

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2004 Session of
1999

INTRODUCED BY EVANS, GEIST, BATTISTO, DeWEESE, VEON, M. COHEN,
BELARDI, MYERS, KENNEY, RAMOS, O'BRIEN, LEDERER, DONATUCCI,
BELFANTI, CASORIO, LAUGHLIN, J. TAYLOR, SAINATO, BUXTON,
TRAVAGLIO, MANN, RIEGER, SHANER, TANGRETTI, SANTONI,
YOUNGBLOOD, READSHAW, BEBKO-JONES, CAPPABIANCA, ROBINSON,
MICHLOVIC, GODSHALL, SCRIMENTI, WOJNAROSKI, OLIVER, KELLER,
LUCYK, STURLA, JOSEPHS, VAN HORNE, DRUCE, SCHRODER, PRESTON,
ARGALL, WRIGHT, GIGLIOTTI, MELIO, HERSHEY, JAMES, BUTKOVITZ,
CALTAGIRONE, THOMAS, McGEEHAN, SOLOBAY, WOGAN, GRUITZA,
WATERS, BISHOP, LaGROTTA, GRUCELA, ROONEY, WASHINGTON, CARN,
WALKO, ROEBUCK, PETRONE, FRANKEL, MANDERINO, PESCI, McCALL
AND DeLUCA, OCTOBER 26, 1999

REFERRED TO COMMITTEE ON TRANSPORTATION, OCTOBER 26, 1999

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 75 (Vehicles) of
2 the Pennsylvania Consolidated Statutes, providing for
3 stripping abandoned vehicles; further providing for
4 definitions, for vehicles destroyed, dismantled, salvaged or
5 recycled, for suspension of operating privilege and for
6 abandonment and stripping of vehicles; providing for civil
7 liability for abandonment of vehicles, for reports to
8 department of possession of abandoned and derelict vehicles,
9 for reports and removal of abandoned vehicles within the
10 boundaries of a city of the first class, for notice to owner
11 and lienholders of abandoned and derelict vehicles, for
12 payment of costs upon reclaiming vehicle, for public sale of
13 unclaimed vehicles with value, for disposal of unclaimed
14 vehicles and for restrictions on public sale of unclaimed
15 vehicles; further providing for salvaging of derelict
16 vehicles; providing for local authority to remove abandoned
17 vehicles, for rights of property owners and residents, for
18 abandoned and derelict vehicles on vacant, abandoned or other
19 lots and for repeat abandoned vehicles; and adding provisions
20 relating to derelict vehicles.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

Section 1. Title 18 of the Pennsylvania Consolidated
Statutes is amended by adding a section to read:

§ 3935. Stripping abandoned vehicles.

(a) Offense defined.--

(1) Except as provided in paragraph (2), a person
commits the offense of stripping an abandoned vehicle if the
person intentionally removes any part of an abandoned
vehicle.

(2) Paragraph (1) does not apply if the person:

(i) is the owner of the vehicle or the owner's
agent; or

(ii) is authorized to make the removal under 75
Pa.C.S. (relating to vehicles).

(b) Penalties.--Any person violating subsection (a):

(1) For a first offense, commits a misdemeanor of the
third degree and shall, upon conviction, be subject to
suspension of operating privileges pursuant to 75 Pa.C.S. §
1532(e) (relating to suspension of operating privilege).

(2) For a subsequent offense, commits a felony of the
third degree and shall, upon conviction, be subject to
suspension of operating privileges pursuant to 75 Pa.C.S. §
1532(e).

(c) Complaints.--In a case involving a violation of this
section, the municipality in which the vehicle is located may
file the complaint with the appropriate issuing authority.

(d) Allocation of fines.--Fifty percent of all fines imposed
under subsection (b) shall be transferred to the municipality
where the abandoned vehicle was found, and the remaining 50%
shall be transferred and deposited in the Motor License Fund.

Section 2. The definitions of "abandoned vehicle," and

1 "vehicle identification number" in section 102 of Title 75 are
2 amended and the section is amended by adding definitions to
3 read:

4 § 102. Definitions.

