

# AN ACT

To amend section 1547.30; to enact sections 1547.305 and 1547.58; and to repeal sections 4585.31, 4585.32, 4585.33, and 4585.34 of the Revised Code to alter the process by which a person may obtain title to a watercraft vessel or outboard motor valued under \$10,000 that has been left on the person's property.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That section 1547.30 be amended and sections 1547.305 and 1547.58 of the Revised Code be enacted to read as follows:

Sec. 1547.30. (A) As used in this section and sections 1547.301, ~~and 1547.302, and 1547.304~~ of the Revised Code:

(1) "Vessel or outboard motor" excludes an abandoned junk vessel or outboard motor, as defined in section 1547.303 of the Revised Code, or any ~~watercraft vessel~~ or outboard motor under section ~~4585.31-1547.305~~ of the Revised Code.

(2) "Law enforcement agency" means any organization or unit comprised of law enforcement officers, as defined in section 2901.01 of the Revised Code.

(B)(1) The sheriff of a county, chief of police of a municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any vessel or outboard motor that has been left on private property, other than a private dock or mooring facility or structure, for at least seventy-two hours without the permission of the person having the right to the possession of the property. The sheriff or chief, upon complaint of the owner of a marine repair facility or place of storage, may order into storage any vessel or outboard motor that has been left at the facility or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief. When ordering a vessel or motor into storage under division (B)(1) of this section, a sheriff or chief, whenever possible, shall arrange for the removal of the vessel or motor by a private tow truck operator or towing company.

(2)(a) Except as provided in division (B)(2)(d) of this section, no person, without the consent of the owner or other person authorized to give consent, shall moor, anchor, or tie a vessel or outboard motor at a private dock or mooring facility or structure owned by another person if the owner has posted, in a conspicuous manner, a prohibition against the mooring, anchoring, or tying of vessels or outboard motors at the dock, facility, or structure by any person not having the consent of the owner or other person authorized to give consent.

(b) If the owner of a private dock or mooring facility or structure has posted at the dock, facility, or structure, in a conspicuous manner, conditions and regulations under which the mooring, anchoring, or tying of vessels or outboard motors is permitted at the dock, facility, or structure, no

person, except as provided in division (B)(2)(d) of this section, shall moor, anchor, or tie a vessel or outboard motor at the dock, facility, or structure in violation of the posted conditions and regulations.

(c) The owner of a private dock or mooring facility or structure may order towed into storage any vessel or outboard motor found moored, anchored, or tied in violation of division (B)(2)(a) or (b) of this section, provided that the owner of the dock, facility, or structure posts on it a sign that states that the dock, facility, or structure is private, is visible from all entrances to the dock, facility, or structure, and contains all of the following information:

(i) The information specified in division (B)(2)(a) or (b) of this section, as applicable;

(ii) A notice that violators will be towed and that violators are responsible for paying the cost of the towing;

(iii) The telephone number of the person from whom a towed vessel or outboard motor may be recovered, and the address of the place to which the vessel or outboard motor will be taken and the place from which it may be recovered.

(d) Divisions (B)(2)(a) and (b) of this section do not prohibit a person from mooring, anchoring, or tying a vessel or outboard motor at a private dock or mooring facility or structure if either of the following applies:

(i) The vessel or outboard motor is disabled due to a mechanical or structural malfunction, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the malfunction is corrected or when a reasonable attempt has been made to correct it;

(ii) Weather conditions are creating an imminent threat to safe operation of the vessel or outboard motor, provided that the person immediately removes the vessel or outboard motor from the dock, facility, or structure when the weather conditions permit safe operation of the vessel or outboard motor.

(e) A person whose vessel or outboard motor is towed into storage under division (B)(2)(c) of this section either shall pay the costs of the towing of the vessel or outboard motor or shall reimburse the owner of the dock or mooring facility or structure for the costs that the owner incurs in towing the vessel or outboard motor.

(3) Subject to division (C) of this section, the owner of a vessel or motor that has been removed under division (B) of this section may recover the vessel or motor only in accordance with division (F) of this section.

