

1 HB458
2 165874-2
3 By Representative Johnson (R)
4 RFD: Public Safety and Homeland Security
5 First Read: 09-APR-15

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8 SYNOPSIS: Under existing law, a law enforcement
9 officer may have a motor vehicle towed if the motor
10 vehicle has been unattended on a public street,
11 road, or highway for seven days or more.

12 Also under existing law a person may sell an
13 abandoned motor vehicle at auction under certain
14 conditions.

15 This bill would provide that a motor vehicle
16 left on a public road or on private property,
17 including a vehicle left for repairs, for more than
18 48 hours without consent is deemed an unclaimed
19 motor vehicle, would require that such vehicles be
20 reported to the Department of Revenue, would
21 require a person or entity reporting the vehicle to
22 query the National Motor Vehicle Title Information
23 System (NMVTIS) to determine the title state of
24 record, and would require the department to put a
25 45-day hold on the title record.

26 This bill would further provide for when a
27 law enforcement officer may have a motor vehicle

1 towed or removed from a location and would provide
2 limited immunity for law enforcement officers and
3 persons towing at the direction of law enforcement
4 officers. In addition, the owner or lessee of the
5 motor vehicle on which a motor vehicle has become
6 unclaimed may cause the motor vehicle to be towed
7 to a secure place. The towing company is granted a
8 lien on the vehicle for towing and storage. A law
9 enforcement officer could have the vehicle towed if
10 it is left on a public road for more than 48 hours,
11 the driver is impaired by an arrest or an accident,
12 or when determined necessary by the officer, or
13 when the vehicle may be impounded for outstanding
14 parking tickets.

15 This bill would further provide for sale of
16 unclaimed and abandoned motor vehicles.

17 This bill would require notice of the public
18 auction to the Department of Revenue and would
19 provide that pre-sale appeals be heard by the
20 Alabama Tax Tribunal or circuit court, with
21 post-sale appeals heard by the circuit court.

22 This bill would also provide procedures for
23 contesting sales, would further provide for the
24 deduction of certain costs from the proceeds of a
25 sale, and would provide criminal penalties for
26 making fraudulent statements regarding the sale of
27 an abandoned motor vehicle.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to unclaimed or abandoned motor vehicles;
27 to amend Sections 32-8-84, 32-13-1, 32-13-2, 32-13-3, 32-13-4,

1 and 32-13-6, Code of Alabama 1975, to further provide for the
2 titling and sale of certain unclaimed motor vehicles; to
3 provide for notice; to further provide for when a law
4 enforcement officer may remove a motor vehicle from certain
5 locations; to provide limited immunity; to further provide for
6 the titling and sale of abandoned motor vehicles; to provide
7 for pre-sale appeals by the Alabama Tax Tribunal and the
8 circuit court; to provide procedures for contesting sales; to
9 provide for the deduction of certain costs from the proceeds
10 of a sale; to add Sections 32-13-9 and 32-13-10, to the Code
11 of Alabama 1975; to require cooperation of law enforcement in
12 enforcement of the act; to provide criminal penalties for
13 fraudulent statements regarding the sale of an abandoned motor
14 vehicle; and in connection therewith would have as its purpose
15 or effect the requirement of a new or increased expenditure of
16 local funds within the meaning of Amendment 621 of the
17 Constitution of Alabama of 1901, now appearing as Section
18 111.05 of the Official Recompilation of the Constitution of
19 Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 32-8-84, 32-13-1, 32-13-2,
22 32-13-3, 32-13-4, and 32-13-6, Code of Alabama 1975, are
23 amended to read as follows:

24 "§32-8-84.

25 "~~(a) A peace officer who learns of the theft of a~~
26 ~~vehicle not since recovered or of the recovery of a vehicle~~
27 ~~whose theft or conversion he knows or has reason to believe~~

1 ~~has been reported to the department shall forthwith report the~~
2 ~~theft or recovery to the department. The following shall be~~
3 ~~considered an unclaimed motor vehicle:~~

4 "(1) A motor vehicle left unattended on a public
5 road or highway for more than 48 hours.

6 "(2) A motor vehicle, not left on private property
7 for repairs, that has remained on private or other public
8 property for a period of more than 48 hours without the
9 consent of the owner or lessee of the property.

10 "(3) A motor vehicle, left on private property for
11 repairs, that has not been reclaimed within 48 hours from the
12 latter of either the date the repairs were completed or the
13 agreed upon redemption date.

