

An Act

ENROLLED HOUSE
BILL NO. 2741

By: Ford of the House

and

Howard and Matthews of the
Senate

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 904, which relates to payment of the cost of removal and storage; allowing for the certain release of a vehicle; requiring certain affidavit; amending 47 O.S. 2011, Section 953, as amended by Section 15, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2020, Section 953), which relates to licenses, fees and renewal; modifying fees and directing deposit; prohibiting certain refund; modifying fee for renewal; directing deposit of funds; amending 47 O.S. 2011, Section 954A, as amended by Section 1, Chapter 137, O.S.L. 2013 (47 O.S. Supp. 2020, Section 954A), which relates to abandoned motor vehicles; eliminating requirement for multiple copies of certain document; requiring certain notification by first-class mail; amending 47 O.S. 2011, Section 955, as last amended by Section 1, Chapter 283, O.S.L. 2014 (47 O.S. Supp. 2020, Section 955), which relates to towing of vehicle from roadway; modifying certain punishment; modifying party allowed to claim vehicle; requiring certain proof of identity; and providing effective dates.

SUBJECT: Motor vehicles

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 904, is amended to read as follows:

Section 904. The owner of a motor vehicle or lienholder of the vehicle abandoned in violation of Section 901 et seq. of this title, or the owner of any vehicle or lienholder of the vehicle or insurer accepting liability for paying a claim on a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner which shall have been lawfully removed from any highway or other public property may regain possession of the vehicle in accordance with regulations of the Department of Public Safety upon payment of the reasonable cost of removal and storage of such vehicle. The operator is authorized to collect all lawful fees from the owner, lienholder that seeks possession of a vehicle under a security interest, agent, or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner of the towed vehicle for the performance of any and all such services. An operator shall release the vehicle from storage upon authorization from the owner, agent or lienholder of the vehicle or in the case of a total loss, the insurer accepting liability for paying the claim on the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale. In the case of death or incapacitation of the owner of a motor vehicle, the operator may release the vehicle to a legal representative or an immediate family member who is within the first or second degree of consanguinity or affinity. The legal representative or family member shall provide a notarized affidavit describing his or her relationship to the owner of the motor vehicle and proof of identity in accordance with the Department's rules related to establishing identity.

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

SECTION 2. AMENDATORY 47 O.S. 2011, Section 953, as amended by Section 15, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2020, Section 953), is amended to read as follows:

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

B. The license fee required by this section shall be in lieu of the motor carrier filing fee as required in Section 165 of this title. No applicant for a wrecker license shall be required to prove public convenience and necessity, file notices, nor shall a public hearing be held. The fee for such license shall be ~~One Hundred Dollars (\$100.00)~~ Five Hundred Dollars (\$500.00), of which ~~Ten Dollars (\$10.00)~~ Ninety Dollars (\$90.00) shall be deposited in the General Revenue Fund and Four Hundred Ten Dollars (\$410.00) shall be ~~allocated to the Department~~ deposited in the Department of Public Safety Restricted Revolving Fund created pursuant to Section 2-145 of this title for the administration of the ~~Nonconsensual Towing Act of 2011~~ Department's Wrecker Services Division and modernization of computer programs. No license fee shall be refunded in the event the license is suspended or revoked.

C. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of ~~Fifty Dollars (\$50.00)~~ Two Hundred Fifty Dollars (\$250.00) upon application to the Department as prescribed by rule. Two Hundred Dollars (\$200.00) of the fees collected in this subsection shall be deposited in the Department of Public Safety Restricted Revolving Fund created in Section 2-145 of this title for the modernization of computer programs and the administration of the Department's Wrecker Services Division and Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund. No license fee shall be refunded in the event ~~that~~ the license is suspended or revoked.

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

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

F. In any civil action to enforce the equal application of the alternation or rotation of wrecker or towing services regulated by a political subdivision of the state, the prevailing party shall be

allowed attorney fees determined by the court, to be taxed and collected as costs.

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

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

SECTION 3. AMENDATORY 47 O.S. 2011, Section 954A, as amended by Section 1, Chapter 137, O.S.L. 2013 (47 O.S. Supp. 2020, Section 954A), is amended to read as follows:

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

B. 1. The owner, legal possessor or authorized agent may request any licensed Class AA wrecker service within the county wherein the real property is located to remove the abandoned vehicle from the premises by signing a Tow Request and Authorization Form prescribed by the Department of Public Safety and furnished to licensed Class AA wrecker service operators as hereinafter provided.

