

FEB 26 1975

Place On Calendar

HOUSE FILE 324

*Sen. Transportation 3/26, Pass per 3826 5/5
Retail Transp. 1/12/76 Pass per 3826 3/7*

BY COMMITTEE ON TRANSPORTATION

House File 324
Transportation
Orr, Chairman
Gallagher
Murray

Passed House, Date 3-4-75 (498)

Passed Senate, Date 3-24-76 (1035)

Vote: Ayes 98 Nays 0

Vote: Ayes 44 Nays 0

Approved 6-23-76

Motion to reconsider filed 2-5-75 (532) w d. 3-13 (670)

Re-passed House for Senate amendment

4-12-76 (1866)

81-0

A BILL FOR

- 1 An Act relating to abandoned vehicles.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 *Motion to reconsider filed 9/13 (1926) w.d.*

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1 Section 1. Section three hundred twenty-one point eighty-
2 nine (321.89), Code 1975, is amended to read as follows:

3 321.89 ABANDONED ~~MOTOR~~ VEHICLES.

4 1. DEFINITIONS. As used in this section and sections
5 321.90 and 321.91 unless the context otherwise requires:

6 a. "Police authority" means the Iowa highway safety patrol
7 or any law enforcement agency of a county or city.

8 b. "Abandoned vehicle" means any of the following:

9 (1) A ~~motor~~ vehicle that has been left unattended on public
10 property for more than ~~forty-eight~~ twenty-four hours and
11 lacks current registration plates or ~~two~~ one or more wheels
12 or other ~~structural~~ parts which renders the vehicle totally
13 inoperable, or

14 (2) A ~~motor~~ vehicle that has remained illegally on public
15 property for more than ~~fifteen-days~~ seventy-two hours, or

16 (3) A ~~motor~~ vehicle that has been unlawfully parked on
17 private property or has been placed on private property without
18 the consent of the owner or person in control of the property
19 for more than twenty-four hours, or

20 (4) A ~~motor~~ vehicle that has been legally impounded by
21 order of a police authority and has not be reclaimed for a
22 period of ~~thirty~~ ten days.

23 c. "Demolisher" means any city or public agency organized
24 for the disposal of solid waste, or any person whose business
25 it is to convert a ~~motor~~ vehicle to junk, processed scrap
26 or scrap metal, or otherwise to wreck, or dismantle vehicles.

27 2. AUTHORITY TO TAKE POSSESSION OF ABANDONED ~~MOTOR~~
28 VEHICLES. A police authority may, and on the request of any
29 other authority having the duties of control of highways or
30 traffic, shall take into custody any abandoned ~~motor~~ vehicle
31 on public property and may take into custody any abandoned
32 ~~motor~~ vehicle on private property. The police authority may
33 employ its own personnel, equipment and facilities or hire
34 other personnel, equipment and facilities for the purpose
35 of removing, preserving, storing, or disposing abandoned ~~motor~~

1 vehicles.

2 3. NOTIFICATION OF OWNER AND LIENHOLDERS.

3 a. A police authority which takes into custody an abandoned
4 ~~motor~~ vehicle shall notify, within ten days, by certified
5 mail, the last known registered owner of the ~~motor~~ vehicle
6 and all lienholders of record, addressed to their last known
7 address of record, that the abandoned ~~motor~~ vehicle has been
8 taken into custody. Notice shall be deemed given when mailed.
9 The notice shall describe the year, make, model, and serial
10 number of the ~~motor~~ vehicle, set forth the location of the
11 facility where it is being held, inform the owner and any
12 lienholders of their right to reclaim the ~~motor~~ vehicle within
13 ~~fourteen~~ twenty-one days after the effective date of the
14 notice upon payment of all towing, preservation, and storage
15 charges resulting from placing the ~~motor~~ vehicle in custody.
16 The notice shall also state that the failure of the owner
17 or lienholders to exercise their right to reclaim the ~~motor~~
18 vehicle within the time provided shall be deemed a waiver
19 by the owner and all lienholders of all right, title, claim
20 and interest in the ~~motor~~ vehicle and that such failure to
21 reclaim the ~~motor~~ vehicle is deemed consent to the sale of
22 the ~~motor~~ vehicle at a public auction or disposal of the ~~motor~~
23 vehicle to a demolisher. If the owner and lienholders do
24 not exercise their right to reclaim such ~~motor~~ vehicle within
25 the ~~fourteen-day~~ twenty-one day reclaiming period, such owner
26 and lienholders shall no longer have any right, title, claim,
27 or interest in or to such ~~motor~~ vehicle. No court in any
28 case in law or equity shall recognize any right, title, claim,
29 or interest of any such owner and lienholders after the
30 expiration of the ~~fourteen-day~~ twenty-one day reclaiming
31 period.

