

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 613

By: Wilcoxson

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 10-104, 583, 904, as amended by Section 2, Chapter 133, O.S.L. 2002, 908, 910, 953.1, as last amended by Section 2, Chapter 360, O.S.L. 2004, 953.2, as last amended by Section 3, Chapter 360, O.S.L. 2004, 954A, and 955, as amended by Section 4, Chapter 387, O.S.L. 2002 (47 O.S. Supp. 2004, Sections 904, 953.1, 953.2, and 955), which relate to duty to render aid, license for certain dealers, cost of vehicle removal, foreclosure of certain lien, return of sale, maximum fees, after hours storage, abandoned vehicles, and towing; making gender neutral; authorizing certain uninsured motorist compensation for certain traffic accidents; requiring certain motor vehicle dealers and salespersons to record certain information for certain purchases; providing exception for private sales and dealer to dealer sales; making failure to comply with certain conduct a license violation; setting amount of administrative fine for certain violation; establishing an uninsured motorist victims compensation fee; setting amount; providing for wrecker or towing service to collect, and remit certain fee; prohibiting release of certain vehicles without certain information; providing license violation for failure to comply; modifying language and references; requiring certain information be included with return of sale; specifying certain information to be recorded on after hours sale; creating the Uninsured Motorist Victims Compensation Act; providing short title; defining terms; creating the Uninsured Motorist Victims Compensation Board; providing for appointment of board members, terms of membership, vacancies, election of chair, duties, and travel reimbursement; allowing award of certain compensation by preponderance of evidence; allowing appeals; directing Board to hear and determine certain matters; allowing certain actions without statutes of limitations; setting period to bar certain claims; setting period to retain certain records; providing subpoena power; directing the Department of Public Safety to provide certain support; establishing additional duties; allowing promulgation of rules; granting access to investigations by law enforcement agencies; allowing the board to require collateral source contributions; providing hearing process, notice, evidence and testimony; authorizing settlement of certain claims by certain methods; requiring waiver of certain physician-patient privilege for certain claim; authorizing certain examinations for certain purpose;

requiring certain reports; allowing certain professional assistance for certain claims; authorizing board to set certain limits on certain compensation; setting maximum percentage for award for medical services; requiring certain persons to accept awards as discharging certain obligations; setting maximum percentage for certain deductibles and copayments; making certain records confidential; prohibiting certain discovery for certain actions; providing certain exceptions; prohibiting certain compensation awards under certain circumstances; setting time period for filing certain claims; setting criteria to diminish certain awards; allowing denial of certain claims for certain reasons; allowing reconsideration of certain claims within certain time period; providing for refund of certain awards for fraud; construing effects of reconsideration of certain awards; prohibiting multiple claims or awards; allowing certain awards without fault in eligible accident; authorizing suspension of proceeding for certain purposes; requiring state to be subrogated to certain rights; directing certain funds be held in trust and deposited as certain reimbursement; requiring notice of certain damage suits; allowing Board to join certain damage action for certain purpose; setting maximum compensation for certain losses, expenses and burial expense; allowing lump sum or installments for certain awards; prohibiting garnishment or attachment of certain awards except for certain purpose; providing certain assignment of awards; authorizing advancement of certain awards in certain circumstances; requiring annual report and summary of claims; criminalizing false claim; setting penalty; requiring reimbursement of certain awards; setting accruing interest rate for certain reimbursement; creating the Uninsured Motorist Victims Compensation Revolving Fund; providing for deposit of funds and expenditures; directing investment of certain revolving fund; providing for deposit of earned interest; establishing uninsured motorist victim compensation assessment for certain conviction; setting minimum and maximum amounts for certain assessment; providing for deposit of certain funds; providing for codification; providing effective dates; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 10-104, is amended to read as follows:

Section 10-104. A. The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any vehicle which is driven or attended by any person shall give his or her correct name, address and registration number of the vehicle

he or she is driving, and shall upon request exhibit his or her driver license and ~~his~~ security verification form, as defined in Section 7-600 of this title, to the person struck or the driver or occupant of or person attending any vehicle collided with, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person. Any driver who provides information required by this section which is intentionally inaccurate shall be subject to the provisions of Section ~~10-103~~ 10-112 of this title.

B. Any driver of any vehicle involved in an accident who could be cited for any traffic offense where said accident resulted in the immediate death of any person shall submit to drug and alcohol testing as soon as practicable after such accident occurs. The traffic offense violation shall constitute probable cause for purposes of Section 752 of this title and the procedures found in Section 752 of this title shall be followed to determine the presence of alcohol or controlled dangerous substances within the driver's blood system.

C. When the driver of any vehicle involved in an accident fails to have at least the minimal liability insurance required by law, any person injured as a result of that accident, who is not cited for any traffic or criminal violation, may be eligible for victim's compensation as provided in the Uninsured Motorist Victims Compensation Act, Sections 10 through 27 of this act.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 583, is amended to read as follows:

Section 583. A. 1. It shall be unlawful and constitute a misdemeanor for any person to engage in business as, or serve in the capacity of, or act as a used motor vehicle dealer, used motor

vehicle salesperson, wholesale used motor vehicle dealer, manufactured home dealer, manufactured home installer, or manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state without first obtaining a license or following other requirements therefor as provided in this section.

