


THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
Third Regular Session )

SENATE  
S. B. No. 2446

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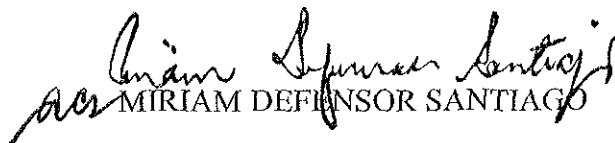
Introduced by Senator Miriam Defensor Santiago

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EXPLANATORY NOTE

Abandoned and derelict motor vehicles are nuisances. They obstruct the free flow of traffic on the street on which they lay abandoned. They prevent the free ingress and egress of real property owners when they are left unattended in front of driveways and gates. They prevent the free use of real property when they are dumped and abandoned on the same. They are a source of lost income to automobile repair, towing and storage facilities when their owners abscond.

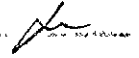
This bill seeks to protect the public from the potential harm that may befall them as a result of abandoned and derelict motor vehicles.

  
MIRIAM DEFENSOR SANTIAGO

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AN ACT  
GOVERNING ABANDONED MOTOR VEHICLES  
AND DERELICT MOTOR VEHICLES

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. *Short Title.* – This Act shall be known as the “Abandoned Motor Vehicle Act of 2006”.

SECTION 2. *Declaration of Policy.* – It is the policy of the State to promote the general welfare of the people. Pursuant to this policy, this Act seeks to create a law governing abandoned motor vehicles and derelict motor vehicles.

SECTION 3. *Definition of Terms.* – For purposes of this Act:

(A) “Abandoned motor vehicle” means a motor vehicle or trailer and its contents:

- (1) Which has been left by the owner or some person acting for the owner with an automobile dealer, or any automobile repair facility for repair or for some other reason and has not been called for by such owner or other person within a period of thirty (30) days after the time agreed upon; or within 30 days after such vehicle is turned over to such dealer, or automobile repair facility when no time is agreed upon; or within thirty (30) days after the completion of necessary repairs;
- (2) has been left by the owner or some person acting for the owner with a towing and storage facility for a period of not less than thirty (30) days without

anyone having paid all reasonable current charges for such towing and storage;

(3) Which has been lawfully towed to an automotive storage facility at the request of a law enforcement officer and left there for a period of not less than 30 days without anyone having paid all reasonable current charges for such towing and storage;

(4) Which has been lawfully towed from private property to an automotive storage facility at the request of a property owner or person acting for the property owner and left there for a period of not less than thirty (30) days without anyone having paid all reasonable current charges for such towing and storage;

(5) Which was being stored by agreement for an insurance company providing insurance to cover damages to the vehicle and was left for a period of not less than thirty (30) days past the agreed upon date.

(B) "Derelict motor vehicle" means any motor vehicle which has been left unattended on private property for not less than two (2) days or on public property for not less than three (3) days without the owner or driver making any attempt to recover such vehicle or to leave a conspicuously placed note that such owner or driver intends to return for such vehicle. It shall also include any motor vehicle which, if a conspicuous note was left, has been left unattended for not less than five (5) days and if because of damage, vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an operable condition would require the replacement of one or more major component parts or involves any structural damage that would affect the safety of the vehicle.

The term shall not include a vehicle which does not bear a manufacturer's vehicle identification number plate or a vehicle identification number plate assigned by the Land Transportation Office.

(C) "Motor vehicle" or "vehicle" means a motor vehicle or trailer and its contents.

(D) "Owner" or "owners" means the registered owner, the owner as recorded on the title, lessor, lessee, security interest holders, and all lienholders as shown on the records of the Land Transportation Office;

(E) "Unattended vehicle check" shall consist of such actions as are reasonably necessary to determine that the unattended vehicle does not contain an injured or incapacitated person and to determine that the unattended vehicle does not pose a threat to public health or safety.

SECTION 4. *Duty of Peace Officer to Perform an Unattended Vehicle Check.* – It shall be the duty of any peace officer who discovers a motor vehicle which has been left unattended on a public street, road, or highway or other public property to immediately perform an unattended vehicle check on such motor vehicle, unless there is displayed on such motor vehicle an unattended vehicle check card indicating that another peace officer has already performed such an unattended vehicle check.

SECTION 5. *Removal of an Abandoned Motor Vehicle by a Peace or Law Enforcement Officer.* Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property for a period of at least five (5) days shall be authorized to cause such motor vehicle to be removed to a garage or other place of safety, if such peace officer reasonably believes that the person who left such motor vehicle unattended does not intend to return and remove such motor vehicle.

