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## HOUSE BILL NO. 1119

House Amendments in [ ] — February 6, 2004

*A BILL to amend and reenact §§ 43-34, 46.2-1203 and 46.2-1603.1 of the Code of Virginia, relating to nonrepairable and salvage vehicles; vehicle demolishers; enforcement of certain liens.*

Patron Prior to Engrossment—Delegate Weatherholtz

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 43-34, 46.2-1203 and 46.2-1603.1 of the Code of Virginia are amended and reenacted as follows:**

§ 43-34. Enforcement of liens acquired under §§ 43-31 through 43-33 and of liens of bailees.

Any person having a lien under §§ 43-31 through 43-33 and any bailee, except where otherwise provided, having a lien as such at common law on personal property in his possession which he has no power to sell for the satisfaction of the lien, if the debt for which the lien exists is not paid within ~~ten~~ 10 days after it is due and the value of the property affected by the lien does not exceed \$5,000, may sell such property or so much thereof as may be necessary, by public auction, for cash. The proceeds shall be applied to the satisfaction of the debt and expenses of sale, and the surplus, if any, shall be paid within ~~thirty~~ 30 days of the sale to any lienholder, and then to the owner of the property. A seller who fails to remit the surplus as provided shall be liable to the person entitled to the surplus in an amount equal to ~~twenty-five dollars~~ \$25 for each day beyond ~~thirty~~ 30 days that the failure continues.

Before making the sale, the seller shall advertise the time, place, and terms thereof in a public place. In the case of property other than a motor vehicle required to be registered in Virginia having a value in excess of \$600, ~~ten~~ 10 days' prior notice shall be given to any secured party who has filed a financing statement against the property, and written notice shall be given to the owner as hereinafter provided. If the property is a motor vehicle required by the motor vehicle laws of Virginia to be registered, the person having the lien shall ascertain from the Commissioner of the Department of Motor Vehicles whether the certificate of title of the motor vehicle shows a lien thereon. If the certificate of title shows a lien, the bailee proposing the sale of the motor vehicle shall notify the lienholder of record, by certified mail, at the address on the certificate of title of the time and place of the proposed sale ~~ten~~ 10 days prior thereto. If the name of the owner cannot be ascertained, the name of "John Doe" shall be substituted in any proceedings hereunder and no written notice as to him shall be required to be mailed.

If the value of the property is more than \$5,000 but does not exceed \$15,000, the party having the lien, after giving notice as herein provided, may apply by petition to any general district court of the county or city wherein the property is, or, if the value of the property exceeds \$15,000, to the circuit court of the county or city, for the sale of the property. If, on the hearing of the case on the petition, the defense, if any made thereto, and such evidence as may be adduced by the parties respectively, the court is satisfied that the debt and lien are established and the property should be sold to pay the debt, the court shall order the sale to be made by the sheriff of the county or city. The sheriff shall make the same and apply and dispose of the proceeds in the same manner as if the sale were made under a writ of fieri facias.

If the owner of the property is a resident of this Commonwealth, any notice required by this section may be served as provided in § 8.01-296 or, if the sale is to be made without resort to the courts, by personal delivery or by certified or registered mail delivered to the present owner of the property to be sold at his last known address at least ~~ten~~ 10 days prior to the date of sale. If he is a nonresident or if his address is unknown, notice may be served by posting a copy thereof in three public places in the county or city wherein the property is located. For purposes of this section, a public place means a premises owned by the Commonwealth, a political subdivision thereof or an agency of either which is open to the general public.

If the property is a motor vehicle (i) for which neither the owner nor any other lienholder or secured party can be determined by the Department of Motor Vehicles through a diligent search of its records, (ii) manufactured for a model year at least six years prior to the current model year, and (iii) having a value of no more than \$1,000 as determined by the provisions of § 8.01-419.1, a person having a lien on such vehicle may, after showing proof that the vehicle has been in his continuous custody for at least ~~thirty~~ 30 days, apply for and receive from the Department of Motor Vehicles title [ *or a nonrepairable certificate* ] to such vehicle, free of all liens and claims of ownership of others, and proceed to sell or otherwise dispose of the vehicle.

Whenever a motor vehicle is sold hereunder, the Department of Motor Vehicles shall issue a

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59 certificate of title [ ~~or a nonrepairable certificate~~ ] and registration [ *or a nonrepairable certificate* ] to  
60 the purchaser thereof upon his application containing the serial or motor number of the vehicle  
61 purchased together with an affidavit of the lienholder that he has complied with the provisions hereof, or  
62 by the sheriff conducting a sale that he has complied with said order.

63 Any garage keeper to whom a motor vehicle has been delivered pursuant to §§ 46.2-1209, 46.2-1213  
64 or § 46.2-1215 may after ~~thirty~~ 30 days from the date of delivery proceed under this section, provided  
65 that action has not been taken pursuant to such sections for the sale of such motor vehicle.

66 § 46.2-1203. Sale of vehicle at public auction; disposition of proceeds.

