Bill as Introduced

HB 699-FN – AS INTRODUCED

2003 SESSION

03-0917
03/09

HOUSE BILL ***699-FN***

AN ACT relative to abandoned vehicles.

SPONSORS: Rep. Packard, Rock 75; Rep. R. L'Heureux, Hills 58

COMMITTEE: Transportation

ANALYSIS

This bill permits a person storing an abandoned vehicle to remove items from a vehicle and hold them pending payment of fees due. This bill also requires the suspension of the driver's license of any person failing to pay court-ordered costs of abandoning a vehicle.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 699-FN – AS INTRODUCED

03-0917
03/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to abandoned vehicles.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Review of Fees for Removal and Impoundment; Items in Vehicle. Amend RSA 262:35-a by inserting after paragraph II the following new paragraph:

III. Any time that a person is storing a vehicle pursuant to the provisions of this subdivision, the person may remove any items from within the vehicle that are not a part of or accessories to the vehicle. The person may hold any such items, other than wallets, purses, legal documents, eyeglasses, medicine, or medical equipment, pending payment of any fees due under this subdivision. If fees remain unpaid after 60 days, the person may dispose of the items.

2 Abandoning a Vehicle; Penalty. Amend RSA 262:40-c to read as follows:

262:40-c Abandoning a Vehicle; Penalty. No person shall abandon a motor vehicle, registered or unregistered, on any way or on any property other than his ***or her*** own without the permission of the owner or lessee of said property or, in the case of public property, of the police department having jurisdiction over the property. For the purposes of this section, a vehicle shall be considered abandoned if it has been left for more than 24 hours without the appropriate permission being given. The last owner of record of a motor vehicle found abandoned, as shown by the files of the department, shall be deemed prima facie to have been the owner of such motor vehicle at the time it was abandoned and to have been the person who abandoned the motor vehicle or caused or procured its abandonment. Any person who violates the provisions of this section shall be guilty of a violation and may be subject to the loss of driver's license and registration as provided in RSA 263:56 and RSA 261:179. The court may assess costs of abandoning a vehicle, including but not limited to, towing and storage costs, against any person convicted of abandoning a vehicle in violation of this section, and the director [~~may~~] ***shall*** suspend the driver's license of any person who has not paid such costs.

3 Effective Date. This act shall take effect January 1, 2004.

LBAO
03-0917
1/28/03

HB 699-FN - FISCAL NOTE

AN ACT relative to abandoned vehicles.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from the Department of Safety and Administrative Office of the Courts. When completed, the fiscal note will be forwarded to the House Clerk's Office.

LBAO
03-0917
Revised 2/10/03

HB 699 FISCAL NOTE

AN ACT relative to abandoned vehicles.

FISCAL IMPACT:

The Department of Safety has determined this bill may increase state highway fund revenue and expenditures and local revenue by an indeterminable amount in FY 2004 and each year thereafter. There will be no fiscal impact on county and local expenditures or county revenue.

METHODOLOGY:

The Department of Safety stated the portion of this bill relating to abandoning a vehicle will amend RSA 262:40-c to require the Director of Motor Vehicles to suspend the driver's license of any person who has not paid court assessed costs of abandoning a vehicle, instead of allowing the director discretion as to whether or not to suspend the person's license. The Department of Safety does not know how often in the past the director chose not to suspend a person's license for this violation. Therefore, the Department cannot reasonably estimate how much additional Highway Fund revenue may be collected with the suspension mandated. However, the Department believes this legislation will significantly increase the number of hearings required to be held, which will substantially increase personnel and other related costs necessary to conduct these hearings. Local Highway Aid will change at 12% of the gross Highway Fund change.

Amendments

Rep. Packard, Rock. 75
March 6, 2003
2003-0557h
03/09

Adopted

Amendment to HB 699-FN

Amend the bill by replacing sections 1-2 with the following:

1 New Paragraph; Review of Fees for Removal and Impoundment; Items in Vehicle. Amend RSA 262:35-a by inserting after paragraph II the following new paragraph:

III. Any time that a person is storing a vehicle pursuant to the provisions of this subdivision, the person may remove any items from within the vehicle that are not a part of or accessories to the vehicle. The person may hold any such items, other than wallets, purses, legal documents, car seats, eyeglasses, medicine, or medical equipment, pending payment of any fees due under this subdivision. If fees remain unpaid after 60 days, the person may dispose of the items.

2 Abandoning a Vehicle; Penalty. Amend RSA 262:40-c to read as follows:

262:40-c Abandoning a Vehicle; Penalty. No person shall abandon a motor vehicle, registered or unregistered, on any way or on any property other than his ***or her*** own without the permission of the owner or lessee of said property or, in the case of public property, of the police department having jurisdiction over the property. For the purposes of this section, a vehicle shall be considered abandoned if it has been left for more than 24 hours without the appropriate permission being given. The last owner of record of a motor vehicle found abandoned, as shown by the files of the department, shall be deemed prima facie to have been the owner of such motor vehicle at the time it was abandoned and to have been the person who abandoned the motor vehicle or caused or procured its abandonment. Any person who violates the provisions of this section shall be guilty of a violation ***and shall be subject to a fine of not less than $100 and not more than $500,*** and may be subject to the loss of driver's license and registration as provided in RSA 263:56 and RSA 261:179. The court may assess costs of abandoning a vehicle, including but not limited to, towing and storage costs, against any person convicted of abandoning a vehicle in violation of this section, and the director [~~may~~] ***shall*** suspend the driver's license of any person who has not paid such costs.

3 Effective Date. This act shall take effect January 1, 2004.

Committee Minutes

TRANSPORTATION COMMITTEE
ESTABLISHMENT OF SUBCOMMITTEE

HB 582, HB 699-FN, HB 822	February 19, 2003
Bill Numbers	Date

"Abandoned Vehicles

Subject Matter

10:00 Tues. 3/4/03

Composition of Subcommittee:

Chair:	Rep. Packard
Members:	Rep. Bergeron
	Rep. Ferland
	Rep. Artz
	Rep. Cote

cc: House Clerk

Speakers

1:30

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 699-FN Date Feb 12, 2003

Committee Transportation

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Rep Bob Hemmp	Hollis #58			X	
~~Rene R Fortin~~	~~116 Gold St~~	~~Manchester~~	~~NHTA~~	~~X~~	
George Antoine	107 Old Turnpike Rd			X	

Hearing Minutes

HOUSE COMMITTEE ON TRANSPORTATION

PUBLIC HEARING ON HB 699-FN

BILL TITLE: relative to abandoned vehicles.

DATE: February 12, 2003

LOB ROOM: 203 **Time Public Hearing Called to Order:** 1:35 p.m.

Time Adjourned: 2:12 p.m.

(please circle if present)

Committee Members: Reps. Packard, J. Flanders, G. Katsakiores, Bartlett, Kobel, Letourneau, Artz, Bergeron, Dewhirst, Mosher, M. Allen, Hollinger, Scanlon, J. Sullivan, P. Cote, Ferland, Casey, Creteau, Haley and Rollo.

Bill Sponsors: Reps. Packard, L'Heureux

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Packard, prime sponsor. Introduced the bill. We have two other bills like this one. We did not know this, so now we will put all the bills together and talk about the cost. Rep. Packard asked the committee to tear up the bill, and he introduced Rene Fortin, President of the New Hampshire Towing Association, to explain what the problems are.

Mr. Fortin testified about abandoned vehicles and the cost to prepare them for salvage. He asked a recycler to come up and explain the cost. We are looking to have the owner of the vehicle be responsible for those costs. Some older cars are abandoned in many different locations. Towers perform services for towns and the State Police. Police dispatchers call towers many times at night. They send certified letters, then must wait 30 days. The company must invest $1000 for this process. There was a time when the vehicle had value, but not now. We are asking you to pass the bill or order a hearing, and this might take care of the problem. Currently, the City of Nashua has 112 cars on its lot; other companies have 20 or more. He talked about vehicles with personal property in it. It would become part of the car. Owners come to the towing yard and take their personal belongings and leave the car. They are not responsible. The State Police are very successful in finding owners. Rep. Katsakiores (Question): The State has the responsibility now? (Answer): Yes.

Russell McCleery, New Hampshire Towing Association, Executive Director of Auto and Truck Recyclers' Association of New Hampshire. The price of scrap has gone down. There are 100,000+ cars a year to be recycled. Rep. Katsakiores (Question): If all recyclers have this problem, why don't they use eminent domain? (Answer): I'm not a lawyer, but that's a thought. Jeff Kantor of ATRA stated that eminent domain would pertain to things that are worth something – these cars are not. Rep. Katsakiores (Question): What if the State paid? (Answer): They don't have the money. Mr. Fortin stated that they don't have the manpower, and would rather have it done privately.

Dan McLeod, NHADA. He testified that he would like to help in any way he can.

Jeff Kantor, representing ATRA. Supports the bill. People are constantly dropping cars off when we are closed. What do we do? This is a problem. Do I call police? Do we do it right? This takes time. The cars are old and have no value. We have to dismantle it, remove all liquids, and pay for all disposal. Cost may be $150 per car. When a towing company calls, they ask "do you want five cars?" The answer is "no". Now they have to pay us $100 to $150 per car for this service. Rep. Letourneau (Question): Where are these cars going? (Answer): To a back yard, or there are people that just do this. Rep. Letourneau (Question): What if the car is not registered? (Answer): The VIN can be checked to see who owns the car.

Jim Bailey, Member, New Hampshire Towing Association. Supports the bill. As a professional, I can't leave a car on the road. There is a safety issue and we need the committee to help us with enforcement. He talked about restricting a new car from being registered. He feels this will be a deterrent for people to stop abandoning vehicles. He showed photographs taken in Hawaii, showing several vehicles abandoned everywhere. He does not want to see this happen in New Hampshire. We're asking recyclers to do it right, and are paying $50 per car for disposal. He testified that recently the towers who have a contract with the State now have to pay to go through toll booths – and they are safety vehicles! Rep. Ferland (Question): What about the things in the vehicles? (Answer): Yes, like a car with four bald tires but a $1200 stereo. We treat it as a package and give it a little leverage.

Larry Guaraldi. Supports the bill. Did not testify.

Pink Cards:
- ✓ Rene R. Fortin, representing New Hampshire Towing Association, 116 Gold St., Manchester. 622-8649. Supports the bill.
- ✓ Russell MacCleery, representing New Hampshire Towing Association and Auto & Truck Recyclers' Association, 19 Carpenter Road, Chichester 03208. 798-5204. Supports the bill.
- ✓ Jeff Kantor, representing ATRA, 1015 Meadow Lane, Dunbarton. 483-2366. Supports the bill.
- ✓ Larry Guaraldi, 21 Bank St., Lebanon. 448-3250. Supports the bill.
- ✓ Jim Bailey, NHTA, 9 Greenfield Drive, Merrimack. 423-0161. Supports the bill.

OPINION - NOT SPEAKING:

Rep. Bob L'Heureux – Hills #58 – PRO
George Antoine, 107 Old Turn Pike Rd. – PRO

Respectfully submitted,

Rep. Jean-Guy J. Bergeron
Committee Clerk

JJB:co

Testimony

Anderson Legislative Consulting
[redacted]2912 Newport Drive • Springfield, IL 62702 • T: 217/793-9086 • 217/525-7433 • F: 217/793-4354

Support House Bill 39 Poe-Reitz

House Bill 39 deals with the ever-increasing problem of vehicles being abandoned on public roadways. In recent years the number of vehicles abandoned on Illinois highways has drastically increased. Compounding the problem is the inability of tow truck companies (who generally pick up these vehicles at the request of law enforcement) to legally dispose of these vehicles once they are in their possession. In fact much of the necessary paperwork to obtain the name and address of the owner of record and then the application process for a junk or salvage title can take many months or even years.

Current law provides for fines and costs to be paid by a person who abandons a vehicle. In the experience of the towing industry these fines and fee are rarely enforced. In fact once law enforcement or a property owner requests that an abandoned vehicle be relocated, it is no longer considered abandoned, it is unclaimed. Thus leaving the Tow Company with little choice other than to store the vehicle until the proper junk or salvage title can be secured from the State.

