As Reported by the House Transportation and Public Safety Committee

133rd General Assembly Regular Session 2019-2020

Sub. H. B. No. 211

**Representative Arndt** 

Cosponsors: Representatives Becker, Miller, J., Seitz, Schaffer, Green, Hoops, Jones

# A BILL

To amend sections 1547.30, 4585.31, 4585.32,	1
4585.33, and 4585.34; to amend, for the purpose	2
of adopting new section numbers as indicated in	3
parentheses, sections 4585.31 (1547.306),	4
4585.32 (1547.307), 4585.33 (1547.308), and	5
4585.34 (1547.309); and to enact sections	6
1547.305 and 1547.58 of the Revised Code to	7
alter the process by which a person may obtain	8
title to a watercraft vessel or outboard motor	9
that has been left on the person's property.	10

## BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1547.30, 4585.31, 4585.32,	11
4585.33, and 4585.34 be amended; sections 4585.31 (1547.306),	12
4585.32 (1547.307), 4585.33 (1547.308), and 4585.34 (1547.309)	13
be amended for the purpose of adopting new section numbers as	14
indicated in parentheses; and sections 1547.305 and 1547.58 of	15
the Revised Code be enacted to read as follows:	16

 Sec. 1547.30. (A) As used in this section and sections
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 1547.301, and 1547.302, and 1547.304 of the Revised Code:
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(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 <u>watercraft\_vessel</u> or outboard motor under section <u>4585.31</u><u>1547.305 or 1547.306</u>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 26 municipal corporation, township, township police district, or 27 joint police district, or other chief of a law enforcement 28 agency, within the sheriff's or chief's respective territorial 29 jurisdiction, upon complaint of any person adversely affected, 30 may order into storage any vessel or outboard motor that has 31 been left on private property, other than a private dock or 32 mooring facility or structure, for at least seventy-two hours 33 without the permission of the person having the right to the 34 possession of the property. The sheriff or chief, upon complaint 35 of the owner of a marine repair facility or place of storage, 36 may order into storage any vessel or outboard motor that has 37 been left at the facility or place of storage for a longer 38 period than that agreed upon. The place of storage shall be 39 designated by the sheriff or chief. When ordering a vessel or 40 motor into storage under division (B)(1) of this section, a 41 sheriff or chief, whenever possible, shall arrange for the 42 removal of the vessel or motor by a private tow truck operator 43 or towing company. 44

(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
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or structure owned by another person if the owner has posted, in 49 a conspicuous manner, a prohibition against the mooring, 50 anchoring, or tying of vessels or outboard motors at the dock, 51 facility, or structure by any person not having the consent of 52 the owner or other person authorized to give consent. 53

(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 63 structure may order towed into storage any vessel or outboard 64 motor found moored, anchored, or tied in violation of division 65 (B) (2) (a) or (b) of this section, provided that the owner of the 66 dock, facility, or structure posts on it a sign that states that 67 the dock, facility, or structure is private, is visible from all 68 entrances to the dock, facility, or structure, and contains all 69 of the following information: 70

(i) The information specified in division (B)(2)(a) or (b)of this section, as applicable;72

(ii) A notice that violators will be towed and thatviolators are responsible for paying the cost of the towing;74

(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
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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 83 mechanical or structural malfunction, provided that the person 84 immediately removes the vessel or outboard motor from the dock, 85 facility, or structure when the malfunction is corrected or when 86 a reasonable attempt has been made to correct it; 87

(ii) Weather conditions are creating an imminent threat to 88 safe operation of the vessel or outboard motor, provided that 89 the person immediately removes the vessel or outboard motor from 90 the dock, facility, or structure when the weather conditions 91 permit safe operation of the vessel or outboard motor. 92

(e) A person whose vessel or outboard motor is towed into 93 storage under division (B)(2)(c) of this section either shall 94 pay the costs of the towing of the vessel or outboard motor or 95 shall reimburse the owner of the dock or mooring facility or 96 structure for the costs that the owner incurs in towing the 97 vessel or outboard motor. 98

