WEST VIRGINIA CODE CHAPTER 17 ARTICLE 24A

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§17-24A-1. Definitions.

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

(1) “Commissioner” means the Commissioner of the Division of Highways or his or her designee.

(2) “Abandoned household appliance” means a refrigerator, freezer, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode, bed springs, mattress or other furniture, fixtures or appliances to which no person claims ownership and which is not in an enclosed building, a licensed salvage yard or the actual possession of a demolisher.

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

(4) “Abandoned antique motor vehicle” means a vehicle that qualifies as both an abandoned motor vehicle and an antique motor vehicle.

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

(6) “Demolisher” means any person licensed by the Commissioner of the Division of Highways whose business, to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal or into saleable parts or otherwise to wreck or dismantle vehicles or appliances.

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

(8) “Enclosed building” means a structure surrounded by walls or one continuous wall and having a roof enclosing the entire structure and includes a permanent appendage thereto.

(9) “Enforcement agency” means any of the following or any combination of the following:

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(a) Public law-enforcement officers of this state, including natural resources police officers;

(b) Public law-enforcement officers of any county, city or town within this state; and

(c) The Commissioner of the Division of Highways, his or her duly authorized agents and employees.

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

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

(12) "Licensed salvage yard" means a salvage yard licensed under article twenty-three of this chapter.

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

(14) "Person" means a natural person, corporation, firm, partnership, association or society and the plural as well as the singular.

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

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§17-24A-2. Abandonment of motor vehicle prohibited; inoperative household appliances prohibited in certain places; penalty.

(a) No person may, within this state, abandon a motor vehicle or major part thereof upon the right-of-way of any public highway, upon any other public property or upon any private property without the consent of the owner or person in control of the property, or upon property owned or controlled by that person, unless it be at a licensed salvage yard or at the business establishment of a demolisher, or a business licensed to do business in the State of West Virginia and not in the primary business of offering motor vehicles or parts thereof for sale. Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be sentenced and fined as set forth below.

(b) No person may, within this state, place or abandon any inoperative household appliance upon the right-of-way of any public highway or upon any other public property; nor may any person, within this state, place or abandon any inoperative household appliance upon any private property unless it be at a licensed salvage yard, solid waste facility, other business authorized to accept solid waste or at the business establishment of a demolisher. Any person who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be sentenced and fined as set forth below.

(c) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle, or inoperative household appliance does not exceed one hundred pounds in weight or twenty-seven cubic feet in size is subject to a fine of not less than $50 nor more than $1,000 or, in the discretion of the court, sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property or waters of the state, as designated by the court, for not less than eight nor more than sixteen hours, or both.

(d) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than one hundred pounds in weight or twenty-seven cubic feet in size, but less than five hundred pounds in weight or two hundred sixteen cubic feet, is subject to a fine of not less than $500 nor more than $2,000 or, in the discretion of the court, may be sentenced to perform community service by cleaning up litter from any public highway, road, street, alley or any other public park or public property or waters of the state, as designated by the court, for not less than sixteen nor more than thirty-two hours, or both.

(e) Any person who is guilty of a misdemeanor as described in this section and the abandoned motor vehicle, junked motor vehicle or inoperative household appliance is greater than five hundred pounds in weight or two hundred sixteen cubic feet in size is subject to a fine not less than $2,500 or not more than $25,000 or confinement in jail for not more than one year, or both. In addition, the violator may be guilty of creating or contributing to an open dump as defined in section two, article fifteen, chapter twenty-two of this code and subject to the enforcement provisions of section fifteen of said article.

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(f) Any person convicted of a second or subsequent violation of this section is subject to double the authorized range of fines and community service for the subsection violated.

(g) The sentence of litter cleanup shall be verified by natural resources police officers from the Division of Natural Resources or environmental inspectors from the Department of Environmental Protection. Any defendant receiving the sentence of litter cleanup shall provide within a time to be set by the court written acknowledgment from a natural resources police officer or environmental inspector that the sentence has been completed and the litter has been disposed of lawfully.

(h) Any person who has been found by the court to have willfully failed to comply with the terms of a litter cleanup sentence imposed by the court pursuant to this section is subject to, at the discretion of the court, double the amount of the original fines and community service penalties.

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§17-24A-3. Authority to take possession of abandoned motor vehicles, junked motor vehicles, and inoperative household appliances.

Any enforcement agency which has knowledge of or discovers or finds any abandoned motor vehicle, junked motor vehicle or inoperative household appliance on either public or private property may take it into its custody and possession. For that purpose, the enforcement agency may employ its own personnel, equipment and facilities or hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles, junked motor vehicles or inoperative household appliances: Provided, That before taking any abandoned motor vehicle or junked motor vehicle into custody and possession from private property, the enforcement agency shall give the private property owner and the owner of the motor vehicle, if ascertainable, a thirty-day notice by registered or certified mail that the action will be taken unless the motor vehicle is restored to a functional use.

