

CHAPTER 1073

DISPOSAL OF MOTOR VEHICLES

H. F. 671

AN ACT relating to the disposal or transfer of abandoned, repairable, or stolen motor vehicles, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Chapter three hundred twenty-one (321), Code 1971,
2 is amended by adding sections two (2) through ten (10) of this Act.

1 SEC. 2. **Definitions.** As used in sections three (3) through ten
2 (10) of this Act unless the context otherwise requires:

3 1. "Police authority" means the Iowa highway safety patrol or
4 any law enforcement agency of a county, city, or town.

5 2. "Abandoned vehicle" means any of the following:

6 a. A motor vehicle that has been left unattended on public property
7 for more than forty-eight hours and lacks current registration plates
8 or two or more wheels or other structural parts which renders the
9 vehicle totally inoperable, or

10 b. A motor vehicle that has remained illegally on public property
11 for more than fifteen days, or

12 c. A motor vehicle that has been unlawfully parked on private
13 property or has been placed on private property without the consent
14 of the owner or person in control of the property for more than
15 twenty-four hours, or

16 d. A motor vehicle that has been legally impounded by order of a
17 police authority and has not been reclaimed for a period of thirty
18 days.

19 3. "Demolisher" means any city or public agency organized for the
20 disposal of solid waste, or any person whose business it is to convert
21 a motor vehicle to junk, processed scrap or scrap metal, or otherwise
22 to wreck, or dismantle vehicles.

1 SEC. 3. **Authority to take possession of abandoned motor vehicles.**
2 A police authority may, and on the request of any other authority hav-
3 ing the duties of control of highways or traffic, shall take into custody
4 any abandoned motor vehicle on public property and may take into
5 custody any abandoned motor vehicle on private property. The police
6 authority may employ its own personnel, equipment and facilities or
7 hire other personnel, equipment and facilities for the purpose of
8 removing, preserving, storing, or disposing abandoned motor vehicles.

1 SEC. 4. **Notification of owner and lienholders.**

2 1. A police authority which takes into custody an abandoned motor
3 vehicle shall notify, within ten days, by certified mail, the last known
4 registered owner of the motor vehicle and all lienholders of record,
5 addressed to their last known address of record, that the abandoned
6 motor vehicle has been taken into custody. Notice shall be deemed
7 given when mailed. The notice shall describe the year, make, model,
8 and serial number of the motor vehicle, set forth the location of the
9 facility where it is being held, inform the owner and any lienholders
10 of their right to reclaim the motor vehicle within fourteen days after
11 the effective date of the notice upon payment of all towing, preserva-

12 tion, and storage charges resulting from placing the motor vehicle
13 in custody. The notice shall also state that the failure of the owner
14 or lienholders to exercise their right to reclaim the motor vehicle
15 within the time provided shall be deemed a waiver by the owner and
16 all lienholders of all right, title, claim and interest in the motor vehicle
17 and that such failure to reclaim the motor vehicle is deemed consent
18 to the sale of the motor vehicle at a public auction or disposal of
19 the motor vehicle to a demolisher. If the owner and lienholders do
20 not exercise their right to reclaim such motor vehicle within the four-
21 teen-day reclaiming period, such owner and lienholders shall no
22 longer have any right, title, claim, or interest in or to such motor
23 vehicle. No court in any case in law or equity shall recognize any
24 right, title, claim, or interest of any such owner and lienholders after
25 the expiration of the fourteen-day reclaiming period.

26 2. If the identity of the last registered owner cannot be deter-
27 mined, or if the registration contains no address for the owner, or
28 if it is impossible to determine with reasonable certainty the identity
29 and addresses of all lienholders, notice by one publication in one
30 newspaper of general circulation in the area where the motor vehicle
31 was abandoned shall be sufficient to meet all requirements of notice
32 under this Act. The published notice may contain multiple listings of
33 abandoned motor vehicles but shall be published within the same time
34 requirements and contain the same information as prescribed for
35 mailed notice in subsection one (1) of this section.

36 3. The owner or any lienholders may, by written request delivered
37 to the police authority prior to the expiration of the fourteen-day
38 reclaiming period, obtain an additional fourteen days within which
39 the motor vehicle may be reclaimed.

