

LEGISLATIVE BILL 90

Approved by the Governor May 25, 1999

Introduced by Cudaback, 36; Schmitt, 41; Bromm, 23

AN ACT relating to motor vehicles; to amend sections 60-1901 to 60-1911, Reissue Revised Statutes of Nebraska; to change provisions relating to custody and disposition of abandoned motor vehicles; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-1901, Reissue Revised Statutes of Nebraska, is amended to read:

60-1901. (1) A motor vehicle ~~shall be deemed to be~~ is an abandoned vehicle: ~~if left unattended.~~

(a) ~~If left unattended, with no license~~ (1) With no number plates or valid In Transit decals issued pursuant to section 60-320 affixed thereto, for more than six hours on any public property;

(b) ~~If left unattended for~~ (2) For more than twenty-four hours on any public property, except a portion thereof on which parking is legally permitted;

(c) ~~If left unattended for~~ (3) For more than forty-eight hours, after the parking of such vehicle ~~shall have~~ has become illegal, if left on a portion of a any public property on which parking is legally permitted; ~~or~~

(d) ~~If left unattended for~~ (4) For more than seven days on private property if left initially without permission of the owner, or after permission of the owner ~~shall be~~ is terminated; or

(e) ~~If left for more than thirty days in the custody of a law enforcement agency after the agency has sent a letter to the last-registered owner under section 4 of this act.~~

(2) For purposes of this section:

(a) ~~Public~~ public property ~~shall mean~~ means any public right-of-way, street, highway, alley, or park or other state, county, or municipally owned property; and

(b) ~~Private~~ private property ~~shall mean~~ means any privately owned property which is not included within the definition of public property.

(3) ~~No motor vehicle subject to forfeiture under section 28-431 shall be an abandoned vehicle under this section.~~

Sec. 2. Section 60-1902, Reissue Revised Statutes of Nebraska, is amended to read:

60-1902. If an abandoned vehicle, at the time of abandonment, has no ~~number~~ license plates of the current year or valid In Transit decals issued pursuant to section 60-320 affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of ~~one hundred~~ two hundred fifty dollars or less, title shall immediately vest in the local authority or state agency having jurisdiction thereof as provided in section 60-1904. Any certificate of title issued under this section to the local authority ~~as defined in section 60-1904~~ or state agency shall be issued at no cost to such authority or agency.

Sec. 3. Section 60-1903, Reissue Revised Statutes of Nebraska, is amended to read:

60-1903. (1) Except for vehicles governed by section 60-1902, the local authority or state agency having custody of an abandoned vehicle shall make an inquiry concerning the last-registered owner of such vehicle as follows:

(a) Abandoned vehicle with ~~number~~ license plates affixed, to the jurisdiction which issued such ~~number~~ license plates; or

(b) Abandoned vehicle with no ~~number~~ license plates affixed, to the Department of Motor Vehicles.

(2) ~~Such~~ The local authority or state agency shall notify the last-registered owner, if any, that the vehicle in question has been ~~recovered~~ as determined to be an abandoned vehicle and that, if unclaimed, either (a) it will be sold or will be offered at public auction after five days from the date such notice was mailed or (b) title will vest in the local authority or state agency thirty days after the date such notice was mailed. If the agency described in ~~subsection~~ (1) subdivision (1)(a) or (b) of this section also notifies ~~such~~ the local authority or state agency that a lien or mortgage exists, such notice shall also be sent to the lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle.

(3) Title to ~~such an abandoned vehicles vehicle~~, if unclaimed, shall vest in ~~such the~~ local authority or state agency (a) five days ~~from~~ after the date ~~such the~~ notice is mailed if the vehicle will be sold or offered at public auction under subdivision (2)(a) of this section, (b) thirty days after the date the notice is mailed if the local authority or state agency will retain the vehicle, or (c) if the last-registered owner cannot be ascertained, when notice of such fact is received.

(4) After title to the abandoned vehicle vests pursuant to subsection (3) of this section, the local authority or state agency may retain for use, sell, or auction the abandoned vehicle. If the local authority or state agency has determined that the vehicle should be retained for use, the local authority or state agency shall, at the same time that the notice, if any, is mailed, publish in a newspaper of general circulation in the jurisdiction an announcement that the local authority or state agency intends to retain the abandoned vehicle for its use and that title will vest in the local authority or state agency thirty days after the publication.

