

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2118

Introduced by

Energy and Natural Resources Committee

(At the request of the Department of Environmental Quality)

1 A BILL for an Act to amend and reenact sections 23.1-15-01, 23.1-15-03, 23.1-15-04, and
2 23.1-15-05, subsection 1 of section 23.1-15-07, and sections 23.1-15-08 and 23.1-15-09 of the
3 North Dakota Century Code, relating to abandoned motor vehicles; and to declare an
4 emergency.

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

6 **SECTION 1. AMENDMENT.** Section 23.1-15-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23.1-15-01. Definitions.**

9 For purposes of this chapter, unless the context otherwise requires:

- 10 1. "Abandoned motor vehicle" means a motor vehicle, as defined in section 39-01-01,
11 that has remained for a period of more than forty-eight hours on public property
12 illegally or lacking vital component parts that are essential to the mechanical
13 functioning of the vehicle, including the motor, drive train, or wheels, or is located on
14 private property without consent of the person in control of the property or in an
15 inoperable condition such that it has no substantial potential further use consistent
16 with its usual functions, unless it is kept in an enclosed garage or storage building. It
17 also means a motor vehicle voluntarily surrendered by its owner to a ~~person duly~~
18 ~~licensed under section 23.1-15-09~~ permitted scrap iron processor. An antique
19 automobile, as defined in section 39-04-10.4, and other motor vehicles to include parts
20 car and special interest vehicles, may not be considered an abandoned motor vehicle
21 within the meaning of this chapter.
- 22 2. "Collector" means the owner of one or more special interest vehicles that collects,
23 purchases, acquires, trades, or disposes of special interest vehicles or parts of special

1 interest vehicles for the person's own use in order to restore, preserve, and maintain a
2 special interest vehicle or antique vehicle.

3 3. "Commercial towing service" means a registered business in North Dakota that tows
4 motor vehicles.

5 4. "Department" means the department of environmental quality.

6 5. "Emergency towing" means the towing of a vehicle due to a motor vehicle accident,
7 mechanical breakdown on public roadway, or other emergency-related incident
8 necessitating vehicle removal for public safety with or without the owner's consent.

9 6. "Parts car" means a motor vehicle generally in nonoperable condition which is owned
10 by the collector to furnish parts to restore, preserve, and maintain a special interest
11 vehicle or antique vehicle.

12 7. "Permitted scrap iron processor" means a scrap iron processor holding a valid permit
13 issued by the department under chapter 23.1-08.

14 8. "Scrap tire" means a tire that is no longer suitable for its original intended purpose
15 because of wear, damage, or defect.

16 9. "Secured party" means an insurer covering the abandoned motor vehicle under an
17 insurance policy.

18 10. "Special interest vehicle" means a motor vehicle that is at least twenty years old and
19 has not been altered or modified from original manufacturer's specifications and,
20 because of its historic interest, is being preserved by hobbyists.

21 ~~8-11.~~ "Submerged vehicle" means a motor vehicle or a recreational vehicle as defined in
22 section 39-01-01 or a trailer that is submerged in a body of water.

23 12. "Unit of government" includes a state department or agency, a county, city, township,
24 or other political subdivision.

25 ~~9. "Vital component parts" means those parts of a motor vehicle that are essential to the~~
26 ~~mechanical functioning of the vehicle, including, but not limited to, the motor, drive~~
27 ~~train, and wheels.~~

28 **SECTION 2. AMENDMENT.** Section 23.1-15-03 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **23.1-15-03. Custody of abandoned motor vehicle.**

2 Units of government may take into custody and impound or request and authorize a
3 commercial towing service to take into custody an abandoned motor vehicle. If requested by an
4 owner, lessee, tenant, or occupant of private property, a commercial towing service may remove
5 and take into custody an abandoned motor vehicle located on the private property.

6 **SECTION 3. AMENDMENT.** Section 23.1-15-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **23.1-15-04. Conditions under which an abandoned motor vehicle ~~may be sold~~**
9 **immediately is eligible for immediate disposal.**

10 ~~When an~~An abandoned motor vehicle for which the value as determined by the party with
11 custody is no more than seven model years of age, is lacking vital component parts, and does
12 not display a license plate currently valid in North Dakota or any other state or foreign country,
13 ~~#~~one thousand dollars and for which the owner, lienholders, or secured parties cannot be
14 identified with reasonable certainty after a search of the department of transportation records is
15 immediately eligible for disposition and must be disposed of to by a permitted scrap iron
16 processor licensed under section 23.1-15-09, and is not subject to the notification, reclamation,
17 or title provisions of this chapter. Any license plate displayed on an abandoned motor vehicle
18 must be removed and destroyed prior to the purchaser taking possession of the vehicle. An
19 abandoned motor vehicle qualifying for immediate disposal is not eligible for reimbursement of
20 storage costs under section 23.1-15-09.

