

1 ENGROSSED HOUSE
2 BILL NO. 3372

By: Ford of the House

3 and

4 Pugh of the Senate

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6
7 [motor vehicles - requiring certain affidavit -
8 modifying fees and directing deposit - requiring
9 certain notification by first-class mail -
10 effective dates]

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

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SECTION 1. AMENDATORY 47 O.S. 2011, Section 904, is

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amended to read as follows:

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Section 904. The owner of a motor vehicle or lienholder of the

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vehicle abandoned in violation of Section 901 et seq. of this title,

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or the owner of any vehicle or lienholder of the vehicle or insurer

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accepting liability for paying a claim on a vehicle or purchasing

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the vehicle as a total loss vehicle from the registered owner which

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shall have been lawfully removed from any highway or other public

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property may regain possession of the vehicle in accordance with

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regulations of the Department of Public Safety upon payment of the

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reasonable cost of removal and storage of such vehicle. The

1 operator is authorized to collect all lawful fees from the owner,
2 lienholder that seeks possession of a vehicle under a security
3 interest, agent, or insurer accepting liability for paying the claim
4 for a vehicle or purchasing the vehicle as a total loss vehicle from
5 the registered owner of the towed vehicle for the performance of any
6 and all such services. An operator shall release the vehicle from
7 storage upon authorization from the owner, agent or lienholder of
8 the vehicle or in the case of a total loss, the insurer accepting
9 liability for paying the claim on the vehicle or purchasing the
10 vehicle where the vehicle is to be moved to an insurance pool yard
11 for sale. In the case of death or incapacitation of the owner of a
12 motor vehicle, the operator may release the vehicle to a legal
13 representative or an immediate family member who is within the first
14 or second degree of consanguinity or affinity. The legal
15 representative or family member shall provide a notarized affidavit
16 describing his or her relationship to the owner of the motor vehicle
17 and proof of identity in accordance with the Department's rules
18 related to establishing identity.

19 The cost of removal and storage shall be paid to the wrecker or
20 towing service.

21 SECTION 2. AMENDATORY 47 O.S. 2011, Section 953, as
22 amended by Section 15, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2019,
23 Section 953), is amended to read as follows:

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1 Section 953. A. No operator shall be permitted nor shall any
2 employee of any operator be permitted, allowed or caused to solicit
3 business or make service calls without the operator first having
4 obtained from the Department of Public Safety a license to operate a
5 wrecker or towing service. The number of the license shall be
6 displayed, in conformance with rules of the Department, on both
7 sides of every wrecker vehicle operated by the wrecker or towing
8 service.

9 B. The license fee required by this section shall be in lieu of
10 the motor carrier filing fee as required in Section 165 of this
11 title. No applicant for a wrecker license shall be required to
12 prove public convenience and necessity, file notices, nor shall a
13 public hearing be held. The fee for such license shall be ~~One~~
14 ~~Hundred Dollars (\$100.00)~~, Five Hundred Dollars (\$500.00), all of
15 which ~~Ten Dollars (\$10.00)~~ shall be allocated to the Department
16 deposited in the Department of Public Safety Restricted Revolving
17 Fund created pursuant to Section 2-145 of this title for the
18 administration of the ~~Nonconsensual Towing Act of 2011~~ Department's
19 Wrecker Services Division. No license fee shall be refunded in the
20 event the license is suspended or revoked.

21 C. All licenses shall expire on the last day of the calendar
22 year and may be renewed annually at a cost of ~~Fifty Dollars (\$50.00)~~
23 Two Hundred Fifty Dollars (\$250.00) upon application to the
24 Department as prescribed by rule. Fees collected in this subsection

1 shall be deposited in the Department of Public Safety Restricted
2 Revolving Fund as created in Section 2-145 of this title for the
3 administration of the Department's Wrecker Services Division. No
4 license fee shall be refunded in the event ~~that~~ the license is
5 suspended or revoked.

6 D. The Department shall issue a letter of reprimand, cancel,
7 suspend, revoke, or refuse to issue or renew the license of an
8 operator when it finds the licensee or applicant has not complied
9 with or has violated any of the provisions of the Nonconsensual
10 Towing Act of 2011, or any rules adopted by the Department. A
11 suspension or revocation shall be for a period of time deemed
12 appropriate by the Department for the violation. Any canceled,
13 suspended, or revoked license shall be returned to the Department by
14 the operator, and the operator shall not be eligible to apply for
15 another license until the period of suspension or revocation has
16 elapsed.

17 E. The provisions of the Administrative Procedures Act are
18 expressly made applicable to the Nonconsensual Towing Act of 2011.

19 F. In any civil action to enforce the equal application of the
20 alternation or rotation of wrecker or towing services regulated by a
21 political subdivision of the state, the prevailing party shall be
22 allowed attorney fees determined by the court, to be taxed and
23 collected as costs.