14 ~~"(b) An owner or a lienholder may report the theft~~
15 ~~of a vehicle, or its conversion if a crime, to the department,~~
16 ~~but the department may disregard the report of a conversion~~
17 ~~unless a warrant has been issued for the arrest of a person~~
18 ~~charged with the conversion. A person who has so reported the~~
19 ~~theft or conversion of a vehicle shall, forthwith after~~
20 ~~learning of its recovery, report the recovery to the~~
21 ~~department. A person or entity in possession of an unclaimed~~
22 ~~motor vehicle shall report the motor vehicle as unclaimed to~~
23 ~~the Department of Revenue within five calendar days from the~~
24 ~~date the motor vehicle first was considered unclaimed. The~~
25 ~~report shall be made in a manner as prescribed by the~~
26 ~~department.~~

1 ~~"(c) (1) An operator of a place of business for~~
2 ~~garaging, repairing, parking or storing vehicles for the~~
3 ~~public, in which a vehicle remains unclaimed for a period of~~
4 ~~30 days, shall, within 30 days after the expiration of that~~
5 ~~period, report the vehicle as unclaimed to the department.~~
6 ~~Such report shall be on a form prescribed by the department.~~
7 Upon receiving notice as required in subsection (b), the
8 department shall place a 45-calendar day hold on the title
9 record and no title shall be issued during that time period
10 unless the title transaction occurred prior to the date the
11 motor vehicle was deemed unclaimed or the motor vehicle was
12 returned to the recorded owner or lienholder of record, if
13 any.

14 "(2) If the motor vehicle was returned to the
15 recorded owner or lienholder of record, if any, prior to the
16 conclusion of the 45-calendar day hold period on the title
17 record, the person or entity who reported the motor vehicle as
18 unclaimed shall report the return of the motor vehicle within
19 five calendar days in a manner as prescribed by the
20 department.

21 ~~"A vehicle left by its owner whose name and address~~
22 ~~are known to the operator or his employee is not considered~~
23 ~~unclaimed. A person who fails to report a vehicle as unclaimed~~
24 ~~in accordance with this subsection forfeits all claims and~~
25 ~~liens for its garaging, repairing, parking or storing and is~~
26 ~~guilty of a misdemeanor punishable by a fine of not more than~~
27 ~~\$100.00.~~

1 "(d) (1) A person or entity in possession of an
2 unclaimed motor vehicle, upon reporting the motor vehicle as
3 unclaimed to the department, shall utilize the National Motor
4 Vehicle Title Information System (NMVTIS) to determine the
5 current title state of record or, if no current title exists
6 for the motor vehicle, the most recent state of registration
7 for the motor vehicle. Thereafter, the person or entity shall
8 submit a records request to the state of record within five
9 calendar days from the date the motor vehicle was reported as
10 unclaimed to the department.

11 "(2) The records request shall be sent to the
12 current title state of record in order to obtain the name and
13 address of the owner and lienholder, if any, of record, if
14 any. If no current title exists, the records request shall be
15 sent to the most recent state of registration in order to
16 obtain the name and address of the owner.

17 "(3)a. In the event that no NMVTIS record exists and
18 there is evidence that could be reasonably ascertained by the
19 person or entity indicating that the motor vehicle has been
20 registered in another state, the person or entity, within five
21 calendar days from the date the motor vehicle was reported as
22 unclaimed to the department, shall submit a records request to
23 the state of registration in order to obtain the name and
24 address of the owner. Thereafter, the person or entity shall
25 send notice by certified mail with either return receipt
26 requested or electronic delivery confirmation, within five
27 calendar days from receipt of the title record, to the owner

1 and lienholder of record, if any, or registration record, to
2 the owner of record, advising the owner and lienholder of
3 record, if any, of the location of the motor vehicle, normal
4 business hours of the facility holding the motor vehicle, any
5 accrued charges or fees, the daily storage rate, and the
6 mailing address and contact telephone number of the person or
7 entity in possession of the motor vehicle.

8 "b. The notice required in paragraph a. shall
9 include the following language in no smaller than 10 point
10 type: "If this motor vehicle is not redeemed by the recorded
11 owner or lienholder of record within 30 calendar days from the
12 date of this notice, the motor vehicle shall be considered
13 abandoned as defined in Section 32-13-1, Code of Alabama 1975.
14 The motor vehicle may then be sold pursuant to the provisions
15 of the Alabama Abandoned Motor Vehicle Act as provided for in
16 Title 32, Chapter 13, Code of Alabama 1975."

17 "(4) A person who fails to report a motor vehicle as
18 unclaimed or fails to notify the owner and lienholder of
19 record, if any, in accordance with this subsection shall
20 forfeit all claims and liens for the motor vehicle's garaging,
21 parking, and storage prior to the time the motor vehicle is
22 reported as unclaimed; provided, however, failure to report
23 shall not result in the forfeiture of claims and liens for the
24 towing and repair of a motor vehicle.

