

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

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8 SYNOPSIS: Under existing law, a 45-calendar day hold
9 is placed on the title record for an unclaimed
10 motor vehicle and no title may be issued during
11 that time period unless the title transaction
12 occurred prior to the date the motor vehicle was
13 deemed unclaimed or the motor vehicle was returned
14 to the recorded owner or lienholder of record.

15 This bill would extend the unclaimed vehicle
16 title hold to 60 calendar days and would provide a
17 bond requirement for the sale of an abandoned motor
18 vehicle by sellers who are not bonded agents.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to unclaimed motor vehicles; to amend
25 Sections 32-8-84, 32-13-2, and 32-13-3, Code of Alabama 1975,
26 to provide further for the unclaimed motor vehicle title hold;

1 and to provide a bond requirement for the sale of an abandoned
2 motor vehicle by sellers who are not bonded agents.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

6 "§32-8-84.

7 "(a) The following shall be considered an unclaimed
8 motor vehicle:

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

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

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

19 "(b) A person ~~or entity~~, as defined in Section
20 40-12-240, in possession of an unclaimed motor vehicle shall
21 report the motor vehicle as unclaimed to the Department of
22 Revenue within five calendar days from the date the motor
23 vehicle first was considered unclaimed. The report shall be
24 made in a manner as prescribed by the department.

25 "(c) (1) Upon receiving notice as required in
26 subsection (b), the department shall place a ~~45-calendar~~
27 60-calendar day hold on the title record and no title shall be

1 issued during that time period unless the title transaction
2 occurred prior to the date the motor vehicle was deemed
3 unclaimed or the motor vehicle was returned to the recorded
4 owner or lienholder of record, if any.

5 "(2) If the motor vehicle was returned to the
6 recorded owner or lienholder of record, if any, prior to the
7 conclusion of the ~~45-calendar-day~~ hold period on the title
8 record, the person ~~or entity~~ who reported the motor vehicle as
9 unclaimed shall report the return of the motor vehicle within
10 five calendar days in a manner as prescribed by the
11 department.

12 "(d) (1) A person ~~or entity~~ in possession of an
13 unclaimed motor vehicle, upon reporting the motor vehicle as
14 unclaimed to the department, shall utilize the National Motor
15 Vehicle Title Information System (NMVTIS) to determine the
16 current title state of record or, if no current title exists
17 for the motor vehicle, the most recent state of registration
18 for the motor vehicle. Thereafter, the person ~~or entity~~ shall
19 submit a records request to the state of record within five
20 calendar days from the date the motor vehicle was reported as
21 unclaimed to the department.

22 "(2) The records request shall be sent to the
23 current title state of record in order to obtain the name and
24 address of the owner and lienholder of record, if any. If no
25 current title exists, the records request shall be sent to the
26 most recent state of registration in order to obtain the name
27 and address of the owner.

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

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

1 "(4) A person who fails to report a motor vehicle as
2 unclaimed or fails to notify the owner and lienholder of
3 record, if any, in accordance with this subsection shall
4 forfeit all claims and liens for the motor vehicle's garaging,
5 parking, and storage prior to the time the motor vehicle is
6 reported as unclaimed; provided, however, failure to report
7 shall not result in the forfeiture of claims and liens for the
8 towing and repair of a motor vehicle.

9 "(e) (1) The department shall maintain and
10 appropriately index public records of unclaimed motor vehicles
11 reported to it pursuant to this section. The department may
12 provide lists of the vehicle identification numbers for such
13 motor vehicles without fee in a manner as the department
14 prescribes.

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

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

20 "(f) (1) The department may suspend the registration
21 of a vehicle whose theft or conversion is reported to it
22 pursuant to this section. Until the department learns of its
23 recovery or that the report of its theft or conversion was
24 erroneous, it shall not issue a certificate of title for the
25 motor vehicle.

26 "(2) A title shall be issued by the department in
27 the name of an insurance company on a vehicle that is reported

1 stolen when a settlement between the insured and his or her
2 insurance company has occurred. The title shall be issued
3 electronically in the name of the insurance company until the
4 vehicle has been recovered, and, if recovered, the title may
5 be issued in paper form.

6 "§32-13-2.

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

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

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

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

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

24 "(2) A person removing a motor vehicle or other
25 property at the direction of an owner or owner's authorized
26 agent, a lessee of real property or the lessee's authorized
27 agent, or a law enforcement officer in accordance with this

1 section shall have a lien on the motor vehicle for a
2 reasonable fee for the removal and for the storage of the
3 motor vehicle.

