

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 4338**

5
6 By Delegates Butcher, Stowers, Barill, Barker,
7 R. Phillips, Hunt, Varner, Perdue, Moore,
8 D. Poling and Cann)

9
10 [Passed March 7, 2012; in effect ninety days from passage.]

11
12 AN ACT to amend and reenact §17-24A-4 of the Code of West Virginia,
13 1931, as amended, relating to raising the maximum value amount
14 of an abandoned motor vehicle \$2,500 to \$7,500 before someone
15 may sell that vehicle; allowing towing companies to obtain
16 title to abandoned vehicles acquired in a manner other than
17 the request of law enforcement; and clarifying definitions.

18 *Be it enacted by the Legislature of West Virginia:*

19 That §17-24A-4 of the Code of West Virginia, 1931, as amended,
20 be amended and reenacted to read as follows:

21 **ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR**
22 **VEHICLES, AND ABANDONED OR INOPERATIVE HOUSEHOLD**
23 **APPLIANCES.**

24 **§17-24A-4. Abandoned or junked motor vehicles; notification to**
25 **motor vehicle owner and lienholder; charges and**

1 **fees; exceptions.**

2 (a) The enforcement agency which takes into custody and
3 possession an abandoned motor vehicle or junked motor vehicle
4 shall, within fifteen days after taking custody and possession
5 thereof, notify the last-known registered owner of the motor
6 vehicle and all lienholders of record that the motor vehicle has
7 been taken into custody and possession, the notification to be by
8 registered or certified mail, return receipt requested. The notice
9 shall:

10 (1) Contain a description of the motor vehicle, including the
11 year, make, model, manufacturer's serial or identification number
12 or any other number which may have been assigned to the motor
13 vehicle by the Commissioner of Motor Vehicles and any
14 distinguishing marks;

15 (2) Set forth the location of the facility where the motor
16 vehicle is being held and the location where the motor vehicle was
17 taken into custody and possession;

18 (3) Inform the owner and any lienholders of record of their
19 right to reclaim the motor vehicle within ten days after the date
20 notice was received by the owner or lienholders, upon payment of
21 all towing, preservation and storage charges resulting from taking
22 and placing the motor vehicle into custody and possession; and

23 (4) State that the failure of the owner or lienholders of
24 record to exercise their right to reclaim the motor vehicle within

1 the ten-day period shall be deemed a waiver by the owner and all
2 lienholders of record of all right, title and interest in the motor
3 vehicle and of their consent to the sale or disposal of the
4 abandoned motor vehicle or junked motor vehicle at a public auction
5 or to a licensed salvage yard or demolisher.

6 (b) If the identity of the last registered owner of the
7 abandoned motor vehicle or junked motor vehicle cannot be
8 determined or if the certificate of registration or certificate of
9 title contains no address for the owner or if it is impossible to
10 determine with reasonable certainty the identity and addresses of
11 all lienholders, notice shall be published as a Class I legal
12 advertisement in compliance with the provisions of article three,
13 chapter fifty-nine of this code, the publication area shall be the
14 county wherein the motor vehicle was located at the time the
15 enforcement agency took custody and possession thereof and the
16 notice shall be sufficient to meet all requirements of notice
17 pursuant to this article. Any notice by publication may contain
18 multiple listings of abandoned motor vehicles and junked motor
19 vehicles. The notice shall be published within fifteen days after
20 the motor vehicle is taken into custody and possession and shall
21 have the same contents required for a notice pursuant to subsection
22 (a) of this section, except that the ten-day period shall run from
23 the date the notice is published as aforesaid.

24 (c) An enforcement agency which hires any person or entity to

1 take into custody and possession an abandoned motor vehicle or
2 junked motor vehicle pursuant to this section shall notify the
3 person or entity hired of the name and address of the registered
4 owner of the motor vehicle, if known, and all lienholders of
5 record, if any, within fifteen days after the vehicle is taken into
6 custody and possession: *Provided*, That the requirements of this
7 subsection shall not apply to motor vehicles for which the
8 registered owner cannot be ascertained by due diligence or
9 investigation.

10 (d) The person or entity hired by an enforcement agency to
11 take into custody or possession an abandoned motor vehicle or
12 junked motor vehicle shall, within thirty days after the
13 possession, notify the registered owner of the vehicle and all
14 lienholders of record, if any, as identified by the enforcement
15 agency pursuant to subsection (c) of this section, by registered
16 mail, return receipt requested, that the motor vehicle has been
17 taken into custody and possession. The notice shall have the same
18 contents required for a notice pursuant to subsection (a) of this
19 section, including the ten-day period the owner or lienholder has
20 to reclaim the motor vehicle. Upon the issuance of the notice, the
21 identified owner of the motor vehicle is liable and responsible for
22 all costs for towing, preservation and storage of the motor
23 vehicle: *Provided*, That failure to issue the notice required by
24 this subsection within thirty days after possession of the motor

1 vehicle relieves the identified owner of the motor vehicle of any
2 liability for charges for towing, preservation and storage in
3 excess of the sum of the first five days of the charges: *Provided,*
4 *however,* That the requirements of this subsection do not apply to
5 motor vehicles for which the registered owner thereof cannot be
6 ascertained by due diligence or investigation.

7 (e) For an abandoned motor vehicle or junked vehicle having a
8 loan value of \$7,500 or less, as ascertained by values placed upon
9 motor vehicles using a standard industry reference book, a person
10 or entity hired by an enforcement agency to tow the abandoned motor
11 vehicle or junked motor vehicle may, if the motor vehicle is not
12 claimed by the owner or a lienholder after notice within the time
13 set forth in subsection (d) of this section or if the identity of
14 the last registered owner of the abandoned motor vehicle or junked
15 motor vehicle cannot be determined or if the certificate of
16 registration or certificate of title contains no address of the
17 owner or if it is impossible to determine with reasonable certainty
18 the identity and address of all lienholders after publication as
19 set forth in subsection (b) of this section, file an application
20 with the Division of Motor Vehicles for a certificate of title and
21 registration which, upon payment of the appropriate fees, shall be
22 issued. The person or entity may then sell the motor vehicle at
23 private sale or public auction.

24 (f) For an abandoned motor or junked motor vehicle having a

1 loan value of \$7,500 or less, as ascertained by values placed upon
2 motor vehicles using a standard industry reference book, a licensed
3 motor vehicle dealer, as defined in section one, article one,
4 chapter seventeen-a of this code, a motor vehicle repair facility
5 or a towing company registered with the Public Service Commission
6 pursuant to section two-a, article two, chapter twenty-four-a of
7 this code may, if a motor vehicle is abandoned on the property or
8 place of business of the dealer or a motor vehicle repair facility
9 or towing company and is not claimed by the owner or a lienholder
10 after notice within the time set forth in subsection (d) of this
11 section or if the identity of the last registered owner of the
12 abandoned motor vehicle cannot be determined or if the certificate
13 of registration or certificate of title contains no address of the
14 owner or if it is impossible to determine with reasonable certainty
15 the identity and address of all lienholders after publication as
16 set forth in subsection (b) of this section, file an application
17 with the Division of Motor Vehicles for a certificate of title and
18 registration which, upon payment of the appropriate fees, shall be
19 issued. The dealer or motor vehicle repair facility or towing
20 company may then sell the motor vehicle at private sale or public
21 auction.

22 (g) For purposes of this section motor vehicle repair
23 facilities and towing companies are not used motor vehicle dealers

1 as that term is defined by subdivision (2), subsection (a), section
2 one, article six, chapter seventeen-a of this code.