5 Subject to additional definitions contained in subsequent
6 provisions of this title which are applicable to specific
7 provisions of this title, the following words and phrases when
8 used in this title shall have, unless the context clearly
9 indicates otherwise, the meanings given to them in this section:

10 "Abandoned vehicle."

11 (1) A vehicle (other than a pedalcycle) shall be
12 presumed to be abandoned under any of the following
13 circumstances, but the presumption is rebuttable by a
14 preponderance of the evidence:

15 (i) The vehicle is physically inoperable and is left
16 unattended on a highway or other public property for more
17 than 48 hours.

18 (ii) The vehicle has remained illegally on a highway
19 or other public property for a period of more than 48
20 hours.

21 (iii) The vehicle is left unattended on or along a
22 highway or other public property for more than 48 hours
23 and does not bear [all] both of the following:

24 (A) A valid registration plate.

25 (B) A current certificate of inspection.

26 [(C) An ascertainable vehicle identification
27 number.]

28 (iv) The vehicle has remained on private property
29 without the consent of the owner or person in control of
30 the property for more than 48 hours.

(2) Vehicles and equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which are left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be abandoned.

* * *

"Derelict vehicle." An abandoned vehicle, other than a vehicle which would qualify as an antique or classic vehicle except for its lack of restoration or maintenance, which has any of the following characteristics:

(1) has been stripped and defaced or otherwise so dilapidated that it is just a shell, is burned out, vandalized or deteriorated and has no value other than scrap; or

(2) has a wholesale value of \$750 or less in 2000 or, in subsequent years, an amount annually adjusted for inflation by the Department of Transportation using the Consumer Price Index as published by the Bureau of Labor Statistics of the United States Department of Labor.

* * *

"Hidden vehicle identification number" or "hidden VIN." The true vehicle identification number which may have been hidden in one or more places or incorporated into the vehicle by the manufacturer of the vehicle for the purpose of identification in the event the public VIN has been removed.

* * *

"Public vehicle identification number" or "public VIN." The vehicle identification number that has been placed by the manufacturer in a prominent place, such as on the dashboard, in plain view and not in other places where the VIN may be located,

1 or in the absence of a manufacturer-assigned number, which the
2 Department of Transportation assigns to a vehicle for
3 identification purposes.

4 * * *

5 "Vehicle identification number" or "VIN." A combination of
6 numerals or letters or both which the manufacturer assigns to a
7 vehicle for identification purposes, or, in the absence of a
8 manufacturer-assigned number, which the department assigns to a
9 vehicle for identification purposes.

10 * * *

11 Section 3. Section 1117(c) of Title 75 is amended to read:

12 § 1117. Vehicle destroyed, dismantled, salvaged or recycled.

13 * * *

14 (c) Vehicles with defective or lost title.--Any person on
15 whose property is located a derelict vehicle [which is valueless
16 except for salvage] and which has a faulty, lost or destroyed
17 title may transfer the vehicle to a salvor or to a salvage
18 program operated by a political subdivision for removal to a
19 suitable place of storage or for scrapping, provided the salvor
20 or salvage program complies with the requirements of section
21 7309 (relating to salvaging of derelict vehicles [valueless
22 except for salvage]), except that the report to the department
23 that the vehicle is [valueless except for salvage] a derelict
24 vehicle shall be verified by the transferor of the vehicle
25 instead of the police department. The transferee shall return
26 the assigned certificate of title to the department immediately
27 with an application for certificate of salvage upon a form
28 furnished and prescribed by the department.

29 * * *

30 Section 4. Section 1532 of Title 75 is amended by adding a

1 subsection to read:

2 § 1532. Suspension of operating privilege.

3 * * *

4 (e) Suspension for abandoning a vehicle or stripping an
5 abandoned vehicle.--The department shall suspend the operating
6 privilege of any person convicted of a violation of section 3712
7 (relating to abandonment of vehicles) and 18 Pa.C.S. § 3935
8 (relating to stripping abandoned vehicles). The duration of the
9 suspension shall be as follows:

10 (1) For a first offense, the department shall impose a
11 suspension for a period of 30 days.

12 (2) For a second offense, the department shall impose a
13 suspension for a period of 90 days.

