

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 480
“Abandoned Vehicles”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 321.89

State or federal law(s) implemented by the rulemaking: Iowa Code sections 321.1, 321.18, 321.71, 321.89 and 321.90

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 30, 2024
10 to 10:30 a.m.

[Microsoft Teams Link](#)
Or dial: 515.817.6093
Conference ID: 292 792 560

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

The purpose of proposed Chapter 480 is to implement Iowa Code section 321.89, which authorizes the Department to adopt rules outlining the procedures to be followed when a police authority or private entity acting on behalf of a police authority disposes of an abandoned vehicle and seeks reimbursement from or seeks to remit unclaimed proceeds to the Department.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:

Iowa Code section 321.89 requires a vehicle abandoned on a public highway to be taken into custody by law enforcement or a private entity acting on behalf of law enforcement and be disposed of if it is unclaimed. The statute also requires law enforcement and private entities acting on behalf of law enforcement to be reimbursed from the Road Use Tax Fund (RUTF) when their costs for processing an abandoned vehicle exceed the profits they received from selling the abandoned vehicle and also require any unclaimed profits that exceed processing costs to be remitted to the Department to be deposited into the RUTF.

- Classes of persons that will benefit from the proposed rulemaking:

Law enforcement agencies and private entities acting on behalf of law enforcement agencies will benefit from these rules by knowing the process for submitting a request for expense reimbursement to remitting unclaimed proceeds to the Department upon disposal of an abandoned vehicle.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

In calendar year 2023, there were 2,175 vehicles that were involved in a request to the Department for either abandoned vehicle towing and storage fee reimbursement or deposit of excess funds resulting from the disposal of an abandoned vehicle. In calendar year 2023, the Department paid out \$207,000 in reimbursements from the RUTF and received \$322,000 in excess funds to be deposited into the RUTF from the disposal of abandoned vehicles. In other words, the excess funds deposited into the RUTF exceeded the reimbursements paid out by about \$115,000.

- Qualitative description of impact:

The result of reorganizing, streamlining, and reducing redundancy in the proposed chapter will create a positive impact by producing a more reader-friendly version of the information law enforcement agencies and private entities acting on behalf of law enforcement agencies use when submitting a request for expense reimbursement or remitting unclaimed proceeds to the Department upon disposal of an abandoned vehicle.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

There are no additional implementation or enforcement costs in the proposed rules that were not already required as a result of the underlying statute. Iowa Code section 321.89 requires a vehicle abandoned on a public highway to be taken into custody by law enforcement or a private entity acting on behalf of law enforcement and be disposed of if it is unclaimed. The statute also requires the Department to establish a procedure for entities to request expense reimbursement and remit unclaimed proceeds resulting from the sale of the abandoned vehicle.

- Anticipated effect on state revenues:

In calendar year 2023, there were 2,175 vehicles that were involved in a request to the Department for either abandoned vehicle towing and storage fee reimbursement or deposit of excess funds resulting from the disposal of an abandoned vehicle. In calendar year 2023, the Department paid out \$207,000 in reimbursements from the RUTF and received \$322,000 in excess funds to be deposited into the RUTF from the disposal of abandoned vehicles. In other words, the excess funds deposited into the RUTF exceeded the reimbursements paid out by about \$115,000.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

The benefit of the proposed chapter is consistency and transparency in the process of submitting a request for expense reimbursement or remitting unclaimed proceeds to the Department upon disposal of an abandoned vehicle. The cost of the proposed rules is the same as the costs required by the underlying statute.

The cost of inaction is the inability for law enforcement and private entities acting on behalf of law enforcement to quickly and efficiently understand what is required to request expense reimbursement and remit unclaimed proceeds resulting from the sale of the abandoned vehicle. Accordingly, entities processing abandoned vehicles would have no mechanism to be reimbursed when their costs of processing an abandoned vehicle exceed the profits they received from selling the abandoned vehicle, and there would be no guidance in place on how to remit any unclaimed profits that exceed processing costs to the Department to be deposited into the RUTF.