(C) If the owner or operator of a vessel or outboard motor that has been ordered into storage under division (B) of this section arrives after the vessel or motor has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of vessels or motors under division (B) of this section that normally is assessed by the person who has prepared the vessel or motor for removal, in order to obtain release of the vessel or motor. Upon payment of that fee, the vessel or motor shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that it is not on the private property without the permission of the person having the right to possession of the property, or is not at the facility or place of storage without the permission of the owner, whichever is applicable.

(D) Each county sheriff, each chief of police of a municipal corporation, township, township

police district, or joint police district, and each other chief of a law enforcement agency shall maintain a record of vessels or outboard motors that are ordered into storage under division (B)(1) of this section. The record shall include an entry for each such vessel or motor that identifies the vessel's hull identification number or serial number, if any, the vessel's or motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular vessel or motor shall be provided to any person who, pursuant to a statement the person makes either in person or by telephone, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(E) Any person who registers a complaint that is the basis of a sheriff's or chief's order for the removal and storage of a vessel or outboard motor under division (B)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who, pursuant to a statement the person makes, is identified as the owner or operator of the vessel or motor and requests information pertaining to its location.

(F)(1) The owner of a vessel or outboard motor that is ordered into storage under division (B) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed two hundred dollars, and storage, in an amount not to exceed five dollars per twenty-four-hour period, and upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vessel or motor, certificate of United States coast guard documentation, or certificate of registration if the vessel or motor is not subject to titling under section 1548.01 of the Revised Code.

(2) If a vessel or outboard motor that is ordered into storage under division (B)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 1547.301 and 1547.302 of the Revised Code shall apply.

(3) If a vessel or outboard motor ordered into storage under division (B)(2) of this section remains unclaimed for seventy-two hours after being stored, the tow truck operator or towing company that removed the vessel or outboard motor shall provide notice of the removal and storage to the sheriff of a county, chief of police of a municipal corporation, township, township police district, or joint police district, or other chief of a law enforcement agency within whose territorial jurisdiction the vessel or outboard motor had been moored, anchored, or tied in violation of division (B)(2) of this section. The notice shall be in writing and include the vessel's hull identification number or serial number, if any, the vessel's or outboard motor's make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

Upon receipt of the notice, the sheriff or chief immediately shall cause a search to be made of the records of the division of parks and watercraft to ascertain the owner and any lienholder of the vessel or outboard motor, and, if known, shall send notice to the owner and lienholder, if any, at the owner's and lienholder's last known address by certified mail, return receipt requested, that the vessel or outboard motor will be declared a nuisance and disposed of if not claimed not later than thirty days after the date of the mailing of the notice.

If the owner or lienholder makes no claim to the vessel or outboard motor within thirty days of the date of the mailing of the notice, the sheriff or chief shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of division (F)(3) of this section, and the vessel or outboard motor shall be disposed of in accordance with section 1547.302 of the Revised Code.

(G) No person shall remove, or cause the removal of, any vessel or outboard motor from private property other than in accordance with division (B) of this section or section 1547.301 of the Revised Code.

Sec. 1547.305. (A) In lieu of the processes set forth in sections 1547.30 to 1547.303 of the Revised Code, a person may obtain a certificate of title to a vessel or outboard motor of another if all of the following apply:

(1) The person requests a watercraft dealer certified in accordance with section 1547.543 of the Revised Code or an independent marine surveyor and appraiser to appraise the vessel or outboard motor and secures written confirmation that the fair market value of the vessel or outboard motor is less than ten thousand dollars.

(2) The vessel or outboard motor has been left unclaimed on the person's property for twenty days or more without permission prior to the provision of notice under division (A)(4) of this section and the person does not have a valid storage or repair contract with the owner or lienholder of the vessel or outboard motor.

(3) Prior to sending a notice under division (A)(4) of this section, the person causes a search to be made of the records of both of the following to identify any owner or lienholder of the vessel or outboard motor:

(a) The division of parks and watercraft in the department of natural resources or, if it is known or should be known that the vessel was last registered in another state, that state's database in which vessel records are kept;

(b) The United States coast guard vessel documentation database.

