

MAR 15 2005
Place On Calendar

HOUSE FILE 757
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HF 255)

Passed House, Date 3-22-05 Passed Senate, Date 4-14-05
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 0
Approved 4-27-05

A BILL FOR

1 An Act relating to the disposition of abandoned vehicles.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 757

1 Section 1. Section 321.89, Code 2005, is amended to read
2 as follows:

3 321.89 ABANDONED VEHICLES.

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

6 a. "Abandoned vehicle" means any of the following:

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

11 (2) A vehicle that has remained illegally on public
12 property for more than twenty-four hours.

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

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

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

24 (6) A vehicle that has been impounded pursuant to section
25 321J.4B by order of the court and whose owner has not paid the
26 impoundment fees after notification by the person or agency
27 responsible for carrying out the impoundment order.

28 b. "Demolisher" means ~~any-city-or-public-agency-organized~~
29 ~~for-the-disposal-of-solid-waste, or-any~~ a person licensed
30 under chapter 321H whose business it is to convert a vehicle
31 to junk, processed scrap, or scrap metal, or otherwise to
32 wreck or dismantle vehicles.

33 c. "Police authority" means the Iowa state patrol, any law
34 enforcement agency of a county or city, or any special
35 security officer employed by the state board of regents under

1 section 262.13.

2 2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A
3 police authority, upon the authority's own initiative or upon
4 the request of any other authority having the duties of
5 control of highways or traffic, shall take into custody an
6 abandoned vehicle on public property and may take into custody
7 an abandoned vehicle on private property. ~~A police authority
8 taking into custody an abandoned vehicle which has been
9 determined to create a traffic hazard shall report the reasons
10 constituting the hazard in writing to the appropriate
11 authority having duties of control of the highway.~~ The police
12 authority may employ its own personnel, equipment, and
13 facilities, or hire a private entity, equipment, and
14 facilities for the purpose of removing, preserving, storing,
15 or disposing of abandoned vehicles. If a police authority
16 employs a private entity to dispose of abandoned vehicles, the
17 police authority shall provide the private entity with the
18 names and addresses of the registered owners, all lienholders
19 of record, and any other known claimant to the vehicle or the
20 personal property found in the vehicle. The owners,
21 lienholders, or other claimants of the abandoned vehicle shall
22 not have a cause of action against a private entity for action
23 taken under this section, if the private entity provides
24 notice as required by subsection 3, paragraph "a", to those
25 persons whose names were provided by the police authority.

26 3. NOTIFICATION OF OWNER, LIENHOLDERS, AND OTHER
27 CLAIMANTS.

28 a. A police authority or private entity which that takes
29 into custody an abandoned vehicle shall notify, within twenty
30 days, by certified mail, the last known registered owner of
31 the vehicle, all lienholders of record, and any other known
32 claimant to the vehicle or to personal property found in the
33 vehicle, addressed to ~~their~~ the parties' last known addresses
34 of record, that the abandoned vehicle has been taken into
35 custody. Notice shall be deemed given when mailed. The

1 notice shall describe the year, make, model, and ~~serial~~
2 vehicle identification number of the vehicle, describe the
3 personal property found in the vehicle, set forth the location
4 of the facility where the vehicle is being held, and inform
5 the persons receiving the notice of their right to reclaim the
6 vehicle and personal property within ten days after the
7 effective date of the notice upon payment of all towing,
8 preservation, and storage charges resulting from placing the
9 vehicle in custody and upon payment of the costs of notice
10 required pursuant to this subsection. The notice shall also
11 state that the failure of the owner, lienholders, or claimants
12 to exercise their right to reclaim the vehicle or personal
13 property within the time provided shall be deemed a waiver by
14 the owner, lienholders, and claimants of all right, title,
15 claim, and interest in the vehicle or personal property and
16 that failure to reclaim the vehicle or personal property is
17 deemed consent to the sale of the vehicle at a public auction
18 or disposal of the vehicle to a demolisher and to disposal of
19 the personal property by sale or destruction. The notice
20 shall state that any person claiming rightful possession of
21 the vehicle or personal property who disputes the planned
22 disposition of the vehicle or property by the police authority
23 or private entity or of the assessment of fees and charges
24 provided by this section may ask for an evidentiary hearing
25 before the police authority to contest those matters. If the
26 persons receiving the notice do not ask for a hearing or
27 exercise their right to reclaim the vehicle or personal
28 property within the ten-day reclaiming period, the owner,
29 lienholders, or claimants shall no longer have any right,
30 title, claim, or interest in or to the vehicle or the personal
31 property. A court in any case in law or equity shall not
32 recognize any right, title, claim, or interest of the owner,
33 lienholders, or claimants, after the expiration of the ten-day
34 reclaiming period.

35 b. ~~If the identity of the last registered owner cannot be~~

1 ~~determined, or if the registration contains no address for the~~
2 ~~owner, or if~~ it is impossible to determine with reasonable
3 certainty the identity and addresses of the last registered
4 owner and all lienholders, notice by one publication in one
5 newspaper of general circulation in the area where the vehicle
6 was abandoned shall be sufficient to meet all requirements of
7 notice under this section. The published notice may contain
8 multiple listings of abandoned vehicles and personal property
9 but shall be published within the same time requirements and
10 contain the same information as prescribed for mailed notice
11 in paragraph "a".