32 b. If the identity of the last registered owner cannot
33 be determined, or if the registration contains no address
34 for the owner, or if it is impossible to determine with
35 reasonable certainty the identity and addresses of all

1 lienholders, notice by one publication in one newspaper of
2 general circulation in the area where the ~~motor~~ vehicles was
3 abandoned shall be sufficient to meet all requirements of
4 notice under this section. The published notice may contain
5 multiple listings of abandoned ~~motor~~ vehicles but shall be
6 published within the same time requirements and contain the
7 the same information as prescribed for mailed notice in
8 subsection 3, paragraph "a" of this section.

9 c. The owner or any lienholders may, by written request
10 delivered to the police authority prior to the expiration
11 of the ~~fourteen-day~~ twenty-one day reclaiming period, obtain
12 an additional fourteen days within which the ~~motor~~ vehicle
13 may be reclaimed.

14 4. AUCTION OF ABANDONED ~~MOTOR~~ VEHICLES. If an abandoned
15 ~~motor~~ vehicle has not been reclaimed as provided for in
16 subsection 3, the police authority shall make a determination
17 as to whether or not the ~~motor~~ vehicle shall be sold for use
18 upon the highways. If it is to be sold as a motor vehicle
19 for use upon the highways, it shall first be inspected as
20 required by section 321.238 and have a valid certificate of
21 inspection affixed. If the ~~motor~~ vehicle is not sold for
22 use upon the highways, it shall ~~only~~ be sold ~~to-a-dealer~~
23 ~~licensed-under-chapter-322-or-to-a-demolisher~~ for junk, or
24 demolished and sold as a scrap or sold as provided in section
25 321.88 with a restricted certificate of title and not for
26 use upon the highways. The police authority shall sell the
27 ~~motor~~ vehicle at public auction. Notwithstanding any other
28 provision of this section, any police authority, which has
29 taken into possession any abandoned ~~motor~~ vehicle ten model
30 years or older which lacks an engine or ~~two~~ one or more wheels
31 or other ~~structural~~ part which renders the vehicle totally
32 inoperable may dispose of such ~~motor~~ vehicle to a demolisher
33 for junk without the notification procedures enumerated in
34 subsection 3 and without public auction. The purchaser of
35 the ~~motor~~ vehicle shall take title free and clear of all liens

1 and claims of ownership, shall receive a sales receipt from
2 the police authority, and shall be entitled to register the
3 ~~motor~~ vehicle and receive a certificate of title if sold for
4 use upon the highways or a restricted certificate of title
5 as the case may be; however, if the ~~motor~~ vehicle is sold
6 or disposed of to a demolisher for junk, the sales receipt
7 by itself shall be sufficient title only for purposes of
8 transferring the ~~motor~~ vehicle to such demolisher for
9 demolition, wrecking, or dismantling and, when so transferred,
10 no further titling of the ~~motor~~ vehicle shall be permitted.
11 From the proceeds of the sale of an abandoned ~~motor~~ vehicle
12 the police authority shall reimburse itself for the expenses
13 of the auction, the costs of towing, preserving, and storing
14 which resulted from placing the abandoned ~~motor~~ vehicle in
15 custody, all notice and publication costs incurred pursuant
16 to subsection 3, the cost of inspection, and any other costs
17 incurred except costs of bookkeeping and other administrative
18 costs. Any remainder from the proceeds of a sale shall be
19 held for the owner of the ~~motor~~ vehicle or entitled lienholder
20 for ninety days, and shall then be deposited in the
21 reimbursement fund received by the department pursuant to
22 section 321.145, subsection 2. The costs to police authorities
23 of auction, towing, preserving, storage, and all notice and
24 publication costs, inspection costs and all other costs which
25 result from placing ~~other~~ abandoned vehicles in custody,
26 whenever the proceeds from a sale of such ~~other~~ abandoned
27 ~~motor~~ vehicles are insufficient to meet these expenses and
28 costs, shall be paid from the reimbursement fund of the
29 department under section 321.145, subsection 2. In the event
30 the reimbursement fund is temporarily exhausted, payment shall
31 be deferred until the reimbursement fund contains sufficient
32 funds to meet the claims.

