

(b) No labor organization, or its agents, representing employes of an employer having employes subject to any provisions of this section, shall cause or attempt to cause such an employer to discriminate against an employe in violation of subsection (a) of this section.

Section 5. Collection of Unpaid Wages.—(a) An employer who wilfully and knowingly violates the provisions of section 3 of this act shall be liable to the employe or employes affected in the amount of their unpaid wages and in addition, an equal amount as liquidated damages. Action to recover such wages and damages may be maintained in any court of competent jurisdiction by any one or more employes for and in behalf of himself or themselves and other employes similarly situated. Any agreement between the employer and an employe to work for less than the wage to which such employe is entitled under this act shall be no defense to such action. The court in such action shall, in addition to any wages and damages, allow a reasonable attorney's fee and costs of the action to the plaintiff. At the request of any employe paid less than the wage to which [she] he is entitled under this act, the Secretary of Labor and Industry may take an assignment of such wage claim for collection and shall bring any legal action necessary to collect such claim. The secretary shall not be required to pay the filing fee or other costs in connection with such action. The secretary shall have power to join various claimants against the employer in one cause of action.

(b) Any action pursuant to the provisions of this act must be brought within [one year] two years from the date upon which the violation complained of occurs.

Section 2. This act shall take effect immediately.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.

No. 263

AN ACT

HB 755

Amending the act of April 29, 1959 (P. L. 58), entitled "An act consolidating and revising the Vehicle Code, the Tractor Code, the Motor Vehicle Financial Responsibility Act and other acts relating to the ownership, possession and use of vehicles and tractors," making it illegal to abandon motor vehicles, defining salvor and abandoned motor vehicles and providing means by which abandoned motor vehicles may be disposed of, providing for the junking of certain valueless motor vehicles, the sale of abandoned motor vehicles with value, making an appropriation and providing for suspensions, penalties and fines and the disposition thereof.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 102, act of April 29, 1959 (P. L. 58), known as "The Vehicle Code," is amended by adding after the first paragraph, a new definition to read:

Section 102. Definitions.—The following words and phrases when used in this act shall, for the purpose of this act, have the following meanings, respectively, except in those instances where the context clearly indicates a different meaning:

"Abandoned Motor Vehicle."—(1) Except in cities of the second class, a motor vehicle that is inoperable and is left unattended on public property for more than ninety-six (96) hours or; (2) a motor vehicle that has remained illegally on public property for a period of more than ninety-six (96) hours or; (3) a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than ninety-six (96) hours: Provided, That vehicles and equipment used or to be used in construction, or the operation or maintenance of public utility facilities and which are left in a manner which does not interfere with the normal movement of traffic shall not be considered abandoned vehicles for the purposes of this act.

* * *

Section 2. Section 102 of the act is amended by adding after the definition of "Pneumatic Tires" a new definition to read:

Section 102. Definitions.—The following words and phrases when used in this act shall, for the purpose of this act, have the following meanings, respectively, except in those instances where the context clearly indicates a different meaning:

* * *

"Police Department."—The Pennsylvania State Police or the law enforcement agency of a county, city, incorporated town, borough or township.

* * *

Section 3. Section 102 of the act is amended by adding after the definition of "Safety Zone," a new definition to read:

Section 102. Definitions.—The following words and phrases when used in this act shall, for the purpose of this act, have the following meanings, respectively, except in those instances where the context clearly indicates a different meaning:

* * *

“Salvor.”—Any person, partnership or corporation registered as a dealer under the provisions of this act who otherwise qualifies under this definition and regulations issued pursuant to this act or any person, partnership, or corporation engaged in the business of buying, selling, or exchanging new or used motor vehicles for the purpose of taking apart, demolishing, or rebuilding the same or for the purpose of selling or exchanging the same or parts thereof, and who qualifies under this definition and regulations issued pursuant to this act. In order to qualify as a salvor any person, partner, or corporation shall maintain an adequate storage facility where abandoned motor vehicles can be stored for the period required by this act, shall have had experience in the towing of motor vehicles and shall maintain equipment suitable for the towing of vehicles in accordance with the regulations issued pursuant to this act.

* * *

Section 4. Clause (8) of subsection (b) and subsection (g) of section 618 of the act, added or amended October 13, 1965 (P. L. 576), are amended to read:

Section 618. Suspension of Licenses or Operating Privileges.—

* * *

(b) The secretary may suspend the operator's license or learner's permit of any person, after a hearing before the secretary or his representative, whenever the secretary finds upon sufficient evidence:

* * *

(8) That such person violated the provisions of section 1042 or 1043 of this act.

* * *

(g) The secretary, upon suspending any operator's license or learner's permit, shall require that such license of any operator, whose license or permit is so suspended, shall be surrendered immediately to and retained by the department. Any license or permit suspended by reason of a violation of section 1042 or 1043 shall be returned upon satisfactory proof of the payment of any fine and costs imposed under that section.

