

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend amendment HB1266 POLPCS2
Page 1 Section 1 Lines 16.5
Of the printed Bill
Of the Engrossed Bill

By inserting a new section 1 to read as followings and renumbering subsequent sections:

"SECTION 1. AMENDATORY 47 O.S. 2021, Section 953.1, is amended to read as follows:

Section 953.1.

§47-953.1. Maximum fees and charges.

A. The rates established by the Corporation Commission shall determine the nonconsensual tow maximum fees and charges for wrecker or towing services performed in this state, including incorporated and unincorporated areas, by a wrecker or towing service licensed by the Department of Public Safety when that service appears on the rotation log of the Department or on the rotation log of any municipality, county or other political subdivision of this state, and the services performed are at the request or at the direction of any officer of the Department or of a municipality, county, or political subdivision. No wrecker or towing service in the performance of transporting or storing vehicles or other property towed as a result of a nonconsensual tow shall charge any fee which exceeds the maximum rates established by the Commission. Such rates shall be in addition to any other rates, fees or charges authorized, allowed or required by law and costs to collect such fees. Any wrecker or towing service is authorized to collect from the owner, lienholder, 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 any towed or stored vehicle, the fee required by Section 904 of this title including environmental remediation fees and services.

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Neil Hays

Adopted: _____

Reading Clerk

B. When wrecker or towing services are performed as provided in subsection A of this section:

1. Each performance of a wrecker or towing service shall be recorded by the operator on a bill or invoice as prescribed by rules of the Department and by order of the Commission;

2. Nothing herein shall limit the right of an operator who has provided or caused to be provided wrecker or towing services to require prepayment, in part or in full, or guarantee of payment of any charges incurred for providing such services;

3. This section shall not be construed to require an operator to charge a fee for the performance of any wrecker or towing services; and

4. The operator is authorized to collect all lawful fees from the owner, lienholder or 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 and costs to collect such fees. 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 for the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.

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

D. Distance rates.

1. Rates in this subsection shall apply to the distance the towed vehicle is transported and shall include services of the operator of the wrecker vehicle. Hourly rates, as provided in subsection E of this section, may be applied in lieu of distance rates. Hourly rates may be applied from the time the wrecker vehicle is assigned to the service call until the time it is released from service either upon return to the premises of the wrecker or towing service or upon being assigned to perform another wrecker or towing service, whichever occurs first. When the hourly rate is applied in lieu of distance towing rates, the operator may not apply the two-hour minimum prescribed in subsection E of this section nor may hookup or mileage charges, as prescribed in this section, be applied.

Such distance rates shall be computed via the shortest highway mileage as determined from the latest official Oklahoma Department of Transportation state highway map, except as follows:

- a. for distances or portions of distances not specifically provided for in the governing highway map, the actual mileage via the shortest practical route will apply,
- b. in computing distances, fractions of a mile will be retained until the final and full mileage is determined, at which time any remaining fraction shall be increased to the next whole mile,
- c. when, due to circumstances beyond the control of the wrecker or towing service, roadway conditions make it impractical to travel via the shortest route, distance rates shall be computed based on the shortest practical route over which

the wrecker vehicle and the vehicle it is towing can be moved, which route shall be noted on the bill or invoice, or

- d. when the wrecker or towing service is performed upon any turnpike or toll road, the turnpike or toll road mileage shall be used to determine the distance rates charged and the turnpike or toll road fees may be added to the bill or invoice.

2. Maximum distance rates shall be as follows:

| Weight of Towed Vehicle (In pounds, including equipment and lading) | Distance Towed | Rate Per Mile |
|---|-------------------|---------------------|
| Single vehicle: 8,000 or less | 25 miles or less | \$3.00 |
| Single vehicle: 8,000 or less | Over 25 miles | \$2.50 |
| Single vehicle: 8,001 to 12,000 | 25 miles or less | \$3.40 |
| Single vehicle: 8,001 to 12,000 | Over 25 miles | \$3.00 |
| Single vehicle: 12,001 to 40,000 | Any | \$5.75 |
| Single vehicle: 40,000 or over | Any | \$6.75 |
| Combination of vehicles | Any | \$6.75 |

E. Hourly Rates.

1. Rates in this subsection shall apply for the use of a wrecker vehicle and shall include services of the operator of such wrecker, except as provided in paragraph 4 of this subsection. Rates shall apply for all wrecker or towing services performed that are not otherwise provided for in this section, including, but not limited to, waiting and standby time, but shall not include the first fifteen (15) minutes of service following the hookup of a vehicle when a hookup fee is assessed, as provided in subsection F of this section.

Hourly rates shall apply from the time the vehicle or labor is assigned to the service call until the time it is released from service either upon return to the premises of the wrecker or towing service or upon being assigned to perform another wrecker or towing service, whichever occurs first. Whenever a wrecker vehicle is used to tow a vehicle subject to distance rates, as provided in subsection D of this section, hourly rates shall apply only for the time such wrecker is used in the performance of services other than transportation, except when such hourly rates are used in lieu of such distance rates.

As used in this subsection, rates stated per hour apply for whole hours and, for fractions of an hour, rates stated per fifteen (15) minutes apply for each fifteen (15) minutes or fraction thereof over seven and one-half (7 1/2) minutes. However, if the service subject to an hourly rate is performed in less than two (2) hours, the charge applicable for two (2) hours may be assessed, except as provided for in subsection D of this section.

2. Maximum hourly rates for wrecker or towing services performed for passenger vehicles, when rates for such services are not otherwise provided for by law, shall be as follows:

| Weight of Towed Passenger Vehicle (In pounds) | Rate Per Hour | Rate Per 15 Minutes |
|--|------------------|------------------------|
| Single vehicle: 8,000 or less | \$60.00 | \$15.00 |
| Single vehicle: 8,001 to 24,000 | \$80.00 | \$20.00 |
| Single vehicle: 24,001 to 44,000 | \$120.00 | \$30.00 |

| | | |
|--------------------------------|----------|---------|
| Single vehicle: 44,001 or over | \$180.00 | \$45.00 |
| Combination of vehicles | \$180.00 | \$45.00 |

3. Maximum hourly rates for all other wrecker or towing services, when rates for such other services are not otherwise provided for by law, shall be determined based upon the gross vehicle weight rating of each wrecker vehicle used as follows:

| GVWR of Wrecker Vehicle (In pounds) | Rate Per Hour | Rate Per 15 Minutes |
|--|------------------|------------------------|
| 8,000 or less | \$60.00 | \$15.00 |
| 8,001 to 24,000 | \$80.00 | \$20.00 |
| 24,001 to 44,000 | \$120.00 | \$30.00 |
| 44,001 or over | \$180.00 | \$45.00 |
| Combination wrecker vehicle with GVWR of 24,000 or over | \$180.00 | \$45.00 |

4. a. Maximum hourly rates for extra labor shall be Thirty Dollars (\$30.00) per person per hour.
- b. Maximum hourly rates for skilled or specialized labor and/or equipment shall be the actual customary and ordinary rates charged for such labor and/or equipment. ~~When skilled or specialized labor or equipment is required, the wrecker operator's cost for such skilled or specialized labor or equipment plus a twenty-five percent (25%) gross profit markup to cover overhead costs for such labor will be added to the invoice or freight bill to be collected in addition to all other applicable charges.~~

F. Hookup Rates.

1. Rates in this subsection shall apply to the hookup of a vehicle to a wrecker vehicle when such hookup is performed in connection with a wrecker or towing service described in this section. Such hookup rate shall include the first fifteen (15) minutes of such service, for which there shall be no additional fee charged, but shall not include the use of a dolly or rollback equipment or a combination wrecker vehicle to accomplish such hookup, for which an additional fee may be charged as provided in subsection G of this section. Hookup shall include, but not be limited to, the attachment of a vehicle to or the loading of a vehicle onto a wrecker vehicle.

2. Maximum hookup rates shall be as follows:

| Weight of Vehicle Being Hooked Up (In pounds, including equipment and lading) | Rate |
|---|---------|
| Single vehicle: 8,000 or less | \$65.00 |
| Single vehicle: 8,001 to 12,000 | \$75.00 |
| Single vehicle: 12,001 to 24,000 | \$85.00 |
| Single vehicle: 24,001 or over | \$95.00 |
| Combination of vehicles | \$95.00 |

G. Additional Service Rates.

1. Rates in this subsection shall apply to the performance of the following services:

- a. the disconnection and reconnection of a towed vehicle's drive line when necessary to prevent mechanical damage to such vehicle,

- b. the removal and replacement of a towed vehicle's axle when necessary to prevent mechanical damage to such vehicle, or
- c. the use of a dolly or rollback equipment when essential to prevent mechanical damage to a towed vehicle or when neither end of such vehicle is capable of being towed safely while in contact with the roadway.

2. Maximum additional service rates shall be as follows:

| Weight of Towed Vehicle (In pounds, including equipment and lading) | Service Performed | | |
|---|--|------------------------------------|------------------------------------|
| | Disconnect Drive Line; Remove Axle | Reconnect Drive Line; Replace Axle | Use of Dolly or Rollback Equipment |
| | Rate Per Service Performed | | |
| 8,000 or less | \$10.00 | \$15.00 | \$25.00 |
| 8,001 to 12,000 | \$15.00 | \$20.00 | \$30.00 |
| | Rate Per 15 Minutes of Service Performed | | |
| 12,001 or over | \$20.00 | \$20.00 | Not applicable |

H. An operator shall be required to provide reasonable documentation to substantiate all lawful fees charged the owner, lienholder, agent or insurer paying the claim for the towed vehicle. Fees for which the operator is being reimbursed or having paid to a third party, shall include copies of the invoice or other appropriate documents to substantiate such payment to said third party.

I. Wrecker fees, including maximum distance, hourly, and hookup rates shall be adjusted weekly by adding a fuel surcharge as provided in this section. The fuel surcharge shall be based on the Department of Energy "weekly retail on-highway diesel prices" for the "Midwest region" using Two Dollars (\$2.00) per gallon as the base price with no fees added. The wrecker fees shall be adjusted to allow a one-percent increase in fees for every ten-cent increase in fuel cost starting at Two Dollars and ten cents (\$2.10) per gallon.

J. When skilled or specialized labor or equipment is required, the cost incurred by the wrecker operator for such skilled or specialized labor or equipment plus an additional twenty-five percent (25%) gross profit markup or gross profit margin shall be allowed to cover overhead costs for such labor and will be added to the invoice or freight bill to be collected in addition to all other applicable charges. This applies to labor and equipment not regulated by the Commission.

K. Wrecker operators shall be allowed to obtain ownership and insurer information, including accident reports and other public records, from the Oklahoma Tax Commission or other states' motor vehicle agencies or from law enforcement agencies for the purpose of determining ownership and responsibility for wrecker fees. In the event a state of origin is not known, the Department of Public Safety and the Oklahoma Tax Commission shall assist in providing such information. The wrecker operator is authorized to collect lawful fees for such costs and services 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 owner of any towed or stored vehicle."

