

05/17/2011 04:02:43 PM

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB1743**

By: Johnson of the House and Sykes of the Senate

Title: Motor vehicles; transferring responsibility for regulation of wrecker fees to the Corporation Commission; effective dates; emergency.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its Amendment No. 1; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

**HOUSE CONFEREES**

Jordan Fred Jordan

Martin (Steve) Steve Martin

McCullough W. E. McCullough

Moore J. H. Moore

Morrisette \_\_\_\_\_

Roan Paul D. Roan

Roberts (Dustin) D. E. Roberts

Schwartz \_\_\_\_\_

Sherrer Ben Sherrer

Sullivan Alan Sullivan

Tibbs Gene Tibbs

Wesselhoft Paul Wesselhoft

Williams \_\_\_\_\_

Mr. Speaker Chris Steele

**SENATE CONFEREES**

Sykes

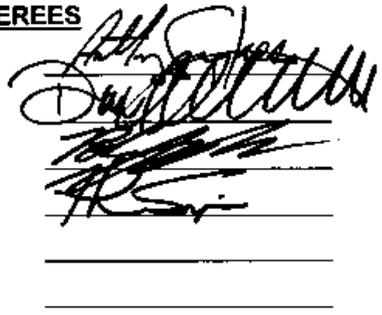
Newberry

Johnson (Rob)

Simpson

Ivester

Ellis

Handwritten signatures of the Senate conferees, including Sykes, Newberry, Johnson (Rob), Simpson, Ivester, and Ellis, written over horizontal lines.

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 1743

By: Johnson and Roan of the  
House

7 and

8 Sykes and Barrington of the  
9 Senate

10  
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to motor vehicles; creating the  
13 Nonconsensual Towing Act of 2011; providing scope of  
14 act; empowering Corporation Commission to set and  
15 administer certain rates; specifying existing rates  
16 remain in effect until new rates are established;  
17 requiring reasonableness of rates; allowing  
18 penalties; directing cooperation; allowing  
19 cooperative agreements; allowing assessment of  
20 certain annual fee; providing for calculation of fee;  
21 providing penalty; directing Legislature to establish  
22 future budgetary limits; setting assessment limit for  
23 certain fiscal year; allowing appointment of certain  
24 unclassified employees; amending 47 O.S. 2001,  
Sections 951, as last amended by Section 25, Chapter  
418, O.S.L. 2004, 952, as last amended by Section 1,  
Chapter 193, O.S.L. 2005, 953.1, as last amended by  
Section 2, Chapter 158, O.S.L. 2006, 953.2, as last  
amended by Section 3, Chapter 360, O.S.L. 2004, 954A,  
as amended by Section 1, Chapter 82, O.S.L. 2010,  
956, as last amended by Section 1, Chapter 179,  
O.S.L. 2005 and 11-1110, as amended by Section 1,  
Chapter 133, O.S.L. 2002 (47 O.S. Supp. 2010,  
Sections 951, 952, 953.1, 953.2, 954A, 956 and 11-  
1110), which relate to wreckers; defining term;  
transferring responsibility for regulation of

1 wreckers to the Corporation Commission; amending 42  
2 O.S. 2001, Section 91, as last amended by Section 1,  
3 Chapter 98, O.S.L. 2008 (42 O.S. Supp. 2010, Section  
4 91), which relates to liens; updating reference;  
5 providing for codification; and providing an  
6 effective date.

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

8 SECTION 1. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 966 of Title 47, unless there is  
10 created a duplication in numbering, reads as follows:

11 A. This act shall be known and may be cited as the  
12 "Nonconsensual Towing Act of 2011".

13 B. The provisions of this act shall apply to every wrecker  
14 operating within the State of Oklahoma removing and storing vehicles  
15 from Oklahoma roads and highways or private property as a result of  
16 a nonconsensual tow.

17 C. The Corporation Commission, by Commission order, shall have  
18 the power and authority necessary:

19 1. To establish wrecker rates for the transportation and  
20 storage of motor vehicles removed due to a nonconsensual tow from  
21 Oklahoma roads and highways or private property;

22 2. To supervise and enforce such rates; and

23 3. To mediate and adjudicate complaints that may arise from  
24 charges assessed as a result of such vehicle removal.

1 D. Rates as specified in Sections 953.1 and 953.2 of Title 47  
2 of the Oklahoma Statutes shall remain in effect until rates are  
3 established by order of the Commission.

4 E. Rates established by the Commission shall be fair and  
5 reasonable.

6 F. The Commission may assess fines or other penalties to any  
7 wrecker or towing service for failure to comply with prescribed  
8 rates as established by the Commission, failure to pay a levied  
9 assessment or comply with any applicable order of the Commission.  
10 Repeat violations by a wrecker or towing service are cause for  
11 revocation of its license issued by the Department of Public Safety.

12 G. The Department shall cooperate with the Commission to  
13 implement this act and may enter into agreements to facilitate this  
14 act.

15 SECTION 2. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 967 of Title 47, unless there is  
17 created a duplication in numbering, reads as follows:

18 A. The Corporation Commission is hereby authorized to assess a  
19 fee upon each wrecker or towing service licensed by the Department  
20 of Public Safety and placed upon an official rotation log, as  
21 specified in Section 952 of Title 47 of the Oklahoma Statutes, to  
22 perform nonconsensual tows.

23 B. Each wrecker or towing service shall pay the assessment,  
24 levied pursuant to this section, on an annual basis.

1 C. The assessment shall be predicated upon the number of  
2 wrecker or towing vehicles utilized by the wrecker or towing service  
3 to conduct its Department-licensed operations.

4 D. Failure to pay the assessment in a timely manner shall  
5 result in revocation of the wrecker or towing license issued by the  
6 Department.

7 E. Beginning fiscal year 2013, the Legislature shall establish  
8 budgetary limits for the Commission to fulfill the duties of the  
9 Nonconsensual Towing Act of 2011. The total assessments levied  
10 pursuant to this section shall not exceed the amount of the  
11 budgetary limits and indirect costs for related support functions  
12 established by the Legislature for any fiscal year. For fiscal year  
13 2012, the total assessments shall not exceed One Hundred Thousand  
14 Dollars (\$100,000.00).

15 SECTION 3. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 968 of Title 47, unless there is  
17 created a duplication in numbering, reads as follows:

18 The Corporation Commission is authorized to appoint unclassified  
19 employees to perform the duties and responsibilities associated with  
20 the Nonconsensual Towing Act of 2011.

