

1-1 By: Kuempel (Senate Sponsor - Wentworth) H.B. No. 787
1-2 (In the Senate - Received from the House April 26, 2011;
1-3 April 29, 2011, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 17, 2011, reported
1-5 favorably by the following vote: Yeas 6, Nays 0; May 17, 2011,
1-6 sent to printer.)

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to abandoned, wrecked, dismantled, discarded, and
1-10 inoperable aircraft and vessels.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 31.003, Parks and Wildlife Code, is
1-13 amended by adding Subdivision (17) to read as follows:

1-14 (17) "Abandoned vessel or outboard motor" means a
1-15 vessel or outboard motor that has remained on private property
1-16 without the consent of the owner or person in charge of the property
1-17 for more than seven consecutive days.

1-18 SECTION 2. Subchapter B-1, Chapter 31, Parks and Wildlife
1-19 Code, is amended by adding Section 31.0466 to read as follows:

1-20 Sec. 31.0466. TITLE FOR ABANDONED VESSEL; BOND. (a) A
1-21 person may apply for a certificate of title for an abandoned vessel
1-22 or outboard motor found on the person's property.

1-23 (b) The department may cancel the certificate for the
1-24 abandoned vessel or outboard motor and issue a new certificate to
1-25 the applicant if the applicant:

1-26 (1) executes and files a bond with the department:

1-27 (A) in the form prescribed by the department;

1-28 (B) issued by a person authorized to act as a
1-29 surety business in this state;

1-30 (C) in an amount equal to 1-1/2 times the value of
1-31 the abandoned vessel or outboard motor as determined by the
1-32 department; and

1-33 (D) conditioned to indemnify all prior owners and
1-34 lienholders and all subsequent purchasers of the abandoned vessel
1-35 or outboard motor or persons who acquire a security interest in the
1-36 vessel or outboard motor, and their successors in interest, against
1-37 any expense, loss, or damage, including reasonable attorney's fees,
1-38 resulting from:

1-39 (i) the issuance of the certificate of
1-40 title for the abandoned vessel or outboard motor; or

1-41 (ii) a defect in or undisclosed security
1-42 interest in the right, title, or interest of the applicant to or in
1-43 the abandoned vessel or outboard motor;

1-44 (2) proves to the satisfaction of the department that:

1-45 (A) the abandoned vessel or outboard motor is not
1-46 stolen;

1-47 (B) issuance of a certificate of title would not
1-48 defraud the owner or a lienholder of the abandoned vessel or
1-49 outboard motor;

1-50 (C) at least 30 days before the applicant applied
1-51 for the certificate, the applicant contacted the applicant's local
1-52 law enforcement agency through certified mail to report that the
1-53 vessel or outboard motor is abandoned; and

1-54 (D) the local law enforcement agency has not
1-55 taken the abandoned vessel or outboard motor into custody or
1-56 informed the applicant of the agency's intent to take the abandoned
1-57 vessel or outboard motor into custody; and

1-58 (3) posts notice of the certificate of title
1-59 application in the manner and for a period of time designated by
1-60 rule by the department.

1-61 (c) A person described by Subsection (b)(1)(D) has a right
1-62 of action to recover on the bond for a breach of a condition of the
1-63 bond described by Subsection (b)(1)(D). The aggregate liability of
1-64 the surety to all persons may not exceed the amount of the bond.

2-1 (d) A bond filed under this section expires on the third
 2-2 anniversary of the date the bond became effective. The department
 2-3 shall return an expired bond to the person who filed the bond unless
 2-4 the department has been notified of a pending action to recover on
 2-5 the bond.

2-6 (e) On return of a bond under Subsection (d), the department
 2-7 shall issue a certificate of title to the person to whom the bond is
 2-8 returned.

2-9 (f) If an abandoned vessel or outboard motor is not claimed
 2-10 before the department issues a certificate of title under this
 2-11 section, the owner or lienholder waives all rights and interests in
 2-12 the abandoned vessel or outboard motor and consents to the
 2-13 cancellation of the certificate for the abandoned vessel or
 2-14 outboard motor.

2-15 (g) The applicant for the certificate of title for the
 2-16 abandoned vessel or outboard motor takes title free and clear of all
 2-17 liens and claims of ownership.

2-18 (h) In addition to the situation described by Subsection
 2-19 (b)(2), the commission by rule may define acceptable situations in
 2-20 which certificates of title may be issued after the filing of a bond
 2-21 under this section.

2-22 (i) This section does not apply to a vessel or outboard
 2-23 motor that is subject to a contract or lien under Chapter 59 or 70,
 2-24 Property Code.

2-25 SECTION 3. Section 683.001, Transportation Code, is amended
 2-26 by adding Subdivision (11) to read as follows:

2-27 (11) "Aircraft" has the meaning assigned by Section
 2-28 24.001.

