

**HOUSE BILL NO. 1352**

Introduced by

Representatives M. Johnson, Rick C. Becker, Dockter, Kading, B. Koppelman, Lefor, Owens,  
Steiner

Senators Campbell, Casper, Clemens

1 A BILL for an Act to amend and reenact sections 24-03-23, 39-26-02, and 39-26-04,  
2 subsection 1 of 39-26-06, and sections 39-26-07 and 39-26-08 of the North Dakota Century  
3 Code, relating to custody and disposition of abandoned motor vehicles.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 24-03-23 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **24-03-23. Encroachments on state highways.**

8 No part of the right of way for state highways may be encroached upon by erection thereon  
9 of ~~any~~ structure, or placing thereon any personal property, other than a temporary parking of a  
10 motor vehicle, without a written permit from the director. ~~Any~~An encroachment may be caused  
11 to be removed, obliterated, or corrected by order of the director and the total cost thereof must  
12 be paid by the person responsible for the encroachment. Property other than motor vehicles left  
13 upon highway right of way for a period exceeding seventy-two hours, the ownership of which  
14 cannot be determined after reasonable effort has been made to do so, must be deemed  
15 abandoned and may be removed from the right of way and stored at the nearest site available  
16 for thirty days and if it is not claimed by the owner during such period, and the cost of removal  
17 and storage paid, it may be disposed of in the manner prescribed by the director. Abandoned  
18 motor vehicles are subject to the provisions of sections 39-26-01 through 39-26-11. If such  
19 property is disposed of it must, except as otherwise provided by this section, be sold or  
20 disposed of in the manner provided in sections 39-26-05 through 39-26-09. The receipts  
21 therefrom must be deposited in the state treasury as provided in section 1 of article IX of the  
22 Constitution of North Dakota and credited to the permanent school fund unless a commercial  
23 towing service lawfully disposes of the abandoned motor vehicle.

1       **SECTION 2. AMENDMENT.** Section 39-26-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **39-26-02. Definitions.**

4       As used in this chapter, unless the context or subject matter otherwise requires:

- 5       1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,  
6       that has remained for a period of more than forty-eight hours on public property  
7       illegally or lacking vital component parts, or has remained for a period of more than  
8       forty-eight hours on private property without consent of the person in control of such  
9       property or in an inoperable condition such that it has no substantial potential further  
10       use consistent with its usual functions unless it is kept in an enclosed garage or  
11       storage building. It also means a motor vehicle voluntarily surrendered by its owner to  
12       a person duly licensed under section 39-26-10. An antique automobile, as defined in  
13       section 39-04-10.4, and other motor vehicles to include parts car and special interest  
14       vehicles, may not be considered an abandoned motor vehicle within the meaning of  
15       this chapter.
- 16       2. "Collector" means the owner of one or more special interest vehicles who collects,  
17       purchases, acquires, trades, or disposes of special interest vehicles or parts thereof  
18       for the person's own use in order to restore, preserve, and maintain a special interest  
19       vehicle or antique vehicle.
- 20       3. "Commercial towing service" means a registered business in North Dakota that tows  
21       motor vehicles.
- 22       4. "Department" means the state department of health.
- 23       ~~4.5.~~ "Parts car" means a motor vehicle generally in nonoperable condition which is owned  
24       by the collector to furnish parts to restore, preserve, and maintain a special interest  
25       vehicle or antique vehicle.
- 26       ~~5.6.~~ "Special interest vehicle" means a motor vehicle which is at least twenty years old and  
27       which has not been altered or modified from original manufacturer's specifications  
28       and, because of its historic interest, is being preserved by hobbyists.
- 29       ~~6.7.~~ "Unit of government" includes a state department or agency, a county, city, township,  
30       or other political subdivision.

1     ~~7-8.~~ "Vital component parts" means those parts of a motor vehicle that are essential to the  
2           mechanical functioning of the vehicle, including, but not limited to, the motor, drive  
3           train, and wheels.

4           **SECTION 3. AMENDMENT.** Section 39-26-04 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **39-26-04. Custody of abandoned vehicle.**

7           Units of government may take into custody and impound ~~any~~an abandoned motor vehicle. If  
8 requested by an owner, lessee, tenant, or occupant of private property, a commercial towing  
9 service may remove and take into custody an abandoned motor vehicle located on the private  
10 property.

