

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1743

By: Johnson

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5  
6 AS INTRODUCED

7  
8 An Act relating to motor vehicles; requiring rule  
9 adoption; requiring certain rules be adopted by  
10 specific date; amending 47 O.S. 2001, Sections 951,  
11 as last amended by Section 25, Chapter 418, O.S.L.  
12 2004, 952, as last amended by Section 1, Chapter 193,  
13 O.S.L. 2005, 953.1, as last amended by Section 2,  
14 Chapter 158, O.S.L. 2006, 953.2, as last amended by  
15 Section 3, Chapter 360, O.S.L. 2004, 954A, as amended  
16 by Section 1, Chapter 82, O.S.L. 2010, 956, as last  
17 amended by Section 1, Chapter 179, O.S.L. 2005 and  
18 11-1110, as amended by Section 1, Chapter 133, O.S.L.  
19 2002 (47 O.S. Supp. 2010, Sections 951, 952, 953.1,  
20 953.2, 954A, 956 and 11-1110), which relate to  
21 wreckers; defining term; transferring responsibility  
22 for regulation of wreckers to the Corporation  
23 Commission; amending 42 O.S. 2001, Section 91, as  
24 last amended by Section 1, Chapter 98, O.S.L. 2008  
(42 O.S. Supp. 2010, Section 91), which relates to  
liens; updating reference; providing for  
codification; providing effective dates; and  
declaring an emergency.

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

22 SECTION 1. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 953A of Title 47, unless there  
24 is created a duplication in numbering, reads as follows:

1       The Corporation Commission shall adopt such rules as are  
2 necessary to carry out the intent of this act. No later than  
3 November 1, 2011, the Commission shall adopt rules establishing the  
4 maximum fees and charges to be collected pursuant to Sections 953.1  
5 and 953.2 of Title 47 of the Oklahoma Statutes for the  
6 transportation and storage of disabled vehicles or nonconsent tows  
7 of vehicles on or from Oklahoma roads and highways.

8       SECTION 2.       AMENDATORY       47 O.S. 2001, Section 951, as last  
9 amended by Section 25, Chapter 418, O.S.L. 2004 (47 O.S. Supp. 2010,  
10 Section 951), is amended to read as follows:

11       Section 951. As used in Sections 951 through 964 of this title:

12       1. "Wrecker or wrecker vehicle" means any motor vehicle that is  
13 equipped with any device designed to tow another vehicle or  
14 combination of vehicles. The use of the term "wrecker" or "wrecker  
15 vehicle" shall be construed to include a combination wrecker or  
16 combination wrecker vehicle, as defined in paragraph 2 of this  
17 subsection, unless a specific differentiation is otherwise  
18 described;

19       2. "Combination wrecker" or "combination wrecker vehicle" means  
20 any wrecker vehicle which is designed and equipped with two separate  
21 and distinct devices to tow simultaneously two or more other  
22 vehicles or combinations of vehicles, whether or not both devices  
23 are in use simultaneously. One of the devices shall allow another  
24 vehicle to be loaded onto and transported upon the wrecker vehicle,

1 and one of the devices shall allow another vehicle to be attached to  
2 and pulled by the wrecker vehicle;

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

6 a. attaching the vehicle to and pulling the vehicle with  
7 the wrecker vehicle, or

8 b. loading the vehicle onto and transporting the vehicle  
9 upon the wrecker vehicle;

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

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

17 6. "Wrecker or towing service" means engaging in the business  
18 of or performing the act of towing or offering to tow any vehicle,  
19 except:

20 a. where the operator owns the towed vehicle and displays  
21 on both sides of the wrecker vehicle in plainly  
22 visible letters not less than two (2) inches in height  
23 the words "NOT FOR HIRE",  
24

- 1           b. where the service is performed by a transporter as  
2           defined in Section 1-181 of this title,  
3           c. where service is performed in conjunction with the  
4           transportation of household goods and property,  
5           d. where the wrecker vehicle is owned or operated by the  
6           United States government, the State of Oklahoma, or  
7           any department or political subdivision thereof, or  
8           e. where the service is performed by an out-of-state  
9           wrecker service at the request of the vehicle owner or  
10          operator, the vehicle is not involved in a collision,  
11          and is being towed:

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

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

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

19          8. "Commission" means the Corporation Commission;

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

21          ~~9.~~ 10. "Nonconsent tow" means any transporting of a vehicle  
22 without the consent or knowledge of the vehicle's owner, possessor,  
23 agent, insurer, lienholder, or any other person in possession of or  
24 in charge of any vehicle and the transportation or towing of the

