

## **CHAPTER 23.1-15 ABANDONED MOTOR VEHICLES**

### **23.1-15-01. Definitions.**

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

1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01, that has remained for a period of more than forty-eight hours on public property illegally or lacking parts that are essential to the mechanical functioning of the vehicle, including the motor, drive train, or wheels, or is located on private property without consent of the person in control of the property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a permitted scrap iron processor. An antique automobile, as defined in section 39-04-10.4, and other motor vehicles to include parts car and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this chapter.
2. "Collector" means the owner of one or more special interest vehicles that collects, purchases, acquires, trades, or disposes of special interest vehicles or parts of special interest vehicles for the person's own use in order to restore, preserve, and maintain a special interest vehicle or antique vehicle.
3. "Commercial towing service" means a registered business in North Dakota that tows motor vehicles.
4. "Department" means the department of environmental quality.
5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident, mechanical breakdown on public roadway, or other emergency-related incident necessitating vehicle removal for public safety with or without the owner's consent.
6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
7. "Permitted scrap iron processor" means a scrap iron processor holding a valid permit issued by the department under chapter 23.1-08.
8. "Scrap tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.
9. "Secured party" means an insurer covering the abandoned motor vehicle under an insurance policy.
10. "Special interest vehicle" means a motor vehicle that is at least twenty years old and has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
11. "Submerged vehicle" means a motor vehicle or a recreational vehicle as defined in section 39-01-01 or a trailer that is submerged in a body of water.
12. "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.

### **23.1-15-02. Penalty for abandoning a motor vehicle.**

Any person that abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a class A misdemeanor.

### **23.1-15-03. Custody of abandoned motor vehicle.**

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

**23.1-15-04. Conditions under which an abandoned motor vehicle is eligible for immediate disposal.**

An abandoned motor vehicle for which the value as determined by the party with custody is no more than one thousand dollars and for which the owner, lienholders, or secured parties cannot be identified with reasonable certainty after a search of the department of transportation records is immediately eligible for disposition by a permitted scrap iron processor, and is not subject to the notification, reclamation, or title provisions of this chapter. Any license plate displayed on an abandoned motor vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle. An abandoned motor vehicle qualifying for immediate disposal is not eligible for reimbursement of storage costs under section 23.1-15-09.

**23.1-15-05. Notice to owner and law enforcement of abandoned vehicle.**

1. When an abandoned motor vehicle does not fall within the provisions of section 23.1-15-04, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days or within ten days after communications from the owner, lienholder, or identifiable secured parties of the abandoned motor vehicle have ceased. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle, and the place where the vehicle is being held, must inform the owner and any lienholders or identifiable secured parties of their right to reclaim the vehicle under section 23.1-15-06, must state that failure of the owner, lienholders, or identifiable secured parties to exercise their right to reclaim the vehicle within thirty days is deemed a waiver by the owner, lienholders, or secured parties of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 23.1-15-07, and must state the end date of the thirty-day period during which the owner may reclaim the abandoned motor vehicle.
2. The notice must be sent by certified mail, return receipt requested, 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 or placed on the official website for the unit of government that initiated the impound process from public property. When posted on a website, the notice must be placed in a designated area on the official website for a minimum of thirty days and must include the information in subsection 1. Published notices may be grouped together for convenience and economy. Failure of the owner, lienholders, or secured parties to exercise the right to reclaim the abandoned motor vehicle by the end of the public notice period is deemed a waiver by the owner, lienholders, or secured parties of all right, title, and interests in the vehicle and a consent to the disposal of the vehicle pursuant to section 23.1-15-07.
3. Subject to section 23.1-15-04, a commercial towing service that takes an abandoned motor vehicle into custody shall provide notice to the law enforcement agency having jurisdiction in the location from which the motor vehicle was towed within twelve hours after completing the tow.
4. Notice under subsection 3 must include:
  - a. The license plate number and state of registration;
  - b. The location from which the abandoned motor vehicle was towed;
  - c. The location to which the abandoned motor vehicle was towed;
  - d. The name, address, and telephone number of the commercial towing service that towed and is storing the abandoned motor vehicle; and
  - e. A description of the abandoned motor vehicle, including make, model, year, and color.
5. A commercial towing service that violates subsection 3 may not collect a storage fee under section 23.1-15-06 and shall return the motor vehicle to the registered owner at no cost to the owner, lienholder, or identifiable secured party.

**23.1-15-06. Right of owner to reclaim abandoned vehicle.**

1. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right to reclaim such vehicle from the unit of government taking the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within thirty days after the date of the notice required by section 23.1-15-05.
2. The owner, secured parties, or a lienholder of an abandoned motor vehicle, within thirty days after receipt of the notice required by section 23.1-15-05, has a right to reclaim the vehicle from a commercial towing service taking the motor vehicle into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody.
3. Storage charges under subsection 2 may not exceed fifty dollars per day for an abandoned passenger vehicle, pickup, van, or truck that does not exceed twenty thousand registered gross weight pounds [9071.85 kilograms].
4. 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.
5. This section also applies to emergency towing.