2. If the owner, legal possessor or authorized agent of the property owner is unable to obtain the services of a licensed Class AA wrecker service to remove the abandoned vehicle in a reasonable amount of time, the owner, legal possessor or authorized agent may contact and request that a licensed Class AA wrecker service from an adjacent county perform the service. A notation shall be made on the Tow Request and Authorization Form that a licensed Class AA wrecker service in the county in which the real property is located was contacted but the licensed Class AA wrecker service was not able to perform the removal in a reasonable amount of time.

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

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

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

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

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

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

5. Time and date the form is completed; and

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

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

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

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

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

G. Within three (3) business days of the time indicated on the form, the licensed Class AA wrecker service shall request the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the current owner of and any lienholder upon the vehicle. The Tax Commission or appropriate motor license agent shall respond in person or by certified mail to the licensed Class AA wrecker service within five (5) business days from the receipt of the request for information. The Department and the Oklahoma Tax Commission shall render assistance to ascertain ownership, if needed. The licensed Class AA wrecker service shall, within seven (7) days from receipt of the requested information from the Oklahoma Tax Commission or other motor license agent, send a notice of the location of the vehicle by certified mail, or if by Department notification, the Department may notify by first-class mail, postage prepaid, at the addresses furnished, to the owner and any lienholder of the vehicle. The owner or lienholder may regain possession of the vehicle in accordance with rules of the Department upon payment of the licensed Class AA wrecker services, costs of certified mailing and the reasonable cost of towing and storage of the vehicle. If the licensed Class AA wrecker service has not complied with the notification procedures required by this subsection, the owner or lienholder shall not be required to pay for storage of the vehicle.

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

SECTION 4. AMENDATORY 47 O.S. 2011, Section 955, as last amended by Section 1, Chapter 283, O.S.L. 2014 (47 O.S. Supp. 2020, Section 955), is amended to read as follows:

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

1. ~~Report~~ A report has been made that the vehicle has been stolen or taken without the consent of its owner;

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

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

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

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

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

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

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

No vehicle shall be released after impoundment unless the owner provides to the storing facility proof of valid insurance or an affidavit of nonuse on the roadway, or in the event of a release request from an insurer or the representative of the insurer who has

accepted liability for the vehicle, no such proof of insurance or affidavit of nonuse on the roadway shall be required.

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

C. Each officer of the Department shall use the services of the licensed wrecker operator whose location is nearest to the vehicle to be towed in all instances in subsection A of this section. The requests for services may be alternated or rotated among all licensed wrecker operators who are located within a reasonable radius of each other. In like manner, the officer shall advise any person requesting information as to the availability of a wrecker or towing service, the name of the nearest licensed wrecker operator, giving equal consideration to all licensed wrecker operators located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all licensed wrecker operators located near or in the city limits of such cities shall be considered as being equal distance and shall be called on an equal basis as nearly as possible. In counties bordering other states, if the officer deems safety and time considerations warrant, the officer may call a wrecker or towing service that is not on the rotation log.

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

E. Operators conducting a tow under this section shall release all personal property within the vehicle to an insurer or representative of the insurer who has accepted liability for the vehicle, or to ~~any person upon proof of ownership of the vehicle and an Oklahoma driver license or other state or federally issued photo identification~~ the registered owner or the owner's personal

representative as designated by the registered owner on a form approved by the Department. The registered owner or representative of the registered owner shall provide proof of identity in accordance with the Department's rules related to establishing identity. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss. Personal property shall include everything in a vehicle except the vehicle, the attached or installed equipment, vehicle keys or devices to start and unlock the vehicle, and the spare tire and tools to change the tire. Interlock devices may be removed pursuant to Section 11-902a of this title. If release of personal property occurs during normal business hours as prescribed by the Corporation Commission, it shall be at no cost to the registered owner or the owner prior to the repossession. After-hour fees may be assessed as prescribed by this Chapter or by the Corporation Commission, when the release of property is made after the prescribed normal business hours.

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

SECTION 5. Sections 1, 2 and 4 of this act shall become effective November 1, 2021.

SECTION 6. Section 3 of this act shall become effective November 1, 2022.

Passed the House of Representatives the 9th day of March, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 21st day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____ M.
By: _____