1 vehicle under lawful circumstances or necessity for the public  
2 interest including removing from the roadway for public safety or  
3 public convenience, or accidents, by any law enforcement officer or  
4 property agent or removal from private property as a result of  
5 abandonment or unauthorized parking by the property owner, agent,  
6 possessor, or other legal entity for the property owner;

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

9 ~~10.~~ 12. "Officer" means any duly authorized law enforcement  
10 officer;

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

13 ~~12.~~ 14. "Service call" means the act of responding to a request  
14 for service with a wrecker vehicle in which a service is performed;  
15 and

16 ~~13.~~ 15. "Vehicle" shall:

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

19 b. for the purposes of this chapter when referring to a  
20 vehicle or combination of vehicles being towed or  
21 stored, include a vessel. The term "vessel" shall  
22 have the same meaning as defined in Section 4002 of  
23 Title 63 of the Oklahoma Statutes.

24

1 SECTION 3. AMENDATORY 47 O.S. 2001, Section 952, as last  
2 amended by Section 1, Chapter 193, O.S.L. 2005 (47 O.S. Supp. 2010,  
3 Section 952), is amended to read as follows:

4 Section 952. A. The 1. Except for the fees, tariffs and rates  
5 established by the Corporation Commission, the Department of Public  
6 Safety shall have the power and authority necessary to license,  
7 supervise, govern and control wrecker vehicles and wrecker or towing  
8 services; and

9 2. The Corporation Commission shall have the power and  
10 authority necessary to supervise, govern and control wrecker fees,  
11 tariffs, and rates for transporting and storing vehicles removed due  
12 to a nonconsent tow.

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

16 The rules shall state the requirements for facilities, for  
17 storage of vehicles, necessary towing equipment, the records to be  
18 kept by operators, liability insurance and insurance covering the  
19 vehicle and its contents while in storage in such sum and with such  
20 provisions as the Department deems necessary to adequately protect  
21 the interests of the public, and such other matters as the  
22 Department may prescribe for the protection of the public.

23 The Commission shall establish by rule the fees and charges to  
24 be charged for wrecker services for the transportation and storage

1 of vehicles towed and stored as a result of any nonconsent tow from  
2 a roadway in this state as the Commission deems necessary to  
3 adequately protect the interests of the public.

4 C. Unless otherwise regulated by the governing body of the  
5 political subdivision, the wrecker vehicle used to perform wrecker  
6 or towing services requested by a political subdivision of this  
7 state for removal of a vehicle from public property for reasons  
8 listed in Section 955 of this title shall be from the licensed  
9 wrecker or towing service whose location is nearest to the vehicle  
10 to be towed. Requests for service may be alternated or rotated  
11 among all such licensed wrecker or towing services which are located  
12 within a reasonable radius of each other. In cities of less than  
13 fifty thousand (50,000) population, all such licensed wrecker or  
14 towing services located near or in the city limits of such cities  
15 shall be considered as being equal distance and shall be called on  
16 an equal basis as nearly as possible. The police chief of any  
17 municipality and the county sheriff of each county shall keep  
18 rotation logs on all requested tows, except where there are  
19 insufficient licensed wrecker or towing services available to rotate  
20 such services or services are contracted after a competitive bid  
21 process. Rotation logs shall be made available for public  
22 inspection upon request. Any calls made from cell phones or two-way  
23 radios by any law enforcement officer or employee of any  
24 municipality or county to any wrecker service shall be listed on the

1 rotation or call logs and made available for public inspection. A  
2 wrecker service shall not be removed from rotation without  
3 notification to the wrecker operator stating the reason for removal  
4 from the rotation log. All notification for removal from a rotation  
5 log shall be mailed to the wrecker service owner at least ten (10)  
6 days before removal from the rotation log and shall state the  
7 procedure and requirements for reinstatement.

8 D. Except as otherwise provided in this subsection, the  
9 Commission, Department of Public Safety and any municipality, county  
10 or other political subdivision of this state shall not place any  
11 wrecker or towing service upon an official rotation log for the  
12 performance of services carried out pursuant to the request of or at  
13 the direction of any officer of the Commission, Department of Public  
14 Safety or municipality, county or political subdivision unless the  
15 service meets the following requirements:

- 16 1. Principal business facilities are located within Oklahoma;
- 17 2. Tow trucks are registered and licensed in Oklahoma; and
- 18 3. Owner is a resident of the State of Oklahoma or the service  
19 is an Oklahoma corporation.

20 In the event a licensed wrecker or towing service is not located  
21 within a county, a wrecker or towing service that is located outside  
22 of the county or this state and does not meet the above  
23 qualifications may be placed on the rotation log for the county or  
24 any municipality or political subdivision located within the county.

