**A** **BILL**

TO AMEND SECTIONS 56-5-5630(A) AND (B) OF THE 1976 CODE, RELATING TO NOTICE TO OWNERS AND LIENHOLDERS, PAYMENT FOR RELEASE OF VEHICLE, LIABILITY OF LIENHOLDERS, AND STOLEN VEHICLES, AND SECTIONS 56-5-5635(B), (D), AND (E) OF THE 1976 CODE, RELATING TO LAW ENFORCEMENT OFFICERS DIRECTING A VEHICLE TO BE TOWED, STORAGE PROCEDURES, NOTIFICATION PROVIDED TO OWNERS OF TOWED VEHICLES, AND THE DISPOSITION OF TOWED VEHICLES AND PERSONAL PROPERTY, AND SECTION 56-5-5640 OF THE 1976 CODE, RELATING TO SALE OF UNCLAIMED VEHICLES, TO PROVIDE THAT NOTIFICATION TO THE OWNER AND LIENHOLDER OF TOWED VEHICLES MUST BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR CERTIFIED MAIL WITH ELECTRONIC TRACKING, AND TO PROVIDE THAT A TOWING COMPANY, STORAGE FACILITY, GARAGE, OR REPAIR SHOP MAY APPLY TO CERTAIN VENDORS TO OBTAIN REAL TIME ACCESS TO TITLE AND LIENHOLDER INFORMATION BEFORE TOWED VEHICLES ARE SOLD; AND TO AMEND SECTIONS 29-15-10(B), (C), AND (D) OF THE 1976 CODE, RELATING TO LIENS FOR REPAIRS OR STORAGE AND SALE OF ARTICLES, TO PROVIDE REGULATIONS FOR THE RECORDING AND AVAILABILITY OF VEHICLE TITLE AND LIENHOLDER INFORMATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1: Section 56-5-5630(A) and (B) of the 1976 Code are amended to read:

“Section 56-5-30. (A)(1) For purposes of this article, “vehicle” means a motor vehicle, trailer, mobile home, watercraft, or any other item or object that is subject to towing and storage, and applies to any vehicle in custody at the time of the enactment of this section. “Vehicle” includes:

(a) items that are towed and left in the possession of a towing, storage, garage, or repair facility;

(b) contents contained in the vehicle; and

(c) personal property affixed to the vehicle.

Storage costs for those vehicles in custody at the time of the enactment of this section must not exceed sixty days.

(2) When an abandoned vehicle has been taken into custody, the towing company and storage facility having towed and received the vehicle shall notify by registered or certified mail, return receipt requested, or certified mail with electronic tracking, the last known registered owner of the vehicle and all lienholders of record that the vehicle has been taken into custody. Notification of the owner and all lienholders by ~~certified or~~ registered or certified mail, return receipt requested, or certified mail with electronic tracking, constitutes notification for purposes of this section. This notification must satisfy the notification requirements contained in Section 29 15 10. The notice must:

(a) give a description of the year, make, model, and identification number of the vehicle;

(b) set forth the location where the vehicle is being held;

(c) inform the owner and all lienholders of the right to reclaim the vehicle within thirty days beginning the day after the notice is mailed, by registered or certified mail, return receipt requested, or certified mail with electronic tracking, upon payment of all towing, preservation, storage charges, notification, publication, and court costs resulting from placing the vehicle in custody; and

(d) state that the failure of the owner and all lienholders to exercise their right to reclaim the vehicle within the time provided is considered a waiver by the owner and lienholders of all rights, title, and interest in the vehicle and is considered as their consent to the sale of the vehicle at a public auction.

If a vehicle has been towed pursuant to the provisions of this section, the towing company and storage facility must accept as payment for the release of the vehicle the same manner of payment that they would accept if the owner of the vehicle had requested his vehicle towed.

(B) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles. This notice must be within the time requirements prescribed for notice by registered or certified mail, return receipt requested, or certified mail with electronic tracking and must have the same contents required for a notice by registered or certified mail, return receipt requested, or certified mail with electronic tracking.”

SECTION 2. Sections 56-5-5635 (B), (D), and (E) of the 1976 Code are amended to read:

“(B) Within ten days following a law enforcement’s towing request, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop must provide to the sheriff or chief of police a list describing the vehicles remaining in the possession of the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop. A person who fails to provide the law enforcement agency with this list forfeits recovery of any storage fees that have accrued from the date of towing until the day after the mailing of the notification to the owner and all lienholders by ~~certified or~~ registered or certified mail, return receipt requested, or certified mail with electronic tracking, pursuant to Section 29‑15‑10. Within ten days of receipt of this list, the sheriff or chief of police must provide to the towing company or storage facility, the current owner’s name, address, and a record of all lienholders along with the make, model, and identification number or a description of the vehicle at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop having towed or received the vehicle must notify by registered or certified mail, return receipt requested, the last known registered owner and all lienholders of record that the vehicle has been taken into custody.

