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OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
SECOND REGULAR SESSION, 2012



**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR**

**House Bill No. 4338**

(By Delegates Butcher, Stowers, Barill, Barker, R. Phillips,  
Hunt, Varner, Perdue, Moore, D. Poling and Cann)



Passed March 7, 2012

To Take Effect Ninety Days From Passage

HB 4338

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**H. B. 4338**

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(BY DELEGATES BUTCHER, STOWERS, BARILL, BARKER,  
R. PHILLIPS, HUNT, VARNER, PERDUE, MOORE,  
D. POLING AND CANN)

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[Passed March 7, 2012; to take effect ninety days from passage.]

AN ACT to amend and reenact §17-24A-4 of the Code of West Virginia, 1931, as amended, relating to raising the maximum value amount of an abandoned motor vehicle \$2,500 to \$7,500 before someone may sell that vehicle; allowing towing companies to obtain title to abandoned vehicles acquired in a manner other than the request of law enforcement; and clarifying definitions.

*Be it enacted by the Legislature of West Virginia:*

That §17-24A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 24A. DISPOSAL OF ABANDONED MOTOR VEHICLES, JUNKED MOTOR VEHICLES, AND ABANDONED OR INOPERATIVE HOUSEHOLD APPLIANCES.**

**§17-24A-4. 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 and  
2 possession an abandoned motor vehicle or junked motor  
3 vehicle shall, within fifteen days after taking custody and  
4 possession thereof, notify the last-known registered owner of  
5 the motor vehicle and all lienholders of record that the motor  
6 vehicle has been taken into custody and possession, the  
7 notification to be by registered or certified mail, return receipt  
8 requested. The notice shall:

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

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

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

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

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

50 (c) An enforcement agency which hires any person or  
51 entity to take into custody and possession an abandoned  
52 motor vehicle or junked motor vehicle pursuant to this  
53 section shall notify the person or entity hired of the name and  
54 address of the registered owner of the motor vehicle, if  
55 known, and all lienholders of record, if any, within fifteen  
56 days after the vehicle is taken into custody and possession:

57 *Provided*, That the requirements of this subsection shall not  
58 apply to motor vehicles for which the registered owner  
59 cannot be ascertained by due diligence or investigation.

60 (d) The person or entity hired by an enforcement agency  
61 to take into custody or possession an abandoned motor  
62 vehicle or junked motor vehicle shall, within thirty days after  
63 the possession, notify the registered owner of the vehicle and  
64 all lienholders of record, if any, as identified by the  
65 enforcement agency pursuant to subsection (c) of this section,  
66 by registered mail, return receipt requested, that the motor  
67 vehicle has been taken into custody and possession. The  
68 notice shall have the same contents required for a notice  
69 pursuant to subsection (a) of this section, including the ten-  
70 day period the owner or lienholder has to reclaim the motor  
71 vehicle. Upon the issuance of the notice, the identified owner  
72 of the motor vehicle is liable and responsible for all costs for  
73 towing, preservation and storage of the motor vehicle:  
74 *Provided*, That failure to issue the notice required by this  
75 subsection within thirty days after possession of the motor  
76 vehicle relieves the identified owner of the motor vehicle of  
77 any liability for charges for towing, preservation and storage  
78 in excess of the sum of the first five days of the charges:  
79 *Provided, however*, That the requirements of this subsection  
80 do not apply to motor vehicles for which the registered owner  
81 thereof cannot be ascertained by due diligence or  
82 investigation.

83 (e) For an abandoned motor vehicle or junked vehicle  
84 having a loan value of \$7,500 or less, as ascertained by  
85 values placed upon motor vehicles using a standard industry  
86 reference book, a person or entity hired by an enforcement  
87 agency to tow the abandoned motor vehicle or junked motor  
88 vehicle may, if the motor vehicle is not claimed by the owner  
89 or a lienholder after notice within the time set forth in  
90 subsection (d) of this section or if the identity of the last

91 registered owner of the abandoned motor vehicle or junked  
92 motor vehicle cannot be determined or if the certificate of  
93 registration or certificate of title contains no address of the  
94 owner or if it is impossible to determine with reasonable  
95 certainty the identity and address of all lienholders after  
96 publication as set forth in subsection (b) of this section, file  
97 an application with the Division of Motor Vehicles for a  
98 certificate of title and registration which, upon payment of the  
99 appropriate fees, shall be issued. The person or entity may  
100 then sell the motor vehicle at private sale or public auction.

101 (f) For an abandoned motor or junked motor vehicle  
102 having a loan value of \$7,500 or less, as ascertained by  
103 values placed upon motor vehicles using a standard industry  
104 reference book, a licensed motor vehicle dealer, as defined in  
105 section one, article one, chapter seventeen-a of this code, a  
106 motor vehicle repair facility or a towing company registered  
107 with the Public Service Commission pursuant to section two-  
108 a, article two, chapter twenty-four-a of this code may, if a  
109 motor vehicle is abandoned on the property or place of  
110 business of the dealer or a motor vehicle repair facility or  
111 towing company and is not claimed by the owner or a  
112 lienholder after notice within the time set forth in subsection  
113 (d) of this section or if the identity of the last registered  
114 owner of the abandoned motor vehicle cannot be determined  
115 or if the certificate of registration or certificate of title  
116 contains no address of the owner or if it is impossible to  
117 determine with reasonable certainty the identity and address  
118 of all lienholders after publication as set forth in subsection  
119 (b) of this section, file an application with the Division of  
120 Motor Vehicles for a certificate of title and registration  
121 which, upon payment of the appropriate fees, shall be issued.  
122 The dealer or motor vehicle repair facility or towing company  
123 may then sell the motor vehicle at private sale or public  
124 auction.

**125 (g) For purposes of this section motor vehicle repair  
126 facilities and towing companies are not used motor vehicle  
127 dealers as that term is defined by subdivision (2), subsection  
128 (a), section one, article six, chapter seventeen-a of this code.**

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

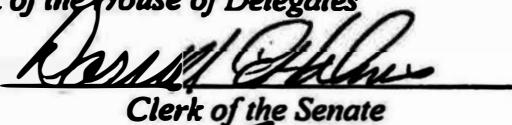
  
Chairman, House Committee

  
Chairman, Senate Committee

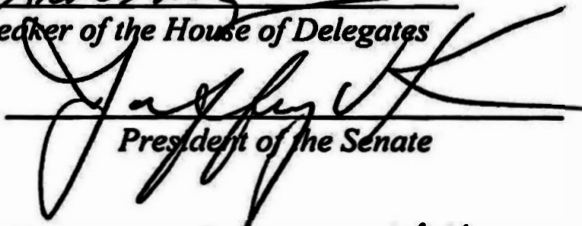
Originating in the House.

To take effect ninety days from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
President of the Senate

The within is approved this the 14th  
day of March, 2012.

  
Governor

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**PRESENTED TO THE GOVERNOR**

**MAR 10 2012**

**Time** 9:24 am