1       When performing services at the request of any officer, no  
2 operator or wrecker or towing service upon the rotation logs shall  
3 charge fees in excess of the maximum rates for services performed  
4 within this state, including incorporated and unincorporated areas,  
5 as ~~prescribed in Section 953.1 of this title~~ established by the  
6 Commission.

7       E. The Department of Public Safety shall place a licensed Class  
8 AA wrecker service on the Highway Patrol Rotation Log in a highway  
9 patrol troop district in which the place of business and the primary  
10 storage facility of the wrecker service are located upon written  
11 request filed by the wrecker service with the Department. Upon  
12 further request of the wrecker service, the Commissioner of Public  
13 Safety or the Department of Public Safety employee with statewide  
14 responsibility for administration of wrecker services may place a  
15 wrecker service on the Highway Patrol Rotation Log in a district  
16 adjacent to the district in which the place of business and the  
17 primary storage facility of the wrecker service are located if the  
18 wrecker service is in proximity to and within a reasonable radius of  
19 the boundary of the district. When a wrecker service is placed on  
20 the rotation log in a district, the Department shall notify the  
21 wrecker service and the troop commander of the district.

22       F. The Commissioner of Public Safety or the Department of  
23 Public Safety employee with statewide responsibility for  
24 administration of wrecker services shall be responsible for

1 establishing geographical areas of rotation within the troop  
2 districts and for notifying each wrecker service of the geographical  
3 areas of rotation to which the service is assigned.

4 G. The Department of Public Safety shall make all rotation logs  
5 available for public inspection at the state office and shall make  
6 rotation logs for a highway patrol troop district available for  
7 public inspection at the district office.

8 SECTION 4. AMENDATORY 47 O.S. 2001, Section 953.1, as  
9 last amended by Section 2, Chapter 158, O.S.L. 2006 (47 O.S. Supp.  
10 2010, Section 953.1), is amended to read as follows:

11 Section 953.1 A. The rates and provisions ~~of this section~~  
12 ~~shall apply only to~~ established by the Corporation Commission by  
13 rule shall determine the maximum fees and charges for wrecker or  
14 towing services performed in this state, including incorporated and  
15 unincorporated areas, by a wrecker or towing service licensed by the  
16 Department of Public Safety when that service appears on the  
17 rotation log of the Department or on the rotation log of any  
18 municipality, county or other political subdivision of this state,  
19 and the services performed are at the request or at the direction of  
20 any officer of the Department or of a municipality, county, or  
21 political subdivision. No wrecker or towing service in the  
22 performance of ~~these services~~ transporting or storing vehicles or  
23 other property shall charge any fee which exceeds the maximum rates  
24 ~~established in this section, adjusted as provided in subsection H of~~

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

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

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

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

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

20 4. The operator is authorized to collect all lawful fees from  
21 the owner, lienholder or agent or insurer accepting liability for  
22 paying the claim for a vehicle or purchasing the vehicle as a total  
23 loss vehicle from the registered owner of the towed vehicle for the  
24 performance of any and all such services. An operator shall release

1 the vehicle from storage upon authorization from the owner, agent or  
2 lienholder of the vehicle or, in the case of a total loss, the  
3 insurer accepting liability for paying the claim for the vehicle or  
4 purchasing the vehicle where the vehicle is to be moved to an  
5 insurance pool yard for sale.

6 C. ~~Distance rates.~~

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

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

- 23 a. ~~for distances or portions of distances not~~  
24 ~~specifically provided for in the governing highway~~

1 ~~map, the actual mileage via the shortest practical~~  
2 ~~route will apply,~~

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

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

14 ~~d. when the wrecker or towing service is performed upon~~  
15 ~~any turnpike or toll road, the turnpike or toll road~~  
16 ~~mileage shall be used to determine the distance rates~~  
17 ~~charged and the turnpike or toll road fees may be~~  
18 ~~added to the bill or invoice.~~

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

<del>Weight of Towed Vehicle</del>	<del>Distance</del>	<del>Rate</del>
<del>(In pounds, including</del>	<del>Towed</del>	<del>Per</del>
<del>equipment and lading)</del>		<del>Mile</del>
<del>Single vehicle: 8,000 or less</del>	<del>25 miles or less</del>	<del>\$3.00</del>
<del>Single vehicle: 8,000 or less</del>	<del>Over 25 miles</del>	<del>\$2.50</del>

1	<del>Single vehicle: 8,001 to 12,000</del>	<del>25 miles or less</del>	<del>\$3.40</del>
2	<del>Single vehicle: 8,001 to 12,000</del>	<del>Over 25 miles</del>	<del>\$3.00</del>
3	<del>Single vehicle: 12,001 to 40,000</del>	<del>Any</del>	<del>\$5.75</del>
4	<del>Single vehicle: 40,000 or over</del>	<del>Any</del>	<del>\$6.75</del>
5	<del>Combination of vehicles</del>	<del>Any</del>	<del>\$6.75</del>

