

issuance of a certificate of title shall be collected by the county treasurer or the state department of transportation pursuant to ~~section~~ sections 423.7 and 423.7A. The county treasurer shall retain one dollar from each tax payment collected, to be credited to the county general fund.

Sec. 5. NEW SECTION. 423.7A MOTOR VEHICLE LEASE TAX.

1. The tax imposed upon the use of leased vehicles subject to registration under chapter 321, with gross vehicle weight ratings of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, which are leased by a lessor licensed pursuant to chapter 321F for a period of twelve months or more shall be paid by the owner of the vehicle to the county treasurer or state department of transportation from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or issuance of a certificate of title shall not be issued until the tax is paid in the initial instance.

2. The amount subject to tax shall be computed on each separate lease transaction by multiplying the number of months of the lease by the monthly lease payments, plus the downpayment, less any manufacturer's rebate. The county treasurer or the state department of transportation shall require every applicant for a registration receipt for a vehicle subject to tax under this section to supply information as the county treasurer or director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

3. On or before the tenth day of each month the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

4. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for tax previously paid on the monthly rental payments.

Sec. 6. Section 423.24, subsection 1, unnumbered paragraph 1, Code Supplement 1995, is amended to read as follows:

Eighty percent of all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 and section 423.7A shall be deposited and credited as follows:

Sec. 7. APPLICABILITY. This Act applies to leases entered into on or after January 1, 1997.

Approved April 17, 1996

CHAPTER 1126

MISCELLANEOUS TRANSPORTATION PROVISIONS – RELEASE OF PUBLIC IMPROVEMENT FUNDS

H.F. 2419

AN ACT relating to transportation by granting the state department of transportation condemnation rights for utility facility replacement, requiring certain criteria be adopted by administrative rule, providing for entry onto private property for sounding and drilling, relating to the process for disposal of abandoned vehicles, and providing for release of retained funds for public improvements.

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

Section 1. Section 306.19, subsection 6, Code Supplement 1995, is amended to read as follows:

6. If the agency determines that it is necessary to relocate ~~an interstate hazardous liquid pipeline as defined by the federal Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. § 2001, et seq.~~ a utility facility, the agency shall have the authority to institute and maintain proceedings on behalf of the ~~pipeline company owner of the utility facility~~ for the condemnation of replacement property rights. The replacement property rights shall be equal in substance to the ~~pipeline company's~~ existing rights of the owner of the utility facility, except that ~~if the issue of width was not addressed,~~ the replacement property rights shall be for a width and location deemed appropriate and necessary for the needs of the ~~pipeline company owner of the utility facility~~, as determined by the agency ~~and the owner of the facility~~. The replacement property rights of the ~~pipeline company owner of the utility facility~~ shall be subordinate to the rights of the agency only to the extent necessary for the construction and maintenance of the designated road. Within a reasonable time after completion of the ~~pipeline replacement relocation~~, all previously owned property rights of the ~~pipeline company owner of the utility facility~~ no longer required for operation and maintenance of the ~~pipeline utility facility~~ shall be released or conveyed to the appropriate parties. The authority of the agency under this subsection may only be exercised upon execution of a relocation agreement between the agency and the ~~pipeline company owner of the utility facility~~. For purposes of this subsection, "utility facility" means an electric, gas, water, steam power, or materials transmission or distribution system; a transportation system; a communications system, including cable television; and fixtures, equipment, or other property associated with the operation, maintenance, or repair of the system. A utility facility may be publicly, privately, or cooperatively owned.

Sec. 2. Section 307A.2, subsection 13, Code 1995, is amended to read as follows:

13. The criteria used by the commission for allocating funds as a result of any long-range planning process shall be adopted in accordance with the provisions of chapter 17A. The commission shall adopt such rules and regulations in accordance with the provisions of chapter 17A as it may deem necessary to transact its business and for the administration and exercise of its powers and duties.

