

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)
CONFERENCE COMMITTEE SUBSTITUTE
FOR 2ND ENGROSSED
HOUSE BILL NO. 1520

By: Hefner of the House

and

Easley and Muegge of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public health and safety; amending 63 O.S. 1991, Sections 4044, as last amended by Section 3, Chapter 321, O.S.L. 1993 and 4217, as amended by Section 56, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1993, Sections 4044 and 4217), which relate to vessels; prohibiting issuance of certain permit unless certain conditions are met; clarifying language; providing for abandoned vessels and motors; providing for impoundment and removal of certain vessels and motors; requiring certain notification; providing for determination of value; providing for disposal of abandoned junk vessels and motors; defining term; requiring photo; requiring certain records and information; requiring certain search; providing procedures; providing for maintenance of records; requiring certain filing; specifying certain conditions for removal of certain vessels; providing for liability; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 1991, Section 4044, as last amended by Section 3, Chapter 321, O.S.L. 1993 (63 O.S. Supp. 1993, Section 4044), is amended to read as follows:

Section 4044. The Oklahoma Tax Commission shall issue permits for displays and sales of new vessels or motors which are held off the premises of a licensed dealer thereof as follows:

1. A promotion by an individual new vessel or motor dealer which is held off the premises of such dealer and at which sales activities are conducted may be held only under the following conditions:

- a. the dealer participates in an advertised vessel or motor show in which at least two other vessel or motor dealers are participating,
- b. application for a permit for a sales promotion by an individual dealer shall be made to the Commission at least seven (7) calendar days prior to such promotion, and such permit shall be issued by the Commission upon payment of a fee of Fifty Dollars (\$50.00) per event,
- c. the permit shall be valid for a period not to exceed fourteen (14) consecutive days, and
- d. the Commission shall not issue a permit to a dealer if he has obtained a permit within the past forty-five (45) calendar days for the same location;

2. A dealer ~~may not~~ shall be denied a permit ~~on the grounds that~~ for a display and sale of vessels of a particular product line if the sales promotion is to be held within the relevant market area of another dealer of the same product line unless the dealer applying for the permit has written permission of all dealers of the same product line of vessels within whose relevant market areas the sales promotion is to be held; and

3. A dealer who fails to obtain such a permit shall be subject to the penalties and fines provided for in Section 4041 of ~~Title 63 of the Oklahoma Statutes~~ this title.

Provided, a permit shall not be required pursuant to the provisions of this section for a display or sale of new vessels or motors which is held off the premises of a licensed dealer if the display or sale is held within a twenty-five (25) mile radius of the location of the dealership.

SECTION 2. AMENDATORY 63 O.S. 1991, Section 4217, as amended by Section 56, Chapter 284, O.S.L. 1992 (63 O.S. Supp. 1993, Section 4217), is amended to read as follows:

Section 4217. A. It shall be unlawful to abandon a vessel ~~on~~ or outboard motor upon or in the waters of this state or on other public property. ~~Any officer of the Department of Public Safety shall deem a vessel abandoned and shall have authority to remove~~

~~or direct the removal of a vessel when found upon any portion of the waters of this state or other public property, A vessel or outboard motor shall be deemed abandoned if, after a period of forty-eight (48) hours, there is no evidence of an apparent owner who intends to remove the vessel. Any law enforcement officer prior to removing such vessel shall attempt to notify the owner of such vessel if the vessel has an identification number registered in this state or if the name and address of the owner is attached to such vessel or outboard motor.~~

B. Any officer of the Department of Public Safety, Grand River Dam Authority Lake Patrol or park ranger of the Department of Tourism and Recreation shall have authority to impound and remove or direct the removal of a vessel or outboard motor deemed to be abandoned pursuant to the provisions of this section.

C. ~~If such officer has reasonable cause to believe~~ a vessel or outboard motor has been ~~abandoned~~ left in a location which would be hazardous to the free flow of traffic or would be highly susceptible to damage from vandalism or other harm, ~~he~~ any officer of the Department of Public Safety, Grand River Dam Authority Lake Patrol or park ranger of the Department of Tourism and Recreation shall have authority to remove or direct the immediate removal and impoundment of the vessel immediately or outboard motor.

D. Except as otherwise provided by Section 3 of this act, the removal and impounding of any vessel or outboard motor shall be made in accordance with the provisions of Sections 903 through 911 of Title 47 of the Oklahoma Statutes concerning abandonment of vehicles.

E. Any such law enforcement officer prior to removing a vessel or outboard motor shall attempt to notify the owner of such vessel or outboard motor if the vessel or outboard motor has an identification number registered in this state or if the name and address of the owner is attached to such vessel or outboard motor. At the time of ordering the removal of ~~an abandoned~~ a vessel or outboard motor pursuant to the provisions of this section, the authorizing officer shall also determine the sale value of the

vessel or outboard motor and certify that amount on the removal order.

