

H.B. 211
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, 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 or 1547.306 of the Revised Code.

(2) "Law enforcement agency" means any organization or unit 20
 comprised of law enforcement officers, as defined in section 21
 2901.01 of the Revised Code. 22

(B)(1) The sheriff of a county, chief of police of a 23
 municipal corporation, township, township police district, or 24
 joint police district, or other chief of a law enforcement agency, 25
 within the sheriff's or chief's respective territorial 26
 jurisdiction, upon complaint of any person adversely affected, may 27
 order into storage any vessel or outboard motor that has been left 28
 on private property, other than a private dock or mooring facility 29
 or structure, for at least seventy-two hours without the 30
 permission of the person having the right to the possession of the 31
 property. The sheriff or chief, upon complaint of the owner of a 32
 marine repair facility or place of storage, may order into storage 33
 any vessel or outboard motor that has been left at the facility or 34
 place of storage for a longer period than that agreed upon. The 35
 place of storage shall be designated by the sheriff or chief. When 36
 ordering a vessel or motor into storage under division (B)(1) of 37
 this section, a sheriff or chief, whenever possible, shall arrange 38
 for the removal of the vessel or motor by a private tow truck 39
 operator or towing company. 40

(2)(a) Except as provided in division (B)(2)(d) of this 41
 section, no person, without the consent of the owner or other 42
 person authorized to give consent, shall moor, anchor, or tie a 43
 vessel or outboard motor at a private dock or mooring facility or 44
 structure owned by another person if the owner has posted, in a 45
 conspicuous manner, a prohibition against the mooring, anchoring, 46
 or tying of vessels or outboard motors at the dock, facility, or 47
 structure by any person not having the consent of the owner or 48
 other person authorized to give consent. 49

(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 79
mechanical or structural malfunction, provided that the person 80
immediately removes the vessel or outboard motor from the dock, 81
facility, or structure when the malfunction is corrected or when a 82
reasonable attempt has been made to correct it; 83

(ii) Weather conditions are creating an imminent threat to 84
safe operation of the vessel or outboard motor, provided that the 85
person immediately removes the vessel or outboard motor from the 86
dock, facility, or structure when the weather conditions permit 87
safe operation of the vessel or outboard motor. 88

(e) A person whose vessel or outboard motor is towed into 89
storage under division (B)(2)(c) of this section either shall pay 90
the costs of the towing of the vessel or outboard motor or shall 91
reimburse the owner of the dock or mooring facility or structure 92
for the costs that the owner incurs in towing the vessel or 93
outboard motor. 94

(3) Subject to division (C) of this section, the owner of a 95
vessel or motor that has been removed under division (B) of this 96
section may recover the vessel or motor only in accordance with 97
division (F) of this section. 98

(C) If the owner or operator of a vessel or outboard motor 99
that has been ordered into storage under division (B) of this 100
section arrives after the vessel or motor has been prepared for 101
removal, but prior to its actual removal from the property, the 102
owner or operator shall be given the opportunity to pay a fee of 103
not more than one-half of the charge for the removal of vessels or 104
motors under division (B) of this section that normally is 105
assessed by the person who has prepared the vessel or motor for 106
removal, in order to obtain release of the vessel or motor. Upon 107
payment of that fee, the vessel or motor shall be released to the 108

owner or operator, and upon its release, the owner or operator 109
 immediately shall move it so that it is not on the private 110
 property without the permission of the person having the right to 111
 possession of the property, or is not at the facility or place of 112
 storage without the permission of the owner, whichever is 113
 applicable. 114

(D) Each county sheriff, each chief of police of a municipal 115
 corporation, township, township police district, or joint police 116
 district, and each other chief of a law enforcement agency shall 117
 maintain a record of vessels or outboard motors that are ordered 118
 into storage under division (B)(1) of this section. The record 119
 shall include an entry for each such vessel or motor that 120
 identifies the vessel's hull identification number or serial 121
 number, if any, the vessel's or motor's make, model, and color, 122
 the location from which it was removed, the date and time of its 123
 removal, the telephone number of the person from whom it may be 124
 recovered, and the address of the place to which it has been taken 125
 and from which it may be recovered. Any information in the record 126
 that pertains to a particular vessel or motor shall be provided to 127
 any person who, pursuant to a statement the person makes either in 128
 person or by telephone, is identified as the owner or operator of 129
 the vessel or motor and requests information pertaining to its 130
 location. 131