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

(a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or junked motor vehicle shall, within 15 days after taking custody and possession thereof, notify the last-known registered owner of the motor vehicle and all lienholders of record that the motor vehicle has been taken into custody and possession, the notification to be by registered or certified mail, return receipt requested. The notice shall:

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

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

(3) Inform the owner and any lienholders of record of their right to reclaim the motor vehicle within 10 days after the date notice was received by the owner or lienholders, upon payment of all towing, preservation and storage charges resulting from taking and placing the motor vehicle into custody and possession; and

(4) State that the failure of the owner or lienholders of record to exercise their right to reclaim the motor vehicle within the 10-day period shall be deemed a waiver by the owner and all lienholders of record of all right, title and interest in the motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junked motor vehicle at a public auction or to a licensed salvage yard or demolisher.

(b) If the identity of the last registered owner of the abandoned motor vehicle or junked motor vehicle cannot be determined or if the certificate of registration or certificate of title contains no address for the owner or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice shall be published as a Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, the publication area shall be the county wherein the motor vehicle was located at the time the enforcement agency took custody and possession thereof and the notice shall be sufficient to meet all requirements of notice pursuant to this article. Any notice by publication may contain multiple listings of abandoned motor vehicles and junked motor vehicles. The notice shall be published within 15 days after the motor vehicle is taken into custody and possession and shall have the same contents required for a notice pursuant to subsection (a) of this section, except that the 10-day period shall run from the date the notice is published as aforesaid.

(c) An enforcement agency which hires any person or entity to take into custody and possession an abandoned motor vehicle or junked motor vehicle pursuant to this section shall notify the person or entity hired of the name and address of the registered owner of the

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motor vehicle, if known, and all lienholders of record, if any, within 15 days after the vehicle is taken into custody and possession: *Provided*, That the requirements of this subsection may not apply to motor vehicles for which the registered owner cannot be ascertained by due diligence or investigation.

(d) The person or entity hired by an enforcement agency to take into custody or possession an abandoned motor vehicle or junked motor vehicle shall, within 30 days after the possession, notify the registered owner of the vehicle and all lienholders of record, if any, as identified by the enforcement agency pursuant to subsection (c) of this section, by registered mail, return receipt requested, that the motor vehicle has been taken into custody and possession. The notice shall have the same contents required for a notice pursuant to subsection (a) of this section, including the 10-day period the owner or lienholder has to reclaim the motor vehicle. Upon the issuance of the notice, the identified owner of the motor vehicle is liable and responsible for all costs for towing, preservation and storage of the motor vehicle: *Provided*, That failure to issue the notice required by this subsection within 30 days after possession of the motor vehicle relieves the identified owner of the motor vehicle of any liability for charges for towing, preservation and storage in excess of the sum of the first five days of the charges: *Provided, however*, That the requirements of this subsection do not apply to motor vehicles for which the registered owner thereof cannot be ascertained by due diligence or investigation.

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

(f) A licensed motor vehicle dealer, as defined in §17A-1-1 of this code, a licensed automobile auction as defined in §17A-6C-1 of this code, or a motor vehicle repair facility or a towing company registered with the Public Service Commission pursuant to §24A-2-2a of this code may file an application with the Division of Motor Vehicles for a certificate of title and registration for an abandoned motor vehicle or junked vehicle. Upon payment of the appropriate fees, the division shall deliver the certificate of title and registration to the applicant, if:

(1) The motor vehicle is abandoned on the property or place of business of the dealer, licensed automobile auction, motor vehicle repair facility or towing company; and

(2) One of the following situations applies:

(A) The identity of the last registered owner of the abandoned motor vehicle cannot be determined; or

(B) The certificate of registration or certificate of title contains no address of the owner; or
(C) It is impossible to determine with reasonable certainty the identity and address of all lienholders after publication as set forth in subsection (b) of this section.

(D) The motor vehicle is not claimed by the owner or a lienholder after notice within the time set forth in subsection (d) of this section.

(g) Upon receipt of the certificate of title and registration, the dealer, licensed automobile auction, motor vehicle repair facility or towing company may sell the vehicle at private sale or public auction.

(h) For purposes of this section motor vehicle repair facilities and towing companies are not used motor vehicle dealers as that term is defined by §17A-6-1(a)(2) of this code.

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§17-24A-5. Disposal of abandoned motor vehicles, junked motor vehicles, and inoperative or abandoned household appliances.

