

Act No. 347
Public Acts of 2018
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Rep. Farrington

ENROLLED HOUSE BILL No. 5181

AN ACT to amend 1949 PA 300, entitled “An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of certain devices, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to regulate and certify the manufacturers of certain devices; to provide for approval and certification of installers and servicers of certain devices; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date,” by amending sections 252a, 252f, and 252g (MCL 257.252a, 257.252f, and 257.252g), section 252a as amended by 2015 PA 48, section 252f as amended by 2008 PA 539, and section 252g as amended by 2012 PA 498.

The People of the State of Michigan enact:

Sec. 252a. (1) A person shall not abandon a vehicle in this state. It is presumed that the last titled owner of the vehicle is responsible for abandoning the vehicle unless the person provides a record of the sale as that term is defined in section 240. A person who violates this subsection and who fails to redeem the vehicle before disposition of the vehicle under section 252g is responsible for a civil infraction and shall be ordered to pay a civil fine of \$50.00.

(2) As used in this section and sections 252b through 252l, “abandoned vehicle” means any of the following:

(a) A vehicle that has remained on private property without the consent of the owner.

(b) A vehicle that has remained on public property for a period of not less than 48 hours, or on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, as follows:

(i) If a valid registration plate is affixed to the vehicle, for a period of not less than 18 hours.

(ii) If a valid registration plate is not affixed to the vehicle.

(c) A vehicle, other than a late-model vehicle, to which all of the following apply:

(i) An insurance company has not acquired ownership of the vehicle under section 217c.

(ii) The vehicle cannot be disposed of under section 248c.

(iii) The vehicle has remained in the custody of a vehicle salvage pool or broker site without the consent of the vehicle salvage pool operator or the broker for a period of not less than 60 days.

(3) If a vehicle has remained on public property for the period of time described in subsection (2)(b) so that it qualifies as abandoned, a police agency having jurisdiction over the vehicle or the agency's designee shall determine whether the vehicle has been reported stolen and may affix a written notice to the vehicle. The written notice shall contain the following information:

(a) The date and time the notice was affixed.

(b) The name and address of the police agency taking the action.

(c) The name and badge number of the police officer affixing the notice.

(d) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(e) The year, make, and vehicle identification number of the vehicle, if available.

(4) If the vehicle is an abandoned vehicle, the police agency or the agency's designee may have the towing agency take the vehicle into custody.

(5) A police agency that has received a vehicle taken into custody as abandoned shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after the vehicle is taken into custody, enter the vehicle as abandoned into the law enforcement information network, and notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:

(i) The year, make, and vehicle identification number of the vehicle, if available.

(ii) The address or approximate location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The date the vehicle is being entered into the law enforcement information network and whether the information is being entered within 24 hours after the vehicle was taken into custody.

(v) The name and address of the police agency that had the vehicle taken into custody.

(vi) The name and business address of the custodian of the vehicle.

(vii) The name of the court that has jurisdiction over the case.

(c) Within 7 days after receiving notice under subdivision (b) that the vehicle has been taken into custody, the secretary of state shall do both of the following:

(i) Send to the last titled owner and secured party, as shown by the records of the secretary of state as described in section 221 or 237, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(A) The year, make, and vehicle identification number of the vehicle if available.

(B) The address or approximate location from which the vehicle was taken into custody.

(C) The date on which the vehicle was taken into custody.

(D) The name and address of the police agency that had the vehicle taken into custody.

(E) The name and business address of the custodian of the vehicle.

(F) The procedure to redeem the vehicle.

(G) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(H) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the police agency's action.

(I) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(ii) Enter the information described in subparagraph (i) on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned. The department shall maintain the data on the website for 1 year or until the vehicle is disposed of under this act, whichever occurs first.

(6) The owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing and posting a bond equal to \$40.00 plus the amount of the accrued towing and storage fees. A request for a hearing shall be made by filing a petition with the court specified in the notice described in subsection (5)(c) within 20 days after the date of the notice. Subject to subsection (8), if the owner requests a hearing, the matter shall be resolved after a hearing conducted under sections 252e and 252f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the \$40.00 plus the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court and the accrued towing and storage fees instead of posting the towing and storage bond.