1 SEC. 5. Auction of abandoned motor vehicles. If an abandoned
2 motor vehicle has not been reclaimed as provided for in section four
3 (4) of this Act, the police authority shall make a determination as
4 to whether or not the motor vehicle shall be sold for use upon the
5 highways. If it is to be sold as a motor vehicle for use upon the
6 highways, it shall first be inspected as required by chapter one hun-
7 dred eighty-three (183), Acts of the Sixty-fourth General Assembly,
8 First Session, and have a valid certificate of inspection affixed. If
9 the motor vehicle is not sold for use upon the highways, it shall only
10 be sold to a dealer licensed under chapter three hundred twenty-two
11 (322) of the Code or to a demolisher for junk, or demolished and
12 sold as scrap or sold as provided in section thirteen (13) of this Act
13 with a restricted certificate of title and not for use upon the highways.
14 The police authority shall sell the motor vehicle at public auction.
15 Notwithstanding any other provision of this Act, any police authority,
16 which has taken into possession any abandoned motor vehicle which
17 lacks an engine or two or more wheels or other structural part which
18 renders the vehicle totally inoperable may dispose of such motor
19 vehicle to a demolisher for junk without the notification procedures
20 enumerated in section four (4) of this Act and without public auc-
21 tion. The purchaser of the motor vehicle shall take title free and
22 clear of all liens and claims of ownership, shall receive a sales receipt
23 from the police authority, and shall be entitled to register the motor
24 vehicle and receive a certificate of title if sold for use upon the high-

25 ways or a restricted certificate of title as the case may be; however,
26 if the motor vehicle is sold or disposed of to a demolisher for junk,
27 the sales receipt by itself shall be sufficient title only for purposes of
28 transferring the motor vehicle to such demolisher for demolition,
29 wrecking, or dismantling and, when so transferred, no further titling
30 of the motor vehicle shall be permitted. From the proceeds of the
31 sale of an abandoned motor vehicle the police authority shall reim-
32 burse itself for the expenses of the auction, the costs of towing,
33 preserving, and storing which resulted from placing the abandoned
34 motor vehicle in custody, all notice and publication costs incurred
35 pursuant to section four (4) of this Act, the cost of inspection, and
36 any other costs incurred except costs of bookkeeping and other admin-
37 istrative costs. Any remainder from the proceeds of a sale shall be
38 held for the owner of the motor vehicle or entitled lienholder for
39 ninety days, and shall then be deposited in the reimbursement fund
40 received by the department of public safety pursuant to section three
41 hundred twenty-one point one hundred forty-five (321.145), subsec-
42 tion two (2), of the Code. The costs to police authorities of auction,
43 towing, preserving, storage, and all notice and publication costs,
44 inspection costs and all other costs which result from placing other
45 abandoned vehicles in custody, whenever the proceeds from a sale of
46 such other abandoned motor vehicles are insufficient to meet these
47 expenses and costs, shall be paid from the reimbursement fund of the
48 department of public safety under section three hundred twenty-
49 one point one hundred forty-five (321.145), subsection two (2), of
50 the Code. In the event the reimbursement fund is temporarily
51 exhausted, payment shall be deferred until the reimbursement fund
52 contains sufficient funds to meet the claims.

53 The state comptroller shall establish by rule a claims procedure
54 to be followed by police authorities in obtaining expenses and costs
55 from the fund.

1 **SEC. 6. Garagekeepers and abandoned motor vehicles.** Any motor
2 vehicle left in a garage operated for commercial purposes after the
3 period for which the vehicle was to remain on the premises shall,
4 after notice by certified mail to the last known registered owner of
5 the vehicle addressed to his last known address of record to reclaim
6 the vehicle within ten days of the date of the notice, be deemed an
7 abandoned motor vehicle unless reclaimed by the owner within such
8 ten-day period or the owner notifies the garagekeeper in writing
9 within such period of time that such vehicle is not an abandoned
10 motor vehicle and shall be reported by the garagekeeper to the police
11 authority. If the identity or address of the last registered owner of
12 the motor vehicle cannot be determined, the vehicle shall be deemed
13 an abandoned motor vehicle on the eleventh day after the period for
14 which the vehicle was to remain on the premises unless reclaimed
15 by the owner within the ten-day period or the owner notifies the
16 garagekeeper in writing within such period of time that such vehicle
17 is not an abandoned motor vehicle and shall be reported by the garage-
18 keeper to the police authority. All abandoned motor vehicles left in
19 garages may be taken into custody by a police authority upon the
20 request of the garagekeeper and sold in accordance with the pro-
21 cedures set forth in this Act unless the motor vehicle is reclaimed.

