

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4196

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STORCH, ELDRIDGE, FAIRCLOTH, WESTFALL, R. PHILLIPS,
MILLER AND CADLE

[Introduced on January 21, 2016;
Referred to the Committee on Roads and
Transportation then the Judiciary.]

1 A BILL to amend and reenact §17-24A-1 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto a new section, designated §17-24A-6a, all relating to
 3 abandoned antique vehicles; creating a special procedure for a person in possession of
 4 an abandoned antique vehicle to apply for and receive title to the vehicle; creating a
 5 procedure for the Division of Motor Vehicles to search for the owner of the vehicle and
 6 provide notice of the application for title to vehicle; creating a procedure for the owner to
 7 reclaim the vehicle within 30 days of notice of an application for title to the vehicle;
 8 establishing fees to accompany an application for title to the vehicle; establishing fees for
 9 reclamation of the vehicle by owner; creating a misdemeanor and imposing fines for
 10 interfering with an owner's attempt to reclaim a vehicle; and directing the division to
 11 promulgate rules and forms to effectuate new procedure.

Be it enacted by the Legislature of West Virginia:

1 That §17-24A-1 the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that said code be amended by adding thereto a new section, designated §17-
 3 24A-6a, all to read as follows:

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

§17-24A-1. Definitions.

1 Unless the context clearly indicates a different meaning, as used in this article:

2 (1) "Commissioner" means the Commissioner of the Division of Highways or his or her
 3 designee.

4 (2) "Abandoned household appliance" means a refrigerator, freezer, range, stove,
 5 automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air
 6 conditioning unit, commode, bed springs, mattress or other furniture, fixtures or appliances to

7 which no person claims ownership and which is not in an enclosed building, a licensed salvage
8 yard or the actual possession of a demolisher.

9 (3) "Abandoned motor vehicle" means any motor vehicle, or major part thereof, which is
10 inoperative and which has been abandoned on public property for any period over five days, other
11 than in an enclosed building or in a licensed salvage yard or at the business establishment of a
12 demolisher; or any motor vehicle, or major part thereof, which has remained on private property
13 without consent of the owner or person in control of the property for any period over five days; or
14 any motor vehicle, or major part thereof, which is unattended, discarded, deserted and unlicensed
15 and is not in an enclosed building, a licensed salvage yard or the actual possession of a
16 demolisher: *Provided*, That a motor vehicle, or major part thereof, is not an abandoned motor
17 vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner's property;
18 (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles
19 owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being
20 stored; and (d) the owner is a business licensed to do business in the State of West Virginia and
21 not in the primary business of offering motor vehicles or parts thereof for sale.

22 (4) "Antique motor vehicle" means a vehicle that was manufactured more than twenty-five
23 years before the current date.

24 ~~(4)~~ (5) "Demolisher" means any person licensed by the Commissioner of the Division of
25 Highways whose business, to any extent or degree, is to convert a motor vehicle or any part
26 thereof or an inoperative household appliance into processed scrap or scrap metal or into saleable
27 parts or otherwise to wreck or dismantle vehicles or appliances.

28 (6) The "Division" means the West Virginia Division of Motor Vehicles.

29 ~~(5)~~ (7) "Enclosed building" means a structure surrounded by walls or one continuous wall
30 and having a roof enclosing the entire structure and includes a permanent appendage thereto.

31 ~~(6)~~ (8) "Enforcement agency" means any of the following or any combination of the
32 following:

- 33 (a) Public law-enforcement officers of this state, including natural resources police officers;
34 (b) Public law-enforcement officers of any county, city or town within this state; and
35 (c) The Commissioner of the Division of Highways, his or her duly authorized agents and
36 employees.

37 ~~(7)~~ (9) "Inoperative household appliance" means a refrigerator, freezer, range, stove,
38 automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air
39 conditioning unit, commode, bed springs, mattress or other furniture, fixture or appliance which
40 by reason of mechanical or physical defects can no longer be used for its intended purpose and
41 which is either not serving a functional purpose or use or is not in an enclosed building, a licensed
42 salvage yard or the actual possession of a demolisher.

43 ~~(8)~~ (10) "Junked motor vehicle" means a motor vehicle, or any part thereof which: (a) Is
44 discarded, wrecked, ruined, scrapped or dismantled; (b) cannot pass the state inspection required
45 by article sixteen, chapter seventeen-c of this code; and (c) is either not serving a functional
46 purpose or use or is not in an enclosed building, a licensed salvage yard or the actual possession
47 of a demolisher: *Provided*, That a motor vehicle, or major part thereof, is not a junked motor
48 vehicle if: (a) The owner of the motor vehicle is storing the motor vehicle on the owner's property;
49 (b) the motor vehicle is being stored for the purpose of using its parts on other motor vehicles
50 owned by the owner; (c) the owner owns other motor vehicles similar to the motor vehicle being
51 stored; and (d) the owner is a business licensed to do business in the State of West Virginia and
52 not in the primary business of offering motor vehicles or parts thereof for sale.

53 ~~(9)~~ (11) "Licensed salvage yard" means a salvage yard licensed under article twenty-three
54 of this chapter.

55 ~~(10)~~ (12) "Motor vehicle" means a vehicle which is or was self-propelled, including, but not
56 limited to, automobiles, trucks, buses and motorcycles.

57 ~~(11)~~ (13) "Person" means a natural person, corporation, firm, partnership, association or
58 society and the plural as well as the singular.

59 (14) "Vehicle Identification Number" means a unique number or mark placed on a vehicle
60 or part thereof by the manufacturer so as to identify it particularly and distinguish the vehicle or
61 part from all other such vehicles or parts.