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

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EXPLANATION

This bill changes the definition of abandoned vehicles to include all vehicles rather than only motor vehicles and reduces the period of time a vehicle may be left unattended before being impounded and extends the period during which an impounded vehicle may be reclaimed by the owner or lienholder.

H-3174

1 Amend House File 324, page 1, line 21, by
2 striking the word "be" and inserting in lieu thereof
3 the word "been".

H-3174 FILED, ADOPTED BY UNANIMOUS CONSENT (468)
FEBRUARY 28, 1975 BY KOOGLER of Mahaska

HOUSE FILE 324

H-3188

1 Amend House File 324 as follows:
2 1. Page 1, line 11, by striking the words "~~two~~
3 one" and inserting in lieu thereof the word "two".
4 2. Page 3, line 29 and 30, by striking the
5 words "ten model years or older".
6 3. Page 3, line 30, by striking the words "~~two~~
7 one" and inserting in lieu thereof the word "two".
8 4. Page 3, line 33, by striking the word
9 "without" and inserting in lieu thereof the words "~~without~~
10 after complying with".

H-3188 FILED, ADOPTED (498)
MARCH 4, 1975

BY KOOGLER of Mahaska
KRAUSE of Palo Alto
TAUKE of Dubuque
PAVICH of Pottawattamie
SCHROEDER of Pottawattamie

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H-3189

1 Amend House File 324 as follows:

2 1. Page 1, line 10, by striking the words "forty-
3 eight twenty-four" and inserting in lieu thereof the
4 word "forty-eight".

H-3189A
Adopted (497)

5 2. Page 1, by inserting after line 22 the words:
6 "(5) Any vehicle parked on the highway determined
7 by a police authority to create a hazard to other
8 vehicle traffic."

H-3189B
ADOPTED (498)

9 3. Page 1, line 32, by inserting after the period
10 the words "A police authority taking into custody
11 an abandoned vehicle determined to create a traffic
12 hazard shall report the reasons constituting the
13 hazard in writing to the appropriate authority having
14 duties of control of the highway."

15 4. Page 3, line 27, by striking the words
16 "Notwithstanding any other" and inserting in lieu
17 thereof the words "Notwithstanding-any-other".

H-3189C

18 5. Page 3, by striking lines 28 through 35 and
19 inserting in lieu thereof the words "~~provision of~~
20 ~~this section, any police authority, which has taken~~
21 ~~into possession any abandoned motor vehicle which~~
22 ~~lacks an engine or two or more wheels or other~~
23 ~~structural part which renders the vehicle totally~~
24 ~~inoperable may dispose of such motor vehicle to a~~
25 ~~demolisher for junk without the notification procedures~~
26 ~~enumerated in subsection 3 and without public auction.~~
27 ~~The purchaser of the motor vehicle shall take title~~
28 ~~free and clear of all liens."~~

WITHDRAWN (498)

29 6. Page 4, by striking lines 1 through 10 and
30 inserting in lieu thereof the words "~~and claims of~~
31 ~~ownership, shall receive a sales receipt from the~~
32 ~~police authority, and shall be entitled to register~~
33 ~~the motor vehicle and receive a certificate of title~~
34 ~~if sold for use upon the highways or a restricted~~
35 ~~certificate of title as the case may be, however,~~
36 ~~if the motor vehicle is sold or disposed of to a~~
37 ~~demolisher for junk, the sales receipt by itself shall~~
38 ~~be sufficient title only for purposes of transferring~~
39 ~~the motor vehicle to such demolisher for demolition,~~
40 ~~wrecking, or dismantling and, when so transferred,~~
41 ~~no further titling of the motor vehicle shall be~~
42 ~~permitted."~~

