

CHAPTER 170

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 09-1279

BY REPRESENTATIVE(S) Pace, Vigil;
also SENATOR(S) Kopp.**AN ACT****CONCERNING ABANDONED MOTOR VEHICLES.***Be it enacted by the General Assembly of the State of Colorado:*

SECTION 1. 42-4-1802 (3) and (7), Colorado Revised Statutes, are amended to read:

42-4-1802. Definitions. As used in this part 18, unless the context otherwise requires:

(3) ~~"Auto parts recycler" means any person that purchases motor vehicles for the purpose of dismantling and selling the components thereof and that complies with all federal, state, and local regulations.~~

(7) "Operator" means a person or a firm licensed by the public utilities commission as a towing carrier. ~~For purposes of this part 18, "operator" includes auto parts recyclers that tow vehicles for remuneration.~~

SECTION 2. 42-4-1803 (1), Colorado Revised Statutes, is amended, and the said 42-4-1803 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-4-1803. Abandonment of motor vehicles - public property. (1) (a) No person shall abandon any motor vehicle upon public property. Any sheriff, undersheriff, deputy sheriff, police officer, marshal, Colorado state patrol officer, or agent of the Colorado bureau of investigation who finds a motor vehicle that such officer has reasonable grounds to believe has been abandoned shall require such motor vehicle to be removed or cause the same to be removed and placed in storage in any impound lot designated or maintained by the law enforcement agency

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

employing such officer.

(b) IF AN OPERATOR IS USED BY THE RESPONSIBLE LAW ENFORCEMENT AGENCY TO TOW OR IMPOUND THE MOTOR VEHICLE PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1), THE OPERATOR SHALL BE PROVIDED WITH WRITTEN AUTHORIZATION TO POSSESS THE MOTOR VEHICLE ON A DOCUMENT THAT INCLUDES, WITHOUT LIMITATION, THE YEAR, MAKE, MODEL, VEHICLE IDENTIFICATION NUMBER, AND STORAGE LOCATION.

(3) THE OPERATOR SHALL BE RESPONSIBLE FOR REMOVING THE MOTOR VEHICLE AND THE MOTOR VEHICLE DEBRIS FROM THE SITE PURSUANT TO THIS SECTION, BUT SHALL NOT BE REQUIRED TO REMOVE OR CLEAN UP ANY HAZARDOUS OR COMMERCIAL CARGO THE MOTOR VEHICLE CARRIED. THE COMMERCIAL CARRIER SHALL BE RESPONSIBLE FOR REMOVAL OR CLEAN-UP OF THE HAZARDOUS OR COMMERCIAL CARGO.

SECTION 3. 42-4-1804 (2) and (3), the introductory portion to 42-4-1804 (6) (a), and 42-4-1804 (6) (b), Colorado Revised Statutes, are amended to read:

42-4-1804. Report of abandoned motor vehicles - owner's opportunity to request hearing. (2) Upon its receipt of such report, the department shall search its records ~~or make other inquiries~~ to ascertain ~~if possible~~, the last-known owner of record for the abandoned motor vehicle and any lienholder as those persons are represented in department records. In the event the vehicle is determined by the department not to be registered in the state of Colorado, the report required by this section shall state that no Colorado title record exists regarding the vehicle. Within ten working days after such receipt, the department shall complete its search and shall transmit such report, together with all relevant information, ~~thereon~~, to the responsible law enforcement agency.

(3) The responsible law enforcement agency, upon its receipt of the report required under subsection (2) of this section, shall determine, from all available information and after reasonable inquiry, whether ~~or not~~ the abandoned motor vehicle has been reported stolen, and, if so reported, such agency shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this part 18. The responsible law enforcement agency AND THE OPERATOR shall have the right to recover from the owner ~~its~~ THEIR reasonable costs to recover and secure the motor vehicle.

(6) (a) An operator or its agent shall, ~~within~~ NO LESS THAN TWO DAYS, BUT NO MORE THAN ten ~~working~~ days after a motor vehicle has been towed, determine if there is an owner and a lienholder represented in department records and send a notice by certified mail, return receipt requested, to the LAST address of the owner, AS SHOWN ON THE MOTOR VEHICLE'S REGISTRATION, and the lienholder, AS SHOWN ON THE TITLE, IF EITHER IS SHOWN IN DEPARTMENT RECORDS. The cost of complying with this paragraph (a) shall be considered a cost of towing; except that the total of such costs shall not exceed ~~the lesser of one hundred FIFTY dollars. or ten times the cost of notifying the owner and lienholder by certified mail.~~ THE NOTICE TO THE OWNER AND LIENHOLDER SHALL BE SENT WITHIN THREE DAYS AFTER THE OPERATOR RECEIVES THE INFORMATION FROM THE DEPARTMENT. Such notice shall contain the following information:

(b) The operator shall not be entitled to recover any daily storage fees from the day the vehicle is towed until the day the owner and lienholder are notified, unless the operator reasonably attempts to notify the owner and lienholder by the date specified in paragraph (a) of this subsection (6). Sending a notice by certified mail, return receipt requested, to the owner and the lienholder as represented in department records shall be deemed a reasonable attempt to notify the owner and the lienholder. Failure to notify the owner and the lienholder due to the receipt of erroneous information from the department OR A FAILURE OF THE LAW ENFORCEMENT AGENCY TO COMPLY WITH THIS SECTION shall not cause the loss of such storage fees accrued from the date the vehicle is towed until the owner and the lienholder receive such notice.

SECTION 4. 42-4-1805, Colorado Revised Statutes, is amended to read:

42-4-1805. Appraisal of abandoned motor vehicles - sale. (1) (a) Abandoned motor vehicles or motor vehicles abandoned in an impound lot subsequent to a tow from public property shall be appraised BY A LAW ENFORCEMENT OFFICER OR AN INDEPENDENT MOTOR VEHICLE DEALER and sold by the responsible law enforcement agency at a public or private sale held not less than thirty days nor more than sixty days after the date the notice required by section 42-4-1804 (4) was mailed.

(b) SUBJECT TO SECTION 42-4-1804, THE OPERATOR MAY CONTINUE TO CHARGE FOR DAILY STORAGE FEES UNTIL THE RESPONSIBLE LAW ENFORCEMENT AGENCY COMPLIES WITH THIS SECTION.

(2) If the appraised value of an abandoned motor vehicle sold pursuant to this section is ~~two~~ THREE hundred FIFTY dollars or less, the sale shall be made only for the purpose of junking, scrapping, or dismantling such motor vehicle, and the purchaser thereof shall not, under any circumstances, be entitled to a Colorado certificate of title. The responsible law enforcement agency making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 42-4-1804 (2), to the person purchasing such motor vehicle. The bill of sale shall state that the purchaser acquires no right to a certificate of title for such vehicle. The responsible law enforcement agency making the sale shall promptly submit a report of sale, with a copy of the bill of sale, to the department and shall deliver a copy of such report of sale to the purchaser of the motor vehicle. Upon receipt of any report of sale with supporting documents on any sale made pursuant to this subsection (2), the department shall purge the records for such vehicle as provided in section 42-4-1810 (1) (b) and shall not issue a new certificate of title for such vehicle. Any certificate of title issued in violation of this subsection (2) shall be void.

(3) If the appraised value of an abandoned motor vehicle sold pursuant to this section is more than ~~two~~ THREE hundred FIFTY dollars, the sale may be made for any intended use by the purchaser. ~~thereof~~. The responsible law enforcement agency making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 42-4-1804 (2), and an application for a Colorado certificate of title signed by a legally authorized representative of the responsible law enforcement agency conducting the sale, to the person purchasing such motor vehicle. The purchaser of the abandoned motor vehicle shall be entitled to a Colorado certificate of title upon application and proof of compliance with the

applicable provisions of the "Certificate of Title Act", part 1 of article 6 of this title WITHIN FOURTEEN DAYS AFTER THE SALE; except that, if such vehicle is less than five years old, including the current year model, and if the department does not provide the name of an owner of record to the law enforcement agency, the purchaser shall apply for a bonded title and the department shall issue such bonded title upon the applicant meeting the qualifications for such title pursuant to rules promulgated by the department.

(4) (a) TRANSFERRING THE TITLE OF A MOTOR VEHICLE TO AN OPERATOR TO SATISFY A DEBT CREATED PURSUANT TO THIS PART 18 SHALL NOT BE DEEMED TO BE THE SALE OF A MOTOR VEHICLE.

(b) NOTHING IN THIS SECTION SHALL BE DEEMED TO REQUIRE AN OPERATOR TO BE LICENSED PURSUANT TO ARTICLE 6 OF TITLE 12, C.R.S., FOR PURPOSES OF CONDUCTING ACTIVITIES UNDER THIS PART 18.

SECTION 5. 42-4-1810 (1) (b), Colorado Revised Statutes, is amended to read:

42-4-1810. Transfer and purge of certificates of title. (1) Whenever any motor vehicle is abandoned and removed and sold in accordance with the procedures set forth in this part 18, the department shall transfer the certificate of title or issue a new certificate of title or shall purge such certificate of title in either of the following cases:

(b) Upon a person's submission of documents indicating the abandonment, removal, and subsequent wrecking or dismantling of a motor vehicle, including all sales of abandoned motor vehicles with an appraised value under ~~two~~ THREE hundred FIFTY dollars that are conducted pursuant to section 42-4-1805 (2), the department shall keep the records for one year and then purge the records for such abandoned motor vehicle; except that the department shall not be required to wait before purging the records if the purchaser is a licensed motor vehicle dealer.