4 "(c) A law enforcement officer who causes the
5 removal of any motor vehicle to a garage or other place of
6 safety pursuant to this section, within five calendar days,
7 shall give written notice of the removal. The notice shall
8 include a complete description of the motor vehicle
9 identification number and license number thereof, provided the
10 information is available, to the Secretary of the Alabama Law
11 Enforcement Agency.

12 "(d) An owner or owner's authorized agent, or a
13 lessee of real property or ~~his or her~~ the lessee's authorized
14 agent, upon which a motor vehicle has become unclaimed, as
15 provided for in Section 32-8-84, l, may cause the motor vehicle
16 to be removed to a secure place. Any person or entity removing
17 the vehicle at the direction of the owner or lessee of real
18 property or his or her agent pursuant to this section shall
19 have a lien on the motor vehicle for a reasonable fee for the
20 removal and for storage of the motor vehicle.

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

25 "§32-13-3.

26 "(a) A person ~~or entity,~~ as defined in Section
27 40-12-240, in possession of a motor vehicle that is considered

1 an abandoned motor vehicle may sell the motor vehicle at a
2 public auction.

3 "(b) (1) Notice of the date, time, and place of the
4 sale and a description of the motor vehicle to be sold,
5 including the year, make, model, and vehicle identification
6 number, shall be given by publication once a week for two
7 successive weeks in a newspaper of general circulation in the
8 county in which the sale is to be held, provided the vehicle
9 is currently registered in the county. In counties in which no
10 newspaper is published, notice shall be given by posting such
11 notice in a conspicuous place at the courthouse. The first
12 publication or posting, as the case may be, shall be at least
13 30 days before the date of sale. A person ~~or entity~~ selling a
14 motor vehicle at public auction under subsection (a) shall
15 give notice of the public auction to the department at least
16 35 calendar days prior to date of the public auction.

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

20 "a. The name and address of the current owner and
21 lienholder of record, if any, as reflected on the current
22 title or registration record of state.

23 "b. The contact information for the person or entity
24 filing the notice.

25 "c. The motor vehicle's identification number, year,
26 make, and model.

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

1 "e. If the motor vehicle is not being sold by a
2 bonded agent pursuant to Section 32-8-34, Section 40-12-398,
3 or Section 40-12-414, a statement that the purchaser is
4 required to post a bond pursuant to Section 32-8-36 in order
5 to obtain title to the vehicle.

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

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

22 "(c) (1) Upon payment of the sales price to a seller
23 who is a bonded agent, pursuant to Section 32-8-34, Section
24 40-12-398, or Section 40-12-414, the purchaser of the
25 abandoned motor vehicle shall be entitled to, and the person
26 ~~or entity~~ making the sale shall issue, a bill of sale for the
27 abandoned motor vehicle, free and clear of all liens, security

1 interests, and encumbrances, in a form as prescribed by the
2 department. Upon payment of the sales price to a seller who is
3 not a bonded agent, the purchaser of the abandoned motor
4 vehicle shall be entitled to, and the person making the sale
5 shall issue, a bill of sale for the abandoned motor vehicle,
6 in a form as prescribed by the department. In addition, the
7 purchaser shall post a surety bond pursuant to Section 32-8-36
8 to obtain title for any sale on or after January 1, 2020.

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

13 ~~"(2)~~ (3) Each person ~~or entity~~ who sells a motor
14 vehicle pursuant to this chapter, for three years from the
15 date of the sale, shall maintain all of the following:

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

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

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

25 ~~"(3)~~ (4) Notwithstanding any other provision in this
26 section, if the person ~~or entity~~ making the sale of the motor
27 vehicle failed to provide proper notices as required in

1 subsection (d) of Section 32-8-84, or this chapter, the sale
2 of the abandoned vehicle shall be void and the current owners,
3 registrants, secured parties, and lienholders of record, if
4 any, for the motor vehicle shall retain their ownership,
5 security interests, liens, and interests in the motor vehicle.

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

13 "(2) A purchaser of an abandoned motor vehicle who
14 sells an abandoned motor vehicle to a licensed automotive
15 dismantler and parts recycler or secondary metals recycler, in
16 lieu of surrendering the certificate of title as prescribed in
17 Section 32-8-87(s) (1), may surrender the bill of sale for the
18 abandoned motor vehicle to the licensed automotive dismantler
19 and parts recycler or secondary metals recycler. The licensed
20 automotive dismantler and metals recycler or secondary parts
21 recycler shall then proceed with the notice of cancellation
22 procedures as prescribed in Section 32-8-87(s) (1) utilizing
23 the bill of sale in lieu of the certificate of title. The bill
24 of sale shall be subject to the same records retention
25 requirements as those prescribed in Section 32-8-87(s) (1) for
26 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.