

Motor Vehicle Division Informational Memo # 20-35

Abandoned Vehicle Administrative Rule Updates

DATE: December 8, 2020

FROM: Sara Siedsma, Compliance Officer, MVD

TO: All Vehicle and Motor Carrier Services staff, Bureau of Investigation and Identity staff, Iowa County Treasurers and County Treasurer's staff

SUBJECT

This informational memo explains an update to administrative rule chapter 761—480, Abandoned Vehicles.

SUMMARY

The amendments to this rule chapter explain the processing of abandoned vehicles by a police authority or a private entity and align with existing legal authority and department practice. Chapter 480 and Iowa Code section 321.89 provide a specific process for taking possession and disposing of an abandoned vehicle. The intent of this rule making is to clarify the process for disposal of abandoned vehicles and to protect lienholders or others with a legal interest in the abandoned vehicle. The following further explains the proposed amendments:

Definitions. A new definition of “bidder registry” was added and the definition of “public auction” was amended to reflect the current options for conducting a public auction, including by electronic means, and to remove the requirement that the highest bidder is awarded the property if the bid represents the fair market value of the property. The intent of this amendment is to encourage use of a public auction to get the most value for the vehicle without necessarily requiring the bid to reach the fair market value.

Abandoned Vehicle Records. The amendments specify the required abandoned vehicle records that a police authority or private entity must maintain to be available for inspection by a peace officer or employee of the department if auctioning a vehicle or transferring an abandoned vehicle to a demolisher. The required records to be made available for inspection include the lien results, the national motor vehicle title information system (NMVTIS) report when no Iowa owner or lienholders are identified, the impound report, abandoned vehicle notice, proof of advertisement of a public auction, certificate of disposal, copy of the bidder registry and a copy of the affidavit of sale. Maintenance of these records will help ensure compliance with the steps for processing abandoned vehicles, which will reduce fraud and protect consumers.

Preconditions of Sale. A new subrule was added to require a private entity or police authority to verify that the preconditions of selling an abandoned vehicle required under Iowa Code section 321.89 have been met prior to the sale of an abandoned vehicle. The intent of this subrule is to clarify who is responsible for verifying the preconditions of sale under Iowa Code prior to the sale.

Public Auction. The amendments address the following requirements related to conducting a public auction of an abandoned vehicle:

- Clarifying that an initial bid at public auction for the abandoned vehicle may be set at the amount that equals the actual cost of storage and towing of the vehicle.
- Authorizing two attempts by the police authority or private entity to sell an abandoned vehicle, or to sell with enough proceeds to reimburse itself for expenses associated with processing the abandoned vehicle, before the abandoned vehicle shall be transferred to a vehicle demolisher. This provision will help reduce the incentive to commit fraud. Because a police authority or private entity is entitled to recoup any unreimbursed costs for processing an abandoned vehicle from the Road Use Tax fund in accordance with Iowa Code section 321.89(4)“b,” the department wants to ensure everything possible is being done to achieve the highest sale price for the abandoned vehicle to cover those costs.
- Ensuring that interested members of the public are aware that a vehicle is being offered for sale by adopting certain advertising requirements, which will reduce claims that no one attended the public auction to bid on an abandoned vehicle.
- Complying with the requirements under Iowa Code section 321.89 that a public auction, if one was held actually took place by requiring a bidder registry.
- Requiring a seller of an abandoned vehicle at auction to complete an odometer disclosure statement when an odometer statement is required under Iowa Code section 321.71.
- Clarifying that the costs of advertising the public auction to sell an abandoned vehicle, when submitted with the abandoned vehicle report, are reimbursable in accordance with Iowa Code section 321.89(4)“c” and chapter 480.

Good-Faith Purchaser. New subrules were added and create consistency with Iowa Code section 321.89(4)“a” and other vehicles that are disposed of with a lien by protecting a good faith purchaser. The amendments provide that despite any noncompliance on the part of the police authority or private entity with the requirements for disposing of an abandoned vehicle, a good faith purchaser of an abandoned vehicle takes title free and clear of all liens and a county treasurer shall process the registration and issue a title for an abandoned vehicle accordingly.

The administrative rule amendments are effective December 9, 2020.

LINK TO ADMINISTRATIVE RULES

<https://www.legis.iowa.gov/docs/aco/arc/5257C.pdf>

CURRENT

Administrative rule chapter 761—480 did not previously address the concept of a bidder registry and did not reflect the option to conduct a public auction by electronic means. The previous rules did not specify the types of records a police authority or private entity disposing of an abandoned vehicle were required to maintain and did not clearly indicate that a private entity or police authority must verify that the preconditions of selling an abandoned vehicle had been met prior to the sale, as contemplated by Iowa Code section 321.89. The previous rules also did not outline the expectations for conducting a

public auction and did not explicitly provide that a good-faith purchaser of an abandoned vehicle takes title free and clear of all liens despite any noncompliance on the part of the police authority or private entity disposing of the abandoned vehicle.

NEW

As of December 9, 2020, the rules will now clearly address the requirements outlined in the summary above.

BUSINESS IMPACT

This directive does not significantly impact the way that VMCS operates, however these changes are anticipated to increase consumer protection through document retention and process requirements. Further, these changes will provide greater clarity to the business community by increasing guidance on practices and expectations related to disposal of abandoned vehicles. Law enforcement has investigated fraud due to lack of clarity in these rules. By clarifying the record retention requirements, consumers are protected because there is more tracking that the process is being followed. Further, businesses, law enforcement, and counties have requested guidance in how an abandoned vehicle should be disposed of to protect potential owners, potential lienholders, the towing and storage entity, and the future buyer. These changes are intended to accomplish those goals.