Any law enforcement officer who finds a motor vehicle which has been left unattended on the state highway system shall be authorized to cause such motor vehicle to be removed immediately to a garage or other place of safety when such motor vehicle poses a threat to public health or safety or to mitigate congestion. Any peace officer who finds a motor vehicle which has been left unattended on a public street, road, or highway or other public property, other than the state highway system, shall be authorized immediately to cause such motor vehicle to be removed immediately to a garage or other place of safety when such motor vehicle poses a threat to public health or safety or to mitigate congestion.

SECTION 6. *Possessory Lien* -- Any person or facility who legally tows, transports, or stores any motor vehicle shall have a possessory lien on the vehicle. The lien shall remain in effect while the motor vehicle is in the possession of the person or facility and is limited to reasonable towing and storage fees, plus notification, advertisement, or disposal costs where applicable. Such lien shall include vehicle contents with the following exceptions: prescription drugs or eyewear, child passenger restraining system, house keys, and personal documentation such as birth or death records. This lien attaches when the person or facility acts:

- (A) Under a contract with the owner or someone representing the owner;
- (B) At the direction of a law enforcement officer; or
- (C) At the direction of an owner or lessor, or a person authorized by the owner or lessor, of private property on which such vehicle is wrongfully located, and the vehicle was removed in accordance with Section 5.

SECTION 7. *Duty of Person or Facility which Stores the Abandoned Motor Vehicle.* - Any person or facility who stores a motor vehicle that was removed from public or private property at the request of someone other than the vehicle owner or some person acting for the owner shall notify in writing a local law enforcement agency of the location of the vehicle, the manufacturer's vehicle identification number, license number, model, year, and make of the vehicle within three business days of the removal of such vehicle and shall seek from the local law enforcement agency the identity and address of all known owners of such vehicle, and any information indicating that such vehicle is a stolen motor vehicle. The local law enforcement agency shall furnish such information to the person or facility storing such vehicle within three business days after receipt of such request.

When any motor vehicle is removed under conditions set forth in Section 5 of this Act, the person or facility storing such motor vehicle shall, within seven (7) business days of the day such motor vehicle was removed or one business day after the information is furnished to the storer pursuant to Paragraph 1 of this Section, whichever is later, notify all owners, if known, by written acknowledgment signed thereby or by certified or registered mail or statutory overnight

delivery, of the location of such motor vehicle, the fees connected with removal and storage of such motor vehicle, and the fact that such motor vehicle will be deemed abandoned under this chapter unless the owner, security interest holder, or lienholder redeems such motor vehicle within 30 days of the day such vehicle was removed. Further, such notification shall not be required if the vehicle is being repaired by a repair facility or being stored at the request of the vehicle owner or someone acting for the owner or an insurance company that is providing insurance to cover damages to the vehicle. No such notice or written demand shall be required if, after a good faith effort, the identity of the owner cannot be ascertained.

If none of the owners redeems such motor vehicle as described in Paragraph 2 of this Section, or if a vehicle being repaired by a repair facility or being stored at the request of the vehicle owner or someone acting for the owner or by an insurance company that is providing insurance to cover damages to the vehicle becomes abandoned, the person or facility storing such motor vehicle shall, within seven business days of the day such vehicle became an abandoned motor vehicle, give notice in writing, by sworn statement, on the form prescribed by the Chairman of the Land Transportation Office, stating the manufacturer's vehicle identification number, the license number, the fact that such vehicle is an abandoned motor vehicle, the model, year, and make of the vehicle, the date the vehicle became an abandoned motor vehicle, the date the vehicle was removed, and the present location of such vehicle and requesting the name and address of all owners of such vehicle. If the form submitted is rejected because of inaccurate or missing information, the person or facility storing the vehicle shall resubmit, within seven business days of the date of the rejection, a corrected notice form.

If the identity of the owners of such motor vehicle cannot be ascertained, the person or facility storing such vehicle shall place an advertisement in a newspaper of general circulation in the county where such vehicle was obtained or, if there is no newspaper in such county, shall post such advertisement at the county courthouse in such place where other public notices are posted. Such advertisement shall run in the newspaper once a week for two consecutive weeks or shall remain posted at the courthouse for two consecutive weeks. The advertisement shall contain a complete description of the motor vehicle, its license and manufacturer's vehicle identification numbers, the location from where such vehicle was initially removed, the present location of

such vehicle, and the fact that such vehicle is deemed abandoned and shall be disposed of if not redeemed.

Any person or facility storing a vehicle under the provisions of this Section shall notify the Land Transportation Office if the vehicle is recovered, is claimed by the owner, is determined to be stolen, or for any reason is no longer an abandoned motor vehicle. Such notice shall be provided within seven (7) business days of such event.

