

CHAPTER 191

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 04-1062

BY REPRESENTATIVE(S) Larson, Berry, McFadyen, Carroll, Cloer, Frangas, Hodge, Jahn, Johnson R., Lee, Miller, Pommer, Rippy, Salazar, Stafford, Stengel, Weddig, Welker, Williams S., Garcia, and Rose; also SENATOR(S) May R., and Takis.

AN ACT

CONCERNING THE DISPOSITION OF MOTOR VEHICLES ABANDONED AT MOTOR VEHICLE REPAIR SHOPS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. The introductory portion to 42-4-2102 (1), Colorado Revised Statutes, is amended to read:

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

(1) "Abandoned motor vehicle", EXCEPT AS OTHERWISE DEFINED IN SECTION 42-4-2104.5 (2) (a) FOR PURPOSES OF SECTION 42-4-2104.5, means:

SECTION 2. Part 21 of article 4 of title 42, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

42-4-2104.5. Abandonment of motor vehicles of limited value at repair shops - legislative declaration - definitions. (1) THE GENERAL ASSEMBLY HEREBY DECLARES THAT THIS SECTION IS INTENDED TO SPECIFY ONLY THE RIGHTS AND DUTIES OF REPAIR SHOPS WITH RESPECT TO MOTOR VEHICLES THAT HAVE APPRAISED VALUES OF TWO THOUSAND DOLLARS OR LESS AND THAT ARE ABANDONED AT SUCH SHOPS. THIS SECTION SHALL NOT BE CONSTRUED TO:

(a) ALTER OR LIMIT THE RIGHTS OR DUTIES OF AN OPERATOR, INCLUDING AN OPERATOR THAT IS ALSO A REPAIR SHOP, WITH RESPECT TO MOTOR VEHICLES ABANDONED ON PRIVATE PROPERTY AS OTHERWISE SPECIFIED IN THIS PART 21;

(b) EXEMPT AN OPERATOR, INCLUDING AN OPERATOR THAT IS ALSO A REPAIR SHOP,

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

FROM ANY LAW OR ADMINISTRATIVE RULE IMPOSED ON OPERATORS; OR

(c) GRANT ANY RIGHTS OR IMPOSE ANY DUTIES OF AN OPERATOR ON A REPAIR SHOP THAT IS NOT AN OPERATOR.

(2) FOR PURPOSES OF THIS SECTION:

(a) "ABANDONED MOTOR VEHICLE" MEANS A MOTOR VEHICLE:

(I) THAT HAS BEEN LEFT AT A REPAIR SHOP BY THE MOTOR VEHICLE'S OWNER, THE OWNER'S AGENT, OR AN OPERATOR HIRED BY THE OWNER OR OWNER'S AGENT;

(II) THAT THE REPAIR SHOP HAS OFFERED TO REPAIR AND FOR WHICH THE REPAIR SHOP HAS PREPARED AN ESTIMATE OF REPAIR COSTS;

(III) THAT THE OWNER OR THE OWNER'S AGENT HAS REFUSED TO AUTHORIZE REPAIRS TO, HAS REFUSED TO PAY FOR AUTHORIZED AND COMPLETED REPAIRS TO, OR HAS REFUSED TO REMOVE FROM THE REPAIR SHOP UPON REQUEST. IF A REPAIR SHOP IS UNABLE, DESPITE GOOD FAITH EFFORTS, TO OBTAIN A RESPONSE FROM THE OWNER OR THE OWNER'S AGENT REGARDING THE AUTHORIZATION OF REPAIRS, PAYMENT FOR AUTHORIZED AND COMPLETED REPAIRS, OR THE REMOVAL OF A MOTOR VEHICLE, THE OWNER OR OWNER'S AGENT SHALL BE DEEMED TO HAVE REFUSED TO AUTHORIZE REPAIRS, PAY FOR AUTHORIZED AND COMPLETED REPAIRS, OR REMOVE THE MOTOR VEHICLE.

(IV) THAT IS NOT THE SUBJECT OF SALE NEGOTIATIONS OR A SALE AGREEMENT BETWEEN THE OWNER OR THE OWNER'S AGENT AND THE REPAIR SHOP.

