

SB 390

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



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COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 390

(By Senator BALL, ET AL)



PASSED MARCH 14, 1998

In Effect NINETY DAYS FROM Passage

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COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 390

(SENATORS BALL, WOOTON, HUNTER AND
LOVE, *original sponsors*)

[Passed March 14, 1998; in effect ninety days from passage.]

AN ACT to amend and reenact section eight, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to allowing towing companies that have towed an abandoned vehicle, or licensed motor vehicle dealers who have had a vehicle abandoned on their property, to acquire title and registration to that vehicle from the division of motor vehicles when the vehicle is not claimed by the owner or the owner cannot otherwise be determined; providing that the vehicle may then be sold at private sale or public auction by the towing company or licensed motor vehicle dealer; changing notification periods; and placing a monetary cap on application of section.

Be it enacted by the Legislature of West Virginia:

That section eight, article twenty-four, chapter seventeen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 24. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, OLD VEHICLE TIRES AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.

§17-24-8. Abandoned or junked motor vehicles; notification to motor vehicle owner and lienholder; charges and fees; exceptions.

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

10 (1) Contain a description of the motor vehicle, including
11 the year, make, model, manufacturer's serial or identifica-
12 tion number or any other number which may have been
13 assigned to the motor vehicle by the commissioner of
14 motor vehicles and any distinguishing marks;

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

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

24 (4) State that the failure of the owner or lienholders of
25 record to exercise their right to reclaim the motor vehicle
26 within the ten-day period shall be deemed a waiver by the

27 owner and all lienholders of record of all right, title and
28 interest in the motor vehicle and of their consent to the
29 sale or disposal of the abandoned motor vehicle or junked
30 motor vehicle at a public auction or to a licensed salvage
31 yard or demolisher.

32 (b) If the identity of the last registered owner of the
33 abandoned motor vehicle or junked motor vehicle cannot
34 be determined, or if the certificate of registration or
35 certificate of title contains no address for the owner, or if
36 it is impossible to determine with reasonable certainty the
37 identity and addresses of all lienholders, notice shall be
38 published as a Class I legal advertisement in compliance
39 with the provisions of article three, chapter fifty-nine of
40 this code, and the publication area for the publication
41 shall be the county wherein the motor vehicle was located
42 at the time the enforcement agency took custody and
43 possession thereof, and the notice shall be sufficient to
44 meet all requirements of notice pursuant to this article.
45 Any notice by publication may contain multiple listings of
46 abandoned motor vehicles and junked motor vehicles. The
47 notice shall be published within fifteen days after the
48 motor vehicle is taken into custody and possession and
49 shall have the same contents required for a notice pursu-
50 ant to subsection (a) of this section, except that the ten-
51 day period shall run from the date the notice is published
52 as aforesaid.

53 (c) An enforcement agency which hires any person or
54 entity to take into custody and possession an abandoned
55 or junked motor vehicle pursuant to this section shall
56 notify the person or entity of the name and address of the
57 registered owner of the motor vehicle, if known, and all
58 lienholders of record, if any, within fifteen days after the
59 vehicle is taken into custody and possession: *Provided,*
60 That the requirements of this subsection shall not apply to
61 motor vehicles for which the registered owner thereof
62 cannot be ascertained by due diligence or investigation.

63 (d) The person or entity hired by an enforcement agency
64 to take into custody or possession an abandoned or junked
65 motor vehicle shall, within thirty days after the posses-
66 sion, notify the registered owner of the vehicle and all
67 lienholders of record, if any, as identified by the enforce-
68 ment agency pursuant to subsection (c) herein, by regis-
69 tered mail, return receipt requested, of the location of the
70 facility where the motor vehicle is being stored and of the
71 owner's liability for all towing, preservation and storage
72 charges for the motor vehicle. Upon the issuance of the
73 notice, the identified owner of the motor vehicle is liable
74 and responsible for all costs for towing, preservation and
75 storage of the motor vehicle: *Provided*, That failure to
76 issue the notice required by this subsection within thirty
77 days after possession of the motor vehicle relieves the
78 identified owner of the motor vehicle of any liability for
79 charges for towing, preservation and storage in excess of
80 the sum of the first five days of such charges: *Provided*,
81 *however*, That the requirements of this subsection do not
82 apply to motor vehicles for which the registered owner
83 thereof cannot be ascertained by due diligence or investi-
84 gation.

85 (e) For abandoned or junked vehicles having a retail
86 value of one thousand dollars or less, as ascertained by
87 values placed upon vehicles using a standard industry
88 reference book, a person or entity hired by an enforcement
89 agency to tow such an abandoned or junked motor vehicle
90 may, if the motor vehicle is not claimed by the owner or a
91 lienholder after notice within the time set forth in subsec-
92 tion (d) of this section, or if the identity of the last regis-
93 tered owner of the abandoned motor vehicle or junked
94 motor vehicle cannot be determined, or if the certificate of
95 registration or certificate of title contains no address of
96 the owner, or if it is impossible to determine with reason-
97 able certainty the identity and address of all lienholders
98 after publication as set forth in subsection (b) of this
99 section, file an application with the division of motor

100 vehicles for a certificate of title and registration which,
101 upon payment of the appropriate fees, shall be issued. The
102 person or entity may then sell the motor vehicle at private
103 sale or public auction.

104 (f) For abandoned or junked vehicles having a retail
105 value of one thousand dollars or less, as ascertained by
106 values placed upon vehicles using a standard industry
107 reference book, a licensed motor vehicle dealer, as defined
108 in section one, article one, chapter seventeen-a of this code
109 may, if a motor vehicle is abandoned on the property or
110 place of business of the dealer and is not claimed by the
111 owner or a lienholder after notice within the time set forth
112 in subsection (d) of this section, or if the identity of the
113 last registered owner of the abandoned motor vehicle
114 cannot be determined, or if the certificate of registration
115 or certificate of title contains no address of the owner, or
116 if it is impossible to determine with reasonable certainty
117 the identity and address of all lienholders after publica-
118 tion as set forth in subsection (b) of this section, file an
119 application with the division of motor vehicles for a
120 certificate of title and registration which, upon payment
121 of the appropriate fees, shall be issued. The dealer may
122 then sell the motor vehicle at private sale or public
123 auction.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Ray Schover
.....
Chairman Senate Committee

Nick Fontana
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Russell Helms
.....
Clerk of the Senate

Gregory A. Sawyer
.....
Clerk of the House of Delegates

Carl Ray Tomblin
.....
President of the Senate

John H. Kin
.....
Speaker House of Delegates

The within *approved* this the *1st*
day of *April*, 1998.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/30/98

Time

9:25 AM