21 SECTION 4. AMENDATORY 47 O.S. 2001, Section 951, as last  
22 amended by Section 25, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2010,  
23 Section 951), is amended to read as follows:

24

1 Section 951. As used in Sections 951 through ~~964~~ 965 of this  
2 title and Sections 1 through 3 of this act:

3 1. "Wrecker or wrecker vehicle" means any motor vehicle that is  
4 equipped with any device designed to tow another vehicle or  
5 combination of vehicles. The use of the term "wrecker" or "wrecker  
6 vehicle" shall be construed to include a combination wrecker or  
7 combination wrecker vehicle, as defined in paragraph 2 of this  
8 ~~subsection~~ section, unless a specific differentiation is otherwise  
9 described;

10 2. "Combination wrecker" or "combination wrecker vehicle" means  
11 any wrecker vehicle which is designed and equipped with two separate  
12 and distinct devices to tow simultaneously two or more other  
13 vehicles or combinations of vehicles, whether or not both devices  
14 are in use simultaneously. One of the devices shall allow another  
15 vehicle to be loaded onto and transported upon the wrecker vehicle,  
16 and one of the devices shall allow another vehicle to be attached to  
17 and pulled by the wrecker vehicle;

18 3. "Tow" or "towing" means the use of a wrecker vehicle to  
19 lift, pull, move, haul or otherwise transport any other vehicle by  
20 means of:

- 21 a. attaching the vehicle to and pulling the vehicle with  
22 the wrecker vehicle, or  
23 b. loading the vehicle onto and transporting the vehicle  
24 upon the wrecker vehicle;

1 4. "Rollback equipment" means a towing device or equipment upon  
2 which the towed vehicle is loaded and transported, removing the  
3 towed vehicle completely from the surface of the roadway. The term  
4 "rollback equipment" shall include car haulers;

5 5. "Dolly" means a towing device or equipment which lifts and  
6 suspends one axle of the towed vehicle above the surface of the  
7 roadway;

8 6. "Wrecker or towing service" means engaging in the business  
9 of or performing the act of towing or offering to tow any vehicle,  
10 except:

- 11 a. where the operator owns the towed vehicle and displays  
12 on both sides of the wrecker vehicle in plainly  
13 visible letters not less than two (2) inches in height  
14 the words "NOT FOR HIRE",
- 15 b. where the service is performed by a transporter as  
16 defined in Section 1-181 of this title,
- 17 c. where service is performed in conjunction with the  
18 transportation of household goods and property,
- 19 d. where the wrecker vehicle is owned or operated by the  
20 United States government, the State of Oklahoma, or  
21 any department or political subdivision thereof, or
- 22 e. where the service is performed by an out-of-state  
23 wrecker service at the request of the vehicle owner or  
24

1 operator, the vehicle is not involved in a collision,  
2 and is being towed:

3 (1) in either direction across the border between  
4 Oklahoma and a neighboring state, or

5 (2) through Oklahoma in transit to another state;  
6 provided, the out-of-state wrecker service shall  
7 comply with all other requirements regarding  
8 interstate commerce as set forth in law;

9 7. "Commissioner" means the Commissioner of Public Safety;

10 8. "Commission" means the Corporation Commission;

11 9. "Department" means the Department of Public Safety;

12 ~~9.~~ 10. "Nonconsensual tow" means the transportation of a  
13 vehicle without the consent or knowledge of the vehicle's owner,  
14 possessor, agent, insurer, lienholder, or any other person in  
15 possession of or in charge of any vehicle and includes the  
16 transportation or towing of the vehicle under lawful circumstances  
17 or necessity for the public interest including removing from the  
18 roadway for public safety or public convenience, or accidents, by  
19 any law enforcement officer or property agent or removal from public  
20 or private property as a result of abandonment or unauthorized  
21 parking by the property owner, agent, possessor, or other legal  
22 entity for the property owner;

23 11. "Operator" means any person owning or operating a wrecker  
24 vehicle or wrecker or towing service;

1       ~~10.~~ 12. "Officer" means any duly authorized law enforcement  
2 officer;

3       ~~11.~~ 13. "Roadway" means any public street, road, highway or  
4 turnpike or the median, easement or shoulder of a roadway;

5       ~~12.~~ 14. "Service call" means the act of responding to a request  
6 for service with a wrecker vehicle in which a service is performed;  
7 and

8       ~~13.~~ 15. "Vehicle" shall:

9           a. have the same meaning as defined in Section 1-186 of  
10 this title, and

11           b. for the purposes of this chapter when referring to a  
12 vehicle or combination of vehicles being towed or  
13 stored, include a vessel. The term "vessel" shall  
14 have the same meaning as defined in Section 4002 of  
15 Title 63 of the Oklahoma Statutes.

16       SECTION 5.        AMENDATORY        47 O.S. 2001, Section 952, as last  
17 amended by Section 1, Chapter 193, O.S.L. 2005 (47 O.S. Supp. 2010,  
18 Section 952), is amended to read as follows:

19       Section 952. A. The Except for the rates established by the  
20 Corporation Commission and other provisions as provided for by law,  
21 the Department of Public Safety shall have the power and authority  
22 necessary to license, supervise, govern and control wrecker vehicles  
23 and wrecker or towing services.

24

1 B. The Department of Public Safety shall adopt and prescribe  
2 such rules as are necessary to carry out the intent of Section 951  
3 et seq. of this title.

4 The rules shall state the requirements for facilities, for  
5 storage of vehicles, necessary towing equipment, the records to be  
6 kept by operators, liability insurance and insurance covering the  
7 vehicle and its contents while in storage in such sum and with such  
8 provisions as the Department deems necessary to adequately protect  
9 the interests of the public, and such other matters as the  
10 Department may prescribe for the protection of the public.

11 C. Unless otherwise regulated by the governing body of the  
12 political subdivision, the wrecker vehicle used to perform wrecker  
13 or towing services requested by a political subdivision of this  
14 state for removal of a vehicle from public property for reasons  
15 listed in Section 955 of this title shall be from the licensed  
16 wrecker or towing service whose location is nearest to the vehicle  
17 to be towed. Requests for service may be alternated or rotated  
18 among all such licensed wrecker or towing services which are located  
19 within a reasonable radius of each other. In cities of less than  
20 fifty thousand (50,000) population, all such licensed wrecker or  
21 towing services located near or in the city limits of such cities  
22 shall be considered as being equal distance and shall be called on  
23 an equal basis as nearly as possible. The police chief of any  
24 municipality and the county sheriff of each county shall keep

1 rotation logs on all requested tows, except where there are  
2 insufficient licensed wrecker or towing services available to rotate  
3 such services or services are contracted after a competitive bid  
4 process. Rotation logs shall be made available for public  
5 inspection upon request. Any calls made from cell phones or two-way  
6 radios by any law enforcement officer or employee of any  
7 municipality or county to any wrecker service shall be listed on the  
8 rotation or call logs and made available for public inspection. A  
9 wrecker service shall not be removed from rotation without  
10 notification to the wrecker operator stating the reason for removal  
11 from the rotation log. All notification for removal from a rotation  
12 log shall be mailed to the wrecker service owner at least ten (10)  
13 days before removal from the rotation log and shall state the  
14 procedure and requirements for reinstatement.