(D)(1) Before a vehicle is sold, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must apply to the appropriate titling facility for the name and address of any owner or lienholder. ~~including~~ The appropriate titling facility may include, but is not limited to~~,~~:

(a) the Department of Motor Vehicles;

(b) a vendor authorized by the DMV to provide real-time access to title and lienholder information;

(c) if the vehicle is not titled in South Carolina, a vendor authorized to provide title and lienholder information from the State of last title as revealed in a search of the National Motor Title Information System (NMVTIS);

(d) a vendor authorized by that State to provide real-time access to the most current title and lienholder information; or

(e) the Department of Natural Resources~~,~~ ~~for the name and address of any owner or lienholder~~.

(2) For nontitled vehicles, where the owner’s name is known, a search must be conducted through the Secretary of State’s Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the vehicle has an out‑of‑state registration, an application must be made to that state’s appropriate titling facility. When the vehicle is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may apply to the sheriff or chief of police in the jurisdiction where the vehicle is stored to determine the state where the vehicle is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the vehicle’s identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the name of the state in which the vehicle is titled.

(E) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop that has towed and stored a vehicle has a lien against the vehicle and may have the vehicle sold at public auction pursuant to Section 29‑15‑10. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may hold the license tag of any vehicle until all towing and storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold. Storage costs may be charged that have accrued before the notification of the owner and lienholder, by ~~certified or~~ registered or certified mail, return receipt requested, or certified mail with electronic tracking, of the location of the vehicle. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner’s and lienholders’ identities from the appropriate law enforcement agency. If the notice is not mailed within this period, storage costs after the five‑day period must not be charged until the notice is mailed. If the vehicle is not reclaimed within thirty days after the day the notice is ~~mailed~~ sent by registered or certified mail, return receipt requested, or certified mail with electronic tracking, the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in Section 29‑15‑10.”

SECTION 3. Sections 56-3-5640 of the 1976 Code is amended to read:

“Section 56-3-5640. If an abandoned vehicle has not been reclaimed pursuant to Section 56‑5‑5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to Section 29‑15‑10. The vehicle’s purchaser shall take title to the vehicle free and clear of all liens and claims of ownership, shall receive a magistrate’s order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The Office of Court Administration shall design a uniform magistrate’s order of sale for purposes of this section, Section 56‑5‑5670, and Section 56‑5‑5945, and shall make the order available for distribution to the magistrates. The magistrate’s order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher or secondary metals recycler for demolition, wrecking, or dismantling, and in such case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to Section 29‑15‑10 must be reimbursed up to the amount of the auction sale price from the vehicle’s sale proceeds. The remaining sale proceeds must be held for the vehicle’s owner or entitled lienholder for ninety days. The magistrate shall notify the vehicle’s owner and all lienholders by ~~certified or~~ registered or certified mail, return receipt requested, or certified mail with electronic tracking, that the vehicle’s owner or lienholder has ninety days to claim the proceeds from the vehicle’s sale. If the vehicle’s proceeds are not collected within ninety days from the day after the notice to the vehicle’s owner and all lienholders is mailed, then the vehicle’s proceeds must be deposited in the county or municipality’s general fund.”

SECTION 4. Sections 29-15-10 (B), (C), and (D) of the 1976 Code are amended to read:

“(B) Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, return receipt requested, or certified mail with electronic tracking, of the location of the article. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five days, after receiving the owner’s and lienholders’ identities. If the notice is not mailed within this period, storage costs after the five‑day period must not be charged until the notice is mailed.

(C)(1) Before the article is sold, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article must apply to the appropriate titling facility for the name and address of any owner or lienholder. ~~including~~ The appropriate titling facility may include, but is not limited to~~,~~:

(a) the Department of Motor Vehicles;

(b) a vendor authorized by the DMV to provide real-time access to title and lienholder information;

(c) if the vehicle is not titled in South Carolina, a vendor authorized to provide title and lienholder information from the State of last title as revealed in a search of the National Motor Title Information System (NMVTIS);

(d) a vendor authorized by that State to provide real-time access to the most current title and lienholder information; or

(e) the Department of Natural Resources~~,~~ ~~for the name and address of any owner or lienholder~~.

(2) For nontitled articles, where the owner’s name is known, a search must be conducted through the Secretary of State’s Office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the article has an out‑of‑state registration, an application must be made to that state’s appropriate titling facility. When the article is not titled in this State and does not have a registration from another state, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article may apply to the sheriff or chief of police in the jurisdiction where the article is stored to determine the state where the article is registered. The sheriff or chief of police shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the article’s identification number. The sheriff or chief of police must supply, at no cost to the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs the name of the state in which the article is titled.

(D) The magistrate, before selling the article, shall ensure that the owner or any lienholder of record has been notified of the pending sale. The magistrate must advertise the article for at least fifteen days by posting a notice in three public places in his township. The magistrate must pay to the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop, or any person who repairs or who furnishes material for repairs to the article the money due, receiving a receipt in return. Any remainder of the sale proceeds must be held by the magistrate for the owner of the vehicle or entitled lienholder for ninety days. The magistrate must notify the owner and all lienholders by registered or certified mail, return receipt requested, or certified mail with electronic tracking, that the article owner or lienholder has ninety days to claim the proceeds from the sale of the article. If the article proceeds are not collected within ninety days from the day after the notice to the owner and all lienholders is mailed, then the article proceeds must be deposited in the general fund of the county or municipality.”

SECTION 5. This act takes effect upon approval by the Governor.

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