(E) Any person who registers a complaint that is the basis of 132
 a sheriff's or chief's order for the removal and storage of a 133
 vessel or outboard motor under division (B)(1) of this section 134
 shall provide the identity of the law enforcement agency with 135
 which the complaint was registered to any person who, pursuant to 136
 a statement the person makes, is identified as the owner or 137
 operator of the vessel or motor and requests information 138
 pertaining to its location. 139

(F)(1) The owner of a vessel or outboard motor that is 140
ordered into storage under division (B) of this section may 141
reclaim it upon payment of any expenses or charges incurred in its 142
removal, in an amount not to exceed two hundred dollars, and 143
storage, in an amount not to exceed five dollars per 144
twenty-four-hour period, and upon presentation of proof of 145
ownership, which may be evidenced by a certificate of title to the 146
vessel or motor, certificate of United States coast guard 147
documentation, or certificate of registration if the vessel or 148
motor is not subject to titling under section 1548.01 of the 149
Revised Code. 150

(2) If a vessel or outboard motor that is ordered into 151
storage under division (B)(1) of this section remains unclaimed by 152
the owner for thirty days, the procedures established by sections 153
1547.301 and 1547.302 of the Revised Code shall apply. 154

(3) If a vessel or outboard motor ordered into storage under 155
division (B)(2) of this section remains unclaimed for seventy-two 156
hours after being stored, the tow truck operator or towing company 157
that removed the vessel or outboard motor shall provide notice of 158
the removal and storage to the sheriff of a county, chief of 159
police of a municipal corporation, township, township police 160
district, or joint police district, or other chief of a law 161
enforcement agency within whose territorial jurisdiction the 162
vessel or outboard motor had been moored, anchored, or tied in 163
violation of division (B)(2) of this section. The notice shall be 164
in writing and include the vessel's hull identification number or 165
serial number, if any, the vessel's or outboard motor's make, 166
model, and color, the location from which it was removed, the date 167
and time of its removal, the telephone number of the person from 168
whom it may be recovered, and the address of the place to which it 169
has been taken and from which it may be recovered. 170

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 " <u>more</u> " insert " <u>without permission</u> "	200
In line 13, delete " <u>(2)</u> " and insert " <u>(4)</u> "	201
In line 16, delete " <u>(2)</u> " and insert " <u>(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:</u>	202
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<u>(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;</u>	206
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<u>(b) The United States coast guard vessel documentation database.</u>	210
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<u>(4)</u> "	212
In line 25, delete " <u>(3)</u> " and insert " <u>(5)</u> "	213
In line 28, delete " <u>(4)</u> " and insert " <u>(6)</u> "	214
In line 35, delete " <u>(5)</u> " and insert " <u>(7)</u> "	215
In line 36, delete " <u>(2)</u> " and insert " <u>(4)</u> "	216
In line 45, delete " <u>(2)</u> " and insert " <u>(4)</u> "	217
In line 50, delete " <u>(2)</u> " and insert " <u>(4)</u> "	218
In line 55, delete " <u>(2)</u> " and insert " <u>(4)</u> "	219
In line 64, after " <u>section</u> " insert " <u>;</u>	220
<u>(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.</u>	221
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In line 65, delete " <u>In order to identify any owner or</u>	227
<u>lienholder, prior to"</u>	228
Delete lines 66 through 69	229
In line 70, delete " <u>(C)</u> "	230
In line 74, delete " <u>(D)</u> " and insert " <u>(C)</u> "	231
In line 82, delete " <u>(2)</u> " and insert " <u>(4)</u> "	232
In line 90, delete " <u>(C)</u> " and insert " <u>(B)</u> "	233
In line 93, delete " <u>(2)</u> " and insert " <u>(4)</u> "	234
In line 95, delete " <u>(2)</u> " and insert " <u>(4)</u> "	235
After line 98, insert:	236
" Sec. 4585.31 <u>1547.306</u> . (A) As used in sections 4585.31	237
<u>1547.307</u> to 4585.34 <u>1547.309</u> of the Revised Code, "owner of any	238
property" or " owner of the property <u>owner</u> " means an owner, lessee,	239
or other person entitled to possession of the property.	240
The owner of any property on which a watercraft (B) <u>In lieu</u>	241
<u>of the processes set forth in sections 1547.30 to 1547.303 of the</u>	242
<u>Revised Code, a property owner may sell a vessel</u> or outboard motor	243
<u>valued at less than public auction and recover the property</u>	244
<u>owner's maintenance or repair charges, including parts and labor</u>	245
<u>charges and dockage or storage charges, if all of the following</u>	246
<u>conditions are met:</u>	247
(1) <u>The property owner requests a watercraft dealer certified</u>	248
<u>in accordance with section 1547.543 of the Revised Code or an</u>	249
<u>independent marine surveyor and appraiser to appraise the vessel</u>	250
<u>or outboard motor and secures written confirmation that the fair</u>	251
<u>market value of the vessel or outboard motor is</u> ten thousand	252
dollars <u>or more.</u>	253

