

1 ENGROSSED SENATE
2 BILL NO. 785

By: Aldridge of the Senate

and

Martin (Steve) of the House

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7 An Act relating to motor vehicles; amending 47 O.S.
8 2001, Section 904, as last amended by Section 1,
9 Chapter 158, O.S.L. 2006 (47 O.S. Supp. 2010, Section
10 904), which relates to the payment of cost of removal
11 and storage of certain vehicles; clarifying that an
12 additional release from certain vehicle owner is not
13 necessary under certain conditions; amending 47 O.S.
14 2001, Section 953.1, as last amended by Section 2,
15 Chapter 158, O.S.L. 2006 (47 O.S. Supp. 2010, Section
16 953.1), which relates to maximum fees and charges
17 made by wrecker or towing service; clarifying that an
18 additional release is not necessary under certain
19 conditions; and providing an effective date.

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

21 SECTION 1. AMENDATORY 47 O.S. 2001, Section 904, as last
22 amended by Section 1, Chapter 158, O.S.L. 2006 (47 O.S. Supp. 2010,
23 Section 904), is amended to read as follows:

24 Section 904. The owner of a motor vehicle or lienholder of the
vehicle abandoned in violation of Section 901 et seq. of this title,
or the owner of any vehicle or lienholder of the vehicle or insurer
accepting liability for paying a claim on a vehicle or purchasing
the vehicle as a total loss vehicle from the registered owner which
shall have been lawfully removed from any highway or other public

1 property may regain possession of the vehicle in accordance with
2 regulations of the Department of Public Safety upon payment of the
3 reasonable cost of removal and storage of such vehicle. The
4 operator is authorized to collect all lawful fees from the owner,
5 lienholder that seeks possession of a vehicle under a security
6 interest, agent, or insurer accepting liability for paying the claim
7 for a vehicle or purchasing the vehicle as a total loss vehicle from
8 the registered owner of the towed vehicle for the performance of any
9 and all such services. An operator shall release the vehicle from
10 storage upon authorization from the owner, agent or lienholder of
11 the vehicle or in the case of a total loss, the insurer accepting
12 liability for paying the claim on the vehicle or purchasing the
13 vehicle where the vehicle is to be moved to an insurance pool yard
14 for sale. Nothing in this section and/or the regulations of the
15 Department of Public Safety shall be construed to require an
16 additional release from the registered vehicle owner when an insurer
17 has determined the vehicle to be a total loss vehicle.

18 The cost of removal and storage shall be paid to the wrecker or
19 towing service.

20 SECTION 2. AMENDATORY 47 O.S. 2001, Section 953.1, as
21 last amended by Section 2, Chapter 158, O.S.L. 2006 (47 O.S. Supp.
22 2010, Section 953.1), is amended to read as follows:

23 Section 953.1 A. The rates and provisions of this section
24 shall apply only to determine the maximum fees and charges for

1 wrecker or towing services performed in this state, including
2 incorporated and unincorporated areas, by a wrecker or towing
3 service licensed by the Department of Public Safety when that
4 service appears on the rotation log of the Department or on the
5 rotation log of any municipality, county or other political
6 subdivision of this state, and the services performed are at the
7 request or at the direction of any officer of the Department or of a
8 municipality, county, or political subdivision. No wrecker or
9 towing service in the performance of these services shall charge any
10 fee which exceeds the maximum rates established in this section,
11 adjusted as provided in subsection H of this section. Such rates
12 shall be in addition to any other rates, fees or charges authorized
13 or required by law. Any wrecker or towing service is authorized to
14 collect from the owner, lienholder, agent or insurer accepting
15 liability for paying the claim for a vehicle or purchasing the
16 vehicle as a total loss vehicle from the registered owner of any
17 towed or stored vehicle, the fee required by Section 904 of this
18 title.

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

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

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

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

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

18 5. Nothing in this subsection and/or the regulations of the
19 Department of Public Safety shall be construed to require an
20 additional release from the registered vehicle owner when an insurer
21 has determined the vehicle to be a total loss vehicle.

