

ENGROSSED HOUSE
BILL NO. 1939

By: Dunegan of the House

and

Gustafson of the Senate

An Act relating to motor vehicles; amending 47 O.S. 1991, Sections 951, 952, 953, 954A, 955, 956 and 957, which relate to wrecker and towing services; modifying and adding definitions; modifying term; providing for official rotation log under certain circumstances; providing for maximum fees under certain circumstances; deleting certain requirement; modifying terms; deleting certain requirements for obtaining license; modifying fund for deposit of certain fees; providing for certain rates to be charged by wrecker and towing services under certain circumstances; defining terms; modifying terms; requiring certain notification under certain circumstances; providing certain authorization for certain officers; modifying terms; modifying list of individuals that are prohibited from certain conduct; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 1991, Section 951, is amended to read as follows:

Section 951. As used in Section 951 et seq. of this title:

1. "Wrecker or wrecker vehicle" means any motor vehicle, ~~other than a transporter as defined in Section 1-181 of this title,~~ that is equipped with any device designed to lift, pull, move or haul a ~~disabled motor~~ tow another vehicle otherwise incapable of self-propulsion or combination of vehicles. The use of the term "wrecker" or "wrecker vehicle" shall be construed to include a combination wrecker or combination wrecker vehicle, as defined in paragraph 2 of this subsection, unless a specific differentiation is otherwise described;

2. "Combination wrecker" or "combination wrecker vehicle" means any wrecker vehicle which is designed and equipped with two separate and distinct devices to tow simultaneously two or more other vehicles or combinations of vehicles, whether or not both devices are in use simultaneously. One of the devices shall allow another vehicle to be loaded onto and transported upon the wrecker vehicle, and one of the devices shall allow another vehicle to be attached to and pulled by the wrecker vehicle;

3. "Tow" or "towing" means the ~~movement of~~ use of a wrecker vehicle to lift, pull, move, haul or otherwise transport any other vehicle upon a public street, road, highway, turnpike or right-of-way by a means of:

- a. attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or
- b. loading the vehicle onto and transporting the vehicle upon the wrecker vehicle;

4. "Rollback equipment" means a towing device or equipment upon which the towed vehicle is loaded and transported, removing the towed vehicle completely from the surface of the roadway. The term "rollback equipment" shall include car haulers;

5. "Dolly" means a towing device or equipment which lifts and suspends one axle of the towed vehicle above the surface of the roadway. The term "dolly" shall include slings and staybars;

~~3.~~ 6. "Wrecker or towing service" means engaging in the business of or performing the act of towing or offering to tow any vehicle, except:

- a. where the operator owns the towed vehicle, ~~does not serve the public in the act of towing, receives no fee, consideration or benefit from the public, either directly or indirectly for the act of towing,~~ and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE",
- b. where the service is performed by a transporter as defined in Section 1-181 of this title, or
- c. where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof;

~~4.~~ 7. "Commissioner" means the Commissioner of Public Safety;

~~5.~~ 8. "Department" means the Department of Public Safety;

~~6.~~ ~~"Commission" means the Corporation Commission of the State of Oklahoma;~~

~~7.~~ 9. "Operator" means any person owning or operating a wrecker vehicle or wrecker or towing service;

~~8.~~ 10. "Officer", ~~unless otherwise specified,~~ means any peace duly authorized law enforcement officer;

~~9.~~ 11. ~~"Highway"~~ "Roadway" means any public street, road, highway or turnpike or the median, easement or shoulder of a roadway; and

~~10.~~ 12. "Service call" means the act of responding to a request for service with a wrecker vehicle in which a service is performed.

SECTION 2. AMENDATORY 47 O.S. 1991, Section 952, is amended to read as follows:

Section 952. A. The Department of Public Safety shall have the power and authority necessary to license, supervise, govern and control wrecker vehicles and wrecker or towing services.

B. The Department of Public Safety shall adopt and prescribe such rules ~~and regulations~~ as are necessary to carry out the intent of Section 951 et seq. of this title.

~~C. Regulations adopted by the Department of Public Safety~~ The rules shall state the requirements for facilities, for storage of vehicles, necessary towing equipment, the records to be kept by operators, liability insurance and insurance covering the vehicle and its contents while in storage in such sum and with such provisions as the Department ~~of Public Safety~~ deems necessary to adequately protect the interests of the public, and such other matters as the Department may prescribe for the protection of the public.

~~D. C.~~ C. Unless otherwise regulated by the governing body of the political subdivision, the wrecker vehicle used to perform wrecker or towing services requested by a political subdivision of this state for removal of a vehicle from public property for reasons listed in Section 955 of this title shall be ~~of the current Class A~~ from the licensed wrecker ~~operator~~ operator or towing service whose location is nearest to the vehicle to be ~~removed~~ towed. ~~The requests~~ Requests for service may be alternated or rotated among all such licensed wrecker ~~operators who~~ operator or towing services which are located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all such licensed wrecker ~~operators~~ operator or towing services 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.

D. The Department and any municipality, county or other political subdivision of this state may place any licensed wrecker or towing service upon an official rotation log for the performance of services carried out pursuant to the request of or at the direction of any officer of the Department or municipality, county or political subdivision. When performing services at the request of any officer, no operator or wrecker or towing service upon the rotation logs shall charge fees in excess of the maximum rates for services performed within this state, including incorporated and unincorporated areas, as prescribed in Section 4 of this act.

SECTION 3. AMENDATORY 47 O.S. 1991, Section 953, is amended to read as follows:

Section 953. A. ~~No operator or his employee shall be permitted to make service calls without first having filed maximum tariffs with the Corporation Commission, which tariffs shall not exceed the maximum tariffs approved by the Commission.~~

~~B. No operator or his employee shall be permitted~~ nor shall any employee of any operator be permitted, allowed or caused to make service calls without the operator first having obtained from the Department of Public Safety a wrecker license, the to operate a wrecker or towing service. The number of which the license shall be displayed, in conformance with rules of the Department, on both sides of every wrecker vehicle he operates 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. ~~Each~~ No applicant for a wrecker license ~~will not~~ shall be required to prove public convenience and necessity, file notices, nor ~~will~~ shall a public hearing be held. The fee for such license shall be One Hundred Dollars (\$100.00), of which Ten Dollars (\$10.00) shall be allocated to the ~~Commission~~ Department for the administration of Section 951 et seq. of this title.

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) upon application to the Department as prescribed by ~~regulation~~ rule. 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 Section 951 et seq. of this title, or any ~~regulations~~ rules adopted by the Department ~~as authorized by Section 951 et seq. of this title~~. 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 ~~licensee~~ operator, and ~~its holder~~ 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 Oklahoma Administrative Procedures Act, ~~Section 301 et seq. of Title 75 of the Oklahoma Statutes~~, are expressly made applicable to Section 951 et seq. of this title ~~except the hearing provided for in Section 963 of this title~~.

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 ~~attorneys'~~ 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 ~~Corporation Commission~~ Department by this section shall be deposited in the ~~Corporation Commission~~ Department of Public Safety Revolving Fund.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 953.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The rates and provisions of this section shall apply only to determine the 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 such 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 these services shall charge any fee which exceeds the maximum rates established in this section. Such rates shall be in addition to any other rates, fees or charges authorized or required by law. Any wrecker or towing service is authorized to collect from the owner, lienholder or agent of any towed or stored vehicle, the fee required by Section 904 of this title.

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;

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 of the towed vehicle for the performance of any and all such services.

C. 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 D 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 D 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	\$2.41
Single vehicle: 8,000 or less	Over 25 miles	\$1.95
Single vehicle: 8,001 to 12,000	25 miles or less	\$2.73
Single vehicle: 8,001 to 12,000	Over 25 miles	\$2.41
Single vehicle: 12,001 to 40,000	Any	\$4.67
Single vehicle: 40,000 or over	Any	\$5.45
Combination of vehicles	Any	\$5.45

D. 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 E 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 C 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 C 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	\$38.94	\$9.74
Single vehicle: 8,001 to 24,000	\$54.52	\$13.63
Single vehicle: 24,001 to 44,000	\$77.88	\$19.47
Single vehicle: 44,001 or over	\$116.82	\$29.21
Combination of vehicles	\$116.82	\$29.21

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	\$38.94	\$9.74
8,001 to 24,000	\$54.52	\$13.63
24,001 to 44,000	\$77.88	\$19.47
44,001 or over	\$116.82	\$29.21
Combination wrecker vehicle with GVWR of 24,000 or over	\$116.82	\$29.21

4. a. Maximum hourly rates for extra labor shall be Fourteen Dollars and twenty-eight cents (\$14.28) 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.

E. 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 F 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. As used in this subsection:

- a. "day rate" shall mean the rate charged for a hookup performed by an operator between the hours of 8:00

a.m. to 4:00 p.m., Monday through Friday, but shall not include any national holiday,

b. "night rate" shall mean the rate charged for a hookup performed by an operator between the hours of 4:00 p.m. to 8:00 a.m. of the following day, Monday through Friday, or any time on Saturday, Sunday or a national holiday, and

c. "national holiday" shall mean New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day, and shall further include the Friday before such national holiday which falls on a Saturday and the Monday following such national holiday which falls on a Sunday.

3. Maximum hookup rates shall be as follows:

Weight of Vehicle Being Hooked Up (In pounds, including equipment and lading)	Day Rate	Night Rate
Single vehicle: 8,000 or less	\$23.36	\$31.15
Single vehicle: 8,001 to 12,000	\$31.15	\$38.94
Single vehicle: 12,001 to 24,000	\$38.94	\$46.73
Single vehicle: 24,001 or over	\$46.73	\$54.52
Combination of vehicles	\$46.73	\$54.52

F. 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	\$6.88	\$8.25	\$20.90
8,001 to 12,000	\$11.00	\$14.30	\$23.90
	Rate Per 15 Minutes of Service Performed		
12,001 or over	\$13.75	\$13.75	Not applicable

SECTION 5. AMENDATORY 47 O.S. 1991, 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. The owner, legal possessor or authorized agent may request any licensed wrecker or towing service ~~operator~~ within the county wherein the real property is located to remove ~~said~~ the abandoned vehicle from the premises by signing a Tow Request and Authorization Form prescribed by the Department and furnished to licensed wrecker operators as hereinafter provided.

C. 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 ~~to be towed~~, 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 wrecker or towing service;

3. The name, address and telephone 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 ~~tow service~~ wrecker vehicle and of the owner, legal possessor or authorized agent of the real property.

The Department may require additional information on the Tow Request and Authorization Form.

D. The real property owner, legal possessor or authorized agent and the ~~towing service~~ wrecker vehicle driver shall jointly, and each in the presence of the other, inventory personal property found within or upon the vehicle ~~to be towed~~ 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.

E. A copy of the completed Tow Request and Authorization Form shall be retained by the signatories and the wrecker or towing service shall maintain the ~~tow~~ wrecker vehicle driver's copy for not less than one (1) year, or longer if required by the Department. The wrecker or towing 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, if any.

F. Within seventy-two (72) hours of the time indicated on the form, the wrecker or towing 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 ~~such towed~~ the vehicle. The Department may render assistance to ascertain ownership, if needed. The wrecker or towing 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 regular mail, postage prepaid, at the addresses furnished, to the owner and any lienholder ~~of the location~~ of the ~~towed~~ vehicle. ~~Such~~ The owner or lienholder may regain possession of the vehicle in accordance with ~~regulations~~ rules of the Department upon payment of the reasonable cost of ~~removal~~ towing and storage of the vehicle.

G. No wrecker or towing service or operator of a wrecker or towing 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 ~~and regulations~~ of the Department.

SECTION 6. AMENDATORY 47 O.S. 1991, 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 ~~removed~~ towed any vehicle found upon the ~~highway~~ roadway when:

~~(1)~~ 1. Report has been made that such vehicle has been stolen or taken without the consent of its owner ~~;~~ ;

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

~~(3)~~ 3. The person driving or in control of such 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;; or

~~(4)~~ 4. At the scene of an accident, when the owner or driver is not in a position to take charge of his vehicle and direct or request its proper removal.

B. Each officer of the Department ~~shall carry a list of the holders of current Class A wrecker operator licenses in the district of the officer,~~ and shall use the services of the ~~Class A~~ licensed wrecker operator whose location is nearest to the vehicle to be ~~removed~~ towed in all instances ~~specified under subsections (1), (2), (3) and (4)~~ in subsection A of this section. The requests for services may be alternated or rotated among all such licensed wrecker operators who are located within a reasonable radius of each other. In like manner, such officer shall advise any person requesting information as to the availability of a wrecker or towing service, the name of the nearest ~~Class A~~ licensed wrecker operator, giving equal consideration to all ~~Class A~~ licensed wrecker operators located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all such 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.

C. 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 such person, except where hazardous conditions exist, shall be suspended from the Department, without compensation, for a period of thirty (30) days, except in instances where a vehicle is

removed from the ~~road~~ roadway under the authority of ~~subsections (3) and (4)~~ paragraphs 3 and 4 of subsection A of this section.

SECTION 7. AMENDATORY 47 O.S. 1991, Section 956, is amended to read as follows:

Section 956. ~~(A)~~ A. No operator or employee of a wrecker or towing service shall offer, and no officer or employee of the ~~Commission,~~ Department or any political subdivision of the state shall accept, directly or indirectly, any compensation, gift, loan, favor or service given for the purpose of influencing the officer or employee in the discharge of his official duties.

~~(B)~~ B. No officer of ~~the Corporation Commission,~~ the Department of Public Safety, or any law enforcement officer of any political subdivision of the state shall have any interest, financial or otherwise, in a wrecker or towing service, nor shall a wrecker or towing service employ such officer.

SECTION 8. AMENDATORY 47 O.S. 1991, Section 957, is amended to read as follows:

Section 957. The provisions of ~~this act~~ Section 951 et seq. of this title shall not preclude any person from employing or contracting with any wrecker or towing service of his own choice, except where hazardous conditions exist.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 15th day of March, 1995.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1995.

President of the Senate