

FISCAL NOTE
Requested by Legislative Council
01/14/2019

Amendment to: HB 1263

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1263 is reenacting language from the 2017 Legislation under HB1352. This bill will allow for towing companies to tow vehicles from private property.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB1263 is reenacting the language from the 2017 Legislation for HB1352 to allow for towing companies to tow vehicles from private property and obtain title if the vehicle is not reclaimed from the owner within 30 days. Since the process has been in place, there will be no additional programming changes. There is no fiscal impact for this bill.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

There is no fiscal impact for this bill since this process is already in place and no programming changes are necessary.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

There is no fiscal impact for this bill since this process is already in place and no programming changes are necessary.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

There is no fiscal impact for this bill since this process is already in place and no programming changes are necessary.

Name: Lindi Michlitsch

Agency: NDDOT

Telephone: 328-2734

Date Prepared: 01/16/2019

FISCAL NOTE
Requested by Legislative Council
01/14/2019

Bill/Resolution No.: HB 1263

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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Counties			
Cities			
School Districts			
Townships			

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There is no fiscal impact for this bill since this process is already in place and no programming changes are necessary.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

There is no fiscal impact for this bill since this process is already in place and no programming changes are necessary.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

There is no fiscal impact for this bill since this process is already in place and no programming changes are necessary.

Name: Lindi Michlitsch

Agency: NDDOT

Telephone: 328-2734

Date Prepared: 01/16/2019

FISCAL NOTE
Requested by Legislative Council
01/07/2019

Bill/Resolution No.: HB 1263

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
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	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill identifies conditions a vehicle may be towed and impounded, allows for notice to owner and law enforcement, right of owner to reclaim abandoned vehicle and disposition of vehicle.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill has no fiscal impact to the Department of Environmental Quality. The bill clarifies language regarding the items mentioned in #2A.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Name: Brenda M. Weisz

Agency: Department of Environmental Quality

Telephone: 328-4542

Date Prepared: 01/11/2019

2019 HOUSE TRANSPORTATION COMMITTEE

HB 1263

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1263
1/17/2019
#31002

- Subcommittee
 Conference Committee

Committee Clerk: Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to custody and disposition of abandoned motor vehicles; to provide a penalty; and to declare an emergency.

Minutes:

Attachment 1-2

Chairman Ruby opened the hearing on HB 1263.

Representative Jason Dockter, District 7, introduced HB 1263. Last session we passed the towing bill and towards the end of the session there was a bill that was passed, and it basically took out all the changes that were put in for the bill that we passed earlier. Now the changes in the law that the towing companies wanted are not there.

Bill Kalaneck, North Dakota Towing Association, spoke to support HB 1263 and provided written testimony. See attachment #1. (4:30)

Bill Kalaneck reviewed the bill by section by section. (8:33) He stated that the motivation behind this bill was that after the downturn in the oil patch lots of workers left the oil field and left vehicles, trailers, and campers. It became the responsibility of many towing companies to move the vehicles, and a lot of them ending up storing them indefinitely. We also had the situation of the DAPL protests. Many vehicles and other things were left, and the towing companies ended up cleaning up after the incident. This bill then gave the towing companies a method from which they could move on and dispose of those vehicles.

Chairman Ruby: On the last page it talks about the remainder of the proceeds of the sale must be help for the owner of the vehicle or entitled lienholder or secured party for 90 days. Is that the same as before, too?

Bill Kalaneck: Those proceeds have to do with the unit of government is selling the vehicle, like a state auction.

Chairman Ruby: It does also say a commercial towing company, on Line 12.

Bill Kalanek: That is consistent with what was in Code last time.

Pat Ward, representing the Association of North Dakota Domestic Insurers, spoke to support HB 1263 and provided written #2. (15:00)

Chairman Ruby: Have you talked to the bill sponsors about some of the changes?

Pat Ward: I haven't had the opportunity to do that yet. We are pleased that both bills were scheduled today. We should be able to discuss both 2018 and 1263 after the hearing today.

Chairman Ruby: I can set up a subcommittee to work on this with you.

There was no further support for HB 1263.
There was no opposition to HB 1263.

The hearing was closed on HB 1263.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1263
1/21/2019
#31115

Subcommittee
 Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to custody and disposition of abandoned motor vehicles; to provide a penalty; and to declare an emergency.

Minutes:

Attachment 1

Representative Grueneich brought HB 1263 before the committee and called for speakers.

Pat Ward spoke to explain the amendments to HB 1263. See attachment #1. We do have a fundamental agreement, but there are a couple of things that need to be changed. We would like to see a definition of "emergency towing" inserted into it. Also, the underlined language in HB 1263 is in fact new language which wasn't in the bill that came out of the 2017 session. It has a \$50 cap for storage fee in it, that we were asking for. I think we have agreement on that with the towing operators. The final thing is the penalty to notify law enforcement still needs more work. We will need to clean up the language on the amendment.

Bill Kalanek, North Dakota Towing Association: We have a reservation on the last position that Pat described. We would like it clarified.

Representative Grueneich: In order for us to act on the bill, it would have to be amended in this committee. The amendments would need to be voted on and approved. Then we would address the complete bill in committee.

Pat Ward: One of the problems we had with the bill is that it is in two sections of Code. We have to make sure we change it in both sections of Code, Chapter 26 and Chapter 39.

Representative Grueneich closed the committee. He suggested the amendments go to Legislative Council to correct them. We will meet again on Monday, January 21, 2019 @ noon.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1263-2
1/24/2019
#31397

Subcommittee
 Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A bill relating to custody and disposition of abandoned motor vehicles; to provide a penalty; and to declare an emergency.

Minutes:

Attachments 1-2

Representative Grueneich opened the subcommittee on HB 1263.

Roll call was taken: Representative Grueneich, Representative Westlind, and Representative Hanson were present.

Representative Grueneich opened the hearing on HB 1263.

Attachments 1-2 were presented to the committee. HB 1263 as marked up version and amendment 19.0154.02001 as modified on hard copy.

Representative Grueneich: We are okay with the amendment, knowing that we have a little bit of work to do in full committee.

Representative Hanson moved to approve the amendments.
Representative Westlind seconded the motion.

Roll call vote was taken on the Christmas tree version of HB 1263.
Aye 3 Nay 0 Absent 0 The motion carried.

The meeting was adjourned.

2019 HOUSE STANDING COMMITTEE MINUTES

Transportation Committee
Fort Totten Room, State Capitol

HB 1263-2
1/24/2019
#31399

- Subcommittee
 Conference Committee

Committee Clerk Signature Jeanette Cook

Explanation or reason for introduction of bill/resolution:

A BILL relating to custody and disposition of abandoned motor vehicles; to provide a penalty; and to declare an emergency.

Minutes:

Attachments 1-2

Chairman Ruby brought HB 1263 back before the committee.

Representative Grueneich provided an amendment for HB 1263. See attachment # 1-2.

Representative Grueneich: HB 1263 is already in current law, but due to some federal regulations, it fell into a group that ended up with a sunset. When the bill was heard, there was opposition from Pat Ward and the towing companies. Then the subcommittee met, and we got all interested parties together. The opponents brought forward the items that they would like to see addressed. An amendment was drafted. See attachment #1 as modified.

Representative Grueneich moved a DO PASS on the amendment.
Representative Owens seconded the motion.

Vice Chairman Rick C. Becker: Were the towers satisfied with this amendment?