(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: 254
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~~(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.~~ 260
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~~(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.~~ 265
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(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: 270
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(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; 274
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(b) The United States coast guard vessel documentation database. 278
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(4) The property owner sends notice by certified mail, return receipt requested, to: 280
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~~(1) The the last known address of the any owner of the~~ 282

watercraft or motor, to remove the watercraft or motor;	283
(2) Any and any lienholder or mortgagee, stating where the	284
watercraft or motor is located and of the vessel or outboard	285
motor. The person shall include all of the following in the	286
notice:	287
(a) A statement that the vessel or outboard motor must be	288
removed from the property within ten days after receiving the	289
notice;	290
(b) A statement that informs the recipient of the vessel or	291
outboard motor's location;	292
(c) A statement that informs the recipient of any maintenance	293
or repair charges, including parts and labor charges and dockage	294
or storage charges. Unless	295
(5) The property owner either received the signed receipt	296
from the certified mail or was notified that the delivery of the	297
certified mail was not possible.	298
(6) The vessel or outboard motor continues to remain	299
unclaimed for more than ten days after the date that the required	300
notice was received by the owner or lienholder, as evidenced by a	301
signed receipt, or the date that the person was notified that the	302
delivery was not possible. If the lienholder or mortgagee redeems	303
the watercraft does not claim the vessel or outboard motor within	304
forty five days after the return receipt is received by the	305
sender, the that ten-day period, the lienholder's lien or mortgage	306
is invalid. The lienholder or mortgagee may, to the extent of the	307
lienholder's or mortgagee's previously secured interest, assert a	308
claim for any amount deposited in the county treasury for the	309
watercraft vessel or outboard motor pursuant to section 4585.33	310
1547.308 of the Revised Code.	311

~~(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.~~ 312
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~~(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.~~ 315
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~~(E)(7) The owner of the property owner advertises that the watercraft vessel or outboard motor will be sold at public auction. The advertisement of sale property owner shall be published publish the advertisement of sale 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 property owner shall include in the advertisement a description of the watercraft vessel or outboard motor, the name of the owner, and the date, time, and place of the sale.~~ 321
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~~(F) An auction sale is conducted (C) 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 owner 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 owner may bid at the sale.~~ 331
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~~(G)(D) Immediately after the auction sale, the owner of the~~ 341

property ~~executes~~ owner shall execute an affidavit in triplicate, 342
 on a form prescribed by the secretary of state and provided by the 343
 clerk of courts, stating: 344

(1) That the requirements of this section have been met; 345

(2) The length of time that the ~~watercraft vessel~~ or outboard 346
 motor was left on the owner's property without permission, as of 347
 the date of the auction sale; 348

(3) The expenses incurred by the ~~owner of the property~~ owner 349
 in connection with the ~~watercraft vessel~~ or outboard motor as of 350
 the date of the auction sale, including the expenses of conducting 351
 the sale and, if the property is operated as a place of storage 352
 for charge, any accrued dockage or storage charges and any 353
 maintenance or repair charges, including parts and labor charges; 354

