

1 1. Any person who has been previously convicted of an offense
2 under Section 11-902, 11-903, or 11-904 of ~~Title 47 of the Oklahoma~~
3 ~~Statutes~~ this title and who on or after ~~the effective date of this~~
4 ~~act~~ July 1, 1999, is convicted of an offense under Section 11-902,
5 11-903, or 11-904 of ~~Title 47 of the Oklahoma Statutes~~ this title
6 within ten (10) years of any prior conviction under Section 11-902,
7 11-903, or 11-904 of ~~Title 47 of the Oklahoma Statutes~~ this title
8 and where at least one of the offenses, current or prior, involved
9 the death of or serious bodily injury to another person; or

10 2. Any person who has been convicted of a third or subsequent
11 felony offense under Section 11-902 of this title.

12 B. A motion for forfeiture may be filed at the time of charging
13 but not later than thirty (30) days after the verdict or plea of
14 guilty or nolo contendere. If a motion of intent to forfeit is
15 filed prior to the verdict or plea of guilty or nolo contendere, the
16 proceedings shall be stayed until the disposition of the criminal
17 case. Notice shall be required even though the proceedings are
18 stayed. If the motion is filed prior to the disposition on the
19 criminal case, the district attorney shall notify the Oklahoma Tax
20 Commission and the Tax Commission shall place a lien upon the
21 vehicle title. No person shall sell, damage, destroy, transfer or
22 perfect a security interest on any vehicle subject to forfeiture.
23 Prior to filing a motion for forfeiture, the district attorney shall

1 verify whether the vehicle was sold during any period of impoundment
2 as provided by law. Any vehicle sold in an impound sale to pay
3 towing, wrecker services or storage expenses shall not be subject to
4 forfeiture as provided in this ~~act~~ section.

5 C. Upon filing a motion for forfeiture, except when the
6 proceedings are stayed pursuant to subsection B of this section, the
7 court shall schedule a hearing on the matter. The hearing shall be
8 not less than twenty (20) days nor more than forty-five (45) days
9 from the date the motion is filed. The district attorney within
10 three (3) days of filing a motion of intent to forfeit shall notify
11 the convicted person, lienholders of record, and any person
12 appearing to have an ownership or security interest in the vehicle.
13 The notice shall contain the date, time and place of the hearing.
14 When a motion for forfeiture has been stayed pending disposition of
15 the criminal case and a verdict or plea of guilty or nolo contendere
16 has been entered, the district attorney shall give notice of the
17 forfeiture hearing not less than ten (10) days prior to the hearing.
18 The notice of persons specified in this subsection shall be by
19 certified mail to the address shown upon the records of the Oklahoma
20 Tax Commission. For owners or interested parties, other than
21 lienholders of record, whose addresses are unknown, but who are
22 believed to have an interest in the vehicle, notice shall be by one
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1 publication in a newspaper of general circulation in the county
2 where the motion is filed. The written notice shall include:

- 3 1. A full description of the motor vehicle;
- 4 2. The date, time and place of the forfeiture hearing;
- 5 3. The legal authority under which the motor vehicle may be
6 forfeited; and

- 7 4. Notice of the right to intervene to protect an interest in
8 the motor vehicle.

9 D. A forfeiture proceeding shall not extinguish any security
10 interest of a lienholder of record; provided, however, the court may
11 order the sale of the motor vehicle and the satisfaction of that
12 security interest from the proceeds of sale as provided in
13 subsection K of this section.

14 For purposes of a forfeiture proceeding, an affidavit obtained
15 from the lienholder of record, in the absence of evidence of bad
16 faith, shall be prima facie evidence of the amount of secured
17 indebtedness owed to that lienholder. It shall be the
18 responsibility of the district attorney to obtain such affidavit
19 prior to the forfeiture proceeding.

20 In the absence of evidence of bad faith, no lienholder of record
21 shall be required to attend the forfeiture proceeding to protect its
22 interest in the motor vehicle. However, each lienholder of record
23 shall be given notice of the forfeiture hearing as provided in
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1 subsection C of this section. The district attorney shall notify
2 each lienholder of record at least ten (10) days before the sale of
3 the motor vehicle ordered forfeited pursuant to this section;
4 provided, the lienholder was not represented at the forfeiture
5 proceeding.

6 E. Any person having an ownership or security interest in a
7 vehicle subject to forfeiture which is not perfected by a lien of
8 record may file a written objection to the motion to forfeit within
9 ten (10) days of the mailing of the notice of intent to forfeit.

10 F. At the hearing, any person who claims an ownership or
11 security interest in the motor vehicle which is not perfected by a
12 lien of record shall be required to establish by a preponderance of
13 the evidence that:

- 14 1. The person has an interest in the motor vehicle and such
15 interest was acquired in good faith;
- 16 2. The person is not the person convicted of the offense that
17 resulted in the forfeiture proceeding; and
- 18 3. The person did not know or have reasonable cause to believe
19 that the vehicle would be used in the commission of a felony
20 offense.