22 The proceeds of the sale shall be first applied to the garagekeeper's
23 charges for towing and storage, and any surplus proceeds shall be
24 distributed in accordance with section five (5) of this Act. Nothing
25 in this section shall be construed to impair any lien of a garage-
26 keeper under the laws of this state, or the right of a garagekeeper
27 to foreclose his lien, provided that a garagekeeper shall be deemed
28 to have abandoned his artisan lien when such vehicle is taken into
29 custody by the police authority. For the purposes of this section
30 "garagekeeper" means any operator of a parking place or establish-
31 ment, motor vehicle storage facility, or establishment for the servic-
32 ing, repair, or maintenance of motor vehicles.

1 **SEC. 7. Disposal to demolisher.**

2 1. Any person, firm, corporation, or unit of government upon whose
3 property or in whose possession is found any abandoned motor vehicle,
4 or any person being the owner of a motor vehicle whose title certifi-
5 cate is faulty, lost, or destroyed and is thereby unable to transfer title
6 to the motor vehicle, may apply to the police authority of the juris-
7 diction in which the motor vehicle is situated for authority to sell,
8 give away, or otherwise dispose of the motor vehicle to a demolisher.

9 2. The application shall set out the name and address of the appli-
10 cant, the year, make, model, and serial number of the motor vehicle,
11 if ascertainable, together with any other identifying features, and
12 shall contain a concise statement of the facts surrounding the aban-
13 donment, or a statement that the title of the motor vehicle is lost
14 or destroyed, or the reasons for the defect of title in the owner. The
15 applicant shall execute an affidavit stating that the facts alleged are
16 true and that no material fact has been withheld.

17 3. If the police authority finds that the application is executed
18 in proper form, and shows that the motor vehicle has been abandoned
19 upon the property of the applicant, or if it shows that the motor
20 vehicle is not abandoned but that the applicant appears to be the
21 rightful owner, the police authority shall follow appropriate notifica-
22 tion procedures as set forth in section four (4) of this Act.

23 4. If the abandoned motor vehicle is not reclaimed in accordance
24 with section four (4) of this Act, or no lienholder objects to the dis-
25 posal in the case of an owner-applicant, the police authority shall
26 give the applicant a certificate of authority to dispose of the motor
27 vehicle to any demolisher for demolition, wrecking, or dismantling.
28 The demolisher shall accept such certificate in lieu of the certificate of
29 title to the motor vehicle.

30 5. Notwithstanding any other provisions of this Act, any person,
31 firm, corporation, or unit of government upon whose property or in
32 whose possession is found any abandoned motor vehicle, or any person
33 being the owner of a motor vehicle whose title certificate is faulty,
34 lost, or destroyed, may dispose of such motor vehicle to a demolisher
35 for junk without his title and without the notification procedures of
36 section four (4) of this Act if the motor vehicle lacks an engine or
37 two or more wheels or other structural part which renders the vehicle
38 totally inoperable.

39 6. The owner of an abandoned motor vehicle and all lienholders
40 shall no longer have any right, title, claim, or interest in or to such
41 motor vehicle; and no court in any case in law or equity shall recog-

42 nize any right, title, claim, or interest of any such owner and lien-
43 holders after the disposal of such motor vehicle to a demolisher.

44 7. Any proceeds from the sale of an abandoned motor vehicle to
45 a demolisher under this section, by one other than the owner of the
46 vehicle, shall first be applied to that person's expenses in effecting
47 the sale, including storage, towing, and disposal charges, and any
48 surplus shall be distributed in accordance with section five (5) of
49 this Act.