Representative Grueneich: Yes.

There is a cross through on the bottom of p. 1 and on page 3. We are striking that because notification for emergency towing is not necessary because law enforcement is already there at the time. Then the language will not be duplicated.

Vice Chairman Rick C. Becker: Are you moving amendment .02001 as modified on our hard copy?

Representative Grueneich: Yes.

Chairman Ruby: What was added that the insurance companies wanted that wasn't in the original bill?

Representative Grueneich: If we vote on the amendment, I have a Christmas tree copy of the bill that would effectively show you what we have done to the bill.

**A voice vote was taken on the amendment to HB 1263.
All aye. The motion carried.**

Representative Grueneich explained the marked up version of the bill. See attachment #2.

**Representative Grueneich moved a DO PASS as amended on HB 1263.
Representative Westlind seconded the motion.**

**A roll call vote was taken. Aye 13 Nay 0 Absent 1
The motion carried.**

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1263

Page 1, line 1, after "to" insert "create and enact a new subsection to section 39-26-07 of the North Dakota Century Code, relating to right of an owner to reclaim an abandoned vehicle; to"

Page 1, line 2, remove the first "and"

Page 1, line 2, after "23.1-15-07" insert ", 39-26-02, and 39-26-06"

Page 2, line 4, after the underscored period insert "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."

Page 2, line 7, replace "6." with "7."

Page 2, line 10, replace "7." with "8."

Page 2, line 12, replace "8." with "9."

Page 3, remove lines 16 through 22

Page 3, line 23, replace "b." with:

"4. Notice under subsection 3 must include:

- a. The license plate number and state of registration;
- b. The location from which the motor vehicle was towed;
- c. The location to which the motor vehicle was towed;
- d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
- e. A description of the motor vehicle, including make, model, year, and color.

5."

Page 3, line 23, remove "this subsection must be assessed a fee"

Page 3, line 24, replace "of five hundred dollars" with "subsection 3 may not collect a storage fee under section 23.1-15-06"

Page 4, after line 16, insert:

"5. This section also applies to emergency towing."

Page 5, after line 17, insert:

"SECTION 6. AMENDMENT. Section 39-26-02 of the North Dakota Century Code is amended and reenacted as follows:

39-26-02. Definitions. (Contingent repeal - See note)

As used in this chapter, unless the context or subject matter 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, or is located on private property without consent of the person in control of such 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 39-26-10. 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 who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof 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 state department of health.
- 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.
- ~~6-7.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- ~~7-8.~~ "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
- ~~8-9.~~ "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 7. AMENDMENT. Section 39-26-06 of the North Dakota Century Code is amended and reenacted as follows:

39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - See note)

1. When an abandoned motor vehicle does not fall within the provisions of section 39-26-05, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days. 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 secured parties of their right to reclaim the vehicle under section 39-26-07, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 39-26-08.
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. Published notices may be grouped together for convenience and economy.
3. Subject to section 39-26-05, 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 motor vehicle was towed;
 - c. The location to which the motor vehicle was towed;
 - d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
 - e. A description of the 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 39-26-07 and shall return the motor vehicle to the registered owner at no cost to the owner.

SECTION 8. A new subsection to section 39-26-07 of the North Dakota Century Code is created and enacted as follows:

This section also applies to emergency towing."

Renumber accordingly

Date: 1-24-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1263

House Transportation Committee

Subcommittee

Amendment LC# or Description: 19.0154, 02001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Hanson Seconded By Westlind

Representatives	Yes	No	Representatives	Yes	No
Rep. Gruenewich	X		Rep. Hanson	X	
Rep. Westlind	X				

Total (Yes) 3 No 0

Absent 0

Floor Assignment /

If the vote is on an amendment, briefly indicate intent:

Date: 12-4-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1263

House Transportation Committee

Subcommittee

Amendment LC# or Description: 19.0154.02002

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Grueneich Seconded By Owens

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY			REP LAURIEBETH HAGER	A	
VICE CHAIR BECKER			REP KARLA ROSE HANSON		
REP JIM GRUENEICH			REP MARVIN NELSON		
REP TERRY JONES					
REP TOM KADING					
REP EMILY O'BRIEN					
REP MARK OWENS					
REP BOB PAULSON					
REP GARY PAUR					
REP ROBIN WEISZ					
REP GREG WESTLIND					

Vote Carried

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 1-24-19
Roll Call Vote #: 2

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1263

House Transportation Committee
 Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Grueneich Seconded By Westlind

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN RUBY	X		REP LAURIEBETH HAGER	X	
VICE CHAIR BECKER	X		REP KARLA ROSE HANSON	X	
REP JIM GRUENEICH	X		REP MARVIN NELSON	X	
REP TERRY JONES	X				
REP TOM KADING	X				
REP EMILY O'BRIEN	A				
REP MARK OWENS	X				
REP BOB PAULSON	X				
REP GARY PAUR	X				
REP ROBIN WEISZ	X				
REP GREG WESTLIND	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Grueneich

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1263: Transportation Committee (Rep. D. Ruby, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1263 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new subsection to section 39-26-07 of the North Dakota Century Code, relating to right of an owner to reclaim an abandoned vehicle; to"

Page 1, line 2, remove the first "and"

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Page 2, line 12, replace "8." with "9."

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"4. Notice under subsection 3 must include:

- a. The license plate number and state of registration;
- b. The location from which the motor vehicle was towed;
- c. The location to which the motor vehicle was towed;
- d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
- e. A description of the motor vehicle, including make, model, year, and color.

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"5. This section also applies to emergency towing."

Page 5, after line 17, insert:

"SECTION 6. AMENDMENT. Section 39-26-02 of the North Dakota Century Code is amended and reenacted as follows:

39-26-02. Definitions. (Contingent repeal - See note)

As used in this chapter, unless the context or subject matter 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, or is located on private property without consent of the person in control of such 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 39-26-10. 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 who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof 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 state department of health.
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.
- ~~6-7.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- ~~7-8.~~ "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
- ~~8-9.~~ "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 7. AMENDMENT. Section 39-26-06 of the North Dakota Century Code is amended and reenacted as follows:

39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - See note)

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lienholders or secured parties of their right to reclaim the vehicle under section 39-26-07, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 39-26-08.

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. Published notices may be grouped together for convenience and economy.
3. Subject to section 39-26-05, 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 motor vehicle was towed;
 - c. The location to which the motor vehicle was towed;
 - d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
 - e. A description of the 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 39-26-07 and shall return the motor vehicle to the registered owner at no cost to the owner.

SECTION 8. A new subsection to section 39-26-07 of the North Dakota Century Code is created and enacted as follows:

This section also applies to emergency towing."

Renumber accordingly

2019 SENATE TRANSPORTATION

HB 1263

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1263
3/14/2019
33741

- Subcommittee
 Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to right of an owner to reclaim an abandoned vehicle; relating to custody and disposition of abandoned motor vehicles; to provide a penalty; and to declare an emergency.

Minutes:

1 Attachment

Bill Kalanek, North Dakota Towing Association: Please see **Attachment #1** for testimony. Part of the reason the bill seems so long is because we are moving it from one section to another. Because it has to be reflected the same in both pieces of the statute until the Department of Environmental Quality is approved by the federal government. The changes that have been made since last session are all contained in sections 7 and 8 of the bill which are the last two pages.

Chairman Rust: I see there's an emergency clause in there in section 9. I presume that is for obvious reasons. In case they approve the DEQ before the bill would go into effect.

