As Introduced

Topic: Public auction for vessels valued over $10,000

________________________________ moved to amend as follows:

In line 1 of the title, after "To" insert "amend sections 1547.30, 4585.31, 4585.32, 4585.33, and 4585.34; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4585.31 (1547.306), 4585.32 (1547.307), 4585.33 (1547.308), and 4585.34 (1547.309); and to"

In line 2 of the title, delete "establish a" and insert "alter the"

In line 5, after "That" insert "sections 1547.30, 4585.31, 4585.32, 4585.33, and 4585.34 be amended; sections 4585.31 (1547.306), 4585.32 (1547.307), 4585.33 (1547.308), and 4585.34 (1547.309) be amended for the purpose of adopting new section numbers as indicated in parentheses; and"

After line 6, insert:

"Sec. 1547.30. (A) As used in this section and sections 1547.301, 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 or 1547.306 of the Revised Code."
"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."

In line 7, delete "process" and insert "processes"

In line 11, after "(1)" insert "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)"
In line 12, after "more" insert "without permission"

In line 13, delete "(2)" and insert "(4)."

In line 16, delete "(2)" and insert "(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)"

In line 25, delete "(3)" and insert "(5)."

In line 28, delete "(4)" and insert "(6)."

In line 35, delete "(5)" and insert "(7)."

In line 36, delete "(2)" and insert "(4)."

In line 45, delete "(2)" and insert "(4)."

In line 50, delete "(2)" and insert "(4)."

In line 55, delete "(2)" and insert "(4)."

In line 64, after "section" insert ";

(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."
In line 65, delete "In order to identify any owner or lienholder, prior to"

Delete lines 66 through 69

In line 70, delete "(C)"

In line 74, delete "(D)" and insert "(C)"

In line 82, delete "(2)" and insert "(4)"

In line 90, delete "(C)" and insert "(B)"

In line 93, delete "(2)" and insert "(4)"

In line 95, delete "(2)" and insert "(4)"

After line 98, insert:

"Sec. 4585.31 1547.306. (A) As used in sections 4585.31 1547.307 to 4585.34 1547.309 of the Revised Code, "owner of any property" or "owner of the property owner" means an owner, lessee, or other person entitled to possession of the property. The owner of any property on which a watercraft (B) In lieu of the processes set forth in sections 1547.30 to 1547.303 of the Revised Code, a property owner may sell a vessel or outboard motor valued at less than public auction and recover the property owner's maintenance or repair charges, including parts and labor charges and dockage or storage charges, if all of the following conditions are met:

(1) The property owner 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 ten thousand dollars or more."
(2) The vessel or outboard motor has been left unclaimed on the property owner's property for six months twenty days or more without permission may sell the watercraft or motor at public auction and recover the owner's maintenance or repair charges, including parts and labor charges and dockage or storage charges, if all of the following conditions are met:

(A) The owner of the property applies for a search of the records of the division of parks and watercraft in the department of natural resources for the name and address of the owner of the watercraft or motor and for a search for any lien or mortgage thereon.

(B) Upon receiving the results of the searches, the owner of the property prior to the provision of notice under division (B)(4) of this section and the property owner 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 (B)(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 property owner sends notice by certified mail, return receipt requested, to:

(1) The last known address of the any owner of the
watercraft or motor, to remove the watercraft or motor;

(2) Any and any lienholder or mortgagee, stating where the watercraft or motor is located and of the vessel or outboard motor. The person shall include all 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;

(c) A statement that informs the recipient of any maintenance or repair charges, including parts and labor charges and dockage or storage charges. Unless

(5) The property owner 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 the lienholder or mortgagee redeems the watercraft does not claim the vessel or outboard motor within forty-five days after the return receipt is received by the sender, the that ten-day period, the lienholder's lien or mortgage is invalid. The lienholder or mortgagee may, to the extent of the lienholder's or mortgagee's previously secured interest, assert a claim for any amount deposited in the county treasury for the watercraft vessel or outboard motor pursuant to section 4585.32 1547.308 of the Revised Code.
(C) The watercraft or motor remains unredeemed by the owner, lienholder, or mortgagee for forty-five days after the return receipts are recovered by the sender.

(D) The owner of the property 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 watercraft or motor and secures written confirmation that the fair market value of the watercraft or motor is less than ten thousand dollars.

