STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 314 By: Bass

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 952, as amended by Section 1, Chapter 316, O.S.L. 2003 (47 O.S. Supp. 2004, Section 952), which relates to the Department of Public Safety authority to license, supervise, govern and control wrecker vehicles and wrecker or towing services; defining a criminal classification for trespassing or breaking into and illegally entering certain wrecker storage facilities; requiring all counties and certain cities to keep rotation logs; prohibiting removal of a wrecker service from rotation without notification to wrecker operator; requiring rotation logs be available for public inspection; requiring apportioned tags for registered and licensed tow trucks; amending 47 O.S. 2001, Section 953.2, as last amended by Section 3, Chapter 360, O.S.L. 2004 (47 O.S. Supp. 2004, Section 953.2), which relates to fees and charges for storage and after-hours release of towed vehicles; adding insurer to list of persons to whom certain towed vehicle release rates or other services apply; amending 47 O.S. 2001, Section 12-227, as amended by Section 44, chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-227), as relates to requirements and restrictions on motor vehicle lamps or illuminating devices; expanding requirements for flashing lights on wreckers or tow vehicles; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 952, as last amended by Section 1, Chapter 316, O.S.L. 2003 (47 O.S. Supp. 2004, 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 as are necessary to carry out the intent of Section 951 et seq. of this title.

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 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. It shall be a felony to trespass or break into and illegally enter a class AA wrecker storage facility where vehicles are stored at the request of law enforcement.

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 from the licensed wrecker or towing service whose location is nearest to the vehicle to be towed. Requests for service may be alternated or rotated among all such licensed wrecker 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 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. Cities with a population less than fifty thousand (50,000) and all counties shall keep rotation logs on all requested tows and shall make all rotation logs available for public inspection upon request. Any calls made from cell phones or two-way radios by any law enforcement officer or employee to any wrecker service will be listed on the rotation logs and made available for public inspection. A wrecker service cannot be removed from rotation without notification to the wrecker operator and the reason from the rotation log.

D. Except as otherwise provided in this subsection, the Department and any municipality, county or other political subdivision of this state shall not place any 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 unless the service meets the following requirements:

1. Principal business facilities are located within Oklahoma;

2. Tow trucks are registered and licensed in Oklahoma <u>or have an apportioned tag</u>; and

3. Owner is a resident of the State of Oklahoma or the service is an Oklahoma corporation.

In the event a licensed wrecker or towing service is not located within a county, a wrecker or towing service that is located outside of the county or this state and does not meet the above qualifications may be placed on the rotation log for the county or any municipality or political subdivision located within the county.

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 953.1 of this title.

E. The Department of Public Safety shall place a licensed Class AA wrecker service on the Highway Patrol Rotation Log in a highway patrol troop district in which the place of business and the primary storage facility of the wrecker service are located upon written request filed by the wrecker service with the Department. Upon further request of the wrecker service, the Commissioner of Public Safety or the Department of Public Safety employee with statewide responsibility for administration of wrecker services may place a wrecker service on the Highway Patrol Rotation Log in a district

adjacent to the district in which the place of business and the primary storage facility of the wrecker service are located if the wrecker service is in proximity to and within a reasonable radius of the boundary of the district. When a wrecker service is placed on the rotation log in a district, the Department shall notify the wrecker service and the troop commander of the district.

F. The Commissioner of Public Safety or the Department of Public Safety employee with statewide responsibility for administration of wrecker services shall be responsible for establishing geographical areas of rotation within the troop districts and for notifying each wrecker service of the geographical areas of rotation to which the service is assigned.

G. The Department of Public Safety shall make all rotation logs available for public inspection at the state office and shall make rotation logs for a highway patrol troop district available for public inspection at the district office.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 953.2, as last amended by Section 3, Chapter 360, O.S.L. 2004 (47 O.S. Supp. 2004, 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, insurer, or agent when such release occurs at a time other than normal business hours or for services provided at the request of the owner, agent, insurer, lienholder or law enforcement.

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 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 3. AMENDATORY 47 O.S. 2001, Section 12-227, as amended by Section 44, Chapter 411, O.S.L. 2003 (47 O.S. Supp. 2004, Section 12-227), is amended to read as follows:

Section 12-227. A. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary driving lamps, flashing turn signals, vehicular hazard warning lamps, authorized emergency vehicle lamps, snow removal and construction and maintenance vehicle warning lamps, and school bus and church bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.

B. Except as provided in Sections 12-216, 12-218, 12-228 and 12-229 of this title, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying or capable of displaying a red or blue light visible from directly in front of the center thereof.

C. Flashing lights are prohibited except on:

1. An authorized emergency vehicle, as provided in Section 12-218 of this title;

2. A school bus or a church bus, as provided in Section 12-228 of this title;

3. Any snow-removal and construction, and maintenance equipment, as provided in Section 12-229 of this title;

4. A wrecker or tow vehicle while at the scene of an emergency or loading or unloading a vehicle in close proximity to traffic as needed for safety precautions or as a means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing, as provided in Section 36 of this act;

5. Any vehicle as a means of indicating a right or left turn, as provided in Sections 28 and 73 of this act;

6. Any vehicle as means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing, as provided in Section 12-220 of this title;

7. Any vehicle displaying side marker lamps which flash in conjunction with turn signal lamps or vehicle hazard warning lamps, as provided in Section 12-220 of this title;

8. A farm tractor or an implement of husbandry, as provided in Section 12-215 of this title; or

9. Any vehicle used while performing official duties as a rural or contract route mail carrier of the United States Postal Service, as provided in Section 37 of this act.

D. Blue lights are prohibited except as allowed in Sections 12-216, 12-218 and 12-229 of this title.

E. Any person violating the provisions of subsection B, C or D of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding Two Thousand Dollars ($2,000.00), or by both such fine and imprisonment.

SECTION 4. This act shall become effective November 1, 2005.

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