House Bill 39 prevents a person who abandons a vehicle from obtaining a registration for a new vehicle until the fines and costs are paid. In addition under HB39 a provision allows those in possession of abandoned unclaimed vehicles (generally tow companies) to notify the registered owner of the vehicle, that costs are owed which may prevent them from registering another vehicle; and that if they no longer wish to retain the vehicle, the title can be surrendered to the tow company. Tow truck companies have found that the vast majority of these vehicles are not wanted by the owners, there are merely "unloading them" by abandonment. HB 39 would give them an incentive to give the title to the Tow Company.

Under this scenario, the Secretary of State's office would no longer need to process thousands of junk or salvage title requests from Tow Companies, reducing the ever increasing paperwork backlog and the Tow Companies would be able to dispose of unwanted vehicles in a legal and expedited manner.

The Professional Towing and Recovery Operators of Illinois support this legislation. If you have any questions please contact Bill Anderson at 793-9086.

LRB9202020DHmg

AN ACT concerning vehicles.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Vehicle Code is amended by changing Section 4-214 as follows:

(625 ILCS 5/4-214) (from Ch. 95 1/2, par. 4-214)

Sec. 4-214. Violations of Section 4-201.

(a) Any person who violates Section 4-201 of this Code or who aids and abets in that violation:

(1) shall be subject to a mandatory fine of ~~$750~~ 200 fees; and

(2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to Section 4-203, subsections (a) and (e).

(b) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of 30 days' storage fees.

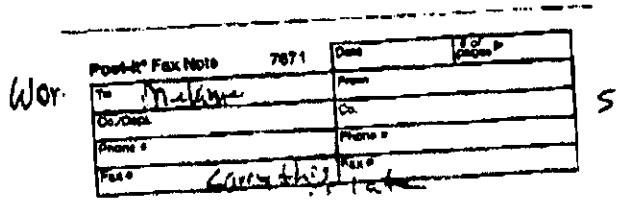
The presumption established under this subsection may be rebutted by a showing that, prior to the time of the tow:

(1) a report of vehicle theft was filed with respect to the vehicle; or

(2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this subsection is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs.

(Source: P.A. 89-433, eff. 12-15-95.)



LRB9201035DHmbam01

AMENDMENT TO HOUSE BILL 39

AMENDMENT NO. ____. Amend House Bill 39 as follows:

on page 1, by replacing lines 18 through 29 with the following:

"(3) is not eligible to transfer his or her registration to another vehicle, or to newly obtain registration for another vehicle, until the fine and costs payable under paragraphs (1) and (2) of this subsection (a) have been paid."; and

on page 2, below line 17, by inserting the following:

"(c) A person in possession of an abandoned vehicle may notify the last registered owner of the vehicle that:

(1) The registered owner may not transfer his or her registration to another vehicle or newly obtain registration for another vehicle until the fine and costs payable under paragraphs (1) and (2) of subsection (a) have been paid.

(2) The registered owner may sign the vehicle over to the person in possession if the registered owner no longer wishes to retain the vehicle.".

92nd General Assembly
Summary of HB0039

[Home] [Back] [Legislation]

Legislation: [ ] [redacted] [redacted]
Please enter a bill number.

Full Text Bill Status

House Sponsors:
ROE.

Short description:
VEH CD-ABANDONED VEHICLES

Synopsis of Bill as introduced:
Amends the Illinois Vehicle Code. Provides that a person who abandons a vehicle or aids and abets in the abandonment of a vehicle is not eligible to obtain registration for another vehicle until the fine and costs have been paid. Provides that, if the person already has transferred his or her registration to another vehicle or has newly obtained registration for another vehicle without having paid the fine or costs, the Secretary of State shall revoke the registration and shall notify the person that his or her registration for that vehicle is void. Provides that the person may not obtain a new vehicle registration until the fine and costs have been paid.

Last action on Bill: REFERRED TO HOUSE RULES COMMITTEE RULES

Last action date: 01-01-10

Location: House

Amendments to Bill: AMENDMENTS ADOPTED: HOUSE - 0 SENATE - 0

END OF INQUIRY

Full Text Bill Status

FYI

We support this as well, I will
meet w/ Spower to discuss strategy

1/10 of Collects

Patty Dear

2300 allocated. State IL. 45.
organ Tollway GOM Corridor Make a committment
Senator Larry Walsh use Bill Parks.

By Tim Jackson



Abandoned Vehicle Laws Must Protect Towers

In the March issue of *Tow Times*™, we published the results of a survey in which we asked state towing association representatives to identify the most pressing problems facing the towing industry in their state and their suggestions for solutions. As the results were tallied, the issue of abandoned vehicles was the clear front-runner. In a tie for a distant second was difficulty finding drivers and low rates paid by motor clubs. Rotation list woes finished third.

The dominant winner of this dubious race has too long been keeping stride with this industry, leeching money, time and effort from towing companies dealing with useless and unwanted vehicles left at their storage lots. In 1987, John L. Hawkins II, then editor of *Tow Times*™, termed the issue "just about the number one problem of our industry today."

It's somehow become a tradition for the towing industry to either absorb the cost of towing and storing derelict vehicles from the roadside at the request of a government agency or to inherit totaled wrecks from insurance companies. After these vehicles are towed without payment, left to take up expensive space in storage lots and perhaps become an environmental concern, the towing company is then faced with a costly and time-consuming obstacle course to get the legal right to dispose of it.

So what about solutions? *Education* is a strong winner among the polled state associations, along with *better legislation*. Education meaning that police agencies, insurance companies and judges need to be made more aware of the towing industry's dilemma when it is burdened with abandoned vehicles and better legislation as in creating *enforced* laws that would ensure towing companies are paid a reasonable fee for handling abandoned vehicles.

Some have suggested a cradle-to-grave fee added to motor vehicles to create an "abandoned vehicle fund" administered by states to provide reimbursement for the towing operator who tows, stores and processes these vehicles. A few states have adopted this type of method with varying degrees of success.

Contributing Legal Editor Michael McGovern, who has addressed the issue of abandoned vehicles numerous times in his "Legaleze" column, discussed some of the methods states have used to deal with abandoned vehicles in a July 1996 *Tow Times*™ article in which he makes clear his view that, in lieu of a vehicle owner or other agency paying for handling junk vehicles, "the cost of abandoned vehicle removal must be borne by society as a whole (government) through general tax revenues (e.g. gasoline or sales taxes) or special user fees added to motor vehicle registrations, new vehicle excise taxes or driver's license fees."

Current methods for handling abandoned vehicles vary, with some states providing better (though maybe far from ideal) conditions for towing companies than others. In an effort to offer state towing associations helpful insight, the national towing association, the Towing and Recovery Association of America (TRAA), is taking on the role of a clearinghouse of abandoned vehicle information. Executive Director Harriet Cooley contacted state associations requesting they send their state or local ordinances, statutes and policies relating to abandoned vehicles to TRAA. The information would then be available for other state associations to review and hopefully find provisions or wording that would help improve their own state's abandoned vehicle procedures.

So far, Cooley reports a number of states have responded and some have found the shared information beneficial. Contact TRAA at 800-728-0136, 703-684-7713, fax 703-684-6720.

After finding ways to improve their abandoned vehicle system (*legislation*), it will be up to the towing companies in that state to implement the second prong in the solution - *education*. Towing companies, whether in an association or individual, need to contact legislators, police agencies, judicial branches and others who have an influence in this matter and communicate what the abandoned vehicle issue is doing to them. But make no mistake about it, numbers command greater attention. This is a good reason to be a member of your state and national association to better make your voice heard.

The challenge will be there, especially from those who are unaware of how the abandoned vehicle issue affects this industry and say, "If it ain't broke, don't fix it."

Well, for the majority of the industry, as our survey indicates, the system for handling abandoned vehicles has been broken for a long, long time. And it still needs fixing.

legaleze

By Michael McGovern



Don't Pay, Don't Drive

If you look out the window of your office or shop you probably see a few wrecked vehicles that have been sitting in your storage yard for months. Those vehicles have been abandoned by their owners or their insurance companies because the value of the salvage is less than the towing and storage charges. You will eventually have to sell the cars at a public auction for their scrap value, leaving you with a huge balance due for towing and storage charges — probably hundreds of dollars. At that point, you have two choices: Simply write-off the balance or sue the vehicle owner for the deficiency balance. Most towing firms choose to take the loss because, as a practical matter, suing the vehicle owner is a waste of time and money. Assuming that you can find the owner to get him or her served with legal process and get a judgment, oftentimes the defendant-vehicle owner is "judgment proof," meaning that they have no assets to levy on or income subject to garnishment. Unless they voluntarily agree to pay any judgment rendered — which is highly unlikely — collecting a judgment from the vehicle owner is, at best, a remote possibility.

But suppose you could get your state's motor vehicle department to suspend a vehicle owner's driver's license until your tow bill is paid? Think that would boost your collections?

Driving a motor vehicle on state highways is so commonplace that most of us assume it is the God-given right of every American. It's not. Driving is a privilege granted to individuals by each state government. That's why you have to obtain a license to drive, just as you have to obtain a license to hunt, fish, cut hair or practice law. If a person issued a license — a licensee — does something improper or illegal, the issuing state can revoke their license. The state giveth and the state can taketh away. For example, aware of the tremendous impact that the loss of a driver's license can have on an individual, many state legislatures have recently enacted laws that provide for revocation of the driver's licenses of "deadbeat dads" who fail to pay court-ordered child support. Gas station drive-offs are also losing their driver's licenses in some states.

Another example appears in each state's financial responsibility laws. Those laws require motorists to demonstrate that they have the ability to pay for any loss or injury that they cause while operating their vehicle. Usually that is done by showing proof of liability insurance. In the event of an accident, the responsible party must file a statement with the state motor vehicle department showing that they have satisfied any claims relating to the accident by direct payment, by posting a bond in the amount of the claim or by providing proof of insurance coverage. If the vehicle owner has no insurance or bond and does not pay the claim directly, the claimant can sue the vehicle owner and obtain a judgment for their loss or injuries. If that judgment goes unpaid, the state motor vehicle department can, upon request of the claimant, revoke the driver's license of the person at fault until the claim is paid. If the judgment amount is not astronomical, the liable party will often find some way to pay off the outstanding judgment in order to avoid losing his driver's license.

So, how does that help you with the abandoned, wrecked vehicles? The standard financial responsibility statute provides that a judgment that can give rise to revocation of a driver's license is "any judgment . . . upon a cause of action arising out of the ownership, maintenance or use of any vehicle . . . for damages because of injury to or destruction of property . . ." Isn't a judgment for towing and storing a vehicle involved in an accident a judgment "arising out of the use of a vehicle" for expenses that were incurred "because of" the destruction of the vehicle? If so, then an unpaid judgment for towing and storage charges could subject the "deadbeat driver" to the revocation of his driver's license until that bill is paid. Imagine how quick he would get to your place of business to pay a $500 tow bill after he receives a notice from the state motor vehicle department advising him that his driver's license will be suspended if he doesn't pay your tow bill within 60 days!

A few practical concerns: First, the financial responsibility laws only apply to operators of vehicles that have been involved in accidents, not abandoned vehicles or vehicles towed from private property for illegal parking. Second, you must file a lawsuit and obtain a final judgment before taking advantage of the driver's license revocation mechanism. That may not be as difficult as you think because every state has statutes which ease the method of obtaining service of process on drivers of vehicles involved in accidents, even out-of-state drivers. Most of the time the defendant-vehicle owners won't show up for court and you can obtain a default judgment. Third, it is a two-step process. After you obtain a judgment you must then notify the state motor vehicle department in writing that you have a judgment for damages relating to a motor vehicle accident and that the judgment is unsatisfied. You might also check with the motor vehicle department in advance and make sure that it agrees that a "judgment" for purposes of the financial responsibility laws include judgments for towing and storage charges.

Insurance companies have long been using the financial responsibility laws and potential driver's license revocation as a hammer to collect on their subrogation claims against uninsured vehicle owners. I see no reason why the towing industry should not avail itself of the same process to collect its bills. Unpaid bills for the towing and storage of wrecked vehicles, after deduction for the sale of the salvage, are usually of an amount that most people would be able and willing to pay in order to maintain their privilege to drive.