**§17-24A-6a. Title to abandoned antique motor vehicle; special procedure; notice to owner;
fees; criminal penalties.**

1 (a) Application for Title to Abandoned Antique Vehicle. --

2 (1) A person may apply to the division for ownership and title to an abandoned antique
3 vehicle if that person:

4 (A) Is the owner of private property on which the vehicle is located; or

5 (B) Has obtained a valid Vehicle Removal Certificate from the division.

6 (2) Upon application for title to an abandoned antique vehicle, the applicant shall pay a
7 fee of \$100 to the division.

8 (b) Vehicle Removal Certificate.-- In a manner prescribed by the division, a person may
9 obtain a Vehicle Removal Certificate at no fee, by presenting records sufficient to demonstrate to
10 a reasonable certainty that the owner of the private property on which an abandoned antique
11 vehicle is located has given the person written permission to remove the vehicle from the private
12 property.

13 (c) Search for Owner; Notice.--

14 (1) Upon receipt of an application for title to an abandoned antique vehicle, the division
15 shall initiate a search for the last owner of record of the vehicle, using the year, make, model.
16 Vehicle Identification Number and any other identifying marks on the vehicle. The division shall,
17 at a minimum, search:

18 (A) Its own records;

19 (B) The records of a nationally recognized crime database; and

20 (C) Records of a nationally recognized motor vehicle title database for owner information.

21 (2) If in the course of a search, the division discovers that the vehicle has been reported

22 as stolen, the division shall notify the appropriate law-enforcement agency of that fact.

23 (3) If the division determines the identity and address of the owner, the division shall, by
24 certified mail with return receipt requested, notify the owner of the application for title to their
25 vehicle and the contact information for the owner of the property on which the vehicle is located.
26 Such notice, when sent in accordance with these requirements, shall be sufficient regardless of
27 whether or not it was ever received. The owner will then have the following options, which shall
28 be detailed in the division's letter of notice:

29 (A) The owner may pay a \$100 fee to the division, \$50 of which shall be awarded to the
30 applicant, and reclaim and remove the vehicle from private property within 30 days of the date of
31 receiving notice at a time and in a manner arranged with the owner of the private property; or

32 (B) If the owner does not comply with all requirements of paragraph (A) of this subdivision
33 within 30 days of receiving notice, the owner will waive all right, title, and interest in the motor
34 vehicle, and the right, title, and interest in the vehicle shall be transferred to the applicant, free of
35 all liens and encumbrances.

36 (4) If the division performs a search pursuant to this subsection and the identity and
37 address of the owner cannot be determined with reasonable certainty, the division shall
38 immediately transfer all right, title, and interest in the vehicle to the applicant, free of all liens and
39 encumbrances.

40 (d) Rules and Forms. --

41 (1) The division shall promulgate rules necessary to carry out this section, and shall
42 create the following forms:

43 (A) A form to apply for the title to an abandoned antique vehicle, which shall require an
44 applicant to provide the following information:

45 (i) The applicant's legal name and contact information;

46 (ii) The Vehicle Identification Number; *Provided*, that if the vehicle does not have a
47 Vehicle Identification Number, the applicant shall follow the procedure set forth in subdivisions (2)

48 and (3) of this subsection;

49 (iii) The year, make and model of the vehicle;

50 (iv) The current location of the vehicle; and

51 (v) The current contact information for the owner of the private property on which the
52 vehicle is located.

53 (B) A Vehicle Removal Certificate, which shall be issued to a person who presents the
54 records required by subsection (b) of this section and shall require the following information:

55 (i) The applicant's legal name and contact information;

56 (ii) The Vehicle Identification Number; *Provided*, that if the vehicle does not have a
57 Vehicle Identification Number, the applicant shall follow the procedure set forth in subdivisions (2)
58 and (3) of this subsection;

59 (iii) The year, make and model of the vehicle;

60 (iv) The current location of the vehicle; and

61 (v) The current contact information for the owner of the private property on which the
62 vehicle is located.

63 (2) If an applicant or person requesting a Vehicle Removal Certificate cannot, after
64 reasonable efforts, determine the Vehicle Identification Number of the vehicle, the person may
65 pay a \$100 fee to the State Police Division to inspect the vehicle and determine the Vehicle
66 Identification Number.

67 (3) If the State Police cannot locate a Vehicle Identification Number on an abandoned
68 antique vehicle, the State Police shall verify in writing that the vehicle has no Vehicle Identification
69 Number. The applicant may then present the written verification to the division, which shall then
70 issue a new Vehicle Identification Number for the vehicle pursuant to section twenty, article three,
71 chapter seventeen-a of this code.

72 (e) *Obstruction of removal prohibited.* -- No person shall knowingly interfere with a vehicle
73 owner's attempt to reclaim and remove a vehicle from private property, pursuant to procedures in

- 74 this section. Any person violating this subsection is guilty of a misdemeanor and, upon conviction
75 thereof, shall be fined \$500.

NOTE: The purpose of this bill is to create a special procedure for a person in possession of an abandoned antique vehicle to apply for and receive title to the vehicle; to create a procedure for the Division of Motor Vehicles to search for the owner of the vehicle and provide notice of an application for the title to the vehicle; to create a procedure for an owner to reclaim the vehicle within 30 days of notice of an application for title to the vehicle; to establish fees to accompany an application for title to the vehicle; to establish fees for reclamation of the vehicle by owner; to create a misdemeanor and impose fines for interfering with an owner's attempt to reclaim a vehicle; and to direct the division to promulgate rules and forms to effectuate the new procedure.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.