

1 HB394
2 198435-3
3 By Representative Wood (R)
4 RFD: State Government
5 First Read: 09-APR-19

1
2 ENROLLED, An Act,

3 Relating to unclaimed motor vehicles; to amend
4 Sections 32-8-84, 32-13-2, and 32-13-3, Code of Alabama 1975,
5 to provide further for the unclaimed motor vehicle title hold;
6 and to provide a bond requirement for the sale of an abandoned
7 motor vehicle by sellers who are not bonded agents.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 32-8-84, 32-13-2, and 32-13-3,
10 Code of Alabama 1975, are amended to read as follows:

11 "§32-8-84.

12 "(a) The following shall be considered an unclaimed
13 motor vehicle:

14 "(1) A motor vehicle left unattended on a public
15 road or highway for more than 48 hours.

16 "(2) A motor vehicle, not left on private property
17 for repairs, that has remained on private or other public
18 property for a period of more than 48 hours without the
19 consent of the owner or lessee of the property.

20 "(3) A motor vehicle, left on private property for
21 repairs, that has not been reclaimed within 48 hours from the
22 latter of either the date the repairs were completed or the
23 agreed upon redemption date.

24 "(b) A person ~~or entity~~, as defined in Section
25 40-12-240, in possession of an unclaimed motor vehicle shall

1 report the motor vehicle as unclaimed to the Department of
2 Revenue within five calendar days from the date the motor
3 vehicle first was considered unclaimed. The report shall be
4 made in a manner as prescribed by the department.

5 "(c) (1) Upon receiving notice as required in
6 subsection (b), the department shall place a ~~45-calendar~~
7 60-calendar day hold on the title record and no title shall be
8 issued during that time period unless the title transaction
9 occurred prior to the date the motor vehicle was deemed
10 unclaimed or the motor vehicle was returned to the recorded
11 owner or lienholder of record, if any.

12 "(2) If the motor vehicle was returned to the
13 recorded owner or lienholder of record, if any, prior to the
14 conclusion of the ~~45-calendar-day~~ hold period on the title
15 record, the person ~~or entity~~ who reported the motor vehicle as
16 unclaimed shall report the return of the motor vehicle within
17 five calendar days in a manner as prescribed by the
18 department.

19 "(d) (1) A person ~~or entity~~ in possession of an
20 unclaimed motor vehicle, upon reporting the motor vehicle as
21 unclaimed to the department, shall utilize the National Motor
22 Vehicle Title Information System (NMVTIS) to determine the
23 current title state of record or, if no current title exists
24 for the motor vehicle, the most recent state of registration
25 for the motor vehicle. Thereafter, the person ~~or entity~~ shall

1 submit a records request to the state of record within five
2 calendar days from the date the motor vehicle was reported as
3 unclaimed to the department.

4 "(2) The records request shall be sent to the
5 current title state of record in order to obtain the name and
6 address of the owner and lienholder of record, if any. If no
7 current title exists, the records request shall be sent to the
8 most recent state of registration in order to obtain the name
9 and address of the owner.

10 "(3)a. In the event that no NMVTIS record exists and
11 there is evidence that could be reasonably ascertained by the
12 person ~~or entity~~ indicating that the motor vehicle has been
13 registered in another state, the person ~~or entity~~, within five
14 calendar days from the date the motor vehicle was reported as
15 unclaimed to the department, shall submit a records request to
16 the state of registration in order to obtain the name and
17 address of the owner. Thereafter, the person ~~or entity~~ shall
18 send notice by certified mail with either return receipt
19 requested or electronic delivery confirmation, within five
20 calendar days from receipt of the title record, to the owner
21 and lienholder of record, if any, or registration record, to
22 the owner of record, advising the owner and lienholder of
23 record, if any, of the location of the motor vehicle, normal
24 business hours of the facility holding the motor vehicle, any
25 accrued charges or fees, the daily storage rate, and the

1 mailing address and contact telephone number of the person ~~or~~
2 ~~entity~~ in possession of the motor vehicle.

3 "b. The notice required in paragraph a. shall
4 include the following language in no smaller than 10 point
5 type: "If this motor vehicle is not redeemed by the recorded
6 owner or lienholder of record within 30 calendar days from the
7 date of this notice, the motor vehicle shall be considered
8 abandoned as defined in Section 32-13-1, Code of Alabama 1975.
9 The motor vehicle may then be sold pursuant to the provisions
10 of the Alabama Abandoned Motor Vehicle Act as provided for in
11 Title 32, Chapter 13, Code of Alabama 1975."

12 "(4) A person who fails to report a motor vehicle as
13 unclaimed or fails to notify the owner and lienholder of
14 record, if any, in accordance with this subsection shall
15 forfeit all claims and liens for the motor vehicle's garaging,
16 parking, and storage prior to the time the motor vehicle is
17 reported as unclaimed; provided, however, failure to report
18 shall not result in the forfeiture of claims and liens for the
19 towing and repair of a motor vehicle.