12 ~~c. The owner, lienholders, or claimants may, by written~~
13 ~~request delivered to the police authority or private entity~~
14 ~~prior to the expiration of the ten-day reclaiming period,~~
15 ~~obtain an additional five days within which the vehicle or~~
16 ~~personal property may be reclaimed.~~

17 4. AUCTION OF ABANDONED VEHICLES. If an abandoned vehicle
18 has not been reclaimed as provided for in subsection 3, the
19 police authority or private entity shall make a determination
20 as to whether or not the vehicle shall be sold for use upon
21 the highways. If the vehicle is not sold for use upon the
22 highways, it shall be sold for junk, or demolished and sold as
23 scrap. The police authority or private entity shall sell the
24 vehicle at public auction. Notwithstanding any other
25 provision of this section, a police authority or private
26 ~~entity, which has taken into possession any abandoned vehicle~~
27 ~~which lacks an engine, two or more wheels, another part which~~
28 ~~renders the vehicle totally inoperable, or which has a fair~~
29 ~~market value of less than five hundred dollars as determined~~
30 ~~by the police authority or private entity,~~ may dispose of the
31 vehicle to a demolisher for junk without public auction after
32 complying with the notification procedures in subsection 3.
33 The purchaser of the vehicle takes title free and clear of all
34 liens and claims of ownership, shall receive a sales receipt
35 from the police authority or private entity, and is entitled

1 to register the vehicle and receive a certificate of title if
2 sold for use upon the highways. If the vehicle is sold or
3 disposed of to a demolisher for junk, the demolisher shall
4 make application for a junking certificate to the county
5 treasurer within thirty days of purchase and shall surrender
6 the sales receipt in lieu of the certificate of title.

7 From the proceeds of the sale of an abandoned vehicle the
8 police authority, if the police authority did not hire a
9 private entity, shall reimburse itself for the expenses of the
10 auction, the costs of towing, preserving, and storing which
11 resulted from placing the abandoned vehicle in custody, all
12 notice and publication costs incurred pursuant to subsection
13 3, the cost of inspection, and any other costs incurred except
14 costs of bookkeeping and other administrative costs. Any
15 remainder from the proceeds of a sale shall be held for the
16 owner of the vehicle or entitled lienholder for ninety days,
17 and shall then be deposited in the road use tax fund. The
18 costs to police authorities of auction, towing, preserving,
19 storage, and all notice and publication costs, and all other
20 costs which result from placing abandoned vehicles in custody,
21 whenever the proceeds from a sale of the abandoned vehicles
22 are insufficient to meet these expenses and costs, shall be
23 paid from the road use tax fund and are the obligation of the
24 last owner or owners, jointly and severally.

25 The director of transportation shall establish by rule a
26 claims procedure to be followed by police authorities in
27 obtaining expenses and costs from the fund and procedures for
28 reimbursement of expenses and costs to a private entity hired
29 to take custody of an abandoned vehicle. If a private entity
30 has been hired, the police authority may shall file a claim
31 with the department for reimbursement of towing fees which
32 shall be paid from the road use tax fund.

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EXPLANATION

34 This bill amends several provisions in Code section 321.89
35 relating to the disposition of abandoned vehicles. Under

1 current law, a police authority's expenses in connection with
2 custody and disposal of an abandoned vehicle are paid from
3 proceeds from the sale of the vehicle, with any excess amount
4 paid from the road use tax fund. A private entity hired by
5 local authorities to take custody of abandoned vehicles must
6 make a claim to local authorities for reimbursement from funds
7 available from the road use tax fund. The bill requires the
8 state department of transportation to establish procedures for
9 reimbursement of expenses and costs to such private entities,
10 and requires police authorities to file claims with the
11 department for reimbursement of towing fees to private
12 entities, to be paid from the road use tax fund.

13 The bill amends the definition of "demolisher" to specify
14 that it means a person licensed as a vehicle recycler. The
15 current provision that allows for disposal of an abandoned
16 vehicle to a demolisher is amended to eliminate the
17 requirement that the vehicle be in inoperable condition or
18 have a value of less than \$500. A police authority or private
19 entity that complies with certain notification procedures may
20 dispose of any vehicle to a demolisher without public auction.

21 The bill strikes a requirement that a police authority that
22 takes custody of an abandoned vehicle constituting a traffic
23 hazard make a report describing the hazard to the authority in
24 control of the highway.

25 The bill also strikes a provision that allows the owner of
26 a vehicle, lienholders, or claimants to obtain a five-day
27 extension of the 10-day period allowed for reclaiming a
28 vehicle or personal property that has been taken into custody.

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HOUSE FILE 757

AN ACT

RELATING TO THE DISPOSITION OF ABANDONED VEHICLES.

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

Section 1. Section 321.89, Code 2005, 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. "Abandoned vehicle" means any of the following:

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

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

(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.

(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. 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.

b. "Demolisher" means ~~any city or public agency organized for the disposal of solid waste, or any~~ a person licensed under chapter 321H whose business it is to convert a vehicle to junk, processed scrap, or scrap metal, or otherwise to wreck or dismantle vehicles.

c. "Police authority" means the Iowa state 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.

2. AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, 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 an abandoned vehicle on public property and may take into custody 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 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 that 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 the parties' 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 vehicle identification 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 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, 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, 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 ten-day reclaiming period, the owner, lienholders, or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders, or claimants, after the expiration of the 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 the last registered owner and 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 paragraph "a".

~~c. The owner, lienholders, or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten-day reclaiming period, obtain an additional 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, a police authority or private entity ~~which has taken into possession any abandoned vehicle which lacks an engine, two or more wheels, 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 in subsection 3. 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 thirty 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 and procedures for

reimbursement of expenses and costs to a private entity hired to take custody of an abandoned vehicle. If a private entity has been hired, the police authority may shall file a claim with the department for reimbursement of towing fees which shall be paid from the road use tax fund.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 757, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 4/27, 2005

THOMAS J. VILSACK
Governor