* * *

Section 5. Section 1042 of the act, added October 13, 1965 (P. L. 576), is amended to read:

Section 1042. Abandonment of Vehicles Prohibited.—[It] In cities of the second class, it shall be unlawful for any person to

abandon a vehicle on or along any highway or on property other than his own except where the property is a junk or scrap yard. A vehicle which has remained on such property without the consent of the owner or on or along any highway for a period exceeding thirty (30) days shall be prima facie evidence of such abandonment: Provided, That vehicles and equipment used or to be used in [the] construction, or the operation or maintenance of public utility facilities and which are left in a manner which does not interfere with the normal movement of traffic shall not be considered abandoned vehicles for the purposes of this section.

Penalty.—Any person violating any of the provisions of this section, shall, upon summary conviction before a magistrate, be sentenced to pay a fine of one hundred dollars (\$100.00) and costs of prosecution, and, in default of payment thereof, shall undergo imprisonment for not more than twenty (20) days.

Section 6. The act is amended by adding after section 1042, a new section to read:

Section 1043. Abandonment of Motor Vehicles Prohibited.—Except in cities of the second class, it shall be unlawful for any person to abandon a motor vehicle as defined in the definition of “Abandoned Motor Vehicles” in section 102 of this act.

Penalty.—Any person violating any of the provisions of this section, shall, upon summary conviction before a magistrate, be sentenced to pay a fine of twenty-five dollars (\$25.00) and costs of prosecution, and, in default of payment thereof, shall undergo imprisonment for not more than five (5) days.

Section 7. The act is amended by adding after section 1222, six new sections to read:

Section 1222.1. Authority to Take Possession of Abandoned Motor Vehicles.—Except in cities of the second class, a salvor may, upon the written request of a Police Department, take possession of and tow to his storage facility any motor vehicle found abandoned within the meaning of section 102 of this act. The written request of the Police Department shall contain a statement whether said motor vehicle is valueless except as junk.

Section 1222.2. Disposition of Valueless Abandoned Motor Vehicles.—Except in cities of the second class, a salvor who takes possession of any abandoned motor vehicle pursuant to section 1222.1

of this act shall report to the department within twenty-four (24) hours the make, model, manufacturer's serial number and registration plate number of the abandoned motor vehicle, the name and address of the owner or person abandoning same, if known. The report shall include a copy of the Police Department's written request and statement whether said motor vehicle is valueless except for junk. Where said statement indicates the motor vehicle is valueless except for junk, salvor shall include a written request for the issuance of a certificate of junk. The secretary shall, issue to salvor a certificate of junk for any abandoned motor vehicle where the statement of the Police Department indicates said motor vehicle is valueless except for junk upon compliance with section 1222.3 of this act. Said certificate of junk may not be issued by the secretary until at least forty (40) days after the date of mailing the notice to the owner and lien holder as set forth in section 1222.3. An issuance by the secretary of a certificate of junk to the salvor where the motor vehicle is valueless except as junk, shall operate as a divestiture of all rights, title and interest in the vehicle of the owner and all lien holders.

Section 1222.3. Notification of Owner and Lien Holders of Abandoned Motor Vehicles.—(a) Except in cities of the second class, the secretary, upon receipt from the salvor of notice that the salvor has taken possession of an abandoned motor vehicle, pursuant to sections 1222.1 and 1222.2 of this act shall notify, by certified mail, return receipt requested, the last known registered owner of the motor vehicle and all lien holders of record that the vehicle has been found to be abandoned. The notice shall describe the make, model, manufacturer's serial number and registration plate number of the abandoned motor vehicle, state the location where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle within thirty (30) days after the date of notice at the place where being held by the salvor, upon

payment of all towing and storage charges resulting from placing the motor vehicle at the salvor's facility, and the fee required by subsection (d) of this section, and state that the failure of the owner or lien holder to reclaim the vehicle shall be deemed a consent by the owner and all lien holders to the destruction, sale or other disposition of the abandoned motor vehicle. The secretary or his designee shall, after the expiration of thirty (30) days from the date of notice sent by certified mail to the registered owner and all lien holders of record and upon receipt of a written statement from the salvor that the abandoned motor vehicle has not been reclaimed by the owner or lien holder within said thirty (30) day period, authorize the salvor to dispose of the abandoned vehicle in accordance with the provisions of this act.

(b) If the identity of the last registered owner cannot be determined and the registration contains no address for the owner and it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one (1) publication in one (1) newspaper of general circulation in the area where the motor vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this act. Such notice by publication may contain multiple listings of abandoned vehicles. Any such notice shall be within the time requirements prescribed for notice by certified mail and shall have the same contents required for a notice by certified mail and the same effect. Said notice by publication shall be performed by the salvor who has taken possession of the abandoned motor vehicle.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle shall be as set forth in a valid notice given pursuant to this section.

(d) In the event the owner or lien holder of an abandoned motor vehicle reclaims said motor vehicle, he shall, in addition to the payment of the salvor's costs for towing and storage, pay to the salvor

fifteen dollars (\$15.00) which shall be transferred by the salvor to the department.