14 (3) For a third and subsequent offense, the department
15 shall impose a suspension for a period of one year.

16 Any multiple suspensions imposed shall be served consecutively.

17 Section 5. Section 3352(d) of Title 75 is amended and the
18 section is amended by adding a subsection to read:

19 § 3352. Removal of vehicle by or at direction of police.

20 * * *

21 (d) Notice to owner prior to removal.--

22 (1) Prior to removal of an abandoned vehicle [bearing a
23 registration plate, certificate of inspection or vehicle
24 identification number plate by which the last registered
25 owner of the vehicle can be determined], the police
26 department shall [send a notice by certified mail to the last
27 registered owner of the vehicle] place a notice on the
28 vehicle in a prominent location informing the owner that
29 unless the vehicle is moved to a suitable location within
30 [seven] three days of the date notice is [mailed] placed on

1 the vehicle, the vehicle will be removed under this section
2 and held at a suitable facility where it may be reclaimed by
3 the owner in accordance with the provisions of section 7306
4 (relating to payment of costs upon reclaiming vehicle). [If
5 the abandoned motor vehicle does not bear an identifiable
6 registration plate, certificate of inspection or vehicle
7 identification number plate, the notice may be secured to the
8 vehicle.

9 (2) If, within the seven-day period, the owner so
10 requests, the owner shall be given an opportunity to explain
11 to the police officer or department why the owner believes
12 the vehicle should not be removed. If the police officer or
13 department determines that the vehicle shall, nonetheless, be
14 removed, the owner shall be given an additional 48 hours to
15 remove the vehicle, have it removed or demand a hearing,
16 which shall conform to the requirements of 2 Pa.C.S. Ch. 5
17 Subch. B (relating to practice and procedure of local
18 agencies). The police officer or department shall inform the
19 owner of the right to a hearing by delivering to the owner a
20 notice warning the owner that, unless the vehicle is removed
21 or a hearing is demanded, the owner shall be subject to the
22 provisions of section 7306. If, as a result of the hearing,
23 it is determined that the vehicle will be removed, the owner
24 shall be given an additional 48 hours to remove the vehicle
25 or have it removed. The hearing shall be before a civilian
26 officer or employee of the municipality in which the vehicle
27 is located.]

28 (3) The provision for notice set forth in this
29 subsection is [applicable only if the vehicle is abandoned
30 upon a highway and is not in violation of subsection (b) or

section 3351(a) or 3353. Notice under this subsection is] in addition to any other notice requirements provided in Chapter 73.

(4) This subsection does not apply to derelict vehicles with no identification as defined in subsection (e).

(e) Special provision for derelict vehicles with no identification.--If the abandoned vehicle is deemed to be a derelict vehicle and bears no registration plate, current certificate of inspection or public vehicle identification number plate by which the last registered owner of the vehicle can be determined, then the police officer may order the immediate removal of the vehicle pursuant to Chapter 73.

Section 6. Section 3712 of Title 75 is amended to read:

§ 3712. Abandonment [and stripping] of vehicles.

(a) Abandonment on highway.--No person shall abandon a vehicle upon any highway.

(b) Abandonment on public or private property.--No person shall abandon a vehicle upon any public or private property, including, but not limited to, any common or shared neighborhood lot, vacant lot or abandoned property, without the express or implied consent of the owner or person in lawful possession or control of the property.

[(c) Stripping abandoned vehicle.--It is unlawful for any person, except the owner or his agent or as otherwise provided in this title, to remove any part of an abandoned vehicle.]

(d) Penalties.--

[(1) Any person violating subsection (a) or (b) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50 plus all costs of disposing of the vehicle under the provisions of Chapter 73 (relating to

1 abandoned vehicles and cargos).

2 (2) Any person violating subsection (c):

3 (i) For a first offense, is guilty of a summary
4 offense punishable by a fine of not less than \$100 nor
5 more than \$500.

6 (ii) For a subsequent offense, is guilty of a
7 misdemeanor of the third degree.]