Mr. Kalanek: I can go into a little more detail. That was essentially the issue. Since anyone can remember, if a towing company were to place something on their lot, in impound at the request of a private property owner, whatever the case might be. They had no means to get rid of that vehicle if the person was not willing to come pay the impound fee, pay the towing fee and get that vehicle off the lot. So, there were vehicles in the thousands that were sitting in towing companies' lots that they were unable to do anything with. They weren't allowed to dispose of them and they weren't allowed to sell them. They were essentially garbage collectors on a large scale for vehicles

Chairman Rust: Garbage collectors at their own cost. Because nobody's paying them any fees.

Mr. Kalanek: There's also the challenges of locating owners and lien holders the ability to find the owner of a vehicle when the plates have been removed and get them in to pay for their vehicle. Within the legislation that we are currently operating under and in this bill as well, there's notification to lien holders and there's notification to the last registered owner. This is all done through certified mail which is a common practice in code to do it that way. In addition to that we are self-regulation to a great degree by asking to have that

requirement that we notify law enforcement. We had a clean version that was exactly the same as the one from last session that didn't have the requirement to notify law enforcement in it and the version that had the notification requirement. The one with the notification requirement (obviously) is the one that got introduced, however it was by accident that this version was the one that was introduced. We wanted that, we just didn't want to mess with the bill too much and jeopardize things in the process, because we know how things can work.

Senator Fors: Why would you even want to get involved in this? Towing abandoned vehicles, if it's costing you all this money?

Mr. Kalanek: For every paid tow, there is at least one that goes unpaid. A lot of it is, you don't turn down the Bismarck Police Department or the North Dakota Highway Patrol if they ask you to come in and tow something and clear a roadway. Those are matters of public safety. That's not the majority of this, the majority of this is private.

Senator Fors: I understand roadways and stuff, but abandoned cars and stuff that are just costing you a bunch of money I guess I just can't comprehend this.

Chairman Rust: At times you have abandoned cars on the side of the road.

Mr. Kalanek: Yes, you do. You also have abandoned cars in apartment parking lots. So private property, the owner of the apartment building may request that the vehicle be removed.

Senator Patten: We once had an abandoned car in the bank parking lot. Unfortunately, we didn't end up dragging it out into the street before we called the cops, because we ended up paying the towing fee to get it hauled away then.

Senator Fors: So if the manager of an apartment building calls to have a car towed, who pays for that?

George Kuntz: The owner of the vehicle is responsible to pay the towing company for the removal of the vehicle.

Senator Clemens: Can't you use the VIN number and the Department of Transportation can determine the owner of the vehicle?

Mr. Kalanek: We do perform record searches, but working across state lines in a lot of these cases, sometimes information is not easy to come by.

Senator Bakke: As far as the title goes, you have an abandoned vehicle, for one reason or another you can't ascertain who the owner is; then you decide to put it for scrap let's say. Then the owner finds out where their vehicle is, can you just dispose of a vehicle if you don't have a title?

Mr. Kalanek: The process requires certified mail notification to the last registered owner and any lien holders against the vehicle; then they have 30-days to come claim the vehicle. That's really the only method by which is legal notification for us.

Senator Bakke: In the state of North Dakota if you tow a vehicle and the supposed owner shows up and says "well I don't want it, give me \$50 for it and it's yours." Can you do that if there isn't a title?

Mr. Kalanek: That would be a transaction between two people. They should give you the title.

Senator Fors: You said you get a clean title from the DOT

Mr. Kalanek: By clean I mean it cleared of all liens and obligations. It might be a salvaged vehicle, but it won't have any liens.

Senator Fors: You don't get a branded title?

Mr. Kalanek: I prefer to have George answer that question, because he's dealing with that on a day-to-day basis.

George Kuntz, Owner, Ace Towing, and President, North Dakota Towing Association: When this bill was passed a couple of years ago, it was a tool for us to finally be able to rid our lots of a lot of vehicles that sat there forever. A lot of these vehicles, I know a lot of people don't believe it, but they are biohazards. We've got a lot of people doing a lot of illegal activity with these abandoned vehicles. We've found drugs in these vehicles before, we've found explosives in them before and if we can't get rid of this stuff, it's on our lot and we're taking that risk. The vehicles, if you had to put a percentage on the amount that are of any value it would probably be less than 5%. The majority of stuff, like 2-years ago when I spoke it isn't a Cadillac, and it isn't a BMW sitting there. We're talking old Chevy Celebrity or and Olds Cutlass. A lot of times there's parts missing, times we get people involved in an accident that just don't come back for the vehicle. We have to have a way to dispose of them, and the bill helps us do that.

As far as questions that were asked:

Do we get a clean title or is it stamped abandoned?

The title is not stamped, but as far as the number of vehicles we ask to get titles for it again falls in that 5%-8% People are not leaving anything of value to go ahead and recoup.

Our procedure to tow a vehicle from private property. The property owner or manager has to be on site, they have to sign our ticket to authorize us to remove it. Once that happens, either on site or once we get it back to our yard, we notify law enforcement as to what type of vehicle, license plate and the location it was towed from. We then are required within 10-days to get information from the state of North Dakota from DOT, and now DOT has allowed too there is a company called Auto Data Direct that we can use to get lost registered owner information and lien holder. The issues we have with that sometimes can be, we can file it but we won't find this information out sometime for as long as three to six months. The state of California, minimum of six months before we find out the owner or lien holder of a vehicle. Once we find that information out we send a registered letter out to the last registered owner and if there is a lien holder to notify them that we have their vehicle.

We wait our period of 30-days the majority of the time they don't ever reply, so it gets put into the crush pile. Right now at my place I have over 600 vehicles that are stacked up to get out of there. We've done that procedure already, that's done and over with, it's just this little thing we're going through right now call winter doesn't give us a whole lot of time to do anything else.

Chairman Rust: This is not a 30-day deal, right?

Senator Bakke: So who pays for all this, is it always the owner of the vehicle?

Mr. Kuntz: Yes, it is.

Senator Bakke: If you never find the owner of the vehicle do you just eat the expense?

Mr. Kuntz: If, like for instance the city of Bismarck, we have a contract with them to tow off the city streets. That goes to their yard. There we're paid by the city of Bismarck. As far as the private property vehicles and off the North Dakota state highways, we are not paid. We the towers, the decisions we made to try to help better to dispose of these vehicles, we carry all the costs; as far as the registered letters, contacting NDDOT to get the last registered owner and the lien holder.

Senator Bakke: Why don't you have a contract with the highway department to take care of the highways? If you have a contract with the city of Bismarck to do their roadways, shouldn't different towing companies have contracts with the highway department?

Mr. Kuntz: I've been doing this for over 30 years they have never once approached us as far as a contract. We do it like I said, number one for safety. Like right now, you're driving down the road, you have a white-out condition, there's that vehicle sitting right on the other side of the fog-line and somebody hits it and gets killed. I feel better about myself going out there and moving it and worrying about later, am I going to get paid?

Chairman Rust: Is it fair to say that later you will recover possibly some of your costs in the salvage of a vehicle?

Mr. Kuntz: That is absolutely correct.

Dennis Pathroff, Associate Attorney, Zuger Kirmis & Smith, representing Association of North Dakota Domestic Insurers: We would like to offer our full support of this bill. We think it was a good bill when it got to the House. However, we did add a couple if amendments to it. We worked with the towers and we think we made it just a little bit better.