There is no benefit of inaction.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

There is no less costly or less intrusive method to achieve the purpose of the proposed rules, which is to quickly and efficiently provide information to law enforcement and private entities acting on behalf of law enforcement regarding what is required to request expense reimbursement and remit unclaimed proceeds resulting from the sale of the abandoned vehicle.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

The Department did not consider alternatives for the proposed rules. The Department is required by the Iowa Code to establish a procedure for entities to request expense reimbursement and remit unclaimed proceeds resulting from the sale of the abandoned vehicle.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

No alternatives were considered for the proposed rules.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

There is no small business impact beyond what was already anticipated under the statute. The proposed rules apply equally to private entities processing abandoned vehicles on behalf of a law enforcement agency.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 480 and adopt the following **new** chapter in lieu thereof:

CHAPTER 480
ABANDONED VEHICLES

761—480.1(321) Definitions. The definitions in Iowa Code sections 321.1 and 321.89(1) apply to this chapter. In addition:

“*Abandoned vehicle*,” when used in Iowa Code section 321.89 and this chapter, means only those vehicles subject to registration as referred to in Iowa Code section 321.18.

“*Bidder registry*” means a record of all persons who have registered to bid at a public auction.

“*Public auction*,” when used in Iowa Code section 321.89, means an auction open to the general public.

761—480.2(321) Information. Information, forms and instructions are available from: Motor Vehicle Division, Iowa Department of Transportation, P.O. Box 9278, Des Moines, Iowa 50306-9278 or the department's website at www.iowadot.gov/mvd/vehicleregistration/abandoned-vehicles.

761—480.3(321) General provisions.

480.3(1) If a police authority has designated a private entity to process an abandoned vehicle, the police authority shall provide to the private entity a certificate of disposal form prescribed by the department. On the form, the police authority shall provide a description of the vehicle and list the

name and address of the last registered owner, all known lienholders of record, and any other known claimants to the vehicle.

480.3(2) A police authority or private entity processing an abandoned vehicle shall maintain records for three years from the sale at a public auction or transfer of a motor vehicle to a demolisher. The records are to be open to inspection by any peace officer or any employee of the department. The required documents to be made available for inspection include:

- a. The motor vehicle record request results letter issued by the department with lien information or evidence that a motor vehicle record was reviewed for owners and liens through other legal means.
- b. The impound report with the date of abandonment.
- c. One copy of the dated notice sent by the police authority or private entity to each owner and lienholder or proof of publication of notice with the publication date visible.
- d. One copy of an actual newspaper page advertising each public auction with advertisement and date visible.
- e. A copy of the certificate of disposal for the private entity.
- f. The bidder registry for the police authority or private entity designated by a police authority holding a public auction.
- g. A copy of affidavit of sale on a form prescribed by the department.

480.3(3) A police authority or private entity shall verify that the provisions of this chapter have been executed, prior to the sale of the abandoned vehicle, on a form prescribed by the department.

480.3(4) A purchaser in good faith of a motor vehicle sold as a result of the abandoned vehicle process takes the motor vehicle free of all rights of all persons, including holders of preexisting liens, notwithstanding any police authority or private entity's noncompliance with this chapter.

480.3(5) Upon presentation of a sales receipt, a county official shall process the registration and issuance of title to the purchaser free of all rights of all persons, including holders of preexisting liens, notwithstanding any police authority or private entity's noncompliance with this chapter.

761—480.4(321) Auction requirements.

480.4(1) *Auction.* A public auction may be by electronic means, by sealed bid, or a conventional oral auction. The highest bidder is awarded the property. When the auction is a conventional oral auction, bidders shall register and bring the bid deposit with them to the auction on the day and at the location and time specified for the sale, if a bid deposit is required. Bidders bid against one another until bidding stops.

- a. A police authority or a private entity designated by a police authority holding a public auction may set the initial bid at an amount that equals the actual cost of storage and towing.
- b. A police authority or private entity is limited to two attempts at selling an abandoned vehicle at a public auction. If the police authority or private entity cannot make a satisfactory sale at two public auctions, or if a sale cannot otherwise be made with enough proceeds to cover the expenses and costs in carrying out the abandoned vehicle process, the police authority or private entity shall sell or dispose of the vehicle to a demolisher for junk.

480.4(2) *Advertisement.* Any attempt to sell a vehicle by public auction shall be advertised at least seven days in advance using two or more modes of appropriate media widely accessible and targeted to individuals within the county where the auction will take place or where the vehicle is physically located. Appropriate media modes include the following:

- a. A newspaper that meets the requirements set forth in Iowa Code section 618.3.
- b. Notice posted in a conspicuous manner viewable to the public at the location where the public auction will occur or in a location where it is permissible to post community announcements. If the public auction is to be conducted by electronic means, the location means the specific website to be used for the auction.
- c. Notice posted to a community website or on a social media platform available to the public.