67 If an abandoned motor vehicle is not reclaimed as provided for in § 46.2-1202, the locality or its  
68 authorized agent shall, notwithstanding the provisions of § 46.2-617, sell it at public auction. The  
69 purchaser of the motor vehicle shall take title to the motor vehicle free of all liens and claims of  
70 ownership of others, shall receive a sales receipt at the auction, and shall be entitled to apply to and  
71 receive from the Department a certificate of title and registration card for the vehicle. The sales receipt  
72 from the sale shall be sufficient title only for purposes of transferring the vehicle to a demolisher for  
73 demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be  
74 necessary; *however, such demolisher shall provide the Department acceptable documentation indicating*  
75 *that the vehicle has been demolished.* From the proceeds of the sale of an abandoned motor vehicle the  
76 locality or its authorized agent shall reimburse itself for the expenses of the auction, the cost of towing,  
77 preserving, and storing the vehicle which resulted from placing the abandoned motor vehicle in custody,  
78 and all notice and publication costs incurred pursuant to § 46.2-1202. Any remainder from the proceeds  
79 of a sale shall be held for the owner of the abandoned motor vehicle or any person having security  
80 interests in the vehicle, as their interests may appear, for ~~ninety~~ 90 days, and then be deposited into the  
81 treasury of the locality in which the abandoned motor vehicle was abandoned.

82 § 46.2-1603.1. Duties of licensees.

83 A. If a salvage vehicle is purchased by a salvage dealer and the vehicle is sold as a unit to anyone  
84 other than a demolisher, rebuilder, vehicle removal operator or scrap metal processor, the purchaser shall  
85 obtain from the Department a salvage certificate. If the sale is to a demolisher or vehicle removal  
86 operator, the salvage vehicle shall be assigned in the space provided for such assignments on the  
87 existing salvage certificate. If a vehicle is purchased by a salvage dealer and disassembled for parts only  
88 or demolished by a demolisher, the salvage dealer shall immediately and conspicuously indicate on the  
89 salvage certificate or title that the vehicle was disassembled for parts only or demolished and  
90 immediately forward the salvage certificate or title to the Department for cancellation. The Department  
91 shall cancel the title or salvage certificate and issue a nonrepairable certificate for the vehicle to the  
92 salvage dealer.

93 1. If a vehicle for which a title or salvage certificate or other ownership document has been issued  
94 by a foreign jurisdiction and is purchased by a salvage dealer or demolisher and disassembled for parts  
95 only or demolished by a demolisher, the salvage dealer or demolisher shall immediately and  
96 conspicuously indicate on the salvage certificate, title, or other ownership document that the vehicle was  
97 disassembled for parts only or demolished and immediately forward the salvage certificate, title or other  
98 ownership document to the Department for cancellation. The Department shall cancel the title, salvage  
99 certificate, or other ownership document and issue a nonrepairable certificate for the vehicle to the  
100 salvage dealer.

101 2. There shall be no fee for the issuance of a nonrepairable certificate.

102 B. If a licensee acquires any late model vehicle, he shall immediately compare the vehicle  
103 identification number assigned by the manufacturer or the Department or the identification number  
104 issued or assigned by another state with the title or salvage certificate of the vehicle and shall notify the  
105 Department as provided in subsection C of this section. Such comparison and notification shall not be  
106 required of a demolisher if the vehicle was acquired from a licensed salvage dealer, rebuilder, salvage  
107 pool, or vehicle removal operator and such licensee delivers to the demolisher a title or salvage  
108 certificate for the vehicle.

109 C. If the vehicle identification number has been altered, is missing, or appears to have been  
110 otherwise tampered with, the licensee shall take no further action with regard to the vehicle except to  
111 safeguard it in its then-existing condition and shall promptly notify the Department. The Department  
112 shall, after an investigation has been made, notify the licensee whether the vehicle can be freed from  
113 this limitation. In no event shall the vehicle be disassembled, demolished, processed, or otherwise  
114 modified or removed prior to authorization by the Department. If the vehicle is a motorcycle, the  
115 licensee shall cause to be noted on the title or salvage certificate, certifying on the face of the document,  
116 in addition to the above requirements, the frame number of the motorcycle and motor number, if  
117 available.

118 D. *Except as provided in § 46.2-1203,* after a vehicle has been demolished, the demolisher shall,  
119 within five working days, deliver to the Department the salvage certificate or title, certifying on the face  
120 of the document that the vehicle has been destroyed.

121 E. *Except as provided in § 46.2-1203*, it shall be unlawful for any licensee to purchase, receive, take  
122 into inventory, or otherwise accept from any person any late model vehicle unless, as a part of any such  
123 transaction, the licensee also receives a title, salvage certificate, nonrepairable certificate, or other  
124 ownership documents, issued by an appropriate regulatory agency within or without the Commonwealth,  
125 relating to such vehicle. Every licensee shall maintain as a part of his business records a title, salvage  
126 certificate, nonrepairable certificate, or other ownership documents, issued by an appropriate regulatory  
127 agency within or without the Commonwealth, pertaining to every late model vehicle in his inventory or  
128 possession.

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