(3) Subject to division (C) of this section, the owner of 99 a vessel or motor that has been removed under division (B) of 100 this section may recover the vessel or motor only in accordance 101 with division (F) of this section. 102

(C) If the owner or operator of a vessel or outboard motor 103 that has been ordered into storage under division (B) of this 104 section arrives after the vessel or motor has been prepared for 105 removal, but prior to its actual removal from the property, the 106

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owner or operator shall be given the opportunity to pay a fee of 107 not more than one-half of the charge for the removal of vessels 108 or motors under division (B) of this section that normally is 109 assessed by the person who has prepared the vessel or motor for 110 removal, in order to obtain release of the vessel or motor. Upon 111 payment of that fee, the vessel or motor shall be released to 112 113 the owner or operator, and upon its release, the owner or operator immediately shall move it so that it is not on the 114 private property without the permission of the person having the 115 right to possession of the property, or is not at the facility 116 or place of storage without the permission of the owner, 117 whichever is applicable. 118

(D) Each county sheriff, each chief of police of a 119 municipal corporation, township, township police district, or 120 joint police district, and each other chief of a law enforcement 121 agency shall maintain a record of vessels or outboard motors 122 that are ordered into storage under division (B)(1) of this 123 section. The record shall include an entry for each such vessel 124 or motor that identifies the vessel's hull identification number 125 or serial number, if any, the vessel's or motor's make, model, 126 and color, the location from which it was removed, the date and 127 time of its removal, the telephone number of the person from 128 whom it may be recovered, and the address of the place to which 129 it has been taken and from which it may be recovered. Any 130 information in the record that pertains to a particular vessel 131 or motor shall be provided to any person who, pursuant to a 132 statement the person makes either in person or by telephone, is 133 identified as the owner or operator of the vessel or motor and 134 requests information pertaining to its location. 135

(E) Any person who registers a complaint that is the basisof a sheriff's or chief's order for the removal and storage of a137

vessel or outboard motor under division (B)(1) of this section 138
shall provide the identity of the law enforcement agency with 139
which the complaint was registered to any person who, pursuant 140
to a statement the person makes, is identified as the owner or 141
operator of the vessel or motor and requests information 142
pertaining to its location. 143

(F)(1) The owner of a vessel or outboard motor that is 144 ordered into storage under division (B) of this section may 145 reclaim it upon payment of any expenses or charges incurred in 146 its removal, in an amount not to exceed two hundred dollars, and 147 storage, in an amount not to exceed five dollars per twenty-148 four-hour period, and upon presentation of proof of ownership, 149 which may be evidenced by a certificate of title to the vessel 150 or motor, certificate of United States coast guard 151 documentation, or certificate of registration if the vessel or 152 motor is not subject to titling under section 1548.01 of the 153 Revised Code. 154

(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
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sections 1547.301 and 1547.302 of the Revised Code shall apply.
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(3) If a vessel or outboard motor ordered into storage 159 under division (B)(2) of this section remains unclaimed for 160 seventy-two hours after being stored, the tow truck operator or 161 towing company that removed the vessel or outboard motor shall 162 provide notice of the removal and storage to the sheriff of a 163 county, chief of police of a municipal corporation, township, 164 township police district, or joint police district, or other 165 chief of a law enforcement agency within whose territorial 166 jurisdiction the vessel or outboard motor had been moored, 167

anchored, or tied in violation of division (B)(2) of this 168 section. The notice shall be in writing and include the vessel's 169 hull identification number or serial number, if any, the 170 vessel's or outboard motor's make, model, and color, the 171 location from which it was removed, the date and time of its 172 removal, the telephone number of the person from whom it may be 173 recovered, and the address of the place to which it has been 174 taken and from which it may be recovered. 175 Upon receipt of the notice, the sheriff or chief 176

immediately shall cause a search to be made of the records of 177 the division of parks and watercraft to ascertain the owner and 178 any lienholder of the vessel or outboard motor, and, if known, 179 shall send notice to the owner and lienholder, if any, at the 180 owner's and lienholder's last known address by certified mail, 181 return receipt requested, that the vessel or outboard motor will 182 be declared a nuisance and disposed of if not claimed not later 183 than thirty days after the date of the mailing of the notice. 184

If the owner or lienholder makes no claim to the vessel or 185 outboard motor within thirty days of the date of the mailing of 186 the notice, the sheriff or chief shall file with the clerk of 187 courts of the county in which the place of storage is located an 188 affidavit showing compliance with the requirements of division 189 (F)(3) of this section, and the vessel or outboard motor shall 190 be disposed of in accordance with section 1547.302 of the 191 Revised Code. 192

(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 197

sections 1547.30 to 1547.303 of the Revised Code, a person may 198 obtain a certificate of title to a vessel or outboard motor of 199 another if all of the following apply: 200 (1) The person requests a watercraft dealer certified in 201 accordance with section 1547.543 of the Revised Code or an 202 independent marine surveyor and appraiser to appraise the vessel 203 or outboard motor and secures written confirmation that the fair 204 market value of the vessel or outboard motor is less than ten 205 thousand dollars. 206 (2) The vessel or outboard motor has been left unclaimed 207 on the person's property for twenty days or more without 208 permission prior to the provision of notice under division (A) 209 (4) of this section and the person does not have a valid storage 210 or repair contract with the owner or lienholder of the vessel or 211 outboard motor. 212 213 (3) Prior to sending a notice under division (A) (4) of this section, the person causes a search to be made of the 214 records of both of the following to identify any owner or 215 lienholder of the vessel or outboard motor: 216 217 (a) The division of parks and watercraft in the department of natural resources or, if it is known or should be known that 218 the vessel was last registered in another state, that state's 219 database in which vessel records are kept; 220 (b) The United States coast guard vessel documentation 221 222 database. (4) The person sends notice by certified mail, return 223 receipt requested, to the last known address of any owner and 224 any lienholder of the vessel or outboard motor. The person shall 225

include both of the following in the notice: 226

(a) A statement that the vessel or outboard motor must be	227
removed from the property within ten days after receiving the	228
notice;	229
(b) The statement that informs the maximization of the second	220
(b) A statement that informs the recipient of the vessel	230
or outboard motor's location.	231
(5) The person either received the signed receipt from the	232
certified mail or was notified that the delivery of the	233
certified mail was not possible.	234
(6) The vessel or outboard motor continues to remain	235
unclaimed for more than ten days after the date that the	236
required notice was received by the owner or lienholder, as	237
evidenced by a signed receipt, or the date that the person was	238
notified that the delivery was not possible. If a lienholder	239
does not claim the vessel or outboard motor within that ten-day	240
period, the lienholder's lien is invalid.	241
(7) The person that mailed the notice under division (A)	242
(4) of this section executes an affidavit, in a form established	243
by the director of natural resources by rule adopted under	244
Chapter 119. of the Revised Code, affirming that all of the	245
requirements of this section necessary to authorize the issuance	246
of a certificate of title for the vessel or outboard motor have	247
been met. The person shall include all of the following in the	248
affidavit:	249
(a) A statement of the length of time that the vessel or	250
outboard motor remained unclaimed prior to sending the notice	251
under division (A)(4) of this section;	252
(b) A statement that the person does not have a valid	253
storage or repair contract with the owner or lienholder of the	254
vessel or outboard motor;	255

(c) A statement that, prior to sending a notice under	256
division (A)(4) of this section, a search of the records of the	257
department of natural resources was made to identify any owner	258
or lienholder of the vessel or outboard motor;	259
(d) A statement that the notice to remove the vessel or	260
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<u>of this section;</u>	263
(e) A statement that the vessel or outboard motor remains	264
unclaimed for more than ten days after the date that the	265
required notice was received by the owner or lienholder, as	266
evidenced by a signed receipt, or the date that the person was	267
notified that the delivery was not possible;	268
(f) A statement that the wardel an authorized mater memoine	269
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<u>(C) of this section;</u>	271
(g) A statement that the vessel or outboard motor's fair	272
market value is less than ten thousand dollars after appraisal	273
by a watercraft dealer certified in accordance with section	274
1547.543 of the Revised Code or an independent marine surveyor	275
and appraiser. The person shall include with the affidavit the	276
written confirmation secured under division (A)(1) of this	277
section.	278
(B) The clerk of courts shall issue a certificate of	279
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requirements of division (A) of this section.	282
(C)(1) A person that owns property where a vessel or	283
outboard motor has been left unclaimed may bring a civil action	284

in a court of common pleas or other court of competent	285
jurisdiction against the owner of the vessel or outboard motor_	286
to recover the costs of storing or removing the vessel or	287
outboard motor if both of the following apply:	288
(a) The vessel or outboard motor has been left unclaimed	289
on the person's property for twenty days or more prior to the	290
provision of notice under division (A)(4) of this section.	291
(b) The person does not have a valid storage or repair	292
contract with the owner of the vessel or outboard motor.	293
(2) A person that owns property where a vessel or outboard	294
motor has been left unclaimed may have the vessel or outboard	295
motor impounded until the costs of storing the vessel or	296
outboard motor have been paid or until the clerk of courts	297
issues the property owner a certificate of title under division	298
(B) of this section if all of the following apply:	299
(a) The vessel or outboard motor has been left unclaimed	300
on the person's property for twenty days or more prior to the	301
provision of notice under division (A) (4) of this section.	302
provision of notice under division (A) (4) of this section.	302
(b) The property owner sends notice in accordance with	303
division (A)(4) of this section to any owner and any lienholder	304
of the vessel or outboard motor.	305
(c) The person does not have a valid storage or repair	306
contract with the owner of the vessel or outboard motor.	307
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Sec. 4585.31 1547.306. (A) As used in sections 4585.31	308
<u>1547.307</u> to <u>4585.34</u> <u>1547.309</u> of the Revised Code, "owner of any	309
property" or " <del>owner of the p</del> roperty <u>owner</u> " means an owner,	310
lessee, or other person entitled to possession of the property.	311
The owner of any property on which a watercraft (B) In	312

lieu of the processes set forth in sections 1547.30 to 1547.303	313
of the Revised Code, a property owner may sell a vessel or	314
outboard motor <del>valued</del> at <del>less than <u>public</u> auction and recover</del>	315
the property owner's maintenance or repair charges, including	316
parts and labor charges and dockage or storage charges, if all	317
of the following conditions are met:	318
(1) The property owner requests a watercraft dealer	319
certified in accordance with section 1547.543 of the Revised	320
Code or an independent marine surveyor and appraiser to appraise	321
the vessel or outboard motor and secures written confirmation	322
that the fair market value of the vessel or outboard motor is	323
ten thousand dollars <u>or more.</u>	324
(2) The vessel or outboard motor has been left unclaimed	325
<u>on the property owner's property for six months twenty days or</u>	326
more without permission may sell the watercraft or motor at	327
public auction and recover the owner's maintenance or repair	328
charges, including parts and labor charges and dockage or	329
storage charges, if all of the following conditions are met:	330
(A) The owner of the property applies for a search of the	331
records of the division of parks and watercraft in the	332
department of natural resources for the name and address of the	333
owner of the watercraft or motor and for a search for any lien-	334
or mortgage thereon.	335
(B) Upon receiving the results of the searches, the owner-	336
of the property prior to the provision of notice under division	337
(B)(4) of this section and the property owner does not have a	338
valid storage or repair contract with the owner or lienholder of	339
the vessel or outboard motor.	340
(3) Prior to sending a notice under division (B)(4) of	341

this section, the person causes a search to be made of the	342
records of both of the following to identify any owner or	343
lienholder of the vessel or outboard motor:	344
riemonder of the vebber of outboard motor.	511
(a) The division of parks and watercraft in the department	345
of natural resources or, if it is known or should be known that	346
the vessel was last registered in another state, that state's	347
database in which vessel records are kept;	348
(b) The United States coast guard vessel documentation	349
database.	350
(4) The property owner sends notice by certified mail,	351
return receipt requested, to:-	352
<del>(1) The</del> <u>the</u> last known address of <del>the <u>any</u> owner <del>of the</del></del>	353
watercraft or motor, to remove the watercraft or motor;	354
(2) Any and any lienholder or mortgagee, stating where the	355
watercraft or motor is located and of the vessel or outboard	356
motor. The person shall include all of the following in the	357
notice:	358
(a) A statement that the vessel or outboard motor must be	359
removed from the property within ten days after receiving the	360
notice;	361
(b) A statement that informs the recipient of the vessel	362
or outboard motor's location;	363
(c) A statement that informs the recipient of any	364
maintenance or repair charges, including parts and labor charges	365
and dockage or storage charges. <del>Unless</del>	366
(5) The property owner either received the signed receipt	367
from the certified mail or was notified that the delivery of the	368
certified mail was not possible.	369

(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 375 outboard\_motor within forty-five days after the return receipt 376 is received by the sender, the that ten-day period, the 377 lienholder's lien <del>or mortgage</del> is invalid. The lienholder <del>or</del> 378 mortgagee may, to the extent of the lienholder's or mortgagee's 379 previously secured interest, assert a claim for any amount 380 deposited in the county treasury for the watercraft vessel or 381 outboard motor pursuant to section 4585.33 1547.308 of the 382 Revised Code. 383

(C) The watercraft or motor remains unredeemed by the384owner, lienholder, or mortgagee for forty five days after the385return receipts are recovered by the sender.386

(D) The owner of the property requests a watercraft dealer387certified in accordance with section 1547.543 of the Revised388Code or an independent marine surveyor and appraiser to appraise389the watercraft or motor and secures written confirmation that390the fair market value of the watercraft or motor is less than391ten thousand dollars.392

(E) (7) The owner of the property owner advertises that393the watercraft vessel or outboard motor will be sold at public394auction. The advertisement of sale property owner shall be395published publish the advertisement of sale once a week for two396consecutive weeks in the auction section of a newspaper of397general circulation in the county where the watercraft vessel or398outboard motor has been left without permission. The399

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advertisement property owner shall include in the advertisement 400 a description of the watercraft vessel or outboard motor, the 401 name of the owner, and the date, time, and place of the sale. 402 (F) An auction sale is conducted (C) If a property owner 403 satisfies the conditions specified in division (B) of this 404 section, the property owner may conduct an auction sale on the 405 property where the watercraft vessel or outboard motor was left 406 without permission of the owner of the property, at which the 407 highest bidder is the purchaser of the watercraft vessel or 408 outboard motor. The owner of the property owner shall provide a 409 reasonable period of time prior to the sale for prospective 410 purchasers to examine the watercraft vessel or outboard motor. 411 The owner of the property owner may bid at the sale. 412 (G) (D) Immediately after the auction sale, the owner of 413 the property executes owner shall execute an affidavit in 414 triplicate, on a form prescribed by the secretary of state and 415 provided by the clerk of courts, stating: 416 (1) That the requirements of this section have been met; 417 (2) The length of time that the watercraft vessel or 418 419 outboard motor was left on the owner's property without permission, as of the date of the auction sale; 420

(3) The expenses incurred by the owner of the property421owner in connection with the watercraft vessel or outboard motor422as of the date of the auction sale, including the expenses of423conducting the sale and, if the property is operated as a place424of storage for charge, any accrued dockage or storage charges425and any maintenance or repair charges, including parts and labor426charges;427