SECTION 6. 42-4-1813 (2), Colorado Revised Statutes, is amended to read:

42-4-1813. Local regulations. (2) The provisions of this part 18 may be superseded by ordinance or resolution of a municipality, as defined in section 31-1-101, ~~(6)~~; C.R.S., or any county that sets forth procedures for the removal, storage, and disposal of abandoned or illegally parked motor vehicles on public property; EXCEPT THAT SUCH ORDINANCE OR RESOLUTION SHALL NOT DEPRIVE AN OPERATOR OF A LIEN ATTACHED AND PERFECTED UNDER THIS PART 18.

SECTION 7. 42-4-2102 (3) and (5), Colorado Revised Statutes, are amended to read:

42-4-2102. Definitions. As used in this part 21, unless the context otherwise requires:

(3) ~~"Auto parts recycler" means any person that purchases motor vehicles for the purpose of dismantling and selling the components thereof and that complies with all federal, state, and local regulations.~~

(5) "Operator" means a person or a firm licensed by the public utilities commission as a towing carrier. ~~For purposes of this part 21, "operator" includes auto parts recyclers that tow vehicles for remuneration.~~

SECTION 8. 42-4-2103(1) (b), (3) (a), and (3) (c) (I) and the introductory portion to 42-4-2103 (4), Colorado Revised Statutes, are amended to read:

42-4-2103. Abandonment of motor vehicles - private property. (1) (b) No person shall abandon any motor vehicle upon private property other than his or her own. Any owner or lessee, or the owner's or lessee's agent authorized in writing, may have an abandoned motor vehicle removed from his or her property by having it towed and impounded by an operator. MOTOR VEHICLES ABANDONED UPON THE PROPERTY OF A MOTOR VEHICLE RECYCLER MAY BE RECYCLED IN ACCORDANCE WITH PART 22 OF THIS ARTICLE IF THE VEHICLE'S APPRAISAL VALUE IS LESS THAN THREE HUNDRED FIFTY DOLLARS.

(3) (a) ~~Any~~ AN operator shall, NO LESS THAN TWO DAYS, BUT NO ~~later~~ MORE than ten ~~working~~ days after a motor vehicle has been towed or abandoned, report such motor vehicle tow to the department by first-class or certified mail, by personal delivery, or by internet communication, which report shall be on a form prescribed and supplied by the department.

(c) (I) An operator or its agent shall, ~~within~~ NO LESS THAN TWO DAYS, BUT NO MORE THAN ten ~~working~~ days after a motor vehicle has been towed or abandoned, determine if there is an owner and a lienholder represented in department records and send a notice by certified mail, return receipt requested, to the address of the owner, AS SHOWN ON THE MOTOR VEHICLE'S REGISTRATION, and the lienholder IF EITHER IS SHOWN in department records. Such notice shall include the information required by the report set forth in paragraph (b) of this subsection (3). The cost of complying with the provisions of this paragraph (c) shall be considered a cost of towing; except that the total of such costs shall not exceed ~~the lesser of one hundred FIFTY dollars. or ten times the cost of notifying the owner and lienholder by certified mail.~~ THE NOTICE TO THE OWNER AND LIENHOLDER SHALL BE SENT WITHIN THREE DAYS AFTER RECEIVING THE INFORMATION FROM THE DEPARTMENT.

(4) Within ten ~~working~~ days after the receipt of ~~such~~ THE report SET FORTH IN PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION from the department, the operator shall notify by certified mail the owner of record including an out-of-state owner of record. The operator shall make a reasonable effort to ascertain the address of the owner of record. Such notice shall contain the following information:

SECTION 9. 42-4-2104 (1) (a), (2), and (3), Colorado Revised Statutes, are amended, and the said 42-4-2104 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

42-4-2104. Appraisal of abandoned motor vehicles - sale. (1) (a) Motor vehicles that are abandoned on private property shall be appraised and sold by the operator in a commercially reasonable manner at a public or private sale held not less than thirty days nor more than sixty days after the postmarked date the notice was mailed pursuant to section 42-4-2103 (4) or the date the operator receives notice that no record exists for such vehicle. Such sale shall be made ~~through~~ TO

a LICENSED motor vehicle dealer or wholesaler, or wholesale motor vehicle auction dealer, ~~licensed in accordance with section 12-6-108, C.R.S.,~~ or through a classified newspaper advertisement published in Colorado. For purposes of this section, a sale shall not be considered commercially reasonable if the vehicle's appraisal value is more than ~~two~~ THREE hundred FIFTY dollars and ~~such~~ THE vehicle is sold to an officer or partner of the operator that has possession of the vehicle or to any other person with a proprietary interest in such operator.