Sec. 4. A state or local law enforcement agency which has custody of a motor vehicle for investigatory purposes and has no further need to keep it in custody shall send a certified letter to each of the last-registered owners stating that the vehicle is in the custody of the law enforcement agency, that the vehicle is no longer needed for law enforcement purposes, and that after thirty days the agency will dispose of the vehicle. This section shall not apply to motor vehicles subject to forfeiture under section 28-431. No storage fees shall be assessed against the registered owner of a motor vehicle held in custody for investigatory purposes under this section unless the registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor related to the offense for which the law enforcement agency took the vehicle into custody. If a registered owner or the person in possession of the vehicle when it is taken into custody is charged with a felony or misdemeanor but is not convicted, the registered owner shall be entitled to a refund of the storage fees.

Sec. 5. Section 60-1904, Reissue Revised Statutes of Nebraska, is amended to read:

60-1904. For the purposes of this section, the If a state agency caused an abandoned vehicle described in subdivision (1)(e) of section 60-1901 to be removed from public property, the state agency shall be entitled to custody of the vehicle. If a state agency caused an abandoned vehicle described in subdivision (1)(a), (b), (c), or (d) of section 60-1901 to be removed from public property, the state agency shall deliver the vehicle to the local authority which shall have custody. The local authority entitled to custody of an abandoned vehicle shall be the county in which the vehicle was abandoned, or, if abandoned in a city or village, the city or village in which the vehicle was abandoned.

Sec. 6. Section 60-1905, Reissue Revised Statutes of Nebraska, is amended to read:

60-1905. Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the local authority or state agency shall be held by the local authority or state agency without interest, for the benefit of the owner or lienholders of such vehicle for a period of two years. If not claimed within such two-year period, ~~such the~~ proceeds shall be paid into the general fund of ~~such the~~ local authority entitled to custody under section 60-1904 or the state General Fund if a state agency is entitled to custody under section 60-1904.

Sec. 7. Section 60-1906, Reissue Revised Statutes of Nebraska, is amended to read:

60-1906. Neither the owner, lessee, nor occupant of the premises from which any abandoned vehicle ~~shall be~~ is removed, nor the state, ~~any~~ city, ~~or~~ village, or ~~any~~ county, shall be liable for any loss or damage to such vehicle which occurs during its removal or while in the possession of the state, ~~such county or city, or village, or county~~ or its contractual agent, or as a result of any subsequent disposition.

Sec. 8. Section 60-1907, Reissue Revised Statutes of Nebraska, is amended to read:

60-1907. No person shall cause any vehicle to be an abandoned vehicle as described in subdivision (1)(a), (b), (c), or (d) of section 60-1901.

Sec. 9. Section 60-1908, Reissue Revised Statutes of Nebraska, is amended to read:

60-1908. No person other than one authorized by the appropriate local authority or state agency shall destroy, deface, or remove any part of a vehicle which is left unattended on a highway or other public place without

~~number license~~ plates affixed or which is abandoned. Anyone violating ~~the provisions of~~ this section shall be guilty of a Class V misdemeanor.

Sec. 10. Section 60-1909, Reissue Revised Statutes of Nebraska, is amended to read:

60-1909. The last-registered owner of an abandoned vehicle shall be liable to the local authority or state agency for the costs of removal and storage of such vehicle.

Sec. 11. Section 60-1910, Reissue Revised Statutes of Nebraska, is amended to read:

60-1910. The Director of Motor Vehicles shall ~~prescribe by regulation~~ adopt and promulgate rules and regulations providing for such forms and procedures as are necessary or desirable to effectuate the provisions of sections 60-1901 to 60-1911 and section 4 of this act. Such rules and regulations may include procedures for the removal and disposition of vehicle identification numbers of abandoned vehicles, ~~and~~ forms for local records for abandoned vehicles, and inquiries relating to ownership of such vehicles.

Sec. 12. Section 60-1911, Reissue Revised Statutes of Nebraska, is amended to read:

60-1911. ~~Any~~ Except as provided in section 60-1908, any person violating the provisions of sections 60-1901 to 60-1911 and section 4 of this act shall be guilty of a Class II misdemeanor.

Sec. 13. Original sections 60-1901 to 60-1911, Reissue Revised Statutes of Nebraska, are repealed.