2. a. Any person engaging, acting, or serving in the capacity of a used motor vehicle dealer and/or a used motor vehicle salesperson, a manufactured home dealer, a manufactured home installer, or a manufactured home manufacturer, or having more than one place where any such business, or combination of businesses, is carried on or conducted shall be required to obtain and hold a current license for each such business, in which engaged.
- b. A used motor vehicle dealer's license shall authorize one person to sell without a salesperson's license in the event such person shall be the owner of a proprietorship, or the person designated as principal in the dealer's franchise or the managing officer or one partner if no principal person is named in the franchise.
- c. If after a hearing in accordance with the provisions of Section 585 of this title, the Oklahoma Used Motor Vehicle and Parts Commission shall find any person installing a mobile or manufactured home to be in violation of any of the provisions of this act, such person may be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00) for each violation. Each day a person is in violation of this act may constitute a separate violation. The maximum fine shall not exceed One Thousand Dollars

(\$1,000.00). All administrative fines collected pursuant to the provisions of this subparagraph shall be deposited in the fund established in Section 582 of this title. Administrative fines imposed pursuant to this subparagraph may be enforceable in the district courts of this state.

- d. A salesperson's license may not be issued under a wholesale used motor vehicle dealer's license.

3. Any person except persons penalized by administrative fine violating the provisions of this section shall, upon conviction, be fined not to exceed Five Hundred Dollars (\$500.00). A second or subsequent conviction shall be punished by a fine not to exceed One Thousand Dollars (\$1,000.00); provided that each day such unlicensed person violates this section shall constitute a separate offense, and any vehicle involved in a violation of this subsection shall be considered a separate offense.

B. 1. Applications for licenses required to be obtained under provisions of this act, Section 581 et seq. of this title, which creates the Oklahoma Used Motor Vehicle and Parts Commission shall be verified by the oath or affirmation of the applicant and shall be on forms prescribed by the Commission and furnished to the applicants, and shall contain such information as the Commission deems necessary to enable it to fully determine the qualifications and eligibility of the several applicants to receive the license or licenses applied for. The Commission shall require in the application, or otherwise, information relating to:

- a. the applicant's financial standing,
- b. the applicant's business integrity,
- c. whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license, or licenses, is applied for,

- d. whether the applicant is able to properly conduct the business for which a license, or licenses, is applied for, and
- e. such other pertinent information consistent with the safeguarding of the public interest and the public welfare.

2. All applications for license or licenses shall be accompanied by the appropriate fee or fees in accordance with the schedule hereinafter provided. In the event any application is denied and the license applied for is not issued, the entire license fee shall be returned to the applicant.

3. All bonds and licenses issued under the provisions of this act shall expire on December 31, following the date of issue and shall be nontransferable. All applications for renewal of licenses should be submitted by November 1 of each year, and licenses shall be issued by January 10. If applications have not been made for renewal of licenses, such licenses shall expire on December 31 and it shall be illegal for any person to represent himself or herself and act as a dealer thereafter. Tag agents shall be notified not to accept dealers' titles until such time as licenses have been issued.

4. A used motor vehicle salesperson's license shall permit the licensee to engage in the activities of a used motor vehicle salesperson. Salespersons shall not be allowed to sell vehicles unless applications, bonds, and fees are on file with the Commission and the motor vehicle salesperson's or temporary salesperson's license issued. A temporary salesperson's license, salesperson's renewal or reissue of salesperson's license shall be deemed to have been issued when the appropriate application, bond, and fee have been properly addressed and mailed to the Commission.

Dealers' payrolls and other evidence will be checked to ascertain that all salespersons for such dealers are licensed.

C. The schedule of license fees to be charged and received by the Commission for the licenses issued hereunder shall be as follows:

1. For each used motor vehicle dealer's license and each wholesale used motor vehicle dealer's license, Two Hundred Dollars (\$200.00). If a used motor vehicle dealer or a wholesale used motor vehicle dealer has once been licensed by the Commission in the classification for which he or she applies for a renewal of the license, the fee for each subsequent renewal shall be One Hundred Dollars (\$100.00); provided, if an applicant holds a license to conduct business as an automotive dismantler and parts recycler issued pursuant to Section 591.1 et seq. of this title, the initial fee shall be One Hundred Dollars (\$100.00) and the renewal fee shall be Seventy-five Dollars (\$75.00). If an applicant is applying simultaneously for a license under this paragraph and a license under paragraph 1 of Section 591.5 of this title, the initial application fee shall be One Hundred Fifty Dollars (\$150.00);

2. For a used motor vehicle dealer's license, for each place of business in addition to the principal place of business, Fifty Dollars (\$50.00);

3. For each used motor vehicle salesperson's license, Ten Dollars (\$10.00);

4. For each holder who possesses a valid new motor vehicle dealer's license from the Oklahoma Motor Vehicle Commission, One Hundred Dollars (\$100.00) shall be the initial fee for a used motor vehicle license and the fee for each subsequent renewal shall be One Hundred Dollars (\$100.00);

5. a. For each manufactured home dealer's license, and for each place of business in addition to the principal place of business, Two Hundred Dollars (\$200.00).

b. For each renewal of a manufactured home dealer's license, and renewal for each place of business in

addition to the principal place of business, One Hundred Dollars (\$100.00);

6. a. For each manufactured home installer's license, Two Hundred Dollars (\$200.00).

b. For each renewal of a manufactured home installer's license, Two Hundred Dollars (\$200.00); and

7. a. For each manufactured home manufacturer selling directly to a licensed manufactured home dealer in this state, Seven Hundred Fifty Dollars (\$750.00).

b. For each renewal of a manufactured home manufacturer's license, Seven Hundred Fifty Dollars (\$750.00).