(b) "REPAIR SHOP" MEANS A PERSON OR FIRM THAT OFFERS MAJOR MOTOR VEHICLE REPAIR SERVICES OF MORE THAN ONE THOUSAND DOLLARS IN VALUE PER MOTOR VEHICLE REPAIR TO THE PUBLIC ON A COMMERCIAL BASIS AND COMPLIES WITH ALL FEDERAL, STATE, COUNTY, AND MUNICIPAL LAWS THAT REQUIRE THE PERSON OR FIRM TO POSSESS BUSINESS OR TAX LICENSES.

(3) A REPAIR SHOP IN POSSESSION OF AN ABANDONED MOTOR VEHICLE SHALL CONDUCT OR CAUSE TO BE CONDUCTED AN APPRAISAL OF THE MOTOR VEHICLE AT LEAST FIFTEEN DAYS, BUT NO MORE THAN THIRTY DAYS, AFTER THE DATE THE OWNER OF THE MOTOR VEHICLE OR THE OWNER'S AGENT REFUSED TO AUTHORIZE REPAIRS TO THE MOTOR VEHICLE, PAY FOR AUTHORIZED AND COMPLETED REPAIRS TO THE MOTOR VEHICLE, OR REMOVE THE MOTOR VEHICLE FROM THE REPAIR SHOP UPON REQUEST. IF THE REPAIR SHOP IS UNABLE, DESPITE GOOD FAITH EFFORTS, TO OBTAIN A RESPONSE FROM THE OWNER OR THE OWNER'S AGENT REGARDING REPAIR AUTHORIZATION, PAYMENT FOR AUTHORIZED AND COMPLETED REPAIRS, OR REMOVAL OF THE MOTOR VEHICLE, THE OWNER OR OWNER'S AGENT SHALL BE DEEMED TO HAVE REFUSED TO GRANT AUTHORIZATION, MAKE PAYMENT, OR REMOVE THE MOTOR VEHICLE FIVE WORKING DAYS FOLLOWING THE REPAIR SHOP'S LAST GOOD FAITH EFFORT TO CONTACT THE OWNER OR OWNER'S AGENT. A REPAIR SHOP THAT HAS AN APPRAISAL CONDUCTED SHALL USE A LICENSED COLORADO MOTOR VEHICLE DEALER TO DETERMINE THE VALUE OF THE MOTOR VEHICLE.

(4) IF THE APPRAISAL OF AN ABANDONED MOTOR VEHICLE INDICATES THAT THE

MOTOR VEHICLE IS WORTH TWO THOUSAND DOLLARS OR LESS AND THE REPAIR SHOP INTENDS TO SELL THE MOTOR VEHICLE, THE REPAIR SHOP SHALL COMPLY WITH THE FOLLOWING PROCEDURES:

(a) (I) NO LATER THAN FIVE WORKING DAYS FOLLOWING COMPLETION OF THE APPRAISAL OF THE MOTOR VEHICLE, THE REPAIR SHOP SHALL PROVIDE NOTICE REGARDING THE MOTOR VEHICLE TO THE DEPARTMENT, THE SHERIFF OR THE SHERIFF'S DESIGNEE OF THE COUNTY IN WHICH THE REPAIR SHOP IS LOCATED, OR THE CHIEF OF POLICE OR THE CHIEF'S DESIGNEE OF THE MUNICIPALITY IN WHICH THE REPAIR SHOP IS LOCATED. THE NOTICE SHALL INCLUDE THE NAME AND LOCATION OF THE REPAIR SHOP AND A DESCRIPTION OF THE ABANDONED MOTOR VEHICLE, INCLUDING THE MAKE, MODEL, COLOR, AND YEAR; THE NUMBER, ISSUING STATE, AND EXPIRATION DATE OF THE LICENSE PLATE; AND THE VEHICLE IDENTIFICATION NUMBER.

