# 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

То	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:

<b>Section 1.</b> 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
Cor 1547 20 (7) To wood in this costion and costions	17
Sec. 1547.30. (A) As used in this section and sections	1 /
1547.301, and 1547.302, and 1547.304 of the Revised Code:	18

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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 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 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

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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 75 vessel or outboard motor may be recovered, and the address of 76 the place to which the vessel or outboard motor will be taken 77

and the place from which it may be recovered.	78
(d) Divisions (B)(2)(a) and (b) of this section do not	79
prohibit a person from mooring, anchoring, or tying a vessel or	80
outboard motor at a private dock or mooring facility or	81
structure if either of the following applies:	82
(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

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 basis 136 of a sheriff's or chief's order for the removal and storage of a 137

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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 sections 1547.301 and 1547.302 of the Revised Code shall apply.
- (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 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

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(a) A statement that the vessel or outboard motor must be	227
removed from the property within ten days after receiving the	228
<pre>notice;</pre>	229
(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
<u>attituavie.</u>	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
outboard motor was mailed to any owner and any lienholder by	261
certified mail, return receipt requested, under division (A) (4)	262
of this section;	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 vessel or outboard motor remains	269
unclaimed at the time the affidavit is presented under division	270
(C) of this section;	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
title, free and clear of all liens and encumbrances, to a person	280
that presents an affidavit that complies with all of the	281
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

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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 </del> public auction and recover	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
on the property owner's property for six months twenty days or	326
<u>more</u> without permission <del>may sell the watercraft or motor at</del>	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

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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
(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
(1) The the last known address of the any owner of the	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
<pre>notice:</pre>	358
(a) A statement that the vessel or outboard motor must be	359
removed from the property within ten days after receiving the	360
<pre>notice;</pre>	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	370
unclaimed for more than ten days after the date that the	371
required notice was received by the owner or lienholder, as	372
evidenced by a signed receipt, or the date that the person was	373
notified that the delivery was not possible. If the lienholder	374
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
<u>lienholder's</u> 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 the	384
owner, lienholder, or mortgagee for forty five days after the	385
return receipts are recovered by the sender.	386
recurred recovered by the sender.	300
(D) The owner of the property requests a watercraft dealer	387
certified in accordance with section 1547.543 of the Revised	388
Code or an independent marine surveyor and appraiser to appraise	389
the watercraft or motor and secures written confirmation that	390
the fair market value of the watercraft or motor is less than	391
ten thousand dollars.	392
(E) (7) The owner of the property owner advertises that	393
the <u>watercraft vessel</u> or <u>outboard</u> motor will be sold at public	394
auction. The advertisement of sale property owner shall be-	395
published publish the advertisement of sale once a week for two	396
consecutive weeks in the auction section of a newspaper of	397
general circulation in the county where the watercraft vessel or	398
outboard motor has been left without permission. The	399
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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
$\frac{(G)-(D)}{(D)}$ 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
<pre>outboard motor was left on the owner's property without</pre>	419
permission, as of the date of the auction sale;	420
(3) The expenses incurred by the <del>owner of the</del> property	421
<pre>owner in connection with the watercraft vessel or outboard motor</pre>	422
as of the date of the auction sale, including the expenses of	423
conducting the sale and, if the property is operated as a place	424
of storage for charge, any accrued dockage or storage charges	425
and any maintenance or repair charges, including parts and labor	426
charges;	427
(4) The name and address of the purchaser of the	428

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
whose lien <del>or mortgage</del> was invalidated pursuant to division (B)	464
(2) of section $\frac{4585.31}{1547.306}$ of the Revised Code, if the	465
owner $_{7}$ or lienholder, or mortgagee asserts a claim for the	466
amount within one year after it is deposited in the treasury. If	467
the owner $_{\overline{ au}}$ or lienholder $_{\overline{ au}}$ 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 <u>1547.306</u> to 4585.33 <u>1547.308</u> of the	474
Revised Code obtains the watercraftvessel or outboard 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 <u>4585.31</u> _ <u>1547.306</u> to <u>4585.33</u> _ <u>1547.308</u> of the	481
Revised Code.	482
Sec. 1547.58. When the chief of the division of parks and	483
watercraft issues a registration certificate under section	484
1547.54 of the Revised Code, the chief also shall provide to the	485
owner of the registered watercraft a disclosure statement	486
regarding the requirements and procedures established under	487
section 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