

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 282
Mar 18, 2015
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH40138-MDf-57 (03/09)

Short Title: Streamline Seized Vehicle Disposal.-AB (Public)

Sponsors: Representatives Cleveland, R. Brown, and Riddell (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF ADMINISTRATION TO TOW,
3 STORE, PROCESS, MAINTAIN, AND SELL MOTOR VEHICLES SEIZED
4 PURSUANT TO G.S. 20-28.3; TO EXPAND THE AUTHORITY TO SELL VEHICLES
5 SEIZED PURSUANT TO G.S. 20-28.3 THROUGH AN EXPEDITED SALE; AND TO
6 MAKE RELATED CHANGES TO CHAPTERS 20 AND 143 OF THE GENERAL
7 STATUTES.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 20-28.2(a1) is amended by adding a new subdivision to read:

10 "(a1) Definitions. – As used in this section and in G.S. 20-28.3, 20-28.4, 20-28.5, 20-28.7,
11 20-28.8, 20-28.9, 20-54.1, and 20-141.5, the following terms mean:

12 ...

13 (9) State Surplus Property Agency. – The Department of Administration."

14 SECTION 2. G.S. 20-28.3 reads as rewritten:

15 "§ 20-28.3. **Seizure, impoundment, forfeiture of motor vehicles for offenses involving**
16 **impaired driving while license revoked or without license and insurance, and**
17 **for felony speeding to elude arrest.**

18 ...

19 (d) Custody of Motor Vehicle. – Unless the motor vehicle is towed pursuant to a
20 statewide or regional contract, or a contract with the county board of education, the seized
21 motor vehicle shall be towed by a commercial towing company designated by the law
22 enforcement agency that seized the motor vehicle. Seized motor vehicles not towed pursuant to
23 a statewide or regional contract or a contract with a county board of education shall be retrieved
24 from the commercial towing company within a reasonable time, not to exceed 10 business
25 days, by the county board of education or their agent who must pay towing and storage fees to
26 the commercial towing company when the motor vehicle is retrieved. If either a statewide or
27 regional contractor, or the county board of education, chooses to contract for local towing
28 services, all towing companies on the towing list for each law enforcement agency with
29 jurisdiction within the county shall be given written notice and an opportunity to submit
30 proposals prior to a contract for local towing services being awarded. The seized motor vehicle
31 is under the constructive possession of the county board of education for the county in which
32 the operator of the vehicle is charged at the time the vehicle is delivered to a location
33 designated by the county board of education or delivered to its agent pending release or sale, or
34 in the event a statewide or regional contract is in place, under the constructive possession of the
35 ~~Department of Public Instruction, State Surplus Property Agency~~ on behalf of the State at the
36 time the vehicle is delivered to a location designated by the ~~Department of Public Instruction~~



1 State Surplus Property Agency or delivered to its agent pending release or sale. Absent a
2 statewide or regional contract that provides otherwise, each county board of education may
3 elect to have seized motor vehicles stored on property owned or leased by the county board of
4 education and charge a reasonable fee for storage, not to exceed ten dollars (\$10.00) per
5 calendar day. In the alternative, the county board of education may contract with a commercial
6 towing and storage facility or other private entity for the towing, storage, and disposal of seized
7 motor vehicles, and a storage fee of not more than ten dollars (\$10.00) per calendar day may be
8 charged. Except for gross negligence or intentional misconduct, neither the State Surplus
9 Property Agency, the county board of education, ~~or nor~~ any of ~~its~~ their employees, shall ~~not~~ be
10 liable to the owner or lienholder for damage to or loss of the motor vehicle or its contents, or to
11 the owner of personal property in a seized vehicle, during the time the motor vehicle is being
12 towed or stored pursuant to this subsection.

13 ...
14 (i) Expedited Sale of Seized Motor Vehicles in Certain Cases. – In order to avoid
15 additional liability for towing and storage costs pending resolution of the criminal proceedings
16 of the defendant, the State Surplus Property Agency or county board of education may, after
17 expiration of 90 days from the date of seizure, or at any time with the consent of the owner, sell
18 any motor vehicle ~~having a fair market value of one thousand five hundred dollars (\$1,500) or~~
19 ~~less. The county board of education may also sell a motor vehicle, regardless of the fair market~~
20 ~~value, any time the outstanding towing and storage costs exceed eighty five percent (85%) of~~
21 ~~the fair market value of the vehicle, or with the consent of all the motor vehicle owners. seized~~
22 pursuant to this section and recover all costs associated with the sale. Any sale conducted
23 pursuant to this subsection shall be conducted in accordance with the provisions of
24 G.S. 20-28.5(a), G.S. 20-28.5(a) or G.S. 20-28.5(a1), as applicable, and the proceeds of the
25 sale, after the payment of outstanding towing and storage costs or reimbursement of towing and
26 storage costs paid by a person other than the defendant, shall be deposited with the clerk of
27 superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds
28 held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the
29 motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to
30 be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on
31 the motor vehicle, and the balance to be paid to the motor vehicle owners.