21 G. If a person satisfies the requirements of subsection F of
22 this section, or if there is a lienholder of record that has
23 provided an affidavit pursuant to subsection D of this section, the
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 court shall order either an amount equal to the value of the
2 interest of that person in the motor vehicle to be paid to that
3 person upon sale of the motor vehicle after payment of costs and
4 expenses or release the vehicle from the forfeiture proceedings if
5 either the lienholder described in subsection D of this section or
6 the person intervening in accordance with subsection F of this
7 section has full right, title and interest in the vehicle.

8 H. At the hearing, the court may order the forfeiture of the
9 motor vehicle if it is determined by a preponderance of the evidence
10 that the forfeiture of the motor vehicle will serve one or more of
11 the following purposes:

12 1. Incapacitation of the convicted person from the commission
13 of any future offense under Section 11-902, 11-903, or 11-904 of
14 ~~Title 47 of the Oklahoma Statutes~~ this title;

15 2. Protection of the safety and welfare of the public;

16 3. Deterrence of other persons who are potential offenders
17 under Section 11-902, 11-903, or 11-904 of ~~Title 47 of the Oklahoma~~
18 ~~Statutes~~ this title;

19 4. Expression of public condemnation of the serious or
20 aggravated nature of the conduct of the convicted person; or

21 5. Satisfaction of monetary amounts for criminal penalties.

22 I. Upon forfeiture of a motor vehicle pursuant to this act, the
23 court shall require the owner to surrender the motor vehicle, the
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1 certificate of title, and the registration of the motor vehicle.
2 The vehicle, the certificate of title, and the registration shall be
3 delivered to the Department of Public Safety within three (3) days
4 of the forfeiture order. The expense of delivering the vehicle
5 shall be paid by the district attorney. Costs of delivering the
6 vehicle to the Department shall be reimbursable as costs of
7 conducting the sale. A motor vehicle forfeited pursuant to this
8 act, shall be sold by the Department of Public Safety as provided by
9 law for the sale of other forfeited property, except as otherwise
10 provided in this section.

11 J. If a vehicle was impounded at the time of delivery to the
12 Department and a forfeiture order is subsequently issued, all
13 towing, wrecker services, and storage expenses shall be satisfied
14 from the sale of the vehicle. If a vehicle is released from
15 forfeiture and the vehicle has been delivered to the Department with
16 impound expenses still owing, all impound expenses, including
17 towing, wrecker service and storage expenses, shall be paid by the
18 person prevailing on the dismissal of the forfeiture proceeding and
19 the release of the vehicle to such person. If a notice for sale of
20 the vehicle was filed for satisfaction of impound expenses prior to
21 the filing of a motion for forfeiture, the vehicle shall be sold as
22 provided by law for unpaid towing, wrecker services, and storage
23 expenses and shall not be subject to forfeiture. If the convicted
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1 person redeems his or her interest in the vehicle at a sale for
2 impound expenses, a forfeiture proceeding may thereafter proceed as
3 authorized by this act. Neither the notice of sale for towing,
4 wrecker services, and storage expenses nor the sale of such vehicle
5 for impound expenses shall serve to extend the requirement for
6 filing a motion to forfeit as provided in subsection B of this
7 section.

8 K. Except as provided in subsection J of this section, proceeds
9 from the sale of any vehicle forfeited pursuant to this act shall be
10 paid in the following order:

11 1. To the Department of Public Safety for the cost of
12 conducting the sale, including expense of delivery, court filing
13 fees, and publication expense;

14 2. To satisfy impound expenses, including any towing, wrecker
15 service and storage expenses incurred prior to delivery to the
16 Department of Public Safety;

17 3. To satisfy the interest of any lienholder of record;

18 4. To satisfy the interest of any person making proof as
19 provided in subsection F of this section;

20 5. To satisfy criminal penalties, costs and assessments
21 pursuant to paragraph 5 of subsection H of this section if so
22 ordered by the court;

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1 6. To the office of the district attorney who filed the
2 forfeiture proceeding not exceeding twenty-five percent (25%) of any
3 remaining proceeds. Such payment shall be deposited in a special
4 fund for such purpose as determined by the district attorney's
5 office; and

6 7. The balance of the proceeds to be deposited in the Drug
7 Abuse Education and Treatment Revolving Fund established pursuant to
8 Section 2-503.2 of Title 63 of the Oklahoma Statutes for the benefit
9 of drug court treatment as provided by law.

10 L. If a motor vehicle subject to forfeiture as provided by this
11 act is a vehicle leased pursuant to a commercial rental agreement
12 for a period of ninety (90) days or less, then the vehicle shall not
13 be subject to the forfeiture proceedings provided by this act.

14 M. Upon the court dismissing a forfeiture proceeding, any lien
15 placed upon the vehicle title by the Oklahoma Tax Commission
16 pursuant to subsection B of this section shall be released.

17 SECTION 2. This act shall become effective November 1, 2013.

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19 COMMITTEE REPORT BY: COMMITTEE ON TRANSPORTATION, dated 02/13/2013 -
20 DO PASS, As Coauthored.