

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2063 Session of
1989

INTRODUCED BY HERSHEY, VROON, PESCI, NOYE, FARGO, TRELLO,
BILLOW, MERRY, BELARDI, BARLEY, DeLUCA, LINTON, BATTISTO,
SAURMAN, BUNT, E. Z. TAYLOR, MELIO, JOHNSON, CIVERA, WOGAN,
MORRIS, GEIST, OLASZ, FLEAGLE AND FLICK, NOVEMBER 14, 1989

REFERRED TO COMMITTEE ON TRANSPORTATION, NOVEMBER 14, 1989

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, providing possessory lien for towing and storage of
3 vehicles.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Chapter 33 of Title 75 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subchapter to read:

8 CHAPTER 33

9 RULES OF THE ROAD IN GENERAL

10 * * *

11 SUBCHAPTER G

12 POSSESSORY LIEN FOR TOWING AND STORAGE

13 Sec.

14 3381. Authority to tow.

15 3382. Notice to owners.

16 3383. Possessory lien.

17 3384. Administrative hearing.

1 3385. Foreclosure of lien.

2 3386. Proceeds of sale and title.

3 § 3381. Authority to tow.

4 Any police officer or other authorized government agency
5 discovering, or having a report of, any vehicle wrecked,
6 unattended or obstructing traffic in violation of any provision
7 of this title, shall remove or have it removed and transported
8 to a storage facility for safekeeping.

9 § 3382. Notice to owners.

10 (a) Application to department.--Any person engaged in the
11 business of recovering, towing or storing vehicles who comes
12 into the possession of a vehicle as the result of responding to
13 a request for service from any law enforcement or governmental
14 agency shall, within 48 hours following possession, apply to the
15 department for a listing of the name and address of the last
16 registered owner and of all persons claiming a lien on the
17 vehicle.

18 (b) Department responsibility.--Within 24 hours of receipt
19 of a request from a towing-storage operator, the department
20 shall forward to the towing-storage operator, in writing, the
21 name of the last registered owner and all lienholders as
22 disclosed by department records.

23 (c) Notice.--Within 48 hours of receipt of the information,
24 the towing-storage operator shall send notice by certified mail,
25 return receipt requested, to the last registered owner and
26 lienholder. The notice shall contain the following information:

27 (1) The name, address and telephone number of the
28 storage facility.

29 (2) That the vehicle is in possession of the towing-
30 storage firm, the date and place from which the vehicle was

1 removed and the reason for the removal.

2 (3) The amount of accrued towing, storage and
3 administrative costs and that storage and administrative
4 costs may continue to accrue as a legal liability of the
5 owner.

6 (4) That the towing-storage firm claims a possessory
7 lien for all of the charges.

8 (5) That the owner may retake possession at any time
9 during business hours by proving ownership and paying all
10 charges.

11 (6) That, should the owner consider that the towing or
12 removal was improper or not legally justified, he has a right
13 to petition the district justice in whose jurisdiction the
14 towing or removal was commenced for an administrative hearing
15 to contest the propriety of such towing or removal, and
16 further, setting forth the procedure pursuant to section 3384
17 (relating to administrative hearing), for requesting such a
18 hearing.

19 (7) The name, address and telephone number of the
20 district justice.

21 (8) That failure to claim a hearing within ten days of
22 the date of mailing the notice shall constitute a waiver of
23 the right to a hearing.

24 (9) That, if the vehicle remains unclaimed for 30 days
25 from the date of the notice, the lien will be foreclosed and
26 the vehicle sold at public auction.

27 (10) That any charges in excess of the sale proceeds
28 shall remain as a joint liability of the last registered
29 owner and the lienholder.

30 (d) Satisfaction of notice requirements.--Completed notice

1 to either the last registered owner or a lienholder shall
2 satisfy the notice requirements of this section.

3 (e) Undeliverable notice.--In the event that the records of
4 the department fail to disclose the name of the registered owner
5 or any lienholder, or the certified notices to all owners and
6 lienholders are returned as undeliverable, the towing-storage
7 operator shall attempt to locate documents or indicia of
8 ownership on or within the vehicle itself. If ownership
9 information is discovered, the towing-storage operator shall
10 provide the notice provided for under subsection (c)(2) to that
11 person at that address.

12 (f) Notification of public agency.--If the vehicle is five
13 years of age or less, or if the value of the vehicle exceeds the
14 amount of towing and storage fees, and if all reasonable
15 attempts to locate the last registered owner or lienholder prove
16 unsuccessful, the towing-storage operator shall, within 15 days
17 of the initial towing and storage, notify the public agency
18 instigating the tow and storage, in writing, by certified mail
19 or acknowledged hand delivery, that the towing-storage company
20 has been unable to notify either the last registered owner or
21 lienholder. The notice shall further state one of the two
22 reasons noted above in this subsection and that a physical
23 search of the vehicle has been made but did not disclose any
24 useful information.

25 (g) Obligation of public agency.--

26 (1) Upon receipt of such notice, the public agency shall
27 instigate a diligent search to locate the vehicle owner and
28 lienholder, and shall notify the towing-storage operator of
29 the results within 15 days of the notice.