About the author:

Michael McGovern, who previously drove tow trucks for his family's towing business, is a partner in the law firm of Ayres & Parkey, in Knoxville, Tenn. He represents towing businesses throughout the U.S. and formerly served as legal counsel to TRAA. He can be reached at 865-637-1181; fax 865-637-6050; e-mail mpmcgovern@ayreslaw.com.

The 2001 Florida Statutes

Title XL Real And Personal Property | **Chapter 713** Liens, Generally | **View Entire Chapter**

713.78 Liens for recovering, towing, or storing vehicles and vessels.--

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(8).

(c) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle, vessel, or mobile home upon instructions from:

(a) The owner thereof; or

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle is wrongfully parked, and such removal is done in compliance with s. 715.07; or

(c) Any law enforcement agency; or

(d) A mobile home park owner as defined in s. 723.003 who has a current writ of possession for a mobile home lot pursuant to s. 723.061,

she or he shall have a lien on such vehicle or vessel for a reasonable towing fee and for a reasonable storage fee; except that no storage fee shall be charged if such vehicle is stored for less than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. 715.07.

(4)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736, and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(b) Whenever any law enforcement agency authorizes the removal of a vehicle or whenever any towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle pursuant to s. 715.07(2)(a)2., the applicable law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle. Upon receipt of the full description of the vehicle, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle, and whether any person has filed a lien upon the vehicle as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days from the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding the provisions of s. 627.736.

(c) Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or

lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens after 35 days if the vehicle or vessel is more than 3 years of age [1]or after 50 days if the vehicle or vessel is 3 years of age or less.

(d) If attempts to locate the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 working days, excluding Saturday and Sunday, of the initial tow or storage, notify the public agency of jurisdiction in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made. For purposes of this paragraph and subsection (9), "good faith effort" means that the following checks have been performed by the company to establish prior state of registration and for title:

1. Check of vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

2. Check of law enforcement report for tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

3. Check of trip sheet or tow ticket of tow truck operator to see if a tag was on vehicle at beginning of tow, if private tow.

4. If there is no address of the owner on the impound report, check of law enforcement report to see if an out-of-state address is indicated from driver license information.

5. Check of vehicle or vessel for inspection sticker or other stickers and decals that may indicate a state of possible registration.

6. Check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

7. Check of vehicle for vehicle identification number.

8. Check of vessel for vessel registration number.

9. Check of vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or

other steering mechanism.

(5)(a) The owner of a vehicle or vessel removed pursuant to the provisions of subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored or in which the owner resides to determine if her or his property was wrongfully taken or withheld from her or him.

(b) Upon filing of a complaint, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is more than 3 years of age [1]or after 50 days [2]following the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the

corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

(7)(a) A wrecker operator recovering, towing, or storing vehicles or vessels is not liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels, provided that such services have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle or vessel upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle or vessel is removed, such removal has been done in compliance with s. 715.07. Further, a wrecker operator is not liable for damage connected with such services when complying with the lawful directions of a law enforcement officer to remove a vehicle stopped, standing, or parked upon a street or highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the street or highway.

(b) For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:

1. The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;

2. The wrecker operator has illuminated the storage facility with lighting

of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and

3. The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility:

a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;

b. A security dog remains at the storage facility from sunset to sunrise;

c. Security cameras or other similar surveillance devices monitor the storage facility; or

d. A security guard service examines the storage facility at least once each hour from sunset to sunrise.

(c) Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. However, if the owner or driver of the motor vehicle is present and accompanies the vehicle, no inventory by law enforcement is required. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.

(8) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9) Failure to make good faith best efforts to comply with the notice requirements of this section shall preclude the imposition of any storage charges against such vehicle or vessel.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners or their agents, which agency is evidenced by a

writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner or agent all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle, vessel, or mobile home described in the certificate of title, shall apply to the county tax collector for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of $3 for each certificate of destruction. A service charge of $4.25 shall be collected and retained by the tax collector who processes the application.

(c) The Department of Highway Safety and Motor Vehicles may adopt such rules as it deems necessary or proper for the administration of this subsection.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or

affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle, vessel, or mobile home upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11), the department shall place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle, vessel, or mobile home and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

3. A general description of the vehicle, vessel, or mobile home, including its color, make, model, body style, and year.

4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; mobile home sticker number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.

5. The name of the person or the corresponding law enforcement agency that requested that the vehicle, vessel, or mobile home be recovered, towed, or stored.

6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle, vessel, or mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality

under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001 before the vehicle, vessel, or mobile home was recovered, towed, or stored.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle, vessel, or mobile home is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than $500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle, vessel, or mobile home was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint,

challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle, vessel, or mobile home was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle, vessel, or mobile home was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle, vessel, or mobile home attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those

persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of $2, which shall be deposited into the Florida Motor Vehicle Theft Prevention Trust Fund established under s. 860.158. A service charge of $2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which is inclusive of the annual renewals. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

(g) The Department of Highway Safety and Motor Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

History.--s. 2, ch. 76-83; s. 1, ch. 79-206; s. 1, ch. 79-244; s. 1, ch. 79-410; s. 7, ch. 90-283; s. 2, ch. 92-148; s. 10, ch. 93-49; s. 830, ch. 97-102; s. 11, ch. 98-324; s. 64, ch. 99-248; s. 41, ch. 2000-362; s. 3, ch. 2001-164; s. 36, ch. 2001-196.

[1]**Note.**--As amended by s. 3, ch. 2001-164. The amendment by s. 36, ch. 2001-196, uses the word "and" instead of the word "or."

[2]**Note.**--As amended by s. 3, ch. 2001-164. The amendment by s. 36, ch. 2001-196, uses the word "from" instead of the word "following."

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Florida Pag 7-12 Pull license

New Towed Vehicles

91	Volkswagon	Jetta			3VWRA21M2RN1008711	01/05/03	36	D & R Towing	29
	BMW	533i	Black	15630I3		01/06/03	36	D & R Towing	28
	Chevrolet	Beretta	White	903172		01/06/03	35	Dionne's Auto	28
	Jeep	Commanche	Blue	449055		01/06/03	35	D & R Towing	28
90	Dodge	PIU	Blue	none	1B7FL23X7L9465356	01/08/03	32	Quick Response	25
87	Nissan	Sentra	Blue	none	51N4PB215HJC708560	01/13/03	28	Dionne's Auto	21
	Pontiac		Black	none	1G2JB6908F7518606	01/14/03	27	D & R Towing	20
88	Chrysler	LeBaron	Grey	1383074	1C3BH48KXGN173859	01/17/03	24	Quick Response	17
93	Dodge	Shadow	Blue	1190703	1B3XP28D3PN676869	01/17/03	24	Dionne's Auto	17
91	Oldsmobile	Cutlass	White	9137NX Ma	1P3GJ14A2MN042842	01/17/03	24	Red's Auto	17
85	Audi	5000S	Green	none	WAUFB0443FN008882	01/24/03	19	Quick Response	12
84	Volkswagon	GTI	Red	none	1VWDC0169EW067458	01/27/03	14	D & R Towing	7
85	Saab			none	YS3AM4548F201170	01/28/03	12	D & R Towing	5
90	Dodge	PIU	Black	1S72420	D13ANA5104178	02/03/03	7	Dionne's Auto	0
88	Toyota	PIU	Blue	158089	JT4RN50R6J0377700	02/04/03	6	Red's Auto	-1
87	Mercury	Sable	Gray	none		02/04/03	6	Quick Response	-1
88	Acura	Integra	Black	1462029	JH4DA9468KC810343	02/04/03	6	Decottes	-1
84	Chevrolet	S-10 PIU	Red	778329	1GCCT1481E2160204	02/04/03	6	Dionne's Auto	-1
91	Ford	Taurus	Blue	1494273	1FACP56U8MG126367	02/05/03	5	D & R Towing	-2
87	Honda	Accord	Gray	1412042	1HGLA6548HA130425	02/05/03	5	Quick Response	-2
87	Lincoln	Continental	Blue	1299296	1LNBM976DHY708916	02/05/03	5	Decottes	-2
91	Pontiac	Sunbird	Blue	1379077	1G2JB54K2M7537705	02/06/03	4	D & R Towing	-3
									-7
									-7
									-7
									-7
									-7
									-7
									-7
									-7

As Of 02/10/03
8:53 AM

New Towed Vehicles

87	Honda	Prelude	Blue	1516193	JBMBM4027JE038352	12/02/02	70	D & R Towing	63
87	Mazda	RX7	Red	1516194	JM1FC3311H0553383	12/02/02	70	Rod's Auto	63
91	Pontiac	Firebird	Red	1191839	1G2F523T9ML215686	12/02/02	70	Dionne's Auto	63
97	Oldsmobile	Achieva	Green	none	1G3NL52TBVM351985	12/03/02	69	Quick Response	62
86	Buick	Century	Gold	564471	1G4ML27E7GH480633	12/05/02	67	Dionne's Auto	60
98	Mazda	323	Blue	none	JM1BF2220J0017589	12/06/02	66	Decelles	59
88	Oldsmobile	Cutlass	Red	none	2B3AJ51W4J2361086	12/09/02	64	Rod's Auto	57
92	Chevrolet	Cavalier	Green	31654		12/10/02	62	Quick Response	55
85	Honda	Civic	Gray	1335674	JHMAH6307F9005663	12/10/02	62	D & R Towing	55
88	Lincoln	Continental	Black	none	6LNBM8049JY762105	12/11/02	61	Dionne's Auto	54
94	Saturn	Station Wagon		1392740	6G2ZG8599RZ332837	12/11/02	61	Quick Response	54
88	Ford	Mustang	Black	1340142	1FABP4145JF264365	12/17/02	69	D & R Towing	53
89	Acura		Red	1476806	JH4DA3354KS001584	12/13/02	59	Decelles	52
86	Dodge	Dynasty	Blue/Green	412230	1B3BU6637JD166615	12/13/02	59	Dionne's Auto	52
98	Nissan	Stanza		none	JN1HT2115HT074489	12/16/02	56	Rod's Auto	49
89	Chevrolet	Cavalier	White	none		12/26/02	48	Decelles	39
91	Chevrolet	Geo Storm	Green	1553883		12/26/02	48	D & R Towing	39
91	Chevrolet	Lumina	Blue	1515985	2GTWR54TXM9268940	12/26/02	46	D & R Towing	39
86	Chevrolet	S-10 PU	Red	432276 temp		12/26/02	46	Quick Response	39
	Eagle	Talon	Gold	none		12/26/02	46	Dionne's Auto	39
88	Ford	Bronco	Silver	1534939		12/26/02	46	Decelles	39
88	Ford	Bronco II	Black	534568		12/26/02	46	Dionne's Auto	39
87	Honda	Civic	Red	1477480		12/26/02	46	D & R Towing	39
88	Toyota	4 Runner	Black	1466886		12/26/02	46	Quick Response	39
93	Buick	LeSabre	Brown	470830		12/27/02	45	Quick Response	38
88	Honda	Accord	Black	1553882	1HGCA5541JA014141	12/27/02	45	Dionne's Auto	38
84	Nissan	PU	Blue	none	1N6ND0163EC371781	12/27/02	45	Rod's Auto	36
89	Nissan	Sentra	Red	none	JN1PB2455JU128339	12/31/02	41	D & R Towing	34
95	Dodge	Caravan	White	1446329	1B4GH44R5PX561382	01/02/03	39	Rod's Auto	32
88	Nissan	Sentra	Red	1412122	JN1PB2252JU533662	01/02/03	39	D & R Towing	32
93	Oldsmobile	Achieva	Red	1477489	1G3NL5433PM025194	01/02/03	39	Decelles	32
88	Plymouth	Acclaim	Silver	none	1P3BA46KVKF404581	01/02/03	39	D & R Towing	32
	Kia	Sephia	Blue	HWJ071 Tenn	KNAFA1255552B9805	01/03/03	38	Rod's Auto	31
89	Chrysler		White	1553944		01/04/03	37	Decelles	30
94	Dodge	Caravan	White	1014501		01/04/03	37	D & R Towing	30
	Ford	Ranger	White	2168VT Ma		01/04/03	37	Quick Response	30
	Ford	Van		1437842		01/04/03	37	D & R Towing	30
	Ford	Van		1261189	CO4FH3G2318	01/04/03	37	D & R Towing	30
	Honda	Accord	Blue		1HGEA8538KA099213	01/04/03	37	Rod's Auto	30
	Honda	MPV	Black	1437547		01/04/03	37	Decelles	30
	Infinity			315090		01/04/03	37	D & R Towing	30
	Toyota	Pickup	Red	1502618		01/04/03	37	Dionne's Auto	30
	Dodge	Caravan	Blue	1585496		01/05/03	36	Quick Response	29
85	Dodge	Fifth Ave.	Gold	1624750	1C3BH66P2HXT43507	01/05/03	36	D & R Towing	29
88	Honda	Accord	Blue	1437434		01/05/03	36	Decelles	29

