

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 183

Introduced by Wightman, 36.

Read first time January 07, 2011

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to abandoned motorboats; to amend sections
2 37-1299, 37-12,100, 37-12,101, 37-12,102, 37-12,103,
3 37-12,104, 37-12,105, 37-12,106, 37-12,107, 37-12,108,
4 and 37-12,109, Reissue Revised Statutes of Nebraska; to
5 provide for certain motorboats and trailers to be
6 considered abandoned; to harmonize provisions; and to
7 repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 37-1299, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 37-1299 (1) A motorboat ~~is~~ and the trailer upon which the
4 motorboat rests, if any, are abandoned:

5 (a) If left unattended for more than seven days on any
6 public property;

7 (b) If left unattended for more than seven days on
8 private property if left initially without permission of the owner;

9 (c) If left for more than seven days on private property
10 after permission of the owner is terminated; ~~or~~

11 (d) If they are inoperable, partially dismantled,
12 wrecked, junked, or discarded and they are left unattended and
13 visible to the public for more than thirty days on private property
14 which is within a municipality or its extraterritorial zoning
15 jurisdiction and which is not a junkyard as defined in section
16 39-2602; or

17 ~~(d)-(e)~~ (e) If left for more than thirty days in the custody
18 of a law enforcement agency after the agency has sent a letter to the
19 last-registered owner under section 37-12,102.

20 (2) For purposes of this section:

21 (a) Public property means any public park, waterfront, or
22 other state, county, or municipally owned property; and

23 (b) Private property means any privately owned property
24 which is not included within the definition of public property.

25 (3) No motorboat or trailer subject to forfeiture under

1 section 28-431 shall be deemed abandoned under this section.

2 (4) No motorboat shall be deemed inoperable or partially
3 dismantled if the motor is maintained according to the manufacturer's
4 recommendations for storage.

5 Sec. 2. Section 37-12,100, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 37-12,100 If ~~an abandoned motorboat,~~ at the time of
8 abandonment, an abandoned motorboat has no hull identification number
9 affixed and is of a wholesale value, taking into consideration the
10 condition of the motorboat, of two hundred fifty dollars or less, and
11 the trailer upon which the motorboat rests, if any, has no license
12 plate affixed and is of a wholesale value, taking into consideration
13 the condition of the trailer, of two hundred fifty dollars or less,
14 title shall immediately vest in the local authority or state agency
15 having jurisdiction thereof as provided in section 37-12,103. Any
16 certificate of title issued under this section to the local authority
17 or state agency shall be issued at no cost to such authority or
18 agency.

19 Sec. 3. Section 37-12,101, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 37-12,101 (1) Except for motorboats and trailers covered
22 by section 37-12,100, the local authority or state agency having
23 custody of an abandoned motorboat and the trailer upon which the
24 motorboat rests, if any, shall make an inquiry concerning the last-
25 registered owner of such motorboat and trailer to the Department of

1 Motor Vehicles.

2 (2) The local authority or state agency shall notify the
3 last-registered owner, if any, that the motorboat and trailer, if
4 any, in question has been determined to be abandoned and that, if
5 unclaimed, either (a) ~~it~~they will be sold or will be offered at
6 public auction after five days from the date such notice was mailed
7 or (b) title will vest in the local authority or state agency thirty
8 days after the date such notice was mailed. If the Department of
9 Motor Vehicles also notifies the local authority or state agency that
10 a lien or mortgage exists, such notice shall also be sent to the
11 lienholder or mortgagee. Any person claiming such motorboat or
12 trailer shall be required to pay the cost of removal and storage of
13 such motorboat or trailer.

14 (3) Title to an abandoned motorboat or trailer, if
15 unclaimed, shall vest in the local authority or state agency (a) five
16 days after the date the notice is mailed if the motorboat or trailer
17 will be sold or offered at public auction under subdivision (2)(a) of
18 this section, (b) thirty days after the date the notice is mailed if
19 the local authority or state agency will retain the motorboat or
20 trailer, or (c) if the last-registered owner cannot be ascertained,
21 when notice of such fact is received.

22 (4) After title to the abandoned motorboat and trailer,
23 if any, vests pursuant to subsection (3) of this section, the local
24 authority or state agency may retain for use, sell, or auction the
25 abandoned motorboat or trailer. If the local authority or state

1 agency has determined that the motorboat or trailer should be
2 retained for use, the local authority or state agency shall, at the
3 same time that the notice, if any, is mailed, publish in a newspaper
4 of general circulation in the jurisdiction an announcement that the
5 local authority or state agency intends to retain the abandoned
6 ~~vehicle~~ motorboat or trailer for its use and that title will vest in
7 the local authority or state agency thirty days after the
8 publication.