Senator Bakke: Does the insurance company pay that fee every once in a while on behalf of the owner?

Mr. Pathroff: I believe that does happen on occasion, yes.

2019 SENATE STANDING COMMITTEE MINUTES

Transportation Committee
Lewis and Clark Room, State Capitol

HB 1263
3/15/2019
33794

- Subcommittee
 Conference Committee

Committee Clerk: Liz Stenehjem

Explanation or reason for introduction of bill/resolution:

A bill relating to right of an owner to reclaim an abandoned vehicle; and relating to custody and disposition of abandoned motor vehicles; to provide a penalty; and to declare an emergency.

Minutes:

No Attachments

Chairman Rust: Brief overview of bill and previous testimony.

Senator Fors: On item 3, it starts out with section 39-26.05 a commercial towing service takes an abandon motor vehicle into custody. How can a commercial towing service take an abandon motor vehicle into custody? (this is page 7, item 3)

Chairman Rust: Referred to testimony from Mr. Kuntz about getting calls to tow vehicles. They don't actually just take any car they see that is abandon.

Senator Dwyer: I move a **Do Pass**

Senator Patten: I **Second** the motion

Roll Call Vote Taken:

Passed 5-1-0

Carrier: **Senator Clemens**

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1263**

Senate Transportation Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Senator Dwyer Seconded By Senator Patten

Senators	Yes	No	Senators	Yes	No
Senator Rust - Chairman	X		Senator Bakke	X	
Senator Clemens - Vice Chairman	X				
Senator Dwyer	X				
Senator Fors		X			
Senator Patten	X				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Senator Clemens

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1263, as engrossed: Transportation Committee (Sen. Rust, Chairman) recommends **DO PASS** (5 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1263 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

HB 1263

HB1263
1-17-19
#1

Testimony
House Bill 1263
House Transportation Committee
January 17th, 2019
Bill Kalanek
ND Towing Association

Good Afternoon Chairman Ruby and members of the House Transportation Committee. My name is Bill Kalanek and I'm here today on behalf of the ND Towing Association.

I'd like to begin by expressing our support for HB 1263. This bill arrives in this committee due to some strange and unforeseen circumstances that occurred during the 2017 session.

During the last session this committee heard HB 1352 which it forwarded to the floor with a Do Pass recommendation by a vote of 14-0. The bill proceeded to the House floor and passed with an 89-1 vote. The bill moved to the Senate where it was approved 47-0 and eventually was signed into law by the Governor on April 6th. The same exact bill is what you have before you now with only the sections in code changed!

To explain further, when the legislature passed Senate Bill 2327 which created the Department of Environmental Quality, no one was aware that the bill would repeal the changes made in HB 1352 and restore the old language within a different section of code.

There was a silver lining however. The creation of the DEQ carried with it a requirement that the Federal Government approve it and for that reason we continue to operate as if 1352 is in place because of the pending Federal approval.

I know that is maybe a bit difficult to follow, but I think it's necessary for the committee to understand we are just trying to reestablish what was done in the previous session before the feds give the DEQ approval.

The bill itself provides towing companies the ability to dispose of vehicles that have been left in their possession. It allows the towing company a method by which they can dispose of or sell an abandoned vehicle after a waiting period and giving notice to all involved parties. This has been an issue for years and until recently towers were offered no relief in this situation and were required to store vehicles indefinitely.

I would ask that the committee consider giving HB 1263 a DO PASS recommendation and I appreciate your time today.

Thank you.

HB 1263
1-17-19
#2

Testimony of Pat Ward on HB 1263

Good afternoon Chairman Ruby and members of the House Transportation Committee. My name is Pat Ward and I am an attorney with the Zuger, Kirmis & Smith law firm in Bismarck. I am here today representing the Association of North Dakota Domestic Insurers. Some of our domestic insurers, including Nodak Mutual Insurance Company, are here today and will be testifying on one or the other of these towing bills.

We stand in support of House Bill 1263. We think 1263 addresses some shortfalls in North Dakota's existing towing laws. However, we believe it does not go far enough. Among other provisions, 1263 requires commercial towers to notify law enforcement within 12 hours after completing a tow. We think this is a good requirement, which will protect vehicle owners. Also, we support the cap on storage fees.

We would, however, like to see a couple of amendments to HB 1263.

We have concerns about private property towing and emergency tows after a motor vehicle accident. First, we would like to see a definition of "private property towing" and "emergency towing". Additionally, we'd possibly like to see a signage/notice to the public requirement for private property towing within city limits. We understand that a signage requirement could be an issue when dealing with rural properties.

Second, on page 2, line 28, we would like to see the ten day notice to vehicle owners changed to a 5 day notice. We think that 5 days would be enough time in which to expect a tow company to notify the vehicle owner, and frankly attempts should be made to locate the owner within 24 hours.

Last, on page 4, line 8, after "custody," we would like to see additional language requiring towing companies and storage facilities to be open for business and accessible by telephone during normal business hours. If the company is not open or accessible by phone, the company should not be allowed to charge storage fees during that time period.

We think these tweaks would improve what we think is already a good bill. Please note that these tweaks are already included in the next bill you will hear today, HB 1218. Therefore, you may want to consider using 1263 as a "vehicle" for adopting any additional language you see fit from HB 1218.

For these reasons, we urge your support of this bill with the changes outlined above and possibly other additions from HB 1218. We would be happy to work with the sponsors of this bill, the towing companies, and this committee to get the best towing legislation possible for the ND consumer and the interested parties.

I'd be happy to try to answer any of your questions.

HB 1263
1-21-19
#1

19.0154.02000

Offered by the Association of
North Dakota Domestic Insurers

Proposed Amendment to HB 1263

Page 2, line 6, after "vehicle." Insert "6. "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."

Page 2, line 28, replace "ten" with "seven"

Page 3, line 23, replace "b." with "4."

Page 3, line 23, replace "subsection" with "section"

Page 3, lines 23 and 24 replace "must be assessed a fee of five hundred dollars" with "may not collect a storage fee under section 23.1-15-06"

Page 3, line 25 after "owner." Insert "5. The provisions of this section also apply to emergency towing."

Page 4, line 16 after "vehicles." Insert "5. The provisions of this section also apply to emergency towing."

Renumber accordingly

*PLEASE NOTE THAT ANY CHANGE IN CH. 23.1-15 WILL ALSO NEED TO BE MADE IN CH. 39-26, WHICH IS THE CURRENT LAW RELATING TO ABANDONED MOTOR VEHICLES

19.0154.02001
Title.

Prepared by the Legislative Council staff for
Representative Grueneich
January 21, 2019

HB 1263
1-24-19
#1
P. 1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1263

Page 1, line 1, after "to" insert "create and enact a new subsection to section 39-26-07 of the North Dakota Century Code, relating to right of an owner to reclaim abandoned vehicle; to"

Page 1, line 2, remove "and"

Page 1, line 2, after "23.1-15-07" insert ", 39-26-02, and 39-26-06"

Page 2, line 4, after the underscored period insert "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."

Page 2, line 7, replace "6." with "7."

Page 2, line 10, replace "7." with "8."

Page 2, line 12, replace "8." with "9."