Sec. 3. Section 314.9, Code 1995, is amended to read as follows:

314.9 ENTERING PRIVATE ~~LAND~~ PROPERTY.

The agency in control of ~~any a highway or highway system or the engineer, or any other authorized person employed by said agency,~~ may after thirty days' written notice by restricted certified mail addressed to the owner and also to the occupant, enter upon private ~~land property~~ for the purpose of making surveys, soundings, drillings, appraisals, and examinations as ~~it the agency~~ deems appropriate or necessary to determine the advisability or practicability of locating and constructing a highway ~~thereon on the property~~ or for the purpose of determining whether gravel or other material exists on ~~said land the property~~ of suitable quality and in sufficient quantity to warrant the purchase or condemnation of ~~said land or part thereof the property~~. ~~Such~~ The entry, after notice, shall not be deemed a trespass, and the agency may be aided by injunction to insure peaceful entry. The agency shall pay actual damages caused by ~~such the~~ entry, surveys, soundings, drillings, appraisals, or examinations.

Any damage caused by ~~such the~~ entry, surveys, soundings, drillings, appraisals, or examinations shall be determined by agreement or in the manner provided for the award of damages in condemnation of ~~land the property~~ for highway purposes. ~~No such soundings~~ Soundings or drillings shall not be done within ~~twenty rods one hundred fifty feet~~ of the dwelling house or within fifty feet of other buildings on said land without written consent of the owner.

Sec. 4. Section 321.89, Code Supplement 1995, is amended to read as follows:

321.89 ABANDONED 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, any law enforcement agency

of a county or city or any special security officer employed by the state board of regents under section 262.13.

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

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

(2) A vehicle that has remained illegally on public property for more than ~~seventy-two~~ twenty-four hours, ~~or~~.

(3) A 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 vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten days, ~~or~~. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process in subsection 3.

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

(6) A vehicle that has been impounded pursuant to section 321J.4B by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

~~However, a vehicle shall not be considered abandoned for a period of five 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 vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

2. **AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.** A police authority ~~may, and on~~, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody ~~any~~ an abandoned vehicle on public property and may take into custody ~~any~~ an abandoned vehicle on private property. A police authority taking into custody an abandoned vehicle which has been 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~~ a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle. The owners, lienholders, or other claimants of the abandoned vehicle shall not have a cause of action against a private entity for action taken under this section, if the private entity provides notice as required by subsection 3, paragraph "a", to those persons whose names were provided by the police authority.

3. **NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER CLAIMANTS.**

a. A police authority or private entity which takes into custody an abandoned vehicle shall notify, within twenty days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned 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 vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ~~twenty-one~~ ten days after the effective date of the notice upon payment of all towing, preservation, and storage charges

resulting from placing the vehicle in custody and upon payment of the costs of notice required pursuant to this subsection. The notice shall also state that the failure of the owner, ~~or~~ lienholders, or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, ~~and all~~ lienholders, and claimants of all right, title, claim, and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ~~twenty-one day~~ ten-day reclaiming period, the owner, ~~and~~ lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. ~~No~~ A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, ~~and~~ lienholders, or claimants, after the expiration of the ~~twenty-one day~~ ten-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 vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned vehicles and personal property 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, or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ~~twenty-one day~~ ten-day reclaiming period, obtain an additional ~~fourteen~~ five days within which the vehicle or personal property may be reclaimed.