480.4(3) *Bidder registry.* Each auctioned vehicle sold or offered for sale at a public auction requires a bidder registry. The bidder registry shall be maintained for at least three years by the police

authority or private entity designated by a police authority and open for inspection by any peace officer or department employee. The bidder registry shall contain:

- a. The full name of the bidder.
- b. The bona fide address of the bidder.
- c. A telephone number of the bidder.
- d. The date of the auction.
- e. The auctioned vehicle's make, model, model year, and vehicle identification number.
- f. The location of the auction.

480.4(4) Odometer statement.

a. When an odometer disclosure statement is required pursuant to Iowa Code section 321.71 but the auctioned vehicle's seller cannot attest to the true mileage reading of the vehicle's odometer, the seller's odometer disclosure statement shall:

- (1) Reflect the odometer mileage reading at the time of sale.
 - (2) Be marked indicating "odometer discrepancy," certifying the odometer mileage reading is not the actual mileage.
- b. The subsequent title issued for the vehicle shall record the vehicle's mileage is "not actual."

761—480.5(321) Claims procedure—expense reimbursement and unclaimed proceeds.

480.5(1) General. The following requirements are applicable to a claim under this subrule:

- a. A police authority may only report an abandoned vehicle to the department if it is remitting unclaimed profits or requesting reimbursement.
- b. A private entity designated by a police authority to process an abandoned vehicle may request reimbursement of expenses that are in excess of the proceeds of the sale of the abandoned vehicle.
- c. If a police authority has designated a private entity to process an abandoned vehicle, the police authority is eligible for reimbursement of only the towing expense.
- d. A police authority or private entity requesting reimbursement is to submit Form 411090 (Abandoned Vehicle Report) to the department. Other forms may be accepted if they contain all information deemed necessary by the department.
- e. Form 411090 is also required when remitting unclaimed profits.
- f. The only reimbursable expense includes losses incurred in disposing of a vehicle abandoned on a public highway.

480.5(2) Documentation. Form 411090 submitted for expense reimbursement or for remittance of unclaimed proceeds must be accompanied by the following:

- a. The police authority's impound report showing the date the vehicle was taken into custody, including a complete description of the vehicle. The date of abandonment is the date the vehicle was taken into custody unless the police authority declares a different date of abandonment. The abandonment date shall be used to calculate the 20-day notification required under Iowa Code section 321.89(3).
- b. A copy of the notice sent to the owner and lienholder(s) or proof of publication of notice. The notice must display a sent or published date within the 20-day time frame required under Iowa Code section 321.89(3) to qualify the claim for reimbursement.
- c. A completed certificate of disposal.
- d. Detailed receipts showing payment for each expense incurred. A receipt must identify the date(s) of occurrence of the expense; for example, a receipt for storage must identify the beginning and ending dates. A receipt for both towing and storage must show separately the towing charge and the storage charge per day.

480.5(3) Time frames. Claims for allowable reimbursement expenses under Iowa Code section 321.89 must be submitted to the department within 90 days after the sale or disposal of the abandoned vehicle. The police authority shall send unclaimed proceeds from the sale or disposal of the vehicle to the department within 10 days after the specified 90-day claiming period expires.

480.5(4) Rates. The department establishes the following maximum expense reimbursement rates:

- a.* Towing—\$50 per vehicle.
- b.* Notice—actual postage or publication cost.
- c.* Storage—\$5 per day, not to exceed 45 days per vehicle.
 - (1) If a police authority provides its own storage facility for abandoned vehicles, the department shall not reimburse the police authority for use of that facility.
 - (2) When the vehicle is held for an evidentiary hearing for more than 45 days, the police authority or private entity shall submit proof of the evidentiary hearing to obtain reimbursement.
- d.* Advertising—only actual costs of up to \$20 per auction, or advertising receipt totals for two auctions, whichever is less, not to exceed \$40 total.
- e.* Auction expenses—10 percent of the vehicle's sale price or \$10 per vehicle, whichever is less. A receipt is not required for auction expense reimbursement.

These rules are intended to implement Iowa Code sections 321.1, 321.18, 321.71, 321.89 and 321.90.