Page 3, remove lines 16 through 22

Page 3, line 23, replace "b." with:

4. Notice under subsection 3 must include:

- a. The license plate number and state of registration;
- b. The location from which the motor vehicle was towed;
- c. The location to which the motor vehicle was towed;
- d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
- e. A description of the motor vehicle, including make, model, year, and color.

5."

Page 3, line 23, remove "this subsection must be assessed a fee"

Page 3, line 24, replace "of five hundred dollars" with "subsection 3 may not collect a storage fee under section 23.1-15-06"

Page 3, after line 25, insert:

~~6. Subsection 1 also applies to emergency towing.~~

Page 4, after line 16, insert:

5. This section also applies to emergency towing.

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1-24-19
#1 p. 2

"SECTION 6. AMENDMENT. Section 39-26-02 of the North Dakota Century Code is amended and reenacted as follows:

39-26-02. Definitions. (Contingent repeal - See note)

As used in this chapter, unless the context or subject matter 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, or is located on private property without consent of the person in control of such 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 39-26-10. 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 who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof 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 state department of health.
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.
- ~~6-7.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- ~~7-8.~~ "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
- ~~8-9.~~ "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 7. AMENDMENT. Section 39-26-06 of the North Dakota Century Code is amended and reenacted as follows:

39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - See note)

1. When an abandoned motor vehicle does not fall within the provisions of section 39-26-05, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days. 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 secured parties of their right to reclaim the vehicle under section 39-26-07, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 39-26-08.
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. Published notices may be grouped together for convenience and economy.
3. Subject to section 39-26-05, 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 motor vehicle was towed;
 - c. The location to which the motor vehicle was towed;
 - d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
 - e. A description of the 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 39-26-07 and shall return the motor vehicle to the registered owner at no cost to the owner.
- ~~6. Subsection 1 also applies to emergency towing.~~

SECTION 8. A new subsection to section 39-26-07 of the North Dakota Century Code is created and enacted as follows:

This section also applies to emergency towing."

Renumber accordingly

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1-24-19
#2
p. 1

Introduced by

Representatives Dockter, Grueneich, D. Ruby

Senator Rust

1 A BILL for an Act to create and enact a new subsection to section 39-26-07 of the North Dakota
2 Century Code, relating to right of an owner to reclaim abandoned vehicle; to amend and reenact
3 sections 23.1-15-01, 23.1-15-03, 23.1-15-05, 23.1-15-06, ~~and~~ 23.1-15-07, 39-26-02, and
4 39-26-06 of the North Dakota Century Code, relating to custody and disposition of abandoned
5 motor vehicles; to provide a penalty; and to declare an emergency.

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

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

9 **23.1-15-01. Definitions. (Contingent effective date - [See note](#))**

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

- 11 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
12 that has remained for a period of more than forty-eight hours on public property
13 illegally or lacking vital component parts, or ~~has remained for a period of more than~~
14 ~~forty-eight hours~~ is located on private property without consent of the person in control
15 of the property or in an inoperable condition such that it has no substantial potential
16 further use consistent with its usual functions, unless it is kept in an enclosed garage
17 or storage building. It also means a motor vehicle voluntarily surrendered by its owner
18 to a person duly licensed under section 23.1-15-09. An antique automobile, as defined
19 in section 39-04-10.4, and other motor vehicles to include parts car and special
20 interest vehicles, may not be considered an abandoned motor vehicle within the
21 meaning of this chapter.
- 22 2. "Collector" means the owner of one or more special interest vehicles that collects,
23 purchases, acquires, trades, or disposes of special interest vehicles or parts of special

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1-24-19
#2
P. 2

1 interest vehicles for the person's own use in order to restore, preserve, and maintain a
2 special interest vehicle or antique vehicle.

3 3. "Commercial towing service" means a registered business in North Dakota that tows
4 motor vehicles.

5 4. "Department" means the department of environmental quality.

6 4.5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
7 mechanical breakdown on public roadway, or other emergency-related incident
8 necessitating vehicle removal for public safety with or without the owner's consent.

9 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
10 by the collector to furnish parts to restore, preserve, and maintain a special interest
11 vehicle or antique vehicle.

12 ~~5-6-7.~~ "Special interest vehicle" means a motor vehicle that is at least twenty years old and
13 has not been altered or modified from original manufacturer's specifications and,
14 because of its historic interest, is being preserved by hobbyists.

15 ~~6-7-8.~~ "Unit of government" includes a state department or agency, a county, city, township,
16 or other political subdivision.

17 ~~7-8-9.~~ "Vital component parts" means those parts of a motor vehicle that are essential to the
18 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
19 train, and wheels.

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

22 **23.1-15-03. Custody of abandoned vehicle. (Contingent effective date - [See note](#))**

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

27 **SECTION 3. AMENDMENT.** Section 23.1-15-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

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1-24-19
#2
P. 3

1 **23.1-15-05. Notice to owner and law enforcement of abandoned vehicle. (Contingent**
2 **effective date - See note)** *Do we need to add "working" days*

- 3 1. When an abandoned motor vehicle does not fall within the provisions of section
4 23.1-15-04, the unit of government or commercial towing service taking it into custody
5 shall give notice of the taking within ten days. The notice must set forth the date and
6 place of the taking, the year, make, model, and serial number of the abandoned motor
7 vehicle, and the place where the vehicle is being held, must inform the owner and any
8 lienholders or secured parties of their right to reclaim the vehicle under section
9 23.1-15-06, and must state that failure of the owner or lienholders or secured parties
10 to exercise their right to reclaim the vehicle is deemed a waiver by them of all right,
11 title, and interest in the vehicle and a consent to the sale/disposal of the vehicle at a
12 public auction pursuant to section 23.1-15-07.
- 13 2. The notice must be sent by certified mail, return receipt requested, to the registered
14 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
15 or secured parties of record. If it is impossible to determine with reasonable certainty
16 the identity and address of the registered owner and all lienholders, the notice must be
17 published once in a newspaper of general circulation in the area where the motor
18 vehicle was abandoned. Published notices may be grouped together for convenience
19 and economy.
- 20 3. Subject to section 23.1-15-04, a commercial towing service that takes an abandoned
21 motor vehicle into custody shall provide notice to the law enforcement agency having
22 jurisdiction in the location from which the motor vehicle was towed within twelve hours
23 after completing the tow.

- 24 ~~a. The notice must include:~~
- 25 ~~(1) The license plate number and state of registration;~~
- 26 ~~(2) The location from which the motor vehicle was towed;~~
- 27 ~~(3) The location to which the motor vehicle was towed;~~
- 28 ~~(4) The name, address, and telephone number of the commercial towing~~
29 ~~service that towed and is storing the motor vehicle; and~~
- 30 ~~(5) A description of the motor vehicle, including make, model, year, and color.~~
- 31 ~~b.~~

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#2

p. 4

- 1 4. Notice under subsection 3 must include:
- 2 a. The license plate number and state of registration;
- 3 b. The location from which the motor vehicle was towed;
- 4 c. The location to which the motor vehicle was towed;
- 5 d. The name, address, and telephone number of the commercial towing service that
- 6 towed and is storing the motor vehicle; and
- 7 e. A description of the motor vehicle, including make, model, year, and color.
- 8 5. A commercial towing service that violates ~~this subsection must be assessed a fee of~~
- 9 ~~five hundred dollars~~ subsection 3 may not collect a storage fee under section
- 10 23.1-15-06 and shall return the motor vehicle to the registered owner at no cost to the
- 11 owner.