(II) THE LAW ENFORCEMENT AGENCY THAT RECEIVES THE NOTICE REQUIRED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) SHALL ENTER THE ABANDONED MOTOR VEHICLE IN THE COLORADO CRIME INFORMATION CENTER COMPUTER SYSTEM AND SHALL ASCERTAIN, IF POSSIBLE, WHETHER OR NOT THE MOTOR VEHICLE HAS BEEN REPORTED STOLEN. IF SO REPORTED, THE AGENCY SHALL RECOVER AND SECURE THE MOTOR VEHICLE, NOTIFY ITS RIGHTFUL OWNER, AND TERMINATE THE ABANDONMENT PROCEEDINGS UNDER THIS SECTION. UPON THE RELEASE OF THE VEHICLE TO THE OWNER OR LIENHOLDER, THE REPAIR SHOP SHALL NOTIFY THE RESPONSIBLE LAW ENFORCEMENT AGENT, AND THE AGENT SHALL ADJUST OR DELETE THE ENTRY IN THE COLORADO CRIME INFORMATION CENTER COMPUTER SYSTEM. THE RESPONSIBLE AGENCY MAY RECOVER FROM THE OWNER REASONABLE FEES FOR RECOVERING AND SECURING THE MOTOR VEHICLE, BUT THIS SUBPARAGRAPH (II) SHALL NOT BE CONSTRUED TO AUTHORIZE FEES FOR SERVICES THAT WERE NOT PROVIDED OR THAT WERE PROVIDED BY ANOTHER PERSON OR ENTITY.

(b) (I) IF THE VEHICLE HAS NOT BEEN REPORTED STOLEN, THEN NO LATER THAN TEN WORKING DAYS FOLLOWING NOTIFICATION TO THE REPAIR SHOP OF THE STATUS OF THE VEHICLE FROM THE LAW ENFORCEMENT AGENCY THAT DETERMINED THAT THE VEHICLE HAS NOT BEEN REPORTED STOLEN, THE REPAIR SHOP SHALL REPORT THE ABANDONMENT OF THE MOTOR VEHICLE TO THE DEPARTMENT BY INTERNET COMMUNICATION ON A FORM PRESCRIBED AND SUPPLIED BY THE DEPARTMENT FOR THAT PURPOSE.

(II) THE REPORT SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THE FACT OF POSSESSION, INCLUDING THE DATE THE MOTOR VEHICLE WAS LEFT AT THE REPAIR SHOP, THE LOCATION OF THE REPAIR SHOP, THE IDENTITY OF THE LAW ENFORCEMENT AGENCY DETERMINING THAT THE VEHICLE WAS NOT REPORTED STOLEN, AND THE CASE NUMBER; AND

(B) A DESCRIPTION OF THE ABANDONED MOTOR VEHICLE, INCLUDING THE MAKE, MODEL, COLOR, AND YEAR; THE NUMBER, ISSUING STATE, AND EXPIRATION DATE OF THE LICENSE PLATE; ANY OTHER INDICIA OF THE MOTOR VEHICLE'S STATE OF ORIGIN; THE APPRAISED VALUE OF THE MOTOR VEHICLE; AND THE VEHICLE IDENTIFICATION NUMBER.

(c) NO LATER THAN TEN WORKING DAYS FOLLOWING THE DEADLINE FOR

SUBMISSION OF THE REPORT REQUIRED BY PARAGRAPH (b) OF THIS SUBSECTION (4), THE REPAIR SHOP SHALL CHECK THE ELECTRONIC SYSTEM IMPLEMENTED BY THE DEPARTMENT PURSUANT TO SECTION 42-4-2103 (3) (c) (III) TO OBTAIN CORRECT INFORMATION RELATING TO ANY OWNER AND LIENHOLDER OF THE ABANDONED MOTOR VEHICLE AS REPRESENTED IN THE DEPARTMENT RECORDS.

(d) (I) NO LATER THAN TEN WORKING DAYS FOLLOWING ITS RECEIPT OF OWNER AND LIENHOLDER INFORMATION FROM THE DEPARTMENT'S ELECTRONIC SYSTEM, THE REPAIR SHOP SHALL NOTIFY BY CERTIFIED MAIL THE OWNER OF RECORD, INCLUDING AN OUT-OF-STATE OWNER OF RECORD, AND ALL LIENHOLDERS OF ITS POSSESSION OF THE ABANDONED MOTOR VEHICLE. THE REPAIR SHOP SHALL MAKE A REASONABLE EFFORT TO ASCERTAIN THE ADDRESS OF THE OWNER OF RECORD AND ANY LIENHOLDERS. THE NOTICE SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THAT THE IDENTIFIED MOTOR VEHICLE HAS BEEN REPORTED ABANDONED TO THE DEPARTMENT;

(B) THE LOCATION OF THE REPAIR SHOP; AND

(C) THAT, UNLESS CLAIMED WITHIN THIRTY CALENDAR DAYS AFTER THE DATE THE NOTICE WAS SENT, AS DETERMINED FROM THE POSTMARK ON THE NOTICE, THE MOTOR VEHICLE IS SUBJECT TO SALE.

(II) THE DEPARTMENT SHALL MAINTAIN DEPARTMENT-APPROVED NOTICE FORMS SATISFYING THE REQUIREMENTS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (d) AND SHALL MAKE THEM AVAILABLE ELECTRONICALLY FOR USE BY REPAIR SHOPS.

(e) (I) (A) NOT LESS THAN THIRTY NOR MORE THAN SIXTY DAYS AFTER THE POSTMARKED DATE OF THE NOTICE MAILED PURSUANT TO PARAGRAPH (d) OF THIS SUBSECTION (4) OR THE DATE THE REPAIR SHOP RECEIVES NOTICE THAT NO RECORD EXISTS FOR THE ABANDONED MOTOR VEHICLE, THE REPAIR SHOP SHALL SELL THE MOTOR VEHICLE IN A COMMERCIALY REASONABLE MANNER AT A PUBLIC OR PRIVATE SALE TO RECOUP ACTUAL COSTS, INCLUDING REPAIR COSTS, TOWING BILLS, AND STORAGE CHARGES. THE REPAIR SHOP MAY SELL THE MOTOR VEHICLE ON ITS OWN OR MAY MAKE THE SALE THROUGH A MOTOR VEHICLE DEALER, WHOLESALER, OR WHOLESALE MOTOR VEHICLE AUCTION DEALER LICENSED IN ACCORDANCE WITH SECTION 12-6-108, C.R.S. FOR PURPOSES OF THIS PARAGRAPH (e), A SALE IS NOT COMMERCIALY REASONABLE IF THE VEHICLE'S APPRAISAL VALUE IS MORE THAN TWO HUNDRED DOLLARS AND THE VEHICLE IS SOLD TO AN OFFICER OR PARTNER OF THE REPAIR SHOP OR TO ANY OTHER PERSON WITH A PROPRIETARY INTEREST IN THE REPAIR SHOP.

(B) NOTHING IN THIS SUBPARAGRAPH (I) SHALL REQUIRE A REPAIR SHOP TO BE A LICENSED DEALER PURSUANT TO ARTICLE 6 OF TITLE 12, C.R.S., FOR PURPOSES OF SELLING A MOTOR VEHICLE PURSUANT TO THIS SECTION.

(II) IF THE APPRAISED VALUE OF THE ABANDONED MOTOR VEHICLE TO BE SOLD PURSUANT TO THIS PARAGRAPH (e) IS TWO HUNDRED DOLLARS OR LESS, THE SALE SHALL BE MADE ONLY FOR THE PURPOSE OF DISMANTLING THE MOTOR VEHICLE, AND THE PURCHASER SHALL NOT BE ENTITLED TO A COLORADO CERTIFICATE OF TITLE. THE REPAIR SHOP SHALL CAUSE TO BE EXECUTED AND DELIVERED TOGETHER TO THE

PERSON PURCHASING THE MOTOR VEHICLE A BILL OF SALE AND A COPY OF THE REPORT DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (4). THE BILL OF SALE SHALL STATE THAT THE PURCHASER ACQUIRES NO RIGHT TO A CERTIFICATE OF TITLE FOR SUCH VEHICLE. THE REPAIR SHOP SHALL PROMPTLY SUBMIT TOGETHER TO THE DEPARTMENT A REPORT OF SALE AND A COPY OF THE BILL OF SALE AND SHALL ALSO DELIVER A COPY OF THE 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 SUBPARAGRAPH (II), THE DEPARTMENT SHALL PURGE THE RECORDS FOR THE VEHICLE AS PROVIDED IN SECTION 42-4-2109 (1) (b) AND SHALL NOT ISSUE A NEW CERTIFICATE OF TITLE FOR THE VEHICLE. ANY CERTIFICATE OF TITLE ISSUED IN VIOLATION OF THIS SUBSECTION (4) SHALL BE VOID.

