STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1275 By: Hutchison

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 1991, Section 11-1009, which relates to certain enforcement procedures for the Department of Public Safety; modifying requirement for release of impounded vehicles; amending 47 O.S. 1991, Sections 903A and 904, which relate to abandonment of vehicles; requiring proof of security for release of such vehicles; amending 47 O.S. 1991, Sections 1107 and 1115.1, which relate to the Oklahoma Vehicle License and Registration Act; modifying requirements for release of impounded vehicles; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 11-1009, is amended to read as follows:

Section 11-1009. A. No person shall place, stop, park, or stand any vehicle including trailers or implements of husbandry contrary to any official sign reserving, restricting, or regulating the placing, stopping, standing, or parking of a vehicle within the boundaries of the following:

1. State Capitol Park as defined in Section 1811.4 of Title 74 of the Oklahoma Statutes;

2. Cowboy Hall of Fame Park; and

3. State Capitol Complex in Tulsa.

B. The Department of Public Safety shall be responsible for the enforcement of subsection A of this section.

C. Any person violating the provisions of subsection A of this section shall be subject to a civil fine. A violation shall be indicated by the placing of a notice of such violation on the windshield of the vehicle improperly placed, stopped, parked, or standing.

The notice shall be on a form prescribed by the Commissioner of Public Safety. The civil fine for such violation shall be Five Dollars ($5.00) if paid within ten (10) days from the date of the violation and Twenty Dollars ($20.00) if paid after ten (10) days from the date of the violation.

D. The fine may be paid by mailing or personally delivering the notice and a personal check or money order to cover the fine to the Office of State Treasurer of Oklahoma. Should the violator elect to object to the imposition of the fine and to have a hearing on the violation, the person may so indicate on the notice and mail or present it to the State Treasurer with a bond by cash or money order equal to the amount of the fine pending the outcome of the hearing. The bond may be used to pay the fine in the event the determination of the hearing examiner upholds the imposition of the civil fine. If no bond accompanies the request for hearing, no hearing shall be granted.

E. The request for a hearing shall be forwarded by the State Treasurer to the Department of Public Safety and the violation shall be set for hearing before a hearing examiner appointed by the Commissioner. The person requesting the hearing shall be notified of the time and place of the hearing by the Department of Public

Safety by mailing a copy of the notice by regular mail to the address indicated on the request for hearing. The hearing examiner may take evidence of the violation and shall determine if there has been a violation of the provisions of subsection A of this section. If it is determined that there was a violation, the hearing examiner shall enforce the fine indicated on the notice.

F. Any vehicle having outstanding fines against it may be impounded by the Department of Public Safety. The vehicle may be retained by the Department pending the payment of all fines, towing, and storage charges <u>and shall be retained by the Department until the owner furnishes to the Department proof of security pursuant to Section 7-600 et seq. of this title</u>. The State of Oklahoma shall have a possessory lien against any vehicle which is found to have outstanding fines against it until such fines are paid. The lien may be foreclosed pursuant to the procedures provided for in Sections 91 through 96 of Title 42 of the Oklahoma Statutes.

G. All the monies generated from such fines shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 903A, is amended to read as follows:

Section 903A. A. After the removal or storage of any abandoned or wrecked vehicle at the request of a public agency, the registered or legal owner of the vehicle, or their agent, may contest the validity of the removal or storage, by filing a written request for a hearing with the public agency. The written request may be filed before or after the vehicle is retrieved from the storage operator. Provided, however, the public agency shall not be required to conduct a hearing if the request is received more than ten (10) days following actual or constructive notice to the owner or driver of the vehicle that said vehicle has been so removed or stored. Any such hearing shall be scheduled within seventy-two (72) hours of the

request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as the hearing officer is not the same person who directed the removal or storage of the vehicle. The public agency may, with the consent of the person requesting the hearing, schedule the hearing by telephone and conduct the hearing on the merits by telephone conference call.

The hearing officer shall apply the law to the evidence and make a determination whether the vehicle removal and storage was justified. If deemed unjustified, the public agency shall bear the cost of hookup and tow mileage, and the operator shall waive all storage costs in such cases as a condition of eligibility to respond to a service call request from a public agency. The vehicle owner or agent shall not be charged any type of fee or costs relating to impoundment or storage in such case. If the tow and storage is deemed justified, the owner or agent shall bear the cost of reasonable tow and storage. <u>In either case, prior to the release of the vehicle to the owner or agent, proof of security, as required pursuant to Section 7-600 et seq. of this title, shall be furnished to the public agency.</u>

B. Failure of either the registered or legal owner, or their agent, to timely request or to timely appear upon a scheduled hearing shall satisfy the hearing requirement of this section.

C. The hearing conducted by the public agency pursuant to this section shall not be governed by the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes. The owner of a stored vehicle may, either in lieu of such hearing or after such hearing, file a petition in the district court of the county wherein the vehicle is stored. The district court is vested with original jurisdiction to conduct a de novo hearing and determine the validity of removal and storage.

D. The provisions of this section shall not apply to the removal of vehicles abated pursuant to Section 954A of this title.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 904, is amended to read as follows:

Section 904. A. The owner of a motor vehicle abandoned in violation of this act or the owner of any vehicle which shall have been lawfully removed from any highway or other public property, or any lienholder on such vehicle, may regain possession of the vehicle in accordance with regulations of the Department upon payment of the reasonable cost of removal and storage of such vehicles <u>and providing proof of security as required pursuant to Section 7-600 et seq. of this title</u>.

B. Every wrecker or towing service shall remit Ten Dollars ($10.00) to the Department of Public Safety upon release to the owner, as recorded on the vehicle title, or agent of such owner, or to the lienholder, as defined in Section 904.1 of this title, or agent of such lienholder of any vehicle impounded at the request of a governmental agency. Such remittance by the wrecker or towing service shall be remitted on the last working day of the month. Such ten-dollar remittance shall be deposited with the State Treasurer to the credit of the General Revenue Fund.

SECTION 4. AMENDATORY 47 O.S. 1991, Section 1107, is amended to read as follows:

Section 1107. In the event of the sale or transfer of the ownership of a vehicle for which a certificate of title has been issued as provided by Section 1105 of this title, the holder of such certificate shall endorse on the back of same a complete assignment thereof with warranty of title in form printed thereon with a statement of all liens or encumbrances on said vehicle, sworn to before a notary public or some other person authorized by law to take acknowledgments, and deliver same to the purchaser or transferee at the time of delivery to him of such vehicle. The

purchaser or transferee, unless such person is a bona fide used motor vehicle dealer licensed by the State of Oklahoma, shall, within thirty (30) days from the time of delivery to him of such vehicle, present the assigned certificate of title and the insurance security verification to such vehicle to the Oklahoma Tax Commission, or one of its motor license agents, accompanied by a fee of Eleven Dollars ($11.00), together with any motor vehicle excise tax or license fee that may be due, whereupon a new certificate of title, shall be issued to the assignee. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. A licensed dealer shall, on selling or otherwise disposing of a vehicle, execute and deliver to the purchaser thereof the certificate of title properly and completely reassigned. Thereupon, the purchaser of said vehicle shall present such reassigned certificate to the Commission, or a motor license agent, accompanied by a fee of Eleven Dollars ($11.00), and any motor vehicle excise tax or license fee that may be due, whereupon a new certificate of title will be issued to such purchaser. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund. Said certificate, when so assigned and returned to the Commission, together with any subsequent assignment or reissue thereof, shall be appropriately filed and indexed so that at all times it will be possible to trace title to the vehicle designated therein. Provided, when the ownership of any motor vehicle shall pass by operation of law, the person owning such vehicle may, upon furnishing satisfactory proof to the Commission of such ownership, procure a title to said motor vehicle, regardless of whether a certificate of title has ever been issued. The dealer shall execute and deliver to the purchaser bills of sale on forms prescribed by the Commission for all new vehicles sold by him. On presentation of a bill of sale executed on forms prescribed by the Commission, by a manufacturer or dealer for a new

vehicle sold in this state, accompanied by remittance in the sum of Eleven Dollars ($11.00), together with any motor vehicle excise tax or license fee that may be due, a certificate of title shall be issued in accordance with the provisions of Section 1101 et seq. of this title. One Dollar ($1.00) of each such fee shall be deposited in the Oklahoma Tax Commission Reimbursement Fund.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon the first conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500.00), with impoundment of the vehicle until all taxes and fees are paid. A second or subsequent conviction shall be punished by a fine not to exceed One Thousand Dollars ($1,000.00), with impoundment of the vehicle until all taxes and fees are paid. <u>If a vehicle is impounded pursuant to the provisions of this section, the vehicle shall not be released to the owner until the owner provides proof of security pursuant to Section 7-600 et seq. of this title.</u> Each vehicle involved in a violation of this section shall be considered a separate offense.

SECTION 5. AMENDATORY 47 O.S. 1991, Section 1115.1, is amended to read as follows:

Section 1115.1 After ninety (90) days from the expiration date for annual registration of a vehicle, it shall be the duty of the Oklahoma Tax Commission, Department of Public Safety, county sheriffs, and all other duly authorized peace officers of this state to seize and take into custody every vehicle owned within this state not bearing or displaying a proper license plate required by the Oklahoma Vehicle License and Registration Act. The vehicle shall not be released to the owner until it is duly registered and the license, registration, or title fee and penalties due are paid in full, <u>proof of security as required pursuant to Section 7-600 et seq. is furnished,</u> and the cost of seizure, including the reasonable cost of taking the vehicle into custody and storing the vehicle,

have been paid. In the event the owner of any vehicle seized fails to pay such fees and penalties due, together with cost of seizure and storage, and fails to provide provide proof of security the Oklahoma Tax Commission or its motor license agents shall proceed to sell the vehicle by posting not less than five notices of sale in five different public places in the county where the vehicle is located, one of such notices to be posted at the place where the vehicle is stored; provided further, that a copy of the notice shall also be sent by certified mail, restricted delivery, with return receipt requested, to the last-known address of the registered owner of such vehicle in question. Such vehicle shall be sold at such sale subject to the following terms and conditions:

1. In the event the sale price is equal to, or greater than, the total costs of sale, seizure and the fee and penalty, the purchaser shall be issued a certificate of purchase, license plate, manufactured home registration receipt and decal and registration certificate;

2. In the event the sale price is less than the total costs of sale, seizure, and the fee and penalty, such vehicle shall be sold as junk to the highest bidder, whereupon he shall receive a certificate of purchase; and if such vehicle be dismantled, the record to such junked vehicle shall be canceled. If not dismantled, the same shall be immediately registered; or

3. Any residue remaining unclaimed by the delinquent owner shall be administered in accordance with the Uniform Unclaimed Property Act (1981).

SECTION 6. This act shall become effective September 1, 1993.

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