Stroke

12

~~6. Subsection 1 also applies to emergency towing.~~

13 **SECTION 4. AMENDMENT.** Section 23.1-15-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **23.1-15-06. Right of owner to reclaim abandoned vehicle. (Contingent effective date -**
16 **See note)**

- 17 1. The owner, secured parties, or ~~any~~ 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 23.1-15-05.
- 22 2. The owner, secured parties, or a lienholder of an abandoned motor vehicle, within
- 23 thirty days after receipt of the notice required by section 23.1-15-05, has a right to
- 24 reclaim the vehicle from a commercial towing service taking the motor vehicle into
- 25 custody upon payment of all towing and storage charges resulting from taking the
- 26 vehicle into custody.
- 27 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

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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 5. This section also applies to emergency towing.

5 **SECTION 5. AMENDMENT.** Section 23.1-15-07 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **23.1-15-07. Public saleDisposal of vehicle - Disposition of proceeds. (Contingent**
8 **effective date - See note)**

- 9 1. An abandoned motor vehicle not more than seven model years of age taken into
10 custody by a unit of government and not reclaimed under section 23.1-15-06 must be
11 sold to the highest bidder at public auction or sale, following reasonable published
12 notice. The purchaser must be given a receipt in a form prescribed by the department
13 which is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser
14 to register the vehicle and receive a certificate of title, free and clear of all liens and
15 claims of ownership. The license plates displayed on an abandoned vehicle must be
16 removed and destroyed prior to the purchaser taking possession of the vehicle.
- 17 2. ~~From the proceeds of the sale of an abandoned motor vehicle, the unit of government~~
18 ~~shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all~~
19 ~~notice and publication costs incurred pursuant to this chapter. Any remainder from the~~
20 ~~proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or~~
21 ~~secured parties for ninety days and then must be deposited in the state treasury as~~
22 ~~provided in section 1 of article IX of the Constitution of North Dakota and credited to~~
23 ~~the permanent school fund~~If a commercial towing service takes custody of an
24 abandoned motor vehicle and the vehicle is not reclaimed under section 23.1-15-06,
25 the commercial towing service may obtain a release from the department of
26 transportation which is sufficient title to dispose of the vehicle. The release entitles the
27 commercial towing service to register the vehicle and receive a certificate of title, free
28 and clear of all liens and claims of ownership. The license plates displayed on the
29 abandoned vehicle must be removed and destroyed upon receipt of the new title.
- 30 3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government
31 or the commercial towing service may reimburse itself for the cost of towing,

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

6 **SECTION 6. AMENDMENT.** Section 39-26-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-26-02. Definitions. (Contingent repeal - [See note](#))**

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

- 10 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
11 that has remained for a period of more than forty-eight hours on public property
12 illegally or lacking vital component parts, or is located on private property without
13 consent of the person in control of such property or in an inoperable condition such
14 that it has no substantial potential further use consistent with its usual functions unless
15 it is kept in an enclosed garage or storage building. It also means a motor vehicle
16 voluntarily surrendered by its owner to a person duly licensed under section 39-26-10.
17 An antique automobile, as defined in section 39-04-10.4, and other motor vehicles to
18 include parts car and special interest vehicles, may not be considered an abandoned
19 motor vehicle within the meaning of this chapter.
- 20 2. "Collector" means the owner of one or more special interest vehicles who collects,
21 purchases, acquires, trades, or disposes of special interest vehicles or parts thereof
22 for the person's own use in order to restore, preserve, and maintain a special interest
23 vehicle or antique vehicle.
- 24 3. "Commercial towing service" means a registered business in North Dakota that tows
25 motor vehicles.
- 26 4. "Department" means the state department of health.
- 27 5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
28 mechanical breakdown on public roadway, or other emergency-related incident
29 necessitating vehicle removal for public safety with or without the owner's consent.

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1 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
2 by the collector to furnish parts to restore, preserve, and maintain a special interest
3 vehicle or antique vehicle.

4 6.7. "Special interest vehicle" means a motor vehicle which is at least twenty years old and
5 which has not been altered or modified from original manufacturer's specifications
6 and, because of its historic interest, is being preserved by hobbyists.

7 7.8. "Unit of government" includes a state department or agency, a county, city, township,
8 or other political subdivision.

9 8.9. "Vital component parts" means those parts of a motor vehicle that are essential to the
10 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
11 train, and wheels.

12 **SECTION 7. AMENDMENT.** Section 39-26-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - [See note](#))**

- 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 disposal of the vehicle pursuant to
24 section 39-26-08.
- 25 2. The notice must be sent by certified mail, return receipt requested, to the registered
26 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
27 or secured parties of record. If it is impossible to determine with reasonable certainty
28 the identity and address of the registered owner and all lienholders, the notice must be
29 published once in a newspaper of general circulation in the area where the motor
30 vehicle was abandoned. Published notices may be grouped together for convenience
31 and economy.

1 3. Subject to section 39-26-05, a commercial towing service that takes an abandoned
2 motor vehicle into custody shall provide notice to the law enforcement agency having
3 jurisdiction in the location from which the motor vehicle was towed within twelve hours
4 after completing the tow.

5 4. Notice under subsection 3 must include:
6 a. The license plate number and state of registration;
7 b. The location from which the motor vehicle was towed;
8 c. The location to which the motor vehicle was towed;
9 d. The name, address, and telephone number of the commercial towing service that
10 towed and is storing the motor vehicle; and
11 e. A description of the motor vehicle, including make, model, year, and color.

12 5. A commercial towing service that violates subsection 3 may not collect a storage fee
13 under section 39-26-07 and shall return the motor vehicle to the registered owner at
14 no cost to the owner.

Strike

15 ~~6. Subsection 1 also applies to emergency towing.~~

16 **SECTION 8.** A new subsection to section 39-26-07 of the North Dakota Century Code is
17 created and enacted as follows:

18 This section also applies to emergency towing.

19 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1263

Page 1, line 1, after "to" insert "create and enact a new subsection to section 39-26-07 of the North Dakota Century Code, relating to right of an owner to reclaim abandoned vehicle; to"

Page 1, line 2, remove "and"

Page 1, line 2, after "23.1-15-07" insert ", 39-26-02, and 39-26-06"

Page 2, line 4, after the underscored period insert "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."

Page 2, line 7, replace "6." with "7."

Page 2, line 10, replace "7." with "8."

Page 2, line 12, replace "8." with "9."

Page 3, remove lines 16 through 22

Page 3, line 23, replace "b." with:

4. Notice under subsection 3 must include:

- a. The license plate number and state of registration;
- b. The location from which the motor vehicle was towed;
- c. The location to which the motor vehicle was towed;
- d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
- e. A description of the motor vehicle, including make, model, year, and color.

5."

