ENROLLED HOUSE
BILL NO. 2101

By: Paulk and Lindley of the House

and

Helton and Leftwich (Debbe) of the Senate

An Act relating to motor vehicles; exempting certain abandoned vehicle auctions from certain penalties and fees incurred by prior owner of vehicle; amending 47 O.S. 2001, Sections 953.1, as amended by Section 3, Chapter 133, O.S.L. 2002, and 953.2, as last amended by Section 3, Chapter 387, O.S.L. 2002 (47 O.S. Supp. 2003, Sections 953.1 and 953.2), which relate to wreckers and towing services; adjusting rates of certain wrecker services; allowing for certain cost and charges to be added to invoice or freight bill; providing for a fuel surcharge based on Department of Energy prices for region; increasing maximum after-hour release rate; allowing for certain cost and charges to be added to invoice or freight bill; providing for codification; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 91.1 of Title 42, unless there is created a duplication in numbering, reads as follows:

Any abandoned vehicle auction performed by a class AA wrecker shall be exempt from all prior years' tag fees, title fees, stop flag fees, and any other fees imposed by the state from the prior ownership of the vehicle. The wrecker operator or buyer of the abandoned vehicle will be responsible only for fees incurred after the completion of the abandoned vehicle sale unless the buyer is the registered vehicle owner prior to the towing of the vehicle, in which case all fees will be due from the buyer.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 953.1, as amended by Section 3, Chapter 133, O.S.L. 2002 (47 O.S. Supp. 2003, Section 953.1), is amended to read as follows:

Section 953.1 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 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 these services shall charge any fee which exceeds the maximum rates established in this section, adjusted as provided in subsection H of 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, 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.

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 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 for the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.

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	~~$2.89~~	$3.00
Single vehicle:	8,000 or less	Over 25 miles	~~$2.34~~	$2.50
Single vehicle:	8,001 to 12,000	25 miles or less	~~$3.28~~	$3.40
Single vehicle:	8,001 to 12,000	Over 25 miles	~~$2.89~~	$3.00
Single vehicle:	12,001 to 40,000	Any	~~$5.60~~	$5.75
Single vehicle:	40,000 or over	Any	~~$6.54~~	$6.75
Combination of vehicles		Any	~~$6.54~~	$6.75

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	~~$46.73~~ $60.00	~~$11.69~~ $15.00
Single vehicle: 8,001 to 24,000	~~$65.42~~ $80.00	~~$16.36~~ $20.00
Single vehicle: 24,001 to 44,000	~~$93.46~~ $120.00	~~$23.36~~ $30.00
Single vehicle: 44,001 or over	~~$140.18~~ $180.00	~~$35.05~~ $45.00
Combination of vehicles	~~$140.18~~ $180.00	~~$35.05~~ $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	$~~46.73~~ $60.00	~~$11.69~~ $15.00
8,001 to 24,000	~~$65.42~~ $80.00	~~$16.36~~ $20.00
24,001 to 44,000	~~$93.46~~ $120.00	~~$23.36~~ $30.00
44,001 or over	~~$140.18~~ $180.00	~~$35.05~~ $45.00
Combination wrecker vehicle with GVWR of 24,000 or over	~~$140.18~~	~~$35.05~~

	$180.00	$45.00

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

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, George Washington's Birthday, on the third Monday in February, 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	~~$40.00~~	~~$50.00~~

		$65.00
Single vehicle: 8,001 to 12,000	~~$48.00~~	~~$60.00~~ $75.00
Single vehicle: 12,001 to 24,000	~~$60.00~~	~~$70.00~~ $85.00
Single vehicle: 24,001 or over	~~$70.00~~	~~$80.00~~ $95.00
Combination of vehicles	~~$70.00~~	~~$80.00~~ $95.00

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~~ $10.00	~~$8.25~~ $15.00	~~$20.90~~ $25.00
8,001 to 12,000	~~$11.00~~ $15.00	~~$14.30~~ $20.00	~~$23.90~~ $30.00
	Rate Per 15 Minutes of Service Performed		
12,001 or over	~~$13.75~~ $20.00	~~$13.75~~ $20.00	Not applicable

G. 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.

H. Wrecker fees, including maximum distance, hourly, and hookup rates shall be adjusted weekly by the Department of Public Safety by adding a fuel surcharge as provided in this section. The Department shall base the surcharge on the Department of Energy "weekly retail on-highway diesel prices" for the "Midwest region" using One Dollar and ninety cents ($1.90) 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 ($2.00) per gallon.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 953.2, as last amended by Section 3, Chapter 387, O.S.L. 2002 (47 O.S. Supp. 2003, Section 953.2), is amended to read as follows:

Section 953.2 A. The rates and provisions of this section shall apply to determine the maximum fees and charges for the storage and after-hours release of towed vehicles, including incorporated and unincorporated areas, by a wrecker or towing service licensed by the Department of Public Safety. No wrecker or towing service 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.

B. 1. Storage or after-hours release of a towed vehicle, or both, provided by 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 storage or after-hours release of a towed vehicle, or both, 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 storage or after-hours release, or both, of any towed vehicle.

4. The operator is authorized to collect all lawful fees from the owner, lienholder or agent of the towed vehicle or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner 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 for the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.

C. Outdoor Storage Rates.

1. Rates in this subsection shall apply to the outdoor storage of a towed vehicle. Rates may be applied from the time the towed vehicle is brought onto the outdoor storage facility premises. Rates shall apply to each calendar day of outdoor storage; provided, the maximum twenty-four-hour fee, as provided for in this section, may be charged for any towed vehicle which is stored for a portion of a twenty-four-hour period.

2. Maximum outdoor storage rates shall be as follows:

Type of Towed Vehicle	Rate per Each 24-hour Period or Portion Thereof
Single vehicle: motorcycle, automobile, or light truck up to 20 feet in length	$15.00
Single vehicle or combination of vehicles over 20 feet in length but less than 30 feet in length	$20.00
Single vehicle or combination of vehicles over 30 feet in length and up to 8 feet in width	$25.00
Single vehicle or combination of vehicles over 30 feet in length and over 8 feet in width	$35.00

D. Indoor Storage Rates:

1. Rates in this subsection shall apply to the indoor storage of a towed vehicle. Rates may be applied from the time the towed vehicle is brought into the indoor storage facility premises. Rates shall apply to each calendar day of indoor storage; provided, the maximum twenty-four-hour fee, as provided for in this section, may be charged for any towed vehicle which is stored for a portion of a twenty-four-hour period.

2. Maximum indoor storage rates shall be as follows:

Type of Towed Vehicle	Rate per Each 24-hour Period or Portion Thereof
Single vehicle: motorcycle, automobile, or light truck up to 20 feet in length	$25.00
Single vehicle or combination of vehicles over 20 feet in length but less than 30 feet in length	$30.00
Single vehicle or combination of vehicles over 30 feet in length and up to 8 feet in width	$35.00
Single vehicle or combination of vehicles over 30 feet in length and over 8 feet in width	$45.00

3. For purposes of this subsection, “indoor storage” means the vehicle is kept in an enclosed facility.

E. After-Hours Release Rate.

1. The rate in this subsection shall apply to the release of a towed vehicle to the owner, lienholder, or agent when such release occurs at a time other than normal business hours.

2. As used in this subsection:

a. "after-hours release rate" shall mean the rate charged for the release of a towed vehicle between the hours of midnight and 8:00 a.m., or between the hours of 4:00 p.m. and midnight Monday through Friday, or any time on Saturday, Sunday or a national holiday, and

b. "national holiday" shall mean New Year's Day, Martin Luther King Day, George Washington's Birthday, on the third Monday in February, 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. The maximum after-hours release rate shall be ~~Eleven Dollars and sixty-nine cents ($11.69)~~ Fifteen Dollars ($15.00) per quarter hour for the release of any single vehicle or combination of vehicles.

F. An operator shall be required to provide reasonable documentation to substantiate all lawful fees charged the owner, lienholder, agent or insurer accepting liability for paying the claim for the towed vehicle or purchasing 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 the payment to the third party. 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.

SECTION 4. 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 18th day of May, 2004.

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Presiding Officer of the House of Representatives

Passed the Senate the 20th day of May, 2004.

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Presiding Officer of the Senate