20 "(e) (1) The department shall maintain and
21 appropriately index public records of unclaimed motor vehicles
22 reported to it pursuant to this section. The department may
23 provide lists of the vehicle identification numbers for such
24 motor vehicles without fee in a manner as the department
25 prescribes.

1 "(2) The department shall provide notice of
2 unclaimed motor vehicles to law enforcement.

3 "(3) Notice shall also be provided to the person ~~or~~
4 ~~entity~~ who reported the motor vehicle as unclaimed if it has
5 been reported as stolen to law enforcement.

6 "(f) (1) The department may suspend the registration
7 of a vehicle whose theft or conversion is reported to it
8 pursuant to this section. Until the department learns of its
9 recovery or that the report of its theft or conversion was
10 erroneous, it shall not issue a certificate of title for the
11 motor vehicle.

12 "(2) A title shall be issued by the department in
13 the name of an insurance company on a vehicle that is reported
14 stolen when a settlement between the insured and his or her
15 insurance company has occurred. The title shall be issued
16 electronically in the name of the insurance company until the
17 vehicle has been recovered, and, if recovered, the title may
18 be issued in paper form.

19 "§32-13-2.

20 "(a) A law enforcement officer may cause a motor
21 vehicle to be removed to the nearest garage or other place of
22 safety under any of the following circumstances:

23 "(1) The motor vehicle is left unattended on a
24 public street, road, or highway or other property for a period
25 of at least 48 hours.

1 "(2) The motor vehicle is left unattended because
2 the driver of the vehicle has been arrested or is impaired by
3 an accident or for any other reason which causes the need for
4 the vehicle to be immediately removed as determined necessary
5 by the law enforcement officer.

6 "(3) The motor vehicle is subject to an impoundment
7 order for outstanding traffic or parking violations.

8 "(b) (1) A law enforcement officer who, pursuant to
9 this section, causes any motor vehicle to be removed to a
10 garage or other place of safety shall be liable for gross
11 negligence only.

12 "(2) A person removing a motor vehicle or other
13 property at the direction of an owner or owner's authorized
14 agent, a lessee of real property or the lessee's authorized
15 agent, or a law enforcement officer in accordance with this
16 section shall have a lien on the motor vehicle for a
17 reasonable fee for the removal and for the storage of the
18 motor vehicle.

19 "(c) A law enforcement officer who causes the
20 removal of any motor vehicle to a garage or other place of
21 safety pursuant to this section, within five calendar days,
22 shall give written notice of the removal. The notice shall
23 include a complete description of the motor vehicle
24 identification number and license number thereof, provided the

1 information is available, to the Secretary of the Alabama Law
2 Enforcement Agency.

3 "(d) An owner or owner's authorized agent, or a
4 lessee of real property or ~~his or her~~ the lessee's authorized
5 agent, upon which a motor vehicle has become unclaimed, as
6 provided for in Section 32-8-84, l, may cause the motor vehicle
7 to be removed to a secure place. Any person or entity removing
8 the vehicle at the direction of the owner or lessee of real
9 property or his or her agent pursuant to this section shall
10 have a lien on the motor vehicle for a reasonable fee for the
11 removal and for storage of the motor vehicle.

12 "(e) An owner or lessee or agent of the real
13 property owner and the towing agent or wrecker service
14 employed shall be liable to the owner or lienholder of record
15 for action taken under this section only for gross negligence.

16 "§32-13-3.

17 "(a) A person ~~or entity,~~ as defined in Section
18 40-12-240, in possession of a motor vehicle that is considered
19 an abandoned motor vehicle may sell the motor vehicle at a
20 public auction.

21 "(b) (1) Notice of the date, time, and place of the
22 sale and a description of the motor vehicle to be sold,
23 including the year, make, model, and vehicle identification
24 number, shall be given by publication once a week for two
25 successive weeks in a newspaper of general circulation in the

1 county in which the sale is to be held, provided the vehicle
2 is currently registered in the county. In counties in which no
3 newspaper is published, notice shall be given by posting such
4 notice in a conspicuous place at the courthouse. The first
5 publication or posting, as the case may be, shall be at least
6 30 days before the date of sale. A person ~~or entity~~ selling a
7 motor vehicle at public auction under subsection (a) shall
8 give notice of the public auction to the department at least
9 35 calendar days prior to date of the public auction.

10 "(2) The notice of public auction shall be in a
11 manner as prescribed by the department and shall include all
12 of the following:

13 "a. The name and address of the current owner and
14 lienholder of record, if any, as reflected on the current
15 title or registration record of state.

16 "b. The contact information for the person or entity
17 filing the notice.

18 "c. The motor vehicle's identification number, year,
19 make, and model.

20 "d. The date, time, and location of the auction.

21 "e. If the motor vehicle is not being sold by a
22 bonded agent pursuant to Section 32-8-34, Section 40-12-398,
23 or Section 40-12-414, a statement that the purchaser is
24 required to post a bond pursuant to Section 32-8-36 in order
25 to obtain title to the vehicle.