(a) If an abandoned motor vehicle or junked motor vehicle is not reclaimed as provided for in section four of this article, the enforcement agency in possession of the abandoned motor vehicle or junked motor vehicle shall sell it either at a public auction or to a licensed salvage yard or demolisher. The purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership and shall receive a sales receipt from the enforcement agency which disposed of the motor vehicle. The sales receipt at the sale shall be sufficient title only for purposes of transferring the motor vehicle to a licensed salvage yard or to a demolisher for demolition, wrecking or dismantling and no further titling of the motor vehicle shall be necessary by either the purchaser at the auction, the licensed salvage yard or the demolisher, who shall be exempt from the payment of any fees and taxes required under article three, chapter seventeen-a of this code: Provided, That the purchaser at the auction must place the motor vehicle in the possession of a licensed salvage yard or demolisher within twenty days from the date he or she purchased the motor vehicle and the licensed salvage yards or demolisher must demolish, wreck or dismantle the motor vehicle within six months after taking possession of the motor vehicle and if the licensed salvage yard or demolisher does not, the licensed salvage yard or demolisher shall be required to pay all fees and taxes required under article three, chapter seventeen-a of this code.

(b) When an enforcement agency has in its custody and possession inoperative or abandoned household appliances collected in accordance with section seven of this article it shall sell the property from time to time at public auction or to a licensed salvage yard or demolisher.

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§17-24A-6. Proceeds from sale of abandoned motor vehicles, junked motor vehicles, and inoperative household appliances.

From the proceeds of any sale, the enforcement agency which sold the abandoned motor vehicle, junked motor vehicle or inoperative household appliance shall reimburse itself for any expenses it may have incurred in removing, towing, preserving and storing said property and the expenses of conducting any auction and any notice and publication expenses incurred pursuant to this article.

Any remainder from the proceeds of the sale of an abandoned motor vehicle or junked motor vehicle after payment of expenses shall be held for the last registered owner of the motor vehicle or any lienholder for ninety days, after which time, if no owner or lienholder claims the remainder, it shall be deposited in the state road fund.

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

(a) Application for Title to Abandoned Antique Motor Vehicle. —

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

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

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

(2) The application shall include the following:

(A) The name, address and other contact information of the applicant;

(B) The year, make, model, Vehicle Identification Number and any other identifying marks on the vehicle: Provided, That if there is no Vehicle Identification Number, the applicant shall provide all information available or reasonably ascertainable to identify the year, make and model of the vehicle; and

(C) Any other information required by the division.

(3) Upon application for title to an abandoned antique motor vehicle, the applicant shall pay a fee of $100 to the division.

(b) Vehicle Removal Certificate. — In a manner prescribed by the division, a person may apply for a Vehicle Removal Certificate at no fee, by presenting records sufficient to demonstrate to a reasonable degree of certainty that the owner of the private property on which an abandoned antique motor vehicle is located has given the applicant written permission to remove the vehicle from the private property.

(c) Search for Owner and Lienholders; Notice. —

(1) Upon receipt of an application for title to an abandoned antique motor vehicle, the division shall initiate a search for the last owner of the vehicle and any lienholders of record of the vehicle, using the year, make, model, Vehicle Identification Number and any other identifying marks on the vehicle, and, if there is no Vehicle Identification Number, the information provided on the application related to the year, make and model of the motor vehicle that was available to the applicant. The division shall, at a minimum, search:

(A) Its own records;

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

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

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(2) If, in the course of a search, the division discovers that the vehicle has been reported as stolen, the division shall notify the appropriate law-enforcement agency of that fact.

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

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

(B) Waives all right, title, and interest in the motor vehicle, and the right, title, and interest in the vehicle shall be transferred to the applicant, free of all liens and encumbrances.

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

(d) Rules and Forms. —

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

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

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

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

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

(iv) The current location of the vehicle; and

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

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

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

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

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

(iv) The current location of the vehicle; and

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

(2) If an applicant or person requesting a Vehicle Removal Certificate cannot, after reasonable efforts, determine the Vehicle Identification Number of the vehicle, the person may pay a $100 fee to the West Virginia State Police to inspect the vehicle, determine, in the sole discretion of the division, the year, make and model of the motor vehicle using all information available or reasonably ascertainable and assign the motor vehicle a new Vehicle Identification Number.

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

(e) Obstruction of removal of vehicle from private property prohibited. — No person shall knowingly interfere with a person who has acquired title to an antique motor vehicle and is reclaiming and removing a vehicle from private property pursuant to the procedures set forth in this section. Any person violating this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined $500.

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§17-24A-7. Injunctive relief; additional remedy.

In addition to all other remedies provided for in this article, the Attorney General of this state, the prosecuting attorney of any county where any violation of any provision of this article occurs or any citizen, resident or taxpayer of the county where any violation of any provision of this article occurs may apply to the circuit court, or the judge thereof in vacation, of the county where the alleged violation occurred for an injunction to restrain, prevent or abate the maintenance and storage of abandoned motor vehicles, junked motor vehicles or inoperative household appliances, in violation of any provision of this article.

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