6       ~~D. Hourly Rates.~~

7           ~~1. Rates in this subsection shall apply for the use of a~~  
8 ~~wrecker vehicle and shall include services of the operator of such~~  
9 ~~wrecker, except as provided in paragraph 4 of this subsection.~~

10 ~~Rates shall apply for all wrecker or towing services performed that~~  
11 ~~are not otherwise provided for in this section, including, but not~~  
12 ~~limited to, waiting and standby time, but shall not include the~~  
13 ~~first fifteen (15) minutes of service following the hookup of a~~  
14 ~~vehicle when a hookup fee is assessed, as provided in subsection E~~  
15 ~~of this section.~~

16           ~~Hourly rates shall apply from the time the vehicle or labor is~~  
17 ~~assigned to the service call until the time it is released from~~  
18 ~~service either upon return to the premises of the wrecker or towing~~  
19 ~~service or upon being assigned to perform another wrecker or towing~~  
20 ~~service, whichever occurs first. Whenever a wrecker vehicle is used~~  
21 ~~to tow a vehicle subject to distance rates, as provided in~~  
22 ~~subsection C of this section, hourly rates shall apply only for the~~  
23 ~~time such wrecker is used in the performance of services other than~~

24

1 ~~transportation, except when such hourly rates are used in lieu of~~  
2 ~~such distance rates.~~

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

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

<del>Weight of Towed Passenger Vehicle</del>	<del>Rate Per</del>	<del>Rate Per</del>
<del>(In pounds)</del>	<del>Hour</del>	<del>15 Minutes</del>
<del>Single vehicle: 8,000 or less</del>	<del>\$60.00</del>	<del>\$15.00</del>
<del>Single vehicle: 8,001 to 24,000</del>	<del>\$80.00</del>	<del>\$20.00</del>
<del>Single vehicle: 24,001 to 44,000</del>	<del>\$120.00</del>	<del>\$30.00</del>
<del>Single vehicle: 44,001 or over</del>	<del>\$180.00</del>	<del>\$45.00</del>
<del>Combination of vehicles</del>	<del>\$180.00</del>	<del>\$45.00</del>

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

<del>GVWR of Wrecker Vehicle</del>	<del>Rate Per</del>	<del>Rate Per</del>
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<del>(In pounds)</del>	<del>24Hour</del>	<del>15 Minutes</del>
<del>8,000 or less</del>	<del>\$60.00</del>	<del>\$15.00</del>
<del>8,001 to 24,000</del>	<del>\$80.00</del>	<del>\$20.00</del>
<del>24,001 to 44,000</del>	<del>\$120.00</del>	<del>\$30.00</del>
<del>44,001 or over</del>	<del>\$180.00</del>	<del>\$45.00</del>
<del>Combination wrecker vehicle</del>		
<del>with GVWR of 24,000 or over</del>	<del>\$180.00</del>	<del>\$45.00</del>

~~4. a. Maximum hourly rates for extra labor shall be Thirty Dollars (\$30.00) per person per hour.~~  
~~b. Maximum hourly rates for skilled or specialized labor and/or equipment shall be the actual customary and ordinary rates charged for such labor and/or equipment. When skilled or specialized labor or equipment is required, the wrecker operator's cost for such skilled or specialized labor or equipment plus a twenty five percent (25%) gross profit markup to cover overhead costs for such labor will be added to the invoice or freight bill to be collected in addition to all other applicable charges.~~

~~E. Hookup Rates.~~

~~1. Rates in this subsection shall apply to the hookup of a vehicle to a wrecker vehicle when such hookup is performed in connection with a wrecker or towing service described in this section. Such hookup rate shall include the first fifteen (15)~~

1 ~~minutes of such service, for which there shall be no additional fee~~  
2 ~~charged, but shall not include the use of a dolly or rollback~~  
3 ~~equipment or a combination wrecker vehicle to accomplish such~~  
4 ~~hookup, for which an additional fee may be charged as provided in~~  
5 ~~subsection F of this section. Hookup shall include, but not be~~  
6 ~~limited to, the attachment of a vehicle to or the loading of a~~  
7 ~~vehicle onto a wrecker vehicle.~~

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

9 ~~Weight of Vehicle Being Hooked Up~~

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

17 ~~F. Additional Service Rates.~~

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

- 20 ~~a. the disconnection and reconnection of a towed~~  
21 ~~vehicle's drive line when necessary to prevent~~  
22 ~~mechanical damage to such vehicle,~~

23  
24

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

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

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

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

1 appropriate documents to substantiate such payment to said third  
2 party.