~~C. Any officer of the Department of Public Safety is hereby authorized to cause to be removed any vessel found upon the waters of this state or any other public property when:~~

~~1. Report has been made that such vessel has been stolen or taken without the consent of its owner;~~

~~2. The officer has reason to believe the vessel has been abandoned as defined in this section;~~

~~3. The person operating or in control of such vessel is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;~~

~~4. At the scene of an accident, when the owner or operator is not in a position to take charge of his vessel and direct or request proper removal; or~~

~~5. When a vessel and/or motor registration is thirty (30) days past the date of expiration.~~

~~Such officer may ensure the safe removal of said vessel by use of a trailer.~~

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4217.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Any vessel or outboard motor meeting all of the requirements of this subsection shall be deemed an abandoned junk vessel and shall be subject to disposal pursuant to the provisions of this section. A vessel or motor shall be deemed to be an abandoned junk vessel or motor if:

1. It has been abandoned and left in a sunken, beached, or drifting condition for any period of time, or left in a docked condition, on a public street or other property open to the public, or upon or within the right-of-way of any waterway, road, or highway, for forty-eight (48) hours or longer, without notification to the sheriff of the county, the chief of police of the municipal corporation, township, or township police district, or other chief of a law enforcement agency, having territorial

jurisdiction with respect to the location of the vessel or motor, of the reasons for leaving the vessel or motor in any such place or condition;

2. It is three (3) years old, or older;

3. It is extensively damaged, such damage including but not limited to any of the following: missing deck, hull, transom, gunwales, or outdrive;

4. It is apparently inoperable; and

5. It has a fair market value of Two Hundred Dollars (\$200.00) or less.

B. Upon the notification of an abandoned junk vessel or abandoned junk outboard motor, any officer of the Department of Public Safety, Grand River Dam Authority Lake Patrol or park ranger of the Department of Tourism and Recreation shall photograph such vessel or outboard motor or direct that the vessel or outboard motor be photographed. The officer shall record the make of the vessel or motor, the hull identification number or serial number when available, and shall also detail the damage or missing equipment. Such information shall be submitted to the Department of Public Safety. The Department shall immediately cause a search to be made of the records of the Oklahoma Tax Commission pursuant to the Oklahoma Vessel and Motor Registration Act to ascertain the owner and any lienholders of a vessel or outboard motor and, if known, shall send notice to the owner and lienholder, if any, at his last-known address by certified mail, return receipt requested, that the vessel or motor will be declared a nuisance and disposed of if not claimed and removed within twenty (20) days of the date of the mailing of the notice.

If the owner or lienholder makes no claim or fails to remove the abandoned junk vessel or outboard motor within the specified time period, the Department shall thereupon provide for the removal and disposal of the abandoned junk vessel or outboard motor by a marine salvage dealer or other facility owned, operated, or under contract to the state for the removal and disposal of vessels and motors. Any abandoned junk vessel or outboard motor removed and disposed of pursuant to this subsection

shall be deemed to be the property of the marine salvage dealer or other facility owned, operated, or under contract to the state for the removal and disposal of vessels and motors.

C. The records and photographs relating to the abandoned junk vessel or outboard motor shall be retained by the Department for a period of at least two (2) years. Upon the removal and disposal of the abandoned junk vessel or outboard motor to a marine salvage dealer or other such facility, the Department shall:

1. Execute in quadruplicate an affidavit describing the abandoned junk vessel or motor and the manner in which it was disposed of, and specifying that the requirements of this section have been met. One copy shall be retained by the Department which shall be filed with the records and photographs relating to the disposal; and

2. File the affidavit with the court clerk of the county in which the junk vessel or motor was abandoned. The clerk shall retain the original of the affidavit for his files, and shall furnish one copy thereof to the marine salvage dealer or other facility handling the disposal of the vessel or motor, and one copy as appropriate to the Oklahoma Tax Commission.

D. The state or any person removing and disposing of an abandoned junk vessel or outboard motor pursuant to this section shall not be liable for such removal and disposal to the owner and any lienholder of such vessel or outboard motor.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4217.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

Any officer of the Department of Public Safety, Grand River Dam Authority Lake Patrol or park ranger of the Department of Tourism and Recreation is hereby authorized to cause to be removed any vessel found upon the waters of this state or any other public property when:

1. Report has been made that such vessel has been stolen or taken without the consent of its owner;

2. The officer has reason to believe the vessel has been abandoned as defined in Section 2 of this act;

3. The person operating or in control of such vessel is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;

4. At the scene of an accident, when the owner or operator is not in a position to take charge of his vessel and direct or request proper removal; or

5. A vessel and/or motor registration is thirty (30) days past the date of expiration.

Such officer may ensure the safe removal of said vessel by use of a trailer.

SECTION 5. This act shall become effective July 1, 1994.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-L9660 SD