25 "~~(d)~~ (e) (1) The department shall maintain and
26 appropriately index ~~weekly cumulative~~ public records of
27 ~~stolen, converted, recovered and unclaimed~~ motor vehicles

1 reported to it pursuant to this section. The department may
2 ~~make and distribute weekly~~ provide lists of the vehicle
3 identification numbers for such motor vehicles ~~so reported to~~
4 ~~it to peace officers upon request~~ without fee ~~and to others~~
5 ~~for the fee, if any,~~ in a manner as the department prescribes.

6 "(2) The department shall provide notice of
7 unclaimed motor vehicles to law enforcement.

8 "(3) Notice shall also be provided to the person or
9 entity who reported the motor vehicle as unclaimed if it has
10 been reported as stolen to law enforcement.

11 "~~(e)~~ (f)(1) The department may suspend the
12 registration of a vehicle whose theft or conversion is
13 reported to it pursuant to this section~~7. until~~ Until the
14 department learns of its recovery or that the report of its
15 theft or conversion was erroneous, it shall not issue a
16 certificate of title for the motor vehicle.

17 "(2) A title shall be issued by the department in
18 the name of an insurance company on a vehicle that is reported
19 stolen when a settlement between the insured and his or her
20 insurance company has occurred. The title shall be issued
21 electronically in the name of the insurance company until the
22 vehicle has been recovered, and, if recovered, the title may
23 be issued in paper form.

24 "§32-13-1.

25 "For the purposes of this chapter, ~~an abandoned~~
26 ~~motor vehicle shall mean a motor vehicle as defined in Section~~
27 ~~32-8-2~~ the following terms shall have the following meanings:

1 ~~"(1) Which has been left by the owner, or some~~
2 ~~person acting for the owner, with an automobile dealer,~~
3 ~~repairman, or wrecker service for repair or for some other~~
4 ~~reason and has not been called for by the owner or other~~
5 ~~person within a period of 60 days after the time agreed upon~~
6 ~~and within 60 days after the vehicle is turned over to a~~
7 ~~dealer, repairman, or wrecker service when no time is agreed~~
8 ~~upon, or within 60 days after the completion of necessary~~
9 ~~repairs.~~

10 ~~"(2) Which is left unattended on a public street,~~
11 ~~road, or highway or other public property for a period of at~~
12 ~~least seven days; or which is unattended because the driver of~~
13 ~~the vehicle has been arrested or is impaired by an accident~~
14 ~~which causes the need for the vehicle to be immediately~~
15 ~~removed as determined necessary by the law enforcement~~
16 ~~officer, or which is subject to an impoundment order for~~
17 ~~outstanding traffic or parking violations; or left unattended~~
18 ~~continuously for at least seven days in a business district or~~
19 ~~a residence district; or if left unattended in a business~~
20 ~~district that has at least one posted notice in an open and~~
21 ~~conspicuous place indicating that there is a time limitation~~
22 ~~on the length of time a motor vehicle may remain parked in the~~
23 ~~district and the motor vehicle remains unattended for a period~~
24 ~~of time in excess of that posted on the notice; or left~~
25 ~~unattended in a business district or residence district that~~
26 ~~has at least one posted notice indicating that only authorized~~
27 ~~motor vehicles may park in that district and the owner of the~~

1 ~~motor vehicle or his or her agent has not received the~~
2 ~~required authority prior to leaving the motor vehicle~~
3 ~~unattended; or left unattended on a private road or driveway~~
4 ~~without the express or implied permission of the owner or~~
5 ~~lessee of the driveway or their agent. A posted notice when~~
6 ~~required by this chapter shall meet the following~~
7 ~~specifications:~~

8 ~~"a. The notice shall be prominently placed at each~~
9 ~~driveway access or curb cut allowing vehicular access to the~~
10 ~~property, within five feet from the public right-of-way line.~~
11 ~~If there are no curbs or access barriers, the signs must be~~
12 ~~posted not less than one sign each 25 feet of lot frontage.~~

13 ~~"b. The notice shall clearly indicate, in not less~~
14 ~~than two-inch high light-reflective letters on a contrasting~~
15 ~~background, that unauthorized vehicles will be towed away at~~
16 ~~the owner's expense. The words "tow away zone" shall be~~
17 ~~included on the sign in not less than four-inch high letters.~~

18 ~~"c. The notice shall also provide the name and~~
19 ~~current telephone number of the person or firm towing or~~
20 ~~removing the vehicles, if the property owner, lessor, or~~
21 ~~person in control of the property has a written contract with~~
22 ~~a wrecker service.~~

