

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2118
(Energy and Natural Resources Committee)
(At the request of the Department of Environmental Quality)

AN ACT to amend and reenact sections 23.1-15-01, 23.1-15-03, 23.1-15-04, and 23.1-15-05, subsection 1 of section 23.1-15-07, and sections 23.1-15-08 and 23.1-15-09 of the North Dakota Century Code, relating to abandoned motor vehicles; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

23.1-15-01. Definitions.

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

1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01, that has remained for a period of more than forty-eight hours on public property illegally or lacking ~~vital component parts that are essential to the mechanical functioning of the vehicle, including the motor, drive train, or wheels,~~ or is located on private property without consent of the person in control of the property or in an inoperable condition such that it has no substantial potential further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building. It also means a motor vehicle voluntarily surrendered by its owner to a ~~person duly licensed under section 23.1-15-09~~permitted scrap iron processor. An antique automobile, as defined in section 39-04-10.4, and other motor vehicles to include parts car and special interest vehicles, may not be considered an abandoned motor vehicle within the meaning of this chapter.
2. "Collector" means the owner of one or more special interest vehicles that collects, purchases, acquires, trades, or disposes of special interest vehicles or parts of special interest vehicles for the person's own use in order to restore, preserve, and maintain a special interest vehicle or antique vehicle.
3. "Commercial towing service" means a registered business in North Dakota that tows motor vehicles.
4. "Department" means the department of environmental quality.
5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident, mechanical breakdown on public roadway, or other emergency-related incident necessitating vehicle removal for public safety with or without the owner's consent.
6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned by the collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.
7. "Permitted scrap iron processor" means a scrap iron processor holding a valid permit issued by the department under chapter 23.1-08.
8. "Scrap tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

9. "Secured party" means an insurer covering the abandoned motor vehicle under an insurance policy.
10. "Special interest vehicle" means a motor vehicle that is at least twenty years old and has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- 8-11. "Submerged vehicle" means a motor vehicle or a recreational vehicle as defined in section 39-01-01 or a trailer that is submerged in a body of water.
12. "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
9. ~~"Vital component parts" means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train, and wheels.~~

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

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

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

SECTION 3. AMENDMENT. Section 23.1-15-04 of the North Dakota Century Code is amended and reenacted as follows:

23.1-15-04. Conditions under which an abandoned motor vehicle may be sold immediately is eligible for immediate disposal.

~~When an~~An abandoned motor vehicle for which the value as determined by the party with custody is no more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in North Dakota or any other state or foreign country, itone thousand dollars and for which the owner, lienholders, or secured parties cannot be identified with reasonable certainty after a search of the department of transportation records is immediately eligible for disposition and must be disposed of toby a permitted scrap iron processor licensed under section 23.1-15-09, and is not subject to the notification, reclamation, or title provisions of this chapter. Any license plate displayed on an abandoned motor vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicle. An abandoned motor vehicle qualifying for immediate disposal is not eligible for reimbursement of storage costs under section 23.1-15-09.

SECTION 4. AMENDMENT. Section 23.1-15-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. When an abandoned motor vehicle does not fall within the provisions of section 23.1-15-04, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days or within ten days after communications from the owner, lienholder, or identifiable secured parties of the abandoned motor vehicle have ceased. The notice must set forth the date and place of the taking, the year, make, model, and serial number of the abandoned motor vehicle, and the place where the vehicle is being held, must inform the owner and any lienholders or identifiable secured parties of their right to reclaim the vehicle under section 23.1-15-06, must state that failure of the owner, lienholders, or identifiable secured parties to exercise their right to reclaim the vehicle within thirty days is deemed a

waiver by the owner, lienholders, or secured parties of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 23.1-15-07, and must state the end date of the thirty-day period during which the owner may reclaim the abandoned motor vehicle.

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

SECTION 5. AMENDMENT. Subsection 1 of section 23.1-15-07 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~For any abandoned motor vehicle not valued at more than seven model years of age one thousand dollars taken into custody by a unit of government and not reclaimed under section 23.1-15-06 must be sold to the highest bidder at public auction or sale, following reasonable published notice. The purchaser must be given a receipt in a form prescribed by the department of transportation which is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. The, the license plates displayed on anthe abandoned motor vehicle must be removed and destroyed prior to the purchaser taking possession of the vehicleand thereafter the unit of government may:~~
 - a. Sell the abandoned motor vehicle to the highest bidder at public auction or sale, following reasonable published notice. The purchaser must be given a receipt in a form prescribed by the department of transportation which entitles the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership; or

- b. Obtain a release from the department of transportation which is sufficient title to dispose of the vehicle by a permitted scrap iron processor.