11          **SECTION 4. AMENDMENT.** Subsection 1 of section 39-26-06 of the North Dakota Century  
12 Code is amended and reenacted as follows:

13          1. When an abandoned motor vehicle does not fall within the provisions of section  
14           39-26-05, the unit of government or commercial towing service taking it into custody  
15           shall give notice of the taking within ten days. The notice must set forth the date and  
16           place of the taking, the year, make, model, and serial number of the abandoned motor  
17           vehicle and the place where the vehicle is being held, must inform the owner and any  
18           lienholders or secured parties of their right to reclaim the vehicle under section  
19           39-26-07, and must state that failure of the owner or lienholders or secured parties to  
20           exercise their right to reclaim the vehicle is deemed a waiver by them of all right, title,  
21           and interest in the vehicle and a consent to the sale of the vehicle at a public auction  
22           pursuant to section 39-26-08.

23          **SECTION 5. AMENDMENT.** Section 39-26-07 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25          **39-26-07. Right of owner to reclaim abandoned vehicle.**

26          1. The owner, secured parties, or ~~any~~a lienholder of an abandoned motor vehicle has a  
27           right to reclaim such vehicle from the unit of government taking ~~the motor vehicle~~ into  
28           custody upon payment of all towing and storage charges resulting from taking the  
29           vehicle into custody within fifteen days after the date of the notice required by section  
30           39-26-06.

1       2. The owner, secured parties, or a lienholder of an abandoned motor vehicle has a right  
2       to reclaim such vehicle from a commercial towing service taking the motor vehicle into  
3       custody upon payment of all towing and storage charges resulting from taking the  
4       vehicle into custody within ninety days after the date of the notice required by section  
5       39-26-06.

6       2-3. Nothing in this chapter may be construed to impair any lien of a garagekeeper under  
7       the laws of this state or the right of a lienholder or secured parties to foreclose. For the  
8       purposes of this section, "garagekeeper" is an operator of a parking place or  
9       establishment, an operator of a motor vehicle storage facility, or an operator of an  
10      establishment for the servicing, repair, or maintenance of motor vehicles.

11      **SECTION 6. AMENDMENT.** Section 39-26-08 of the North Dakota Century Code is  
12      amended and reenacted as follows:

13      **39-26-08. Public saleDisposal of vehicle - Disposition of proceeds.**

- 14      1. An abandoned motor vehicle not more than seven model years of age taken into  
15      custody by a unit of government and not reclaimed under section 39-26-07 must be  
16      sold to the highest bidder at public auction or sale, following reasonable published  
17      notice thereof. The purchaser must be given a receipt in a form prescribed by the  
18      department which shall be sufficient title to dispose of the vehicle. The receipt also  
19      entitles the purchaser to register the vehicle and receive a certificate of title, free and  
20      clear of all liens and claims of ownership. The license plates displayed on an  
21      abandoned vehicle must be removed and destroyed prior to the purchaser taking  
22      possession of the vehicle.
- 23      2. From the proceeds of the sale of an abandoned motor vehicle, the unit of government  
24      shall reimburse itself for the cost of towing, preserving, and storing the vehicle, and all  
25      notice and publication costs incurred pursuant to this chapter. Any remainder from the  
26      proceeds of a sale must be held for the owner of the vehicle or entitled lienholder or  
27      secured parties for ninety days and then must be deposited in the state treasury as  
28      provided in section 1 of article IX of the Constitution of North Dakota and credited to  
29      the permanent school fund.
- 30      3. If a commercial towing service takes custody of an abandoned motor vehicle not more  
31      than seven model years of age and the vehicle is not reclaimed under

1           section 39-26-07, the commercial towing service may obtain a release from the  
2           department which is sufficient title to dispose of the vehicle. The release entitles the  
3           commercial towing service to register the vehicle and receive a certificate of title, free  
4           and clear of all liens and claims of ownership. The license plates displayed on the  
5           abandoned vehicle must be removed and destroyed upon receipt of the new title.