(4) The name and address of the purchaser of the ~~watercraft~~ 355
~~vessel~~ or outboard motor at the auction sale and the amount of the 356
 purchaser's bid. 357

~~(H)(E)~~ Upon payment of the bid price by the purchaser, the 358
~~owner of the property presents~~ owner shall present the affidavit 359
 in triplicate required by division ~~(G)(D)~~ of this section, the 360
 written confirmation of value required by division ~~(D)(B)(1)~~ of 361
 this section, and the return receipts required by division ~~(B)~~ 362
~~(B)(6)~~ of this section to the purchaser of the ~~watercraft vessel~~ 363
 or outboard motor. 364

Sec. ~~4585.32~~ 1547.307. The purchaser of any ~~watercraft vessel~~ 365
 or outboard motor at an auction sale held pursuant to section 366
~~4585.31~~ 1547.306 of the Revised Code may obtain a certificate of 367
 title to the ~~watercraft vessel~~ or outboard motor, free of all 368
 liens, mortgages, and other encumbrances, if the purchaser 369
 presents the affidavit in triplicate, written confirmation of 370

value, and return receipts obtained in accordance with division 371
 (H) of section ~~4585.31~~ 1547.306 of the Revised Code to the clerk 372
 of courts of the county in which the auction sale was held. The 373
 clerk shall issue the certificate of title upon presentation of 374
 such documentation and payment of the fee prescribed in section 375
 1548.10 of the Revised Code. The clerk shall retain one copy of 376
 the affidavit and shall mail one copy to the county treasurer and 377
 one copy to the chief of the division of parks and watercraft in 378
 the department of natural resources. 379

Sec. ~~4585.33~~ 1547.308. ~~The owner of any~~ A property owner who 380
 sells a ~~watercraft~~ vessel or outboard motor in accordance with 381
 section ~~4585.31~~ 1547.306 of the Revised Code shall pay the money 382
 received from the purchaser of the ~~watercraft~~ vessel or outboard 383
 motor, less the maintenance or repair charges and dockage or 384
 storage charges listed in accordance with division (G)(3) of 385
 section ~~4585.31~~ 1547.306 of the Revised Code, to the county 386
 treasurer, who shall deposit the net amount into the county 387
 treasury. Such amount shall be paid to the owner of the ~~watercraft~~ 388
~~vessel~~ or motor or to any lienholder ~~or mortgagee~~ whose lien ~~or~~ 389
~~mortgage~~ was invalidated pursuant to division (B)(2) of section 390
~~4585.31~~ 1547.306 of the Revised Code, if the owner, or lienholder, 391
~~or mortgagee~~ asserts a claim for the amount within one year after 392
 it is deposited in the treasury. If the owner, or lienholder, ~~or~~ 393
~~mortgagee~~ does not assert a claim for the amount within one year, 394
 the county auditor shall transfer the unclaimed funds, or 395
 remainder of the unclaimed funds, to the county general fund. 396

Sec. ~~4585.34~~ 1547.309. A purchaser in good faith of any 397
~~watercraft~~ vessel or outboard motor sold at public auction 398
 pursuant to sections ~~4585.31~~ 1547.306 to ~~4585.33~~ 1547.308 of the 399
 Revised Code obtains the ~~watercraft~~ vessel or outboard motor free 400

of any rights of the owner or any lienholder ~~or mortgagee~~, despite 401
 noncompliance by the ~~owner of the property~~ owner with the 402
 requirements of sections ~~4585.31~~ 1547.306 to ~~4585.33~~ 1547.308 of 403
 the Revised Code. The ~~owner of the property~~ owner is liable for 404
 damages caused by ~~his~~ the owner's failure to comply with sections 405
~~4585.31~~ 1547.306 to ~~4585.33~~ 1547.308 of the Revised Code. 406

Section 2. That existing sections 1547.30, 4585.31, 4585.32, 407
 4585.33, and 4585.34 of the Revised Code are hereby repealed." 408

The motion was _____ agreed to.