(4) The person sends notice by certified mail, return receipt requested, to the last known address of any owner and any lienholder of the vessel or outboard motor. The person shall include both of the following in the notice:

(a) A statement that the vessel or outboard motor must be removed from the property within ten days after receiving the notice;

(b) A statement that informs the recipient of the vessel or outboard motor's location.

(5) The person either received the signed receipt from the certified mail or was notified that the delivery of the certified mail was not possible.

(6) The vessel or outboard motor continues to remain unclaimed for more than ten days after the date that the required notice was received by the owner or lienholder, as evidenced by a signed receipt, or the date that the person was notified that the delivery was not possible. If a lienholder does not claim the vessel or outboard motor within that ten-day period, the lienholder's lien is invalid.

(7) The person that mailed the notice under division (A)(4) of this section executes an affidavit, in a form established by the director of natural resources by rule adopted under Chapter 119. of the Revised Code, affirming that all of the requirements of this section necessary to authorize the issuance of a certificate of title for the vessel or outboard motor have been met. The person shall

include all of the following in the affidavit:

(a) A statement of the length of time that the vessel or outboard motor remained unclaimed prior to sending the notice under division (A)(4) of this section;

(b) A statement that the person does not have a valid storage or repair contract with the owner or lienholder of the vessel or outboard motor;

(c) A statement that, prior to sending a notice under division (A)(4) of this section, a search of the records of the department of natural resources was made to identify any owner or lienholder of the vessel or outboard motor;

(d) A statement that the notice to remove the vessel or outboard motor was mailed to any owner and any lienholder by certified mail, return receipt requested, under division (A)(4) of this section;

(e) A statement that the vessel or outboard motor remains unclaimed for more than ten days after the date that the required notice was received by the owner or lienholder, as evidenced by a signed receipt, or the date that the person was notified that the delivery was not possible;

(f) A statement that the vessel or outboard motor remains unclaimed at the time the affidavit is presented under division (C) of this section;

(g) A statement that the vessel or outboard motor's fair market value is less than ten thousand dollars after appraisal by a watercraft dealer certified in accordance with section 1547.543 of the Revised Code or an independent marine surveyor and appraiser. The person shall include with the affidavit the written confirmation secured under division (A)(1) of this section.

(B) The clerk of courts shall issue a certificate of title, free and clear of all liens and encumbrances, to a person that presents an affidavit that complies with all of the requirements of division (A) of this section.

(C)(1) A person that owns property where a vessel or outboard motor has been left unclaimed may bring a civil action in a court of common pleas or other court of competent jurisdiction against the owner of the vessel or outboard motor to recover the costs of storing or removing the vessel or outboard motor if both of the following apply:

(a) The vessel or outboard motor has been left unclaimed on the person's property for twenty days or more prior to the provision of notice under division (A)(4) of this section.

(b) The person does not have a valid storage or repair contract with the owner of the vessel or outboard motor.

(2) A person that owns property where a vessel or outboard motor has been left unclaimed may have the vessel or outboard motor impounded until the costs of storing the vessel or outboard motor have been paid or until the clerk of courts issues the property owner a certificate of title under division (B) of this section if all of the following apply:

(a) The vessel or outboard motor has been left unclaimed on the person's property for twenty days or more prior to the provision of notice under division (A)(4) of this section.

(b) The property owner sends notice in accordance with division (A)(4) of this section to any owner and any lienholder of the vessel or outboard motor.

(c) The person does not have a valid storage or repair contract with the owner of the vessel or outboard motor.

Sec. 1547.58. When the chief of the division of parks and watercraft issues a registration

certificate under section 1547.54 of the Revised Code, the chief also shall provide to the owner of the registered watercraft a disclosure statement regarding the requirements and procedures established under section 1547.305 of the Revised Code.

The disclosure statement shall inform the owner that if the watercraft is left on private property of another without a valid service, repair, or storage contract, the watercraft may be rendered abandoned and subject to the process set forth in section 1547.305 of the Revised Code.

SECTION 2. That existing section 1547.30 of the Revised Code is hereby repealed.

SECTION 3. That sections 4585.31, 4585.32, 4585.33, and 4585.34 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_