21 **SECTION 4. AMENDMENT.** Section 23.1-15-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **23.1-15-05. Notice to owner and law enforcement of abandoned vehicle.**

24 1. When an abandoned motor vehicle does not fall within the provisions of section
25 23.1-15-04, the unit of government or commercial towing service taking it into custody
26 shall give notice of the taking within ten days or within ten days after communications
27 from the owner, lienholder, or **identifiable** secured parties of the abandoned motor
28 vehicle have ceased. The notice must set forth the date and place of the taking, the
29 year, make, model, and serial number of the abandoned motor vehicle, and the place
30 where the vehicle is being held, must inform the owner and any lienholders or
31 **identifiable** secured parties of their right to reclaim the vehicle under section

1 | 23.1-15-06, must state that failure of the owner, lienholders, or identifiable secured
2 parties to exercise their right to reclaim the vehicle within thirty days is deemed a
3 waiver by the owner, lienholders, or secured parties of all right, title, and interest in the
4 vehicle and a consent to the disposal of the vehicle pursuant to section 23.1-15-07,
5 and must state the end date of the thirty-day period during which the owner may
6 reclaim the abandoned motor vehicle.

7 2. The notice must be sent by certified mail, return receipt requested, to the registered
8 owner, if any, of the abandoned motor vehicle and to all readily identifiable lienholders
9 or secured parties of record. If it is impossible to determine with reasonable certainty
10 the identity and address of the registered owner and all lienholders, the notice must be
11 published once in a newspaper of general circulation in the area where the motor
12 vehicle was abandoned or placed on the official website for the unit of government that
13 initiated the impound process from public property. When posted on a website, the
14 notice must be placed in a designated area on the official website for a minimum of
15 thirty days and must include the information in subsection 1. Published notices may be
16 grouped together for convenience and economy. Failure of the owner, lienholders, or
17 secured parties to exercise the right to reclaim the abandoned motor vehicle by the
18 end of the public notice period is deemed a waiver by the owner, lienholders, or
19 secured parties of all right, title, and interests in the vehicle and a consent to the
20 disposal of the vehicle pursuant to section 23.1-15-07.

21 3. Subject to section 23.1-15-04, a commercial towing service that takes an abandoned
22 motor vehicle into custody shall provide notice to the law enforcement agency having
23 jurisdiction in the location from which the motor vehicle was towed within twelve hours
24 after completing the tow.

25 4. Notice under subsection 3 must include:

- 26 a. The license plate number and state of registration;
27 b. The location from which the abandoned motor vehicle was towed;
28 c. The location to which the abandoned motor vehicle was towed;
29 d. The name, address, and telephone number of the commercial towing service that
30 towed and is storing the abandoned motor vehicle; and

1 e. A description of the abandoned motor vehicle, including make, model, year, and
2 color.

3 5. A commercial towing service that violates subsection 3 may not collect a storage fee
4 under section 23.1-15-06 and shall return the motor vehicle to the registered owner at
5 no cost to the owner, lienholder, or identifiable secured party.

6 **SECTION 5. AMENDMENT.** Subsection 1 of section 23.1-15-07 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 1. ~~An~~For any abandoned motor vehicle ~~not~~valued at more than seven model years of
9 age one thousand dollars taken into custody by a unit of government and not reclaimed
10 under section 23.1-15-06 ~~must be sold to the highest bidder at public auction or sale,~~
11 ~~following reasonable published notice. The purchaser must be given a receipt in a~~
12 ~~form prescribed by the department of transportation which is sufficient title to dispose~~
13 ~~of the vehicle. The receipt also entitles the purchaser to register the vehicle and~~
14 ~~receive a certificate of title, free and clear of all liens and claims of ownership. The, the~~
15 ~~license plates displayed on an~~the abandoned motor vehicle must be removed and
16 ~~destroyed prior to the purchaser taking possession of the vehicle~~and thereafter the
17 unit of government may:

18 a. Sell the abandoned motor vehicle to the highest bidder at public auction or sale,
19 following reasonable published notice. The purchaser must be given a receipt in
20 a form prescribed by the department of transportation which entitles the
21 purchaser to register the vehicle and receive a certificate of title, free and clear of
22 all liens and claims of ownership; or

23 b. Obtain a release from the department of transportation which is sufficient title to
24 dispose of the vehicle by a permitted scrap iron processor.

25 **SECTION 6. AMENDMENT.** Section 23.1-15-08 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **23.1-15-08. Disposal of abandoned motor vehicles not sold.**

28 When no bid has been received for an abandoned motor vehicle, the unit of government or
29 a commercial towing service that is a ~~licensed~~permitted scrap iron processor may dispose of it
30 the abandoned motor vehicle pursuant to contract under section 23.1-15-09.