2-29 SECTION 4. Section 683.011, Transportation Code, is amended
 2-30 to read as follows:

2-31 Sec. 683.011. AUTHORITY TO TAKE ABANDONED MOTOR VEHICLE
 2-32 INTO CUSTODY. (a) A law enforcement agency may take into custody
 2-33 an abandoned motor vehicle, aircraft, watercraft, or outboard motor
 2-34 found on public or private property.

2-35 (b) A law enforcement agency may use agency personnel,
 2-36 equipment, and facilities or contract for other personnel,
 2-37 equipment, and facilities to remove, preserve, store, send notice
 2-38 regarding, and dispose of an abandoned motor vehicle, aircraft,
 2-39 watercraft, or outboard motor taken into custody by the agency
 2-40 under this subchapter.

2-41 SECTION 5. Section 683.012, Transportation Code, is amended
 2-42 by amending Subsections (a), (b), (c), and (d) and adding
 2-43 Subsection (a-1) to read as follows:

2-44 (a) A law enforcement agency shall send notice of
 2-45 abandonment to:

2-46 (1) the last known registered owner of each motor
 2-47 vehicle, aircraft, watercraft, or outboard motor taken into custody
 2-48 by the agency or for which a report is received under Section
 2-49 683.031; and

2-50 (2) each lienholder recorded:
 2-51 (A) under Chapter 501 for the motor vehicle;
 2-52 (B) with the Federal Aviation Administration or
 2-53 the secretary of state for the aircraft; or
 2-54 (C) under Chapter 31, Parks and Wildlife Code,
 2-55 for the watercraft or outboard motor.

2-56 (a-1) A law enforcement agency that takes into custody an
 2-57 aircraft shall contact the Federal Aviation Administration in the
 2-58 manner described by Section 22.901 to attempt to identify the owner
 2-59 of the aircraft before sending the notice required by Subsection
 2-60 (a).

2-61 (b) The notice under Subsection (a) must:

2-62 (1) be sent by certified mail not later than the 10th
 2-63 day after the date the agency:

2-64 (A) takes the abandoned motor vehicle, aircraft,
 2-65 watercraft, or outboard motor into custody; or

2-66 (B) receives the report under Section 683.031;

2-67 (2) specify the year, make, model, and identification
 2-68 number of the item;

2-69 (3) give the location of the facility where the item is

3-1 being held;

3-2 (4) inform the owner and lienholder of the right to

3-3 claim the item not later than the 20th day after the date of the

3-4 notice on payment of:

3-5 (A) towing, preservation, and storage charges;

3-6 or

3-7 (B) garagekeeper's charges and fees under

3-8 Section 683.032 and, if the vehicle is a commercial motor vehicle

3-9 impounded under Section 644.153(q), the delinquent administrative

3-10 penalty and costs; and

3-11 (5) state that failure of the owner or lienholder to

3-12 claim the item during the period specified by Subdivision (4) is:

3-13 (A) a waiver by that person of all right, title,

3-14 and interest in the item; and

3-15 (B) consent to the sale of the item at a public

3-16 auction.

3-17 (c) Notice by publication in one newspaper of general

3-18 circulation in the area where the motor vehicle, aircraft,

3-19 watercraft, or outboard motor was abandoned is sufficient notice

3-20 under this section if:

3-21 (1) the identity of the last registered owner cannot

3-22 be determined;

3-23 (2) the registration has no address for the owner; or

3-24 (3) the determination with reasonable certainty of the

3-25 identity and address of all lienholders is impossible.

3-26 (d) Notice by publication:

3-27 (1) must be published in the same period that is

3-28 required by Subsection (b) for notice by certified mail and contain

3-29 all of the information required by that subsection; and

3-30 (2) may contain a list of more than one abandoned motor

3-31 vehicle, aircraft, watercraft, or outboard motor.

3-32 SECTION 6. Section 683.013, Transportation Code, is amended

3-33 to read as follows:

3-34 Sec. 683.013. STORAGE FEES. A law enforcement agency or the

3-35 agent of a law enforcement agency that takes into custody an

3-36 abandoned motor vehicle, aircraft, watercraft, or outboard motor is

3-37 entitled to reasonable storage fees:

3-38 (1) for not more than 10 days, beginning on the day the

3-39 item is taken into custody and ending on the day the required notice

3-40 is mailed; and

3-41 (2) beginning on the day after the day the agency mails

3-42 notice and ending on the day accrued charges are paid and the

3-43 vehicle, aircraft, watercraft, or outboard motor is removed.

3-44 SECTION 7. Sections 683.014(a) and (c), Transportation

3-45 Code, are amended to read as follows:

3-46 (a) If an abandoned motor vehicle, aircraft, watercraft, or

3-47 outboard motor is not claimed under Section 683.012:

3-48 (1) the owner or lienholder:

3-49 (A) waives all rights and interests in the item;

3-50 and

3-51 (B) consents to the sale of the item by public

3-52 auction or the transfer of the item, if a watercraft, as provided by

3-53 Subsection (d); and

3-54 (2) the law enforcement agency may sell the item at a

3-55 public auction, transfer the item, if a watercraft, as provided by

3-56 Subsection (d), or use the item as provided by Section 683.016.