As Of 02/10/03
8:53 AM

New Towed Vehicles

89	Volkswagon	Jetta		White	1459883	WVWNB11G8KW674690	08/06/02	180	Deciles 179
87	Oldsmobile	Cutlass Ciera		White	419085 Temp	1G3AJ11W9HD316543	08/30/02	164	Deciles 157
89	Dodge	Shadow		Red	none	1B3BP48K0KN705920	09/03/02	160	Rod's Auto 153
90	Pontiac	Sunbird		White	1427374	1G2JB54K0L7584445	09/17/02	146	Deciles 139
94	Saturn	SL2		Blue	1393160	1G8ZJ5575PZ140634	09/17/02	146	Deciles 139
97	Toyota	Celica		Black	none	JT2BM6708V7126270	09/17/02	146	D & R Towing 139
97	Chevrolet	Cavalier		Gray	none	1GILT5SW6J6540737	09/25/02	138	D & R Towing 131
92	Hyundai	Elantra		Blue	none	KAHJF22R9NU123561	09/27/02	136	Deciles 129
86	Toyota	0		White	3800XE 6MA	JTZSV21E5A0183310	09/27/02	136	Quick Response 129
86		Land Rover	02/06/03	Blue	1356107	SALHV1144JA338810	09/30/02	133	Deciles 126
88	Honda	Accord		Tan	1186278	GHGCH5535J1500078	10/01/02	132	Rod's Auto 125
85	GMC	Safari Van		Blue	none	1GTDM15N0FU512218	10/02/02	131	D & R Towing 124
88	Ford	LTD Estate Wagon		Gray w/wood	412372 Temp	2FABP78H6JX247576	10/03/02	130	D & R Towing 123
88	Mazda	323		Blue	none	JM1BF2228J0122124	10/03/02	130	Rod's Auto 123
97	Mitsubishi	Eclipse		Black	131466	4A3AL35G6VE024754	10/03/02	130	Deciles 123
94	Plymouth	Sundance		Blue	none	1P3AP28K5RN171716	10/03/02	130	Quick Response 123
	Yamaha	350 Motorcycle		Black & Red	none	315-16/636	10/04/02	129	Quick Response 122
90	Honda	Accord		Brown	415269 Temp	1HGCB7169LA12710	10/07/02	126	Quick Response 119
88	Chevrolet	S-10 Blazer	FD	Blue	434106 Temp	1GBCT18R4G0109582	10/08/02	125	D & R Towing 118
89	Chevrolet	Cavalier		Gray	none	1CLJC14KLJ313306	10/09/02	124	Deciles 117
88	Ford	Festiva		Gray	none	MKTBT08H6K0849058	10/09/02	124	Quick Response 117
92	Dodge	Shadow		Blue	415544 Temp	1B3BD24D8NB242821	10/15/02	118	D & R Towing 111
96	Subaru	Legacy		Red	1258311	JF2BC65C8SH603295	10/15/02	118	Quick Response 111
87	Oldsmobile	Firenza	FD	Red	none	1G3JD21W5HK321801	10/16/02	117	Deciles 110
87	Chevrolet	Celebrity		Brown	none	1G1AW51R7HG102520	10/24/02	109	Deciles 102
90	Dodge	Colt		Green	none	JB3CU24K2L0078573	10/28/02	105	Quick Response 98
88	Ford	Taurus SW		Gray	none	1FABP57U2JG264486	10/28/02	105	D & R Towing 98
87	Chevrolet	Nova		White	1249852	1Y1SK5145HZ074284	10/31/02	102	Quick Response 95
87	Oldsmobile	Cutlass Ciera		White	1433963	1GAJ51W1W1H0309855	11/06/02	96	Quick Response 89
89	Pontiac	6000		White	424909 Temp	1GRAJ51W9KT204433	11/07/02	95	Deciles 88
89	Pontiac	Safari SW		White/wdgrn	none	1GBBL81Y1KA200826	11/07/02	95	D & R Towing 88
93	Ford	Escort SW		Tan	none	1FAPP15J2PW288693	11/11/02	91	Deciles 84
86	Mazda	323		Blue	415771 Temp	JM1BF2228G0137148	11/13/02	89	D & R Towing 82
88	Chevrolet	Corsica		Blue	1467418	1G1CT5113JG531957	11/14/02	88	Deciles 81
86	Buick	Century SW	FD	Gray	none	1G4AH0547GD457360	11/15/02	87	D & R Towing 80
91	Chevrolet	CEO Metro		Red	1240347	JG1MR3165MK610955	11/18/02	84	Bonner's Auto 77
89	Ford	Taurus SW		Red	none	1FABP57U6KA236049	11/18/02	84	D & R 77
85	Mazda	323		Gray	1240367	JM1BF2226G0145269	11/18/02	84	Rod's Auto 77
90	Pontiac	Grand Am		Blue	1217812	1G2NJ55U2C257031	11/18/02	84	Deciles 77
88	Chevrolet	Van		Red	222090	2GBDG1544J9122578	11/19/02	83	Deciles 76
	Buick	Skylark		Red	CAN478		11/22/02	80	Deciles 73
88	Honda	Civic		Blue	298943 Temp	JHMED8358JS076265	11/22/02	80	Bonner's Auto 73
88	Mercury	Topaz		Black	105451	2MEPM37XJBG611263	11/22/02	80	Bonner's Auto 73
89	Pontiac	Sunbird		Red	360974	1G2JD1100K7536821	11/22/02	80	D & R Towing 73
76	Chevrolet	C30 Motorhome		Brown/Tan	none	CGU33641359S8	11/26/02	73	Quick Response 66

As Of 02/10/03
8:53 AM

45

2003

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ABANDONED VEHICLE PROBLEM

The New Hampshire Towing Association comprised of over one hundred and forty small New Hampshire businesses. This letter is written to you to ask for your help with a large problem that is getting bigger every year in our Industry.

There is a growing problem of abandoned cars that we are asked to remove from public roads per request of law enforcement. A few common scenarios would be:

a. **A car left on the side of the road, sometimes with or without plates.**
b. **A car to be towed for legal reasons, i.e., driver under arrest or driving with a suspended license.**

BACKGROUND

As part of law enforcement's duty to keep the roads safe, we are called on an ASAP status, which requires us to put that call ahead of our paying customers cars with prearranged appointments. After towing these cars back to our shops, many times the owners of the cars:

a. **Never call us or come back to take care of the car and towing bill.**
b. **Sometimes return to the shop, but only to empty out personal belongings from the car, leaving the towing/auto repair shops with the vehicle and unpaid bill.**

Existing New Hampshire RSA (Chapter 262) laws address the problem, with penalties that can include loss of license or registration. Existing laws also state that the Hearing Officer may have a hearing with the last known registered owner. Unfortunately, this is not being enforced, and our members are not receiving support from that process. Replacing the words may have a hearing to shall have a hearing would help to expedite the process of dealing with abandoned vehicles. It is our opinion that if the State of New Hampshire's Hearing Department sends out a notice of a hearing, a high percentage of car owners will rectify the problem quickly in order to avoid the hearing. If the vehicle owner does not rectify the problem, there shall be a hearing in order to charge the person with vehicle abandonment.

Additionally, our Association would like to see New Hampshire RSA laws regarding abandoned vehicles changed, to better define what constitutes an abandoned vehicle. We believe New Hampshire RSA's regarding abandoned vehicles should specifically state that any vehicle which is requested to be towed by law enforcement and remains unclaimed after 30 days shall be considered abandoned. The way current New Hampshire laws are written and interpreted,

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P.O. Box 5438/Manchester, New Hampshire 03108-5438
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law enforcement is reluctant to consider the vehicle to be abandoned as it was law enforcement who requested the vehicle to be towed rather than the vehicle owner.

Of note, despite following the current processes set forth in existing New Hampshire laws including notifying the last registered owner of our possession of the vehicle and charges owed; our attempts at formal notifications go unheeded, leaving our business to bear the full cost associated with disposal of abandoned vehicles.

Lastly, we believe the New Hampshire RSA regarding abandoned vehicles should be changed to read that both the car and contents shall be held with the towing company/repair shop until the responsible party claims the vehicle, making full payment for all charges owed. We are open to making allowances for removal of such emergency items as prescription medication, glasses, etc. but not full removal of all personal contents. Given that abandoned vehicles typically have no value, we believe retention of personal affects is the only real leverage available to recover any costs associated with abandoned vehicles. Presently, there is little or no incentive, as evidenced by the growing problem we continue to experience.

As it now stands, the towing operators are being unduly penalized when responding to law enforcement's requests to remove abandoned vehicles and make our roadways safe. We believe we provide a valuable and important public service and would like to be compensated for our efforts.

RECOMMENDATION

New Hampshire State Laws on abandoned vehicles should be clarified and the way they are currently being enforced. The responsibility for abandoned vehicles should be directed to those who abandoned them rather than to towing companies. Following is a copy of a bill introduced in to the 2003 session of the N.H. Legislature by Sherman Packard Chairman of the House Transportation Committee. The bill if enacted should go a long way towards making New Hampshires highways safer particularly during stormy weather.

NEW HAMPSHIRE TOWING ASSOCIATION
P.O. BOX 5438
MANCHESTER, N.H. 03108-5438

TABLE OF CONTENTS

New Hampshire Abandoned Vehicle Program

Current New Hampshire Statutes

A. Title XXI Chapter 261:Section 261-179

B. Title XXI Chapter 262:Section 262:40

C. Title XXI Chapter 263:Section 263:56 (2 pg.)

D. New Hampshire Towing Association flyer (2 pg.)

ILLINOIS

A. SB2161 Public Act 92-0654

B. Traffic Regulations 39:4-56.4

C. Synopsis of Bill 39 Poe-Reitz From Professional Towing & Recovery Operators of Illinois (pg2)

MAINE

A. Towing Association of Maine News on Abandoned Vehicle Legislation

B. Public Laws Chapter 563 SP 740-L.D. 2064

VERMONT

A. Letter from Office of the Governor (2 pg.)

NEW JERSEY

A. Letter to Amend Law on Abandoned Vehicles from Garden State Towing Association (2 pg.)

CALIFORNIA

A. Auto Recycler & Dismantler Facilities (pg 3)
(UCLA)

FLORIDA

A. Title XL Chapter 713.78

STATE OF WASHINGTON

A. RCW 46.63.110

B. RCW 46.55.105

1. Abandoned Vehicle Map Longview, Washington

TITLE XXI
MOTOR VEHICLES

CHAPTER 261
CERTIFICATES OF TITLE AND REGISTRATION OF VEHICLES

Registration Penalties and Offenses

Section 261:179

261:179 Suspension or Denial of Registration for Abandoning Vehicle. – The director may suspend any registrations issued to a person who has been convicted of violating RSA 262:40-c or who has been found by the director to have abandoned a vehicle without paying for the costs of removing, storing, and destroying the vehicle. The director may refuse to register any vehicle to a person who has been convicted of violating RSA 262:40-c or who has been found by the director to have abandoned a vehicle without paying for the costs of removing, storing, and destroying the vehicle.

Source. 1989, 253:1, eff. July 25, 1989.