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

13 E. When skilled or specialized labor or equipment is required,  
14 the cost incurred by the wrecker operator for such skilled or  
15 specialized labor or equipment plus an additional twenty-five  
16 percent (25%) gross profit markup or gross profit margin shall be  
17 allowed to cover overhead costs for such labor and will be added to  
18 the invoice or freight bill to be collected in addition to all other  
19 applicable charges.

20 ~~F.~~ F. Wrecker operators shall be allowed to obtain ownership  
21 and insurer information, including accident reports and other public  
22 records, from the Oklahoma Tax Commission or other ~~state's~~ states'  
23 motor vehicle agencies or from law enforcement agencies for the  
24 purpose of determining ownership and responsibility for wrecker

1 fees. In the event a state of origin is not known, the Department  
2 of Public Safety and the Oklahoma Tax Commission shall assist in  
3 providing such information. The wrecker operator is authorized to  
4 collect lawful fees for such costs and services 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 owner of any towed or stored vehicle.

9 SECTION 5. AMENDATORY 47 O.S. 2001, Section 953.2, as  
10 last amended by Section 3, Chapter 360, O.S.L. 2004 (47 O.S. Supp.  
11 2010, Section 953.2), is amended to read as follows:

12 Section 953.2 A. The rates and provisions ~~of this section~~  
13 ~~shall apply only to~~ established by the Corporation Commission by  
14 rule shall determine the maximum fees and charges for the storage  
15 and after-hours release of towed vehicles, including incorporated  
16 and unincorporated areas, by a wrecker or towing service licensed by  
17 the Department of Public Safety. No wrecker or towing service shall  
18 charge any fee which exceeds the maximum rates established ~~in this~~  
19 ~~section~~ by the Commission. Such rates shall be in addition to any  
20 other rates, fees or charges authorized, allowed or required by law,  
21 including environmental remediation fees and services.

22 B. 1. Storage or after-hours release of a towed vehicle, or  
23 both, provided by a wrecker or towing service shall be recorded by  
24

1 the operator on a bill or invoice as prescribed by rules of the  
2 Department.

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

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

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

21 ~~C. Outdoor Storage Rates.~~

22 ~~1. Rates in this subsection shall apply to the outdoor storage~~  
23 ~~of a towed vehicle. Rates may be applied from the time the towed~~  
24 ~~vehicle is brought onto the outdoor storage facility premises.~~

1 ~~Rates shall apply to each calendar day of outdoor storage, provided,~~  
2 ~~the maximum twenty four hour fee, as provided for in this section,~~  
3 ~~may be charged for any towed vehicle which is stored for a portion~~  
4 ~~of a twenty four hour period.~~

5 2. ~~Maximum outdoor storage rates shall be as follows:~~

<del>Type of Towed Vehicle</del>	<del>Rate per Each 24-hour Period or Portion Thereof</del>
<del>Single vehicle: motorcycle, automobile, or light truck up to 20 feet in length</del>	<del>\$15.00</del>
<del>Single vehicle or combination of vehicles over 20 feet in length but less than 30 feet in length</del>	<del>\$20.00</del>
<del>Single vehicle or combination of vehicles over 30 feet in length and up to 8 feet in width</del>	<del>\$25.00</del>
<del>Single vehicle or combination of vehicles over 30 feet in length and over 8 feet in width</del>	<del>\$35.00</del>

20 D. ~~Indoor Storage Rates:~~

21 1. ~~Rates in this subsection shall apply to the indoor storage~~  
22 ~~of a towed vehicle. Rates may be applied from the time the towed~~  
23 ~~vehicle is brought into the indoor storage facility premises. Rates~~  
24 ~~shall apply to each calendar day of indoor storage; provided, the~~

1 ~~maximum twenty-four hour fee, as provided for in this section, may~~  
2 ~~be charged for any towed vehicle which is stored for a portion of a~~  
3 ~~twenty-four hour period.~~

4 ~~2. Maximum indoor storage rates shall be as follows:~~

<del>Type of Towed Vehicle</del>	<del>Rate per Each 24 hour Period or Portion Thereof</del>
<del>Single vehicle: motorcycle, automobile, or light truck up to 20 feet in length</del>	<del>\$25.00</del>
<del>Single vehicle or combination of vehicles over 20 feet in length but less than 30 feet in length</del>	<del>\$30.00</del>
<del>Single vehicle or combination of vehicles over 30 feet in length and up to 8 feet in width</del>	<del>\$35.00</del>
<del>Single vehicle or combination of vehicles over 30 feet in length and over 8 feet in width</del>	<del>\$45.00</del>

