

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1446

By: Roberts (Dustin)

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5
6 AS INTRODUCED

7 An Act relating to motor vehicles; amending 47 O.S.
8 2011, Sections 953.2, 955, as last amended by Section
9 1, Chapter 283, O.S.L. 2014 and 966 (47 O.S. Supp.
10 2016, Section 955), which relates to the towing and
11 storage of vehicles; limiting maximum fee for storage
12 of impounded vehicles by political subdivisions;
13 requiring certain invoicing; requiring payment or
14 waiver of certain fee prior to release of vehicle;
15 exempting political subdivisions from certain
16 considerations; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 47 O.S. 2011, Section 953.2, is
19 amended to read as follows:

20 Section 953.2 A. The rates established by order of the
21 Corporation Commission shall determine the maximum fees and charges
22 for the storage and after-hours release of nonconsensual towed
23 vehicles, including incorporated and unincorporated areas, by a
24 wrecker or towing service licensed by the Department of Public
Safety, or storage after being impounded by any political
subdivision of this state. No wrecker or towing service shall

1 charge any fee for nonconsensual towed vehicles and storage which
2 exceeds the maximum rates established by the Commission. No
3 political subdivision of this state shall charge any fee for storage
4 of a vehicle after it has been impounded by the political
5 subdivision which exceeds the maximum rates established by the
6 Commission. Such rates shall be in addition to any other rates,
7 fees or charges authorized, allowed or required by law, including
8 environmental remediation fees and services.

9 B. 1. Storage or after-hours release of a towed vehicle, or
10 both, provided by a wrecker or towing service, as well as storage of
11 an impounded vehicle by a political subdivision of this state, shall
12 be recorded by the operator on a bill or invoice as prescribed by
13 rules of the Department.

14 2. Nothing herein shall limit the right of an operator who has
15 provided or caused to be provided storage or after-hours release of
16 a towed vehicle, or both, to require prepayment, in part or in full,
17 or guarantee of payment of any charges incurred for providing such
18 services.

19 3. This section shall not be construed to require an operator
20 to charge a fee for the storage or after-hours release, or both, of
21 any towed vehicle.

22 4. The operator is authorized to collect all lawful fees from
23 the owner, lienholder or agent of the towed vehicle or insurer
24 accepting liability for paying the claim for a vehicle or purchasing

1 the vehicle as a total loss vehicle from the registered owner for
2 the performance of any and all such services. An operator shall
3 release the vehicle from storage upon authorization from the owner,
4 agent or lienholder of the vehicle or in the case of a total loss,
5 the insurer accepting liability for paying the claim for the vehicle
6 or purchasing the vehicle where the vehicle is to be moved to an
7 insurance pool yard for sale.

8 C. The rates in subsections D through F of this section shall
9 be applicable until superseded by rates established by the
10 Commission.

11 D. Outdoor Storage Rates.

12 1. Rates in this subsection shall apply to the outdoor storage
13 of a towed vehicle. Rates may be applied from the time the towed
14 vehicle is brought onto the outdoor storage facility premises.
15 Rates shall apply to each calendar day of outdoor storage; provided,
16 the maximum twenty-four-hour fee, as provided for in this section,
17 may be charged for any towed vehicle which is stored for a portion
18 of a twenty-four-hour period.

19 2. Maximum outdoor storage rates shall be as follows:

Type of Towed Vehicle	Rate per Each 24-hour Period or Portion Thereof
Single vehicle: motorcycle, automobile, or light truck up to 20 feet in length	\$15.00

1	Single vehicle or combination of vehicles	
2	over 20 feet in length but less than 30	
3	feet in length	\$20.00
4	Single vehicle or combination of vehicles	
5	over 30 feet in length and up to 8 feet	
6	in width	\$25.00
7	Single vehicle or combination of vehicles	
8	over 30 feet in length and over 8 feet	
9	in width	\$35.00

10 E. Indoor Storage Rates:

11 1. Rates in this subsection shall apply to the indoor storage
12 of a towed vehicle. Rates may be applied from the time the towed
13 vehicle is brought into the indoor storage facility premises. Rates
14 shall apply to each calendar day of indoor storage; provided, the
15 maximum twenty-four-hour fee, as provided for in this section, may
16 be charged for any towed vehicle which is stored for a portion of a
17 twenty-four-hour period.