D. 1. The license issued to each used motor vehicle dealer, each wholesale used motor vehicle dealer, each manufactured home dealer, each manufactured home installer, and each manufactured home manufacturer shall specify the location of the place of business. If the business location is changed, the Oklahoma Used Motor Vehicle and Parts Commission shall be notified immediately of the change and the Commission may endorse the change of location on the license without charge. The license of each licensee shall be posted in a conspicuous place in the place or places of business of the licensee.

2. Every used motor vehicle salesperson shall have the license upon his or her person when engaged in business, and shall display same upon request. The name of the employer of the salesperson shall be stated on the license and if there is a change of employer, the license holder shall immediately mail the license to the Commission for its endorsement of the change thereon. There shall be no charge for endorsement of change of employer on the license or penalty for not having a license upon his or her person.

3. Every manufactured home installer shall have the license available for inspection at the primary place of business of the licensee. This license shall be valid for the licensee and all of

the employees of the licensee. Any person who is not an employee of the licensee must obtain a separate manufactured home installer license regardless of whether such person is acting in the capacity of a contractor or subcontractor.

E. 1. a. Each applicant for a used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Fifteen Thousand Dollars (\$15,000.00). Each new applicant for a used motor vehicle dealer's license for the purpose of conducting a used motor vehicle auction shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). An applicant who intends to conduct a used motor vehicle auction who provides proof that the applicant has check and title insurance in an amount not less than Fifty Thousand Dollars (\$50,000.00) shall only be required to have a bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).

b. Each new applicant for a used motor vehicle dealer license for the purpose of conducting a used motor vehicle business which will consist primarily of non-auction consignment sales which are projected to equal Five Hundred Thousand Dollars (\$500,000.00) or more in gross annual sales shall procure and file with the Commission a good and sufficient bond in the amount of Fifty Thousand Dollars (\$50,000.00). The Commission shall prescribe by rule the method of operation of the non-auction consignment dealer in order to properly protect the interests of all parties to the transaction and to provide sanctions against dealers who fail to comply with the rules.

- c. Each applicant for a wholesale used motor vehicle dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Twenty-five Thousand Dollars (\$25,000.00).
- d. Each applicant for a manufactured home dealer's license shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00).
- e. Each manufactured home manufacturing facility selling directly to a licensed manufactured home dealer in this state shall procure and file with the Commission a good and sufficient bond in the amount of Thirty Thousand Dollars (\$30,000.00). In addition to all other conditions and requirements set forth herein, the bond shall require the availability of prompt and full warranty service by the manufacturer to comply with all warranties expressed or implied in connection with each manufactured home which is manufactured for resale in this state.
- f. The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall not practice fraud, make any fraudulent representation, or violate any of the provisions of this act in the conduct of the business for which the applicant is licensed. One of the purposes of the bond is to provide reimbursement for any loss or damage suffered by any person by reason of issuance of a certificate of title by a used motor vehicle dealer, a wholesale used motor vehicle dealer, or a manufactured home dealer.

2. If a motor vehicle dealer has a valid license issued by the Oklahoma Motor Vehicle Commission, then the bond as required by this subsection shall be waived.

3. Each applicant for a used motor vehicle salesperson's license shall procure and file with the Commission a good and sufficient bond in the amount of One Thousand Dollars (\$1,000.00). The bond shall be approved as to form by the Attorney General and conditioned that the applicant shall perform duties as a used motor vehicle salesperson without fraud or fraudulent representation and without violating any provisions of this act.

4. The bonds as required by this section shall be maintained throughout the period of licensure. Should the bond be canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to such date.

F. Any used motor vehicle dealer or wholesale used motor vehicle dealer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of single liability insurance coverage on all vehicles offered for sale or used in any other capacity in demonstrating or utilizing the streets and roadways in accordance with the financial responsibility laws of this state.

G. Any manufactured home dealer is required to furnish and keep in force a minimum of One Hundred Thousand Dollars (\$100,000.00) of garage liability or general liability with products and completed operations insurance coverage.

H. Any manufactured home installer is required to furnish and keep in force a minimum of Twenty-five Thousand Dollars (\$25,000.00) of general liability with products and completed operations insurance coverage.

I. Every used motor vehicle dealer, used motor vehicle salesperson and wholesale used motor vehicle dealer is required to record and keep a copy of a valid driver license and a security

verification form information for every person who purchases a motor vehicle from said dealer, wholesaler or salesperson. Provided, however, any motor vehicle sold to another licensed dealer or wholesaler for resale or any private sale between individuals not pertaining to such dealer's or wholesaler's business shall not be subject to the provisions of this subsection. Failure of any such dealer, wholesaler or salesperson to comply with the provisions of this subsection shall constitute a license violation punishable by an administrative fine in the amount of Two Hundred Fifty Dollars (\$250.00) per occurrence.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 904, as amended by Section 2, Chapter 133, O.S.L. 2002 (47 O.S. Supp. 2004, Section 904), is amended to read as follows:

Section 904. The owner of a motor vehicle or lienholder of the vehicle abandoned in violation of Section 901 et seq. of this title, or the owner of any vehicle or lienholder of the vehicle or insurer accepting liability for paying a claim on a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner which shall have been lawfully removed from any highway or other public property may regain possession of the vehicle in accordance with regulations of the Department of Public Safety upon payment of an uninsured motorist victims compensation fee of Ten Dollars (\$10.00), and the reasonable cost of removal and storage of such vehicle. 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 on the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.