(7) Subject to subsection (9), if the owner does not request a hearing under subsection (6), he or she may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian of the vehicle shall forward \$25.00 of the fee to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(8) The secured party may contest the reasonableness of the towing fees and daily storage fees and request a hearing in the same manner and subject to the same requirements as the owner of the vehicle under subsection (6). If both the owner and the secured party request a hearing to contest the reasonableness of the towing fees and daily storage fees within 20 days after the date of the notice, the court shall dismiss the secured party's petition and proceed with the owner's petition as provided in subsection (6), unless the owner is in default on a contract or agreement with the secured party regarding that vehicle. If the owner is in default on a contract or agreement with the secured party regarding that vehicle, the court shall dismiss the owner's petition and proceed with the secured party's petition in the same manner as provided in subsection (6). If the secured party redeems the vehicle, the owner may only seek damages related to the reasonableness of the towing fees and daily storage fees from the secured party. If the court finds, after a hearing on the reasonableness of the towing fees and daily storage fees, that the owner's or the secured party's challenge was frivolous, the court may award reasonable attorney fees to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 10 days after the date of the notice described in subsection (5)(c), the secured party may obtain the release of the vehicle by paying a \$40.00 fee plus the accrued charges to the custodian of the vehicle. The custodian of the vehicle shall forward \$25.00 of the fee to the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(10) If a vehicle has remained on private property without the consent of the property owner, the owner of the private property may have the vehicle taken into custody as an abandoned vehicle by contacting a local towing agency. A local towing agency is considered a towing agency whose storage lot is located within 15 miles from the border of the local unit of government having jurisdiction over the abandoned vehicle.

(11) Before removing the vehicle from private property, the towing agency shall provide notice by telephone, or otherwise, to a police agency having jurisdiction over the vehicle that the vehicle is being removed. Within 24 hours after receipt of the notice from the towing agency, the police agency shall determine if the vehicle has been reported stolen and enter the vehicle into the law enforcement information network as an abandoned vehicle. Verification by the police agency of compliance with this section is not necessary and is not a predicate to the entrance of the vehicle into the law enforcement information network.

(12) Within 24 hours after taking the abandoned vehicle into custody, the police agency shall notify the secretary of state through the law enforcement information network that the vehicle has been taken into custody as abandoned. Each notification shall contain the following information:

- (a) The year, make, and vehicle identification number of the vehicle if available.
- (b) The address or approximate location from which the vehicle was taken into custody.
- (c) The date on which the vehicle was taken into custody.
- (d) The date the vehicle is being entered into the law enforcement information network and whether the information is being entered within 24 hours after the vehicle was taken into custody.
- (e) The name and address of the police agency that had the vehicle taken into custody.
- (f) The name and business address of the custodian of the vehicle.
- (g) The name of the court that has jurisdiction over the case.

(13) Within 7 days after being notified under subsection(12), the secretary of state shall do both of the following:

(a) Send to the owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

- (i) The year, make, and vehicle identification number of the vehicle if available.
- (ii) The location from which the vehicle was taken into custody.

(iii) The date on which the vehicle was taken into custody.

(iv) The name of the towing agency that had the vehicle taken into custody.

(v) The business address of the custodian of the vehicle.

(vi) The procedure to redeem the vehicle.

(vii) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(viii) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the custodian's action.

(ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(b) Enter the information described in subdivision (a) on a website maintained by the department for public use in locating vehicles that are removed under this section as abandoned.

(14) The owner may contest the fact that the vehicle is abandoned or, unless the towing fees and daily storage fees are established by contract with the local governmental unit or local law enforcement agency and comply with section 252i, the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. Subject to subsection (16), if the owner requests a hearing, the matter shall be resolved after a hearing conducted under section 252f. An owner who requests a hearing may obtain release of the vehicle by posting with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying a fee of \$40.00 to the court plus the towing and storage fees instead of posting the towing and storage bond. An owner requesting a hearing but not taking possession of the vehicle shall post with the court a towing and storage bond in an amount equal to \$40.00 plus the accrued towing and storage fees.

(15) Subject to subsection (17), if the owner does not request a hearing, he or she may obtain the release of the vehicle by paying a fee of \$40.00 plus the accrued charges to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(16) The secured party may contest the reasonableness of the towing fees and daily storage fees and request a hearing in the same manner and subject to the same requirements as the owner under subsection (14). If both the owner and the secured party request a hearing to contest the reasonableness of the towing fees and daily storage fees within 20 days after the date of the notice, the court shall dismiss the secured party's petition and proceed with the owner's petition as provided in subsection (14), unless the owner is in default on a contract or agreement with the secured party regarding that vehicle. If the owner is in default on a contract or agreement with the secured party regarding that vehicle, the court shall dismiss the owner's petition and proceed with the secured party's petition in the same manner as provided in subsection (14). If the secured party redeems the vehicle, the owner may only seek damages related to the reasonableness of the towing fees and daily storage fees from the secured party. If the court finds, after a hearing on the reasonableness of the towing fees and daily storage fees, that the owner's or the secured party's challenge was frivolous, the court shall award to the custodian costs, including reasonable attorney fees, against the owner or secured party.