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

21 ~~E. After Hours Release Rate.~~

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

1 ~~2. As used in this subsection:~~

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

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

18 ~~F.~~ An operator shall be required to provide reasonable  
19 documentation to substantiate all lawful fees charged the owner,  
20 lienholder, agent or insurer accepting liability for paying the  
21 claim for the towed vehicle or purchasing the towed vehicle. Fees  
22 for which the operator is being reimbursed, or having paid to a  
23 third party, shall include copies of the invoice or other  
24 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 6. AMENDATORY 47 O.S. 2001, Section 954A, as  
8 amended by Section 1, Chapter 82, O.S.L. 2010 (47 O.S. Supp. 2010,  
9 Section 954A), is amended to read as follows:

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

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

23 2. If the owner, legal possessor or authorized agent of the  
24 property owner is unable to obtain the services of a licensed

1 wrecker or towing service to remove the abandoned vehicle in a  
2 reasonable amount of time, the owner, legal possessor or authorized  
3 agent may contact and request that a licensed wrecker or towing  
4 service from an adjacent county perform the service. A notation  
5 shall be made on the Tow Request and Authorization Form that a  
6 licensed wrecker or towing service in the county in which the real  
7 property is located was contacted but the licensed wrecker or towing  
8 service was not able to perform the removal in a reasonable amount  
9 of time.

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

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

17 1. A description of the vehicle, including the type of vehicle,  
18 year of manufacture, name of the manufacturer, vehicle color or  
19 colors, identification number and license tag number;

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

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

1 4. Inventory of personal property within the vehicle to be  
2 towed;

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

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

6 The Department may require additional information on the Tow  
7 Request and Authorization Form. The driver license number or state-  
8 issued identification card number of the real property owner, legal  
9 possessor or authorized agent shall not be disclosed by the  
10 Department to any entity inquiring about services performed without  
11 a court order or without written consent from the property owner,  
12 legal possessor or authorized agent.

13 E. The real property owner, legal possessor or authorized agent  
14 and the wrecker vehicle driver shall jointly, and each in the  
15 presence of the other, inventory personal property found within or  
16 upon the vehicle and each shall accordingly sign a statement on the  
17 form reflecting this requirement has been fulfilled. In the event  
18 an inventory cannot be completed, the reasons therefor shall be  
19 clearly stated on the form.

20 F. A copy of the completed Tow Request and Authorization Form  
21 shall be retained by the signatories and the wrecker or towing  
22 service shall maintain the wrecker vehicle driver's copy for not  
23 less than one (1) year, or longer if required by the Department.  
24 The wrecker or towing service shall forthwith send the completed

1 original Tow Request and Authorization Form to the Department and  
2 the remaining copy of the completed form to the local police  
3 department of the municipality in which the real property is  
4 located, or the sheriff's office of the county from which the  
5 vehicle was towed, if the real property is located outside of an  
6 incorporated municipality. A facsimile copy of the Tow Request and  
7 Authorization Form shall be considered the original form if a  
8 printed or digital confirmation of the facsimile transmission is  
9 available.

10 G. Within three (3) business days of the time indicated on the  
11 form, the wrecker or towing service shall request the Oklahoma Tax  
12 Commission or other appropriate motor license agent to furnish the  
13 name and address of the current owner of and any lienholder upon the  
14 vehicle. The Tax Commission or appropriate motor license agent  
15 shall respond in person or by certified mail to the wrecker or  
16 towing service within five (5) business days from the receipt of the  
17 request for information. The Department and the Oklahoma Tax  
18 Commission shall render assistance to ascertain ownership, if  
19 needed. The wrecker or towing service shall, within seven (7) days  
20 from receipt of the requested information from the Oklahoma Tax  
21 Commission or other motor license agent, send a notice of the  
22 location of the vehicle by certified mail, postage prepaid, at the  
23 addresses furnished, to the owner and any lienholder of the vehicle.  
24 The owner or lienholder may regain possession of the vehicle in

1 accordance with rules of the Department upon payment of the wrecker  
2 or towing services, costs of certified mailing and the reasonable  
3 cost of towing and storage of the vehicle. If the wrecker or towing  
4 service has not complied with the notification procedures required  
5 by this subsection, the owner or lienholder shall not be required to  
6 pay for storage of the vehicle.

7 H. No wrecker or towing service or operator of a wrecker or  
8 towing service shall tow or cause to be towed a vehicle pursuant to  
9 this section until the form furnished by the Department has been  
10 appropriately completed by the parties as required by rules of the  
11 Department.