The cost of removal and storage shall be paid to the wrecker or towing service. The uninsured motorist victims compensation fee shall be collected by the wrecker or towing service and remitted monthly to the Uninsured Motorist Victims Compensation Board. Every

wrecker or towing service holding or storing any vehicle pursuant to any provision of law shall not release any motor vehicle without the person showing proof of having a valid driver license and, if the person is the owner of such vehicle, a security verification form as required by law for operation of such vehicle upon the streets, roads and highways of this state. The wrecker or towing service shall retain a copy of the driver license for the record. Failure of any wrecker or towing service to obtain such driver license or security verification form shall constitute a license violation for each occurrence.

SECTION 4. AMENDATORY 47 O.S. 2001, Section 908, is amended to read as follows:

Section 908. A. ~~Said~~ A storage and towing lien as authorized by law may be foreclosed by a sale of ~~such~~ the abandoned vehicle upon giving notice and in the manner following: The notice shall contain:

~~(a)~~ 1. The name of the party bringing action and the name of the owner or any person claiming any interest therein.

~~(b)~~ 2. A full description of the vehicle, giving all available information as to the make, year, serial number, license tag with year and the state from which the tag was issued.

~~(c)~~ 3. A full statement of all the facts.

~~(d)~~ 4. The amount of the claim, giving a full description of the work, labor, storage or any other costs involved.

~~(e)~~ 5. The date, time and place of the sale.

~~(f)~~ 6. The notice shall be posted in three public places in the county in which the vehicle is to be sold at least ten (10) days before the time specified therein for such sale, and a copy of said notice shall be mailed to the owner and any other person claiming any interest in the abandoned motor vehicle, at their last-known mailing address, by registered mail on the same date of posting said notice.

B. An uninsured motorist victims compensation fee of Ten Dollars (\$10.00) shall be required for any person regaining possession or purchasing such vehicle, including the wrecker or towing service. Said fee shall be collected by the wrecker or towing service and remitted monthly to the Uninsured Motorist Victims Compensation Board. Every wrecker or towing service holding or storing any vehicle pursuant to any provision of law shall not release any motor vehicle without the person showing proof of having a valid driver license and, if the person is the owner of such vehicle, a security verification form as required by law for operation of such vehicle upon the streets, roads and highways of this state. The wrecker or towing service shall retain a copy of the driver license for the record. Failure of any wrecker or towing service to obtain such driver license or security verification form shall constitute a license violation for each occurrence. Any wrecker or towing service purchasing an abandoned motor vehicle shall enter said wrecker or towing service license number for the record.

SECTION 5. AMENDATORY 47 O.S. 2001, Section 910, is amended to read as follows:

Section 910. A return of such sale for the sale of an abandoned motor vehicle shall be made at the time of sale and proof of posting and mailing of the notice of sale of abandoned vehicle. A copy of the driver license required by Section 908 of this title and a receipt for collection of the uninsured motorist victims compensation fee shall be included with the return of sale.

SECTION 6. AMENDATORY 47 O.S. 2001, Section 953.1, as last amended by Section 2, Chapter 360, O.S.L. 2004 (47 O.S. Supp. 2004, 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. An uninsured motorist victims compensation fee of Ten Dollars (\$10.00) shall be required for any person regaining possession or purchasing such vehicle, including the wrecker or towing service. Said fee shall be collected by the wrecker or towing service and remitted monthly to the Uninsured Motorist Victims Compensation Board. Every wrecker or towing service holding or storing any vehicle pursuant to any provision of law shall not release any motor vehicle without the person showing proof of having a valid driver license and, if the person is the owner of such vehicle, a security verification form as required by law for operation of such vehicle upon the streets, roads and highways of this state. The wrecker or towing service shall retain a copy of the driver license for the record. Failure of any wrecker or towing service to obtain such driver license or security verification form shall constitute a license violation for each occurrence. Any wrecker or towing service purchasing an abandoned motor vehicle shall enter said wrecker or towing service license number for the record.

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	Distance	Rate
(In pounds, including	Towed	Per

equipment and lading)		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

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	\$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.

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. 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

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	\$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

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

(1%) increase in fees for every ten-cent increase in fuel cost starting at Two Dollars (\$2.00) per gallon.

SECTION 7. 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. The wrecker or towing service shall be required to record the driver license number, together with the name, address, birth date, issuing state, and expiration date shown on the driver license or obtain a copy of said license and security verification form for every vehicle released or sold after coming into the control of the wrecker or towing service.

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. An uninsured motorist victims compensation fee of Ten Dollars (\$10.00) shall be required for any person regaining possession or purchasing a vehicle, including the wrecker or towing service. Said fee shall be collected by the wrecker or towing service and remitted monthly to the Uninsured Motorist Victims Compensation Board. Every wrecker or towing service holding or storing any vehicle pursuant to any provision of law shall not release any motor vehicle without the person showing proof of having a valid driver license and, if the person is the owner of such vehicle, a security verification form as required by law for operation of such vehicle upon the streets, roads and highways of this state. The wrecker or towing service shall retain a copy of the driver license information for the record. Failure of any wrecker or towing service to obtain such driver license or security verification form information shall constitute a license violation for each occurrence. Any wrecker or towing service purchasing an abandoned motor vehicle shall enter said wrecker or towing service license number for the record.

