;~~

27 ~~(3) The location to which the motor vehicle was towed;~~

28 ~~(4) The name, address, and telephone number of the commercial towing~~
29 ~~service that towed and is storing the motor vehicle; and~~

30 ~~(5) A description of the motor vehicle, including make, model, year, and color.~~

31 ~~b.~~

1 4. Notice under subsection 3 must include:

2 a. The license plate number and state of registration;

3 b. The location from which the motor vehicle was towed;

4 c. The location to which the motor vehicle was towed;

5 d. The name, address, and telephone number of the commercial towing service that
6 towed and is storing the motor vehicle; and

7 e. A description of the motor vehicle, including make, model, year, and color.

8 5. A commercial towing service that violates ~~this subsection must be assessed a fee of~~

9 ~~five hundred dollars~~ subsection 3 may not collect a storage fee under section

10 23.1-15-06 and shall return the motor vehicle to the registered owner at no cost to the

11 owner.

12 **SECTION 4. AMENDMENT.** Section 23.1-15-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **23.1-15-06. Right of owner to reclaim abandoned vehicle. (Contingent effective date -**

15 [See note](#))

16 1. The owner, secured parties, or ~~any~~a lienholder of an abandoned motor vehicle has a
17 right to reclaim such vehicle from the unit of government taking ~~it~~the motor vehicle into
18 custody upon payment of all towing and storage charges resulting from taking the
19 vehicle into custody within ~~fifteen~~thirty days after the date of the notice required by
20 section 23.1-15-05.

21 2. The owner, secured parties, or a lienholder of an abandoned motor vehicle, within
22 thirty days after receipt of the notice required by section 23.1-15-05, has a right to
23 reclaim the vehicle from a commercial towing service taking the motor vehicle into
24 custody upon payment of all towing and storage charges resulting from taking the
25 vehicle into custody.

26 3. Storage charges under subsection 2 may not exceed fifty dollars per day for an
27 abandoned passenger vehicle, pickup, van, or truck that does not exceed twenty
28 thousand registered gross weight pounds [9071.85 kilograms].

29 4. Nothing in this chapter may be construed to impair any lien of a garagekeeper under
30 the laws of this state or the right of a lienholder or secured parties to foreclose. For the
31 purposes of this section, "garagekeeper" is an operator of a parking place or

1 establishment, an operator of a motor vehicle storage facility, or an operator of an
2 establishment for the servicing, repair, or maintenance of motor vehicles.

3 5. This section also applies to emergency towing.

4 **SECTION 5. AMENDMENT.** Section 23.1-15-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23.1-15-07. ~~Public sale~~Disposal of vehicle - Disposition of proceeds. (Contingent**
7 **effective date - [See note](#))**

8 1. An abandoned motor vehicle not more than seven model years of age taken into
9 custody by a unit of government and not reclaimed under section 23.1-15-06 must be
10 sold to the highest bidder at public auction or sale, following reasonable published
11 notice. The purchaser must be given a receipt in a form prescribed by the department
12 which is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser
13 to register the vehicle and receive a certificate of title, free and clear of all liens and
14 claims of ownership. The license plates displayed on an abandoned vehicle must be
15 removed and destroyed prior to the purchaser taking possession of the vehicle.

16 2. ~~From the proceeds of the sale of an abandoned motor vehicle, the unit of government~~
17 ~~shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all~~
18 ~~notice and publication costs incurred pursuant to this chapter. Any remainder from the~~
19 ~~proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or~~
20 ~~secured parties for ninety days and then must be deposited in the state treasury as~~
21 ~~provided in section 1 of article IX of the Constitution of North Dakota and credited to~~
22 ~~the permanent school fund~~If a commercial towing service takes custody of an
23 abandoned motor vehicle and the vehicle is not reclaimed under section 23.1-15-06,
24 the commercial towing service may obtain a release from the department of
25 transportation which is sufficient title to dispose of the vehicle. The release entitles the
26 commercial towing service to register the vehicle and receive a certificate of title, free
27 and clear of all liens and claims of ownership. The license plates displayed on the
28 abandoned vehicle must be removed and destroyed upon receipt of the new title.