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1 G. Fees collected pursuant to the provisions of this section
2 shall be remitted to the State Treasurer to be credited to the
3 General Revenue Fund in the State Treasury except as provided by
4 subsection H of this section.

5 H. Fees allocated to the Department by this section shall be
6 deposited in the Department of Public Safety Restricted Revolving
7 Fund.

8 SECTION 3. AMENDATORY 47 O.S. 2011, Section 954A, as
9 amended by Section 1, Chapter 137, O.S.L. 2013 (47 O.S. Supp. 2019,
10 Section 954A), is amended to read as follows:

11 Section 954A. A. In addition to any procedure provided by
12 local ordinance, whenever the owner or legal possessor of real
13 property or an authorized agent has reasonable cause to believe that
14 a vehicle has been abandoned thereon, said vehicle having been on
15 said property for a minimum of forty-eight (48) hours, or whenever a
16 vehicle is left upon said real property without express or implied
17 permission, such vehicle may be removed as provided in this section.

18 B. 1. The owner, legal possessor or authorized agent may
19 request any licensed Class AA wrecker service within the county
20 wherein the real property is located to remove the abandoned vehicle
21 from the premises by signing a Tow Request and Authorization Form
22 prescribed by the Department of Public Safety and furnished to
23 licensed Class AA wrecker service operators as hereinafter provided.
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1 2. If the owner, legal possessor or authorized agent of the
2 property owner is unable to obtain the services of a licensed Class
3 AA wrecker service to remove the abandoned vehicle in a reasonable
4 amount of time, the owner, legal possessor or authorized agent may
5 contact and request that a licensed Class AA wrecker service from an
6 adjacent county perform the service. A notation shall be made on
7 the Tow Request and Authorization Form that a licensed Class AA
8 wrecker service in the county in which the real property is located
9 was contacted but the licensed Class AA wrecker service was not able
10 to perform the removal in a reasonable amount of time.

11 C. A licensed Class AA wrecker service removing an abandoned
12 vehicle pursuant to this section shall be subject to the maximum
13 rates established by the Corporation Commission.

14 D. The Department shall design and promulgate a suitable Tow
15 Request and Authorization Form ~~to be completed in quadruplicate,~~
16 containing space for the following information:

17 1. A description of the vehicle, including the type of vehicle,
18 year of manufacture, name of the manufacturer, vehicle color or
19 colors, identification number and license tag number;

20 2. The name, address and business telephone number of the
21 licensed Class AA wrecker service;

22 3. The name, address, telephone number and driver license
23 number or state-issued identification card number of the real
24 property owner, legal possessor or authorized agent;

1 4. Inventory of personal property within the vehicle to be
2 towed;

3 5. Time and date the form is completed; and

4 6. Signatures of the driver of the wrecker vehicle and of the
5 owner, legal possessor or authorized agent of the real property.

6 The Department or the Commission may require additional
7 information on the Tow Request and Authorization Form. The driver
8 license number or state-issued identification card number of the
9 real property owner, legal possessor or authorized agent shall not
10 be disclosed by the Department or the Commission to any entity
11 inquiring about services performed without a court order or without
12 written consent from the property owner, legal possessor or
13 authorized agent.

14 E. The real property owner, legal possessor or authorized agent
15 and the wrecker vehicle driver shall jointly, and each in the
16 presence of the other, inventory personal property found within or
17 upon the vehicle and each shall accordingly sign a statement on the
18 form reflecting this requirement has been fulfilled. In the event
19 an inventory cannot be completed, the reasons therefor shall be
20 clearly stated on the form.

21 F. A copy of the completed Tow Request and Authorization Form
22 shall be retained by the signatories and the licensed Class AA
23 wrecker service shall maintain the wrecker vehicle driver's copy for
24 not less than one (1) year, or longer if required by the Department

1 or the Commission. The licensed Class AA wrecker service shall
2 forthwith send the completed original Tow Request and Authorization
3 Form to the Department and the remaining copy of the completed form
4 to the local police department of the municipality in which the real
5 property is located, or the sheriff's office of the county from
6 which the vehicle was towed, if the real property is located outside
7 of an incorporated municipality. A facsimile copy of the Tow
8 Request and Authorization Form shall be considered the original form
9 if a printed or digital confirmation of the facsimile transmission
10 is available.

11 G. Within three (3) business days of the time indicated on the
12 form, the licensed Class AA wrecker service shall request the
13 Oklahoma Tax Commission or other appropriate motor license agent to
14 furnish the name and address of the current owner of and any
15 lienholder upon the vehicle. The Tax Commission or appropriate
16 motor license agent shall respond in person or by certified mail to
17 the licensed Class AA wrecker service within five (5) business days
18 from the receipt of the request for information. The Department and
19 the Oklahoma Tax Commission shall render assistance to ascertain
20 ownership, if needed. The licensed Class AA wrecker service shall,
21 within seven (7) days from receipt of the requested information from
22 the Oklahoma Tax Commission or other motor license agent, send a
23 notice of the location of the vehicle by certified mail, or if by
24 Department notification, the Department may notify by first-class

1 mail, postage prepaid, at the addresses furnished, to the owner and
2 any lienholder of the vehicle. The owner or lienholder may regain
3 possession of the vehicle in accordance with rules of the Department
4 upon payment of the licensed Class AA wrecker services, costs of
5 certified mailing and the reasonable cost of towing and storage of
6 the vehicle. If the licensed Class AA wrecker service has not
7 complied with the notification procedures required by this
8 subsection, the owner or lienholder shall not be required to pay for
9 storage of the vehicle.

10 H. No licensed Class AA wrecker service or operator of a
11 licensed Class AA wrecker service shall tow or cause to be towed a
12 vehicle pursuant to this section until the form furnished by the
13 Department has been appropriately completed by the parties as
14 required by rules of the Department.

15 SECTION 4. AMENDATORY 47 O.S. 2011, Section 955, as last
16 amended by Section 1, Chapter 283, O.S.L. 2014 (47 O.S. Supp. 2019,
17 Section 955), is amended to read as follows:

18 Section 955. A. Any officer of the Department of Public Safety
19 or any other political subdivision of this state is hereby
20 authorized to cause to be towed any vehicle found upon public roads,
21 highways, streets, turnpikes, private parking lots accessible to the
22 public, other public places or upon any private road, street, alley
23 or lane which provides access to one or more single-family or
24 multifamily dwellings when:

- 1 1. ~~Report~~ A report has been made that the vehicle has been
2 stolen or taken without the consent of its owner;
- 3 2. The officer has reason to believe the vehicle has been
4 abandoned as defined in Sections 901 and 902 of this title;
- 5 3. The person driving or in control of the vehicle is arrested
6 for an alleged offense for which the officer is required by law to
7 take the person arrested or summoned before a proper magistrate
8 without unnecessary delay;
- 9 4. At the scene of an accident, if the owner or driver is not
10 in a position to take charge of the vehicle and direct or request
11 its proper removal;
- 12 5. The officer has probable cause that the person operating the
13 vehicle has not been granted driving privileges or that the driving
14 privileges of the person are currently suspended, revoked, canceled,
15 denied, or disqualified;
- 16 6. The officer has probable cause that the vehicle has been
17 used in the commission of a felony offense and the officer has
18 obtained a search warrant authorizing the search and seizure of the
19 vehicle;
- 20 7. The officer has probable cause that the vehicle is not
21 insured as required by the Compulsory Insurance Law of this state;
22 or
- 23 8. The vehicle is involved in a fatal motor vehicle collision
24 and is needed for evidentiary purposes.

1 No vehicle shall be released after impoundment unless the owner
2 provides to the storing facility proof of valid insurance or an
3 affidavit of nonuse on the roadway, or in the event of a release
4 request from an insurer or the representative of the insurer who has
5 accepted liability for the vehicle, no such proof of insurance or
6 affidavit of nonuse on the roadway shall be required.

7 B. A licensed wrecker operator is not liable for damage to a
8 vehicle, vessel, or cargo that obstructs the normal movement of
9 traffic or creates a hazard to traffic and is removed in compliance
10 with the request of a law enforcement officer, unless there is
11 failure to exercise reasonable care in the performance of the act or
12 for conduct that is willful or malicious.

13 C. Each officer of the Department shall use the services of the
14 licensed wrecker operator whose location is nearest to the vehicle
15 to be towed in all instances in subsection A of this section. The
16 requests for services may be alternated or rotated among all
17 licensed wrecker operators who are located within a reasonable
18 radius of each other. In like manner, the officer shall advise any
19 person requesting information as to the availability of a wrecker or
20 towing service, the name of the nearest licensed wrecker operator,
21 giving equal consideration to all licensed wrecker operators located
22 within a reasonable radius of each other. In cities of less than
23 fifty thousand (50,000) population, all licensed wrecker operators
24 located near or in the city limits of such cities shall be

1 considered as being equal distance and shall be called on an equal
2 basis as nearly as possible. In counties bordering other states, if
3 the officer deems safety and time considerations warrant, the
4 officer may call a wrecker or towing service that is not on the
5 rotation log.

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

16 E. Operators conducting a tow under this section shall release
17 all personal property within the vehicle to an insurer or
18 representative of the insurer who has accepted liability for the
19 vehicle, or ~~to any person upon proof of ownership of the vehicle and~~
20 ~~an Oklahoma driver license or other state or federally issued photo~~
21 ~~identification~~ the registered owner or his or her personal
22 representative as designated by the registered owner on a form
23 approved by the Department. The registered owner or representative
24 of the registered owner shall provide proof of identity in

1 accordance with the Department's rules related to establishing
2 identity. Upon the release of personal property to an insurer or
3 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 5. Sections 1, 2 and 4 of this act shall become
21 effective November 1, 2020.

22 SECTION 6. Section 3 of this act shall become effective
23 November 1, 2021.

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