1 "(3) The auction shall occur where the vehicle is
2 located. The department, within five calendar days of receipt
3 of the notice of public auction, shall send a motor vehicle
4 interest termination notice to the current owner and
5 lienholder of record, if any, as disclosed on the notice of
6 public auction. The motor vehicle interest termination notice
7 shall advise the owner and lienholder of record, if any, that
8 their interest in the motor vehicle, upon its sale, will be
9 terminated pursuant to this chapter, and personal property and
10 items contained in the motor vehicle will be disposed of in a
11 manner determined by the person or entity conducting the sale.

12 "(4) The notice shall include all the information
13 provided in the notice of public auction as well as the owner
14 or other interested party's appeal rights, pursuant to
15 Sections 32-13-4 and 40-2A-8, to contest the proposed sale of
16 the motor vehicle.

17 "(c) (1) Upon payment of the sales price to a seller
18 who is a bonded agent, pursuant to Section 32-8-34, Section
19 40-12-398, or Section 40-12-414, the purchaser of the
20 abandoned motor vehicle shall be entitled to, and the person
21 ~~or entity~~ making the sale shall issue, a bill of sale for the
22 abandoned motor vehicle, free and clear of all liens, security
23 interests, and encumbrances, in a form as prescribed by the
24 department. Upon payment of the sales price to a seller who is
25 not a bonded agent, the purchaser of the abandoned motor

1 vehicle shall be entitled to, and the person making the sale
2 shall issue, a bill of sale for the abandoned motor vehicle,
3 in a form as prescribed by the department. In addition, the
4 purchaser shall post a surety bond pursuant to Section 32-8-36
5 to obtain title for any sale on or after January 1, 2020.

6 "(2) If the purchaser of an abandoned motor vehicle
7 fails to apply for a certificate of title within one calendar
8 year from the date of the sale, the purchaser shall be subject
9 to posting a bond under Section 32-8-36.

10 ~~"(2) (3)~~ (3) Each person ~~or entity~~ who sells a motor
11 vehicle pursuant to this chapter, for three years from the
12 date of the sale, shall maintain all of the following:

13 "a. Copies of the notices sent pursuant to
14 subsection (d) of Section 32-8-84, to the previous motor
15 vehicle owner and lienholder of record, along with evidence
16 that the notices were sent by certified mail.

17 "b. Any associated National Motor Vehicle Title
18 Information System (NMVTIS) records and owner and lienholder
19 records received from any state pursuant to subsection (d) of
20 Section 32-8-84.

21 "c. Any other records as required by the department.

22 ~~"(3) (4)~~ (4) Notwithstanding any other provision in this
23 section, if the person ~~or entity~~ making the sale of the motor
24 vehicle failed to provide proper notices as required in
25 subsection (d) of Section 32-8-84, or this chapter, the sale

1 of the abandoned vehicle shall be void and the current owners,
2 registrants, secured parties, and lienholders of record, if
3 any, for the motor vehicle shall retain their ownership,
4 security interests, liens, and interests in the motor vehicle.

5 "(d) (1) Each purchaser of an abandoned motor vehicle
6 subject to titling shall make an application for a certificate
7 of title unless the motor vehicle is being sold by the
8 purchaser to a licensed automotive dismantler and parts
9 recycler or secondary metals recycler for the purpose of
10 dismantling it or recycling it into metallic scrap for
11 remelting purposes.

12 "(2) A purchaser of an abandoned motor vehicle who
13 sells an abandoned motor vehicle to a licensed automotive
14 dismantler and parts recycler or secondary metals recycler, in
15 lieu of surrendering the certificate of title as prescribed in
16 Section 32-8-87(s) (1), may surrender the bill of sale for the
17 abandoned motor vehicle to the licensed automotive dismantler
18 and parts recycler or secondary metals recycler. The licensed
19 automotive dismantler and metals recycler or secondary parts
20 recycler shall then proceed with the notice of cancellation
21 procedures as prescribed in Section 32-8-87(s) (1) utilizing
22 the bill of sale in lieu of the certificate of title. The bill
23 of sale shall be subject to the same records retention
24 requirements as those prescribed in Section 32-8-87(s) (1) for
25 a certificate of title.

1 "(e) (1) If the current certificate of title to a
2 motor vehicle sold pursuant to this chapter is designated a
3 salvage certificate of title, or if the records of the
4 department indicate an application for a salvage certificate
5 of title has previously been received, the new certificate of
6 title issued by the department shall also be a salvage
7 certificate of title.

8 "(2) The purchaser of a salvage abandoned motor
9 vehicle shall not be permitted to register the vehicle or
10 operate it upon the highways of this state until ~~such time as~~
11 the vehicle is restored by a licensed rebuilder and inspected
12 by the department as required by Section 32-8-87 and a rebuilt
13 Alabama certificate of title is issued."

14 Section 2. This act shall become effective January
15 1, 2020, following its passage and approval by the Governor,
16 or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 23-APR-19.

Jeff Woodard
Clerk

Senate

15-MAY-19

Passed