TITLE XXI
MOTOR VEHICLES

CHAPTER 262
ANTITHEFT LAWS, OFFENSES, PENALTIES, HABITUAL OFFENDERS, ARREST OF NONRESIDENTS AND ABANDONED VEHICLES

Abandoned Vehicles

Section 262:40-c

262:40-c Abandoning a Vehicle; Penalty. – No person shall abandon a motor vehicle, registered or unregistered, on any way or on any property other than his own without the permission of the owner or lessee of said property or, in the case of public property, of the police department having jurisdiction over the property. For the purposes of this section, a vehicle shall be considered abandoned if it has been left for more than 24 hours without the appropriate permission being given. The last owner of record of a motor vehicle found abandoned, as shown by the files of the department, shall be deemed prima facie to have been the owner of such motor vehicle at the time it was abandoned and to have been the person who abandoned the motor vehicle or caused or procured its abandonment. Any person who violates the provisions of this section shall be guilty of a violation and may be subject to the loss of driver's license and registration as provided in RSA 263:56 and RSA 261:179. The court may assess costs of abandoning a vehicle, including but not limited to, towing and storage costs, against any person convicted of abandoning a vehicle in violation of this section, and the director may suspend the driver's license of any person who has not paid such costs.

Source. 1989, 253:3, eff. July 25, 1989.

TITLE XXI
MOTOR VEHICLES

CHAPTER 263
DRIVERS' LICENSES

License Suspension and Revocation

Section 263:56

263:56 Authority to Suspend or Revoke License. –

I. In addition to any other authority provided by law, the director is hereby authorized to revoke or suspend any license, permit or certificate issued under this title after a hearing upon a showing by its records or other sufficient evidence that the driver:

(a) Has committed an offense for which mandatory revocation of license is required upon conviction;

(b) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(c) Is an habitually reckless or negligent driver of a motor vehicle, as established by the point system set up pursuant to paragraph II, by a record of accidents, or by other evidence;

(d) Is incompetent to drive a motor vehicle by reason of physical, mental or moral impairment. For purposes of this paragraph, a license suspension or revocation on the basis of moral impairment shall be predicated only upon a conviction of a crime involving moral turpitude;

(e) Has fraudulently or unlawfully used, permitted to be used, altered, displayed, or manufactured a license, has in his possession an altered or false license, or has been convicted of any offense specified under RSA 263:12;

(f) Has violated his written promise to appear given to an officer upon the issuance of a traffic citation in this or any other state or has failed to appear in court in this or any other state at the time specified by the court;

(g) Has by reckless or unlawful operation of motor vehicle caused or materially contributed to an accident resulting in death or injury to any other person or serious property damage; or

(h) Is a hazard to the public safety as evidenced by proper evidence or information received from a law enforcement agency of misconduct or misuse or abuse of driving privileges.

II. For the purpose of identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic regulations governing the movement of vehicles, the director shall adopt rules pursuant to RSA 260:5 establishing a uniform system assigning demerit points for convictions of violations of this title. The rules shall include a designated level of point accumulation which so identifies drivers. The director may assess points for convictions in other states of offenses which, if committed in this state, would be grounds for such assessment. Notice of the assessment of points may be given in accordance with rules adopted by the director. No points shall be assessed for violating a provision of this title regulating standing, parking, equipment, size or weight. However, points may be assessed for convictions involving abandoned vehicles as provided in RSA 262:40-c, and points may be assessed against any person who is found by the director to have abandoned a vehicle and who has not satisfied the reasonable costs of removal and storage. In case of the conviction of a licensee of 2 or

more traffic violations committed on a single occasion, such licensee shall be assessed points for one offense only and if the offenses involved have different point values, such licensee shall be assessed for the offense having the greater point value. The director is authorized to suspend or revoke the license of a driver when his driving record identifies him as an habitually reckless or negligent driver or an habitual or frequent violator under this section. The director may, in accordance with rules adopted pursuant to this section, order the licensee to attend a group or private driver improvement interview regarding his driving ability and record.

II-a. Notwithstanding RSA 605:6 or any other provision of law to the contrary, any conviction for an offense which is used as a basis for suspension or revocation of a license under this section and which involves a plea of nolo contendere shall be treated in the same manner as a conviction which involves a guilty plea for the purpose of assessing demerit points under paragraph II.

III. The director shall not revoke or suspend a driver's license under the provisions of this section for a period in excess of one year except:

(a) In the case of a person whose license is suspended or revoked pursuant to RSA 263:56, I(g) the director may suspend or revoke a license for not more than 7 years.

(b) In the case of a person whose license is suspended or revoked pursuant to RSA 263:56, I(d) by reason of physical or mental impairment the director may suspend or revoke a license indefinitely provided that the person may request a hearing once every year thereafter for the purpose of reviewing the original order.

IV. In proceedings concerning accidents involving motor vehicle fatalities or serious injury, the director shall not give weight to the lack of a criminal prosecution relative to the accident in making his decision concerning license suspension or revocation. In any hearing conducted under the provisions of this section regarding a fatality, the decedent's next of kin shall receive notice of the hearing, shall have the right to be present at the hearing, and shall be permitted to testify at the hearing. In any hearing conducted under the provisions of this section regarding a serious injury, any seriously injured person shall receive notice of the hearing, shall have the right to be present at the hearing, and shall be permitted to testify at the hearing. The decedent's next of kin or any seriously injured person, if aggrieved by the director's order, shall have standing under RSA 263:76 to file a petition of review in the superior court for review of the questions of law in the director's order. If an appeal is made under RSA 263:76 concerning an accident involving a motor vehicle fatality or serious injury, the decedent's next of kin or any seriously injured person shall be notified of the filing of the appeal and the date of the appeal hearing and shall have the right to make a written statement to the court at the time of the hearing. The director shall be deemed to have complied with this paragraph provided that he has notified by certified mail with return receipt requested the seriously injured person or at least one of the next of kin who is, if possible, of the age of majority and listed in RSA 259:66-a and who has been identified as a result of a review of division records or of information made known to the division.

V. The director shall adopt rules as part of the point system required by paragraph II, establishing lesser point totals for suspension or revocation of driver's licenses of younger drivers including separate categories for drivers who are under the ages of 21 and 18, respectively.

Source. 1921, 119:16. PL 102:30. RL 118:32. RSA 262:39. 1981, 146:1. 1986, 193:2. 1987, 404:5-7. 1988, 20:2. 1989, 253:4. 1990, 79:6; 262:4. 1992, 21:2, eff. Jan. 1, 1993. 1999, 295:4, eff. Jan. 1, 2000.

262:40-c Abandoning a Vehicle; Penalty.

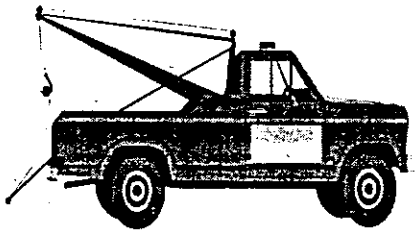
No person shall abandon a motor vehicle, registered or unregistered, on any way or on any property other than his own without the permission of the owner or lessee of said property or, in the case of public property, of the police department having jurisdiction over the property. For the purposes of this section, a vehicle shall be considered abandoned if it has been left for more than 24 hours without the appropriate permission being given. The last owner of record of a motor vehicle found abandoned, as shown by the files of the department, shall be deemed prima facie to have been the owner of such motor vehicle at the time it was abandoned and to have been the person who abandoned the motor vehicle or caused or procured its abandonment. Any person who violates the provisions of this section shall be guilty of a violation and may be subject to the loss of driver's license and registration as provided in RSA 263:56 and RSA 261:179. The court may assess costs of abandoning a vehicle, including but not limited to, towing and storage costs, against any person convicted of abandoning a vehicle in violation of this section, and the director may suspend the driver's license of any person who has not paid such costs.

Source. 1989, 253:3, eff. July 25, 1989.

New Hampshire Towing Association

February 8, 2000

State of New Hampshire Department of Safety Division of Motor Vehicles





What is Hearings?

The Bureau of Hearings is responsible for administrative hearings conducted by the Department of Safety under the authority of Richard M. Flynn, Commissioner of Safety and Virginia C. Beecher, Director of Motor Vehicles.

The quasi-judicial hearings include all driver license reviews for example habitual offenders, demerit points system, transporting alcohol by a minor, Children in need of Supervision, (C.H.I.N.S.), Administrative License Suspension [*involving persons having taken a chemical test after an arrest or refusing to complete the test*], Uninsured Accident Involvement and Serious Injury/Fatal Crashes. Other hearings held include topics such as Watercraft, Fireworks Licensing, Security Guard Licensing, Vehicle Dealership, Inspection Station, and the Titling of Vehicles. Also, Common Carrier Authorization, Abandoned Vehicles and Dynamite Permits to name a sampling of topics covered. More recently the Bureau of Hearings has conducted the public hearings involving watercraft in relationship to governing use on certain waterways, Vehicle Emissions and The N.H. Motor Vehicle Industry Board.

Presently hearings are accomplished in Concord, Dover, Gorham, Keene, Lebanon, Manchester, Merrimack, Salem, Tamworth and Twin Mountain.

The Bureau of Hearings staff consists of the Administrator,; Chief Hearings Examiner; Thirteen hearing examiners and seven support staff. A Litigation Post consisting of an Attorney and legal secretary rounds out the staff.

Hearings are conducted under the general authority of promulgated administrative rules (Saf-C 200) and New Hampshire law Title XXI of the Revised Statutes Annotated. Hearings are also administrated through the specific rules and statutes that are applicable to the subject matter and scope of review listed.

262:33 Procedure for Removal and Impoundment.

I. Upon satisfying the requirements of RSA 262:32, such vehicle may be removed and stored in a suitable place, and all reasonable charges incurred as a result of such removal and storage shall be a lien against the vehicle which shall be paid by th owner, custodian, or person claiming such vehicle, except as otherwise provided in this section.

II. Whenever a vehicle is towed pursuant to RSA 262:32 the owner or other person lawfully entitled to the possession of the vehicle shall be entitled to recover sai vehicle and release of the above lien by payment of all reasonable towing and storag charges. If the owner or other person lawfully entitled to possession of the vehicl wishes to challenge whether there was sufficient grounds for towing and impoundment, he may pay over to the custodian of the vehicle an amount equal to th towing and storage charges to secure the release of such vehicle, and, within 15 days of the towing and impoundment, request in writing a hearing.

III. The hearing shall be held before the head of the law enforcement agency which employs the authorized official who caused the vehicle to be removed and stored, or his designee. In the event such agency head or his designee determines sufficient grounds did not exist for the removal and storage of the vehicle, the law enforcement agency shall reimburse the owner or other person lawfully claiming possession for any amount paid to the custodian to secure release of the vehicle.

IV. Nothing in this section shall prevent a review of the reasonableness of th towing or other action as may be permitted by laws of this state by a court of competent jurisdiction.

262:34 Notice of Removal.

Whenever an authorized official or the owner or person in lawful possession of private property directs the removal and storage of a vehicle as permitted in this subdivision, he shall, if he knows or is able to ascertain from the registration records of the division the name and address of record of the registered owner of the vehicle, attempt to give or have given by the most practicable means, notice of the fact of suc removal and the place to which said vehicle has been removed. If the authorized official does not know and is not able to ascertain the name of the owner, or for an other reason is unable to give notice to the owner as provided in this section, such notice shall be filed with the director, which notice shall be placed on file by said director and open to public inspection.

261:179 Suspension or Denial of Registration for Abandoning Vehicle.

The director may suspend any registrations issued to a person who ha been convicted of violating RSA 262:40-c or who has been found by the director to have abandoned a vehicle without paying for the costs of removing, storing, and destroying the vehicle. The director may refuse to register any vehicle to a person who has been convicted of violating RSA 262:40-c or who has been found by the director to have abandoned a vehicle without paying for the costs of removing, storing, and destroying the vehicle.

"Shedding Light On The Illinois Towing Industry"

PRESS RELEASE

GOVERNOR SIGNS SB2161 PUBLIC ACT 92-0654

The Governor's office phoned the PTROI office to inform us that SB2161 had been signed into law July 11, 2002. It takes effect January 1, 2003. This bill gives your community or municipality the assistance needed to impose the cost of removal of abandoned vehicles on the vehicle owner.

This law provides that the Secretary of State shall prohibit the renewal, reissue, or reinstatement of the driving privileges of a person who fails to pay a fine, charge, or cost imposed for abandonment of a vehicle, and provides for procedures to be followed in imposing the sanction and to be followed when the fine, charge, or cost has been paid.

The Professional Towing and Recovery Operators of Illinois ARE ASKING ILLINOIS LAW ENFORCEMENT to work in conjunction with them to help reduce the thousands of abandoned vehicles left on Illinois roadways every year. To make this law work for the citizens of Illinois, law enforcement officers need to do no more than issue a citation for abandoning a vehicle. The ticket issued will set in motion a system which will make the responsible party for the abandonment take an affirmative step instead of passing the cost on to others.