SECTION 6. AMENDMENT. Section 23.1-15-08 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 7. AMENDMENT. Section 23.1-15-09 of the North Dakota Century Code is amended and reenacted as follows:

23.1-15-09. ~~Contracts for disposal~~Disposal services - Issuance of licenses~~permits~~ by department of environmental quality - Reimbursement of units of government and commercial towing services for costs.

1. The department may issue a permit to any qualified scrap iron processor desiring to provide its services under this section if the scrap iron processor meets the requirements of this chapter and chapter 23.1-08.
2. ~~A unit of government may contract with~~use the services of any qualified~~licensed~~permitted scrap iron processor for collection, storage, incineration, volume reduction, transportation, or other services necessary to prepare abandoned motor vehicles, scrap tires, and other scrap metal for recycling or other methods of disposal. ~~The contract~~A unit of government may authorize the~~contracting a~~permitted scrap iron processor to pay to the owner of any abandoned motor vehicle an incentive payment for the abandoned motor vehicle if it is voluntarily surrendered and delivered to the permitted scrap iron processor. A unit of government may authorize a permitted scrap iron processor to provide an incentive payment for scrap tires delivered to the permitted scrap iron processor. For purposes of this section, an owner of an abandoned motor vehicle ~~includes only~~is ~~the~~ person that has owned and operated the vehicle for the person's personal or business use.
2. ~~The department may issue a license to any qualified scrap iron processor desiring to participate in a contract under this section which meets the requirements for solid waste disposers established by the department.~~
3. ~~Before~~If a unit of government enters a contract ~~with~~uses the services of a permitted scrap iron processor duly licensed by the department, the department may review the contract to determine whether it conforms to the department's plan for solid waste disposal. A contract that does conform may be approved by the department. When a contract has been approved, the department may reimburse the unit of government for the costs incurred under the contract, including incentive payments authorized and made under the contract, subject to the limitations of legislative appropriations.
4. ~~Before a commercial towing service that is a scrap iron processor duly licensed by the department enters a contract with the department, the department may review the contract to determine whether it conforms to the department's plan for solid waste disposal. A contract that does conform may be approved by the department. When a contract has been approved, the~~The department may reimburse the~~a commercial towing service for the costs incurred under the contract~~that is a permitted scrap iron processor in an amount determined by the department for towing and, up to thirty days of storage charges resulting from taking an abandoned motor vehicle into custody, subject to the limitations of legislative appropriations, and disposal of an abandoned motor vehicle if the owner, lienholders, or secured parties of the abandoned motor vehicle cannot be identified with reasonable certainty after a search of the

department of transportation records and publication as provided in subsection 2 of section 23.1-15-05.

5. The department may remove any submerged vehicle:
 - a. Immediately, if the owner, lienholders, or secured parties cannot be identified. The department may use a commercial towing service that is a permitted scrap iron processor to extract, tow, and dispose of a submerged vehicle.
 - b. Upon the owner's stated refusal to remove the submerged vehicle or after thirty days from the submerged vehicle entering the water or being discovered in the water if the owner, lienholders, or secured parties are identified after a search of the department of transportation records. The department may use a commercial towing service that is a permitted scrap iron processor for extracting, towing, and disposal of a submerged vehicle. The department may seek reimbursement from the owner for any costs related to extracting, towing, and disposal of the submerged vehicle.
6. The department may demand that a unit of government or a commercial towing service that is a licensed ~~permitted~~ scrap iron processor ~~contract for the disposal~~ dispose of abandoned motor vehicles, scrap tires, and other scrap metal under the department's plan for solid waste disposal. ~~When~~ if the unit of government or the commercial towing service fails to ~~contract~~ dispose of the abandoned motor vehicles, scrap tires, or scrap metal within one hundred eighty days of the demand, the department, on behalf of the unit of government, may ~~contract with~~ use the services of any permitted scrap iron processor ~~duly licensed by the department~~ for such disposal.
7. A reimbursement request must be made on a form available from the department and is subject to the limitations of legislative appropriations and the department's discretion.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2118 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 93 Nays 0 Absent 1

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State