1 **SEC. 8. Duties of demolishers.**

2 1. Any demolisher who purchases or otherwise acquires an aban-
3 doned motor vehicle for junk under the provisions of this Act shall
4 junk, scrap, wreck, dismantle, or demolish such motor vehicle. How-
5 ever, if the vehicle is acquired under the provisions of subsection
6 five (5), section seven (7), of this Act, the demolisher shall apply
7 to the police authority of the jurisdiction from which the vehicle was
8 acquired for a certificate of authority to demolish the vehicle. In
9 making the application the demolisher shall describe the motor vehicle
10 as required by subsection two (2), section seven (7), of this Act.
11 The police authority shall issue the certificate of authority upon
12 complying with subsection three (3), section seven (7), of this Act,
13 but shall be excused from following the notification procedures as
14 required therein. No further titling of the motor vehicle shall be
15 permitted. After the motor vehicle has been demolished, processed,
16 or changed so that it physically is no longer a motor vehicle, the
17 demolisher shall surrender the auction sales receipt or certificate of
18 authority to dispose of or demolish a motor vehicle to the department
19 of public safety for cancellation. The department of public safety
20 shall issue such forms, rules, and regulations governing the surrender
21 of auction sales receipts, certificates of title, and certificates of author-
22 ity to dispose of or demolish motor vehicles, and the cancellation and
23 surrender of the registrations and certificates of title for such motor
24 vehicles as are appropriate.

25 2. A demolisher shall keep an accurate and complete record of all
26 motor vehicles purchased or received by him in the course of his
27 business. These records shall contain the name and address of the
28 person from whom each such motor vehicle was purchased or received
29 and the date when such purchases or receipts occurred. Such records
30 shall be open for inspection by any police authority at any time during
31 normal business hours. Any record required by this section shall be
32 kept by the demolisher for at least one year after the transaction to
33 which it applies.

1 **SEC. 9.** No person, firm, corporation, unit of government, garage-
2 keeper or police authority upon whose property an abandoned motor
3 vehicle is found or who disposes of such abandoned vehicle in accord-
4 ance with this Act shall be liable for damages by reason of the
5 removal, sale, or disposal of such motor vehicle.

1 **SEC. 10.** Any person who abandons a motor vehicle shall be
2 guilty of a misdemeanor.

1 **SEC. 11.** Chapter three hundred twenty-one (321), Code 1971,
2 is amended by adding the following new section:

3 "Notwithstanding the provisions of chapter three hundred twenty-
4 two (322) of the Code, and any other statute to the contrary, the
5 title to a motor vehicle may be transferred without a certificate of
6 inspection as prescribed by chapter one hundred eighty-three (183),
7 Acts of the Sixty-fourth General Assembly, First Session, where such
8 motor vehicle is materially damaged, inoperable, or unsafe for use
9 upon the highway upon compliance with the following conditions:

10 1. That the registration fee of the vehicle is not delinquent.

11 2. That the vehicle was obtained for the purpose of restoring,
12 rebuilding or repairing and not for use upon the highway and such
13 facts are evidenced by an affidavit signed by both the transferor and
14 the transferee on a form provided by the department.

15 3. The transferor shall surrender the registration plates, registra-
16 tion card and the certificate of title, or if a foreign vehicle from a
17 nontitle state, such evidence of foreign registration and ownership
18 as may be prescribed by the department, unless the vehicle is sold
19 or transferred pursuant to the provisions of sections two (2) through
20 ten (10) of this Act, for the vehicle together with the application of
21 the transferee for a restricted certificate of title, the affidavit as
22 provided in subsection two (2) of this section and the fee for transfer
23 to the county treasurer of the residence of the transferor who shall
24 transmit the application of the transferee for a restricted certificate
25 of title, the affidavit as provided in subsection two (2) of this section,
26 and the fee for transfer to the county treasurer of the county of resi-
27 dence of the transferee. No refund of fees previously paid for the
28 registration of such motor vehicle shall be allowed.