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 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.

G. Every vehicle released or sold as provided by law by a wrecker or towing service shall be required to pay an uninsured motorist victims compensation fee in the amount of Ten Dollars (\$10.00) to be collected by the wrecker or towing service and remitted monthly to the Uninsured Motorist Victims Compensation Board.

SECTION 8. AMENDATORY 47 O.S. 2001, 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 within the county wherein the real property is located to remove the abandoned vehicle from the premises by signing a Tow Request and Authorization Form prescribed

by the Department of Public Safety and furnished to licensed wrecker operators as hereinafter provided.

C. A licensed wrecker or towing service removing an abandoned vehicle pursuant to this section shall be subject to the maximum rates authorized by Section 953.1 of this title.

D. 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, 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 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.

E. The real property owner, legal possessor or authorized agent and the wrecker vehicle driver shall jointly, and each in the presence of the other, inventory personal property found within or upon the vehicle 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.

F. 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 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, or the sheriff's office of the county from which the vehicle was towed, if the real property is located outside of an incorporated municipality.

G. 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 the vehicle. The Tax Commission or appropriate motor license agent shall respond in person or by certified mail to the wrecker or towing service within five (5) business days from the receipt of the request for information. 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 certified mail, postage prepaid, at the addresses furnished, to the owner and any lienholder of the vehicle. The owner or lienholder may regain possession of the vehicle in accordance with rules of the Department upon payment of an uninsured motorist victims compensation fee in the amount of Ten Dollars (\$10.00), the wrecker or towing services, costs of certified mailing and the reasonable cost of towing and storage of the vehicle. If the wrecker or towing service has not complied with the notification procedures required by this subsection, the owner or lienholder shall not be required to pay for storage of the vehicle. Every wrecker or towing service holding or storing any vehicle pursuant to any provision of law shall not release any motor vehicle without the person showing proof of having

a valid driver license and, if the person is the owner of such vehicle, a security verification form as required by law for operation of such vehicle upon the streets, roads and highways of this state. The wrecker or towing service shall retain a copy of the driver license information for the record. Failure of any wrecker or towing service to obtain such driver license or security verification form information shall constitute a license violation for each occurrence.

H. 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 of the Department.

SECTION 9. AMENDATORY 47 O.S. 2001, Section 955, as amended by Section 4, Chapter 387, O.S.L. 2002 (47 O.S. Supp. 2004, 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 towed any vehicle found upon the roadway when:

1. Report has been made that such vehicle has been stolen or taken without the consent of its owner;
2. The officer has reason to believe the vehicle has been abandoned as defined in Sections 901 and 902 of this title;
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. At the scene of an accident, when the owner or driver is not in a position to take charge of his or her vehicle and direct or request its proper removal.

B. Each officer of the Department shall use the services of the licensed wrecker operator whose location is nearest to the vehicle to be towed in all instances 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 licensed wrecker operator, giving equal consideration to all 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. In counties bordering other states, if the officer deems safety and time considerations warrant, the officer may call a wrecker or towing service that is not on the rotation log.

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 roadway under the authority of paragraphs 3 and 4 of subsection A of this section.

D. An uninsured motorist victims compensation fee of Ten Dollars (\$10.00) shall be required for any person regaining possession or purchasing such vehicle, including the wrecker or towing service. Said fee shall be collected by the wrecker or towing service and remitted monthly to the Uninsured Motorist Victims Compensation Board. Every wrecker or towing service holding

or storing any vehicle pursuant to any provision of law shall not release any motor vehicle without the person showing proof of having a valid driver license and, if the person is the owner of such vehicle, a security verification form as required by law for operation of such vehicle upon the streets, roads and highways of this state. The wrecker or towing service shall retain a copy of the driver license for the record. Failure of any wrecker or towing service to obtain such driver license or security verification form shall constitute a license violation for each occurrence. Any wrecker or towing service purchasing an abandoned motor vehicle shall enter said wrecker or towing service license number for the record.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118 of Title 47, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Uninsured Motorist Victims Compensation Act".

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.1 of Title 47, unless there is created a duplication in numbering, reads as follows:

As used in the Uninsured Motorist Victims Compensation Act:

1. "Allowable expense" means:
 - a. any charges incurred for necessary medical care, rehabilitation, rehabilitative occupational training and other remedial treatment and care directly related to the injury sustained due to the eligible accident,
 - b. any out-of-pocket expense, insurance deductible or copayment incurred in relation to an eligible accident;
 - c. any reasonable property loss or replacement services loss directly related to the eligible accident, and

- d. any reasonable expenses related to the funeral, cremation or burial related to a death from the eligible accident.

