

VIRGINIA ACTS OF ASSEMBLY -- 2011 RECONVENED SESSION

CHAPTER 824

An Act to amend and reenact §§ 46.2-1200, 46.2-1603.1, 46.2-1605, and 46.2-1609 of the Code of Virginia, relating to abandoned and salvage vehicles; penalty.

[H 2457]

Approved April 6, 2011

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-1200, 46.2-1603.1, 46.2-1605, and 46.2-1609 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-1200. Definitions.

As used in this article:

"Abandoned motor vehicle" means a motor vehicle, trailer, or semitrailer that:

1. Is left unattended on public property for more than ~~forty-eight~~ 48 hours in violation of a state law or local ordinance, or

2. Has remained for more than ~~forty-eight~~ 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property, or

3. Is left unattended on the shoulder of a primary highway, or.

4. Has remained unclaimed in a garage for more than 10 days or for more than 10 days beyond the period the motor vehicle was to remain on the premises pursuant to a contract, or

5. Has remained unclaimed in a self-service storage unit under the provisions of Chapter 23 (§ 55.416 et seq.) of Title 55.

"Garage" means any commercial parking place, motor vehicle storage facility, or establishment for the servicing, repair, maintenance, or sale of motor vehicles whether or not the vehicle had been brought to that location with the consent of the owner or person in control of the premises.

"Garage keeper" means the operator of a garage.

"Major component" shall have the meaning ascribed by § 46.2-1600.

"Scrap metal processor" means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle removal certificate" means a transferable document issued by the Department for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.

§ 46.2-1603.1. Duties of licensees.

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

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

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

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

certificate for the vehicle.

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

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

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

F. If a licensee intends to utilize machinery to crush, flatten, or otherwise reduce one or more vehicles to a state where it can no longer be considered a vehicle at a location other than the location specified on the license filed with the Department, the licensee shall apply to the Department for a permit of operation in a manner prescribed by the Commissioner. Each permit shall be valid for a period not to exceed 15 days and shall specify the location of intended operation. The cost of each permit shall be \$15.

§ 46.2-1605. Vehicles repaired or rebuilt for highway use; examinations; branding of titles.

Each salvage vehicle that has been repaired or rebuilt for use on the highways shall be examined by the Department *or by a local law-enforcement official* prior to the issuance of a title for the vehicle. The examination shall include a review of all documentation for the parts and labor used for the repair of the salvage vehicle and a verification of the vehicle's identification number, confidential number, and odometer reading. The Commissioner shall ensure that, in scheduling and performing examinations of salvage vehicles under this section, single vehicles owned by private owner-operators are afforded no lower priority than examinations of vehicles owned by motor vehicle dealers, salvage dealers, demolishers, rebuilders, salvage pools, or vehicle removal operators. The Commissioner may charge a fee of \$125 per vehicle, for the examination of repaired and rebuilt vehicles. *When the examination is conducted by a local law-enforcement official, the Department shall reimburse the local law-enforcement department \$75 for its costs in conducting the examination and reporting its findings to the Department.*

Any salvage vehicle whose vehicle identification number or confidential number has been altered, is missing, or appears to have been tampered with may be impounded by the Department *or a local law-enforcement official* until completion of an investigation by the Department. The vehicle may not be moved, sold, or tampered with until the completion of this investigation. Upon completion of an investigation by the Department, if the vehicle identification number is found to be missing or altered, a new vehicle identification number may be issued by the Department. If the vehicle is found to be a stolen vehicle and its owner can be determined, the vehicle shall be returned to him. If the owner cannot be determined or located and the person seeking to title the vehicle has been convicted of a violation of § 46.2-1074 or § 46.2-1075, the vehicle shall be deemed forfeited to the Commonwealth. Each such vehicle shall be sold at public auction and the proceeds thereof, after satisfaction of any liens, returned to the state treasury for use by the Department. If the Department's examination of a repaired or rebuilt salvage vehicle indicates no irregularities, a title and registration may be issued for the vehicle upon application therefor to the Department by the owner of the salvage vehicle. The title issued by the Department and any subsequent title thereafter issued for the repaired or rebuilt vehicle shall be permanently branded to indicate that it is a repaired or rebuilt vehicle. All repaired and rebuilt vehicles shall be subject to all safety equipment requirements provided by law. No title or registration shall be issued by the Department for any vehicle for which a nonrepairable certificate has ever been issued.

§ 46.2-1609. Penalties.

Violation of any provision of this chapter shall constitute a Class 1 misdemeanor. First violations of any provision of this chapter shall constitute a Class 1 misdemeanor, and second and subsequent violations of any provision of this chapter shall constitute a Class 5 felony. Upon receipt of any such conviction, the Commissioner may suspend, revoke, cancel or refuse to renew the license of any licensee under this chapter, and the Commissioner may also assess a civil penalty against such licensee not to exceed \$2,500 for any conviction.

Notice of an order suspending, revoking, canceling, or denying renewal of a license, imposing a

limitation on operation, or imposing a monetary penalty and advising the licensee of the opportunity for a hearing shall be mailed to the licensee by first-class mail to the address as shown on the licensee's most recent application for a license and shall be considered served when mailed. No order of suspension required by this section shall become effective until the Commissioner has offered the licensee an opportunity for an administrative hearing to show cause why the order of suspension should not be enforced. Notice of the opportunity for an administrative hearing may be included in the order of suspension.

Upon receipt of a request for a hearing appealing the suspension, the licensee shall be afforded the opportunity for a hearing as soon as practicable, but in no case later than 30 days from receipt of the hearing request. The suspension shall remain in effect pending the outcome of the hearing.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.