

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SENATE BILL 1804

By: Bass

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5
6 AS INTRODUCED

7 An Act relating to liens; establishing lien right for
8 certain service; stating applicability of lien right;
9 allowing storage fees; establishing procedures for
10 certain lien; expanding applicability of certain
11 lien; providing for codification; and providing an
12 effective date.

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

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 50 of Title 42, unless there is
16 created a duplication in numbering, reads as follows:

17 A. Every wrecker service that provides wrecker services,
18 accident site clean-up or storage of a vehicle for any person who
19 suffers damage to his or her vehicle and asserts or maintains a
20 claim against a tortfeasor or an insurer for the damage, shall have
21 a lien for the amount due for such wrecker services, site clean-up
22 and storage. The lien shall apply to any recovery or sum collected
23 or to be collected by the damaged vehicle's owner, or by his or her
24 heirs, personal representative, or next of kin in the event of his
or her death, whether by judgment, settlement, or compromise. The

1 | lien shall be inferior to any lien or claim of any attorney handling
2 | the claim for or on behalf of the person or owner of the vehicle
3 | damaged. Storage fees shall accrue daily in accordance with law
4 | while said vehicle is required for resolution of a claim or disposed
5 | of in an abandoned vehicle foreclosure sale.

6 | B. No lien which is provided for in this section shall be
7 | effective unless, before the payment of any monies to the damaged
8 | vehicle's owner, his or her attorney, or legal representative as
9 | compensation for such damage:

10 | 1. A written notice is sent setting forth an itemized statement
11 | of the amount claimed, identifying the insurance policy or policies
12 | or claim numbers against which the lien is asserted, if any, and
13 | containing the name and address of the wrecker service claiming the
14 | lien, the name and address of the damaged vehicle's owner or driver,
15 | and the person or corporation against whom the claim is made, is
16 | filed on the mechanic's and materialman's lien docket in the office
17 | of the county clerk of the county where the principal office of the
18 | wrecker service is located; and

19 | 2. The wrecker service sends, by registered or certified mail,
20 | postage prepaid, a copy of such notice with a statement of the date
21 | of filing thereof to the person or corporation against whom the
22 | claim is made and to the owner of the damaged vehicle. The wrecker
23 | service shall also send a copy of the notice to the attorney for the
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1 owner of the damaged vehicle, if the name and address of such
2 attorney is known to the wrecker service.

3 C. The liens provided for in this section may be enforced by
4 civil action in the district court of the county where the lien was
5 filed. Such an action shall be brought within one (1) year after
6 the wrecker service becomes aware of final judgment, settlement or
7 compromise of the claim asserted or maintained by or on behalf of
8 the owner of the damaged vehicle. The practice, pleading, and
9 proceedings in the action shall conform to the rules prescribed by
10 the Oklahoma Pleading Code to the extent applicable.

11 SECTION 2. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 51 of Title 42, unless there is
13 created a duplication in numbering, reads as follows:

14 Any personal property in a vehicle subject to a lien under
15 Section 904 or 953.1 of Title 47 of the Oklahoma Statutes shall also
16 be subject to that lien, except for food, prescription medicine,
17 perishable property, any operator's licenses, cash, credit cards,
18 checks or checkbooks and any wallet, purse, or other property
19 containing any operator's license or other identifying documents or
20 materials, cash, credit cards, checks or checkbooks.

21 SECTION 3. This act shall become effective November 1, 2008.

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