2. "Board" means the Uninsured Motorist Victims Compensation Board created by this act;

3. "Claimant" means any of the following persons applying for compensation under the Uninsured Motorist Victims Compensation Act:

- a. a victim of an accident who was not cited for any traffic or criminal violation relating to the eligible accident who held at the time of the accident a valid driver license from this state or another state and, if a resident of this state, a security verification form for at least the minimal liability insurance required by law, or if a resident of another state, proof of liability insurance required by such other state,
- b. a dependent of an victim who was injured or has died as a direct result of being involved in the accident, or
- c. a person authorized to act on behalf of any of the persons enumerated in subparagraphs a and b of this paragraph;

4. "Collateral source" means a source of benefits or advantages for medical care, treatment, or economic loss for which the claimant would otherwise be eligible to receive compensation under this act or the Oklahoma Crime Victims Compensation Act, and which the claimant has received, or which is readily available to the claimant, from any one or more of the following:

- a. the person at fault in the accident, including but not limited to, such person's or an employer's motor vehicle insurance benefits, liability insurance benefits, other insurance benefits or any offer of

settlement or other offer or ability to provide benefits, advantages or compensation,

- b. the government of the United States or any agency thereof, in the form of benefits, such as social security, Medicare and Medicaid, a state or any of its political subdivisions or an instrumentality or two or more states, unless the law providing for the benefits or advantages makes such benefits excessive or secondary to benefits under this act,
- c. state-required temporary nonoccupational disability insurance,
- d. workers' compensation,
- e. wage continuation programs of any employer,
- f. a contract providing prepaid hospital and other health care services or benefits for disability,
- g. a contract providing prepaid burial expenses or benefits, or
- h. proceeds of any contract of insurance payable to the claimant for medical care or loss which the victim sustained because of the accident, except:

(1) life insurance proceeds shall not be considered a collateral source when computing medical expenses incurred as a result of the accident, and

(2) life insurance proceeds shall not be considered a collateral source for computing burial expenses;

5. "Criminally injurious conduct" means a misdemeanor or felony which occurs or is attempted in this state that is eligible for crime victims compensation pursuant to the Crime Victims Compensation Act of this state;

6. "Dependent" means a natural person wholly or partially dependent upon the victim for care or support, and includes a child

of the victim born after the death of the victim where the death occurred as a result of an eligible accident;

7. "Economic loss" means monetary detriment consisting only of allowable expense, work loss and replacement services loss directly related to an eligible accident;

8. "Eligible accident" means a motor vehicle accident caused by a traffic offense where the accident is between at least two motor vehicles being driven or operated on the streets, roads or highways of this state, or an accident between a motor vehicle and a pedestrian, where the driver at fault fails to have at least the minimal liability insurance required for operation of a vehicle in this state and the party or parties injured were in compliance with such liability insurance, except in the case of a pedestrian or dependent of a eligible victim. Being in compliance with liability insurance shall be a prerequisite to being an eligible victim and for an eligible accident. Any claim submitted pursuant to the Oklahoma Crime Victims Compensation Act relating to any accident resulting from the criminally injurious conduct of another shall be precluded from eligibility pursuant to the provisions of this act.

9. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for the benefit of self or family, if the victim had not been injured or died;

10. "Traffic offense" means violation of a law relating to the operation of vehicles, but shall not mean any offense defined as criminal injurious conduct by the Crime Victims Compensation Act;

11. "Work loss for victim" means loss of income from work the eligible victim would have performed if such person had not been injured or died, reduced by any income from substitute work actually performed by the victim or by income the victim would have earned in

available appropriate substitute work that the victim was capable of performing but unreasonably failed to undertake; and

12. "Victim or eligible victim" means a person who suffers personal injury or death as a result of an eligible accident from a traffic offense, including a dependent.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.2 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created an Uninsured Motorist Victims Compensation Board, consisting of three (3) members appointed by the Governor with the advice and consent of the Senate to serve four-year terms and until the successor is appointed and qualified. At least one member of the Board shall be a person admitted to practice law in this state. Of the first members appointed, one shall be appointed for a term of two (2) years, one shall be appointed for a term of three (3) years, and one shall be appointed for a term of four (4) years. Vacancies shall be filled in the same manner as regular appointments.

B. Each year the Board shall elect a chairperson from its membership. Members of the Board shall receive such compensation, subsistence allowances, mileage and expenses as are provided by the State Travel Reimbursement Act.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Uninsured Motorist Victims Compensation Board shall award compensation of allowable expenses arising from an eligible accident if satisfied by a preponderance of the evidence that the requirements for compensation have been met. The claimant shall have a right of appeal to the Board for any claim in dispute.

B. The Board shall hear and determine all matters relating to claims for compensation. The Board shall be able to reinvestigate

or reopen claims without regard to statutes of limitation. However, claims that have been inactive for a period of more than two (2) years from the date of the last action by the Board shall be deemed closed and any further action forever barred. Claim files may be destroyed after a claim is closed. Claims which have been declined may be destroyed after nine (9) months, following the last Board action; provided, the claimant has not notified the Board of any intentions to request reconsideration of the claim.

C. The Board shall have the power to subpoena witnesses, compel their attendance, require the production of records and other evidence, administer oaths or affirmations, conduct hearings and receive relevant evidence.

D. The Board shall be provided such office, support, staff and secretarial services as determined by the Department of Public Safety.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.4 of Title 47, unless there is created a duplication in numbering, reads as follows:

In addition to any other powers and duties specified elsewhere in this act, the Uninsured Motorist Victims Compensation Board may:

1. Regulate its own procedures except as otherwise provided in this act;

2. Adopt rules and regulations to implement the provisions of this act;

3. Define any term not defined in this act;

4. Prescribe forms necessary to carry out the purposes of this act;

5. Have access to any reports of investigations from all law enforcement agencies, or other data necessary to assist the Board in making a determination of eligibility for compensation under the provisions of this act; and

6. Publicize the availability of compensation and information regarding the filing of claims therefor.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.5 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Uninsured Motorist Victims Compensation Board may require any claimant to seek or accept any collateral source contribution.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.6 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Every party to the claim shall be afforded an opportunity to appear and be heard and to offer evidence and argument on any issue relevant to the claim, and to examine witnesses and offer evidence in reply to any matter of an evidentiary nature in the record relevant to the claim.