*SECTION 8. Duty of Law Enforcement Officer if Abandoned Motor Vehicle is found to be Stolen.* – If any motor vehicle removed under conditions set forth in Section 7 of this Act is determined to be a stolen motor vehicle, the local law enforcement officer or agency shall immediately notify the storage facility of such determination, and provide to such storage facility the names and addresses of all owners, if ascertainable, and shall further notify the Georgia Crime Information Center of the location of such motor vehicle within three (3) days after receiving notice that such motor vehicle is a stolen vehicle.

*SECTION 9. Procedure for Foreclosure of Liens.* – All liens acquired under shall be foreclosed as follows:

- (A) Any proceeding to foreclose a lien on an abandoned motor vehicle must be instituted within one year from the time the lien is recorded or is asserted by retention;
- (B) The person desiring to foreclose a lien on an abandoned motor vehicle shall, by certified or registered mail or statutory overnight delivery, make a demand upon the owners for the payment of the reasonable fees for removal and storage plus the costs of any notification or advertisement. Such written demand shall include an itemized statement of all charges and may be made concurrent with the notice required by Section 7, Paragraph 2 of this Act. Such demand shall be made on a form prescribed by rule or regulation of the Department of Transportation and Communication and shall notify the owner of his or her right to a hearing to determine the validity of the lien. The demand shall further state that failure to return the written demand to the lien claimant, file with a court of competent jurisdiction a petition for a judicial

hearing, and provide the lien claimant with a copy of such petition, all within ten (10) days of delivery of the lien claimant's written demand, shall effect a waiver of the owner's right to such a hearing prior to sale. The form shall also provide the suspected owner with the option of disclaiming any ownership of the vehicle, and his or her affidavit to that effect shall control over anything contrary in the records of the Land Transportation Office. No such written demand shall be required if the identity of the owner cannot be ascertained and the notice requirements of Section 7, Paragraph 4 have been complied with.

(C) If, within ten days of delivery to the appropriate address of the written demand required by Paragraph (B) of this Section, the owner of the abandoned motor vehicle fails to pay or file with the court a petition for a judicial hearing with a copy to the lien claimant in accordance with the notice provided pursuant to Paragraph (B), or if the owner of the abandoned motor vehicle cannot be ascertained, the person or facility storing the abandoned motor vehicle may foreclose such lien. The person or facility asserting such lien may move to foreclose by making an affidavit to a court of competent jurisdiction, on a form prescribed by rule or regulation of the Land Transportation Office, showing all facts necessary to constitute such lien and the amount claimed to be due. The person or facility foreclosing shall verify the statement by oath or affirmation and shall affix his or her signature thereto.

(D) If no timely petition for a hearing has been filed with a court of competent jurisdiction, then, upon such affidavits being filed by the lien claimant pursuant to Paragraph (C) of this Section, the lien will conclusively be deemed a valid one and foreclosure thereof allowed;

(E) If a petition for a hearing is filed with a court of competent jurisdiction within ten days after delivery of the lien claimant's demand, a copy of which demand shall be attached to the petition, the court shall set such a hearing within ten (10) days of filing of the petition;

(F) Upon the filing of such petition by an owner, neither the lien claimant nor the court may sell the motor vehicle, although possession of the motor vehicle may be retained



by the lien claimant or obtained by the court in accordance with the order of the court which sets the date for the hearing;

(G) If, after a full hearing, the court finds that a valid debt exists, then the court shall authorize foreclosure upon and sale of the motor vehicle subject to the lien to satisfy the debt if such debt is not otherwise immediately paid;

(H) If the court finds the actions of the person or facility asserting the lien in retaining possession of the motor vehicle were not taken in good faith, then the court, in its discretion, may award damages to the owner, any party which has been deprived of the rightful use of the vehicle, or the lessee due to the deprivation of the use of the motor vehicle;

(I) If an affidavit meeting the requirements of Paragraph (C) of this Code section is filed and no petition for a hearing is timely filed, or if, after a full hearing, the court determines that a valid debt exists, the court shall issue an order authorizing the sale of such motor vehicle. However, the holder of a security interest in or a lien on the vehicle, other than the holder of a lien created by Section 6 of this Act, shall have the right, in the order of priority of such security interest or lien, to pay the debt and court costs. If the holder of a security interest or lien does so pay the debt and court costs, he or she shall have the right to possession of the vehicle, and his or her security interest in or lien on such vehicle shall be increased by the amount so paid. A court order shall be issued to this effect, and in this instance there shall not be a sale of the vehicle;

(J) The purchaser at a sale as authorized in this article shall receive a certified copy of the court order authorizing such sale. Any such purchaser may obtain a certificate of title to such motor vehicle by filing the required application, paying the required fees, and filing a certified copy of the order of the court with the Land Transportation Office. The Land Transportation Office shall then issue a certificate of title, which shall be free and clear of all liens and encumbrances.