4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided for in subsection 3, the police authority or private entity shall make a determination as to whether or not the vehicle shall be sold for use upon the highways. If the vehicle is not sold for use upon the highways, it shall be sold for junk, or demolished and sold as scrap. The police authority or private entity shall sell the vehicle at public auction. Notwithstanding any other provision of this section, ~~any~~ a police authority or private entity, which has taken into possession any abandoned vehicle which lacks an engine, ~~or~~ two or more wheels, ~~or~~ another part which renders the vehicle totally inoperable, or which has a fair market value of less than five hundred dollars as determined by the police authority or private entity, may dispose of the vehicle to a demolisher for junk without public auction after complying with the notification procedures ~~enumerated~~ in subsection 3 ~~and without public auction~~. The purchaser of the vehicle takes title free and clear of all liens and claims of ownership, shall receive a sales receipt from the police authority or private entity, and is entitled to register the vehicle and receive a certificate of title if sold for use upon the highways. If the vehicle is sold or disposed of to a demolisher for junk, the demolisher shall make application for a junking certificate to the county treasurer within fifteen days of purchase and shall surrender the sales receipt in lieu of the certificate of title.

From the proceeds of the sale of an abandoned vehicle the police authority, if the police authority did not hire a private entity, shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing which resulted from placing the abandoned 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 vehicle or entitled lienholder for ninety days, and shall then be deposited in the road use tax fund. The costs to police authorities of auction, towing, preserving, storage,

and all notice and publication costs, and all other costs which result from placing abandoned vehicles in custody, whenever the proceeds from a sale of the abandoned vehicles are insufficient to meet these expenses and costs, shall be paid from the road use tax fund and are the obligation of the last owner or owners, jointly and severally.

The director of transportation shall establish by rule a claims procedure to be followed by police authorities in obtaining expenses and costs from the fund. If a private entity has been hired, the police authority may file a claim with the department for reimbursement of towing fees which shall be paid from the road use tax fund.

Sec. 5. Section 321.285, subsection 6, Code 1995, is amended to read as follows:

6. Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic on fully controlled-access, divided, multilaned highways including the national system of interstate highways designated by the federal highway administration and this state (23 U.S.C. § 103(e)) is sixty-five miles per hour. However, the department or cities with the approval of the department may establish a lower speed limit upon such highways located within the corporate limits of a city. For the purposes of this subsection a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. ~~A minimum speed of forty miles per hour, road conditions permitting, is~~ may be established by the department on the highways referred to in this subsection if warranted by engineering and traffic investigations.

It is further provided that any kind of vehicle, implement, or conveyance incapable of attaining and maintaining a speed of forty miles per hour shall be prohibited from using the interstate system.

Sec. 6. NEW SECTION. 573.15A EARLY RELEASE OF RETAINED FUNDS.

Notwithstanding section 573.14, a public corporation may release retained funds upon completion of ninety-five percent of the contract in accordance with the following:

1. Any person, firm, or corporation who has, under contract with the principal contractor or with subcontractors, performed labor, or furnished materials, service, or transportation, in the construction of the public improvement, may file with the public corporation an itemized, sworn, written statement of the claim for the labor, or materials, service, or transportation. The claim shall be filed with the public corporation either before the expiration of the thirty days after completion of ninety-five percent of the contract or at any time after the thirty-day period if the public corporation has not paid the full contract price and no action is pending to adjudicate rights in and to the unpaid portion of the contract price.

2. The fund, as provided in section 573.13, shall be retained by the public corporation for a period of thirty days after ninety-five percent of the contract has been completed. If at the end of the thirty-day period, a claim has been filed, in accordance with this section, the public corporation shall continue to retain from the unpaid funds, a sum equal to double the total amount of all claims on file. The remaining balance of the unpaid fund, or if there are no claims on file, the entire unpaid fund, may be released and paid to the contractor.

3. The public corporation, the principal contractor, or any claimant for labor or materials, service, or transportation, who has filed a claim or the surety on any bond given for performance of the contract, at any time after the expiration of thirty days, and not later than sixty days after the completion of ninety-five percent of the contract, may bring an action in equity in the county where the public improvement is located to determine rights to moneys contained in the fund or to enforce liability on the bond. The action shall be brought in accordance with sections 573.16 through 573.18, with the completion of ninety-five percent of the contract taking the place of the date of final acceptance.

4. A public corporation that releases funds at the completion of ninety-five percent of the contract, in accordance with this section, shall not be required to retain additional funds.