STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 888 By: Fisher

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Sections 903, 954A and 1141.1, which relate to abandoned motor vehicles; deleting requirement for Department of Public Safety to request certain information; requiring certain wreckers or towing services to request specified information within certain time period; requiring Oklahoma Tax Commission or motor license agent to provide specified information by certain method; authorizing Department to provide assistance; requiring wrecker or towing service to send specified notice by certain method; requiring Department to provide certain information upon request; providing for owner or lienholder to regain possession under certain conditions and limiting liability for payment of certain costs; requiring Tax Commission or motor license agent to retain certain information for specified time period and prescribing such information; requiring Tax Commission to provide affidavit upon request and payment of fee and prescribing contents of affidavit requiring Tax Commission to prescribe certain forms; modifying Tax Commission required response to certain request; modifying time period relating to notice sent by wrecker or towing service; requiring Tax Commission or motor license agent to retain certain information for specified time period and prescribing such information; requiring Tax Commission to provide affidavit upon request and payment of fee and prescribing contents of affidavit; requiring Tax Commission to prescribe certain forms; providing construction of section; providing for motor license agent to retain specified fee; and providing an effective date.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 903, is amended to read as follows:

Section 903. A. Any ~~such~~ officer who has removed or directed the removal of any vehicle, or an authorized person in such officer's employing agency, shall within seventy-two (72) hours of such removal notify the Department of Public Safety of such removal.

The notice of removal shall contain the name and address of the owner, if known, the make, model, vehicle identification number, registration number, date stored, place stored and the officer's estimated value. ~~Upon receipt of such notice of removal, the Department of Public Safety must promptly~~

B. Within seventy-two (72) hours of such removal the wrecker or towing service which removed the vehicle shall request the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the owner of and any lienholder on the vehicle ~~and must~~. The Tax Commission or appropriate motor license agent shall provide the requested information, either in person or by certified mail, to the wrecker or towing service within five (5) days from receipt of the ~~requested~~ request for information ~~send a notice to the owner and any lienholder by regular mail, postage prepaid, at the addresses furnished by the Tax Commission or motor license agent, of the vehicle's location~~. The Department may render assistance to the Tax Commission to ascertain ownership as needed.

C. The wrecker or towing service, within five (5) calendar days from receipt of the requested information shall send a notice to the owner and any lienholder of the location of the vehicle by regular certified mail, postage prepaid, at the address or addresses furnished by the Tax Commission or motor license agent. Upon request, the Department shall inform the owner or any lienholder in writing of the date when the vehicle was towed and stored.

D. The owner or lienholder may regain possession of the vehicle in accordance with the rules of the Department upon payment for the wrecker or towing service, cost of certified mailing and the reasonable costs of storage of the vehicle. If the wrecker or towing service has not complied with the requirements pursuant to subsections B and C of this section, the owner or lienholder shall not be required to pay for storage of the vehicle.

E. For not less than one (1) year after the receipt of each request for information from a wrecker or towing service pursuant to subsection B of this section, the Tax Commission and every motor license agent shall maintain a log of:

1. The date each request for information was received from a wrecker or towing service;

2. A copy of the information provided in response to the request; and

3. Either:

a. the date when the requested information was provided in person and the name of the individual to whom such information was provided, or

b. the date when certified mail containing the information was signed for by an employee or representative of the wrecker or towing service.

F. Upon request by the owner or any lienholder and payment of a fee of Five Dollars ($5.00), the Tax Commission or motor license agent shall provide an affidavit stating:

1. The date when it received a request for information from the wrecker or towing service;

2. The date when the wrecker or towing service received notice from the Tax Commission or motor license agent with the requested information;

3. The information provided to the wrecker or towing service; and

4. Whether the notice to the wrecker or towing service was in person or by certified mail.

If the notice was in person, the affidavit shall also state the name of the individual to whom notice was given. The Tax Commission shall prescribe forms for use by motor license agents in the implementation of this section.

G. This section shall not be construed to create any civil liability upon the state, any agency of the state or employee thereof for failure to provide such notice to the owner or lienholder.

SECTION 2. 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~~ provide the requested information 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 Department shall provide a copy of the Tow Request and Authorization Form relating to the vehicle to the owner or any lienholder upon request. The wrecker or towing service shall, within ~~seven (7)~~ five (5) calendar 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 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.

H. For not less than one (1) year after the receipt of each request for information from a wrecker or towing service pursuant to subsection G of this section, the Tax Commission or motor license agent shall maintain a log of:

1. The date each such request for information was received from a wrecker or towing service;

2. A copy of the information provided in response to the request; and

3. Either:

a. the date when the requested information was provided in person and the name of the individual to whom such information was provided, or

b. the date when certified mail containing the information was signed for by the wrecker or towing service.