SECTION 10. *Procedure for Derelict Motor Vehicles.* – Derelict motor Vehicles shall be dealt with as follows:

- (A) If a motor vehicle has been left unattended on private property for not less than (2) two days or on public property for not less than three (3) days without the owner or driver making any attempt to recover such vehicle or to leave a conspicuously placed note that such owner or driver intends to return for such vehicle; or, if a conspicuous note was left, if the motor vehicle has been left unattended for not less than five (5) days and if because of damage, vandalism, theft, or fire the vehicle is damaged to the extent that its restoration to an operable condition would require the replacement of one or more major component parts or involves any structural damage that would affect the safety of the vehicle; or if there is evidence that the vehicle was inoperable due to major mechanical breakdown at the time it was left on the property; or if the vehicle is seven or more years old; or if the vehicle is not currently tagged or is not verifiable by the state as to who is the current owner or lienholder of the vehicle; or if the vehicle has been abandoned to a wrecker service by an insurance company and the owner following the insurance company's making a total loss payment, then any person removing such vehicle shall within three (3) business days of removing such vehicle obtain the identity of and address of the last known registered owner of the vehicle, the owner of the vehicle as recorded on the certificate of title of such vehicle, and any security interest holder or lienholder on such vehicle from the local law enforcement agency of the jurisdiction in which the vehicle was located.
- (B) If the law enforcement agency shows no information on the vehicle, then a request for such information shall be sent to the Land Transportation Office. Within three (3) business days after obtaining such information, the person removing such vehicle shall, by certified mail or statutory overnight delivery, return receipt requested, notify the registered owner, title owner, and security interest holder or lienholder of the vehicle that such vehicle will be declared a derelict vehicle and the title to such vehicle will be canceled by the Land

*Transportation Office if such person or persons fail to respond within ten days of receipt of such notice.*

- (C) Upon determination that a vehicle is a derelict motor vehicle as provided in Paragraph (A) of this Section, it may be disposed of by sale to a person who scraps, dismantles, or demolishes motor vehicles, provided that such vehicle may be sold for scrap or parts only and shall in no event be rebuilt or sold to the general public. Any person disposing of a derelict motor vehicle shall, prior to disposing of such vehicle, photograph such vehicle for a period of three years after its disposition. Such person shall also notify the Department of Revenue of the disposition of such vehicle in such manner as may be prescribed by the Chairman of the Land Transportation Office. It shall cancel the certificate of title for such vehicle and shall not issue a rebuilt or salvage title for such vehicle.

SECTION 11. *Prohibited Act and Penalties therefore.* – The following acts are unlawful and shall be penalized as follows:

- (A) Any person or facility who fails to provide notice and information required by Section 7 of this Act shall be fined an amount of not more than Ten Thousand Pesos (P10,000.00) at the discretion of the court, taking into consideration all attending circumstances.
- (B) A fine of not more than Five Thousand Pesos (P5,000.00) shall be imposed on any person or facility who knowingly provides false or misleading information when providing any notice or information as required by Section 7 of this Act.

In addition, to the penalties provided in Paragraphs (A) and (B), such person or facility shall not be eligible to contract with or serve on a rotation list providing wrecker services for the State or any political subdivision thereof, and shall not be licensed by any municipal authority to provide removal of improperly parked cars for six months and until legal disposition of all abandoned vehicles in that person's or facility's possession.

(C) Any person who abandons a derelict motor vehicle on public or private property shall be fined an amount of not more than Ten Thousand Pesos (P6,000.00) at the discretion of the court, taking into consideration all attending circumstances and shall pay all costs of having such derelict motor vehicle removed, stored, and sold as provided for in Section 10.

(D) Any person removing a derelict motor vehicle who fails to comply with the requirements of this Act or who knowingly provides false or misleading information when providing any notice or information required by Section 10 shall be fined an amount of not more than Five Thousand Pesos (P5,000.00) at the discretion of the court, taking into consideration all attending circumstances

*SECTION 12. Liability for Negligence.* – Any peace officer who, under Act, causes any motor vehicle to be removed to an automotive storage facility shall be liable for gross negligence only.

Any person or towing service that is instructed by a law enforcement officer or an official of the Department of Transportation to remove vehicles and cargo that pose a threat to public health or safety or to mitigate congestion shall be liable for gross negligence only.

Neither the State nor any state agency nor the person removing, storing, and processing the vehicle unless recklessly or grossly negligent shall be liable to the owner of a vehicle declared to be an abandoned motor vehicle or a derelict motor vehicle.

*SECTION 13. Separability Clause.* – If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

*SECTION 14. Repealing Clause.* -- Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with the provisions of this act is hereby repealed, modified or amended accordingly.

SECTION 15. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,

/rgs