

**HOUSE BILL NO. 235**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE DYSON

Introduced: 5/14/99

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to removal of motor vehicles from public or private property;  
2 amending Rules 79 and 82, Alaska Rules of Civil Procedure."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** AS 28.11.030(a) is amended to read:

5 (a) After notice is given as required under AS 28.11.040(b), a [A] peace  
6 officer or an employee authorized by the state or a municipality may remove or have  
7 removed to a place for storage a vehicle abandoned on a highway, on a vehicular way  
8 or area, or on private property.

9 \* **Sec. 2.** AS 28.11.040 is amended to read:

10 **Sec. 28.11.040. Notice to owners and lienholders.** The person or company  
11 who stores an abandoned vehicle at the direction of a peace officer or an employee  
12 under AS 28.11.030 shall within 10 [30] days give notice, by certified mail [IN THE  
13 MANNER PRESCRIBED FOR THE GIVING OF NOTICE BY THE DEPARTMENT  
14 UNDER AS 28.05.121], to the vehicle owner of record and to lienholders of record

1       [.] stating the grounds for removal and the location of the place of impoundment of  
 2       the vehicle. If the vehicle is not registered in the state or the name and address of the  
 3       registered or legal owner or lienholder cannot be ascertained, notice shall be given by  
 4       publication in the manner prescribed in the rules of the court for service of process by  
 5       publication.

6       \* **Sec. 3.** AS 28.11.040 is amended by adding a new subsection to read:

7               (b) Before impounding an abandoned, junk, or wrecked vehicle, the peace  
 8       officer or authorized employee shall attach to the vehicle and, if the vehicle is located  
 9       at a dwelling, to the nearest entrance to the dwelling a notice of intent to impound the  
 10      vehicle. The notice required under this subsection must be attached to the vehicle at  
 11      least 10 days before removal, be brightly colored, be clearly visible, and be at least 12  
 12      inches by 12 inches in size. This subsection does not apply to an abandoned, junk, or  
 13      wrecked vehicle that is a health or safety hazard. In this subsection, "junk" and  
 14      "wrecked vehicle" have the meaning given in AS 28.11.020.

15      \* **Sec. 4.** AS 28.11.050 is amended to read:

16               **Sec. 28.11.050. Vesting of title.** Title to an impounded vehicle not reclaimed  
 17      by the registered owner, a lienholder, or other person entitled to possession of the  
 18      vehicle within 15 days from the notice given under AS 28.11.040(a) [AS 28.11.040]  
 19      vests with the state or, if a municipal ordinance is adopted under AS 28.11.100, with  
 20      the municipality, as appropriate. However, nothing in this section prohibits a lien  
 21      under AS 28.11.090.

22      \* **Sec. 5.** AS 28.11 is amended by adding a new section to read:

23               **Sec. 28.11.065. Award of costs and attorney fees.** The owner of a vehicle  
 24      removed or impounded in violation of this chapter may recover actual reasonable costs  
 25      and actual reasonable attorney fees incurred in recovering the vehicle from the state  
 26      or a municipality.

27      \* **Sec. 6.** AS 28.11.100 is amended to read:

28               **Sec. 28.11.100. Municipal abatement procedure.** A municipality may adopt  
 29      an ordinance establishing procedures for the abatement and removal from private or  
 30      public property, as a public nuisance or a health or safety hazard, a wrecked or [.]  
 31      dismantled vehicle, [OR INOPERATIVE VEHICLE] or a vehicle otherwise presumed

1 to be abandoned. An ordinance adopted under this section must contain provisions for

2 (1) notice to owners and lienholders of record and persons known to  
 3 be lawfully entitled to possession of the vehicles [,] of their right to a hearing which,  
 4 **if a hearing is requested,** shall be conducted **at a time agreed to by the owner or**  
 5 **lienholder** [BY THE MUNICIPALITY IN THE MANNER PROVIDED FOR BY  
 6 MUNICIPAL ORDINANCE];

7 (2) notice to owners and lienholders as provided in AS 28.11.040;  
 8 [AND]

9 (3) disposal of abandoned vehicles as provided in AS 28.11.070; **and**  
 10 **(4) the award of costs and attorney fees as provided in**  
 11 **AS 28.11.065.**

12 \* **Sec. 7.** AS 28.11.065, enacted by sec. 5 of this Act, has the effect of amending Rules  
 13 79 and 82, Alaska Rules of Civil Procedure, by allowing certain vehicle owners to recover  
 14 actual reasonable costs and actual reasonable attorney fees incurred in recovering the vehicle.

15 \* **Sec. 8.** Section 5 of this Act and AS 28.11.100(4), added by sec. 6 of this Act, take  
 16 effect only if sec. 7 of this Act receives the two-thirds majority vote of each house required  
 17 by art. IV, sec. 15, Constitution of the State of Alaska.