8 (1) Any person violating subsection (a) or (b):

9 (i) For a first offense, is guilty of a summary
10 offense punishable by a fine of \$500 plus all costs of
11 disposing of the vehicle under the provisions of Chapter
12 73 (relating to abandoned vehicles and cargos) and shall
13 be subject to suspension of operating privileges pursuant
14 to section 1532(e) (relating to suspension of operating
15 privilege).

16 (ii) For a second offense, is guilty of a summary
17 offense punishable by a fine of \$1,000 plus all costs of
18 disposing of the vehicle under the provisions of Chapter
19 73, and shall be subject to suspension of operating
20 privileges pursuant to section 1532(e).

21 (iii) For a third or subsequent offense, is guilty
22 of a misdemeanor of the third degree and shall be ordered
23 to pay all costs of disposing of the vehicle under the
24 provisions of Chapter 73, and shall be subject to
25 suspension of operating privileges pursuant to section
26 1532(e).

27 (2) In a case involving a violation of this section, the
28 municipality in which the vehicle is located may file the
29 complaint with the appropriate issuing authority.

30 (e) Allocation of fines.--Fifty percent of all fines imposed

under subsection (d) shall be transferred to the municipality where the abandoned vehicle was found and the remaining 50% shall be transferred and deposited in the Motor License Fund.

Section 7. Title 75 is amended by adding a section to read:

§ 3712.1. Civil liability for abandonment of vehicles.

Any person who abandons or strips a vehicle is liable for civil damages from property owners, residents where the vehicle is abandoned, residents or neighborhood organizations within the vicinity of the abandoned vehicle or local authorities. These claims may be filed pursuant to 42 Pa.C.S. §§ 1123 (relating to jurisdiction and venue) and 1515 (relating to jurisdiction and venue).

Section 8. Sections 7304, 7305(a), 7306, 7307, 7308 and 7309 of Title 75 are amended to read:

§ 7304. Reports to department of possession of abandoned and derelict vehicles.

Any salvor taking possession of an abandoned or derelict vehicle pursuant to section 7301(c) (relating to authorization of salvors) shall within 48 hours after taking possession report to the department the make, model, vehicle identification number and registration plate number of the abandoned vehicle, and the name and address of the owner or person who abandoned the vehicle, if known, together with any other information or documents which the department may by regulation require. The report shall include a statement whether the vehicle is [valueless except for salvage] a derelict vehicle. Where the report indicates the vehicle is [valueless except for salvage] a derelict vehicle, the salvor shall include a photograph of the vehicle to be prepared in a manner prescribed by the department. A report and photograph by a salvor that a vehicle is [valueless

1 except for salvage] a derelict vehicle shall be verified by the
2 police department which authorized transfer of the vehicle to
3 the salvor.

4 § 7305. Notice to owner and lienholders of abandoned vehicles.

5 (a) General rule.--Except as provided in section 7309
6 (relating to salvaging of derelict vehicles [valueless except
7 for salvage]), the department, upon receipt of notice that an
8 abandoned vehicle has been taken into possession pursuant to
9 this chapter, shall notify by certified mail, return receipt
10 requested, the last known registered owner of the vehicle and
11 all lienholders of record that the vehicle is abandoned.

12 * * *

13 § 7306. Payment of costs upon reclaiming vehicle.

14 In the event the owner or lienholder of an abandoned vehicle
15 reclaims the vehicle, the reclaiming party shall pay the costs
16 for towing and storage, plus a fee of [\$25] \$75 of which [\$10]
17 \$30 shall be transmitted to the department by the salvor and \$30
18 shall be transmitted by the salvor to the municipality where the
19 vehicle was abandoned.

20 § 7307. Authorization for disposal of unclaimed vehicles.

21 The department shall, after the expiration of [30] 20 days
22 from the date of notice sent by certified mail to the registered
23 owner and all lienholders of record or [30] 20 days after
24 publication of notice, where applicable, and upon receipt of a
25 written statement from the holder of the vehicle that the
26 abandoned vehicle has not been reclaimed by the owner or
27 lienholder within the [30-day] 20-day period, authorize the
28 disposal of the abandoned vehicle in accordance with the
29 provisions of this chapter.

30 § 7308. Public sale of unclaimed vehicles with value.