39:4-56.1. Willfully Disabling and Abandoning Vehicles

(a) No person shall operate a vehicle upon the public highways, bridges or tunnels of this State or upon any highways, bridges or tunnels in this State operated by any authority of this State or by any authority created jointly by this State and any other State in such a manner as to willfully cause such vehicle to become disabled, by reason of lack of fuel or otherwise, for the purpose of interfering with or obstructing the passage of other vehicles.

(b) No person shall willfully abandon a vehicle upon the public highways, bridges or tunnels of this State, or upon any highways, bridges or tunnels in this State operated by any authority of this State or by any authority created jointly by this State and any other State for the purpose of interfering with or obstructing the passage of other vehicles.

39:4-56.2. Violation

Any person who has been convicted of a violation of this act shall be subject, for a first offense, to a fine of not less than $200.00 nor more than $500.00 and shall have his license to operate a motor vehicle suspended for a period of not less than 1 year nor more than 5 years. For a subsequent violation, he shall be fined not less than $500.00 nor more than $1,000.00 and shall have his license to operate a motor vehicle suspended for 5 years from the date of his conviction. In fixing the penalty to be imposed, the magistrate shall give consideration to the hazard to the public safety and the public inconvenience created by the conduct of such person.

39:4-56.3. Registration Suspended

The registration of any motor vehicle which is used by any person in violation of section 1 of this act [R.S. 39:4-56.1] shall be suspended for not less than 90 days nor more than 1 year unless the owner thereof can demonstrate to the satisfaction of the Director of Motor Vehicles that said vehicle was used in such a manner without his knowledge and consent. In fixing the period of suspension, the director shall give consideration to the threat to public safety and the public inconvenience caused by the use of said vehicle.

39:4-56.4. Serious Threat to Health, Safety and Welfare

The Legislature finds and declares that a serious threat to the health, safety and welfare of the people of this State may be presented by any concerted effort, plan or demonstration involving the use and operation of vehicles in such a way as to impede, hamper, stall and interfere with the ordinary progress of vehicular traffic on, in and through the roads, highways and bridges of the State. Because of the special road hazards, with consequent danger to the lives and property of the people of this State, and economic loss which would inevitably flow from any such course of conduct, the Legislature determines that the penalties and sanctions provided by this act shall be applicable under such circumstances.

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Full Text Bill Status

House Sponsors:
POE-REITZ.

Senate Sponsors:
PARKER-WALSH,L

Short description:
VEH CD-ABANDONED VEHICLES

Synopsis of Bill as introduced:

Amends the Illinois Vehicle Code. Provides that a person who abandons a vehicle or aids and abets in the abandonment of a vehicle is not eligible to obtain registration for another vehicle until the fine and costs have been paid. Provides that, if the person already has transferred his or her registration to another vehicle or has newly obtained registration for another vehicle without having paid the fine or costs, the Secretary of State shall revoke the registration and shall notify the person that his or her registration for that vehicle is void. Provides that the person may not obtain a new vehicle registration until the fine and costs have been paid.

andersonlegislativeconsul

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Support House Bill 39 Poe-Reitz

House Bill 39 deals with the ever-increasing problem of vehicles being abandoned on public roadways. In recent years the number of vehicles abandoned on Illinois highways has drastically increased. Compounding the problem is the inability of tow truck companies (who generally pick up these vehicles at the request of law enforcement) to legally dispose of these vehicles once they are in their possession. In fact much of the necessary paperwork to obtain the name and address of the owner of record and then the application process for a junk or salvage title can take many months or even years.

Current law provides for fines and costs to be paid by a person who abandons a vehicle. In the experience of the towing industry these fines and fee are rarely enforced. In fact once law enforcement or a property owner requests that an abandoned vehicle be relocated, it is no longer considered abandoned, it is unclaimed. Thus leaving the Tow Company with little choice other than to store the vehicle until the proper junk or salvage title can be secured from the State.

House Bill 39 prevents a person who abandons a vehicle from obtaining a registration for a new vehicle until the fines and costs are paid. In addition under HB39 a provision allows those in possession of abandoned unclaimed vehicles (generally tow companies) to notify the registered owner of the vehicle, that costs are owed which may prevent them from registering another vehicle; and that if they no longer wish to retain the vehicle, the title can be surrendered to the tow company. Tow truck companies have found that the vast majority of these vehicles are not wanted by the owners, there are merely "unloading them" by abandonment. HB 39 would give them an incentive to give the title to the Tow Company.

Under this scenario, the Secretary of State's office would no longer need to process thousands of junk or salvage title requests from Tow Companies, reducing the ever increasing paperwork backlog and the Tow Companies would be able to dispose of unwanted vehicles in a legal and expedited manner.

The Professional Towing and Recovery Operators of Illinois support this legislation. If you have any questions please contact Bill Anderson at 793-9086.

T.R.A.M.
TOWING & RECOVERY NEWS

ABANDONED VEHICLE LEGISLATION

Tom Greeley and Mark Champagne attended the Joint Standing Committee on Transportation's legislative meeting and a legislative workshop on abandoned vehicles.

The committee listened to the testimony given by Mark who made the following points:

- This bill is necessary to give towing companies some financial relief from their obligation to tow and store abandoned vehicles.
- Towing companies must invest time, money and wear and tear on their vehicles in order to fulfill this obligation.
- The towing company needs to secure the vehicle title in order to dispose of it.
- Proponents support an amendment that would allow the exemption if requested by a law enforcement official, not just the State Police.

Due to TRAM'S representation at these meeting changes will be made to the existing legislation.

The following is a recap of changes to be made to existing legislation:

20-A MRSA section 603, subsection 5-A to be added.

5-A. Abandoned vehicles declared a total loss. A towing company is exempt from a title fee under the following conditions:

1. The vehicle is towed by a towing company at the request of a law enforcement officer and: The towing company declares the vehicle is a total loss while claiming the vehicle pursuant to chapter 15, subchapter III and;
2. The vehicle owner is notified that the vehicle is claimed under the abandoned vehicle law as required in section 1854 and

The title fee under section 603 subsection E is requested from the vehicle owner by the Secretary.

We owe special thanks to Catherine Curtis, Director, Division of Motor Vehicles for her valuable support in writing this bill for the association.

Amend 29-A MRSA, Section 1854, subsection 3.

3. Response. On receipt of the notification, the Secretary of State shall inform the vehicle owner and lienholder, if any, by regular mail that the vehicle is being claimed under the abandoned vehicle law. The notice to the vehicle owner and lienholder, if any, must identify the vehicle by the year, make model and vehicle identification number, give the name and address of the party claiming ownership, state the charges against the vehicle that the owner and lienholder, if any, must pay to retrieve the vehicle, and the date that the title or letter of ownership will pass to the new owner. If the party is claiming ownership of the vehicle pursuant to section 603 subsection 5-A, the letter must inform the vehicle owner they owe $23 to transfer the title. A copy of this letter must be provided to the person claiming ownership.

29-A MRSA Section 668, subsection 3 is amended to add:

§668. Suspension or revocation of certificate of title or certificate of salvage

3. Certificate delivered. When the Secretary of State suspends or revokes a certificate of title, certificate of salvage, certificate of lien or a certificate of registration, the owner or person in possession of that document, immediately upon receiving notice of the suspension or revocation, shall deliver the document and registration plates to the Secretary of State. If a person fails to deliver documents and registration plates

Inside this issue:

President's Letter	2
Meeting Schedule for 2002	2
Secretary's Corner	3
From the Desk of Tr. David W. Freeman	4
Member Benefits	6
Tow & Trade Shows	9
Video Library	13

PUBLIC LAWS OF MAINE
Second Regular Session of the 120th

CHAPTER 563
S.P. 740 - L.D. 2064

An Act to Waive the Title Fee for Towed Abandoned Vehicles

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 29-A MRSA §603, sub-§6 is enacted to read:

6. Abandoned vehicles declared total loss. A towing company is exempt from a title fee if:

A. The towing company tows a vehicle at the request of a law enforcement officer;
B. The towing company declares a vehicle a total loss while claiming the vehicle pursuant to chapter 15, subchapter III;
C. The Secretary of State notifies the vehicle owner that the vehicle is claimed under the abandoned vehicle law as required in section 1854; and
D. The Secretary of State requests the title fee under subsection 1, paragraph E from the vehicle owner.

Sec. 2. 29-A MRSA §668, sub-§3, as amended by PL 1995, c. 482, Pt. A, §15, is further amended to read:

3. Certificate delivered. When the Secretary of State suspends or revokes a certificate of title, certificate of salvage, certificate of lien or certificate of registration, the owner or person in possession of that document, immediately upon receiving notice of the suspension or revocation, shall deliver the document and registration plates to the Secretary of State. If the owner or person in possession of that document fails to deliver the document and registration plates to the Secretary of State, the Secretary of State may suspend the person's privilege to title or register a vehicle.

Sec. 3. 29-A MRSA §1854, sub-§3, as amended by PL 1999, c. 137, §1, is further amended to read:

3. Response. On receipt of the notification, the Secretary of State shall inform the vehicle owner and lienholder, if any, by regular mail that the vehicle is being claimed under the abandoned vehicle law. The notice to the vehicle owner and lienholder, if any, must identify the vehicle by the year, make, model and vehicle identification number, give the name and address of the party claiming ownership, state the charges against the vehicle that the owner and lienholder, if any, must pay to retrieve the vehicle, and the date that the title or letter of ownership will pass to the new owner. If the party is claiming ownership of the vehicle pursuant to section 603, subsection 6, the notice must inform the vehicle owner and lienholder that the owner must pay $23 to the Secretary of State to transfer the title. A copy of this letter must be provided to the person claiming ownership.

Effective July 25, 2002, unless otherwise indicated.

HOWARD DEAN, M.D.
Governor

State of Vermont
OFFICE OF THE GOVERNOR
Montpelier 05609

Tel.: (802) 828-3333
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TDD: (802) 828-3345

June 14, 2002

David Gibson
Secretary of the Senate
State House
Montpelier, Vermont 05602

Dear David,

I am returning S.151, an act relating to abandoned motor vehicles, because of my objections described below.

Senate bill 151, as passed by the Senate and as originally reported on the House floor, was a very good and much needed bill. I appreciate all the work that went into crafting this bill to address the issues identified by law enforcement and DMV to improve the current abandoned vehicle statute. I want to thank the House and Senate Transportation and Appropriations committees, the Senate Finance committee and the many people that worked on this bill. I am sure that the intended result of all was a better process to deal with abandoned motor vehicles. Unfortunately, the bill as passed does not achieve that result.

Under existing law, an abandoned motor vehicle is a "a motor vehicle without claimed ownership for thirty days." This statute provides a means to dispose of abandoned vehicles. Absent the statute, communities and landowners are stuck in the frustrating position of not having any way of moving or disposing of abandoned cars and trucks.

On the basis of recent experience, the number of abandoned vehicles processed by DMVwill continue to increase. The average number of vehicles abandoned had been around 175 but, over the last two years, roughly 300 vehicles a year must be dealt with. Testimony before the various Legislative Committees suggested that there is a very high level of underreporting and that the actual number of abandoned vehicles towed would approach 1000. Finally, it is important to note that approximately ninety percent of abandoned cars and trucks are removed from private property.

In S.151 as passed, the definition of "abandoned motor vehicle" was narrowed. It now would only include those vehicles remaining "on public or private property or on or

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along a highway without the consent of the owner or person in control of the property for any period of time *if the vehicle does not have a valid registration plate or ascertainable vehicle identification number."* (Emphasis added).

Since virtually all motor vehicles have an ascertainable vehicle identification number, there will be few, if any, vehicles that will fit this definition. As a result people could do nothing about most abandoned vehicles left on their property.

This bill specifically provides that its provisions do not preempt any municipal ordinances on the subject. The municipalities could continue to remove such vehicles; however, disposal of them would be complicated if not impossible.

Unfortunately, the bill as passed also repeals DMV's current authority to investigate ownership of the vehicle, notify the owner, and dispose of the vehicle. This would prevent removal and subsequent disposal of such vehicles. Rather than improving the present procedure, S. 151 now leaves the state with no process or authority to deal with this growing problem.