B. In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice pursuant to regulations promulgated by the Uninsured Motorist Victims Compensation Board. A record of the proceedings of the hearing in a contested case shall be made and shall be transcribed upon request of any party, who shall pay transcription costs unless otherwise ordered by the Board.

C. The Board may, without a hearing, settle a claim by stipulation, agreed settlement, consent order or default.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.7 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Any person filing a claim under the provisions of this act shall be deemed to have waived any physician-patient privilege as to communications or records relevant to an issue of the physical, mental or emotional conditions of the claimant.

B. If the mental, physical or emotional condition of a claimant is material to a claim, the Uninsured Motorist Victims Compensation Board upon good cause shown may order the claimant to submit to a mental or physical examination. The examination report shall set out the findings of the person making the report, including results of all tests made, diagnoses, prognoses and other conclusions and reports of earlier examinations of the same conditions.

C. The Board shall furnish a copy of the report examined. If the victim is deceased, the Board, on request, shall furnish a copy of the report to the claimant.

D. The Board may require the claimant to supply any additional medical or psychological reports available relating to the injury or death for which compensation is claimed.

E. In certain cases wherein mental health expenses are being claimed, the Board may request assistance from a panel of professionals in the mental health field. The panel of professionals may only act in an advisory capacity to the Board.

F. The Board shall have the authority to set limits of compensation on any medical or mental health treatment, and require that providers of medical or mental health treatments be licensed prior to compensating for said treatment. Awards for all medical services shall not exceed seventy-five percent (75%) of the total cost of the services less any other reduction for contributory conduct, as determined by the Board. Any medical provider that receives payment from the Uninsured Motorist Victims Compensation Revolving Fund for medical, dental or psychological services, or any provider that supplies equipment pursuant to an award under this act shall, as a condition of the receipt of such payment, accept such payment as discharging in full any and all obligations of the claimant to pay, reimburse or compensate the provider for medical services, supplies or equipment that have been reimbursed pursuant to this act. In the event the claimant has paid for a medical

service, the claimant will be reimbursed for the out-of-pocket loss, less any reductions for contributory conduct, as determined by the Board. Insurance deductibles and copayments may be reimbursed not to exceed eighty percent (80%) of the total amount paid.

G. All records and information given to the Board to process a claim on behalf of an eligible victim shall be confidential. Such exhibits, medical records, psychological records, counseling records, work records, criminal investigation records, criminal court case records, witness statements, telephone records, and other records of any type or nature whatsoever gathered for the purpose of evaluating whether to compensate a victim shall not be obtainable by any party to any civil or criminal action through any discovery process except:

1. In the event of an appeal under the Administrative Procedures Act from a decision of the Board and then only to the extent narrowly and necessarily to obtain court review; or

2. Upon a strict showing to the court in a separate civil or criminal action that particular information or documents are not obtainable after diligent effort from any independent source, and are known to exist otherwise only in Board records, the court may inspect in camera such records to determine whether the specific requested information exists. If the court determines the specific information sought exists in the Board's records, the documents may then be released only by court order if the court finds as part of its order that the documents will not pose any threat to the safety of the victim or any other person whose identity may appear in the Board's records.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.8 of Title 47, unless there is created a duplication in numbering, reads as follows:

- A. Compensation shall not be awarded by the Uninsured Motorist Victims Compensation Board:

1. Unless the claim has been filed with the Board within ninety (90) days after the injury or death upon which the claim is based. The Board may, at its discretion, waive this requirement, if the Board finds there was good cause for failure to file the claim within the established time period, but in no event shall the filing of a claim be permitted after one (1) year from the date of the injury or death upon which the claim is based.

2. To a claimant who was a criminal offender, or an accomplice of the criminal offender, or a person at fault in the accident, or a person who failed to be in compliance with the required liability indemnification in this state;

3. To another person if the award would benefit any ineligible person; or

4. Unless the accident resulting in injury or death was reported to a law enforcement officer within twenty-four (24) hours after its occurrence or the Board finds there was good cause for the failure to report within that time.

B. Compensation otherwise payable to a claimant shall be diminished to the extent:

1. That the economic loss is recouped from collateral sources; or

2. Of the degree of responsibility for the cause of the injury or death attributable to the victim as determined by the Board.

C. The Board, upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies or insurance providers, may deny, withdraw or reduce an award of compensation.

D. The Board, on its own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount. The motion or request to reconsider a decision shall be made within three (3) months from the date of the last action by the Board on the claim at issue. An order on

reconsideration of an award shall not require a refund of amounts previously paid, unless the award was obtained by fraud. The right of reconsideration does not affect the finality of a Board decision for the purpose of judicial review. On claims which are denied by the Board, reconsideration may only be granted within six (6) months of the last Board action.

E. The provisions of subsections A and B of this section shall not apply to claimants eligible for compensation pursuant to the Oklahoma Crime Victims Compensation Act. Multiple claims are prohibited under this act when arising out of the same accident and no claim or award shall be allowed pursuant to both this act and the Oklahoma Crime Victims Compensation Act.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.9 of Title 47, unless there is created a duplication in numbering, reads as follows:

An award may be made whether or not any person was cited at fault in the eligible accident. The Uninsured Motorist Victims Compensation Board may suspend the proceedings pending disposition of a traffic citation or proceedings to determine eligibility of a claim filed under the Oklahoma Crime Victims Compensation Act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.10 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. If compensation is awarded, the state shall be subrogated to all the rights of a claimant to receive or recover from a collateral source to the extent that compensation was awarded.