23 ~~"d. The sign structure containing the required~~
24 ~~notices shall be permanently installed with the bottom of the~~
25 ~~sign not less than four feet above ground level, and be~~
26 ~~continuously maintained on the property for not less than 24~~
27 ~~hours prior to the towing or removal of any vehicles.~~

1 ~~"(3) Which has been lawfully towed onto the property~~
2 ~~of another at the written request of a law enforcement officer~~
3 ~~and left there for a period of not less than 60 days without~~
4 ~~anyone having made claim thereto.~~

5 ~~"(4) Which has been abandoned, has an expired~~
6 ~~license plate, or is inoperable in a parking area on private~~
7 ~~property maintained by the property owner or his or her agent~~
8 ~~for use by his or her tenants, residents, or their guests. A~~
9 ~~vehicle shall be defined as abandoned or inoperable under this~~
10 ~~subdivision if it has an expired license plate or has remained~~
11 ~~in the same parking lot for a period of 30 days or more. To~~
12 ~~bring a vehicle within the provisions of this subdivision, the~~
13 ~~property owner or his or her agent shall post a dated notice~~
14 ~~in a conspicuous place on the vehicle in question stating:~~

15 ~~"a. That the vehicle has been determined to be~~
16 ~~abandoned or inoperable and will be removed at the direction~~
17 ~~of the property owner or his or her agent upon the expiration~~
18 ~~of seven days from the date of the notice.~~

19 ~~"b. The name and address of the last registered~~
20 ~~owner of the vehicle in question and the name and address of~~
21 ~~the property owner or his or her agent and a daytime phone~~
22 ~~number for the person giving the notice.~~

23 ~~"A copy of the notice shall be mailed by regular~~
24 ~~mail to the last known address of the registered owner, if~~
25 ~~ascertainable, on the date of posting or not later than the~~
26 ~~next business day. Calculation of the seven-day notice period~~

1 ~~shall commence on the date of posting of the notice on the~~
2 ~~vehicle.~~

3 "(1) ABANDONED MOTOR VEHICLE. A motor vehicle as
4 defined in Section 32-8-2, that has been unclaimed as provided
5 in Section 32-8-84 for not less than 30 calendar days from the
6 date the notice was sent to the owner and lienholder of
7 record, or if no owner or lienholder of record could be
8 determined, has been unclaimed for not less than 30 calendar
9 days. The term "abandoned motor vehicle" also includes any
10 attached aftermarket equipment installed on the motor vehicle
11 that replaced factory installed equipment.

12 "(2) DEPARTMENT. The Department of Revenue.

13 "§32-13-2.

14 "(a) Any A law enforcement officer ~~who finds a motor~~
15 vehicle which has been left unattended on a public street,
16 road, or highway or other property for a period of at least
17 seven days, or which is unattended because the driver of the
18 vehicle has been arrested or is impaired by an accident or for
19 any other reason which causes the need for the vehicle to be
20 immediately removed as determined necessary by the law
21 enforcement officer, or which is subject to an impoundment
22 order for outstanding traffic or parking violations, may cause
23 the a motor vehicle to be removed to the nearest garage or
24 other place of safety. under any of the following
25 circumstances:

1 "(1) The motor vehicle is left unattended on a
2 public street, road, or highway or other property for a period
3 of at least 48 hours.

4 "(2) The motor vehicle is left unattended because
5 the driver of the vehicle has been arrested or is impaired by
6 an accident or for any other reason which causes the need for
7 the vehicle to be immediately removed as determined necessary
8 by the law enforcement officer.

9 "(3) The motor vehicle is subject to an impoundment
10 order for outstanding traffic or parking violations.

11 (b) (1) Any A law enforcement officer who, L pursuant
12 to this section, L causes any motor vehicle to be removed to a
13 garage or other place of safety shall be liable for gross
14 negligence only.

15 ~~"and any~~ (2) A person removing ~~the~~ a motor vehicle
16 or other property at the direction of a law enforcement
17 officer in accordance with this section shall have a lien on
18 the motor vehicle for a reasonable fee for the removal and for
19 the storage of the motor vehicle.

20 "(c) ~~Any~~ A law enforcement officer who ~~under this~~
21 ~~section~~ causes the removal of any motor vehicle to a garage or
22 other place of safety ~~shall~~ pursuant to this section, within
23 five calendar days, shall give written notice of the removal, ~~7~~
24 which. The notice shall include a complete description of the
25 motor vehicle ~~serial~~ identification number and license number
26 thereof, provided the information is available, to ~~both~~ the