Although I do not believe it was the intent of the General Assembly to cause the bill to create these problems, given the problems created by S. 151, I am returning the bill unsigned and with objections in writing to the Senate pursuant to Chapter II, § 11 of the Vermont Constitution.

Sincerely,

Howard Dean, M.D.
Governor

HD/rr

Garden State Towman's Association, Inc.

P.O. Box 8665
Red Bank, New Jersey 07701-8665
(732) 530-4782
1-800-273-5981 (In New Jersey)
FAX: 732-530-3828
WEBSITE: www.gsta.org

The Garden State Towman's Association (GSTA) is the largest towing association in the state of New Jersey and is recognized as an affiliate of the national Towing and Recovery Association of America (TRAA) who represent towing associations across the country.

The State of New Jersey along with many other states across the country is struggling with an increasing problem of abandoned vehicles. Municipalities, law enforcement, property owners and towing companies all are burdened with the task of removing these vehicles from roadways, parking lots, and private property. Once the car is removed and unclaimed by their owners, the municipalities and law enforcement agencies are responsible to notify the owner of the vehicle, apply for titles, and dispose of these vehicles in a timely fashion. Abandoned vehicles are generated by drivers and owners who no longer want the vehicle due to its condition, value, or loss of proper credentials to operate the vehicle.

Today's older vehicles, eight (8) years old or older have no value and can become costly for the owner to dispose of. Automobile manufacturers are building disposable vehicles which cause many owners to have a tendency to leave cars on the side of the roadway, in parking lots, on private property and in commercial towing and storage yards when they no longer want the vehicle.

Towing companies across the state of New Jersey generate abandoned and unclaimed vehicles from law enforcement agencies and municipalities. Vehicles that are abandoned and towed out of harms way, and/or out of sight for the municipalities are there because they have become disabled, involved in accidents, drivers are arrested, or for improper paperwork to operate these vehicles legally in the state of New Jersey. They can also become abandoned when owners do not come back to claim them.

New Jersey has several abandoned vehicle laws in Title 39 that address abandoned vehicles. There are procedures in Title 39 which municipalities and law enforcement can take to obtain a title from DMV to legally dispose of these vehicles. In these statutes summons can be issued against the owner of a vehicle. Unfortunately, many municipalities and law enforcement agencies do not process these vehicles in a timely fashion. When municipalities do not properly handle abandoned vehicles, these vehicles end up taking a tremendous amount of storage space at towing companies. They become a liability risk and an extremely costly burden to the tower without ways of legally disposing of them. Abandoned vehicles, no matter where they are, become an eyesore, an environmental and health problem to the public and municipalities. The individual who does not claim the

abandoned vehicle puts quite a burden on the municipalities and towers.

GSTA would like to propose legislation or amend the present legislation to require the last titled owner responsible for paying reasonable towing and storage charges. Charges due would have to be paid before the owner of the vehicle could re-register, re-title another car, and/or renew his license. We feel that the owner of the vehicle should be held responsible and accountable for his actions. Municipalities, law enforcement, the public and the towing companies should not be burdened with this increasing problem and costly issue. Similar legislation has been introduced and passed in several states, including Florida, Washington, and Illinois.

We would also like to address the need for municipalities to deal with abandoned vehicles in an expeditious manner. Many municipalities do not take responsibility for disposition of these vehicles. Title 39 appears to be very clear. Law enforcement, and municipalities are responsible and obligated to apply and process vehicles for titles.

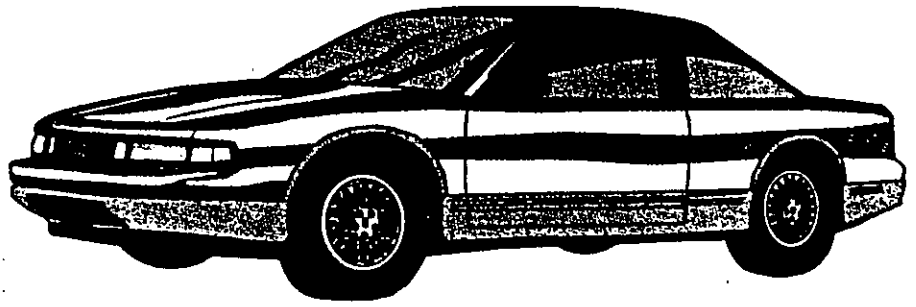
GSTA looks forward to working with all parties involved to help resolve the abandoned vehicle issue in New Jersey. Abandoned, unclaimed vehicles continue to become more difficult each year. We need to correct this issue for the safety, health, and well being of the public, municipalities, law enforcement and towing companies.

DEFINITION OF ABANDONED VEHICLES:

Any vehicle partially dismantled or not readily capable of operation under its own power or not currently used for transportation or not currently licensed, or wrecked or junked. It shall also mean any vehicle whose owner has terminated the use and care of the vehicle and has either indicated by his words or actions an intent to leave it and no longer claim ownership of it or left it without making arrangements for storage with the owner, occupant or person in control of the premises on which it is located.

Auto Recycler and Dismantler Facilities:

Environmental Analysis of the Industry with a Focus on Storm Water Pollution



Xavier Swamikannu

Doctoral Dissertation
Environmental Science and Engineering

University of California, Los Angeles (UCLA)

1994

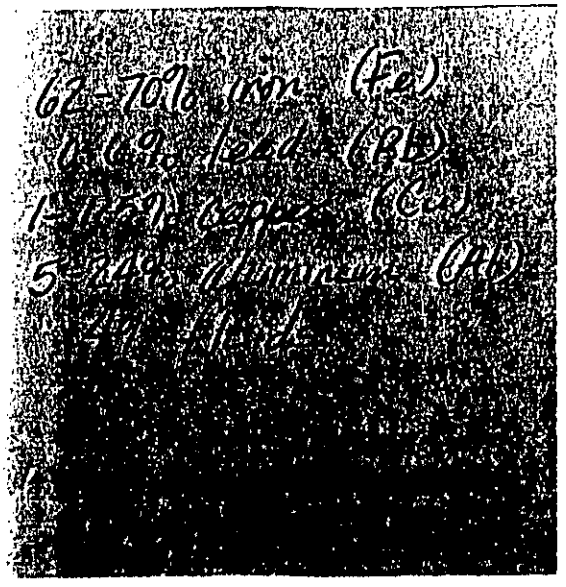
UNIVERSITY OF CALIFORNIA

Los Angeles

Auto Recycler and Dismantler Facilities: Environmental Analysis of the Industry with a Focus on Storm Water Pollution

A dissertation submitted in partial satisfaction of the requirements for the degree

Doctor of Environmental Science and Engineering



by

Xavier Swamikannu

1994

storm water runoff from auto recycler facilities because of the dissimilarity in processes between auto dismantling and vehicle shredding, and the phaseout of PCB manufacture and use.

Metals

Analysis of storm water runoff samples and the AF treatment system sludge showed higher concentrations of Fe, Zn, Pb, and lesser amounts of Cu, Ni (Figure 11). It is not surprising that the concentration of metals found in storm water comes from the two sources that characterize such facilities; automobile bodies, and waste motor oil. The average automobile weighs 1,145 kg (2,520 lbs) and has a typical composition, by weight of Fe 62-70%, Pb - 0.6%, Zn 1-1.5%, Cu 1-2%, Al 5-24%, Fluids 4% (Ness 1984, McCosh 1990, Bever 1978, USDOT 1977). However, some motor-vehicle components are rich in selected heavy metals: batteries and clamps (Pb); radiators, wires, and brake pads (Cu); and tires (Zn, Cd) (SCVNPSCP 1994, Ness 1984, Bever 1978). In addition, waste motor oil contains significant concentrations of heavy metals from piston blow-by, additives, and engine wear; Pb 1,200- $>$13,000 μg/g; Zn 1,200-2,500 μg/g; Cu 50 μg/g; Ni 5 μg/g; Cd 2 μg/g; Cr 3-30 μg/g; and As 5-25 μg/g (Vazquez-Duhalt 1989, CDHS 1988).

Iron is usually not of concern as a contaminant in storm water runoff. However, at auto recycler facilities, its concentration in runoff could be used as an indicator of

713.78 Liens for recovering, towing, or storing vehicles and vessels.--

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle, vessel, or mobile home upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11), the department shall place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle, vessel, or mobile home and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

3. A general description of the vehicle, vessel, or mobile home, including its color, make, model, body style, and year.

4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; mobile home sticker number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.

5. The name of the person or the corresponding law enforcement agency that requested that the vehicle, vessel, or mobile home be recovered, towed, or stored.

6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle, vessel, or mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

Monetary penalties.

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of RCW 46.55.105(2) is two hundred fifty dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(6) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (4) of this section has been paid.

(7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

(8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of ten dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (8) by participation in the community restitution program.

(b) Revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys

RCW 46.55.105

Responsibility of registered owner.

(1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of the traffic infraction of "littering -- abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.103. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3,35, or35A RCW, or with a violations bureau subject to the court's jurisdiction.

[2002 c 279 § 10; 1999 c 86 § 5; 1998 c 203 § 2; 1995 c 219 § 4; 1993 c 314 § 1.]

NOTES:

Finding -- 1998 c 203: "The legislature finds that the license to drive a motor vehicle on the public highways is suspended or revoked in order to protect public safety following a driver's failure to comply with the laws of this state. Over six hundred persons are killed in traffic accidents in

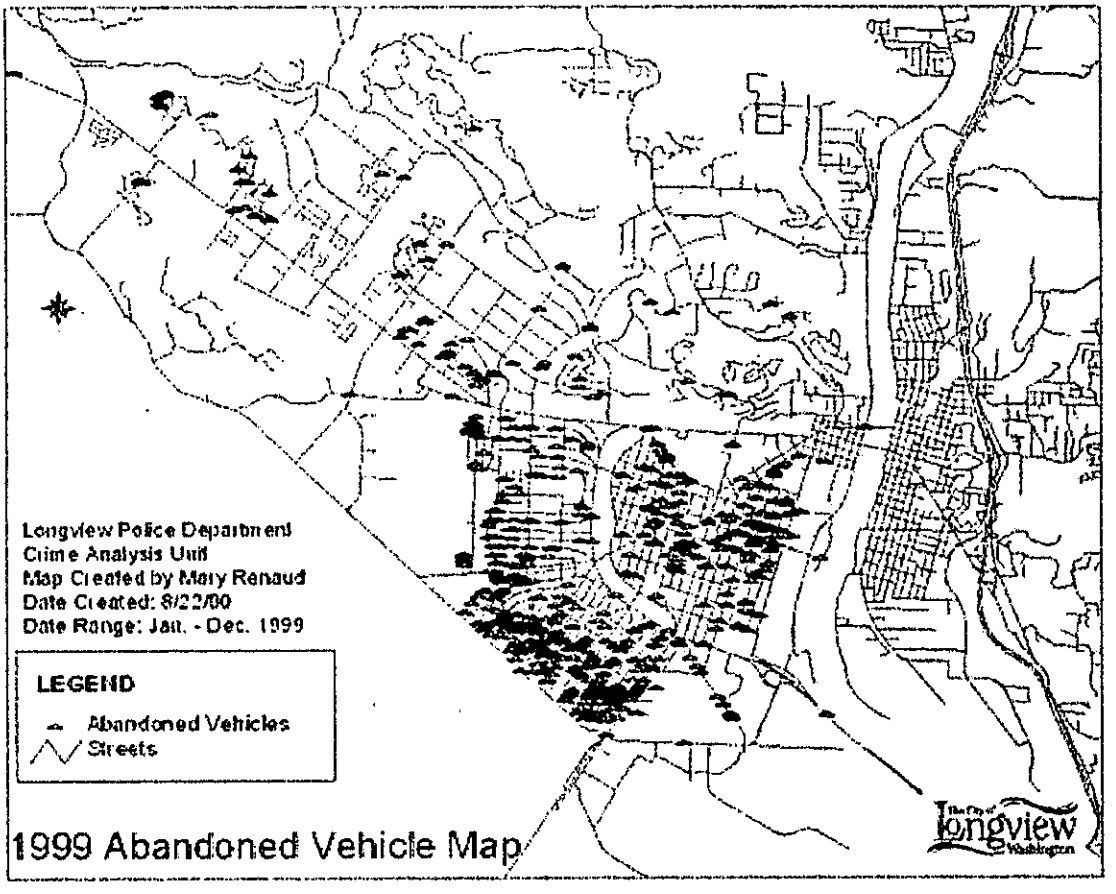
Washington annually, and more than eighty-four thousand persons are injured. It is estimated that of the three million four hundred thousand drivers' licenses issued to citizens of Washington, more than two hundred sixty thousand are suspended or revoked at any given time. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and pose a serious threat to the lives and property of Washington residents. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.