(17) If the owner does not redeem the vehicle or request a hearing within 10 days after the date of the notice, the secured party may obtain the release of the vehicle by paying a fee of \$40.00 and the accrued towing and storage fees to the custodian of the vehicle. The custodian shall forward \$25.00 of the fee collected under this subsection to the secretary of state within 30 days after receipt in a manner prescribed by the secretary of state, who shall deposit the fee into the abandoned vehicle fund created in section 252h.

(18) Not less than 20 days after the disposition of the hearing described in subsection (6) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency if the abandoned vehicle is found on public property, or the custodian of the vehicle if the vehicle is found on private property, shall offer the vehicle for sale at a public sale under section 252g.

(19) The custodian of a vehicle described in this section shall allow the owner of the vehicle or a secured party to inspect the vehicle during regular business hours at the location where the vehicle is being held. The custodian of the vehicle may charge the secured party a fee of not more than \$75.00 to inspect the vehicle or, if the actual cost necessary to allow the inspection is greater than \$75.00, the actual cost necessary to allow the inspection. If the custodian of the vehicle charges the secured party more than \$75.00 as provided in this subsection, the custodian shall provide the secured party with an itemized invoice for the actual costs assessed. The custodian of the vehicle shall allow the owner of the vehicle to inspect the vehicle and retrieve personal property from the vehicle without paying a fee for the first visit. After the first visit by the owner to inspect the vehicle or retrieve personal property from the vehicle as provided

in this subsection, the custodian may charge the owner of the vehicle a fee of not more than \$25.00 for each subsequent visit.

(20) If the ownership of a vehicle that is considered abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state as described in section 221 or 237 does not reveal ownership, the police agency may sell the vehicle at public sale as provided in section 252g not less than 30 days after public notice of the sale has been published.

(21) The secretary of state shall release a vehicle for disposition under section 252b or 252g within 45 days after the vehicle is entered into the law enforcement information network as an abandoned vehicle.

Sec. 252f. (1) Upon the filing of a petition prescribed in section 252a, 252b, or 252d, signed by the owner of the vehicle that has been taken into custody, or, upon the filing of a petition prescribed in section 252a signed by the secured party regarding a vehicle that has been taken into custody, the court shall do both of the following:

(a) Schedule a hearing within 30 days for the purpose of determining whether the police agency, towing agency or custodian, or private property owner acted properly.

(b) Notify the owner or the secured party, as applicable, towing agency or custodian, and police agency or if the vehicle was removed from private property, notify the private property owner also of the time and place of the hearing.

(2) At the hearing specified in subsection (1), the police agency, towing agency or custodian, or, if the vehicle was removed from private property, the private property owner shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in reporting or processing the abandoned vehicle or vehicle removed under section 252d.

(3) After the hearing, the court shall make a decision that includes 1 or more of the following:

(a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 252a, 252b, or 252d, and an order providing a period of 10 days after the decision for the owner or the secured party, if applicable, to redeem the vehicle. If the owner or the secured party does not redeem the vehicle within 10 days, the police agency shall dispose of the vehicle under section 252b or 252g. The court shall forward \$25.00 of the fee collected under section 252b or 252g to the secretary of state within 30 days after the court's decision in a manner prescribed by the secretary of state. The towing and storage fees and \$15.00 of the fee collected under section 252b or 252g shall be forwarded to the towing agency.

(b) A finding that the police agency did not enter the vehicle as abandoned into the law enforcement information network within 24 hours after the vehicle was taken into custody as required by section 252a(5)(b) or (12). After making the finding, the court shall issue an order directing that the vehicle immediately be released to the owner or the secured party, if applicable, and directing 1 of the following:

(i) That the police agency reimburse the owner or the secured party, if applicable, for the storage charges accrued before the police agency entered the vehicle into the law enforcement information network as required by section 252a(5)(b) or (12) if the owner or the secured party paid the accrued storage charges.

(ii) If the owner or the secured party has not paid the accrued storage charges but has posted a fee or bond with the court, that the police agency shall pay directly to the owner or secured party the amount of the storage charges accrued before the police agency entered the vehicle into the law enforcement information network as required by section 252a(5)(b) or 252a(12) plus interest no later than 10 days after the date of the order. The court shall release the bond posted by the owner or secured party in full to the custodian after the court has received notice from the police agency that the police agency has issued the payment required by this subparagraph to the owner or secured party.

(c) A finding that the police agency improperly determined that the vehicle was abandoned. After making the finding, the court shall issue an order directing that the vehicle be immediately released to the owner and directing the custodian to reimburse the owner for the accrued towing and storage charges, if the owner paid the accrued towing and storage charges. The court shall order the police agency to reimburse the custodian for accrued towing and storage charges paid to the owner under this subdivision. If the owner has not paid the accrued towing and storage charges, the court shall order the police agency to pay the accrued towing and storage charges. The court shall also order the police agency to pay any other fees associated with recovering the vehicle, or to reimburse the owner for any other fees associated with recovering the vehicle paid by the owner. The court shall also order any fee or bond posted by the owner to be returned to the owner.