22 C. Distance rates.

23 1. Rates in this subsection shall apply to the distance the
24 towed vehicle is transported and shall include services of the

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

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

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

1 impractical to travel via the shortest route, distance
2 rates shall be computed based on the shortest
3 practical route over which the wrecker vehicle and the
4 vehicle it is towing can be moved, which route shall
5 be noted on the bill or invoice, or

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

11 2. Maximum distance rates shall be as follows:

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

22 D. Hourly Rates.

23 1. Rates in this subsection shall apply for the use of a
24 wrecker vehicle and shall include services of the operator of such

1 wrecker, except as provided in paragraph 4 of this subsection.
2 Rates shall apply for all wrecker or towing services performed that
3 are not otherwise provided for in this section, including, but not
4 limited to, waiting and standby time, but shall not include the
5 first fifteen (15) minutes of service following the hookup of a
6 vehicle when a hookup fee is assessed, as provided in subsection E
7 of this section.

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

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

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

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

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

15 GVWR of Wrecker Vehicle 16 (In pounds)	Rate Per Hour	Rate Per 15 Minutes
17 8,000 or less	\$60.00	\$15.00
18 8,001 to 24,000	\$80.00	\$20.00
19 24,001 to 44,000	\$120.00	\$30.00
20 44,001 or over	\$180.00	\$45.00
21 Combination wrecker vehicle		
22 with GVWR of 24,000 or over	\$180.00	\$45.00

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

1 b. Maximum hourly rates for skilled or specialized labor
2 and/or equipment shall be the actual customary and
3 ordinary rates charged for such labor and/or
4 equipment. When skilled or specialized labor or
5 equipment is required, the wrecker operator's cost for
6 such skilled or specialized labor or equipment plus a
7 twenty-five percent (25%) gross profit markup to cover
8 overhead costs for such labor will be added to the
9 invoice or freight bill to be collected in addition to
10 all other applicable charges.

11 E. Hookup Rates.

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

23 2. Maximum hookup rates shall be as follows:

24 Weight of Vehicle Being Hooked Up

(In pounds, including equipment and lading)	Rate
Single vehicle: 8,000 or less	\$65.00
Single vehicle: 8,001 to 12,000	\$75.00
Single vehicle: 12,001 to 24,000	\$85.00
Single vehicle: 24,001 or over	\$95.00
Combination of vehicles	\$95.00

3. Nothing in this subsection and/or the regulations of the Department of Public Safety shall be construed to require an additional release from the registered vehicle owner when an insurer has determined the vehicle to be a total loss vehicle.

F. Additional Service Rates.

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

- a. the disconnection and reconnection of a towed vehicle's drive line when necessary to prevent mechanical damage to such vehicle,
- b. the removal and replacement of a towed vehicle's axle when necessary to prevent mechanical damage to such vehicle, or
- c. the use of a dolly or rollback equipment when essential to prevent mechanical damage to a towed vehicle or when neither end of such vehicle is capable

1 of being towed safely while in contact with the
2 roadway.

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

4 Weight of Towed 5 Vehicle (In pounds, 6 including equipment 7 and lading)	8 Service Performed		
	9 Disconnect 10 Drive Line; 11 Remove Axle	12 Reconnect 13 Drive Line; 14 Replace Axle	15 Use of Dolly 16 or Rollback 17 Equipment
	18 Rate Per Service Performed		
19 8,000 or less	\$10.00	\$15.00	\$25.00
20 8,001 to 12,000	\$15.00	\$20.00	\$30.00
	21 Rate Per 15 Minutes of Service Performed		
22 12,001 or over	\$20.00	\$20.00	23 Not applicable

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

H. Wrecker fees, including maximum distance, hourly, and hookup rates shall be adjusted weekly by the Department of Public Safety by adding a fuel surcharge as provided in this section. The Department shall base the surcharge on the Department of Energy "weekly retail on-highway diesel prices" for the "Midwest region" using One Dollar

1 and ninety cents (\$1.90) per gallon as the base price with no fees
2 added. The wrecker fees shall be adjusted to allow a one-percent
3 increase in fees for every ten-cent increase in fuel cost starting
4 at Two Dollars (\$2.00) per gallon.

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

17 SECTION 3. This act shall become effective November 1, 2011.
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