1 Secretary of State and the Department of Public Safety the
2 Alabama Law Enforcement Agency.

3 "(d) ~~The~~ An owner or lessee of real property or
4 ~~their~~ his or her agent, upon which ~~an abandoned~~ a motor
5 vehicle ~~as defined in Section 32-13-1~~ has become abandoned
6 unclaimed, as provided for in Section 32-8-84 may cause the
7 ~~abandoned~~ motor vehicle to be removed to a secure place. Any
8 person or entity removing the vehicle at the direction of the
9 owner or lessee of ~~the~~ real property or ~~their~~ his or her agent
10 who pursuant to this section shall ~~cause the abandoned motor~~
11 ~~vehicle to be removed from their real property shall,~~ within
12 24 hours of the removal, ~~give written notice to the county or~~
13 ~~municipal law enforcement agency in whose jurisdiction the~~
14 ~~abandoned motor vehicle was situated. Any person or~~
15 ~~corporation removing the vehicle or other property at the~~
16 ~~direction of the owner or lessee of real property or their~~
17 ~~agent in accordance with this section shall~~ have a lien on the
18 motor vehicle for a reasonable fee for the removal and for
19 storage of the motor vehicle.

20 "(e) ~~The~~ An owner or lessee or agent of the real
21 property owner, ~~lien holder,~~ and the towing agent or wrecker
22 service employed shall be liable to the owner or ~~party in~~
23 ~~possession of the vehicle~~ lienholder of record for action
24 taken under this section only for gross negligence ~~under this~~
25 ~~section.~~

26 "§32-13-3.

1 ~~" (a) (1) Any automobile dealer, wrecker service or~~
2 ~~repair service owner, or any person, firm, or governmental~~
3 ~~entity on whose property a motor vehicle is lawfully towed at~~
4 ~~the written request of a law enforcement officer, or the owner~~
5 ~~or lessee of real property, or his or her agent upon which an~~
6 ~~abandoned motor vehicle as defined in subdivision (1), (3), or~~
7 ~~(4) of Section 32-13-1 has become abandoned, and who has the~~
8 ~~abandoned motor vehicle as defined in subdivision (1), (3), or~~
9 ~~(4) of Section 32-13-1 on his or her property, may sell the~~
10 ~~motor vehicle at public auction~~ A person or entity in
11 possession of a motor vehicle that is considered an abandoned
12 motor vehicle may sell the motor vehicle at a public auction.

13 ~~"(2) Any person, firm, or governmental entity on~~
14 ~~whose property an abandoned motor vehicle as defined in~~
15 ~~subdivision (2) of Section 32-13-1 has been lawfully towed, or~~
16 ~~the owner or lessee of real property or his or her agent upon~~
17 ~~which an abandoned motor vehicle as defined in subdivision (2)~~
18 ~~of Section 32-13-1 has become abandoned, and who has the~~
19 ~~abandoned motor vehicle as defined in subdivision (2) of~~
20 ~~Section 32-13-1 on his or her property, except motor vehicles~~
21 ~~which have been claimed within seven days after being towed,~~
22 ~~and who has notified or attempted to notify by certified mail,~~
23 ~~return receipt requested, the current owners, registrants, and~~
24 ~~lienholders of record, if any, after the abandoned motor~~
25 ~~vehicle was lawfully towed onto his or her property, may, 60~~
26 ~~days after the abandoned vehicle was lawfully towed, sell the~~
27 ~~motor vehicle at public auction. In addition, if notice was~~

1 not given or attempted to be given as provided herein to the
2 current owners, registrants, secured parties, and lienholders
3 of record, if any, for the motor vehicle, no additional
4 storage charges may be added after 30 days.

5 "(3) The person, firm, or governmental entity giving
6 notice under this section shall obtain from the Department of
7 Revenue in writing, a statement, form, or document listing the
8 name and address of the current owners, registrants, secured
9 parties, and lienholders of record, if any, for the motor
10 vehicle or a statement, form, or document that the department
11 has no information of record concerning the current owners,
12 registrants, secured parties, and lienholders of record for
13 the motor vehicle. The actual cost of giving notification, not
14 to exceed twenty-five dollars (\$25), plus the actual cost of
15 the records request, which shall be properly documented to the
16 current owners, registrants, secured parties, and lienholders
17 of record, if any, for the motor vehicle shall be paid by the
18 person, firm, or governmental entity holding the motor
19 vehicle, but shall be paid by the current owners, registrants,
20 secured parties, and lienholders of record, if any, for the
21 motor vehicle on or before claiming the motor vehicle. The
22 return of a certified letter unclaimed or equivalent
23 documentation as determined by the department shall be proof
24 of an attempt to give notice as required by this subsection.