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

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

23 B. Except as provided in subsection C of this section, no  
24 officer of the Corporation Commission, Department of Public Safety

1 or any law enforcement officer of any political subdivision of the  
2 state shall have any interest, financial or otherwise, in a wrecker  
3 or towing service, or with a person or in a business that derives  
4 business or income from a wrecker or towing service, nor shall a  
5 wrecker or towing service or a person or business that derives any  
6 business or income from a wrecker or towing service employ such  
7 officer.

8 C. An officer of the Corporation Commission, Department of  
9 Public Safety or a law enforcement officer of any political  
10 subdivision may have an interest, financial or otherwise, in or may  
11 be employed by a wrecker or towing service when the sole purpose and  
12 only business of the wrecker or towing service is to perform  
13 repossessions of vehicles which are subject to lien and are being  
14 repossessed by the lien holder of record.

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

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

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

1 C. Any person removing a wrecked or damaged vehicle from a  
2 highway, highway right-of-way or any other location as the result of  
3 an accident shall remove any glass or other injurious substance  
4 dropped upon the highway or highway right-of-way or other location  
5 from such vehicle. The owner or insurer of the owner of the vehicle  
6 if the owner's insurance policy provides coverage for such expense,  
7 shall be responsible for the cost of removal of the vehicle and the  
8 glass or other injurious substance and any vehicle storage fees  
9 ~~pursuant to Section 953.1 of this title~~ established by the  
10 Corporation Commission.

11 D. No person shall throw any substance at a standing vehicle or  
12 any occupant thereof, nor shall any person throw any substance at a  
13 person on or adjacent to a highway.

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

17 Section 91. A. 1. This section applies to every vehicle, all-  
18 terrain vehicle, utility vehicle, manufactured home, motorcycle,  
19 boat, outboard motor, or trailer that has a certificate of title  
20 issued by the Oklahoma Tax Commission or by a federally recognized  
21 Indian tribe in the State of Oklahoma, except as otherwise provided  
22 in subsection D of this section. This section does not apply to  
23 farm equipment as defined in Section 91.2 of this title. The items  
24 of personal property to which this section applies are collectively

1 referred to as "Section 91 Personal Property". If personal property  
2 is apparently covered both by this section and by Sections 191  
3 through 200 of this title, the procedures set out in this section  
4 shall apply instead of Sections 191 through 200.

5 2. Any person who, while lawfully in possession of an article  
6 of Section 91 Personal Property, renders any service to the owner  
7 thereof by furnishing storage, rental space, material, labor or  
8 skill for the protection, improvement, safekeeping, towing, right to  
9 occupy space, storage or carriage thereof, has a special lien  
10 thereon, dependent on possession, for the compensation, if any,  
11 which is due to such person from the owner for such service.

12 3. This special lien shall be subordinate to any perfected  
13 security interest unless the claimant complies with the requirements  
14 of this section.

15 4. Any person claiming the special lien provided in paragraph 2  
16 of this subsection shall mail a notice of such lien, no later than  
17 sixty (60) days after the first services are rendered, by regular,  
18 first class United States mail, and by certified mail, to all  
19 interested parties who reside at separate locations. (If services  
20 provided are pursuant to a contract primarily for the purpose of  
21 storage or rental of space, the beginning date of the sixty-day  
22 period provided in the previous sentence shall be the first day of  
23 the first period or partial period for which rental or storage

24

1 charges remain unpaid.) The notice shall be in writing and shall  
2 contain, but not be limited to, the following:

- 3 a. a statement that the notice is a notice of a  
4 possessory lien,
- 5 b. the complete legal name, physical and mailing address,  
6 and telephone number of the claimant,
- 7 c. the complete legal name, physical and mailing address  
8 of the person who requested that the claimant render  
9 service to the owner by furnishing material, labor or  
10 skill, storage, or rental space, or the date the  
11 property was abandoned if the claimant did not render  
12 any other service,
- 13 d. a description of the article of personal property and  
14 the complete physical and mailing address of the  
15 location of the article of personal property,
- 16 e. an itemized statement describing the date or dates the  
17 labor or services were performed and material  
18 furnished, and the amount of the compensation claimed,
- 19 f. a statement by the claimant that the materials, labor  
20 or skill furnished, or arrangement for storage or  
21 rental of space, was authorized by the owner of the  
22 personal property and was in fact provided or  
23 performed, or that the property was abandoned by the  
24 owner if the claimant did not render any other

1 service, and that storage or rental fees will accrue  
2 as allowed by law, and

3 g. the signature of the claimant which shall be notarized  
4 and, if applicable, the signature of the claimant's  
5 attorney. If the claimant is a business, then the  
6 name of the contact person must be shown. In place of  
7 an original signature and notary seal, a digital or  
8 electronic signature or seal shall be accepted.