30 (2) If the owner or lienholder is located, the public

1 agency shall be responsible for providing the owner or
2 lienholder with the notice required under subsection (c).

3 (3) In any event, the public agency shall issue within
4 15 days a written authorization to the towing-storage firm to
5 foreclose its lien against the unclaimed vehicle and sell the
6 vehicle at public auction pursuant to section 3385 (relating
7 to foreclosure of lien).

8 (4) In the event the public agency fails to notify the
9 towing operator of the results of their search or fails to
10 issue the written authorization within the 15-day period, the
11 authorization shall be deemed to be granted.

12 (h) Nonliability.--A law enforcement officer or agency,
13 towing-storage operator or employee shall not be held to answer
14 or be liable for damages in any action brought by the registered
15 owner, former registered owner or his legal representative,
16 lienholder or any other person legally entitled to possession of
17 a vehicle whenever a vehicle is processed and sold or disposed
18 of as provided by this section. Delay or failure of the
19 department to comply with the reporting obligations of
20 subsection (b) shall be a complete defense against any civil or
21 criminal charge brought against any person or towing-storage
22 firm for failure to provide proper or timely notice under the
23 provisions of this section.

24 (i) Penalty.--It shall be a misdemeanor of the second degree
25 for any person or firm in possession of a motor vehicle
26 requiring notice pursuant to this section to knowingly and
27 willingly fail to comply with the required notice.

28 § 3383. Possessory lien.

29 Any person or firm which is regularly engaged in the towing-
30 storage business and which comes into possession of a motor

1 vehicle, trailer or boat in any lawful manner shall have a
2 possessory lien on the property and its contents as long as it
3 retains possession for all reasonable charges for towing,
4 storage and administrative procedures required to process the
5 lien and its foreclosure.

6 § 3384. Administrative hearing.

7 (a) General rule.--Should any vehicle owner wish to contest
8 the propriety of the towing or removal of a vehicle, he shall be
9 entitled to an administrative hearing for determination of the
10 issue. The application for hearing shall be on such a form as
11 may be prescribed by the Court Administrator of Pennsylvania.

12 (b) Time of hearing.--The hearing shall be held within 48
13 hours.

14 (c) If owner prevails.--Should the owner prevail in any case
15 in which the tow was instigated by a law enforcement agency, the
16 owner shall not be obligated to pay any charges and possession
17 of the vehicle shall be returned to him. The law enforcement or
18 governmental agency instigating the tow shall pay all accrued
19 charges to the towing-storage firm.

20 (d) If owner does not prevail.--Should the towing or removal
21 be found to be justified and legal, the owner shall be obligated
22 to pay all charges before taking possession.

23 (e) Possession pending hearing.--Should the owner desire
24 possession pending the hearing, he may obtain the same by
25 depositing with the district justice cash or bond satisfactory
26 to the district justice equal to the total charges pending the
27 outcome of the hearing.

28 § 3385. Foreclosure of lien.

29 Any vehicle which remains unclaimed or for which reasonable
30 towing and storage fees remain unpaid may be sold by the towing-

1 storage operator after 30 days from the time of initial
2 possession or after 45 days in the event that law enforcement
3 has been provided with notice pursuant to section 3382(d)
4 (relating to notice to owners). The sale shall be at public
5 auction for cash. Public notice of the time and place of sale
6 shall be made by publishing a notice at least ten days prior to
7 the sale in a newspaper of general circulation in the county in
8 which the sale is to be held. The published notice shall contain
9 a description of the vehicle (year, make and model), the VIN
10 number and a statement that the vehicles are available for
11 inspection one hour prior to the sale.

12 § 3386. Proceeds of sale and title.

13 (a) General rule.--The proceeds of the sale, after payment
14 of reasonable towing and storage charges and costs of the sale,
15 shall be deposited with the prothonotary of the county if the
16 owner is absent, and the prothonotary shall hold the proceeds
17 subject to the claim of the person legally entitled thereto. The
18 prothonotary shall be entitled to receive 5% of the proceeds for
19 the care and disbursement thereof. Any funds which remain
20 unclaimed after six months shall be paid into the Abandoned
21 Vehicle Fund, which is hereby created in the General Fund.

22 (b) Insufficient proceeds.--Whenever the proceeds from the
23 sale of an unclaimed vehicle are insufficient to pay all
24 expenses and costs related to the towing and storage of the
25 vehicle, the deficiency shall be paid from the Abandoned Vehicle
26 Fund. The last registered owner and lienholder shall be jointly
27 liable for the unpaid towing and storage fees, and the right to
28 recover such fees shall be subrogated to the Abandoned Vehicle
29 Fund by the towing-storage operator.

30 (c) Title.--Upon presentation to the department of

1 documentation that the foreclosure procedures of this chapter
2 have been complied with, the successful bidder at the auction
3 sale shall be entitled to receive a new title to the vehicle
4 upon meeting any other administrative requirements of this
5 title.

6 Section 2. This act shall take effect in 60 days.