H-3189 FILED
MARCH 4, 1975

BY MONROE of Des Moines

SENATE AMENDMENT TO HOUSE FILE 324

H-6034

- 1 Amend House File 324 as amended and passed by the
2 House, as follows:
3 1. Page 1, by inserting before line 23 the
4 following:
5 "() However a vehicle shall not be considered
6 abandoned for a period of fifteen days if its owner
7 or operator is unable to move the vehicle and notifies
8 the police authority responsible for the geographical
9 location of the vehicle and requests assistance in
10 the removal of the vehicle."
11 2. Page 3, line 2, by striking the word "vehicles"
12 and inserting in lieu thereof the word "vehicle".

H-6034 FILED

RECEIVED FROM SENATE, MARCH 30, 1976

House concurred 4/12 (1865)

S-3653

- 1 Amend House File 324 as amended and passed
2 by the House, page 1, by inserting after line 226
3 the following new paragraph:
4 "(6) A vehicle shall not be considered abandoned
5 if its owner or operator is unable to move it from
6 the place where it is located and so notifies the
7 proper local police authority and requests
8 assistance in removal thereof."

S-3653 FILED - *Withdrawn 3/24* BY C. JOSEPH COLEMAN
APRIL 30, 1975 *(1035)*

S-3826

- 1 Amend House File 324 as amended and passed by the
2 House, as follows:
3 1. Page 1, by inserting before line 23 the
4 following:
5 "() However a vehicle shall not be considered
6 abandoned for a period of fifteen days if its owner
7 or operator is unable to move the vehicle and notifies
8 the police authority responsible for the geographical
9 location of the vehicle and requests assistance in
10 the removal of the vehicle."
11 2. Page 3, line 2, by striking the word "vehicles"
12 and inserting in lieu thereof the word "vehicle".

S-3826 FILED - *Adopted 3/24* BY COMMITTEE ON TRANSPORTATION
MAY 15, 1975 *(1035)* C. JOSEPH COLEMAN, CHAIRMAN

AN ACT

RELATING TO ABANDONED VEHICLES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section three hundred twenty-one point eighty-nine (321.89), Code 1975, is amended to read as follows:

321.89 ABANDONED MOTOR VEHICLES.

1. DEFINITIONS. As used in this section and sections 321.90 and 321.91 unless the context otherwise requires:

a. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or city.

b. "Abandoned vehicle" means any of the following:

(1) A motor vehicle that has been left unattended on public property for more than forty-eight hours and lacks current registration plates or two or more wheels or other structural parts which renders the vehicle totally inoperable, or

(2) A motor vehicle that has remained illegally on public property for more than ~~fifteen-days~~ seventy-two hours, or

(3) A motor vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours, or

(4) A motor vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ~~thirty~~ ten days.

(5) Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

(6) However a vehicle shall not be considered abandoned for a period of fifteen days if its owner or operator is

unable to move the vehicle and notifies the police authority responsible for the geographical location of the vehicle and requests assistance in the removal of the vehicle.

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

2. AUTHORITY TO TAKE POSSESSION OF ABANDONED MOTOR VEHICLES. A police authority may, and on the request of any other authority having the duties of control of highways or traffic, shall take into custody any abandoned motor vehicle on public property and may take into custody any abandoned motor vehicle on private property. A police authority taking into custody an abandoned vehicle determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. The police authority may employ its own personnel, equipment and facilities or hire other personnel, equipment and facilities for the purpose of removing, preserving, storing, or disposing abandoned motor vehicles.