18 2. Maximum indoor storage rates shall be as follows:

19		Rate per Each
20		24-hour Period or
21	Type of Towed Vehicle	Portion Thereof
22	Single vehicle: motorcycle, automobile,	
23	or light truck up to 20 feet in length	\$25.00
24		

1 Single vehicle or combination of vehicles
2 over 20 feet in length but less than 30
3 feet in length \$30.00

4 Single vehicle or combination of vehicles
5 over 30 feet in length and up to 8 feet
6 in width \$35.00

7 Single vehicle or combination of vehicles
8 over 30 feet in length and over 8 feet
9 in width \$45.00

10 3. For purposes of this subsection, "indoor storage" means the
11 vehicle is kept in an enclosed facility.

12 F. After-Hours Release Rate.

13 1. The rate in this subsection shall apply to the release of a
14 towed vehicle to the owner, lienholder, or agent when such release
15 occurs at a time other than normal business hours.

16 2. As used in this subsection:

- 17 a. "after-hours release rate" shall mean the rate charged
18 for the release of a towed vehicle between the hours
19 of midnight and 8:00 a.m., or between the hours of
20 4:00 p.m. and midnight Monday through Friday, or any
21 time on Saturday, Sunday or a national holiday, and
22 b. "national holiday" shall mean New Year's Day, Martin
23 Luther King Day, George Washington's Birthday, on the
24 third Monday in February, Memorial Day, Independence

1 Day, Labor Day, Veterans Day, Thanksgiving Day and
2 Christmas Day, and shall further include the Friday
3 before such national holiday which falls on a Saturday
4 and the Monday following such national holiday which
5 falls on a Sunday.

6 3. The maximum after-hours release rate shall be Fifteen
7 Dollars (\$15.00) per quarter hour for the release of any single
8 vehicle or combination of vehicles.

9 G. An operator shall be required to provide reasonable
10 documentation to substantiate all lawful fees charged the owner,
11 lienholder, agent or insurer accepting liability for paying the
12 claim for the towed vehicle or purchasing the towed vehicle. Fees
13 for which the operator is being reimbursed, or having paid to a
14 third party, shall include copies of the invoice or other
15 appropriate documents to substantiate the payment to the third
16 party.

17 SECTION 2. AMENDATORY 47 O.S. 2011, Section 955, as last
18 amended by Section 1, Chapter 283, O.S.L. 2014 (47 O.S. Supp. 2016,
19 Section 955), is amended to read as follows:

20 Section 955. A. Any officer of the Department of Public Safety
21 or any other political subdivision of this state is hereby
22 authorized to cause to be towed any vehicle found upon public roads,
23 highways, streets, turnpikes, private parking lots accessible to the
24 public, other public places or upon any private road, street, alley

1 or lane which provides access to one or more single-family or
2 multifamily dwellings when:

3 1. Report has been made that the vehicle has been stolen or
4 taken without the consent of its owner;

5 2. The officer has reason to believe the vehicle has been
6 abandoned as defined in Sections 901 and 902 of this title;

7 3. The person driving or in control of the vehicle is arrested
8 for an alleged offense for which the officer is required by law to
9 take the person arrested or summoned before a proper magistrate
10 without unnecessary delay;

11 4. At the scene of an accident, if the owner or driver is not
12 in a position to take charge of the vehicle and direct or request
13 its proper removal;

14 5. The officer has probable cause that the person operating the
15 vehicle has not been granted driving privileges or that the driving
16 privileges of the person are currently suspended, revoked, canceled,
17 denied, or disqualified;

18 6. The officer has probable cause that the vehicle has been
19 used in the commission of a felony offense and the officer has
20 obtained a search warrant authorizing the search and seizure of the
21 vehicle;

22 7. The officer has probable cause that the vehicle is not
23 insured as required by the Compulsory Insurance Law of this state;
24 or

1 8. The vehicle is involved in a fatal motor vehicle collision
2 and is needed for evidentiary purposes.

3 No vehicle shall be released after impoundment unless the owner
4 provides to the storing facility proof of valid insurance or an
5 affidavit of nonuse on the roadway, or in the event of a release
6 request from an insurer or the representative of the insurer who has
7 accepted liability for the vehicle, no such proof of insurance or
8 affidavit of nonuse on the roadway shall be required and no vehicle
9 shall be released from storage by a political subdivision of this
10 state after impoundment unless the owner has paid all applicable
11 storage fees owed to the political subdivision or such fees have
12 been waived by the political subdivision.