Despite the existence of criminal penalties for driving with a suspended or revoked license, an estimated seventy-five percent of these drivers continue to drive anyway. Existing sanctions are not sufficient to deter or prevent persons with a suspended or revoked license from driving. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended or revoked license in violation of RCW 46.20.342 and *46.20.420. The impoundment of a vehicle operated in violation of RCW 46.20.342 or *46.20.420 is intended to be a civil in rem action against the vehicle in order to remove it from the public highways and reduce the risk posed to traffic safety by a vehicle accessible to a driver who is reasonably believed to have violated these laws." [1998 c 203 § 1.]

***Reviser's note:** RCW 46.20.420 was recodified as RCW 46.20.345, June 1999.

Abandoned Vehicles Map

Below is a map showing the Abandoned Vehicle calls for service in 1999.



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The 2002 Florida Statutes

Title XL REAL AND PERSONAL PROPERTY | Chapter 713 LIENS, GENERALLY | View Entire Chapter

713.78 Liens for recovering, towing, or storing vehicles and vessels.--

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(6).

(c) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle, vessel, or mobile home upon instructions from:

(a) The owner thereof; or

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle is wrongfully parked, and such removal is done in compliance with s. 715.07; or

(c) Any law enforcement agency; or

(d) A mobile home park owner as defined in s. 723.003 who has a current writ of possession for a mobile home lot pursuant to s. 723.061,

she or he shall have a lien on such vehicle or vessel for a reasonable towing fee and for a reasonable storage fee; except that no storage fee shall be charged if such vehicle is stored for less than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. 715.07.

(4)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice to the registered owner, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736, and to all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(b) Whenever any law enforcement agency authorizes the removal of a vehicle or whenever any towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle pursuant to s. 715.07(2)(a)2., the applicable law enforcement agency shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle. Upon receipt of the full description of the vehicle, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle, and whether any person has filed a lien upon the vehicle as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or

parking place shall obtain such information from the applicable law enforcement agency within 5 days from the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding the provisions of s. 627.736.

(c) Notice by certified mail, return receipt requested, shall be sent within 7 business days after the date of storage of the vehicle or vessel to the registered owner, the insurance company insuring the vehicle notwithstanding the provisions of s. 627.736, and all persons of record claiming a lien against the vehicle or vessel. It shall state the fact of possession of the vehicle or vessel, that a lien as provided in subsection (2) is claimed, that charges have accrued and the amount thereof, that the lien is subject to enforcement pursuant to law, and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5), and that any vehicle or vessel which remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens after 35 days if the vehicle or vessel is more than 3 years of age [1]or after 50 days if the vehicle or vessel is 3 years of age or less.

(d) If attempts to locate the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 working days, excluding Saturday and Sunday, of the initial tow or storage, notify the public agency of jurisdiction in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made. For purposes of this paragraph and subsection (9), "good faith effort" means that the following checks have been performed by the company to establish prior state of registration and for title:

1. Check of vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

2. Check of law enforcement report for tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

3. Check of trip sheet or tow ticket of tow truck operator to see if a tag was on vehicle at beginning of tow, if private tow.

4. If there is no address of the owner on the impound report, check of law enforcement report to see if an out-of-state address is indicated from driver license information.

5. Check of vehicle or vessel for inspection sticker or other stickers and decals that may indicate a state of possible registration.

6. Check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

7. Check of vehicle for vehicle identification number.

8. Check of vessel for vessel registration number.

9. Check of vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5)(a) The owner of a vehicle or vessel removed pursuant to the provisions of subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored or in which the owner resides to determine if her or his property was wrongfully taken or withheld from her or him.

(b) Upon filing of a complaint, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At

the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) Any vehicle or vessel which is stored pursuant to subsection (2) and which remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, as evidenced by a judgment for unpaid rent, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge or unpaid lot rental amount after 35 days from the time the vehicle or vessel is stored therein if the vehicle or vessel is more than 3 years of age [1]or after 50 days [2]following the time the vehicle or vessel is stored therein if the vehicle or vessel is 3 years of age or less. The sale shall be at public auction for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle, vessel, or mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice shall be sent by certified mail, return receipt requested, to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency and shall be mailed not less than 15 days before the date of the sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days prior to the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, costs of the sale, and the unpaid lot rental amount, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner is absent, and the clerk shall hold such proceeds subject to the claim of the person legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order.

(7)(a) A wrecker operator recovering, towing, or storing vehicles or vessels is not liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels, provided that such services have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle or vessel upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle or vessel is removed, such removal has been done in compliance with s. 715.07. Further, a wrecker operator is not liable for damage connected with such services when complying with the lawful directions of a law enforcement officer to remove a vehicle stopped, standing, or parked upon a street or highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the street or highway.

(b) For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:

1. The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;

2. The wrecker operator has illuminated the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and

3. The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility.

a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;

b. A security dog remains at the storage facility from sunset to sunrise;

c. Security cameras or other similar surveillance devices monitor the storage facility; or

d. A security guard service examines the storage facility at least once each hour from sunset to sunrise.

(c) Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. However, if the owner or driver of the motor vehicle is present and accompanies the vehicle, no inventory by law enforcement is required. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.

(8) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9) Failure to make good faith best efforts to comply with the notice requirements of this section shall preclude the imposition of any storage charges against such vehicle or vessel.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners or their agents, which agency is evidenced by a writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner or agent all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle, vessel, or mobile home described in the certificate of title, shall apply to the county tax collector for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of $3 for each certificate of destruction. A service charge of $4.25 shall be collected and retained by the tax collector who processes the application.

(c) The Department of Highway Safety and Motor Vehicles may adopt such rules as it deems necessary or proper for the administration of this subsection.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow truck, or car carrier, to ensure compliance with the requirements of this section. Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle, vessel, or mobile home upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11), the department shall place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.

2. The name of the registered owner of the vehicle, vessel, or mobile home and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).

3. A general description of the vehicle, vessel, or mobile home, including its color, make, model, body style, and year.

4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; mobile home sticker number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.

5. The name of the person or the corresponding law enforcement agency that requested that the vehicle, vessel, or mobile home be recovered, towed, or stored.

6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle, vessel, or mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (7) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

a. The registered owner presents a notarized bill of sale proving that the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.

b. The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001 before the vehicle, vessel, or mobile home was recovered, towed, or stored.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle, vessel, or mobile home is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than $500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle, vessel, or mobile home was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle, vessel, or mobile home was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle, vessel, or mobile home was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle, vessel, or mobile home attesting that the amount of the wrecker

operator's lien allowed by paragraph (b) has been discharged. Upon presentation of this certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of $2, which shall be deposited into the Florida Motor Vehicle Theft Prevention Trust Fund established under s. 860.158. A service charge of $2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which is inclusive of the annual renewals. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

(g) The Department of Highway Safety and Motor Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this subsection.

History.--s. 2, ch. 78-83; s. 1, ch. 79-206; s. 1, ch. 79-244; s. 1, ch. 79-410; s. 7, ch. 90-283; s. 2, ch. 92-148; s. 10, ch. 93-49; s. 830, ch. 97-102; s. 11, ch. 98-324; s. 64, ch. 99-248; s. 41, ch. 2000-362; s. 3, ch. 2001-164; s. 36, ch. 2001-196; s. 17, ch. 2002-235.

[1]**Note.**--As amended by s. 3, ch. 2001-164. The amendment by s. 36, ch. 2001-196, uses the word "and" instead of the word "or."

[2]**Note.**--As amended by s. 3, ch. 2001-164. The amendment by s. 36, ch. 2001-196, uses the word "from" instead of the word "following."

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Voting Sheets

HOUSE COMMITTEE ON TRANSPORTATION

EXECUTIVE SESSION on HB 699-FN

BILL TITLE: **relative to abandoned vehicles.**

DATE: March 18, 2003

LOB ROOM: 203

Amendments:

Sponsor: Rep. Packard — OLS Document #: 2003 0557h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Letourneau

Seconded by Rep. Cote

Vote: 15-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: YES

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Jean-Guy J. Bergeron, Clerk

OFFICE OF THE HOUSE CLERK 2003 SESSION

TRANSPORTATION

Bill #: HB699FN **Title:**

PH Date: 2/12/03 **Exec Session Date:** 3/18/03

Motion: OTP as Amended Letourneau Mosher **Amendment #:** 0557H

MEMBER	YEAS	as amended	NAYS
Packard, Sherman A, Chairman	✓	✓	
Flanders, John W, V Chairman	✓	✓	
Katsakiores, George N	✓	✓	
Bartlett, Gordon E	✓	✓	
Kobel, Rudolph J	✓	✓	
Letourneau, Robert J	✓	✓	
Artz, Lawrence A			
Bergeron, Jean-Guy J, Clerk	✓	✓	
Dewhirst, Glenn E			
Mosher, William E	✓	✓	
Allen, Mary M	✓	✓	
Hollinger, Jeffrey D			
Scanlon, Michael J			
Sullivan, Jeffrey A	✓	✓	
Cote, Peter R	✓	✓	
Haley, Robert J			
Ferland, Brenda L	✓	✓	
Casey, Kimberley S	✓	✓	
Creteau, Irene T	✓	✓	
Rollo, Deanna S	✓	✓	
	15	15	0 0

TOTAL VOTE:
Printed: 1/21/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Transportation**

BILL NUMBER: **HB 699-FN**

TITLE: relative to abandoned vehicles.

DATE: March 18, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

For years the Transportation committee has been hearing about the problem of abandoned vehicles. These cars are not only being left on private property but more and more are being abandoned on roadsides. It is estimated that 10,000 vehicles a year in New Hampshire could fall into this category. This not only is becoming a real financial burden to many small business owners, but also could become a real environmental problem if these junk cars are not properly disposed. With the help of the NH Towing Association and the NH Auto Dealers Association we feel that the changes we have made will help towing companies locate the owners of these abandoned vehicles. This will help to facilitate the proper disposal of these vehicles.

Vote 15-0.

Rep. Sherman A. Packard
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Transportation

HB 699-FN, relative to abandoned vehicles. **OUGHT TO PASS WITH AMENDMENT**

Rep. Sherman A. Packard for Transportation: For years the Transportation committee has been hearing about the problem of abandoned vehicles. These cars are not only being left on private property but more and more are being abandoned on roadsides. It is estimated that 10,000 vehicles a year in New Hampshire could fall into this category. This not only is becoming a real financial burden to many small business owners, but also could become a real environmental problem if these junk cars are not properly disposed. With the help of the NH Towing Association and the NH Auto Dealers Association we feel that the changes we have made will help towing companies locate the owners of these abandoned vehicles. This will help to facilitate the proper disposal of these vehicles. **Vote 15-0.**

HB 699-FN -

For years the Transportation Committee has been hearing about the problem of abandoned cars. These cars are not only being left on private property but more and more are being abandoned on roadsides. It is estimated that 10,000 cars a year in N.H. could fall into this category. This not only is becoming a real financial burden to many small business owners, but also could become a real environmental problem if these junk cars are not properly disposed. With the help of the N.H. Towing Assoc. and the N.H. Auto Dealers Assoc. we feel that the changes we have made will help towing companies locate the owners of these abandoned vehicles. This will help to facilitate the proper disposal of these vehicles.

Rep Packard

COMMITTEE REPORT

COMMITTEE: **Transportation**

BILL NUMBER: **HB 699-FN**

TITLE: relative to abandoned vehicles.

DATE: CONSENT CALENDAR YES ☑ NO ☐

☐ OUGHT TO PASS

☑ OUGHT TO PASS WITH AMENDMENT (0557h)

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote {Type VOTE}.

Rep. {Type NAME}
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT