

CS for SB 948

THE STATE SENATE
Thursday, February 18, 2010

Committee Substitute for
Senate Bill No. 948

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 948 - By: Barrington of the Senate and Wright (Harold) of the House.

[motor vehicles - wrecker owners and operators - rate
schedule -
emergency]

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 953.1, as last amended by Section 2, Chapter 158, O.S.L. 2006 (47 O.S. Supp. 2009, 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,

1 adjusted as provided in subsection H of this section. Such rates
2 shall be in addition to any other rates, fees or charges authorized
3 or required by law. Any wrecker or towing service is authorized to
4 collect from the owner, lienholder, agent or insurer accepting
5 liability for paying the claim for a vehicle or purchasing the
6 vehicle as a total loss vehicle from the registered owner of any
7 towed or stored vehicle, the fee required by Section 904 of this
8 title.

9 B. When wrecker or towing services are performed as provided in
10 subsection A of this section:

11 1. Each performance of a wrecker or towing service shall be
12 recorded by the operator on a bill or invoice as prescribed by rules
13 of the Department;

14 2. Nothing herein shall limit the right of an operator who has
15 provided or caused to be provided wrecker or towing services to
16 require prepayment, in part or in full, or guarantee of payment of
17 any charges incurred for providing such services;

18 3. This section shall not be construed to require an operator
19 to charge a fee for the performance of any wrecker or towing
20 services; and

21 4. The operator is authorized to collect all lawful fees from
22 the owner, lienholder or agent or insurer accepting liability for
23 paying the claim for a vehicle or purchasing the vehicle as a total

1 loss vehicle from the registered owner of the towed vehicle for the
2 performance of any and all such services. An operator shall release
3 the vehicle from storage upon authorization from the owner, agent or
4 lienholder of the vehicle or, in the case of a total loss, the
5 insurer accepting liability for paying the claim for the vehicle or
6 purchasing the vehicle where the vehicle is to be moved to an
7 insurance pool yard for sale.

8 C. ~~Distance rates.~~

9 ~~1. Rates in this subsection shall apply to the distance the~~
10 ~~towed vehicle is transported and shall include services of the~~
11 ~~operator of the wrecker vehicle. Hourly rates, as provided in~~
12 ~~subsection D of this section, may be applied in lieu of distance~~
13 ~~rates. Hourly rates may be applied from the time the wrecker~~
14 ~~vehicle is assigned to the service call until the time it is~~
15 ~~released from service either upon return to the premises of the~~
16 ~~wrecker or towing service or upon being assigned to perform another~~
17 ~~wrecker or towing service, whichever occurs first. When the hourly~~
18 ~~rate is applied in lieu of distance towing rates, the operator may~~
19 ~~not apply the two-hour minimum prescribed in subsection D of this~~
20 ~~section nor may hookup or mileage charges, as prescribed in this~~
21 ~~section, be applied.~~

1 ~~Such distance rates shall be computed via the shortest highway~~
2 ~~mileage as determined from the latest official Oklahoma Department~~
3 ~~of Transportation state highway map, except as follows:~~

4 ~~a. for distances or portions of distances not~~
5 ~~specifically provided for in the governing highway~~
6 ~~map, the actual mileage via the shortest practical~~
7 ~~route will apply,~~

8 ~~b. in computing distances, fractions of a mile will be~~
9 ~~retained until the final and full mileage is~~
10 ~~determined, at which time any remaining fraction shall~~
11 ~~be increased to the next whole mile,~~

12 ~~c. when, due to circumstances beyond the control of the~~
13 ~~wrecker or towing service, roadway conditions make it~~
14 ~~impractical to travel via the shortest route, distance~~
15 ~~rates shall be computed based on the shortest~~
16 ~~practical route over which the wrecker vehicle and the~~
17 ~~vehicle it is towing can be moved, which route shall~~
18 ~~be noted on the bill or invoice, or~~

19 ~~d. when the wrecker or towing service is performed upon~~
20 ~~any turnpike or toll road, the turnpike or toll road~~
21 ~~mileage shall be used to determine the distance rates~~
22 ~~charged and the turnpike or toll road fees may be~~
23 ~~added to the bill or invoice.~~

1 ~~2. Maximum distance rates shall be as follows:~~

2	Weight of Towed Vehicle	Distance	Rate
3	(In pounds, including	Towed	Per
4	equipment and lading)		Mile
5	Single vehicle: 8,000 or less	25 miles or less	\$3.00
6	Single vehicle: 8,000 or less	Over 25 miles	\$2.50
7	Single vehicle: 8,001 to 12,000	25 miles or less	\$3.40
8	Single vehicle: 8,001 to 12,000	Over 25 miles	\$3.00
9	Single vehicle: 12,001 to 40,000	Any	\$5.75
10	Single vehicle: 40,000 or over	Any	\$6.75
11	Combination of vehicles	Any	\$6.75

12 ~~D. Hourly Rates.~~

13 ~~1. Rates in this subsection shall apply for the use of a~~
14 ~~wrecker vehicle and shall include services of the operator of such~~
15 ~~wrecker, except as provided in paragraph 4 of this subsection.~~
16 ~~Rates shall apply for all wrecker or towing services performed that~~
17 ~~are not otherwise provided for in this section, including, but not~~
18 ~~limited to, waiting and standby time, but shall not include the~~
19 ~~first fifteen (15) minutes of service following the hookup of a~~
20 ~~vehicle when a hookup fee is assessed, as provided in subsection E~~
21 ~~of this section.~~

22 Hourly rates shall apply from the time the vehicle or labor is
23 assigned to the service call until the time it is released from

1 service either upon return to the premises of the wrecker or towing
 2 service, including securing the towed vehicle in the wrecker service
 3 storage lot or other place of storage and prepare equipment used for
 4 the next service, or upon being assigned to perform another wrecker
 5 or towing service, whichever occurs first. ~~Whenever a wrecker~~
 6 ~~vehicle is used to tow a vehicle subject to distance rates, as~~
 7 ~~provided in subsection C of this section, hourly rates shall apply~~
 8 ~~only for the time such wrecker is used in the performance of~~
 9 ~~services other than transportation, except when such hourly rates~~
 10 ~~are used in lieu of such distance rates.~~

11 As used in this subsection, rates stated per hour apply for
 12 whole hours and, for fractions of an hour, rates stated per fifteen
 13 (15) minutes apply for each fifteen (15) minutes or fraction thereof
 14 over seven and one-half (7 1/2) minutes. However, if the service
 15 subject to an hourly rate is performed in less than two (2) hours,
 16 the charge applicable for two (2) hours may be assessed, ~~except as~~
 17 ~~provided for in subsection C of this section.~~

18 2. Maximum hourly rates for wrecker or towing services
 19 performed for passenger vehicles, when rates for such services are
 20 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 <u>10,000</u> or less	\$60.00	\$15.00

1		<u>\$75.00</u>	<u>\$18.75</u>
2	Single vehicle: 8,001 to 24,000	\$80.00	\$20.00
3			
4	Single vehicle: 24,001 <u>10,001</u>	\$120.00	\$30.00
5	to 44,000 <u>26,000</u>	<u>\$140.00</u>	<u>\$42.50</u>
6	Single vehicle: 44,001 <u>26,001</u> or over	\$180.00	\$45.00
7		<u>\$270.00</u>	<u>\$67.50</u>
8	Combination of vehicles	\$180.00	\$45.00
9		<u>\$270.00</u>	<u>\$67.50</u>

10 3. Maximum hourly rates for all other wrecker or towing
11 services, when ~~rates for such other services are not otherwise~~
12 ~~provided for by law,~~ under extreme circumstances or at the request
13 of law enforcement with just cause and concern for public safety or
14 to prevent damage to property involved, the operator on scene may
15 request an oversized recovery vehicle be called in to complete the
16 assigned recovery. Such request should be outlined and documented
17 on the invoice and rates shall be determined based upon the gross
18 vehicle weight rating (GVWR) of each wrecker vehicle used as
19 follows:

20	GVWR of Wrecker Vehicle	Rate Per	Rate Per
21	(In pounds)	Hour	15 Minutes
22	8,000 <u>15,000</u> or less	\$60.00	\$15.00
23		<u>\$75.00</u>	<u>\$18.75</u>

1 ~~1. Rates in this subsection shall apply to the hookup of a~~
2 ~~vehicle to a wrecker vehicle when such hookup is performed in~~
3 ~~connection with a wrecker or towing service described in this~~
4 ~~section. Such hookup rate shall include the first fifteen (15)~~
5 ~~minutes of such service, for which there shall be no additional fee~~
6 ~~charged, but shall not include the use of a dolly or rollback~~
7 ~~equipment or a combination wrecker vehicle to accomplish such~~
8 ~~hookup, for which an additional fee may be charged as provided in~~
9 ~~subsection F of this section. Hookup shall include, but not be~~
10 ~~limited to, the attachment of a vehicle to or the loading of a~~
11 ~~vehicle onto a wrecker vehicle.~~

12 ~~2. Maximum hookup rates shall be as follows:~~

13 ~~Weight of Vehicle Being Hooked Up~~

14 ~~(In pounds, including equipment _____ Rate~~
15 ~~and lading)~~

16 ~~Single vehicle: 8,000 or less _____ \$65.00~~

17 ~~Single vehicle: 8,001 to 12,000 _____ \$75.00~~

18 ~~Single vehicle: 12,001 to 24,000 _____ \$85.00~~

19 ~~Single vehicle: 24,001 or over _____ \$95.00~~

20 ~~Combination of vehicles _____ \$95.00~~

21 ~~F. Additional Service Rates.~~

22 ~~1. Rates in this subsection shall apply to the performance of~~
23 ~~the following services:~~

- 1 a. ~~the disconnection and reconnection of a towed~~
 2 ~~vehicle's drive line when necessary to prevent~~
 3 ~~mechanical damage to such vehicle,~~
- 4 b. ~~the removal and replacement of a towed vehicle's axle~~
 5 ~~when necessary to prevent mechanical damage to such~~
 6 ~~vehicle, or~~
- 7 c. ~~the use of a dolly or rollback equipment when~~
 8 ~~essential to prevent mechanical damage to a towed~~
 9 ~~vehicle or when neither end of such vehicle is capable~~
 10 ~~of being towed safely while in contact with the~~
 11 ~~roadway.~~

12 2. ~~Maximum additional service rates shall be as follows:~~

13	Weight of Towed	Service Performed		
14	Vehicle (In pounds,	Disconnect	Reconnect	Use of Dolly
15	including equipment	Drive Line;	Drive Line;	or Rollback
16	and lading)	Remove Axle	Replace Axle	Equipment
17		Rate Per Service Performed		
18	8,000 or less	\$10.00	\$15.00	\$25.00
19	8,001 to 12,000	\$15.00	\$20.00	\$30.00
20		Rate Per 15 Minutes of Service Performed		
21	12,001 or over	\$20.00	\$20.00	Not applicable

22 G. D. An operator shall be required to provide reasonable
 23 documentation to substantiate all lawful fees charged the owner,

1 lienholder, agent or insurer paying the claim for the towed vehicle.
2 Fees for which the operator is being reimbursed or having paid to a
3 third party, shall include copies of the invoice or other
4 appropriate documents to substantiate such payment to said third
5 party.

6 ~~H. E.~~ E. Wrecker fees, ~~including maximum distance, hourly, and~~
7 ~~hookup rates~~ shall be adjusted weekly by the Department of Public
8 Safety by adding a fuel surcharge as provided in this section. The
9 Department shall base the surcharge on the Department of Energy
10 "weekly retail on-highway diesel prices" for the "Midwest region"
11 using One Dollar and ninety cents (\$1.90) per gallon as the base
12 price with no fees added. The wrecker fees shall be adjusted to
13 allow a one-percent increase in fees for every ten-cent increase in
14 fuel cost starting at Two Dollars (\$2.00) per gallon.

15 ~~H. F.~~ F. Wrecker operators shall be allowed to obtain ownership
16 and insurer information from the Oklahoma Tax Commission or other
17 state's motor vehicle agencies for the purpose of determining
18 ownership and responsibility for wrecker fees. In the event a state
19 of origin is not known, the Department of Public Safety and the
20 Oklahoma Tax Commission shall assist in providing such information.
21 The wrecker operator is authorized to collect lawful fees for such
22 costs and services from the owner, lienholder that seeks possession
23 of a vehicle under a security interest, agent, or insurer accepting

1 liability for paying the claim for a vehicle or purchasing the
2 vehicle as a total loss vehicle from the owner of any towed or
3 stored vehicle.

4 SECTION 2. AMENDATORY 47 O.S. 2001, Section 953.2, as
5 last amended by Section 3, Chapter 360, O.S.L. 2004 (47 O.S. Supp.
6 2009, Section 953.2), is amended to read as follows:

7 Section 953.2 A. The rates and provisions of this section
8 shall apply to determine the maximum fees and charges for the
9 storage and after-hours release of towed vehicles, including
10 incorporated and unincorporated areas, by a wrecker or towing
11 service licensed by the Department of Public Safety. No wrecker or
12 towing service shall charge any fee which exceeds the maximum rates
13 established in this section. Such rates shall be in addition to any
14 other rates, fees or charges authorized or required by law.

15 B. 1. Storage or after-hours release of a towed vehicle, or
16 both, provided by a wrecker or towing service shall be recorded by
17 the operator on a bill or invoice as prescribed by rules of the
18 Department.

19 2. Nothing herein shall limit the right of an operator who has
20 provided or caused to be provided storage or after-hours release of
21 a towed vehicle, or both, to require prepayment, in part or in full,
22 or guarantee of payment of any charges incurred for providing such
23 services.

1	24-hour Period <u>Calendar Day</u> or	
2	Type of Towed Vehicle	Portion Thereof
3	Single vehicle: motorcycle, automobile,	
4	or light truck up to 20 feet in length	\$15.00
5	Single vehicle or combination of vehicles	
6	over 20 feet in length but less than 30	
7	feet in length	\$20.00
8	Single vehicle or combination of vehicles	
9	over 30 feet in length and up to 8 feet	
10	in width	\$25.00
11	Single vehicle or combination of vehicles	
12	over 30 feet in length and over 8 feet	
13	in width	\$35.00

14 D. Indoor Storage Rates:

15 1. Rates in this subsection shall apply to the indoor storage
16 of a towed vehicle. Rates may be applied from the time the towed
17 vehicle is brought into the indoor storage facility premises. Rates
18 shall apply to each calendar day of indoor storage; provided, the
19 maximum twenty-four-hour fee, as provided for in this section, may
20 be charged for any towed vehicle which is stored for a portion of a
21 twenty-four-hour period. Indoor storage fees may apply when
22 necessary for the preservation and/or safekeeping of the vehicle and
23 property in, on, and attached to the vehicle.

1 2. Maximum indoor storage rates shall be as follows:

2		Rate per Each
3		24-hour Period or <u>Calendar Day</u>
4	Type of Towed Vehicle	Portion Thereof
5	Single vehicle: motorcycle, automobile,	
6	or light truck up to 20 feet in length	\$25.00
7	Single vehicle or combination of vehicles	
8	over 20 feet in length but less than 30	
9	feet in length	\$30.00
10	Single vehicle or combination of vehicles	
11	over 30 feet in length and up to 8 feet	
12	in width	\$35.00
13	Single vehicle or combination of vehicles	
14	over 30 feet in length and over 8 feet	
15	in width	\$45.00

16 3. For purposes of this subsection, "indoor storage" means the
17 vehicle is kept in an enclosed facility.

18 E. After-Hours Release Rate.

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

22 2. As used in this subsection:

- 1 a. "after-hours release rate" shall mean the rate charged
2 for the release of a towed vehicle between the hours
3 of midnight and 8:00 a.m., or between the hours of
4 4:00 p.m. and midnight Monday through Friday, or any
5 time on Saturday, Sunday or a national holiday, and
6 b. "national holiday" shall mean New Year's Day, Martin
7 Luther King Day, George Washington's Birthday, on the
8 third Monday in February, Memorial Day, Independence
9 Day, Labor Day, Veterans Day, Thanksgiving Day and
10 Christmas Day, and shall further include the Friday
11 before such national holiday which falls on a Saturday
12 and the Monday following such national holiday which
13 falls on a Sunday.

14 3. The maximum after-hours release rate shall be Fifteen
15 Dollars (\$15.00) per quarter hour for the release of any single
16 vehicle or combination of vehicles.

17 F. An operator shall be required to provide reasonable
18 documentation to substantiate all lawful fees charged the owner,
19 lienholder, agent or insurer accepting liability for paying the
20 claim for the towed vehicle or purchasing the towed vehicle. Fees
21 for which the operator is being reimbursed, or having paid to a
22 third party, shall include copies of the invoice or other
23 appropriate documents to substantiate the payment to the third

1 party. When skilled or specialized labor or equipment is required,
2 the wrecker operator's cost for such skilled or specialized labor or
3 equipment plus a twenty-five percent (25%) gross profit markup to
4 cover overhead costs for such labor will be added to the invoice or
5 freight bill to be collected in addition to all other applicable
6 charges.

7 SECTION 3. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

11 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY & HOMELAND SECURITY,
12 dated 2-16-10 - DO PASS, As Amended.