9 5. For services rendered or vehicles abandoned on or after  
10 November 1, 2005, storage charges or charges for rental of space  
11 (unless agreed to by contract as part of an overall transaction or  
12 arrangement that was primarily for the purpose of storage of the  
13 Section 91 Personal Property or rental of space) may only be  
14 assessed beginning with the day that the Notice of Possessory Lien  
15 is mailed as evidenced by certified mail. Provided, however, in the  
16 case of contractual charges incurred for storage or rental of space  
17 in an overall transaction primarily for the purpose of storage or  
18 rental, charges subject to the special lien may only be assessed  
19 beginning with a date not more than sixty (60) days prior to the day  
20 that the Notice of Possessory Lien is mailed, and shall accrue only  
21 at the regular periodic rate for storage or rental as provided in  
22 the contract, adjusted for partial periods of storage or rental.  
23 The maximum allowable compensation for storage shall not exceed the  
24

1 ~~fees specified pursuant to Section 953.2 of Title 47 of the Oklahoma~~  
2 ~~Statutes established by the Corporation Commission.~~

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

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

1       7. Such notice of sale shall be posted in three public places  
2 in the county where the property is to be sold at least ten (10)  
3 days before the time therein specified for such sale, and a copy of  
4 the notice shall be mailed to all interested parties at their last-  
5 known post office address, by regular, first class United States  
6 mail and by certified mail on the day of posting. If the item of  
7 personal property is a manufactured home, notice shall also be sent  
8 by certified mail to the county treasurer and to the county assessor  
9 of the county where the manufactured home is located.

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

18       9. Any interested party shall be permitted to inspect and  
19 verify the services rendered by the claimant prior to the sale of  
20 the article of personal property during normal business hours,  
21 unless the property was abandoned and the claimant did not render  
22 any other service.

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

1 11. Proceedings for foreclosure under this act shall be  
2 commenced within thirty (30) days after the Notice of Possessory  
3 Lien has been mailed as evidenced by certified mail. The date  
4 actually sold shall be within sixty (60) days from the date of the  
5 Notice of Sale as evidenced by certified mail.

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

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

19 (1) the check or other written order for immediate  
20 payment of money, copy thereof being attached,  
21 was received for labor, material or supplies for  
22 producing or repairing an article of personal  
23 property, or for other specific property-related  
24 services covered by this section,

1 (2) the check or other written order was not paid,  
2 and  
3 (3) the uttering of the check or other written order  
4 constituted the means for inducing the person,  
5 one possessed of a special lien created by  
6 subsection A of this section upon the described  
7 article of personal property, to deliver up the  
8 said article of personal property.

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

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

22 (1) that services were rendered on or in relation to  
23 the article of personal property by the person  
24 claiming such lien,

1 (2) that the property was in the possession of the  
2 person claiming the lien but such property was  
3 removed without his or her written consent,

4 (3) an identifying description of the article of  
5 personal property on which the service was  
6 rendered, and

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

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

23 4. If a person claiming a special lien pursuant to this section  
24 fails to substantially comply with any of the requirements of this

1 section, any interested party may proceed against the person  
2 claiming such lien for all damages arising therefrom, including  
3 conversion, if the article of personal property has been sold. If  
4 the notice or notices required by this section shall be shown to be  
5 knowingly false or fraudulent, the interested party shall be  
6 entitled to treble damages. The prevailing party shall be entitled  
7 to all costs, including a reasonable attorney fee.

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

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

22 a. in writing and separate from the written contract for  
23 services, or  
24

1           b.    printed on the written contract for services, credit  
2                    agreement or other document which displays the notice  
3                    in bold-faced, capitalized and underlined type, or is  
4                    separated from surrounding written material so as to  
5                    be conspicuous with a separate signature line;

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

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

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

1 D. 1. If a vehicle, all-terrain vehicle, utility vehicle,  
2 manufactured home, motorcycle, boat, outboard motor, or trailer has  
3 a certificate of title issued by the Oklahoma Tax Commission or by a  
4 federally recognized Indian tribe in the State of Oklahoma, but  
5 there is no active lien recorded on the certificate of title,  
6 Section 91A of this title will apply instead of this section.  
7 Likewise, if there is an active lien recorded on the certificate of  
8 title but the lien is over fifteen (15) years old and the property  
9 is not a manufactured home, Section 91A will apply instead of this  
10 section.

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

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

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

1 47 of the Oklahoma Statutes and class AA licensed wrecker operators  
2 shall be subject to Section 91A of this title.

3 E. For purposes of this section:

4 1. "Possession" includes actual possession and constructive  
5 possession; and

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

11 SECTION 10. Section 1 of this act shall become effective July  
12 1, 2011.

13 SECTION 11. Sections 2 through 9 of this act shall become  
14 effective January 1, 2012.

15 SECTION 12. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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