(III) IF THE APPRAISED VALUE OF AN ABANDONED MOTOR VEHICLE SOLD PURSUANT TO THIS SECTION IS MORE THAN TWO HUNDRED DOLLARS, THE SALE MAY BE MADE FOR ANY INTENDED USE BY THE PURCHASER, BUT THE MOTOR VEHICLE SHALL BE DEEMED TO BE A SALVAGE VEHICLE AS DEFINED IN SECTION 42-6-102 (13). THE REPAIR SHOP MAKING THE SALE SHALL CAUSE TO BE EXECUTED AND DELIVERED SIMULTANEOUSLY TO THE PERSON PURCHASING THE MOTOR VEHICLE A BILL OF SALE, A COPY OF THE REPORT DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (4), AND AN APPLICATION FOR A COLORADO SALVAGE CERTIFICATE OF TITLE SIGNED BY A LEGALLY AUTHORIZED REPRESENTATIVE OF THE REPAIR SHOP. THE PURCHASER OF THE ABANDONED MOTOR VEHICLE SHALL BE ENTITLED TO A COLORADO CERTIFICATE OF SALVAGE 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.

SECTION 3. 42-4-1805 (1), Colorado Revised Statutes, is amended to read:

42-4-1805. Appraisal of abandoned motor vehicles - sale. (1) Abandoned motor vehicles or motor vehicles abandoned in an impound lot subsequent to a tow from public property shall be appraised 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. ~~except that, if such motor vehicle meets the definition of a collector's item as defined in section 42-12-101 (2), the law enforcement agency shall not sell such motor vehicle for at least ninety days after such date.~~

SECTION 4. 42-4-2104 (1) (a), Colorado Revised Statutes, is amended 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. ~~except that, if such motor vehicle meets the definition of a collector's item as defined in section 42-12-101 (2), an operator or its agent shall not sell such motor vehicle for at least ninety days after such date.~~ Such sale shall be made through a 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 hundred dollars and such 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.

SECTION 5. 42-4-2109, 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:

(a) Upon a person's submission to the department of the necessary documents indicating the abandonment, removal, and subsequent sale or transfer of a motor vehicle with an appraised value ~~equal to or greater than~~ OF MORE THAN two hundred dollars, the department shall transfer the certificate of title or issue a new certificate of title, INCLUDING A NEW CERTIFICATE OF SALVAGE TITLE IF REQUIRED BY SECTION 42-4-2104.5 (4) (e) (III), for such abandoned motor vehicle.

(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~~ OF two hundred dollars OR LESS that are conducted pursuant to section 42-4-2104 (2) AND ALL SALES OF ABANDONED MOTOR VEHICLES, AS DEFINED IN SECTION 42-4-2104.5 (2) (a), WITH AN APPRAISED VALUE OF TWO HUNDRED DOLLARS OR LESS THAT ARE CONDUCTED PURSUANT TO SECTION 42-4-2104.5 (4) (e) (II), the department shall purge the records for such abandoned motor vehicle.

SECTION 6. Effective date - applicability. (1) This act shall take effect January 1, 2005.

(2) However, if a referendum petition is filed against this act or an item, section, or part of this act during the 90-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, then the act, item, section, or part, shall not take effect unless approved by the people at a biennial regular general election and shall take effect on the date specified in subsection (1) or on the date of the official declaration of the vote thereon by proclamation of the governor, whichever is later.

(3) The provisions of this act shall apply to abandoned motor vehicles taken to repair shops on or after the applicable effective date of this act.

Approved: April 23, 2004