1 (a) General rule.--If an abandoned vehicle [having value],
2 other than a derelict vehicle, has not been reclaimed as
3 provided in this chapter, the vehicle shall be sold at a public
4 auction.

5 (b) Title of purchaser.--The salvor shall give the purchaser
6 a sales receipt and shall apply to the department for a title
7 which shall be free and clear of all previous liens and claims
8 of ownership.

9 (c) Disposition of proceeds.--From the proceeds of the sale
10 of the abandoned vehicle, the salvor shall be reimbursed for the
11 costs of towing, storage, notice and publication costs and
12 expenses of auction. The remainder of the proceeds of a sale
13 shall be held for the owner of the vehicle or record lienholder
14 for 60 days from the date of sale and if not properly claimed
15 shall then be paid to the department and transmitted to the
16 State Treasurer for deposit in the Motor License Fund.

17 (d) Public sale of derelict vehicles prohibited.--A derelict
18 vehicle may not be auctioned as a vehicle but may be sold for
19 parts or scrap materials or otherwise destroyed pursuant to
20 section 7309 (relating to salvaging of derelict vehicles).

21 § 7309. Salvaging of derelict vehicles [valueless except for
22 salvage].

23 (a) Application for certificate of salvage.--If an abandoned
24 vehicle is [valueless except for salvage] deemed a derelict
25 vehicle by a police officer, salvor or municipality, the salvor
26 or municipality shall note that fact in the report to the
27 department required in section 7304 (relating to reports to
28 department of possession of abandoned and derelict vehicles) and
29 shall apply for issuance of a certificate of salvage as provided
30 for in section 1117 (relating to vehicle destroyed, dismantled,

1 salvaged or recycled).

2 [(b) Notice and issuance of certificate.--If the identity of
3 the last registered owner cannot be determined with reasonable
4 certainty and it is impossible to determine with reasonable
5 certainty the identity and addresses of any lienholder, no
6 notice shall be required. Under such circumstances, the
7 department shall upon receipt of the report by the salvor
8 pursuant to section 7304 issue a certificate of salvage as
9 provided in section 1117.]

10 (b.1) Issuance of certificate.--

11 (1) Upon receipt of an application for salvage of a
12 derelict vehicle, the department shall issue a certificate
13 for salvage within ten business days if it is satisfied that
14 the vehicle is a derelict vehicle.

15 (2) No application shall be rejected if the police
16 officer and either the salvor or municipality agree that the
17 vehicle is a derelict vehicle.

18 (3) No application shall be rejected for lack of a
19 vehicle identification number when the public VIN is missing
20 as verified by a police officer, but such verification shall
21 not be construed as releasing the police or local authorities
22 or agents for the local authority from searching for a hidden
23 VIN. In such cases, the police officer or local authority
24 shall notify the department that the derelict vehicle was
25 searched and found to be missing any public or hidden VIN.
26 For the cases where no search for a hidden VIN is made, the
27 department may send its own representatives, members of the
28 Pennsylvania State Police, representatives from other
29 agencies or private consultants to search for a hidden VIN
30 within ten business days from the receipt of the application.

1 (b.2) Vehicles stolen or part of criminal investigation.--

2 (1) If it is found that a derelict vehicle was reported
3 stolen, the department shall follow the procedures in
4 Subchapter B of Chapter 71 (relating to stolen vehicles). In
5 such cases, the law enforcement agency where the vehicle was
6 stolen shall notify the salvor or local authority within ten
7 business days of any intentions to take possession or make
8 arrangement for storage of the said valueless vehicle, and
9 the department shall clearly state the ten-business-day
10 restriction in the notification to the law enforcement
11 agency. If the case has been closed, or if the said law
12 enforcement agency does not express its intentions for
13 possession or other arrangements, the salvor or local
14 authority may request a certificate for salvage from the
15 department pursuant to subsection (b.1).

16 (2) If an abandoned vehicle turns out to be stolen and
17 the owner has not been compensated through an insurance
18 policy, then the owner may request and is entitled to 90% of
19 the value for the parts and materials from the salvor, and
20 the salvor shall be eligible for reimbursement under
21 subsection (c).