3. NOTIFICATION OF OWNER AND LIENHOLDERS.

a. A police authority which takes into custody an abandoned motor vehicle shall notify, within ten days, by certified mail, the last known registered owner of the motor vehicle and all lienholders of record, addressed to their last known address of record, that the abandoned motor vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and serial number of the motor vehicle, set forth the location of the facility where it is being held, inform the owner and any

lienholders of their right to reclaim the ~~motor~~ vehicle within ~~fourteen~~ twenty-one days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the ~~motor~~ vehicle in custody. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the ~~motor~~ vehicle within the time provided shall be deemed a waiver by the owner and all lienholders of all right, title, claim and interest in the ~~motor~~ vehicle and that such failure to reclaim the ~~motor~~ vehicle is deemed consent to the sale of the ~~motor~~ vehicle at a public auction or disposal of the ~~motor~~ vehicle to a demolisher. If the owner and lienholders do not exercise their right to reclaim such ~~motor~~ vehicle within the ~~fourteen-day~~ twenty-one day reclaiming period, such owner and lienholders shall no longer have any right, title, claim, or interest in or to such ~~motor~~ vehicle. No court in any case in law or equity shall recognize any right, title, claim, or interest of any such owner and lienholders after the expiration of the ~~fourteen-day~~ twenty-one day reclaiming period.

b. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the ~~motor~~ vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned ~~motor~~ vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in

subsection 3, paragraph "a" of this section.

c. The owner or any lienholders may, by written request delivered to the police authority prior to the expiration of the ~~fourteen-day~~ twenty-one day reclaiming period, obtain an additional fourteen days within which the ~~motor~~ vehicle may be reclaimed.

4. AUCTION OF ABANDONED ~~MOTOR~~ VEHICLES. If an abandoned ~~motor~~ vehicle has not been reclaimed as provided for in subsection 3, the police authority shall make a determination as to whether or not the ~~motor~~ vehicle shall be sold for use upon the highways. If it is to be sold as a motor vehicle for use upon the highways, it shall first be inspected as required by section 321.238 and have a valid certificate of inspection affixed. If the ~~motor~~ vehicle is not sold for use upon the highways, it shall ~~only~~ be sold ~~to-a-dealer licensed-under-chapter-322-or-to-a-demolisher~~ for junk, or demolished and sold as a scrap or sold as provided in section 321.88 with a restricted certificate of title and not for use upon the highways. The police authority shall sell the ~~motor~~ vehicle at public auction. Notwithstanding any other provision of this section, any police authority, which has taken into possession any abandoned ~~motor~~ vehicle which lacks an engine or two or more wheels or other ~~structural~~ part which renders the vehicle totally inoperable may dispose of such ~~motor~~ vehicle to a demolisher for junk ~~without~~ after complying with the notification procedures enumerated in subsection 3 and without public auction. The purchaser of the ~~motor~~ vehicle shall take title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority, and shall be entitled to register the ~~motor~~ vehicle and receive a certificate of title if sold for use

upon the highways or a restricted certificate of title as the case may be; however, if the ~~motor~~ vehicle is sold or disposed of to a demolisher for junk, the sales receipt by itself shall be sufficient title only for purposes of transferring the ~~motor~~ vehicle to such demolisher for demolition, wrecking, or dismantling and, when so transferred, no further titling of the ~~motor~~ vehicle shall be permitted. From the proceeds of the sale of an abandoned ~~motor~~ vehicle the police authority shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned ~~motor~~ vehicle in custody, all notice and publication costs incurred pursuant to subsection 3, the cost of inspection, and any other costs incurred except costs of bookkeeping and other administrative costs. Any remainder from the proceeds of a sale shall be held for the owner of the ~~motor~~ vehicle or entitled lienholder for ninety days, and shall then be deposited in the reimbursement fund received by the department pursuant to section 321.145, subsection 2. The costs to police authorities of auction, towing, preserving, storage, and all notice and publication costs, inspection costs and all other costs which result from placing ~~other~~ abandoned vehicles in custody, whenever the proceeds from a sale of such ~~other~~ abandoned ~~motor~~ vehicles are insufficient to meet these expenses and costs, shall be paid from the reimbursement fund of the department under section 321.145, subsection 2. In the event the reimbursement fund is temporarily exhausted, payment shall be deferred until the reimbursement fund contains sufficient funds to meet the claims.

The state comptroller shall establish by rule a claims

procedure to be followed by police authorities in obtaining expenses and costs from the fund.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 324, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 6/23, 1976

ROBERT D. RAY
Governor