25 "(b) (1) Notice of the date, time, and place of the
26 sale and a description of the motor vehicle to be sold,
27 including the year, make, model, and vehicle identification

1 ~~number, shall be given by publication once a week for two~~
2 ~~successive weeks in a newspaper of general circulation in the~~
3 ~~county in which the sale is to be held. In counties in which~~
4 ~~no newspaper is published, notice shall be given by posting~~
5 ~~such notice in a conspicuous place at the courthouse. The~~
6 ~~first publication or posting, as the case may be, shall be at~~
7 ~~least 30 days before the date of sale. A person or entity~~
8 ~~selling a motor vehicle at public auction under subsection (a)~~
9 ~~shall give notice of the public auction to the department at~~
10 ~~least 35 calendar days prior to date of the public auction.~~

11 "(2) The notice of public auction shall be in a
12 manner as prescribed by the department and shall include all
13 of the following:

14 "a. The name and address of the current owner and
15 lienholder of record, if any, as reflected on the current
16 title or registration record of state.

17 "b. The contact information for the person or entity
18 filing the notice.

19 "c. The motor vehicle's identification number, year,
20 make, and model.

21 "d. The date, time, and location of the auction.

22 "(3) The auction shall occur where the vehicle is
23 located. The department, within five calendar days of receipt
24 of the notice of public auction, shall send a motor vehicle
25 interest termination notice to the current owner and
26 lienholder of record, if any, as disclosed on the notice of
27 public auction. The motor vehicle interest termination notice

1 shall advise the owner and lienholder of record, if any, that
2 their interest in the motor vehicle, upon its sale, will be
3 terminated pursuant to this chapter, and personal property and
4 items contained in the motor vehicle will be disposed of in a
5 manner determined by the person or entity conducting the sale.

6 "(4) The notice shall include all the information
7 provided in the notice of public auction as well as the owner
8 or other interested party's appeal rights, pursuant to
9 Sections 32-13-4 and 40-2A-8, to contest the proposed sale of
10 the motor vehicle.

11 "(c) (1) Upon payment of the sales price, the
12 purchaser of the abandoned motor vehicle shall be entitled to,
13 and the person, ~~firm,~~ or ~~governmental~~ entity making the sale
14 shall issue, a bill of sale, ~~in a form as prescribed by the~~
15 Department of Revenue, to for the abandoned motor vehicle,
16 free and clear of all liens, security interests, and
17 encumbrances, in a form as prescribed by the department.

18 "(2) Each person or entity who sells a motor vehicle
19 pursuant to this chapter, for three years from the date of the
20 sale, shall maintain all of the following:

21 "a. Copies of the notices sent pursuant to
22 subsection (d) of Section 32-8-84, to the previous motor
23 vehicle owner and lienholder of record, along with evidence
24 that the notices were sent by certified mail.

25 "b. Any associated National Motor Vehicle Title
26 Information System (NMVTIS) records and owner and lienholder

1 records received from any state pursuant to subsection (d) of
2 Section 32-8-84.

3 "c. Any other records as required by the department.

4 "(3) Notwithstanding ~~the foregoing~~ any other
5 provision in this section, if the person, ~~firm,~~ or
6 governmental entity making the sale of the motor vehicle
7 failed to provide ~~notice~~ proper notices as required in
8 subsection (d) of Section 32-8-84, or this chapter, ~~or did not~~
9 attempt to provide notice to the current owners, registrants,
10 secured parties, and lienholders of record, if any, for the
11 motor vehicle in the manner required herein, then the sale of
12 the abandoned vehicle shall be void and the current owners,
13 registrants, secured parties, and lienholders of record, if
14 any, for the motor vehicle shall retain their ownership,
15 security interests, liens, and interests in the motor vehicle.

16 "(d) (1) Each purchaser of an abandoned motor vehicle
17 subject to titling shall make an application for a certificate
18 of title unless the motor vehicle is being sold by the
19 purchaser to a licensed automotive dismantler and parts
20 recycler or secondary metals recycler for the purpose of
21 dismantling it or recycling it into metallic scrap for
22 remelting purposes.

23 "(2) A purchaser of an abandoned motor vehicle who
24 sells an abandoned motor vehicle to a licensed automotive
25 dismantler and parts recycler or secondary metals recycler, in
26 lieu of surrendering the certificate of title as prescribed in
27 Section 32-8-87(s) (1), may surrender the bill of sale for the

1 abandoned motor vehicle to the licensed automotive dismantler
2 and parts recycler or secondary metals recycler. The licensed
3 automotive dismantler and parts recycler or secondary parts
4 recycler shall then proceed with the notice of cancellation
5 procedures as prescribed in Section 32-8-87(s)(1) utilizing
6 the bill of sale in lieu of the certificate of title. The bill
7 of sale shall be subject to the same records retention
8 requirements as those prescribed in Section 32-8-87(s)(1) for
9 a certificate of title.