9 Sec. 4. Section 37-12,102, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 37-12,102 A state or local law enforcement agency which
12 has custody of a motorboat and the trailer upon which the motorboat
13 rests, if any, for investigatory purposes and has no further need to
14 keep ~~it~~ the motorboat or trailer in custody shall send a certified
15 letter to each of the last-registered owners stating that the
16 motorboat ~~is~~ and trailer, if any, are in the custody of the law
17 enforcement agency, that the motorboat ~~is~~ and trailer, if any, are no
18 longer needed for law enforcement purposes, and that after thirty
19 days the agency will dispose of the motorboat and trailer. This
20 section shall not apply to a motorboat or trailer subject to
21 forfeiture under section 28-431. No storage fees shall be assessed
22 against the registered owner of a motorboat or trailer held in
23 custody for investigatory purposes under this section unless the
24 registered owner or the person in possession of the motorboat or
25 trailer when ~~it is~~ they are taken into custody is charged with a

1 felony or misdemeanor related to the offense for which the law
2 enforcement agency took the motorboat and trailer into custody. If a
3 registered owner or the person in possession of the motorboat and
4 trailer when ~~it is~~ they are taken into custody is charged with a
5 felony or misdemeanor but is not convicted, the registered owner
6 shall be entitled to a refund of the storage fees.

7 Sec. 5. Section 37-12,103, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 37-12,103 If a state agency caused an abandoned motorboat
10 and the trailer upon which the motorboat rests, if any, described in
11 subdivision ~~(1)(d)~~ (1)(e) of section 37-1299 to be removed from
12 public property, the state agency shall be entitled to custody of the
13 motorboat and trailer. If a state agency caused an abandoned
14 motorboat and the trailer upon which the motorboat rests, if any,
15 described in subdivision (1)(a), (b), ~~or (c),~~ or (d) of section
16 37-1299 to be removed from public property, the state agency shall
17 deliver the motorboat and trailer to the local authority which shall
18 have custody. The local authority entitled to custody of an abandoned
19 motorboat and trailer shall be the county in which the motorboat ~~was~~
20 and trailer were abandoned or, if abandoned in a city or village, the
21 city or village in which the motorboat ~~was~~ and trailer were
22 abandoned.

23 Sec. 6. Section 37-12,104, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 37-12,104 Any proceeds from the sale of an abandoned

1 motorboat and the trailer upon which the motorboat rests, if any,
2 less any expenses incurred by the local authority or state agency
3 shall be held by the local authority or state agency, without
4 interest, for the benefit of the owner or lienholders of such
5 motorboat and trailer for a period of two years. If not claimed
6 within such two-year period, the proceeds shall be paid into the
7 general fund of the local authority entitled to custody under section
8 37-12,103 or the General Fund if a state agency is entitled to
9 custody under section 37-12,103.

10 Sec. 7. Section 37-12,105, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 37-12,105 Neither the owner, lessee, nor occupant of the
13 premises from which any abandoned motorboat ~~is~~ and the trailer upon
14 which the motorboat rests, if any, are removed, nor the state, city,
15 village, or county, shall be liable for any loss or damage to such
16 motorboat or trailer which occurs during ~~its~~ their removal or while
17 in the possession of the state, city, village, or county or its
18 contractual agent or as a result of any subsequent disposition.

19 Sec. 8. Section 37-12,106, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 37-12,106 No person shall cause any motorboat and the
22 trailer upon which the motorboat rests, if any, to be abandoned as
23 described in subdivision (1)(a), (b), ~~or~~ (c), or (d) of section
24 37-1299.

25 Sec. 9. Section 37-12,107, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 37-12,107 No person other than one authorized by the
3 appropriate local authority or state agency shall destroy, deface, or
4 remove any part of a motorboat or trailer upon which a motorboat
5 rests, if any, which is left unattended on a highway or other public
6 place without a hull identification number affixed or which is
7 abandoned. Anyone violating this section is guilty of a Class V
8 misdemeanor.

9 Sec. 10. Section 37-12,108, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 37-12,108 The last-registered owner of an abandoned
12 motorboat or trailer upon which the motorboat rests, if any, shall be
13 liable to the local authority or state agency for the costs of
14 removal and storage of such motorboat or trailer.

15 Sec. 11. Section 37-12,109, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 37-12,109 The Director of Motor Vehicles may adopt and
18 promulgate rules and regulations providing for such forms and
19 procedures as are necessary or desirable to effectuate sections
20 37-1299 to 37-12,110. Such rules and regulations may include
21 procedures for the removal and disposition of hull identification
22 numbers of abandoned motorboats, forms for local records for
23 abandoned motorboats and trailers, and inquiries relating to
24 ownership of such motorboats and trailers.

25 Sec. 12. Original sections 37-1299, 37-12,100, 37-12,101,

1 37-12,102, 37-12,103, 37-12,104, 37-12,105, 37-12,106, 37-12,107,
2 37-12,108, and 37-12,109, Reissue Revised Statutes of Nebraska, are
3 repealed.