(e) Failure by a salvor to notify the secretary that a claim has been made by the owner or lien holder of an abandoned motor vehicle in his possession within the thirty (30) day period set forth in this section may, at the option of the secretary, cause a salvor to be suspended from or disqualified to receive abandoned motor vehicles within the meaning of this act.

(f) The provisions of this section shall not apply to cities of the second class.

Section 1222.4. Disposition of Abandoned Motor Vehicles with Value.—Except in cities of the second class, if an abandoned motor vehicle having value has not been reclaimed as provided in section 1222.3 of this act, the salvor shall sell the abandoned motor vehicle at a public auction. The purchaser of the motor vehicle shall take title thereto, free and clear of all liens and claims of ownership, shall receive a sales receipt from the salvor and shall be entitled to register the vehicle and receive a certificate of title. From the proceeds of the sale of such abandoned motor vehicle, the salvor shall be reimbursed for the costs of towing, storage, notice and publication costs and expenses of auction. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or record lien holder for sixty (60) days from the date of sale and shall then be deposited with the department.

Section 1222.5. Disposal to Salvors.—(a) Except in cities of the second class, any person, firm, corporation or unit of government upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may apply to the Police Department of the jurisdiction in which the vehicle is situated for authority to transfer the motor vehicle to a salvor.

(b) The application shall set out the name and address of the

applicant, the year, make, model, manufacturer's serial number and registration plate number of the motor vehicle, if ascertainable, together with any other identifying features and shall contain a concise statement of the fact surrounding the abandonment or that the title of the motor vehicle is lost or destroyed or the reasons for the defect of title in the owner. The applicant shall execute an affidavit stating that the facts alleged therein are true and that no material fact has been withheld.

Section 1222.6. Payment and Reimbursement.—(a) Except in cities of the second class, upon receipt of evidence that a salvor has removed an abandoned motor vehicle upon the request of a Police Department, the city, incorporated town, borough or township from which said vehicle was removed shall pay to the salvor fifteen dollars (\$15.00) for the expenses incurred in the removal and towing of the abandoned vehicle.

(b) The city of the first class, second class A or third class, incorporated town, borough or township shall be reimbursed by the Commonwealth of Pennsylvania in the amount of ten dollars (\$10.00) upon proof submitted to the secretary that it has paid a salvor for the removal of any abandoned motor vehicle.

(c) The department shall receive all excess moneys pursuant to auctions conducted by authority of section 1222.4 of this act, and shall transmit the same to the State Treasury to be kept in an Abandoned Vehicle Fund, separate and apart from all other moneys in the State Treasury, and shall pay from such fund such moneys as may be due and owing to cities, incorporated towns, boroughs and townships pursuant to this section.

(d) A salvor, as defined in this act, before he shall be eligible to retrieve abandoned motor vehicles, shall execute a surety bond in favor of the Commonwealth of Pennsylvania in the sum of five thousand dollars (\$5000.00) conditioned upon his faithful compli-

ance with the provisions of sections 1222.1 through 1222.6 of this act.

(e) The provisions of this section shall not apply to cities of the second class.

Section 8. Subsection (a) of section 1301 of the act, amended October 13, 1965 (P. L. 576), is amended to read:

Section 1301. Disposition of Fines and Forfeitures.—

(a) All fines and penalties collected under the provisions of this act for violations of the same, and all bail forfeited under said provisions, shall be paid to the department, and transmitted to the State Treasury, and credited to the "General Fund," except those collected for violations of the provisions of sections 903, 905, 1002, 1011, 1015, 1016, 1019, 1021, 1028, 1030 and 1042 of this act, committed within cities, boroughs, incorporated towns and townships, which fines and penalties and all bail forfeited shall be paid to the treasurer of the city, borough, incorporated town or township, wherein the violation occurred, and except those collected for violations of the provisions as to weight, which fines, penalties and forfeited bail shall be paid to the treasurer of the city, borough, incorporated town or township wherein the violation occurred. All moneys paid to any such city, borough, incorporated town or township, under the provisions of this section [except those collected under the provisions of section 1042,] shall be used for the construction, repair and maintenance of the highways thereof: Provided, That all fines and penalties collected, and all bail forfeited for violations of the provisions of section 1037, shall be paid to the treasurer of the county wherein the violation occurred, to be used by such county for the payment of physicians' fees for the examination of persons accused of violating the provisions of the said section. Any balance remaining in the treasury of the county at the expiration of the calendar year and not payable for physicians' services rendered, shall be used for county highway purposes.

* * *

Section 9. The sum of one hundred thousand dollars (\$100,000.00), is hereby appropriated out of the Motor License Fund for transfer to Abandoned Vehicle Fund for the purpose of carrying out the provisions of this act.

Section 10. This act shall take effect immediately.

APPROVED—The 31st day of July, A. D. 1968.

RAYMOND P. SHAFER.