22 (c) Reimbursement of expenses of salvor.--Upon receipt
23 within [six months] 30 days of evidence that a salvor has
24 removed [an abandoned] a derelict vehicle upon the request of a
25 police department, the department shall pay to the salvor from
26 the Motor License Fund the sum of [\$15] \$72 in 2000, or in
27 subsequent years, an amount annually adjusted for inflation by
28 the department using the Consumer Price Index as published by
29 the Bureau of Labor Statistics of the United States Department
30 of Labor for the expenses incurred in the removal and towing of

1 the abandoned vehicle. No portion of [\$15] the \$72 payment or
2 any separate consideration shall be reimbursed or paid to any
3 government agency or municipality by the salvor.

4 (d) Rights of owners and lienholders.--Issuance by the
5 department of a certificate of salvage for a vehicle salvaged
6 under this section shall operate as a divestiture of all right,
7 title and interest in the vehicle of the owner and all
8 lienholders.

9 Section 11. Title 75 is amended by adding sections to read:

10 § 7313. Local authority to remove abandoned vehicles.

11 (a) General rule.--A municipality shall have the police
12 power to and may at its option remove and dispose of abandoned
13 vehicles and derelict vehicles pursuant to section 7309
14 (relating to salvaging of derelict vehicles). A municipality may
15 designate other departments or authorities with the power to
16 remove and process derelict vehicles.

17 (b) Construction.--Nothing in this chapter shall be
18 construed to prohibit a municipality from adopting a plan and
19 process for the removal and disposition of abandoned vehicles
20 and derelict vehicles, provided that the removal and disposition
21 is performed by the municipality and not by salvors.

22 § 7314. Salvors to remove abandoned and derelict vehicles in
23 good faith.

24 (a) General rule.--When requested to remove an abandoned or
25 derelict vehicle, no salvor shall relocate and abandon the
26 vehicle. The salvor shall move the vehicle to a facility for the
27 purpose of storage of abandoned and derelict vehicles or another
28 place as directed by the police or approved by the department.

29 (b) Penalty.--Any salvor who violates this section shall be
30 subject to the penalties in section 3712 (relating to

1 abandonment of vehicles) in addition to any disciplinary action
2 from the department and shall pay an additional fine of not less
3 than \$1,000 and not more than \$10,000, half of which fine shall
4 be paid to this department and the other half to be paid to the
5 municipality where the vehicle was abandoned.

6 § 7315. Rights of property owners and residents.

7 (a) General rule.--An owner of any real property or resident
8 or leaseholder thereof or person in control of the property on
9 which there is an abandoned vehicle may request removal of the
10 abandoned vehicle. Upon such request, the police department may
11 order the local authority or salvor to remove the vehicle
12 pursuant to the provisions of this chapter.

13 (b) Sworn statement.--Whenever a request under this section
14 is made directly to a salvor without the aid of a police
15 officer, the salvor shall sign a written statement, subject to
16 the penalty prescribed under 18 Pa.C.S. § 4904 (relating to
17 unsworn falsification to authorities), that the information
18 relating to the abandoned vehicle was reported to the
19 department.

20 § 7316. Abandoned and derelict vehicles on vacant, abandoned or
21 other lots.

22 Police officers shall have the authority and power to order
23 the removal of abandoned and derelict vehicles on lots that are
24 vacant, common or shared neighborhood lots, or where the owner
25 cannot be reasonably ascertained or found. Upon such a request,
26 a salvor or municipality shall remove the abandoned vehicle or
27 derelict vehicle pursuant to the provisions of this chapter.

28 § 7317. Repeat abandoned vehicles.

29 A vehicle that has been abandoned more than once shall not be
30 auctioned as a vehicle but must be sold for parts or scrap

1 material or simply destroyed by the salvor or local authority.
2 The owner of said vehicle forfeits that owner's rights to the
3 vehicle or proceeds from the parts or scrap materials.

4 Section 12. This act shall take effect as follows:

5 (1) The amendment or addition of 75 Pa.C.S. §§ 102,
6 3352, 3712.1, 7313, 7314, 7315 and 7316 shall take effect
7 immediately.

8 (2) This section shall take effect immediately.

9 (3) The remainder of this act shall take effect in 30
10 days.