B. In the event the claimant recovers compensation, other than under the provisions of this act, for injuries or death resulting from an eligible accident, the claimant shall retain, as trustee, so much of the recovered funds as necessary to reimburse the Uninsured Motorist Victims Compensation Revolving Fund to the extent that compensation was awarded to the claimant from that fund. The funds

retained in trust shall be promptly deposited in the Uninsured Motorist Victims Compensation Revolving Fund.

C. If a claimant brings an action to recover damages related to the eligible accident upon which compensation is claimed or awarded, the claimant shall give the Uninsured Motorist Victims Compensation Board written notice of the action. After receiving the notice, the Board may join in the action as a party plaintiff to recover the compensation awarded.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.11 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. The Uninsured Motorist Victims Compensation Board may compensate for work loss and replacement services loss. Compensation for such loss may not exceed One Thousand Dollars (\$1,000.00).

B. Compensation payable to a victim and to all other claimants sustaining economic loss because of injury to or death of that victim may not exceed Twenty Thousand Dollars (\$20,000.00) in the aggregate.

C. The Board may provide for the payment to a claimant in a lump sum or in installments. At the request of the claimant, the Board may convert future economic loss, other than allowable expense, to a lump sum.

D. An award shall not be subject to execution, attachment, garnishment or other process, except for child support and except that an award for allowable expense shall not be exempt from a claim of a creditor to the extent that such creditor has provided products, services or accommodations, the costs of which are included in the award.

E. An assignment by the claimant to any future award under the provisions of this act is unenforceable, except:

1. An assignment of any award for work loss to assure payment of court ordered alimony, maintenance or child support; or

2. An assignment of any award for allowable expense to the extent that the benefits are for the cost of products, services or accommodations necessitated by the injury or death on which the claim is based and are provided or to be provided by the assignee.

F. Outpatient counseling expenses for a victim of an eligible accident may be considered by the Board provided the counseling is necessary for coping with an injury or death and the counselor is a qualified mental health care provider. A total not to exceed Two Thousand Dollars (\$2,000.00) may be awarded for individual counseling sessions for eligible victims in the discretion of the Board.

G. Reasonable funeral, cremation or burial expenses shall not exceed Five Thousand Dollars (\$5,000.00).

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.12 of Title 47, unless there is created a duplication in numbering, reads as follows:

If the Uninsured Motorist Victims Compensation Board determines that the claimant will suffer financial hardship unless an advance award is made, an amount may be paid to the claimant and shall be deducted from the final award, or shall be repaid by and recoverable from the claimant to the extent that it exceeds the final award.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.13 of Title 47, unless there is created a duplication in numbering, reads as follows:

The Uninsured Motorist Victims Compensation Board shall prepare and transmit annually to the Governor and the Speaker of the House of Representatives and the President Pro Tempore of the Senate, a report of its activities, including the amount of compensation awarded and a statistical summary of claims and awards made and denied.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.14 of Title 47, unless there is created a duplication in numbering, reads as follows:

The filing of a false claim for compensation pursuant to this act shall constitute a misdemeanor, and shall be punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment. In addition, the person shall be ordered to reimburse the total amount paid by the Uninsured Motorist Victims Compensation Board with interest accruing thereon at the rate of twelve percent (12%) per annum until paid.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.15 of Title 47, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Uninsured Motorist Victims Compensation Board to be designated the "Uninsured Motorist Victims Compensation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Uninsured Motorist Victims Compensation Board from any source excluding appropriated funds. All monies accruing to the credit of said fund are hereby appropriated and, except for those monies specifically authorized by the Legislature to be expended by the Department of Public Safety for administration of the Uninsured Motorist Victims Compensation Board or operating expenses for administering any grant programs, and may be budgeted and expended by the Board for the purpose of implementing the provisions of this act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. The fund shall be invested in whatever instruments are authorized by law for investments by the State Treasurer. The interest earned by any

investment of monies from the fund shall be credited to the fund for expenditure as provided by law for the fund.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.16 of Title 47, unless there is created a duplication in numbering, reads as follows:

Any funds remitted by any wrecker or towing service as providing by this act, or received by the Uninsured Motorist Victims Compensation Board from any other source shall be deposited in the Uninsured Motorist Victims Compensation Revolving Fund, created pursuant to Section 25 of this act.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10-118.17 of Title 47, unless there is created a duplication in numbering, reads as follows:

In addition to any traffic fine or criminal penalty allowed by law, any person found guilty of failure to have at least the minimal liability indemnification required to operate a vehicle on the streets, roads and highways of this state shall be assessed an uninsured motorist victims compensation assessment in an amount not less than Fifty Dollars (\$50.00) nor more than Five Thousand Dollars (\$5,000.00). Assessment shall be collected by the court clerk, and deposited in the Uninsured Motorist Victims Compensation Revolving Fund, created pursuant to Section 25 of this act.

SECTION 28. Sections 1 through 9 and Sections 25 and 27 of this act shall become effective July 1, 2005.

SECTION 29. Sections 10 through 24 and Section 26 of this act shall become effective January 1, 2006.

SECTION 30. 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.