1 **SECTION 7. AMENDMENT.** Section 23.1-15-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **23.1-15-09. ~~Contracts for disposal~~Disposal services - Issuance of licenses~~permits by~~
4 ~~by department of environmental quality - Reimbursement of units of government and~~
5 ~~commercial towing services for costs.~~**

6 1. The department may issue a permit to any qualified scrap iron processor desiring to
7 provide its services under this section if the scrap iron processor meets the
8 requirements of this chapter and chapter 23.1-08.

9 2. A unit of government may ~~contract with~~use the services of any qualified-
10 licensed~~permitted~~ scrap iron processor for collection, storage, incineration, volume
11 reduction, transportation, or other services necessary to prepare abandoned motor
12 vehicles, scrap tires, and ~~other~~ scrap metal for recycling or other methods of disposal.
13 ~~The contract~~A unit of government may authorize the ~~contracting~~a permitted scrap iron
14 processor to pay to the owner of any abandoned motor vehicle an incentive payment
15 for the abandoned motor vehicle if it is voluntarily surrendered and delivered to the
16 permitted scrap iron processor. A unit of government may authorize a permitted scrap
17 iron processor to provide an incentive payment for scrap tires delivered to the
18 permitted scrap iron processor. For purposes of this section, an owner of an
19 abandoned motor vehicle ~~includes only~~is the person that has owned and operated
20 the vehicle for the person's personal or business use.

21 2. ~~The department may issue a license to any qualified scrap iron processor desiring to~~
22 ~~participate in a contract under this section which meets the requirements for solid-~~
23 ~~waste disposers established by the department.~~

24 3. ~~Before~~if a unit of government ~~enters a contract with~~uses the services of a permitted
25 scrap iron processor duly licensed by the department, the department may review the
26 contract to determine whether it conforms to the department's plan for solid waste-
27 disposal. A contract that does conform may be approved by the department. When a
28 contract has been approved, the department may reimburse the unit of government for
29 the costs incurred under the contract, including incentive payments authorized and
30 made under the contract, subject to the limitations of legislative appropriations.

- 1 4. ~~Before a commercial towing service that is a scrap iron processor duly licensed by the~~
2 ~~department enters a contract with the department, the department may review the~~
3 ~~contract to determine whether it conforms to the department's plan for solid waste~~
4 ~~disposal. A contract that does conform may be approved by the department. When a~~
5 ~~contract has been approved, the~~The department may reimburse the ~~a~~ commercial
6 ~~towing service for the costs incurred under the contract~~that is a permitted scrap iron
7 ~~processor in an amount determined by the department for towing and, up to thirty days~~
8 ~~of storage charges resulting from taking an abandoned motor vehicle into custody,~~
9 ~~subject to the limitations of legislative appropriations, and disposal of an abandoned~~
10 ~~motor vehicle if the owner, lienholders, or secured parties of the abandoned motor~~
11 ~~vehicle cannot be identified with reasonable certainty after a search of the department~~
12 ~~of transportation records and publication as provided in subsection 2 of section~~
13 ~~23.1-15-05.~~
14 5. The department may remove any submerged vehicle:
15 a. Immediately, if the owner, lienholders, or secured parties cannot be identified.
16 The department may use a commercial towing service that is a permitted scrap
17 iron processor to extract, tow, and dispose of a submerged vehicle.
18 b. Upon the owner's stated refusal to remove the submerged vehicle or after thirty
19 days from the submerged vehicle entering the water or being discovered in the
20 water if the owner, lienholders, or secured parties are identified after a search of
21 the department of transportation records. The department may use a commercial
22 towing service that is a permitted scrap iron processor for extracting, towing, and
23 disposal of a submerged vehicle. The department may seek reimbursement from
24 the owner for any costs related to extracting, towing, and disposal of the
25 submerged vehicle.
26 6. The department may demand that a unit of government or a commercial towing
27 service that is a licensed~~permitted~~ scrap iron processor ~~contract for the~~
28 ~~disposal~~dispose ~~of abandoned motor vehicles, scrap tires, and other scrap metal~~
29 ~~under the department's plan for solid waste disposal. When~~If the unit of government or
30 ~~the commercial towing service fails to~~ ~~contract~~dispose of the abandoned motor
31 vehicles, scrap tires, or scrap metal within one hundred eighty days of the demand,

1 the department, on behalf of the unit of government, may ~~contract with~~use the services
2 of any permitted scrap iron processor ~~duly licensed by the department~~ for such
3 disposal.

4 7. A reimbursement request must be made on a form available from the department and
5 is subject to the limitations of legislative appropriations and the department's
6 discretion.

7 **SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure.