

CHAPTER 262 – ABANDONED MOTOR VEHICLES

259:4-a Authorized Official.

"Authorized official," for purposes of RSA 262:31 through 40-b, shall mean any police employee of the division of state police, highway enforcement officer or other authorized employee of the department of safety, or peace officer.

262:31 Authority to Take.

An authorized official may take a vehicle into his custody and may cause the same to be taken away and stored at some suitable place only as provided in this subdivision.

262:32 Reasons for Removal and Impoundment.

An authorized official may cause the removal and storage of a vehicle if he has reasonable grounds to believe that:

- I. A vehicle has been left unattended on the paved portion of a toll road, turnpike, or interstate and defense highway for a period of greater than 4 hours;
- II. A vehicle has been left unattended on any way or the right-of-way thereof for a period of greater than 24 hours;
- III. A vehicle is obstructing any way or the access thereto, or access to a public building, or is or will be a menace to traffic if allowed to remain, or is obstructing snow removal or highway maintenance operations;
- IV. The owner or legal occupant of private property has complained that a vehicle is obstructing the passage of vehicles from a public street or highway onto the driveway of such private property;
- V. A vehicle is reported stolen, or is apparently abandoned, or without proper registration, or apparently unsafe to be driven;
- VI. The owner or custodian of the vehicle is under arrest or otherwise incapacitated, and the vehicle will be a menace to traffic if permitted to remain; or
- VII. A vehicle has been left unattended within a state-owned park and ride lot for a period of greater than 21 days.

262:33 Procedure for Removal and Impoundment.

I. Upon satisfying the requirements of RSA 262:32, such vehicle may be removed and stored in a suitable place, and all reasonable charges incurred as a result of such removal and storage shall be a lien against the vehicle which shall be paid by the owner, custodian, or person claiming such vehicle, except as otherwise provided in this section.

II. Whenever a vehicle is towed pursuant to RSA 262:32 the owner or other person lawfully entitled to the possession of the vehicle shall be entitled to recover said vehicle and release of the above lien by payment of all reasonable towing and storage charges. If the owner or other person lawfully entitled to possession of the vehicle wishes to challenge whether there was sufficient grounds for towing and impoundment, he may pay over to the custodian of the vehicle an amount equal to the towing and storage charges to secure the release of such vehicle, and, within 15 days of the towing and impoundment, request in writing a hearing.

III. The hearing shall be held before the head of the law enforcement agency which employs the authorized official who caused the vehicle to be removed and stored, or his designee. In the event such agency head or his designee determines sufficient grounds did not exist for the removal and storage of the vehicle, the law enforcement agency shall reimburse the owner or other person lawfully claiming possession for any amount paid to the custodian to secure release of the vehicle.

IV. Nothing in this section shall prevent a review of the reasonableness of the towing or other action as may be permitted by laws of this state by a court of competent jurisdiction.

262:34 Notice of Removal.

Whenever an authorized official or the owner or person in lawful possession of private property directs the removal and storage of a vehicle as permitted in this subdivision, he shall, if he knows or is able to ascertain from the registration records of the division the name and address of record of the registered owner of the vehicle, attempt to give or have given by the most practicable means, notice of the fact of such removal and the place to which said vehicle has been removed. If the authorized official does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give notice to the owner as provided in this section, such notice shall be filed with the director, which notice shall be placed on file by said director and open to public inspection.

262:35 Exemption From Liability.

No custodian shall be liable for damages to such vehicle while it is in his custody, providing due care is exercised to prevent negligent acts.

262:35-a Review of Fees for Removal and Impoundment.

I. All fees charged for the removal and storage of any vehicle caused to be removed by an authorized official pursuant to RSA 262:32 or RSA 262:40-a shall be reasonable, and may reflect market variables, including, but not limited to, distance traveled to and from the storage facility, vehicle size and weight, the amount of time needed to remove and store the vehicle, and personnel costs. If the owner or other person lawfully entitled to possession of the vehicle wishes to challenge the reasonableness of the fee charged, the owner or other person may pay over to the custodian of the vehicle an amount equal to the towing and storage charges to secure the release of the vehicle, and, within 15 days of the release of the vehicle, request in writing a review by the commissioner of safety. The commissioner of safety shall review the towing and storage charge and determine if there are sufficient grounds to conduct a hearing to determine whether the charge was reasonable. If the commissioner determines that a hearing is necessary, the hearing shall be held within 20 days after review by the commissioner, at which time the extent of removal and storage fees shall be determined. The commissioner shall issue a decision within 7 days after holding the hearing. Notwithstanding RSA 262:25, any person aggrieved by a decision of the commissioner under this section may appeal the decision to the superior court in the same manner as that prescribed in RSA 263:75, II and III. If no request for review is filed within the 15-day period, the owner or other person lawfully entitled to possession of the vehicle shall be deemed to have waived all rights to review under this section and shall be liable for the total amount billed.

II. Nothing in this section shall prevent a review of the reasonableness of the towing or other action as may be permitted by laws of this state by a court of competent jurisdiction.

III. Any time that a person is storing a vehicle pursuant to the provisions of this subdivision, the person may remove any items from within the vehicle that are not a part of or accessories to the vehicle. The person may hold any such items, other than wallets, purses, legal documents, car seats, eyeglasses, medicine, medical equipment or house keys pending payment of any fees due under this subdivision. If fees remain unpaid after 20 days, the person may dispose of the items.

