

HOUSE BILL NO. 1352

Introduced by

Representatives M. Johnson, Rick C. Becker, Dockter, Kading, B. Koppelman, Lefor, Owens,
Steiner

Senators Campbell, Casper, Clemens

1 A BILL for an Act to amend and reenact sections 24-03-23, 39-26-02, ~~and 39-26-04,~~
2 ~~subsection 1 of 39-26-06, and sections 39-26-07 and~~ 39-26-08, and 47-30.1-23 of the North
3 Dakota Century Code, relating to custody and disposition of abandoned motor vehicles and
4 deposit of funds; to provide for a continuing appropriation; and to declare an emergency.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 24-03-23 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **24-03-23. Encroachments on state highways.**

9 No part of the right of way for state highways may be encroached upon by erection thereon
10 of ~~any~~ structure, or placing thereon any personal property, other than a temporary parking of a
11 motor vehicle, without a written permit from the director. ~~Any~~An encroachment may be caused
12 to be removed, obliterated, or corrected by order of the director and the total cost thereof must
13 be paid by the person responsible for the encroachment. Property other than motor vehicles left
14 upon highway right of way for a period exceeding seventy-two hours, the ownership of which
15 cannot be determined after reasonable effort has been made to do so, must be deemed
16 abandoned and may be removed from the right of way and stored at the nearest site available
17 for thirty days and if it is not claimed by the owner during such period, and the cost of removal
18 and storage paid, it may be disposed of in the manner prescribed by the director. Abandoned
19 motor vehicles are subject to the provisions of sections 39-26-01 through 39-26-11. If such
20 property is disposed of it must, except as otherwise provided by this section, be sold or
21 disposed of in the manner provided in sections 39-26-05 through 39-26-09. The receipts
22 therefrom must be deposited in the state treasury as provided in section 1 of article IX of the

1 Constitution of North Dakota and credited to the permanent school fund unless a commercial
2 towing service lawfully disposes of the abandoned motor vehicle.

3 **SECTION 2. AMENDMENT.** Section 39-26-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **39-26-02. Definitions.**

6 As used in this chapter, unless the context or subject matter otherwise requires:

- 7 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
8 that has remained for a period of more than forty-eight hours on public property
9 illegally or lacking vital component parts, or ~~has remained for a period of more than~~
10 ~~forty-eight hours~~ is located on private property without consent of the person in control
11 of such property or in an inoperable condition such that it has no substantial potential
12 further use consistent with its usual functions unless it is kept in an enclosed garage or
13 storage building. It also means a motor vehicle voluntarily surrendered by its owner to
14 a person duly licensed under section 39-26-10. An antique automobile, as defined in
15 section 39-04-10.4, and other motor vehicles to include parts car and special interest
16 vehicles, may not be considered an abandoned motor vehicle within the meaning of
17 this chapter.
- 18 2. "Collector" means the owner of one or more special interest vehicles who collects,
19 purchases, acquires, trades, or disposes of special interest vehicles or parts thereof
20 for the person's own use in order to restore, preserve, and maintain a special interest
21 vehicle or antique vehicle.
- 22 3. "Commercial towing service" means a registered business in North Dakota that tows
23 motor vehicles.
- 24 4. "Department" means the state department of health.
- 25 ~~4.5.~~ "Parts car" means a motor vehicle generally in nonoperable condition which is owned
26 by the collector to furnish parts to restore, preserve, and maintain a special interest
27 vehicle or antique vehicle.
- 28 ~~5.6.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and
29 which has not been altered or modified from original manufacturer's specifications
30 and, because of its historic interest, is being preserved by hobbyists.

1 ~~6-7.~~ "Unit of government" includes a state department or agency, a county, city, township,
2 or other political subdivision.

3 ~~7-8.~~ "Vital component parts" means those parts of a motor vehicle that are essential to the
4 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
5 train, and wheels.

6 **SECTION 3. AMENDMENT.** Section 39-26-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-26-04. Custody of abandoned vehicle.**

9 Units of government may take into custody and impound ~~any~~ abandoned motor vehicle. If
10 requested by an owner, lessee, tenant, or occupant of private property, a commercial towing
11 service may remove and take into custody an abandoned motor vehicle located on the private
12 property.

13 ~~— **SECTION 4. AMENDMENT.** Subsection 1 of section 39-26-06 of the North Dakota Century~~
14 ~~Code is amended and reenacted as follows:~~

15 ~~— 1. When an abandoned motor vehicle does not fall within the provisions of section~~
16 ~~39-26-05, the unit of government or commercial towing service taking it into custody~~
17 ~~shall give notice of the taking within ten days. The notice must set forth the date and~~
18 ~~place of the taking, the year, make, model, and serial number of the abandoned motor~~
19 ~~vehicle and the place where the vehicle is being held, must inform the owner and any~~
20 ~~lienholders or secured parties of their right to reclaim the vehicle under section~~
21 ~~39-26-07, and must state that failure of the owner or lienholders or secured parties to~~
22 ~~exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title,~~
23 ~~and interest in the vehicle and a consent to the sale of the vehicle at a public auction~~
24 ~~pursuant to section 39-26-08.~~

25 **SECTION 4. AMENDMENT.** Section 39-26-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **39-26-06. Notice to owner of abandoned vehicle.**

28 1. When an abandoned motor vehicle does not fall within the provisions of section
29 39-26-05, the unit of government or commercial towing service taking it into custody
30 shall give notice of the taking within ten days. The notice must set forth the date and
31 place of the taking, the year, make, model, and serial number of the abandoned motor

1 vehicle and the place where the vehicle is being held, must inform the owner and any
2 lienholders or secured parties of their right to reclaim the vehicle under section
3 39-26-07, and must state that failure of the owner or lienholders or secured parties to
4 exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title,
5 and interest in the vehicle and a consent to the ~~sale~~disposal of the vehicle ~~at a public~~
6 ~~auction~~ pursuant to section 39-26-08.

- 7 2. The notice must be sent by certified mail, return receipt requested, to the registered
8 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
9 or secured parties of record. If it is impossible to determine with reasonable certainty
10 the identity and address of the registered owner and all lienholders, the notice must be
11 published once in a newspaper of general circulation in the area where the motor
12 vehicle was abandoned. Published notices may be grouped together for convenience
13 and economy.

14 **SECTION 5. AMENDMENT.** Section 39-26-07 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **39-26-07. Right of owner to reclaim abandoned vehicle.**

- 17 1. The owner, secured parties, or ~~any~~a lienholder of an abandoned motor vehicle has a
18 right to reclaim such vehicle from the unit of government taking ~~the motor vehicle~~ into
19 custody upon payment of all towing and storage charges resulting from taking the
20 vehicle into custody within ~~fifteen~~thirty days after the date of the notice required by
21 section 39-26-06.
- 22 2. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right
23 to reclaim such vehicle from a commercial towing service taking the motor vehicle into
24 custody upon payment of all towing and storage charges resulting from taking the
25 vehicle into custody within ~~ninety~~thirty days after ~~the date~~receipt of the notice required
26 by section 39-26-06.
- 27 ~~2-3.~~ Storage charges under subsection 2 may not exceed fifty dollars per day for an
28 abandoned passenger vehicle, pickup, van, or truck that does not exceed twenty
29 thousand registered gross weight pounds [9071.85 kilograms].
- 30 4. Nothing in this chapter may be construed to impair any lien of a garagekeeper under
31 the laws of this state or the right of a lienholder or secured parties to foreclose. For the

1 purposes of this section, "garagekeeper" is an operator of a parking place or
2 establishment, an operator of a motor vehicle storage facility, or an operator of an
3 establishment for the servicing, repair, or maintenance of motor vehicles.

4 **SECTION 6. AMENDMENT.** Section 39-26-08 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **39-26-08. ~~Public sale~~Disposal of vehicle - Disposition of proceeds.**

- 7 1. An abandoned motor vehicle not more than seven model years of age taken into
8 custody by a unit of government and not reclaimed under section 39-26-07 must be
9 sold to the highest bidder at public auction or sale, following reasonable published
10 notice thereof. The purchaser must be given a receipt in a form prescribed by the
11 department which shall be sufficient title to dispose of the vehicle. The receipt also
12 entitles the purchaser to register the vehicle and receive a certificate of title, free and
13 clear of all liens and claims of ownership. The license plates displayed on an
14 abandoned vehicle must be removed and destroyed prior to the purchaser taking
15 possession of the vehicle.
- 16 2. From the proceeds of the sale of an abandoned motor vehicle, the unit of government
17 shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all
18 notice and publication costs incurred pursuant to this chapter. Any remainder from the
19 proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or
20 secured parties for ninety days and then must be deposited in the state treasury as
21 provided in section 1 of article IX of the Constitution of North Dakota and credited to
22 the ~~permanent school~~common schools trust fund.
- 23 3. If a commercial towing service takes custody of an abandoned motor vehicle ~~not more-~~
24 ~~than seven model years of age~~ and the vehicle is not reclaimed under
25 section 39-26-07, the commercial towing service may obtain a release from the
26 department of ~~transportation~~ which is sufficient title to dispose of the vehicle. The
27 release entitles the commercial towing service to register the vehicle and receive a
28 certificate of title, free and clear of all liens and claims of ownership. The license plates
29 displayed on the abandoned vehicle must be removed and destroyed upon receipt of
30 the new title.

1 4. From the proceeds of the sale of an abandoned motor vehicle, the commercial towing
2 service may reimburse itself for the cost of towing, preserving, and storing the vehicle,
3 and for all notice and publication costs incurred under this chapter. Any remainder
4 from the proceeds of a sale must be held for the owner of the vehicle or entitled
5 lienholder or secured parties for ninety days and then must be delivered to the
6 administrator of the state abandoned property office in accordance with chapter
7 47-30.1.

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