

## ARTICLE 5. ABANDONED VEHICLES DIVISION

### Rule 1. Administration of Abandoned Vehicles Law

#### 140 IAC 5-1-1 Definitions

Authority: IC 9-14-2-2

Affected: IC 9-13-2; IC 9-22-1

Sec. 1. (a) This rule will incorporate statutory definitions of the following terms as contained in P.L.108, Acts 1975, IC 9-1-1-2 [IC 9-1 was repealed by P.L.2-1991, SECTION 109, effective July 1, 1991.], and IC 9-9-1.1-2 [IC 9-9-1.1-2 was repealed by P.L.2-1991, SECTION 109, effective July 1, 1991. See IC 9-13-2.]:

(1) Bureau of motor vehicles.

(2) Commissioner.

(3) Abandoned vehicles.

(4) Officer.

(5) Parts.

(6) Towing service.

(7) Market value.

(b) "Fair market value" means twenty percent (20%) of the market value of the vehicle if the vehicle was offered for sale under normal circumstances. (*Bureau of Motor Vehicles; Abandoned Vehicles Rule I; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 254; filed Nov 21, 1989, 5:00 p.m.: 13 IR 498; readopted filed Jul 30, 2001, 10:28 a.m.: 24 IR 4230; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA*)

#### 140 IAC 5-1-2 Abandoned vehicles storage and towing charges

Authority: IC 9-14-2-2

Affected: IC 9-22

Sec. 2. (a) The commissioner agrees to reimburse storage facility and towing service operators for services provided for abandoned vehicles reported to the bureau of motor vehicles and sold by the state in accordance with the provisions of the law. The commissioner in no event shall pay for towing and storage charges which exceed the limits as contained in this rule or the sale price of the vehicles, whichever is less.

(b) Charges for providing towing service for abandoned vehicles shall be the reasonable value of the service rendered according to the usual and customary charges in the community. The amount the commissioner shall pay for normal towing service for any type vehicle less than eight thousand six hundred (8,600) pounds gross vehicle weight shall not exceed fifty dollars (\$50).

(c) The amount the commissioner shall pay for normal towing service for any type vehicle greater than eight thousand six hundred (8,600) pounds gross vehicle weight and less than fifteen thousand (15,000) pounds gross vehicle weight shall not exceed one hundred fifty dollars (\$150).

(d) The amount the commissioner shall pay for normal towing service for any type vehicle greater than fifteen thousand (15,000) pounds gross vehicle weight shall not exceed five hundred dollars (\$500).

(e) The commissioner, at his discretion, may pay a claim for an amount in excess of the amounts enumerated under subsections (b) through (d), provided the claim is presented in writing outlining the unusual circumstances and services provided.

(f) Storage charges paid by the commissioner for any type vehicle shall not exceed the rate of ten dollars (\$10) per day, which may be accumulated over a period of thirty (30) days for a maximum storage charge of three hundred dollars (\$300). The number of days shall be calculated from the day the vehicle was towed to the storage facility or released from a police hold.

(g) Claims for towing service will have first priority for reimbursement out of the proceeds of the vehicle sale. (*Bureau of Motor Vehicles; Abandoned Vehicles Rule II; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 254; filed Apr 28, 1981, 9:35 a.m.: 4 IR 899; filed Nov 21, 1989, 5:00 p.m.: 13 IR 498; readopted filed Oct 17, 2001, 4:48 p.m.: 25 IR 918; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA*)

#### 140 IAC 5-1-3 Terms of sale

Authority: IC 9-14-2-2

Affected: IC 9-22

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## ABANDONED VEHICLES DIVISION

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Sec. 3. (a) All sales of abandoned vehicles conducted by the commissioner or his duly authorized representative shall be made payable by check, certified check, or money order.

(b) The bureau specifically reserves the right to withdraw from an abandoned vehicle sale any vehicle which the commissioner or his representative may reasonably believe is not bringing its fair market value. This withdrawal can be made any time prior to completing the sale.

(c) Vehicles sold at state auction must be removed from the premises of the auction within twenty-four (24) hours unless prior arrangements with the lot owner have been made. Vehicles not removed within the allotted time may be subject to resale as abandoned vehicles. (*Bureau of Motor Vehicles; Abandoned Vehicles Rule III; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 255; filed Nov 21, 1989, 5:00 p.m.: 13 IR 498; readopted filed Oct 17, 2001, 4:48 p.m.: 25 IR 918; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA*)

### **140 IAC 5-1-4 Report; determination of market value**

Authority: IC 9-14-2-2

Affected: IC 9-22

Sec. 4. (a) The commissioner shall require the completion of a prescribed abandoned vehicle report (state form 322) from a law enforcement officer that describes the general condition and estimated value of the vehicle in accordance with guidelines determined by the commissioner. Each abandoned vehicle report submitted by law enforcement officers shall also be verified and signed by the towing service or storage facility operator as to the general condition and estimated value of the vehicle.

(b) Any storage facility or towing service operator that has reason to believe that the law enforcement officer responsible for authorizing the vehicle to be placed in a storage facility has not completed and transmitted the abandoned vehicle report to the bureau within fifteen (15) days of receipt of the vehicle may contact the law enforcement agency and request that the abandoned vehicle report be submitted expeditiously.

(c) Abandoned vehicle reports for vehicles that are estimated to be valued at one hundred dollars (\$100) or less shall be accompanied by a photograph furnished either by the law enforcement officer or towing service or storage facility operator.