262:36-a Disposal by Storage Company.

I. If the owner of a motor vehicle removed or stored pursuant to RSA 262:33 or RSA 262:40-a does not claim the vehicle within 20 days, and the vehicle is more than 5 model years old at the time of removal, the storage company may dispose of such vehicle after giving notice pursuant to RSA 262:38, provided that no notice by publication shall be required.

II. If the vehicle is 5 model years old or less at the time of removal and the vehicle has not been claimed within 30 days, the storage company may dispose of such vehicle after giving notice pursuant to RSA 262:38.

III. If the value of the vehicle is less than \$1,000 or the vehicle is so vandalized, damaged, or in disrepair as to be unusable as a motor vehicle and only fit for salvage as determined in good faith through the application of reasonable automotive industry standards, the storage facility may dispose of the vehicle in 15 days without the notice required by RSA 262:38 and RSA 444. If the last place of abode of the owner of such vehicle is known to or may be ascertained by such storage facility by the exercise of reasonable diligence, the storage facility shall give notice of the time and place of the sale to the owner by registered or certified mail, or inn person, at least 10 days prior to the disposal and upon written notice to the direct or subject to such rules as the department shall adopt pursuant to RSA 541-A.

IV. If the towing or storage facility has knowledge or has been notified that the owner of the vehicle is hospitalized or incarcerated as a result of an accident, the time allowed for claiming the vehicle under paragraph I shall be extended for an additional 14 days or until the person has been released from the medical facility or place of incarceration, whichever occurs first.

262:37 Sale Authorized.

If the vehicle shall have been stored pursuant to this subdivision and all the requirements of RSA 262:36 have been met, the custodian of the vehicle may sell the same, at his place of business at public auction, for cash.

262:37-a Access to Records.

The custodian of the vehicle may obtain the name and last known mailing address of the last registered owner of a vehicle stored pursuant to this subdivision, and a law enforcement officer with jurisdiction, upon request of the operator of a tow truck, shall give to the tow truck operator, upon receipt of such information, the name and mailing address of the registered owner of the vehicle of the owner or custodian of the vehicle was not present or able to give that information at the scene. If the law enforcement officer is aware that the owner or customer of the vehicle was removed to a medical or correction facility, the law enforcement officer shall notify the tow truck operator of that fact.

262:38 Notice of Sale.

Notice of sale shall be given by posting notices thereof in 2 or more public places in the town or city where the property is stored, at least 14 days before the sale and, if the current retail value of the vehicle exceeds \$1000, as determined in good faith and by a credible method, by publishing the notice at least once in a newspaper of general circulation in the area. If the last place of abode of the owner of such vehicle is known to or may be ascertained by such garage owner or keeper by the exercise of reasonable diligence, a notice of the time and place of the sale shall be given by the garage owner by registered or verified mail, or in person, at least 10 days prior to the sale.

262:39 Application of Proceeds.

The balance of the proceeds of sale, if any, after payment of the amount of the liens and the reasonable expenses incident to the sale, shall be paid to the owner of such vehicle or his legal representative if claimed at any time within one year from the date of sale. If such balance shall not be claimed within said period, it shall be paid into the state treasury for the use of the state.

262:40 Vehicles Involved in Crimes.

Whenever a vehicle is reasonably believed to have been used in connection with a criminal offense, and a peace officer has ordered the removal and impoundment of such vehicle, the custodian of said vehicle shall release it upon authorization of the removing agency or a court of competent jurisdiction.

262:40-a Vehicles Removed From Private Property; Conspicuous Notice in Parking Lots and Garages.

I. The owner or person in lawful possession of any private property on which a vehicle is parked without his or her permission or is apparently abandoned may:

- (a) Cause the removal of the vehicle in a reasonable manner provided he or she gives notice of such removal to a peace officer as soon as reasonably possible; or
- (b) Notify a peace officer that he or she wishes to have such a vehicle removed from his property, whereupon the peace officer or another authorized official shall cause the removal of such vehicle pursuant to the removal, impoundment and notice procedures required by this subdivision.

II. The department of transportation shall give authorized persons permission to remove vehicles which are abandoned, as described in RSA 262:32, at state-owned park and rides.

III. The department of transportation shall give authorized persons permission to move any vehicle within a state-owned park and ride facility when such vehicle is improperly parked in a bus storage or travel lane which is properly marked. The owner of the vehicle shall be responsible for the costs of moving the vehicle.

IV. The costs of removing a vehicle under this section, including towing and storage costs, shall, consistent with RESA 262:35-a, be the responsibility of the last registered owner according to department records, unless said last registered owner is able to establish a transfer of ownership to some other person prior to abandonment or that the vehicle was reported stolen to a law enforcement agency at the time of abandonment, in which case the last owner shall be liable. If a vehicle is towed from a parking lot or parking garage, charges for removal and storage shall not be assessed against the vehicle owner unless there is posted in the parking lot or parking garage conspicuous notice that illegally parked vehicles are subject to towing at the owner's expense.

V. Any police department which receives a request to have a vehicle removed or receives notice of a removal as provided in this section shall maintain a log of such requests and notices.