13 B. A licensed wrecker operator is not liable for damage to a
14 vehicle, vessel, or cargo that obstructs the normal movement of
15 traffic or creates a hazard to traffic and is removed in compliance
16 with the request of a law enforcement officer, unless there is
17 failure to exercise reasonable care in the performance of the act or
18 for conduct that is willful or malicious.

19 C. Each officer of the Department shall use the services of the
20 licensed wrecker operator whose location is nearest to the vehicle
21 to be towed in all instances in subsection A of this section. The
22 requests for services may be alternated or rotated among all
23 licensed wrecker operators who are located within a reasonable
24 radius of each other. In like manner, the officer shall advise any

1 person requesting information as to the availability of a wrecker or
2 towing service, the name of the nearest licensed wrecker operator,
3 giving equal consideration to all licensed wrecker operators located
4 within a reasonable radius of each other. In cities of less than
5 fifty thousand (50,000) population, all licensed wrecker operators
6 located near or in the city limits of such cities shall be
7 considered as being equal distance and shall be called on an equal
8 basis as nearly as possible. In counties bordering other states, if
9 the officer deems safety and time considerations warrant, the
10 officer may call a wrecker or towing service that is not on the
11 rotation log.

12 D. Any officer of the Department who has been requested by a
13 person in need of wrecker or towing service to call a specific
14 wrecker or towing service for such person, and who calls a different
15 wrecker or towing service other than the one requested, without the
16 consent of the person, except where hazardous conditions exist,
17 shall be suspended from the Department, without compensation, for a
18 period of thirty (30) days, except in instances where a vehicle is
19 removed from the roadway under the authority of paragraphs 3, 4 and
20 6 of subsection A of this section.

21 E. Operators conducting a tow under this section shall release
22 all personal property within the vehicle to an insurer or
23 representative of the insurer who has accepted liability for the
24 vehicle, or to any person upon proof of ownership of the vehicle and

1 an Oklahoma driver license or other state or federally issued photo
2 identification. Upon the release of personal property to an insurer
3 or representative of the insurer, wrecker operators shall be exempt
4 from all liability and shall be held harmless for any losses or
5 claims of loss. Personal property shall include everything in a
6 vehicle except the vehicle, the attached or installed equipment,
7 vehicle keys or devices to start and unlock the vehicle, and the
8 spare tire and tools to change the tire. Interlock devices may be
9 removed pursuant to Section 11-902a of this title. If release of
10 personal property occurs during normal business hours as prescribed
11 by the Corporation Commission, it shall be at no cost to the
12 registered owner or the owner prior to the repossession. After-hour
13 fees may be assessed as prescribed by this Chapter or by the
14 Corporation Commission, when the release of property is made after
15 the prescribed normal business hours.

16 F. The operator of a wrecker or towing service may request a
17 person offering proof of ownership of personal property and any
18 interlock device to execute a form provided by the operator
19 exempting the operator from liability for such release.

20 SECTION 3. AMENDATORY 47 O.S. 2011, Section 966, is
21 amended to read as follows:

22 Section 966. A. This act shall be known and may be cited as
23 the "Nonconsensual Towing Act of 2011".
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1 B. The provisions of this act shall apply to every wrecker
2 operating within the State of Oklahoma removing and storing vehicles
3 from Oklahoma roads and highways or private property as a result of
4 a nonconsensual tow. A political subdivision of this state storing
5 an impounded vehicle shall not be considered a wrecker or towing
6 service for purposes of this act.

7 C. The Corporation Commission, by Commission order, shall have
8 the power and authority necessary:

9 1. To establish wrecker rates for the transportation and
10 storage of motor vehicles removed due to a nonconsensual tow from
11 Oklahoma roads and highways or private property;

12 2. To supervise and enforce such rates; and

13 3. To mediate and adjudicate complaints that may arise from
14 charges assessed as a result of such vehicle removal.

15 D. Rates as specified in Sections 953.1 and 953.2 of Title 47
16 of the Oklahoma Statutes shall remain in effect until rates are
17 established by order of the Commission.

18 E. Rates established by the Commission shall be fair and
19 reasonable.

20 F. The Commission may assess fines or other penalties to any
21 wrecker or towing service for failure to comply with prescribed
22 rates as established by the Commission, failure to pay a levied
23 assessment or comply with any applicable order of the Commission.

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1 Repeat violations by a wrecker or towing service are cause for
2 revocation of its license issued by the Department of Public Safety.

3 G. The Department shall cooperate with the Commission to
4 implement this act and may enter into agreements to facilitate this
5 act.

6 SECTION 4. This act shall become effective November 1, 2017.

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