**23.1-15-07. Disposal of vehicle - Disposition of proceeds.**

1. For any abandoned motor vehicle valued at more than one thousand dollars taken into custody by a unit of government and not reclaimed under section 23.1-15-06, the license plates displayed on the abandoned motor vehicle must be removed and destroyed and thereafter the unit of government may:
  - a. Sell the abandoned motor vehicle to the highest bidder at public auction or sale, following reasonable published notice. The purchaser must be given a receipt in a form prescribed by the department of transportation which entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership; or
  - b. Obtain a release from the department of transportation which is sufficient title to dispose of the vehicle by a permitted scrap iron processor.
2. If a commercial towing service takes custody of an abandoned motor vehicle and the vehicle is not reclaimed under section 23.1-15-06, the commercial towing service may obtain a release from the department of transportation which is sufficient title to dispose of the vehicle. The release entitles the commercial towing service 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 the abandoned vehicle must be removed and destroyed upon receipt of the new title.
3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government or the commercial towing service may reimburse itself for the cost of towing, preserving, and storing the vehicle, and for all notice and publication costs incurred under 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 delivered to the administrator of the state abandoned property office in accordance with chapter 47-30.2.

**23.1-15-08. Disposal of abandoned motor vehicles not sold.**

When no bid has been received for an abandoned motor vehicle, the unit of government or a commercial towing service that is a permitted scrap iron processor may dispose of the abandoned motor vehicle pursuant to section 23.1-15-09.

**23.1-15-09. Disposal services - Issuance of permits by department - Reimbursement of units of government and commercial towing services for costs.**

1. The department may issue a permit to any qualified scrap iron processor desiring to provide its services under this section if the scrap iron processor meets the requirements of this chapter and chapter 23.1-08.
2. A unit of government may use the services of any permitted scrap iron processor for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles, scrap tires, and scrap metal for recycling or other methods of disposal. A unit of government may authorize a permitted scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for the abandoned motor vehicle if it is voluntarily surrendered and delivered to the permitted scrap iron processor. A unit of government may authorize a permitted scrap iron processor to provide an incentive payment for scrap tires delivered to the permitted scrap iron processor. For purposes of this section, an owner of an abandoned motor vehicle is the person that owned and operated the vehicle for the person's personal or business use.
3. If a unit of government uses the services of a permitted scrap iron processor, the department may reimburse the unit of government for the costs incurred, including incentive payments.
4. The department may reimburse a commercial towing service that is a permitted scrap iron processor in an amount determined by the department for towing, up to thirty days of storage charges, and disposal of an abandoned motor vehicle if the owner, lienholders, or secured parties of the abandoned motor vehicle cannot be identified with reasonable certainty after a search of the department of transportation records and publication as provided in subsection 2 of section 23.1-15-05.
5. The department may remove any submerged vehicle:
  - a. Immediately, if the owner, lienholders, or secured parties cannot be identified. The department may use a commercial towing service that is a permitted scrap iron processor to extract, tow, and dispose of a submerged vehicle.
  - b. Upon the owner's stated refusal to remove the submerged vehicle or after thirty days from the submerged vehicle entering the water or being discovered in the water if the owner, lienholders, or secured parties are identified after a search of the department of transportation records. The department may use a commercial towing service that is a permitted scrap iron processor for extracting, towing, and disposal of a submerged vehicle. The department may seek reimbursement from the owner for any costs related to extracting, towing, and disposal of the submerged vehicle.
6. The department may demand that a unit of government or a commercial towing service that is a permitted scrap iron processor dispose of abandoned motor vehicles, scrap tires, and scrap metal under the department's plan for solid waste disposal. If the unit of government or the commercial towing service fails to dispose of the abandoned motor vehicles, scrap tires, or scrap metal within one hundred eighty days of the demand, the department, on behalf of the unit of government, may use the services of any permitted scrap iron processor for such disposal.
7. A reimbursement request must be made on a form available from the department and is subject to the limitations of legislative appropriations and the department's discretion.

**23.1-15-10. Abandoned motor vehicle disposal fund.**

The abandoned motor vehicle disposal fund is established in the state treasury. All moneys derived from the investment of the fund are to be credited to the fund.

**23.1-15-11. Tax on initial motor vehicle certificates of title.**

A tax of one dollar and fifty cents is imposed on each initial North Dakota certificate of title issued to a passenger motor vehicle or a truck motor vehicle. The proceeds of the tax must be paid into the abandoned motor vehicle disposal fund. No registration plates or title certificate

may be issued unless the tax is paid. Expenses of the fund arising under this chapter must be paid from the fund within the limits of legislative appropriation. If, on the first day of July in any year, the amount of uncommitted money in the abandoned motor vehicle disposal fund is two hundred fifty thousand dollars or more, the amount in excess of two hundred fifty thousand dollars must be transferred to the highway fund.

**23.1-15-12. Storage of vehicles by collector - Limitations.**

A collector may store unlicensed, operable or inoperable, vehicles and parts cars on the collector's property provided the vehicles and parts cars and the outdoor storage area are maintained so they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate means.