(d) A finding that the towing fees and daily storage fees were reasonable.

(e) A finding that the towing fees and daily storage fees were unreasonable and issue an order directing the towing agency or custodian of the vehicle to provide the last titled owner of the vehicle or the secured party, if applicable, with an appropriate reduction or refund.

(f) A finding that the owner of the real property complied with the provisions of section 252k or 252l.

(g) A finding that the owner of the real property did not comply with the provisions of section 252k or 252l, and issue an order requiring the owner of the real property to reimburse the last titled owner of the vehicle or the secured party, if applicable, for the accrued towing and storage charges.

(h) A finding that the towing agency did not comply with the procedures established for the proper removal and reporting of an abandoned vehicle removed under section 252a(11), 252b, or 252d. After making the finding, the court shall issue an order directing that the vehicle immediately be released to the owner or the secured party, if applicable, and directing 1 of the following:

(i) That the towing agency reimburse the owner or the secured party, if applicable, for the storage charges accrued before the police agency entered the vehicle into the law enforcement information network as required by section 252a(5)(b) or (12), if the owner or the secured party paid the accrued storage charges.

(ii) If the owner or the secured party, if applicable, has not paid the accrued towing and storage charges but has posted a fee or bond with the court, that the bond and storage charges accrued before the police agency entered the vehicle into the law enforcement information network as required by section 252a(5)(b) or (12) be returned to the owner or the secured party, and that the remainder of any fee posted with the court be paid to the custodian.

(i) A finding that the towing agency did comply with the procedures established for the proper removal and reporting of an abandoned vehicle removed under section 252a(11), 252b, or 252d.

(4) A hearing under this section shall be conducted by a district court magistrate, if a district court magistrate has been appointed by the court. The appeal of a district court magistrate's decision under this section shall be heard by a judge of the district court.

Sec. 252g. (1) Subject to section 252a(18), a public sale for a vehicle and its contents that has been determined to be abandoned under section 252a or removed under section 252d shall be conducted in the following manner:

(a) It shall be under the control of the police agency. However, a police agency may designate the custodian of the vehicle or a third party to conduct the auction.

(b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or the agency's designee or, if the vehicle is being sold under section 252a(18), the custodian of the vehicle.

(c) Except as otherwise provided in sections 252a(18) and (19) and 252b(7), it shall be held not less than 5 days after public notice of the sale has been published.

(d) Except as otherwise provided in this subdivision, the public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale. The requirements of this subdivision may be satisfied by publishing a notice of the public auction once in a newspaper having a general circulation within the county in which the auction is to occur, if the notice states that the auction is an abandoned vehicle auction, lists the date, time, and location of the auction, and provides a website address where a complete description of each vehicle to be auctioned appears for not less than 5 consecutive days before the date of the auction. As used in this subdivision, "complete description" means a description of the vehicle's model year, manufacturer make, model name, and vehicle identification number.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

(a) Accrued towing and storage charges. However, if the money received from the public sale does not satisfy the accrued towing and storage charges, the towing company may collect the balance of those unpaid fees from the last titled owner, subject to section 252i.

(b) Expenses incurred by the police agency or the custodian of the vehicle.

(c) Payment of the \$40.00 abandoned vehicle fee described in section 252f(3)(a).

(d) Any extra money shall be sent to the department of treasury's unclaimed property division to be disbursed as follows:

(i) To the secured party, if any, in the amount of the debt outstanding on the vehicle.

(ii) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the last titled owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government governing the location from which the vehicle was towed.

(3) If there are no bidders on the vehicle, the police agency or the custodian of the vehicle may do 1 of the following:

(a) Turn the vehicle over to the towing firm or the custodian of the vehicle to satisfy charges against the vehicle. However, if the value of the vehicle does not satisfy the towing fees and accrued daily storage fees, the custodian of the vehicle may collect the balance of those unpaid fees from the last titled owner, subject to section 252i.

(b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:

(i) Paying the towing and storage charges.

(ii) Applying for title to the vehicle.

(c) Hold another public sale under subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3) that has been designated as a distressed vehicle shall apply for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency or towing agency or custodian shall provide the secretary of state and the police agency, if that police agency did not conduct the sale, with the vehicle's disposition and the name of the agency that disposed of it and the police agency shall cancel the entry in the law enforcement information network.

(6) Not less than 25 days after the date of notice required under section 252a, if the police agency does not provide a copy of the bill of sale by the police agency for the abandoned vehicle to the towing agency or custodian or police agency's designee, the towing agency or custodian or police agency designee may obtain an original of the bill of sale by submitting an application to the secretary of state in a form as determined by the secretary of state.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor