

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 1484

4
5 By: Representative D. Altes
6

For An Act To Be Entitled

8 AN ACT TO REVISE AND SIMPLIFY THE MINIMUM LIABILITY
9 INSURANCE LAW RELATED TO MOTOR VEHICLES; TO ENSURE
10 THAT THE PUBLIC IS ADEQUATELY PROTECTED BY ALLOWING
11 LAW ENFORCEMENT TO IMPOUND A MOTOR VEHICLE FOR A
12 VIOLATION OF THE MOTOR VEHICLE SAFETY RESPONSIBILITY
13 ACT, § 27-19-101 ET SEQ., AND § 27-22-104; TO AMEND
14 THE LAW RELATED TO THE REMOVAL OF UNATTENDED OR
15 ABANDONED VEHICLES; AND FOR OTHER PURPOSES.
16

Subtitle

17
18 TO REVISE AND SIMPLIFY THE MINIMUM
19 LIABILITY INSURANCE LAW FOR MOTOR
20 VEHICLES AND THE LAW RELATED TO THE
21 REMOVAL OF UNATTENDED AND ABANDONED
22 VEHICLES.
23
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 27-22-104 is amended to read as follows:
29 27-22-104. Insurance required – Minimum coverage.

30 (a)(1) It ~~shall be~~ is unlawful for ~~any~~ a person to operate a motor
31 vehicle within this state ~~unless~~ if both the motor vehicle and the person's
32 operation of the motor vehicle are not covered by:

33 (A) a A certificate of self-insurance under ~~the provisions~~
34 ~~of~~ § 27-19-107; or

35 (B) ~~an~~ An insurance policy issued by an insurance company
36 authorized to do business in this state.



1 (2) Failure to present proof of insurance coverage at the time
 2 of arrest or a failure of the Vehicle Insurance Database or proof of an
 3 insurance card issued under § 23-89-213 to show current insurance coverage at
 4 the time of the traffic stop creates a rebuttable presumption that the motor
 5 vehicle or the person's operation of the motor vehicle is uninsured.

6 (b) The policy shall provide ~~as~~ at a minimum the following coverage:

7 (1) Not less than twenty-five thousand dollars (\$25,000) for
 8 bodily injury or death of one (1) person in any one (1) accident;

9 (2) Not less than fifty thousand dollars (\$50,000) for bodily
 10 injury or death of two (2) or more persons in any one (1) accident; and

11 (3) If the accident ~~has resulted~~ results in injury to or
 12 destruction of property, not less than twenty-five thousand dollars (\$25,000)
 13 for the injury to or destruction of property of others in any one (1)
 14 accident.

15 ~~(c)(1)(A) If the operator of the motor vehicle is unable to present~~
 16 ~~proof of insurance coverage as required in subsection (a) of this section~~
 17 ~~when requested by a law enforcement officer or if a check of the Vehicle~~
 18 ~~Insurance Database at the time of the traffic stop fails to show current~~
 19 ~~insurance coverage, the operator shall be issued, in addition to any traffic~~
 20 ~~citation issued for a violation of this section, a notice of noncompliance~~
 21 ~~with the provisions of this section on a form to be provided to the~~
 22 ~~Department of Finance and Administration.~~

23 ~~(B)(i)(a) If the operator of the motor vehicle proves that~~
 24 ~~the liability coverage required by §§ 27-22-101—27-22-104 was in effect at~~
 25 ~~the time of the traffic stop, then the failure to present proof of insurance~~
 26 ~~at the time of the traffic stop when requested by a law enforcement officer~~
 27 ~~shall be punished by a fine of twenty five dollars (\$25.00). No court costs~~
 28 ~~under § 16-10-305 or other costs or fees shall be assessed under this~~
 29 ~~subdivision (c)(1)(B)(i)(a).~~

30 ~~(b)(1) Eighty percent (80%) of the fines~~
 31 ~~collected under this subdivision (c)(1)(B)(i) shall be paid to the Treasurer~~
 32 ~~of State for the benefit of the Arkansas Citizens First Responder Safety~~
 33 ~~Enhancement Fund.~~

34 ~~(2) Twenty percent (20%) of the fines~~
 35 ~~collected under this subdivision (c)(1)(B)(i) shall be retained by the court~~
 36 ~~that tries the offense.~~

1 (ii) ~~If the operator of the motor vehicle is unable~~
2 ~~to prove that the liability coverage required by §§ 27-22-101—27-22-104 was~~
3 ~~in effect at the time of the traffic stop, then the failure to present proof~~
4 ~~of insurance at the time of the traffic stop when requested by a law~~
5 ~~enforcement officer shall be punished as provided under § 27-22-103.~~

6 (2) ~~The officer shall forward a copy of the notice of~~
7 ~~noncompliance to the department within ten (10) days of issuance.~~

8 (3)(A) ~~In addition, the officer shall remove and impound the~~
9 ~~license plate attached to the vehicle.~~

10 (B) ~~The license plate shall be returned to the Office of~~
11 ~~Driver Services or to the local revenue office.~~

12 (d)(1) ~~The law enforcement officer who removes and impounds the~~
13 ~~license plate pursuant to subdivision (c)(3)(A) of this section shall issue~~
14 ~~for attachment to the rear of the vehicle a temporary sticker denoting its~~
15 ~~use in lieu of an official license plate.~~

16 (2) ~~The sticker shall bear the date upon which it shall expire~~
17 ~~in written or stamped numerals or alphabetic characters not less than three~~
18 ~~inches (3'') in height.~~

19 (3) ~~This temporary sticker shall only be effective for a period~~
20 ~~of ten (10) days beginning from the day on which the license plate was taken.~~

21 (4) ~~The temporary stickers shall be designed by the department~~
22 ~~and supplied at no cost to all law enforcement agencies authorized to enforce~~
23 ~~traffic laws in Arkansas.~~

24 (e)(1) ~~Upon receipt of the notice of noncompliance by the department,~~
25 ~~the department shall proceed to suspend the registration of the vehicle~~
26 ~~effective ten (10) days after the license plate was taken and the notice of~~
27 ~~noncompliance was issued.~~

28 (2) ~~However, if both the vehicle and the driver's operation of~~
29 ~~the vehicle were insured at the time of the offense, the owner of the vehicle~~
30 ~~shall have ten (10) days to present proof of insurance coverage or other~~
31 ~~financial security in effect at the time of the offense, whereupon the~~
32 ~~license plate shall be returned at no cost to the owner of the vehicle.~~

33 (f) ~~Any suspension by the department under this section shall be~~
34 ~~subject to the notice and hearing provisions of § 27-19-404 and shall remain~~
35 ~~in effect and no registration shall be renewed for or issued to any person~~
36 ~~whose vehicle registration is so suspended until:~~

1 ~~(1) The person shall deposit or there shall be deposited on his~~
2 ~~or her behalf sufficient security as provided for under the Motor Vehicle~~
3 ~~Safety Responsibility Act, § 27-19-101 et seq.; or~~

4 ~~(2) The person shall furnish the department one of the~~
5 ~~following:~~

6 ~~(A) A certificate of self insurance under the provisions~~
7 ~~of § 27-19-107; or~~

8 ~~(B) A sufficient insurance policy issued by an insurance~~
9 ~~company authorized to do business in this state.~~

10 ~~(g)(1) In order to reinstate the suspended registration and be~~
11 ~~reissued a license plate for any suspended motor vehicle, the owner shall~~
12 ~~present the proof of renewed or new financial coverage required in~~
13 ~~subdivision (f)(1) or (2) of this section to the department and shall pay to~~
14 ~~the department a twenty dollar (\$20.00) fee for reinstatement of the~~
15 ~~registration and reissuance of the license plate.~~

16 ~~(2) The revenues derived from this reinstatement fee shall be~~
17 ~~deposited as a special revenue into the State Central Services Fund and~~
18 ~~credited as a direct revenue to be used by the department to offset the costs~~
19 ~~of administering this section.~~

20 ~~(3) This fee shall be in addition to any other fines, fees, or~~
21 ~~other penalties for other violations of this section.~~

22 ~~(h) The department shall promulgate necessary rules and regulations~~
23 ~~for the administration of this section.~~

24 ~~(i)(1) For purposes of this subsection, "operating motor vehicle"~~
25 ~~means a motor vehicle that is actually driven out of the government-owned and~~
26 ~~government-operated storage facility under its own power.~~

27 ~~(2) A government-owned and government-operated storage facility~~
28 ~~for motor vehicles may refuse to release an operating motor vehicle from the~~
29 ~~storage facility if the owner of the motor vehicle cannot establish that the~~
30 ~~motor vehicle is covered by insurance as required under this section.~~

31 ~~(3) The following are exempt from the requirements of this~~
32 ~~subsection:~~

33 ~~(A) A motor vehicle that is considered salvage;~~

34 ~~(B) A motor vehicle when an insurer holds the title to the~~
35 ~~motor vehicle; and~~

36 ~~(C) A motor vehicle that is not driven out of the~~

1 ~~government-owned and government-operated storage facility under its own~~
 2 ~~power.~~

3
 4 SECTION 2. Arkansas Code Title 27, Chapter 22, Subchapter 1 is amended
 5 to add additional sections to read as follows:

6 27-22-109. Impounding a motor vehicle for a violation.

7 (a) If an operator of a motor vehicle is unable to present proof of
 8 insurance coverage to a law enforcement officer as required under § 27-22-104
 9 and the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., the
 10 motor vehicle may be impounded at the officer's discretion if one (1) or more
 11 of the following occur:

12 (1) The officer issues a citation for a traffic violation that
 13 is classified as an offense under § 27-50-302;

14 (2) The driver is a repeat violator of this subchapter and the
 15 Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.; or

16 (3) The driver is operating a motor vehicle:

17 (A) Without a license plate in violation of § 27-14-304;

18 (B) With an unofficial license plate in violation of § 27-
 19 14-305;

20 (C) With improper use of evidence of registration in
 21 violation of § 27-14-306; or

22 (D) With false evidences of title or registration in
 23 violation of § 27-14-307.

24 (b) If a motor vehicle is impounded under this section:

25 (1) The law enforcement agency shall use its towing policy as
 26 required for the towing and storage of motor vehicles under § 27-50-1207 and
 27 towing rotation list if applicable;

28 (2) The provisions of § 27-50-1201 et seq. regarding the towing
 29 and storage of motor vehicles shall apply;

30 (3) An inventory of the contents of the motor vehicle shall be
 31 taken; and

32 (4) The owner, operator, or other person in charge of the
 33 vehicle:

34 (A) Has the right to contest the impoundment; and

35 (B) Shall be given notice at the time of impoundment of
 36 the right to contest the impoundment consistent with § 27-50-1207.

1 (c) If a motor vehicle is impounded under this section, the owner and
2 operator of the vehicle are responsible for all reasonable costs of towing,
3 recovery, storage, and other incidental costs related to the removal.
4

5 27-22-110. Hold on release from storage facility authorized.

6 (a) For purposes of this section:

7 (1) "Operational motor vehicle" means a motor vehicle that is
8 driven under its own power out of a storage facility; and

9 (2) "Proof of compliance" means:

10 (A) An order of a court of competent jurisdiction issued
11 under § 27-50-1207(e)(5)(A);

12 (B) A certificate of self-insurance under the provisions
13 of § 27-19-107; or

14 (C) An insurance policy that:

15 (i) Meets the requirements of § 27-22-104; and

16 (ii) Is issued by an insurance company authorized to
17 do business in this state.

18 (b)(1) A law enforcement agency that impounds a motor vehicle under §
19 27-22-109 may place a hold on the release of an operational motor vehicle
20 from a storage facility consistent with § 27-50-1206(a)(3) until the owner or
21 operator of the motor vehicle provides proof of compliance to the law
22 enforcement agency.

23 (2) Upon the owner or operator providing proof of compliance to
24 the law enforcement agency, the law enforcement agency shall release the hold
25 on the vehicle and notify the storage facility in writing of the release.

26 (c) The following vehicles are exempt from a hold on release under
27 this section:

28 (1) A salvage vehicle as defined under § 27-14-2301 that is
29 acquired by an insurance company;

30 (2) A motor vehicle that is incapable of being driven out of the
31 storage facility under its own power and is removed by a towing firm licensed
32 by and subject to the rules of the Arkansas Towing and Recovery Board; or

33 (3) A motor vehicle acquired by a lienholder if the lienholder
34 provides to the law enforcement agency:

35 (A) A sworn statement in the form of either a repossession
36 title or an affidavit that the lienholder is entitled to take immediate

1 possession of the vehicle; and

2 (B) If the vehicle is to be driven from the storage
3 facility, proof of insurance coverage as required under § 27-22-104 and the
4 Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.

5
6 27-22-111. Notice of noncompliance — Procedure.

7 (a) If an operator of a motor vehicle is unable to present proof of
8 insurance coverage as required under § 27-22-104 when requested by a law
9 enforcement officer or if a check of the Vehicle Insurance Database at the
10 time of the traffic stop fails to show current insurance coverage, the
11 operator shall be issued a notice of noncompliance with this subchapter on a
12 form to be provided to the Office of Motor Vehicle of the Revenue Division of
13 the Department of Finance and Administration in addition to any traffic
14 citation issued for a violation of this subchapter.

15 (b) The officer shall forward a copy of the notice of noncompliance to
16 the office within ten (10) days of issuance.

17 (c)(1) The owner of the motor vehicle has ten (10) days to present
18 proof that insurance coverage or other financial security for both the motor
19 vehicle and the driver's operation of the motor vehicle was in effect at the
20 time of the offense.

21 (2) If the owner of the motor vehicle presents proof of
22 insurance coverage as required under § 27-22-104 within the ten (10) days,
23 the license plate shall be returned at no cost to the owner.

24 (d) Upon receipt of the notice of noncompliance and if no proof of
25 insurance has been provided within the period provided under subsection (c)
26 of this section, the office shall suspend the registration of the motor
27 vehicle effective ten (10) days after the license plate was taken and the
28 notice of noncompliance was issued.

29 (e) A suspension by the office under this section shall be subject to
30 the notice and hearing provisions of § 27-19-404 and shall remain in effect
31 and no registration shall be renewed for or issued to a person whose vehicle
32 registration is so suspended until the person:

33 (1) Deposits or causes to be deposited on his or her behalf
34 sufficient security as provided for under the Motor Vehicle Safety
35 Responsibility Act, § 27-19-101 et seq.; or

36 (2) Furnishes the office:

1 (A) A certificate of self-insurance under the provisions
2 of § 27-19-107; or

3 (B) An insurance policy that:

4 (i) Meets the requirements of § 27-22-104; and

5 (ii) Is issued by an insurance company authorized to
6 do business in this state.

7 (f)(1) To reinstate the suspended registration and be reissued a
8 license plate for a suspended motor vehicle, the owner shall:

9 (A) Present to the office proof of renewed or new
10 financial coverage required under § 27-22-104; and

11 (B) Pay to the office a fee of twenty dollars (\$20.00) for
12 reinstatement of the registration and reissuance of the license plate.

13 (2) The revenues derived from the reinstatement fee under this
14 subsection shall be deposited as a special revenue into the State Central
15 Services Fund and credited as a direct revenue to be used by the office to
16 offset the costs of administering this section.

17 (3) This fee shall be in addition to any other fines, fees, or
18 other penalties for other violations of this section.

19 (g) The office shall promulgate necessary rules for the administration
20 of this section.

21
22 27-22-112. Penalty for failure to present proof of insurance at time
23 of traffic stop.

24 (a) After a traffic stop has been completed, if an operator of a motor
25 vehicle proves that the liability coverage required by §§ 27-22-101 – 27-22-
26 104 was in effect at the time of the traffic stop, the failure to present
27 proof of insurance at the time of the traffic stop when requested by a law
28 enforcement officer shall be punished by a fine of twenty-five dollars
29 (\$25.00).

30 (b) Court costs under § 16-10-305 or other costs or fees shall not be
31 assessed under this section.

32 (c) The fines collected under this section shall be distributed as
33 follows:

34 (1) Eighty percent (80%) shall be paid to the Treasurer of State
35 for the benefit of the Arkansas Citizens First Responder Safety Enhancement
36 Fund; and

1 (2) Twenty percent (20%) shall be retained by the court that
 2 tries the offense.

3 (d) If an operator of a motor vehicle is unable to prove that the
 4 liability coverage required by §§ 27-22-101 – 27-22-104 was in effect at the
 5 time of the traffic stop, the failure to present proof of insurance at the
 6 time of the traffic stop when requested by a law enforcement officer shall be
 7 punished as provided under § 27-22-103.

8
 9 SECTION 3. Arkansas Code § 27-50-1202 is amended to read as follows:
 10 27-50-1202. Definitions.

11 For the purposes of this subchapter, unless the context otherwise
 12 requires:

13 (1) “Abandoned vehicle” means ~~any~~ a vehicle deemed to be an
 14 unattended vehicle as defined in this section~~;~~:

15 (A) As to which the owner has overtly manifested some
 16 intention not to retake possession; or

17 (B) ~~Which~~ That remains unattended, whether in its first-
 18 found location or in another location to which it has been removed pursuant
 19 to this subchapter, for a period of thirty (30) days~~,~~ during which period the
 20 owner has given no evidence of an intent to retake possession;

21 (2) “Consent” means towing, storage, or recovery of ~~any~~ a
 22 vehicle, which towing, storage, or recovery is done with the permission of
 23 the owner or other person in charge of the vehicle;

24 (3) "Impounded or seized vehicle" means a vehicle subject to
 25 impounding or seizure by law enforcement under the Arkansas Code, the
 26 Arkansas Rules of Criminal Procedure, or a court order;

27 ~~(3)(4)~~ (4) “Nonconsent” means towing, storage, or recovery of ~~any~~ an
 28 unattended vehicle, ~~or~~ abandoned vehicle, or impounded or seized vehicle as
 29 defined in this subchapter or ~~any~~ a disabled or inoperative vehicle for which
 30 the owner preference is waived by the owner or person in charge ~~thereof~~ of
 31 the vehicle;

32 ~~(4)(5)~~ (5) ~~“Owner” of an unattended or abandoned vehicle~~ "Owner"
 33 means, shall in the absence of conclusive evidence to the contrary, ~~be deemed~~
 34 ~~to be~~ the person in whose name the vehicle is registered with the Office of
 35 Motor Vehicle of the Revenue Division of the Department of Finance and
 36 Administration or in whose name the vehicle is registered in ~~any other~~

1 another state;

2 ~~(5)~~(6) "Owner preference" means the right of the owner, his or
3 her agent, or ~~any~~ a competent occupant of ~~any~~ a disabled or inoperative
4 vehicle to request some responsible and reasonable person, gratuitous bailee,
5 or bailee for hire of his or her choosing to take charge and care of the
6 vehicle;

7 ~~(6)~~(7) "Person" means ~~any~~ an individual, partnership,
8 corporation, association, or other entity;

9 ~~(7)~~(8) "Public way" means ~~any~~ a road, highway, or street over
10 which the public may travel, including the traveled surface and ~~any~~ a berm or
11 shoulder ~~thereof~~ of a road, highway, or street. ~~Nothing herein shall be~~
12 ~~applicable to vehicles left unattended or abandoned on private property and~~
13 ~~subject to § 27-50-1101 et seq.;~~

14 ~~(8)~~(9) "Removal" means that ~~an officer of any law enforcement~~
15 ~~agency~~ a law enforcement officer may request a towing and storage firm which
16 is licensed by the Arkansas Towing and Recovery Board to engage in nonconsent
17 towing of vehicles to remove and store:

18 (A) ~~Remove and store any~~ An unattended vehicle or
19 abandoned vehicle pursuant to this subchapter;

20 (B) ~~Remove and store any~~ A disabled or inoperative vehicle
21 for which the owner or person in charge ~~thereof~~ of the vehicle has waived his
22 or her right to owner preference as defined in this section; ~~or~~

23 (C) ~~Remove and store any~~ A vehicle in which the operator
24 was apprehended by law enforcement officers; or

25 (D) An impounded or seized vehicle;

26 ~~(9)~~(10) "Tow vehicle" means ~~any~~ a motor vehicle or related
27 equipment subject to registration in the State of Arkansas ~~which~~ that is used
28 to tow, recover, upright, transport, or otherwise facilitate the movement of
29 vehicles on public highways;

30 ~~(10)~~(11) "Unattended vehicle" means ~~any~~ a vehicle that:

31 (A) Is left on public property without the consent of an
32 authority in charge of the property or on or near a public way without some
33 person, gratuitous bailee, or bailee for hire in possession of the vehicle
34 and that:

35 (A)(i) Is located within a distance of three feet
36 (3') of the traveled surface of the public way;

1 ~~(B)~~(ii) Is located on or near a public way at a
 2 distance of three feet (3') or more of the traveled surface of the public way
 3 for a period of twenty-four (24) hours or more; or

4 ~~(C)~~(iii) Is not located on or near a public way but
 5 is left for a period of forty-eight (48) hours or more;

6 ~~(D)~~(B) Does not remain in the custody of some responsible
 7 person following an accident where the operator has been removed to a
 8 hospital or is otherwise unable to make personal arrangements for the
 9 vehicle's care;

10 ~~(E)~~(C) Was operated to a place of apprehension by law
 11 enforcement under police power and the operator ~~thereof~~ removed from the
 12 vehicle and taken into police custody; or

13 ~~(F)~~(D) Is located upon ~~any~~ a public right of way and, due
 14 to geographic location, traffic density, or climatic conditions, is creating
 15 an immediate and substantial hazard to the motoring public, as determined by
 16 a law enforcement officer; ~~or~~ and

17 ~~(G) Is subject to seizure by law enforcement under either~~
 18 ~~a statute, the Arkansas Rules of Criminal Procedure, or a lawful court order;~~
 19 ~~and.~~

20 ~~(11)~~(12) "Vehicle" means ~~any~~ a device by which persons or things
 21 may be transported upon a public highway and which is of the type subject to
 22 registration in Arkansas.

23
 24 SECTION 4. Arkansas Code § 27-50-1204(a)(1), regarding penalties
 25 related to the towing, recovery, and storage of an unattended or abandoned
 26 vehicle, is amended to read as follows:

27 (a)(1) ~~The owner of a vehicle and the person who left the vehicle~~
 28 ~~unattended or abandoned or any owner or operator waiving an owner's~~
 29 ~~preference~~ following shall be liable for all reasonable costs of towing,
 30 recovery, storage, and other incidental costs related to ~~such~~ a removal of a
 31 vehicle under this subchapter:

32 (A) The owner of the vehicle;

33 (B) The person who left the unattended vehicle or
 34 abandoned vehicle before removal; and

35 (C) An owner or operator who waives the owner preference.

36

1 SECTION 5. Arkansas Code § 27-50-1205 is amended to read as follows:
2 27-50-1205. Tagging.

3 (a) Any law enforcement officer or code enforcement officer as defined
4 by municipal ordinance observing ~~a vehicle on or near a public way which~~
5 ~~appears to be unattended or abandoned~~ an unattended vehicle, abandoned
6 vehicle, disabled vehicle, or inoperative vehicle on or near a public way
7 shall:

8 (1)(A) Order immediate removal of ~~any unattended, abandoned,~~
9 ~~disabled, or inoperative~~ the vehicle if it:

10 (i) ~~Located~~ Is located within three feet (3') of the
11 traveled surface of a public way; or

12 (ii) ~~That appears~~ Appears to create an immediate and
13 substantial hazard to the public; and

14 (B) Log the removal order accordingly; or

15 (2) Tag ~~any unattended, abandoned, disabled, or inoperative~~ the
16 vehicle if it is located at a distance of three feet (3') or more from the
17 traveled surface of a public way by affixing securely a colored form or other
18 easily observable sticker.

19 (b) The tag or sticker used under subdivision (a)(2) of this section
20 shall show:

21 ~~(A)(1)~~ The date and time of tagging;

22 ~~(B)(2)~~ That the vehicle will be removed pursuant to this
23 subchapter unless the vehicle is removed within twenty-four (24) hours;

24 ~~(C)(3)~~ The location and telephone number where more information
25 may be obtained; and

26 ~~(D)(4)~~ The identification of the officer.

27
28 SECTION 6. Arkansas Code § 27-50-1206 is amended to read as follows:
29 27-50-1206. Notice to storage firm.

30 (a)(1) ~~Any~~ An order issued by a law enforcement officer to a licensed
31 towing and storage firm to remove and store an unattended vehicle, or
32 abandoned vehicle, or impounded or seized vehicle shall provide information
33 supplied from the records of the Office of Motor Vehicle of the Revenue
34 Division of the Department of Finance and Administration, Arkansas Crime
35 Information Center records, or the motor vehicle records of ~~any other~~ another
36 state indicating the name and address of the last registered owner, the name

1 and address of the holder of any recorded lien on the vehicle, and the
2 vehicle identification or serial number of the vehicle.

3 (2) If there is evidence in the vehicle indicating that the
4 vehicle is registered in another state, the information shall be supplied
5 from the motor vehicle records of that state.

6 (3)(A) If a law enforcement officer or other official issues a
7 hold against the release of the vehicle, the law enforcement officer's order
8 to remove and store the vehicle shall include a written explanation for the
9 issuance of the hold.

10 (B) When the hold on the vehicle is released, the law
11 enforcement officer or other official who issued the hold shall provide
12 written notice of the release to the towing and storage firm.

13 (b)(1) In the event that readily available records fail to disclose
14 the name of the owner or any lienholder of record, the law enforcement
15 officer or his or her agency shall notify in writing the towing and storage
16 firm that, after receiving the notice, shall perform a good faith search to
17 locate documents or other evidence of ownership and lienholder information on
18 or within the unattended vehicle or abandoned vehicle.

19 (2) For purposes of this subsection, a "good faith search" means
20 that the towing and storage firm checks the unattended or abandoned property
21 for any type of license plate, license plate record, temporary permit,
22 inspection sticker, decal, or other evidence that may indicate a possible
23 state of registration and title.

24 (3) The towing and storage firm shall provide in writing to the
25 law enforcement officer or agency the results of the search and, if
26 appropriate, certify that a physical search of the unattended vehicle or
27 abandoned vehicle disclosed that no ownership documents were found and that a
28 good faith search was conducted.

29 (c)(1) Within not more than twenty-four (24) hours from the order to
30 remove, the officer involved or his or her agency shall contact the towing
31 and storage firm advising of any unusual circumstances causing the delay of
32 the required information that was not available to the officer at the time
33 the order to remove was issued.

34 (2) The officer or agency shall provide the delayed information
35 immediately upon receipt.

36 (d) When a vehicle is removed pursuant to this subchapter by law

1 enforcement and is subject to impoundment or seizure pursuant to police power
2 or any lawful order of court, the law enforcement officer shall provide to
3 the towing and storage firm a written statement setting forth the conditions
4 of release of the vehicle.

5
6 SECTION 7. Arkansas Code § 27-50-1207(a)(1), regarding removal of
7 vehicles, is amended to read as follows:

8 (a)(1) ~~Any~~ A law enforcement agency ~~which~~ that directs the removal of
9 an unattended vehicle, or abandoned vehicles vehicle, or impounded or seized
10 vehicle shall adopt a written vehicle removal policy, the provisions of which
11 shall not be in conflict with this subchapter.

12
13 SECTION 8. Arkansas Code § 27-50-1207(b), regarding removal of
14 vehicles, is amended to read as follows:

15 (b) All law enforcement officers shall comply with the policies
16 prescribed by their agencies as to the removal of ~~any~~ an unattended vehicle,
17 ~~or abandoned vehicle, or impounded or seized vehicle~~ as defined by this
18 subchapter.

19
20 SECTION 9. Arkansas Code § 27-50-1207(e), regarding removal of
21 vehicles, is amended to read as follows:

22 (e)(1) Should the owner or lienholder of a vehicle removed pursuant to
23 this subchapter consider that the removal of the vehicle was not legally
24 justified or properly subject to a law enforcement hold, the owner or
25 lienholder may within thirty (30) days after removal or within thirty (30)
26 days after the receipt of notification of ~~any~~ a law enforcement hold from the
27 towing and storage firm, whichever is later, seek a review to determine
28 whether the unattended vehicle, abandoned vehicle, or unattended or abandoned
29 property was wrongfully removed or withheld from the owner through the
30 following procedures:

31 (A) In the case of a vehicle removed by or at the
32 direction of a state agency, by filing a petition with the Arkansas State
33 Claims Commission;

34 (B) In the case of a vehicle removed by or at the
35 direction of a county or city agency and when the county or city has
36 established an administrative review process, by filing a petition according

1 to the established administrative review process; and

2 (C) In all other cases, including when the county or city
3 has failed to establish an administrative review process, by filing a
4 petition in the circuit court in the county where the unattended vehicle or
5 abandoned vehicle is stored.

6 (2) In the case of a final decision reached through a county or
7 city administrative review, the owner or lienholder may appeal an adverse
8 ruling to the circuit court in the county where the unattended vehicle or
9 abandoned vehicle is stored.

10 (3) The petition shall name the state agency ordering the tow as
11 a respondent and, when filed in circuit court, shall also name the towing
12 company among the respondents if the towing company still possesses the
13 vehicle. In the case of removal originated by an agency of a political
14 subdivision of the state, the petition shall name the county, city, or town
15 as a respondent.

16 (4)~~(A)~~ If the vehicle, ~~and~~ its contents, or both are subject to
17 impoundment or seizure by law enforcement ~~pursuant to~~ under the Arkansas
18 Rules of Criminal Procedure or ~~pursuant to an a court order by any court, the~~
19 procedure for return or restoration of the impounded or seized vehicle and
20 its contents shall be governed exclusively by Rule 15 of the Arkansas Rules
21 of Criminal Procedure ~~shall exclusively govern the release of the vehicle and~~
22 ~~its contents~~ to the extent applicable.

23 ~~(B) Nothing in this section shall operate to defeat the~~
24 ~~lien held by the towing company under § 27-50-1208.~~

25 (5)(A) If a vehicle is impounded under § 27-22-109 and the
26 impoundment is contested by the filing of a petition with the court having
27 jurisdiction over the offense in question:

28 (i) The court shall conduct a hearing within two (2)
29 days after the filing of the petition, excluding weekends and holidays;

30 (ii)(a) The owner of a motor vehicle may request a
31 continuance of this initial hearing, but the extension shall not exceed an
32 additional day.

33 (b) If the owner of the motor vehicle requests
34 a continuance under this subdivision, the owner is responsible for the
35 reasonable cost for storage of the vehicle during the extension.

36 (iii) The owner is required to establish to the

1 court that he or she was in compliance with § 27-22-104 and the Motor Vehicle
 2 Safety Responsibility Act, § 27-19-101 et seq.

3 (B) If the court finds the owner of the motor vehicle was
 4 in compliance with § 27-22-104 and the Motor Vehicle Safety Responsibility
 5 Act, § 27-19-101 et seq., the court shall order the Office of Motor Vehicle
 6 to reinstate the registration and license of the motor vehicle.

7
 8 SECTION 10. Arkansas Code § 27-50-1207, regarding removal of vehicles,
 9 is amended to add an additional subsection to read as follows:

10 (j) This section shall not be construed to defeat a lien held by a
 11 towing company under § 27-50-1208.

12
 13 SECTION 11. Arkansas Code § 27-50-1208(h), regarding possessory liens
 14 and notice to owners and lienholders, is amended to read as follows:

15 (h)(1) ~~Any~~ A towing and storage firm that in good faith follows the
 16 procedures of this subchapter or the provisions of § 27-50-1101 shall not be
 17 subject to claims of unlawful detainer or conversion for vehicles or their
 18 contents for maintaining property pursuant to the possessory lien as provided
 19 by this subchapter.

20 (2) ~~Any~~ A challenge to the removal and holding of an unattended
 21 vehicle, or abandoned vehicle, or impounded or seized vehicle as provided by
 22 this subchapter shall be controlled exclusively by the provisions of § 27-50-
 23 1207.

24 (3) ~~Nothing in this~~ This section shall not be construed to limit
 25 liability of the towing and storage firm for any other act or omission
 26 otherwise actionable under statutory or common law.

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