(d) The following descriptive characteristics will presumptively qualify vehicles to be worth one hundred dollars (\$100) or less and subject to disposition in accordance with the provisions of law:

(1) Vehicles ten (10) model years or older that have extensive deterioration to the interior or exterior of the vehicle or are inoperable or are otherwise inoperable because of faulty or missing major parts.

(2) Vehicles five (5) model years or older that have been extensively destroyed by fire, explosion, vandalism, or other causes, excluding traffic accidents, and are inoperable.

(e) An abandoned vehicle subject to fair market value is:

(1) a vehicle that is in running condition and has a value of five hundred dollars (\$500) or more on a normal retail or wholesale lot; or

(2) a vehicle that, because of uniqueness or parts, has a value of five hundred dollars (\$500) or more as salvage.

(f) When active bidding occurs, the fair market value is determined by the highest bid price. An exception to this is if, in the opinion of the auctioneer, bidders are acting in concert to depress the price, or the high bid is grossly inadequate.

(g) When there are no bidders present, the dollar value is depreciated by the normal towing and storage charges of the storage lot that accrues to the date of sale up to the maximum charges allowed by regulation.

(h) All vehicles that do not bring fair market value will be pulled from the sale and auctioned at run again in the next sale at that storage facility that occurs at least two (2) weeks from the original sale date. (*Bureau of Motor Vehicles; Abandoned Vehicles Rule IV; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 255; filed Nov 21, 1989, 5:00 p.m.: 13 IR 499; readopted filed Oct 17, 2001, 4:48 p.m.: 25 IR 919; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA*)

### **140 IAC 5-1-5 Marking and displaying vehicles before auction**

Authority: IC 9-14-2-2

Affected: IC 9-22

Sec. 5. The owner of a storage facility or his representative, upon notice from the bureau as to the date and time of an abandoned vehicle auction at his place of business, shall, no less than seven (7) days prior to the auction:

(1) mark all vehicles or parts to be sold, with letters no less than eight (8) inches high, with the words "State Sale" and the lot

number; and

(2) display the vehicles or parts in such a manner and location that they may be inspected by the general public.

*(Bureau of Motor Vehicles; Abandoned Vehicles Rule V; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 256; filed Nov 21, 1989, 5:00 p.m.: 13 IR 499; readopted filed Jul 30, 2001, 10:28 a.m.: 24 IR 4230; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA)*

**140 IAC 5-1-6 Approval of storage facilities or towing services**

Authority: IC 9-14-2-2

Affected: IC 9-22

Sec. 6. APPROVED OR SUITABLE STORAGE FACILITY. Any storage facility or towing service which is used for the removal and storage of abandoned vehicles or parts by enforcement officers is approved by the Bureau provided such facility operator or owner, or their representative(s) has not disregarded or violated the conditions or provisions of these rules and regulations.

The Commissioner may declare a storage facility to be non-approved for usage by the Bureau in regard to towing, storage or for conducting the sale of abandoned vehicles if any one or more of the following conditions is determined, after reasonable investigation, to have existed or occurred:

- (a) charging excessive storage fees on an abandoned vehicle(s) redeemed by an owner, his representative, or a lienholder of such motor vehicle;
- (b) failure to report the receipt of abandoned vehicles as required in Rule IV of these rules and regulations;
- (c) actively or passively hindering or obstructing a bidder from attending and/or bidding at an abandoned vehicle auction, or hindering or obstructing a purchaser of an abandoned vehicle from removing a motor vehicle(s) from the storage facility;
- (d) operating the storage facility or towing service in such a manner which results in the Bureau receiving sufficiently documented complaints concerning poor customer service or unusual damage to stored or towed vehicles; or
- (e) conducting business of the storage facility or towing service in an illegal manner or operating such business in a manner inconsistent with the usual and customary conduct of the industry.

*(Bureau of Motor Vehicles; Abandoned Vehicles Rule VI; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 256; readopted filed Jul 30, 2001, 10:28 a.m.: 24 IR 4230; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA)*

**140 IAC 5-1-7 Withdrawal of approval of storage facilities**

Authority: IC 9-14-2-2

Affected: IC 4-21.5; IC 9-22

Sec. 7. PROCEDURES TO BE FOLLOWED IN WITHDRAWING APPROVAL FOR USE OF STORAGE FACILITIES. The Commissioner shall follow the following procedures for withdrawing approval of storage facilities for violation of conditions contained in these rules and regulations:

- (a) Notification will be sent by registered mail, return receipt requested, to the storage facility operator outlining the complaints, infractions of rules or state law, and requesting a written or personal response within fifteen days.
- (b) If there is no response to the notification or the reply is unsatisfactory and/or the disregard for the citation contained in the notice continues, the storage facility operator shall be requested to attend a hearing to show cause why the Commissioner should not withdraw his approval for permitting the storage facility to be used for abandoned vehicles reported to the Bureau of Motor Vehicles. The hearing shall be in accordance with the Administrative Adjudication Act (IC 1971, 4-22-1 [Repealed by P.L.18-1986, SECTION 2. See IC 4-21.5.] et seq).
- (c) The Commissioner shall advise the storage facility operator of his decision, in writing, stating the cause of the disapproval, the term of the suspension, and the conditions that must be met prior to petitioning for reinstatement as a conditionally approved storage facility operator.

*(Bureau of Motor Vehicles; Abandoned Vehicles Rule VII; filed Jan 14, 1976, 8:43 a.m.: Rules and Regs. 1977, p. 256; readopted filed Jul 30, 2001, 10:28 a.m.: 24 IR 4230; readopted filed Nov 14, 2007, 1:31 p.m.: 20071212-IR-140070562RFA)*

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