29 3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government
30 or the commercial towing service may reimburse itself for the cost of towing,
31 preserving, and storing the vehicle, and for all notice and publication costs incurred

1 under this chapter. Any remainder from the proceeds of a sale must be held for the
2 owner of the vehicle or entitled lienholder or secured parties for ninety days and then
3 must be delivered to the administrator of the state abandoned property office in
4 accordance with chapter 47-30.1.

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

7 **39-26-02. Definitions. (Contingent repeal - [See note](#))**

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 is located on private property without
12 consent of the person in control of such property or in an inoperable condition such
13 that it has no substantial potential further use consistent with its usual functions unless
14 it is kept in an enclosed garage or storage building. It also means a motor vehicle
15 voluntarily surrendered by its owner to a person duly licensed under section 39-26-10.
16 An antique automobile, as defined in section 39-04-10.4, and other motor vehicles to
17 include parts car and special interest vehicles, may not be considered an abandoned
18 motor vehicle within the meaning of this chapter.
- 19 2. "Collector" means the owner of one or more special interest vehicles who collects,
20 purchases, acquires, trades, or disposes of special interest vehicles or parts thereof
21 for the person's own use in order to restore, preserve, and maintain a special interest
22 vehicle or antique vehicle.
- 23 3. "Commercial towing service" means a registered business in North Dakota that tows
24 motor vehicles.
- 25 4. "Department" means the state department of health.
- 26 5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
27 mechanical breakdown on public roadway, or other emergency-related incident
28 necessitating vehicle removal for public safety with or without the owner's consent.
- 29 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
30 by the collector to furnish parts to restore, preserve, and maintain a special interest
31 vehicle or antique vehicle.

1 ~~6.7.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and
2 which has not been altered or modified from original manufacturer's specifications
3 and, because of its historic interest, is being preserved by hobbyists.

4 ~~7.8.~~ "Unit of government" includes a state department or agency, a county, city, township,
5 or other political subdivision.

6 ~~8.9.~~ "Vital component parts" means those parts of a motor vehicle that are essential to the
7 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
8 train, and wheels.

9 **SECTION 7. AMENDMENT.** Section 39-26-06 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - [See note](#))**

- 12 1. When an abandoned motor vehicle does not fall within the provisions of section
13 39-26-05, the unit of government or commercial towing service taking it into custody
14 shall give notice of the taking within ten days. The notice must set forth the date and
15 place of the taking, the year, make, model, and serial number of the abandoned motor
16 vehicle and the place where the vehicle is being held, must inform the owner and any
17 lienholders or secured parties of their right to reclaim the vehicle under section
18 39-26-07, and must state that failure of the owner or lienholders or secured parties to
19 exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title,
20 and interest in the vehicle and a consent to the disposal of the vehicle pursuant to
21 section 39-26-08.
- 22 2. The notice must be sent by certified mail, return receipt requested, to the registered
23 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
24 or secured parties of record. If it is impossible to determine with reasonable certainty
25 the identity and address of the registered owner and all lienholders, the notice must be
26 published once in a newspaper of general circulation in the area where the motor
27 vehicle was abandoned. Published notices may be grouped together for convenience
28 and economy.
- 29 3. Subject to section 39-26-05, a commercial towing service that takes an abandoned
30 motor vehicle into custody shall provide notice to the law enforcement agency having

1 jurisdiction in the location from which the motor vehicle was towed within twelve hours
2 after completing the tow.

3 4. Notice under subsection 3 must include:

4 a. The license plate number and state of registration;

5 b. The location from which the motor vehicle was towed;

6 c. The location to which the motor vehicle was towed;

7 d. The name, address, and telephone number of the commercial towing service that
8 towed and is storing the motor vehicle; and

9 e. A description of the motor vehicle, including make, model, year, and color.

10 5. A commercial towing service that violates subsection 3 may not collect a storage fee
11 under section 39-26-07 and shall return the motor vehicle to the registered owner at
12 no cost to the owner.

13 **SECTION 8.** A new subsection to section 39-26-07 of the North Dakota Century Code is
14 created and enacted as follows:

15 This section also applies to emergency towing.

16 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.