29 4. The county treasurer of the county of residence of the trans-
30 feree upon receipt of the application for a new certificate of title, fee
31 therefor, and the affidavit as provided in subsection two (2) of this
32 section, and when satisfied as to the genuineness and regularity
33 thereof, shall issue a restricted certificate of title to the applicant but
34 shall not issue registration plates or a registration card. A restricted
35 certificate of title shall be red in color and shall have conspicuously
36 imprinted thereon in bold print, in a manner prescribed by the
37 department, the words 'RESTRICTED CERTIFICATE OF TITLE—CANNOT
38 BE REGISTERED AND OPERATED ON THE HIGHWAYS WITHOUT A VALID
39 APPROVED CERTIFICATE OF INSPECTION.' At such time as the trans-
40 feree surrenders a valid approved certificate of inspection and the
41 restricted certificate of title to the county treasurer of the county
42 of his residence, the county treasurer, upon payment of the appro-
43 priate fees, shall issue a certificate of title that is not restricted for
44 the vehicle and shall also issue a registration card and registration
45 plates for the vehicle to the applicant, however if the registration
46 fee for the vehicle has been paid for the current year, the county
47 treasurer shall issue a registration card and registration plates for
48 the vehicle to the applicant upon payment of an additional registra-
49 tion fee of five dollars.

50 5. A motor vehicle which has a restricted certificate of title may
51 be sold or otherwise transferred as provided in this section, except
52 provisions pertaining to the surrender of current registration plates
53 and registration card shall not apply; however, such motor vehicle
54 may be sold or otherwise transferred pursuant to section three hun-
55 dred twenty-one point forty-eight (321.48) of the Code to a dealer

56 licensed under chapter three hundred twenty-two (322) of the Code
57 without compliance with the provisions of this section.

58 6. No vehicle sold or otherwise transferred pursuant to the pro-
59 visions of this section shall be driven upon the highway until a valid
60 official certificate of inspection has been affixed thereto and an unre-
61 stricted certificate of title, a registration card, and registration plates
62 for the vehicle have been issued to the purchaser or transferee.

63 7. The provisions of this section, except provisions pertaining to
64 the surrender of current registration plates and registration card,
65 shall also be applicable to the insurer of any vehicle who obtains
66 ownership of the vehicle as a result of settlement resulting from the
67 theft of a motor vehicle which has not been recovered, provided the
68 vehicle has been reported stolen as provided in section three hundred
69 twenty-one point eighty-five (321.85) of the Code and written proof
70 of payment to the insured, resulting from such theft, is submitted
71 by the applicant. Proof of payment for loss due to theft shall
72 be submitted on forms prescribed or provided by the department."

1 SEC. 12. Section three hundred twenty-one point eighty-five
2 (321.85), Code 1971, is amended to read as follows:

3 321.85 ~~Stolen or abandoned vehicles.~~ Whenever any motor vehicle
4 is seized under section 321.84 or whenever any motor vehicle is
5 stolen or embezzled, and is not claimed by the owner before the date
6 on which the person charged with the stealing or embezzling of same
7 is convicted, ~~or if the motor vehicle be abandoned and is not claimed~~
8 ~~by the owner within three days,~~ then the officer having ~~same the~~
9 *motor vehicle* in his custody must, on such date by certified mail,
10 notify the department that he has such a motor vehicle in his pos-
11 session, giving a full and complete description of same, including all
12 marks of identification, factory and serial numbers.

1 SEC. 13. Section three hundred twenty-one point eighty-eight
2 (321.88), Code 1971, as amended by chapter one hundred eighty-
3 three (183), section five (5), Acts of the Sixty-fourth General
4 Assembly, First Session, is amended by striking the section and
5 inserting in lieu thereof the following:

6 321.88 ~~Failure of owner to claim.~~ If the owner does not appear
7 within forty days, the motor vehicle shall be deemed abandoned and
8 the officer having possession of the motor vehicle shall proceed as
9 provided in sections four (4) and five (5) of this Act.

1 SEC. 14. Sections three hundred twenty-one point eighty-nine
2 (321.89), three hundred twenty-one point ninety (321.90), and three
3 hundred twenty-one point ninety-one (321.91), Code 1971, are
4 repealed.

Approved April 21, 1972.