(E) The owner of the property advertises that the watercraft vessel or outboard motor will be sold at public auction. The advertisement of sale shall be published once a week for two consecutive weeks in the auction section of a newspaper of general circulation in the county where the watercraft vessel or outboard motor has been left without permission. The advertisement shall include a description of the watercraft vessel or outboard motor, the name of the owner, and the date, time, and place of the sale.

(F) An auction sale is conducted if a property owner satisfies the conditions specified in division (B) of this section, the property owner may conduct an auction sale on the property where the watercraft vessel or outboard motor was left without permission of the owner of the property, at which the highest bidder is the purchaser of the watercraft vessel or outboard motor. The owner of the property shall provide a reasonable period of time prior to the sale for prospective purchasers to examine the watercraft vessel or outboard motor. The owner of the property may bid at the sale.

(G) Immediately after the auction sale, the owner of the
property executes owner shall execute an affidavit in triplicate, on a form prescribed by the secretary of state and provided by the clerk of courts, stating:

(1) That the requirements of this section have been met;

(2) The length of time that the watercraft vessel or outboard motor was left on the owner's property without permission, as of the date of the auction sale;

(3) The expenses incurred by the owner of the property in connection with the watercraft vessel or outboard motor as of the date of the auction sale, including the expenses of conducting the sale and, if the property is operated as a place of storage for charge, any accrued dockage or storage charges and any maintenance or repair charges, including parts and labor charges;

(4) The name and address of the purchaser of the watercraft vessel or outboard motor at the auction sale and the amount of the purchaser's bid.

(H) (E) Upon payment of the bid price by the purchaser, the owner of the property presents the affidavit in triplicate required by division (G) (D) of this section, the written confirmation of value required by division (D) (B) (1) of this section, and the return receipts required by division (B) (B) (6) of this section to the purchaser of the watercraft vessel or outboard motor.

Sec. 4585.32 1547.307. The purchaser of any watercraft vessel or outboard motor at an auction sale held pursuant to section 4585.31 1547.306 of the Revised Code may obtain a certificate of title to the watercraft vessel or outboard motor, free of all liens, mortgages, and other encumbrances, if the purchaser presents the affidavit in triplicate, written confirmation of
value, and return receipts obtained in accordance with division (H) of section 4585.31 1547.306 of the Revised Code to the clerk of courts of the county in which the auction sale was held. The clerk shall issue the certificate of title upon presentation of such documentation and payment of the fee prescribed in section 1548.10 of the Revised Code. The clerk shall retain one copy of the affidavit and shall mail one copy to the county treasurer and one copy to the chief of the division of parks and watercraft in the department of natural resources.

Sec. 4585.33 1547.308. The owner of any watercraft vessel or outboard motor in accordance with section 4585.31 1547.306 of the Revised Code shall pay the money received from the purchaser of the watercraft vessel or outboard motor, less the maintenance or repair charges and dockage or storage charges listed in accordance with division (G)(3) of section 4585.31 1547.306 of the Revised Code, to the county treasurer, who shall deposit the net amount into the county treasury. Such amount shall be paid to the owner of the watercraft vessel or motor or to any lienholder or mortgagee whose lien or mortgage was invalidated pursuant to division (B)(2) of section 4585.31 1547.306 of the Revised Code, if the owner, lienholder, or mortgagee asserts a claim for the amount within one year after it is deposited in the treasury. If the owner, lienholder, or mortgagee does not assert a claim for the amount within one year, the county auditor shall transfer the unclaimed funds, or remainder of the unclaimed funds, to the county general fund.

Sec. 4585.34 1547.309. A purchaser in good faith of any watercraft vessel or outboard motor sold at public auction pursuant to sections 4585.31 1547.306 to 4585.33 1547.308 of the Revised Code obtains the watercraft vessel or outboard motor free
of any rights of the owner or any lienholder or mortgagee, despite noncompliance by the owner of the property with the requirements of sections 4585.31, 4585.32, 4585.33, and 4585.34 of the Revised Code. The owner of the property is liable for damages caused by his failure to comply with sections 4585.31, 4585.32, 4585.33, and 4585.34 of the Revised Code.

Section 2. That existing sections 1547.30, 4585.31, 4585.32, 4585.33, and 4585.34 of the Revised Code are hereby repealed."

The motion was __________ agreed to.