(c) SUBJECT TO SECTION 42-4-2103 AND IF AN OPERATOR CONDUCTS A COMMERCIALY REASONABLE SALE BUT FAILS TO SELL THE MOTOR VEHICLE, THE OPERATOR MAY CONTINUE TO COLLECT DAILY STORAGE FEES FOR SUCH VEHICLE ACTUALLY ACCRUED FOR UP TO ONE HUNDRED TWENTY DAYS.

(2) If the appraised value of an abandoned motor vehicle sold pursuant to this section is ~~two~~ THREE hundred FIFTY dollars or less, the sale shall be made only for the purpose of junking, scrapping, or dismantling such motor vehicle, and the purchaser thereof shall not, under any circumstances, be entitled to a Colorado certificate of title. The operator making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 42-4-2103 (3), to the person purchasing such motor vehicle. The bill of sale shall state that the purchaser acquires no right to a certificate of title for such vehicle. The operator making the sale shall promptly submit a report of sale, with a copy of the bill of sale, to the department and shall deliver a copy of such report of sale to the purchaser of the motor vehicle. Upon receipt of any report of sale with supporting documents on any sale made pursuant to this subsection (2), the department shall purge the records for such vehicle as provided in section 42-4-2109 (1) (b) and shall not issue a new certificate of title for such vehicle. Any certificate of title issued in violation of this subsection (2) shall be void.

(3) If the appraised value of an abandoned motor vehicle sold pursuant to this section is more than ~~two~~ THREE hundred FIFTY dollars, the sale may be made for any intended use by the purchaser. ~~thereof.~~ The operator making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 42-4-2103 (3), and an application for a Colorado certificate of title signed by a legally authorized representative of the operator conducting the sale, to the person purchasing such motor vehicle. The purchaser of the abandoned motor vehicle shall be entitled to a Colorado certificate of title upon application and proof of compliance with the applicable provisions of the "Certificate of Title Act", part 1 of article 6 of this title; except that, if such vehicle is less than five years old, including the current year models, and if the department does not provide the name of an owner of record to the operator, the buyer shall apply for a bonded title and the department shall issue such bonded title upon the applicant meeting the qualifications for such title pursuant to rules promulgated by the department.

SECTION 10. 42-4-2109 (1) (b), Colorado Revised Statutes, is amended to read:

42-4-2109. Transfer and purge of certificates of title. (1) Whenever any motor vehicle is abandoned and removed and sold in accordance with the procedures set forth in this part 21, the department shall transfer the certificate of title or issue a new certificate of title or shall purge such certificate of title in either of the following cases:

(b) Upon a person's submission of documents indicating the abandonment, removal, and subsequent wrecking or dismantling of a motor vehicle, including all sales of abandoned motor vehicles with an appraised value of ~~two~~ THREE hundred FIFTY dollars or less that are conducted pursuant to section 42-4-2104 (2) and all sales of abandoned motor vehicles, as defined in section 38-20-116 (2.5) (b) (I), C.R.S., with a retail fair market value of ~~two~~ THREE hundred FIFTY dollars or less that are conducted pursuant to section 38-20-116 (2.5) (d) (I), C.R.S., the department shall keep the records for one year and then purge the records for such abandoned motor vehicle; except that the department shall not be required to wait before purging the records if the purchaser is a licensed motor vehicle dealer.

SECTION 11. 42-4-2104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

42-4-2104. Appraisal of abandoned motor vehicles - sale. (4) TRANSFERRING THE TITLE OF A MOTOR VEHICLE TO AN OPERATOR TO SATISFY A DEBT COVERED BY A LIEN CREATED PURSUANT TO THIS PART 21 SHALL NOT BE DEEMED TO BE THE SALE OF A MOTOR VEHICLE.

SECTION 12. 42-4-2108 (2) (b), Colorado Revised Statutes, is amended to read:

42-4-2108. Proceeds of sale. (2) If the sale of any motor vehicle and its attached accessories or equipment under the provisions of section 42-4-2104 produces an amount greater than the sum of all charges of the operator who has perfected his or her lien:

(b) Any balance remaining after payment pursuant to paragraphs (a) and (a.5) of this subsection (2) shall be forwarded to the department, and the department may recover from such balance any taxes, fees, and penalties due ~~and payable~~ to it with respect to such motor vehicle. THE DEPARTMENT SHALL PROVIDE A RECEIPT TO THE OPERATOR WITHIN SEVEN DAYS AFTER RECEIVING THE MONEY IF THE OPERATOR PROVIDES THE DEPARTMENT WITH A POSTAGE-PAID, SELF-ADDRESSED ENVELOPE.

SECTION 13. Act subject to petition - effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts occurring on or after the applicable effective date of this act.

Approved: April 22, 2009