10 "(e)(1) If the current certificate of title to a
11 motor vehicle sold pursuant to this chapter is designated a
12 salvage certificate of title, or if the records of the
13 department indicate an application for a salvage certificate
14 of title has previously been received, the new certificate of
15 title issued by the department shall also be a salvage
16 certificate of title.

17 "(2) The purchaser of a salvage abandoned motor
18 vehicle shall not be permitted to register the vehicle or
19 operate it upon the highways of this state until such time as
20 the vehicle is restored by a licensed rebuilder and inspected
21 by the department as required by Section 32-8-87 and a rebuilt
22 Alabama certificate of title is issued.

23 "§32-13-4.

24 "(a) Any automobile dealer, wrecker service, or
25 repair service owner, or any person, firm, or governmental
26 entity on whose property a motor vehicle is lawfully towed at
27 the written request of a law enforcement officer, or the owner

1 or lessee of real property or his or her agent upon which an
2 abandoned motor vehicle as defined in Section 32-13-1 has
3 become abandoned, shall give written notice to the current
4 owners, registrants, secured parties, and lienholders of
5 record, if any, for the motor vehicle at least 30 days prior
6 to the date of the sale of the motor vehicle advising of all
7 of the following items of information:

8 "(1) The complete description of the motor vehicle
9 and the date and place the motor vehicle was found or taken
10 into possession.

11 "(2) The approximate amount owed for the cost of
12 repair, towing, and storage of the motor vehicle.

13 "(3) The location of storage of the motor vehicle.

14 "(4) The date, time, and place that a sale of the
15 motor vehicle will be held.

16 "(5) The right of the current owners, registrants,
17 secured parties, and lienholders of record, if any, for the of
18 a motor vehicle, prior to the sale, may to contest the right
19 to sell such sale of the motor vehicle pursuant to this
20 chapter by the filing within 10 days before the scheduled date
21 of the sale of the motor vehicle of an application for hearing
22 to be conducted before the judge of a notice of appeal with
23 the Alabama Tax Tribunal pursuant to subsection (a) of Section
24 40-2A-8, or in the circuit court of in the county in which
25 where the sale is to be held scheduled to occur. The
26 application for hearing shall be on such a form as may be
27 prescribed by the Administrative Office of Courts. The notice

1 required by this section shall be deemed to be given when sent
2 by certified mail, postage prepaid, to the address of the
3 current owners, registrants, secured parties, and lienholders
4 of record, if any, for the motor vehicle, shown on any public
5 filing evidencing such ownership, security interest, lien, or
6 interest, or, if none, to any such address ascertained by
7 reasonable effort. The person, firm, or governmental entity
8 giving notice under this section shall obtain from the
9 department in writing, a statement, form, or document listing
10 the name and address of the current owners, registrants,
11 secured parties, and lienholders of record, if any, for the
12 motor vehicle or a statement, form, or document that the
13 department has no information of record concerning the current
14 owners, registrants, secured parties, or lienholders of
15 record, if any, for the motor vehicle.

16 " (b) (1) If the names or addresses, or both, of the
17 current owners, registrants, secured parties, and lienholders
18 of record, if any, for the motor vehicle are unknown or cannot
19 be reasonably ascertained, then the notice requirements set
20 forth in subsection (b) of Section 32-13-3 are applicable.

21 "~~(c)~~ If no application for hearing is timely made by
22 the current owners, registrants, secured parties, or
23 lienholders of record, if any, for the motor vehicle, the
24 motor vehicle may be sold at the time and place designated in
25 the notice of sale and any personal property or items
26 contained in the vehicle may be disposed of in a manner
27 determined by the person or entity conducting the sale.

1 "2) If application for a hearing is timely made by
2 the current owners, registrants, secured parties, or
3 lienholders of record, if any, for the motor vehicle, then all
4 such ~~persons~~ parties shall be ~~joined as parties~~ and provided
5 notice by the Alabama Tax Tribunal or the judge of the circuit
6 court. in the county where the sale occurred The Alabama Tax
7 Tribunal or circuit court shall conduct a hearing to determine
8 if the motor vehicle is an abandoned motor vehicle as defined
9 by this chapter and ~~should be sold in the manner prescribed~~
10 ~~herein~~ whether proper notices were provided pursuant to
11 subsection (d) of Section 32-8-84 and this chapter. The motor
12 vehicle shall not be sold pending the decision by the Alabama
13 Tax Tribunal or circuit court judge.

14 "3) If the tribunal or circuit court judge
15 determines that the motor vehicle ~~is~~ was abandoned and ~~should~~
16 ~~be sold~~ that proper notice or notices were issued, the motor
17 vehicle may be sold as an abandoned motor vehicle after notice
18 ~~of the date and place of the sale is given by newspaper~~
19 ~~publication~~ as prescribed in Section 32-13-3.