32"

33 **SECTION 3.** G.S. 20-28.5 reads as rewritten:

34 "**§ 20-28.5. Forfeiture of impounded motor vehicle or funds.**

35 (a) Sale of Vehicle in Possession of County Board of Education. – A motor vehicle
36 in the possession or constructive possession of a county board of education ordered forfeited
37 and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be
38 sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A
39 of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or
40 (4), subject to the notice requirements of this subsection, and shall be conducted by the county
41 board of education or a person acting on its behalf. Notice of sale, including the date, time,
42 location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of
43 the vehicle to be sold at the address shown by the records of the Division. Written notice of sale
44 shall also be given to all lienholders on file with the Division. Notice of sale shall be given to
45 the Division in accordance with the procedures established by the Division. Notices required to
46 be given under this subsection shall be mailed at least 10 days prior to the date of sale. A
47 lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the
48 amount of its lien, if that should be the highest bid, without being required to tender any
49 additional funds, other than the towing and storage fees. The county board of education, or its
50 agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the

1 defendant, the motor vehicle owner who owned the motor vehicle immediately prior to
2 forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf.

3 (a1) Sale of Vehicle in Possession of the State Surplus Property Agency. – A motor
4 vehicle in the possession or constructive possession of the State Surplus Property Agency
5 ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to
6 G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of
7 Article 3A of Chapter 143 of the General Statutes, subject to the notice requirements of this
8 subsection, and shall be conducted by the State Surplus Property Agency or a person acting on
9 its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given
10 by first-class mail to all motor vehicle owners of the vehicle to be sold at the address shown by
11 the records of the Division. Written notice of sale shall also be given to all lienholders on file
12 with the Division. Notice of sale shall be given to the Division in accordance with the
13 procedures established by the State Surplus Property Agency. Notices required to be given
14 under this subsection shall be mailed at least 10 days prior to the date of sale. A lienholder shall
15 be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien,
16 if that should be the highest bid, without being required to tender any additional funds, other
17 than the towing and storage fees. The State Surplus Property Agency, or its agent, shall not sell,
18 give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor
19 vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person
20 acting on the defendant's or motor vehicle owner's behalf.

21 (b) Proceeds of Sale. – Proceeds of any sale conducted under this section,
22 G.S. 20-28.2(f)(5), or G.S. 20-28.3(e3)(3), shall first be applied to ~~the cost of sale~~ all costs
23 incurred by the State Surplus Property Agency or county board of education and then to satisfy
24 towing and storage costs. The balance of the proceeds of sale, if any, shall be used to satisfy
25 any other existing liens of record that were properly recorded prior to the date of initial seizure
26 of the vehicle. Any remaining balance shall be paid to the county school fund in the county in
27 which the motor vehicle was ordered forfeited. If there is more than one school board in the
28 county, then the net proceeds of sale, after reimbursement to the county board of education of
29 reasonable administrative costs incurred in connection with the forfeiture and sale of the motor
30 vehicle, shall be distributed in the same manner as fines and other forfeitures. The sale of a
31 motor vehicle pursuant to this section shall be deemed to extinguish all existing liens on the
32 motor vehicle and the motor vehicle shall be transferred free and clear of any liens.

33"

34 **SECTION 4.** G.S. 20-28.9 reads as rewritten:

35 "**§ 20-28.9. Authority for the ~~Department of Public Instruction~~ State Surplus Property**
36 **Agency to administer a statewide or regional towing, storage, and sales**
37 **program for vehicles forfeited.**

38 (a) ~~The Department of Public Instruction~~ State Surplus Property Agency is authorized
39 to enter into a contract for a statewide service or contracts for regional services to tow, store,
40 process, maintain, and sell motor vehicles seized pursuant to G.S. 20-28.3. All motor vehicles
41 seized under G.S. 20-28.3 shall be subject to contracts entered into pursuant to this section.
42 Contracts shall be let by the ~~Department of Public Instruction~~ State Surplus Property Agency in
43 accordance with the provisions of Article 3 of Chapter 143 of the General Statutes. Nothing in
44 this section shall be construed to prohibit the State Surplus Property Agency from entering into
45 contracts pursuant to this section for some regions of the State while performing the work of
46 towing, storing, processing, maintaining, and selling motor vehicles seized pursuant to
47 G.S. 20-28.3 itself in other regions of the State. All contracts shall ensure the safety of the
48 motor vehicles while held and any funds arising from the sale of any seized motor vehicle. The
49 contract shall require the contractor to maintain and make available to the agency a
50 computerized up-to-date inventory of all motor vehicles held under the contract, together with
51 an accounting of all accrued charges, the status of the vehicle, and the county school fund to

1 which the proceeds of sale are to be paid. The contract shall provide that the contractor shall
2 pay the towing and storage charges owed on a seized vehicle to a commercial towing company
3 at the time the seized vehicle is obtained from the commercial towing company, with the
4 contractor being reimbursed this expense when the vehicle is released or sold. The ~~Department~~
5 State Surplus Property Agency shall not enter into any contract under this section under which
6 the State will be obligated to pay a deficiency arising from the sale of any forfeited motor
7 vehicle.