(4) The name and address of the purchaser of the

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watercraft-vessel\_or outboard\_motor at the auction sale and the 429 amount of the purchaser's bid. 430 (H) (E) Upon payment of the bid price by the purchaser, 431 the owner of the property presents owner shall present the 432 affidavit in triplicate required by division  $\frac{(G)}{(D)}$  of this 433 section, the written confirmation of value required by division 434 (D) (B) (1) of this section, and the return receipts required by 435 division (B) (6) of this section to the purchaser of the 436 watercraft vessel or outboard motor. 437 Sec. 4585.32 1547.307. The purchaser of any watercraft 438 vessel or outboard motor at an auction sale held pursuant to 439 section 4585.31 1547.306 of the Revised Code may obtain a 440 certificate of title to the watercraftvessel or outboard motor, 441 free of all liens, mortgages, and other encumbrances, if the 442 purchaser presents the affidavit in triplicate, written 443 confirmation of value, and return receipts obtained in 444 accordance with division (H) of section 4585.31-1547.306 of the 445 Revised Code to the clerk of courts of the county in which the 446 auction sale was held. The clerk shall issue the certificate of 447 title upon presentation of such documentation and payment of the 448 fee prescribed in section 1548.10 of the Revised Code. The clerk 449 shall retain one copy of the affidavit and shall mail one copy 450 to the county treasurer and one copy to the chief of the 451 division of parks and watercraft in the department of natural 452 resources. 453 Sec. 4585.33 1547.308. The owner of any A property owner 454 who sells a watercraftvessel or outboard motor in accordance 455 with section 4585.31 1547.306 of the Revised Code shall pay the 456

money received from the purchaser of the watercraftvessel or

outboard motor, less the maintenance or repair charges and

dockage or storage charges listed in accordance with division 459 (G)(3) of section 4585.31-1547.306 of the Revised Code, to the 460 county treasurer, who shall deposit the net amount into the 461 county treasury. Such amount shall be paid to the owner of the 462 watercraftvessel or motor or to any lienholder or mortgagee-463 464 whose lien or mortgage was invalidated pursuant to division (B) (2) of section 4585.31-1547.306 of the Revised Code, if the 465 466 owner<u>, or</u> lienholder, or mortgagee asserts a claim for the amount within one year after it is deposited in the treasury. If 467 the owner, or lienholder, or mortgagee does not assert a claim 468 for the amount within one year, the county auditor shall 469 transfer the unclaimed funds, or remainder of the unclaimed 470 funds, to the county general fund. 471

Sec. 4585.34 1547.309. A purchaser in good faith of any 472 watercraftvessel or outboard motor sold at public auction 473 pursuant to sections 4585.31-1547.306 to 4585.33-1547.308 of the 474 Revised Code obtains the watercraftvessel or <u>outboard</u> motor free 475 of any rights of the owner or any lienholder or mortgagee, 476 despite noncompliance by the owner of the property owner with 477 the requirements of sections <u>4585.31</u><u>1547.306</u>to <u>4585.33</u> 478 1547.308 of the Revised Code. The owner of the property owner is 479 liable for damages caused by his the owner's failure to comply 480 with sections 4585.31-1547.306 to 4585.33-1547.308 of the 481 Revised Code. 482

Sec. 1547.58. When the chief of the division of parks and483watercraft issues a registration certificate under section4841547.54 of the Revised Code, the chief also shall provide to the485owner of the registered watercraft a disclosure statement486regarding the requirements and procedures established under487section 1547.305 of the Revised Code.488

The disclosure statement shall inform the owner that if	489
the watercraft is left on private property of another without a	490
valid service, repair, or storage contract, the watercraft may	491
be rendered abandoned and subject to the process set forth in	492
section 1547.305 of the Revised Code.	493
Section 2. That existing sections 1547.30, 4585.31,	494
4585.32, 4585.33, and 4585.34 of the Revised Code are hereby	495
repealed.	496