15 D. Except as otherwise provided in this subsection, the  
16 Department and any municipality, county or other political  
17 subdivision of this state shall not place any wrecker or towing  
18 service upon an official rotation log for the performance of  
19 services carried out pursuant to the request of or at the direction  
20 of any officer of the Department or municipality, county or  
21 political subdivision unless the service meets the following  
22 requirements:

- 23 1. Principal business facilities are located within Oklahoma;
- 24 2. Tow trucks are registered and licensed in Oklahoma; and

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

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

8           When performing services at the request of any officer, no  
9 operator or wrecker or towing service upon the rotation logs shall  
10 charge fees in excess of the maximum rates for services performed  
11 within this state, including incorporated and unincorporated areas,  
12 as ~~prescribed in Section 953.1 of this title~~ established by the  
13 Commission.

14           E. The Department ~~of Public Safety~~ shall place a licensed Class  
15 AA wrecker service on the Highway Patrol Rotation Log in a highway  
16 patrol troop district in which the place of business and the primary  
17 storage facility of the wrecker service are located upon written  
18 request filed by the wrecker service with the Department. Upon  
19 further request of the wrecker service, the Commissioner of Public  
20 Safety or the Department ~~of Public Safety~~ employee with statewide  
21 responsibility for administration of wrecker services may place a  
22 wrecker service on the Highway Patrol Rotation Log in a district  
23 adjacent to the district in which the place of business and the  
24 primary storage facility of the wrecker service are located if the

1 wrecker service is in proximity to and within a reasonable radius of  
2 the boundary of the district. When a wrecker service is placed on  
3 the rotation log in a district, the Department shall notify the  
4 wrecker service and the troop commander of the district.

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

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

15 SECTION 6. AMENDATORY 47 O.S. 2001, Section 953.1, as  
16 last amended by Section 2, Chapter 158, O.S.L. 2006 (47 O.S. Supp.  
17 2010, Section 953.1), is amended to read as follows:

18 Section 953.1 A. ~~The rates and provisions of this section~~  
19 ~~shall apply only to~~ established by the Corporation Commission shall  
20 determine the nonconsensual tow maximum fees and charges for wrecker  
21 or towing services performed in this state, including incorporated  
22 and unincorporated areas, by a wrecker or towing service licensed by  
23 the Department of Public Safety when that service appears on the  
24 rotation log of the Department or on the rotation log of any

1 municipality, county or other political subdivision of this state,  
2 and the services performed are at the request or at the direction of  
3 any officer of the Department or of a municipality, county, or  
4 political subdivision. No wrecker or towing service in the  
5 performance of ~~these services~~ transporting or storing vehicles or  
6 other property towed as a result of a nonconsensual tow shall charge  
7 any fee which exceeds the maximum rates established ~~in this section,~~  
8 ~~adjusted as provided in subsection H of this section~~ by the  
9 Commission. Such rates shall be in addition to any other rates,  
10 fees or charges authorized, allowed or required by law and costs to  
11 collect such fees. Any wrecker or towing service is authorized to  
12 collect from the owner, lienholder, agent or insurer accepting  
13 liability for paying the claim for a vehicle or purchasing the  
14 vehicle as a total loss vehicle from the registered owner of any  
15 towed or stored vehicle, the fee required by Section 904 of this  
16 title including environmental remediation fees and services.

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

19 1. Each performance of a wrecker or towing service shall be  
20 recorded by the operator on a bill or invoice as prescribed by rules  
21 of the Department and by order of the Commission;

22 2. Nothing herein shall limit the right of an operator who has  
23 provided or caused to be provided wrecker or towing services to  
24

1 require prepayment, in part or in full, or guarantee of payment of  
2 any charges incurred for providing such services;

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

6 4. The operator is authorized to collect all lawful fees from  
7 the owner, lienholder or agent or insurer accepting liability for  
8 paying the claim for a vehicle or purchasing the vehicle as a total  
9 loss vehicle from the registered owner of the towed vehicle for the  
10 performance of any and all such services and costs to collect such  
11 fees. An operator shall release the vehicle from storage upon  
12 authorization from the owner, agent or lienholder of the vehicle or,  
13 in the case of a total loss, the insurer accepting liability for  
14 paying the claim for the vehicle or purchasing the vehicle where the  
15 vehicle is to be moved to an insurance pool yard for sale.

16 C. The rates in subsections D through G of this section shall  
17 be applicable until superseded by rates established by the  
18 Commission.

19 D. Distance rates.

20 1. Rates in this subsection shall apply to the distance the  
21 towed vehicle is transported and shall include services of the  
22 operator of the wrecker vehicle. Hourly rates, as provided in  
23 subsection ~~D~~ E of this section, may be applied in lieu of distance  
24 rates. Hourly rates may be applied from the time the wrecker

1 vehicle is assigned to the service call until the time it is  
2 released from service either upon return to the premises of the  
3 wrecker or towing service or upon being assigned to perform another  
4 wrecker or towing service, whichever occurs first. When the hourly  
5 rate is applied in lieu of distance towing rates, the operator may  
6 not apply the two-hour minimum prescribed in subsection D E of this  
7 section nor may hookup or mileage charges, as prescribed in this  
8 section, be applied.

9 Such distance rates shall be computed via the shortest highway  
10 mileage as determined from the latest official Oklahoma Department  
11 of Transportation state highway map, except as follows:

- 12 a. for distances or portions of distances not  
13 specifically provided for in the governing highway  
14 map, the actual mileage via the shortest practical  
15 route will apply,
- 16 b. in computing distances, fractions of a mile will be  
17 retained until the final and full mileage is  
18 determined, at which time any remaining fraction shall  
19 be increased to the next whole mile,
- 20 c. when, due to circumstances beyond the control of the  
21 wrecker or towing service, roadway conditions make it  
22 impractical to travel via the shortest route, distance  
23 rates shall be computed based on the shortest  
24 practical route over which the wrecker vehicle and the

1 vehicle it is towing can be moved, which route shall  
2 be noted on the bill or invoice, or

3 d. when the wrecker or towing service is performed upon  
4 any turnpike or toll road, the turnpike or toll road  
5 mileage shall be used to determine the distance rates  
6 charged and the turnpike or toll road fees may be  
7 added to the bill or invoice.

8 2. Maximum distance rates shall be as follows:

9 Weight of Towed Vehicle	Distance	Rate
10 (In pounds, including	Towed	Per
11 equipment and lading)		Mile
12 Single vehicle: 8,000 or less	25 miles or less	\$3.00
13 Single vehicle: 8,000 or less	Over 25 miles	\$2.50
14 Single vehicle: 8,001 to 12,000	25 miles or less	\$3.40
15 Single vehicle: 8,001 to 12,000	Over 25 miles	\$3.00
16 Single vehicle: 12,001 to 40,000	Any	\$5.75
17 Single vehicle: 40,000 or over	Any	\$6.75
18 Combination of vehicles	Any	\$6.75

19 ~~D.~~ E. Hourly Rates.

20 1. Rates in this subsection shall apply for the use of a  
21 wrecker vehicle and shall include services of the operator of such  
22 wrecker, except as provided in paragraph 4 of this subsection.

23 Rates shall apply for all wrecker or towing services performed that  
24 are not otherwise provided for in this section, including, but not

1 limited to, waiting and standby time, but shall not include the  
2 first fifteen (15) minutes of service following the hookup of a  
3 vehicle when a hookup fee is assessed, as provided in subsection ~~F~~ F  
4 of this section.

5 Hourly rates shall apply from the time the vehicle or labor is  
6 assigned to the service call until the time it is released from  
7 service either upon return to the premises of the wrecker or towing  
8 service or upon being assigned to perform another wrecker or towing  
9 service, whichever occurs first. Whenever a wrecker vehicle is used  
10 to tow a vehicle subject to distance rates, as provided in  
11 subsection ~~E~~ D of this section, hourly rates shall apply only for  
12 the time such wrecker is used in the performance of services other  
13 than transportation, except when such hourly rates are used in lieu  
14 of such distance rates.

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

22 2. Maximum hourly rates for wrecker or towing services  
23 performed for passenger vehicles, when rates for such services are  
24 not otherwise provided for by law, shall be as follows:

1	Weight of Towed Passenger Vehicle	Rate Per	Rate Per
2	(In pounds)	Hour	15 Minutes
3	Single vehicle: 8,000 or less	\$60.00	\$15.00
4	Single vehicle: 8,001 to 24,000	\$80.00	\$20.00
5	Single vehicle: 24,001 to 44,000	\$120.00	\$30.00
6	Single vehicle: 44,001 or over	\$180.00	\$45.00
7	Combination of vehicles	\$180.00	\$45.00

8        3. Maximum hourly rates for all other wrecker or towing  
9 services, when rates for such other services are not otherwise  
10 provided for by law, shall be determined based upon the gross  
11 vehicle weight rating of each wrecker vehicle used as follows:

12	GVWR of Wrecker Vehicle	Rate Per	Rate Per
13	(In pounds)	24Hour	15 Minutes
14	8,000 or less	\$60.00	\$15.00
15	8,001 to 24,000	\$80.00	\$20.00
16	24,001 to 44,000	\$120.00	\$30.00
17	44,001 or over	\$180.00	\$45.00
18	Combination wrecker vehicle		
19	with GVWR of 24,000 or over	\$180.00	\$45.00

20        4. a. Maximum hourly rates for extra labor shall be Thirty  
21 Dollars (\$30.00) per person per hour.

22        b. Maximum hourly rates for skilled or specialized labor  
23 and/or equipment shall be the actual customary and  
24 ordinary rates charged for such labor and/or

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

8 ~~E.~~ F. Hookup Rates.

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

20 2. Maximum hookup rates shall be as follows:

21 Weight of Vehicle Being Hooked Up

22 (In pounds, including equipment Rate  
23 and lading)

24 Single vehicle: 8,000 or less \$65.00

1	Single vehicle: 8,001 to 12,000	\$75.00
2	Single vehicle: 12,001 to 24,000	\$85.00
3	Single vehicle: 24,001 or over	\$95.00
4	Combination of vehicles	\$95.00

5 ~~F.~~ G. Additional Service Rates.

6 1. Rates in this subsection shall apply to the performance of  
7 the following services:

- 8 a. the disconnection and reconnection of a towed  
9 vehicle's drive line when necessary to prevent  
10 mechanical damage to such vehicle,
- 11 b. the removal and replacement of a towed vehicle's axle  
12 when necessary to prevent mechanical damage to such  
13 vehicle, or
- 14 c. the use of a dolly or rollback equipment when  
15 essential to prevent mechanical damage to a towed  
16 vehicle or when neither end of such vehicle is capable  
17 of being towed safely while in contact with the  
18 roadway.

19 2. Maximum additional service rates shall be as follows:

20	Weight of Towed	Service Performed		
21	Vehicle (In pounds,	Disconnect	Reconnect	Use of Dolly
22	including equipment	Drive Line;	Drive Line;	or Rollback
23	and lading)	Remove Axle	Replace Axle	Equipment
24		Rate Per Service Performed		

1	8,000 or less	\$10.00	\$15.00	\$25.00
2	8,001 to 12,000	\$15.00	\$20.00	\$30.00
3	Rate Per 15 Minutes of Service Performed			
4	12,001 or over	\$20.00	\$20.00	Not applicable

5 ~~G.~~ H. An operator shall be required to provide reasonable  
6 documentation to substantiate all lawful fees charged the owner,  
7 lienholder, agent or insurer paying the claim for the towed vehicle.  
8 Fees for which the operator is being reimbursed or having paid to a  
9 third party, shall include copies of the invoice or other  
10 appropriate documents to substantiate such payment to said third  
11 party.

12 ~~H.~~ I. Wrecker fees, including maximum distance, hourly, and  
13 hookup rates shall be adjusted weekly ~~by the Department of Public~~  
14 ~~Safety~~ by adding a fuel surcharge as provided in this section. The  
15 ~~Department shall base the fuel surcharge shall be based~~ on the  
16 Department of Energy "weekly retail on-highway diesel prices" for  
17 the "Midwest region" using ~~One Dollar and ninety cents (\$1.90)~~ Two  
18 Dollars (\$2.00) per gallon as the base price with no fees added.  
19 The wrecker fees shall be adjusted to allow a one-percent increase  
20 in fees for every ten-cent increase in fuel cost starting at ~~Two~~  
21 ~~Dollars (\$2.00)~~ Two Dollars and ten cents (\$2.10) per gallon.

22 ~~I.~~ J. When skilled or specialized labor or equipment is  
23 required, the cost incurred by the wrecker operator for such skilled  
24 or specialized labor or equipment plus an additional twenty-five

1 percent (25%) gross profit markup or gross profit margin shall be  
2 allowed to cover overhead costs for such labor and will be added to  
3 the invoice or freight bill to be collected in addition to all other  
4 applicable charges. This applies to labor and equipment not  
5 regulated by the Commission.

6 K. Wrecker operators shall be allowed to obtain ownership and  
7 insurer information, including accident reports and other public  
8 records, from the Oklahoma Tax Commission or other ~~state's~~ states'  
9 motor vehicle agencies or from law enforcement agencies for the  
10 purpose of determining ownership and responsibility for wrecker  
11 fees. In the event a state of origin is not known, the Department  
12 of Public Safety and the Oklahoma Tax Commission shall assist in  
13 providing such information. The wrecker operator is authorized to  
14 collect lawful fees for such costs and services from the owner,  
15 lienholder that seeks possession of a vehicle under a security  
16 interest, agent, or insurer accepting liability for paying the claim  
17 for a vehicle or purchasing the vehicle as a total loss vehicle from  
18 the owner of any towed or stored vehicle.

19 SECTION 7. AMENDATORY 47 O.S. 2001, Section 953.2, as  
20 last amended by Section 3, Chapter 360, O.S.L. 2004 (47 O.S. Supp.  
21 2010, Section 953.2), is amended to read as follows:

22 Section 953.2 A. The rates ~~and provisions of this section~~  
23 ~~shall apply only to~~ established by order of the Corporation  
24 Commission shall determine the maximum fees and charges for the

1 storage and after-hours release of nonconsensual towed vehicles,  
2 including incorporated and unincorporated areas, by a wrecker or  
3 towing service licensed by the Department of Public Safety. No  
4 wrecker or towing service shall charge any fee for nonconsensual  
5 towed vehicles and storage which exceeds the maximum rates  
6 established ~~in this section~~ by the Commission. Such rates shall be  
7 in addition to any other rates, fees or charges authorized, allowed  
8 or required by law, including environmental remediation fees and  
9 services.

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

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

19 3. This section shall not be construed to require an operator  
20 to charge a fee for the storage or after-hours release, or both, of  
21 any towed vehicle.

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

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

8 C. The rates in subsections D through F of this section shall  
9 be applicable until superseded by rates established by the  
10 Commission.

11 D. Outdoor Storage Rates.

12 1. Rates in this subsection shall apply to the outdoor storage  
13 of a towed vehicle. Rates may be applied from the time the towed  
14 vehicle is brought onto the outdoor storage facility premises.  
15 Rates shall apply to each calendar day of outdoor storage; provided,  
16 the maximum twenty-four-hour fee, as provided for in this section,  
17 may be charged for any towed vehicle which is stored for a portion  
18 of a twenty-four-hour period.

19 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

1 Single vehicle or combination of vehicles  
2 over 20 feet in length but less than 30  
3 feet in length \$20.00

4 Single vehicle or combination of vehicles  
5 over 30 feet in length and up to 8 feet  
6 in width \$25.00

7 Single vehicle or combination of vehicles  
8 over 30 feet in length and over 8 feet  
9 in width \$35.00

10 ~~D.~~ E. Indoor Storage Rates:

11 1. Rates in this subsection shall apply to the indoor storage  
12 of a towed vehicle. Rates may be applied from the time the towed  
13 vehicle is brought into the indoor storage facility premises. Rates  
14 shall apply to each calendar day of indoor storage; provided, the  
15 maximum twenty-four-hour fee, as provided for in this section, may  
16 be charged for any towed vehicle which is stored for a portion of a  
17 twenty-four-hour period.

18 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

1 Single vehicle or combination of vehicles  
2 over 20 feet in length but less than 30  
3 feet in length \$30.00

4 Single vehicle or combination of vehicles  
5 over 30 feet in length and up to 8 feet  
6 in width \$35.00

7 Single vehicle or combination of vehicles  
8 over 30 feet in length and over 8 feet  
9 in width \$45.00

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

12 ~~E.~~ F. After-Hours Release Rate.

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

16 2. As used in this subsection:

- 17 a. "after-hours release rate" shall mean the rate charged  
18 for the release of a towed vehicle between the hours  
19 of midnight and 8:00 a.m., or between the hours of  
20 4:00 p.m. and midnight Monday through Friday, or any  
21 time on Saturday, Sunday or a national holiday, and  
22 b. "national holiday" shall mean New Year's Day, Martin  
23 Luther King Day, George Washington's Birthday, on the  
24 third Monday in February, Memorial Day, Independence

1 Day, Labor Day, Veterans Day, Thanksgiving Day and  
2 Christmas Day, and shall further include the Friday  
3 before such national holiday which falls on a Saturday  
4 and the Monday following such national holiday which  
5 falls on a Sunday.

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

9 ~~F. G.~~ An operator shall be required to provide reasonable  
10 documentation to substantiate all lawful fees charged the owner,  
11 lienholder, agent or insurer accepting liability for paying the  
12 claim for the towed vehicle or purchasing the towed vehicle. Fees  
13 for which the operator is being reimbursed, or having paid to a  
14 third party, shall include copies of the invoice or other  
15 appropriate documents to substantiate the payment to the third  
16 party. ~~When skilled or specialized labor or equipment is required,~~  
17 ~~the wrecker operator's cost for such skilled or specialized labor or~~  
18 ~~equipment plus a twenty-five percent (25%) gross profit markup to~~  
19 ~~cover overhead costs for such labor will be added to the invoice or~~  
20 ~~freight bill to be collected in addition to all other applicable~~  
21 ~~charges.~~

22 SECTION 8. AMENDATORY 47 O.S. 2001, Section 954A, as  
23 amended by Section 1, Chapter 82, O.S.L. 2010 (47 O.S. Supp. 2010,  
24 Section 954A), is amended to read as follows:

1 Section 954A. A. In addition to any procedure provided by  
2 local ordinance, whenever the owner or legal possessor of real  
3 property or an authorized agent has reasonable cause to believe that  
4 a vehicle has been abandoned thereon, said vehicle having been on  
5 said property for a minimum of forty-eight (48) hours, or whenever a  
6 vehicle is left upon said real property without express or implied  
7 permission, such vehicle may be removed as provided in this section.

8 B. 1. The owner, legal possessor or authorized agent may  
9 request any licensed wrecker or towing service within the county  
10 wherein the real property is located to remove the abandoned vehicle  
11 from the premises by signing a Tow Request and Authorization Form  
12 prescribed by the Department of Public Safety and furnished to  
13 licensed wrecker operators as hereinafter provided.

14 2. If the owner, legal possessor or authorized agent of the  
15 property owner is unable to obtain the services of a licensed  
16 wrecker or towing service to remove the abandoned vehicle in a  
17 reasonable amount of time, the owner, legal possessor or authorized  
18 agent may contact and request that a licensed wrecker or towing  
19 service from an adjacent county perform the service. A notation  
20 shall be made on the Tow Request and Authorization Form that a  
21 licensed wrecker or towing service in the county in which the real  
22 property is located was contacted but the licensed wrecker or towing  
23 service was not able to perform the removal in a reasonable amount  
24 of time.

1 C. A licensed wrecker or towing service removing an abandoned  
2 vehicle pursuant to this section shall be subject to the maximum  
3 rates ~~authorized~~ established by ~~Section 953.1 of this title~~ the  
4 Corporation Commission.

5 D. The Department shall design and promulgate a suitable Tow  
6 Request and Authorization Form to be completed in quadruplicate,  
7 containing space for the following information:

8 1. A description of the vehicle, including the type of vehicle,  
9 year of manufacture, name of the manufacturer, vehicle color or  
10 colors, identification number and license tag number;

11 2. The name, address and business telephone number of the  
12 wrecker or towing service;

13 3. The name, address, telephone number and driver license  
14 number or state-issued identification card number of the real  
15 property owner, legal possessor or authorized agent;

16 4. Inventory of personal property within the vehicle to be  
17 towed;

18 5. Time and date the form is completed; and

19 6. Signatures of the driver of the wrecker vehicle and of the  
20 owner, legal possessor or authorized agent of the real property.

21 The Department or the Commission may require additional  
22 information on the Tow Request and Authorization Form. The driver  
23 license number or state-issued identification card number of the  
24 real property owner, legal possessor or authorized agent shall not

1 be disclosed by the Department or the Commission to any entity  
2 inquiring about services performed without a court order or without  
3 written consent from the property owner, legal possessor or  
4 authorized agent.

5 E. The real property owner, legal possessor or authorized agent  
6 and the wrecker vehicle driver shall jointly, and each in the  
7 presence of the other, inventory personal property found within or  
8 upon the vehicle and each shall accordingly sign a statement on the  
9 form reflecting this requirement has been fulfilled. In the event  
10 an inventory cannot be completed, the reasons therefor shall be  
11 clearly stated on the form.

12 F. A copy of the completed Tow Request and Authorization Form  
13 shall be retained by the signatories and the wrecker or towing  
14 service shall maintain the wrecker vehicle driver's copy for not  
15 less than one (1) year, or longer if required by the Department or  
16 the Commission. The wrecker or towing service shall forthwith send  
17 the completed original Tow Request and Authorization Form to the  
18 Department and the remaining copy of the completed form to the local  
19 police department of the municipality in which the real property is  
20 located, or the sheriff's office of the county from which the  
21 vehicle was towed, if the real property is located outside of an  
22 incorporated municipality. A facsimile copy of the Tow Request and  
23 Authorization Form shall be considered the original form if a

24

1 printed or digital confirmation of the facsimile transmission is  
2 available.

3 G. Within three (3) business days of the time indicated on the  
4 form, the wrecker or towing service shall request the Oklahoma Tax  
5 Commission or other appropriate motor license agent to furnish the  
6 name and address of the current owner of and any lienholder upon the  
7 vehicle. The Tax Commission or appropriate motor license agent  
8 shall respond in person or by certified mail to the wrecker or  
9 towing service within five (5) business days from the receipt of the  
10 request for information. The Department and the Oklahoma Tax  
11 Commission shall render assistance to ascertain ownership, if  
12 needed. The wrecker or towing service shall, within seven (7) days  
13 from receipt of the requested information from the Oklahoma Tax  
14 Commission or other motor license agent, send a notice of the  
15 location of the vehicle by certified mail, postage prepaid, at the  
16 addresses furnished, to the owner and any lienholder of the vehicle.  
17 The owner or lienholder may regain possession of the vehicle in  
18 accordance with rules of the Department upon payment of the wrecker  
19 or towing services, costs of certified mailing and the reasonable  
20 cost of towing and storage of the vehicle. If the wrecker or towing  
21 service has not complied with the notification procedures required  
22 by this subsection, the owner or lienholder shall not be required to  
23 pay for storage of the vehicle.

24

1 H. No wrecker or towing service or operator of a wrecker or  
2 towing service shall tow or cause to be towed a vehicle pursuant to  
3 this section until the form furnished by the Department has been  
4 appropriately completed by the parties as required by rules of the  
5 Department.

6 SECTION 9. AMENDATORY 47 O.S. 2001, Section 956, as last  
7 amended by Section 1, Chapter 179, O.S.L. 2005 (47 O.S. Supp. 2010,  
8 Section 956), is amended to read as follows:

9 Section 956. A. No operator, employee, or contractor of a  
10 wrecker or towing service or of a person or business that derives  
11 any business or income from a wrecker or towing service shall offer,  
12 and no officer or employee of the Corporation Commission, Department  
13 of Public Safety or any political subdivision of the state shall  
14 accept, directly or indirectly, any compensation, gift, loan, favor  
15 or service given for the purpose of influencing the officer or  
16 employee in the discharge of official duties of the person.

17 B. Except as provided in subsection C of this section, no  
18 officer of the Commission, Department ~~of Public Safety~~ or any law  
19 enforcement officer of any political subdivision of the state shall  
20 have any interest, financial or otherwise, in a wrecker or towing  
21 service, or with a person or in a business that derives business or  
22 income from a wrecker or towing service, nor shall a wrecker or  
23 towing service or a person or business that derives any business or  
24 income from a wrecker or towing service employ such officer.

1 C. An officer of the Commission, Department ~~of Public Safety~~ or  
2 a law enforcement officer of any political subdivision may have an  
3 interest, financial or otherwise, in or may be employed by a wrecker  
4 or towing service when the sole purpose and only business of the  
5 wrecker or towing service is to perform repossessions of vehicles  
6 which are subject to lien and are being repossessed by the lien  
7 holder of record.

8 SECTION 10. AMENDATORY 47 O.S. 2001, Section 11-1110, as  
9 amended by Section 1, Chapter 133, O.S.L. 2002 (47 O.S. Supp. 2010,  
10 Section 11-1110), is amended to read as follows:

11 Section 11-1110. A. No person shall throw or deposit upon any  
12 highway any glass bottle, glass, nails, tacks, wire, cans or any  
13 other substances likely to injure any person, animal or vehicle upon  
14 such highway.

15 B. Any person who drops, or permits to be dropped or thrown,  
16 upon any highway any destructive or injurious material shall  
17 immediately remove the same or cause it to be removed.

18 C. Any person removing a wrecked or damaged vehicle from a  
19 highway, highway right-of-way or any other location as the result of  
20 an accident shall remove any glass or other injurious substance  
21 dropped upon the highway or highway right-of-way or other location  
22 from such vehicle. The owner or insurer of the owner of the vehicle  
23 if the owner's insurance policy provides coverage for such expense,  
24 shall be responsible for the cost of removal of the vehicle and the

1 glass or other injurious substance and any vehicle storage fees  
2 pursuant to Section 953.1 of this title. The cost of the removal of  
3 the vehicle and any storage fees shall be the same as established by  
4 the Corporation Commission for nonconsensual tows.

5 D. No person shall throw any substance at a standing vehicle or  
6 any occupant thereof, nor shall any person throw any substance at a  
7 person on or adjacent to a highway.

8 SECTION 11. AMENDATORY 42 O.S. 2001, Section 91, as last  
9 amended by Section 1, Chapter 98, O.S.L. 2008 (42 O.S. Supp. 2010,  
10 Section 91), is amended to read as follows:

11 Section 91. A. 1. This section applies to every vehicle, all-  
12 terrain vehicle, utility vehicle, manufactured home, motorcycle,  
13 boat, outboard motor, or trailer that has a certificate of title  
14 issued by the Oklahoma Tax Commission or by a federally recognized  
15 Indian tribe in the State of Oklahoma, except as otherwise provided  
16 in subsection D of this section. This section does not apply to  
17 farm equipment as defined in Section 91.2 of this title. The items  
18 of personal property to which this section applies are collectively  
19 referred to as "Section 91 Personal Property". If personal property  
20 is apparently covered both by this section and by Sections 191  
21 through 200 of this title, the procedures set out in this section  
22 shall apply instead of Sections 191 through 200.

23 2. Any person who, while lawfully in possession of an article  
24 of Section 91 Personal Property, renders any service to the owner

1 thereof by furnishing storage, rental space, material, labor or  
2 skill for the protection, improvement, safekeeping, towing, right to  
3 occupy space, storage or carriage thereof, has a special lien  
4 thereon, dependent on possession, for the compensation, if any,  
5 which is due to such person from the owner for such service.

6 3. This special lien shall be subordinate to any perfected  
7 security interest unless the claimant complies with the requirements  
8 of this section.

9 4. Any person claiming the special lien provided in paragraph 2  
10 of this subsection shall mail a notice of such lien, no later than  
11 sixty (60) days after the first services are rendered, by regular,  
12 first class United States mail, and by certified mail, to all  
13 interested parties who reside at separate locations. (If services  
14 provided are pursuant to a contract primarily for the purpose of  
15 storage or rental of space, the beginning date of the sixty-day  
16 period provided in the previous sentence shall be the first day of  
17 the first period or partial period for which rental or storage  
18 charges remain unpaid.) The notice shall be in writing and shall  
19 contain, but not be limited to, the following:

- 20 a. a statement that the notice is a notice of a  
21 possessory lien,
- 22 b. the complete legal name, physical and mailing address,  
23 and telephone number of the claimant,

24

- 1           c.    the complete legal name, physical and mailing address  
2                   of the person who requested that the claimant render  
3                   service to the owner by furnishing material, labor or  
4                   skill, storage, or rental space, or the date the  
5                   property was abandoned if the claimant did not render  
6                   any other service,
- 7           d.    a description of the article of personal property and  
8                   the complete physical and mailing address of the  
9                   location of the article of personal property,
- 10          e.    an itemized statement describing the date or dates the  
11                   labor or services were performed and material  
12                   furnished, and the amount of the compensation claimed,
- 13          f.    a statement by the claimant that the materials, labor  
14                   or skill furnished, or arrangement for storage or  
15                   rental of space, was authorized by the owner of the  
16                   personal property and was in fact provided or  
17                   performed, or that the property was abandoned by the  
18                   owner if the claimant did not render any other  
19                   service, and that storage or rental fees will accrue  
20                   as allowed by law, and
- 21          g.    the signature of the claimant which shall be notarized  
22                   and, if applicable, the signature of the claimant's  
23                   attorney.  If the claimant is a business, then the  
24                   name of the contact person must be shown.  In place of

1 an original signature and notary seal, a digital or  
2 electronic signature or seal shall be accepted.

3 5. For services rendered or vehicles abandoned on or after  
4 November 1, 2005, storage charges or charges for rental of space  
5 (unless agreed to by contract as part of an overall transaction or  
6 arrangement that was primarily for the purpose of storage of the  
7 Section 91 Personal Property or rental of space) may only be  
8 assessed beginning with the day that the Notice of Possessory Lien  
9 is mailed as evidenced by certified mail. Provided, however, in the  
10 case of contractual charges incurred for storage or rental of space  
11 in an overall transaction primarily for the purpose of storage or  
12 rental, charges subject to the special lien may only be assessed  
13 beginning with a date not more than sixty (60) days prior to the day  
14 that the Notice of Possessory Lien is mailed, and shall accrue only  
15 at the regular periodic rate for storage or rental as provided in  
16 the contract, adjusted for partial periods of storage or rental.  
17 The maximum allowable compensation for storage shall not exceed the  
18 fees ~~specified pursuant to Section 953.2 of Title 47 of the Oklahoma~~  
19 ~~Statutes~~ established by the Corporation Commission for nonconsensual  
20 tows.

21 6. The lien may be foreclosed by a sale of such personal  
22 property upon the notice and in the manner following: The notice of  
23 sale shall contain:

24 a. a statement that the notice is a Notice of Sale,

- 1           b.    the names of all interested parties known to the  
2                claimant,  
3           c.    a description of the property to be sold,  
4           d.    a notarized statement of the nature of the work, labor  
5                or service performed, material furnished, or storage  
6                or rental of space, and the date thereof, and the name  
7                of the person who authorized the work, labor or  
8                service performed, or the storage or rental  
9                arrangement, or that the property was abandoned if the  
10              claimant did not render any other service,  
11           e.    the date, time and exact physical location of sale,  
12                and  
13           f.    the name, complete physical address and telephone  
14                number of the party foreclosing such lien.  If the  
15                claimant is a business, then the name of the contact  
16                person must be shown.  In place of an original  
17                signature and notary seal, a digital or electronic  
18                signature or seal shall be accepted.

19           7.  Such notice of sale shall be posted in three public places  
20 in the county where the property is to be sold at least ten (10)  
21 days before the time therein specified for such sale, and a copy of  
22 the notice shall be mailed to all interested parties at their last-  
23 known post office address, by regular, first class United States  
24 mail and by certified mail on the day of posting.  If the item of

1 personal property is a manufactured home, notice shall also be sent  
2 by certified mail to the county treasurer and to the county assessor  
3 of the county where the manufactured home is located.

4 8. Interested parties shall include all owners of the article  
5 of personal property as indicated by the certificate of title issued  
6 by the Oklahoma Tax Commission or by a federally recognized Indian  
7 tribe in the State of Oklahoma; lien debtors, if any, other than the  
8 owners; any lienholder whose lien is noted on the face of the  
9 certificate of title; and any other person having any interest in  
10 the article of personal property, of whom the claimant has actual  
11 notice.

12 9. Any interested party shall be permitted to inspect and  
13 verify the services rendered by the claimant prior to the sale of  
14 the article of personal property during normal business hours,  
15 unless the property was abandoned and the claimant did not render  
16 any other service.

17 10. The claimant or any other person may in good faith become a  
18 purchaser of the property sold.

19 11. Proceedings for foreclosure under this act shall be  
20 commenced within thirty (30) days after the Notice of Possessory  
21 Lien has been mailed as evidenced by certified mail. The date  
22 actually sold shall be within sixty (60) days from the date of the  
23 Notice of Sale as evidenced by certified mail.

24

1 B. 1. a. Any person who is induced by means of a check or other  
2 form of written order for immediate payment of money  
3 to deliver up possession of an article of personal  
4 property on which the person has a special lien  
5 created by subsection A of this section, which check  
6 or other written order is dishonored, or is not paid  
7 when presented, shall have a lien for the amount  
8 thereof upon the personal property.

9 b. The person claiming such lien shall, within thirty  
10 (30) days from the date of dishonor of the check or  
11 other written order for payment of money, file in the  
12 office of the county clerk of the county in which the  
13 property is situated a sworn statement that:

14 (1) the check or other written order for immediate  
15 payment of money, copy thereof being attached,  
16 was received for labor, material or supplies for  
17 producing or repairing an article of personal  
18 property, or for other specific property-related  
19 services covered by this section,

20 (2) the check or other written order was not paid,  
21 and

22 (3) the uttering of the check or other written order  
23 constituted the means for inducing the person,  
24 one possessed of a special lien created by

1 subsection A of this section upon the described  
2 article of personal property, to deliver up the  
3 said article of personal property.

4 2. a. Any person who renders service to the owner of an  
5 article of personal property by furnishing storage,  
6 rental space, material, labor, or skill for the  
7 protection, improvement, safekeeping, towing, right to  
8 occupy space, storage, or carriage thereof shall have  
9 a special lien on such property pursuant to this  
10 section if such property is removed from the person's  
11 possession, without such person's written consent or  
12 without payment for such service.

13 b. The person claiming such lien shall, within five (5)  
14 days of such nonauthorized removal, file in the office  
15 of the county clerk of the county in which the  
16 property is located, a sworn statement including:

17 (1) that services were rendered on or in relation to  
18 the article of personal property by the person  
19 claiming such lien,

20 (2) that the property was in the possession of the  
21 person claiming the lien but such property was  
22 removed without his or her written consent,  
23  
24

1 (3) an identifying description of the article of  
2 personal property on which the service was  
3 rendered, and

4 (4) that the debt for the services rendered on or in  
5 relation to the article of personal property was  
6 not paid. Provided, if the unpaid total amount  
7 of the debt for services rendered on or in  
8 relation to the article of personal property is  
9 unknown, an approximated amount of the debt due  
10 and owing shall be included in the sworn  
11 statement but such approximated debt may be  
12 amended within thirty (30) days of such filing to  
13 reflect the actual amount of the debt due and  
14 owing.

15 3. The enforcement of the lien shall be within sixty (60) days  
16 after filing the lien in the manner provided by law for enforcing  
17 the lien of a security agreement and provided that the lien shall  
18 not affect the rights of innocent, intervening purchasers without  
19 notice.

20 4. If a person claiming a special lien pursuant to this section  
21 fails to substantially comply with any of the requirements of this  
22 section, any interested party may proceed against the person  
23 claiming such lien for all damages arising therefrom, including  
24 conversion, if the article of personal property has been sold. If

1 the notice or notices required by this section shall be shown to be  
2 knowingly false or fraudulent, the interested party shall be  
3 entitled to treble damages. The prevailing party shall be entitled  
4 to all costs, including a reasonable attorney fee.

5 C. If the person who renders service to the owner of an article  
6 of personal property to which this section applies relinquishes or  
7 loses possession of the article due to circumstances described in  
8 subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of  
9 subsection B of this section, the person claiming the lien shall be  
10 entitled to possession of the article until the amount due is paid,  
11 unless the article is possessed by a person who became a bona fide  
12 purchaser. Entitlement to possession shall be in accordance with  
13 the following:

14 1. The claimant may take possession of an article pursuant to  
15 this subsection only if the person obligated under the contract for  
16 services has signed an acknowledgement of receipt of a notice that  
17 the article may be subject to repossession. The notice and  
18 acknowledgement pursuant to this subsection shall be:

- 19 a. in writing and separate from the written contract for  
20 services, or  
21 b. printed on the written contract for services, credit  
22 agreement or other document which displays the notice  
23 in bold-faced, capitalized and underlined type, or is  
24

1            separated from surrounding written material so as to  
2            be conspicuous with a separate signature line;

3            2. The claimant may require the person obligated under the  
4 contract for services to pay the costs of repossession as a  
5 condition for reclaiming the article only to the extent of the  
6 reasonable fair market value of the services required to take  
7 possession of the article;

8            3. The claimant shall not transfer to a third party or to a  
9 person who performs repossession services, a check, money order, or  
10 credit card transaction that is received as payment for services  
11 with respect to an article and that is returned to the claimant  
12 because of insufficient funds or no funds, because the person  
13 writing the check, issuing the money order, or credit cardholder has  
14 no account or because the check, money order, or credit card account  
15 has been closed. A person violating this paragraph shall be guilty  
16 of a misdemeanor; and

17            4. An article that is repossessed pursuant to this subsection  
18 shall be promptly delivered to the location where the services were  
19 performed. The article shall remain at the services location at all  
20 times until the article is lawfully returned to the record owner or  
21 a lienholder or is disposed of pursuant to this section.

22            D. 1. If a vehicle, all-terrain vehicle, utility vehicle,  
23 manufactured home, motorcycle, boat, outboard motor, or trailer has  
24 a certificate of title issued by the Oklahoma Tax Commission or by a

1 federally recognized Indian tribe in the State of Oklahoma, but  
2 there is no active lien recorded on the certificate of title,  
3 Section 91A of this title will apply instead of this section.  
4 Likewise, if there is an active lien recorded on the certificate of  
5 title but the lien is over fifteen (15) years old and the property  
6 is not a manufactured home, Section 91A will apply instead of this  
7 section.

8       2. If personal property that otherwise would be covered by this  
9 section has been registered by the Oklahoma Tax Commission or by a  
10 federally recognized Indian tribe in the State of Oklahoma, and  
11 there is a lien of record but no certificate of title has been  
12 issued, Section 91A of this title will apply instead of this  
13 section.

14       3. If personal property otherwise would be covered by this  
15 section, but the services were rendered or the property was  
16 abandoned prior to November 1, 2005, Section 91A of this title will  
17 apply instead of this section.

18       4. Salvage pools as defined in Section 591.2 of Title 47 of the  
19 Oklahoma Statutes and class AA licensed wrecker operators in their  
20 capacity as wrecker operators shall not be subject to the provisions  
21 of this section. Salvage pools as defined in Section 591.2 of Title  
22 47 of the Oklahoma Statutes and class AA licensed wrecker operators  
23 shall be subject to Section 91A of this title.

24       E. For purposes of this section:

1        1. "Possession" includes actual possession and constructive  
2 possession; and

3        2. "Constructive possession" means possession by a person who,  
4 although not in actual possession, does not have an intention to  
5 abandon property, knowingly has both power and the intention at a  
6 given time to exercise dominion or control over the property, and  
7 who holds claim to such thing by virtue of some legal right.

8        SECTION 12. This act shall become effective November 1, 2011.

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10        53-1-7796            CJB            05/16/11

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