8 (b) The ~~Department, State Surplus Property Agency,~~ through its contractor or
9 contractors designated in accordance with subsection (a) of this section, may charge a
10 reasonable fee for storage not to exceed ten dollars (\$10.00) per calendar day for the storage of
11 seized vehicles pursuant to G.S. 20-28.3.

12 ~~(c) In order to help defray the administrative costs associated with the administration of~~
13 ~~this section, the Department shall collect a ten dollar (\$10.00) administrative fee from a person~~
14 ~~to whom a seized vehicle is released at the time the motor vehicle is released and shall collect a~~
15 ~~ten dollar (\$10.00) administrative fee out of the proceeds of the sale of any forfeited motor~~
16 ~~vehicle. The funds collected under this subsection shall be paid to the General Fund."~~

17 **SECTION 5.** G.S. 143-64.02 is amended by adding two new subdivisions to read:
18 **"§ 143-64.02. Definitions.**

19 As used in Part 1 of this Article, except where the context clearly requires otherwise:

- 20 (1) "Agency" means an existing department, institution, commission,
21 committee, board, division, or bureau of the State.
- 22 (2) "Nonprofit tax exempt organizations" means those nonprofit tax exempt
23 medical institutions, hospitals, clinics, health centers, school systems,
24 schools, colleges, universities, schools for the mentally retarded, schools for
25 the physically handicapped, radio and television stations licensed by the
26 Federal Communications Commission as educational radio or educational
27 television stations, public libraries, and civil defense organizations, that have
28 been certified by the Internal Revenue Service as tax-exempt nonprofit
29 organizations under section 501(c)(3) of the United States Internal Revenue
30 Code of 1954.
- 31 (3) "Recyclable material" means a recyclable material, as defined in
32 G.S. 130A-290, that the Secretary of Administration determines, consistent
33 with G.S. 130A-309.14, to be a recyclable material.
- 34 (4) "State owned" means supplies, materials, and equipment in the possession of
35 the State of North Carolina and purchased with State funds, personal
36 property donated to the State, or personal property purchased with other
37 funds that give ownership to the State.
- 38 (5) "Surplus property" means personal property that is no longer needed by a
39 State agency."

40 **SECTION 6.** G.S. 143-64.03 reads as rewritten:

41 **"§ 143-64.03. Powers and duties of the State agency for surplus property.**

42 (a) The State Surplus Property Agency is authorized and directed to:

- 43 (1) Sell all State owned supplies, materials, and equipment that are surplus,
44 obsolete, or ~~unused~~unused and sell all seized vehicles and other
45 conveyances that the State Surplus Property Agency is authorized to sell;
46 (2) Warehouse such property; and
47 (3) Distribute such property to tax-supported or nonprofit tax-exempt
48 organizations.

49 (b) The State Surplus Property Agency is authorized and empowered to act as a
50 clearinghouse of information for agencies and private nonprofit tax-exempt organizations, to
51 locate property available for acquisition from State agencies, to ascertain the terms and

1 conditions under which the property may be obtained, to receive requests from agencies and
2 private nonprofit tax-exempt organizations, and transmit all available information about the
3 property, and to aid and assist the agencies and private nonprofit tax-exempt organizations in
4 transactions for the acquisition of State surplus property.

5 (c) The State agency for surplus property, in the administration of Part 1 of this Article,
6 shall cooperate to the fullest extent consistent with the provisions of Part 1 of this Article, with
7 the departments or agencies of the State.

8 (d) The State agency for surplus property may sell or otherwise dispose of surplus
9 property, including motor vehicles, through an electronic auction service."

10 **SECTION 7.** G.S. 143-64.05(a) reads as rewritten:

11 "**§ 143-64.05. Service charge; receipts.**

12 (a) The State agency for surplus property may assess and collect a service charge for (i)
13 the acquisition, receipt, warehousing, distribution, or transfer of any State surplus ~~property and~~
14 property; (ii) for the transfer or sale of recyclable ~~material.~~ material; and (iii) for the towing,
15 storing, processing, maintaining, and selling of motor vehicles seized pursuant to G.S. 20-28.3.
16 The service charge authorized by this subsection does not apply to the transfer or sale of timber
17 on land owned by the Wildlife Resources Commission or the Department of Agriculture and
18 Consumer Services."

19 **SECTION 8.** This act becomes effective July 1, 2015.