Page 3, line 23, remove "this subsection must be assessed a fee"

Page 3, line 24, replace "of five hundred dollars" with "subsection 3 may not collect a storage fee under section 23.1-15-06"

Page 3, after line 25, insert:

~~6. Subsection 1 also applies to emergency towing.~~

Page 4, after line 16, insert:

5. This section also applies to emergency towing.

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Page 5, after line 17, insert:

"SECTION 6. AMENDMENT. Section 39-26-02 of the North Dakota Century Code is amended and reenacted as follows:

39-26-02. Definitions. (Contingent repeal - See note)

As used in this chapter, unless the context or subject matter 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, or is located on private property without consent of the person in control of such 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 39-26-10. 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 who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof 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 state department of health.
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.
- ~~6-7.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and which has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.
- ~~7-8.~~ "Unit of government" includes a state department or agency, a county, city, township, or other political subdivision.
- ~~8-9.~~ "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 7. AMENDMENT. Section 39-26-06 of the North Dakota Century Code is amended and reenacted as follows:

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39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - See note)

1. When an abandoned motor vehicle does not fall within the provisions of section 39-26-05, the unit of government or commercial towing service taking it into custody shall give notice of the taking within ten days. 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 secured parties of their right to reclaim the vehicle under section 39-26-07, and must state that failure of the owner or lienholders or secured parties to exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title, and interest in the vehicle and a consent to the disposal of the vehicle pursuant to section 39-26-08.
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. Published notices may be grouped together for convenience and economy.
3. Subject to section 39-26-05, 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 motor vehicle was towed;
 - c. The location to which the motor vehicle was towed;
 - d. The name, address, and telephone number of the commercial towing service that towed and is storing the motor vehicle; and
 - e. A description of the 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 39-26-07 and shall return the motor vehicle to the registered owner at no cost to the owner.
- ~~6. Subsection 1 also applies to emergency towing.~~

SECTION 8. A new subsection to section 39-26-07 of the North Dakota Century Code is created and enacted as follows:

This section also applies to emergency towing."

Renumber accordingly

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Introduced by

Representatives Dockter, Grueneich, D. Ruby

Senator Rust

1 A BILL for an Act to create and enact a new subsection to section 39-26-07 of the North Dakota
2 Century Code, relating to right of an owner to reclaim abandoned vehicle; to amend and reenact
3 sections 23.1-15-01, 23.1-15-03, 23.1-15-05, 23.1-15-06, ~~and~~ 23.1-15-07, 39-26-02, and
4 39-26-06 of the North Dakota Century Code, relating to custody and disposition of abandoned
5 motor vehicles; to provide a penalty; and to declare an emergency.

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

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

9 **23.1-15-01. Definitions. (Contingent effective date - [See note](#))**

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

11 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
12 that has remained for a period of more than forty-eight hours on public property
13 illegally or lacking vital component parts, or ~~has remained for a period of more than~~
14 ~~forty-eight hours~~ is located on private property without consent of the person in control
15 of the property or in an inoperable condition such that it has no substantial potential
16 further use consistent with its usual functions, unless it is kept in an enclosed garage
17 or storage building. It also means a motor vehicle voluntarily surrendered by its owner
18 to a person duly licensed under section 23.1-15-09. An antique automobile, as defined
19 in section 39-04-10.4, and other motor vehicles to include parts car and special
20 interest vehicles, may not be considered an abandoned motor vehicle within the
21 meaning of this chapter.

22 2. "Collector" means the owner of one or more special interest vehicles that collects,
23 purchases, acquires, trades, or disposes of special interest vehicles or parts of special

1 interest vehicles for the person's own use in order to restore, preserve, and maintain a
2 special interest vehicle or antique vehicle.

3 3. "Commercial towing service" means a registered business in North Dakota that tows
4 motor vehicles.

5 4. "Department" means the department of environmental quality.

6 4.5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
7 mechanical breakdown on public roadway, or other emergency-related incident
8 necessitating vehicle removal for public safety with or without the owner's consent.

9 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
10 by the collector to furnish parts to restore, preserve, and maintain a special interest
11 vehicle or antique vehicle.

12 ~~5-6-7.~~ "Special interest vehicle" means a motor vehicle that is at least twenty years old and
13 has not been altered or modified from original manufacturer's specifications and,
14 because of its historic interest, is being preserved by hobbyists.

15 ~~6-7-8.~~ "Unit of government" includes a state department or agency, a county, city, township,
16 or other political subdivision.

17 ~~7-8-9.~~ "Vital component parts" means those parts of a motor vehicle that are essential to the
18 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
19 train, and wheels.

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

22 **23.1-15-03. Custody of abandoned vehicle. (Contingent effective date - [See note](#))**

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

27 **SECTION 3. AMENDMENT.** Section 23.1-15-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

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1 **23.1-15-05. Notice to owner and law enforcement of abandoned vehicle. (Contingent**
2 **effective date - See note)**

Do we need to add "working" days

- 3 1. When an abandoned motor vehicle does not fall within the provisions of section
4 23.1-15-04, the unit of government or commercial towing service taking it into custody
5 shall give notice of the taking within ten days. The notice must set forth the date and
6 place of the taking, the year, make, model, and serial number of the abandoned motor
7 vehicle, and the place where the vehicle is being held, must inform the owner and any
8 lienholders or secured parties of their right to reclaim the vehicle under section
9 23.1-15-06, and must state that failure of the owner or lienholders or secured parties
10 to exercise their right to reclaim the vehicle is deemed a waiver by them of all right,
11 title, and interest in the vehicle and a consent to the ~~sale~~disposal of the vehicle at a
12 public auction pursuant to section 23.1-15-07.
- 13 2. The notice must be sent by certified mail, return receipt requested, to the registered
14 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
15 or secured parties of record. If it is impossible to determine with reasonable certainty
16 the identity and address of the registered owner and all lienholders, the notice must be
17 published once in a newspaper of general circulation in the area where the motor
18 vehicle was abandoned. Published notices may be grouped together for convenience
19 and economy.
- 20 3. Subject to section 23.1-15-04, a commercial towing service that takes an abandoned
21 motor vehicle into custody shall provide notice to the law enforcement agency having
22 jurisdiction in the location from which the motor vehicle was towed within twelve hours
23 after completing the tow.

24 ~~a. The notice must include:~~

25 ~~(1) The license plate number and state of registration;~~

26 ~~(2) The location from which the motor vehicle was towed;~~

27 ~~(3) The location to which the motor vehicle was towed;~~

28 ~~(4) The name, address, and telephone number of the commercial towing~~
29 ~~service that towed and is storing the motor vehicle; and~~

30 ~~(5) A description of the motor vehicle, including make, model, year, and color.~~

31 ~~b.~~

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- 1 4. Notice under subsection 3 must include:
- 2 a. The license plate number and state of registration;
- 3 b. The location from which the motor vehicle was towed;
- 4 c. The location to which the motor vehicle was towed;
- 5 d. The name, address, and telephone number of the commercial towing service that
- 6 towed and is storing the motor vehicle; and
- 7 e. A description of the motor vehicle, including make, model, year, and color.
- 8 5. A commercial towing service that violates ~~this subsection must be assessed a fee of~~
- 9 ~~five hundred dollars~~ subsection 3 may not collect a storage fee under section
- 10 23.1-15-06 and shall return the motor vehicle to the registered owner at no cost to the
- 11 owner.
- 12 6. Subsection 1 also applies to emergency towing.

13 **SECTION 4. AMENDMENT.** Section 23.1-15-06 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **23.1-15-06. Right of owner to reclaim abandoned vehicle. (Contingent effective date -**
16 **See note)**

- 17 1. The owner, secured parties, or ~~any~~ lienholder of an abandoned motor vehicle has a
- 18 right to reclaim such vehicle from the unit of government taking ~~it~~ 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 23.1-15-05.
- 22 2. The owner, secured parties, or a lienholder of an abandoned motor vehicle, within
- 23 thirty days after receipt of the notice required by section 23.1-15-05, has a right to
- 24 reclaim the vehicle from a commercial towing service taking the motor vehicle into
- 25 custody upon payment of all towing and storage charges resulting from taking the
- 26 vehicle into custody.
- 27 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

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1 purposes of this section, "garagekeeper" is an operator of a parking place on
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 5. This section also applies to emergency towing.