20 "4) Any contest regarding the sale of an abandoned
21 motor vehicle, after the sale has occurred, shall be filed in
22 the circuit court in the county where the sale occurred. Any
23 contest regarding the reasonable cost of repair, towing,
24 storage, and all reasonable expenses incurred in connection
25 with the sale shall be filed in the circuit court in the
26 county where the sale is scheduled or has occurred.

27 "§32-13-6.

1 ~~"(a) The A person or firm, other than a governmental~~
2 ~~entity, making the sale of the motor vehicle shall deduct from~~
3 ~~the proceeds of such the sale the reasonable cost of repair,~~
4 ~~towing, storage, and all reasonable expenses incurred in~~
5 ~~connection with such the sale, and. The person or entity shall~~
6 ~~also pay the balance remaining to the license plate issuing~~
7 ~~official of the county in which such sale is made to be~~
8 ~~distributed to the general fund of the county; provided, that~~
9 ~~such costs shall in no event exceed the customary charges for~~
10 ~~like services in the community where the sale is made. Any~~
11 ~~contest regarding the sale of the abandoned motor vehicle~~
12 ~~shall be filed in the circuit court in the county where the~~
13 ~~sale occurred.~~

14 ~~"(b) The person or entity making the sale shall~~
15 ~~attach to the bill of sale either:~~

16 ~~"(1) The statement, form, or document from the~~
17 ~~Department of Revenue identifying the current owners, secured~~
18 ~~parties, lienholders of record, if any, of the motor vehicle,~~
19 ~~or other parties with a known interest in the motor vehicle,~~
20 ~~and the certified mail return receipts or equivalent~~
21 ~~documentation as determined by the department proving that~~
22 ~~notice of the sale was given, or was attempted to be given, to~~
23 ~~the current owners, secured parties, lienholders of record, if~~
24 ~~any, or parties known to have an interest in the motor~~
25 ~~vehicle, as required by subsection (a) of Section 32-13-4.~~

26 ~~"(2) The statement, form, or other document from the~~
27 ~~department indicating that it has no record of the current~~

1 ~~owners, secured parties, or lienholders of record, if any, for~~
2 ~~the motor vehicle, or parties known to have an interest in the~~
3 ~~motor vehicle.~~

4 ~~"The department shall not issue a title for the~~
5 ~~motor vehicle unless the statement, form, or document from the~~
6 ~~department identifying the current owners, secured parties,~~
7 ~~lienholders of record, if any, for the motor vehicle, or~~
8 ~~parties known to have an interest in the motor vehicle, or~~
9 ~~stating that the department has no information of record and a~~
10 ~~notarized affidavit from the seller attesting to the fact that~~
11 ~~the seller gave notice, or attempted to give notice, as~~
12 ~~required by Section 32-13-4, are submitted to the department.~~

13 ~~"(c) If the current certificate of title to a motor~~
14 ~~vehicle sold pursuant to this chapter is designated a salvage~~
15 ~~certificate of title, or if the records of the department~~
16 ~~indicate an application for a salvage certificate of title has~~
17 ~~previously been received, the new certificate of title issued~~
18 ~~by the department shall also be a salvage certificate of~~
19 ~~title. The purchaser of a salvage abandoned motor vehicle~~
20 ~~shall not be permitted to register the vehicle or to operate~~
21 ~~it upon the highways of Alabama until such time as the vehicle~~
22 ~~is restored by a licensed rebuilder and inspected by the~~
23 ~~department as required by Section 32-8-87 and a rebuilt~~
24 ~~Alabama certificate of title is issued."~~

25 Section 2. Sections 32-13-9 and 32-13-10 are added
26 to the Code of Alabama 1975, to read as follows:

27 §32-13-9.

1 The department shall administer this chapter and may
2 call upon any law enforcement agency and officer of this state
3 for assistance as it may deem necessary in order to ensure
4 enforcement. Law enforcement agencies and officers shall
5 render assistance to the department as requested.

6 §32-13-10.

7 (a) A person, with fraudulent intent, may not make a
8 material false statement regarding the sale of an abandoned
9 motor vehicle.

10 (b) A person in violation of subsection (a) commits
11 a Class C felony.

12 (c) A person, whether present or absent, who aids,
13 abets, induces, procures, or causes the commission of an act
14 in violation of subsection (a) commits a Class C felony.

15 Section 3. All laws or parts of laws which conflict
16 with this act are hereby repealed to the extent they conflict
17 with this act.

18 Section 4. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 5. This act shall become effective on July
2 1, 2016, following its passage and approval by the Governor,
3 or upon its otherwise becoming law.