3-57 (c) The purchaser of a motor vehicle, aircraft, watercraft,

3-58 or outboard motor:

3-59 (1) takes title free and clear of all liens and claims

3-60 of ownership;

3-61 (2) shall receive a sales receipt from the law

3-62 enforcement agency; and

3-63 (3) is entitled to register the motor vehicle,

3-64 aircraft, watercraft, or outboard motor with and receive a

3-65 certificate of title from the appropriate authority.

3-66 SECTION 8. Sections 683.015(a) and (c), Transportation

3-67 Code, are amended to read as follows:

3-68 (a) A law enforcement agency is entitled to reimbursement

3-69 from the proceeds of the sale of an abandoned motor vehicle,

4-1 aircraft, watercraft, or outboard motor for:

- 4-2 (1) the cost of the auction;
- 4-3 (2) towing, preservation, and storage fees resulting
- 4-4 from the taking into custody; and
- 4-5 (3) the cost of notice or publication as required by
- 4-6 Section 683.012.

4-7 (c) After the period provided by Subsection (b), proceeds
 4-8 unclaimed by the owner or lienholder shall be deposited in an
 4-9 account that may be used for the payment of auction, towing,
 4-10 preservation, storage, and notice and publication fees resulting
 4-11 from taking other vehicles, aircraft, watercraft, or outboard
 4-12 motors into custody if the proceeds from the sale of the other items
 4-13 are insufficient to meet those fees.

4-14 SECTION 9. Section 683.071, Transportation Code, is amended
 4-15 to read as follows:

4-16 Sec. 683.071. DEFINITION AND APPLICABILITY. (a) In this
 4-17 subchapter, "junked vehicle" means a vehicle that:

- 4-18 (1) is self-propelled; and~~+~~
- 4-19 ~~[(1) does not have lawfully attached to it:~~
- 4-20 ~~[(A) an unexpired license plate; and~~
- 4-21 ~~[(B) a valid motor vehicle inspection~~
- 4-22 ~~certificate; and]~~

- 4-23 (2) is:
- 4-24 (A) wrecked, dismantled or partially dismantled,
- 4-25 or discarded; or
- 4-26 (B) inoperable and has remained inoperable for
- 4-27 more than:
- 4-28 (i) 72 consecutive hours, if the vehicle is
- 4-29 on public property; or
- 4-30 (ii) 30 consecutive days, if the vehicle is
- 4-31 on private property.

4-32 (b) For purposes of this subchapter, "junked vehicle"
 4-33 includes a motor vehicle, aircraft, or watercraft. This subchapter
 4-34 applies only to:

- 4-35 (1) a motor vehicle that does not have lawfully
 4-36 attached to it:
- 4-37 (A) an unexpired license plate; and
- 4-38 (B) a valid motor vehicle inspection
 4-39 certificate;
- 4-40 (2) an aircraft that does not have lawfully printed on
 4-41 the aircraft an unexpired federal aircraft identification number
 4-42 registered under Federal Aviation Administration aircraft
 4-43 registration regulations in 14 C.F.R. Part 47; or
- 4-44 (3) a watercraft that:
- 4-45 (A) does not have lawfully on board an unexpired
 4-46 certificate of number; and
- 4-47 (B) is not a watercraft described by Section
 4-48 31.055, Parks and Wildlife Code.

4-49 SECTION 10. Section 683.074, Transportation Code, is
 4-50 amended by amending Subsection (f) and adding Subsection (h) to
 4-51 read as follows:

4-52 (f) On receipt of notice of removal of a motor vehicle under
 4-53 Subsection (b)(3), the department shall immediately cancel the
 4-54 certificate of title issued for the vehicle.

4-55 (h) On receipt of notice of removal of a watercraft under
 4-56 Subsection (b)(3), the department shall notify the Parks and
 4-57 Wildlife Department of the removal. On receipt of the notice from
 4-58 the department, the Parks and Wildlife Department shall immediately
 4-59 cancel the certificate of title issued for the watercraft.

4-60 SECTION 11. Section 683.076(d), Transportation Code, is
 4-61 amended to read as follows:

4-62 (d) If the information is available at the location of the
 4-63 nuisance, a resolution or order requiring removal of the nuisance
 4-64 must include:

- 4-65 (1) for a motor vehicle, the vehicle's:
- 4-66 (A) ~~[(1)]~~ description;
- 4-67 (B) ~~[(2)]~~ vehicle identification number; and
- 4-68 (C) ~~[(3)]~~ license plate number;
- 4-69 (2) for an aircraft, the aircraft's:

5-1 (A) description; and
5-2 (B) federal aircraft identification number as
5-3 described by Federal Aviation Administration aircraft registration
5-4 regulations in 14 C.F.R. Part 47; and
5-5 (3) for a watercraft, the watercraft's:
5-6 (A) description; and
5-7 (B) identification number as set forth in the
5-8 watercraft's certificate of number.
5-9 SECTION 12. This Act takes effect September 1, 2011.

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