5 **SECTION 5. AMENDMENT.** Section 23.1-15-07 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **23.1-15-07. Public saleDisposal of vehicle - Disposition of proceeds. (Contingent**
8 **effective date - See note)**

- 9 1. An abandoned motor vehicle not more than seven model years of age taken into
10 custody by a unit of government and not reclaimed under section 23.1-15-06 must be
11 sold to the highest bidder at public auction or sale, following reasonable published
12 notice. The purchaser must be given a receipt in a form prescribed by the department
13 which is sufficient title to dispose of the vehicle. The receipt also entitles the purchaser
14 to register the vehicle and receive a certificate of title, free and clear of all liens and
15 claims of ownership. The license plates displayed on an abandoned vehicle must be
16 removed and destroyed prior to the purchaser taking possession of the vehicle.
- 17 2. ~~From the proceeds of the sale of an abandoned motor vehicle, the unit of government~~
18 ~~shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all~~
19 ~~notice and publication costs incurred pursuant to this chapter. Any remainder from the~~
20 ~~proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or~~
21 ~~secured parties for ninety days and then must be deposited in the state treasury as~~
22 ~~provided in section 1 of article IX of the Constitution of North Dakota and credited to~~
23 ~~the permanent school fund~~If a commercial towing service takes custody of an
24 abandoned motor vehicle and the vehicle is not reclaimed under section 23.1-15-06,
25 the commercial towing service may obtain a release from the department of
26 transportation which is sufficient title to dispose of the vehicle. The release entitles the
27 commercial towing service to register the vehicle and receive a certificate of title, free
28 and clear of all liens and claims of ownership. The license plates displayed on the
29 abandoned vehicle must be removed and destroyed upon receipt of the new title.
- 30 3. From the proceeds of the sale of an abandoned motor vehicle, the unit of government
31 or the commercial towing service may reimburse itself for the cost of towing.

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

6 **SECTION 6. AMENDMENT.** Section 39-26-02 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **39-26-02. Definitions. (Contingent repeal - [See note](#))**

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

- 10 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
11 that has remained for a period of more than forty-eight hours on public property
12 illegally or lacking vital component parts, or is located on private property without
13 consent of the person in control of such property or in an inoperable condition such
14 that it has no substantial potential further use consistent with its usual functions unless
15 it is kept in an enclosed garage or storage building. It also means a motor vehicle
16 voluntarily surrendered by its owner to a person duly licensed under section 39-26-10.
17 An antique automobile, as defined in section 39-04-10.4, and other motor vehicles to
18 include parts car and special interest vehicles, may not be considered an abandoned
19 motor vehicle within the meaning of this chapter.
- 20 2. "Collector" means the owner of one or more special interest vehicles who collects,
21 purchases, acquires, trades, or disposes of special interest vehicles or parts thereof
22 for the person's own use in order to restore, preserve, and maintain a special interest
23 vehicle or antique vehicle.
- 24 3. "Commercial towing service" means a registered business in North Dakota that tows
25 motor vehicles.
- 26 4. "Department" means the state department of health.
- 27 5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
28 mechanical breakdown on public roadway, or other emergency-related incident
29 necessitating vehicle removal for public safety with or without the owner's consent.

1 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
2 by the collector to furnish parts to restore, preserve, and maintain a special interest
3 vehicle or antique vehicle.

4 6.7. "Special interest vehicle" means a motor vehicle which is at least twenty years old and
5 which has not been altered or modified from original manufacturer's specifications
6 and, because of its historic interest, is being preserved by hobbyists.

7 7.8. "Unit of government" includes a state department or agency, a county, city, township,
8 or other political subdivision.

9 8.9. "Vital component parts" means those parts of a motor vehicle that are essential to the
10 mechanical functioning of the vehicle, including, but not limited to, the motor, drive
11 train, and wheels.

12 **SECTION 7. AMENDMENT.** Section 39-26-06 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **39-26-06. Notice to owner of abandoned vehicle. (Contingent repeal - [See note](#))**

- 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 disposal of the vehicle pursuant to
24 section 39-26-08.
- 25 2. The notice must be sent by certified mail, return receipt requested, to the registered
26 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
27 or secured parties of record. If it is impossible to determine with reasonable certainty
28 the identity and address of the registered owner and all lienholders, the notice must be
29 published once in a newspaper of general circulation in the area where the motor
30 vehicle was abandoned. Published notices may be grouped together for convenience
31 and economy.

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- 1 3. Subject to section 39-26-05, a commercial towing service that takes an abandoned
2 motor vehicle into custody shall provide notice to the law enforcement agency having
3 jurisdiction in the location from which the motor vehicle was towed within twelve hours
4 after completing the tow.
- 5 4. Notice under subsection 3 must include:
- 6 a. The license plate number and state of registration;
7 b. The location from which the motor vehicle was towed;
8 c. The location to which the motor vehicle was towed;
9 d. The name, address, and telephone number of the commercial towing service that
10 towed and is storing the motor vehicle; and
11 e. A description of the motor vehicle, including make, model, year, and color.
- 12 5. A commercial towing service that violates subsection 3 may not collect a storage fee
13 under section 39-26-07 and shall return the motor vehicle to the registered owner at
14 no cost to the owner.
- 15 6. Subsection 1 also applies to emergency towing.
- 16 **SECTION 8.** A new subsection to section 39-26-07 of the North Dakota Century Code is
17 created and enacted as follows:
18 This section also applies to emergency towing.
- 19 **SECTION 9. EMERGENCY.** This Act is declared to be an emergency measure.

Testimony
House Bill 1263
Senate Transportation Committee
March 14, 2019
Bill Kalanek
ND Towing Association

Good Afternoon Chairman Rust and members of the Senate Transportation Committee. My name is Bill Kalanek and I'm here today on behalf of the ND Towing Association.

I'd like to begin by expressing our support for HB 1263. This bill arrives in this committee due to some strange and unforeseen circumstances that occurred during the 2017 session.

During the last session, this committee heard HB 1352 which it forwarded to the floor with a Do Pass recommendation by a vote of 5-0-1. The bill moved to the Senate floor where it was approved 47-0 and eventually was signed into law by the Governor on April 6th. This is really the same bill from last session with a few minor tweaks that were amended into the bill in the House.

To explain further, when the legislature passed SB 2327 which created the Department of Environmental Quality, no one was aware that the bill would repeal the changes made in HB 1352 and restore the old language within a different section of code.

There was a silver lining, however. The creation of the DEQ carried with it a requirement that the Federal Government approve it and for that reason we continue to operate as if HB 1352 is in place due to the pending Federal approval.

I know this may be a bit difficult to follow, but I think it's necessary for the committee to understand we are just trying to reestablish what was done in the previous session before the feds give the DEQ approval.

The bill itself provides towing companies the ability to dispose of vehicles that have been left in their possession. It allows the towing company a method by which they can dispose of or sell an abandoned vehicle after a waiting period and giving notice to all involved parties. This has been an issue for years and until recently, towing companies were offered no relief in this situation and were required to store vehicles indefinitely.

I would ask that the committee consider giving HB 1263 a DO PASS recommendation and I appreciate your time today.

Thank you.