I. Upon request by the owner or any lienholder and payment of a fee of Five Dollars ($5.00), the Tax Commission or motor license agent shall provide an affidavit stating:

1. The date when it received a request for information from the wrecker or towing service;

2. The date when the wrecker or towing service received notice from the Tax Commission or motor license agent with the requested information;

3. The information provided to the wrecker or towing service; and

4. Whether the notice to the wrecker or towing service was in person or by certified mail.

If the notice was in person, the affidavit shall also state the name of the individual to whom notice was given. The Tax Commission shall prescribe forms for use by motor license agents in the implementation of this section.

J. 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.

K. This section shall not be construed to create any civil liability upon the state, any agency of the state or employee thereof for failure to provide such notice to the owner or lienholder.

SECTION 3. AMENDATORY 47 O.S. 2001, Section 1141.1, is amended to read as follows:

Section 1141.1 A. Each motor license agent shall be entitled to retain the following amounts from the taxes and fees collected by such agent to be used to fund the operation of the office of such motor license agent subject to the provisions of Sections 1140 through 1147 of this title:

1. Two Dollars and fifty-six cents ($2.56) for each vehicle registered and for each special license plate issued pursuant to the Oklahoma Vehicle License and Registration Act;

2. One Dollar and twenty-five cents ($1.25) for each certificate of title issued for boats and motors pursuant to the Oklahoma Statutes;

3. For each certificate of registration issued for boats and motors pursuant to the Oklahoma Statutes, an amount determined pursuant to the provisions of subsection B of this section;

4. Two Dollars and twenty-five cents ($2.25) for each certificate of title issued pursuant to the Oklahoma Vehicle License and Registration Act;

5. Beginning October 1, 2000, three percent (3%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. Beginning July 1, 2001, each motor license agent shall be entitled to retain three and one hundred twenty-five one-thousandths percent (3.125%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. Beginning July 1, 2002, and for all subsequent years, each motor license agent shall be entitled to retain three and twenty-five one-hundredths percent (3.25%) of the vehicle excise tax collected pursuant to Section 2103 of Title 68 of the Oklahoma Statutes. However, beginning July 1, 2003, the Legislature shall annually review the percentage to be retained by the motor license agents pursuant to this paragraph to determine whether such percentage should be adjusted;

6. Four percent (4%) of the excise tax collected on the transfer of boats and motors pursuant to the Oklahoma Statutes;

7. Two Dollars ($2.00) for each driver license, endorsement, identification license, or renewal or duplicate issued pursuant to Section 6-101 et seq. of this title;

8. Two Dollars ($2.00) for the recording of security interests as provided in Section 1110 of this title;

9. Two Dollars ($2.00) for each inspection conducted pursuant to subsection L of Section 1105 of this title;

10. Three Dollars ($3.00) for each inspection conducted pursuant to subsection M of Section 1105 of this title;

11. One Dollar ($1.00) for each certificate of ownership filed pursuant to subsection Q of Section 1105 of this title;

12. One Dollar ($1.00) for each temporary permit issued pursuant to Section 1124 of this title;

13. One Dollar and fifty cents ($1.50) for processing each proof of financial responsibility, driver license information, insurance verification information, and other additional information as provided in Section 7-602 of this title;

14. The mailing fees and registration fees provided in Sections 1131 and 1140 of this title;

15. The notary fee provided in Section 1143 of this title;

16. Three Dollars ($3.00) for each lien entry form completed and recorded on a certificate of title pursuant to subsection G of Section 1105 of this title;

17. Seven Dollars ($7.00) for each certificate of title or each certificate of registration issued for repossessed vehicles pursuant to Section 1126 of this title; ~~and~~

18. Any amount specifically authorized by law to be retained by the motor license agent for the furnishing of a summary of a traffic record; and

19. Five Dollars ($5.00) for every affidavit provided to any owner or lienholder of a motor vehicle removed by a wrecker or towing service pursuant to Sections 903 and 954A of this title.

The balance of the funds collected shall be remitted to the Oklahoma Tax Commission as provided in Section 1142 of this title to be apportioned pursuant to Section 1104 of this title.

B. For each certificate of registration issued for boats and motors, each motor license agent shall be entitled to retain the greater of One Dollar and twenty-five cents ($1.25) or an amount to be determined by the Tax Commission according to the provisions of this subsection. At the end of fiscal year 1997 and each fiscal year thereafter, the Tax Commission shall compute the average amount of registration fees for all boats and motors registered in this state during the fiscal year and shall multiply the result by six and twenty-two one-hundredths percent (6.22%). The resulting product shall be the amount which may be retained by each motor license agent for each certificate of registration for boats and motors issued during the following calendar year.

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

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