

1 **SENATE FLOOR VERSION**

2 February 19, 2013

3 **AS AMENDED**

4 SENATE BILL NO. 583

By: Brinkley of the Senate

and

Quinn of the House

5  
6  
7  
8 **[ motor vehicle liens - time to commence proceedings**  
9 **and return of sale - effective date ]**

10  
11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 47 O.S. 2011, Section 4-105, as  
13 amended by Section 1, Chapter 197, O.S.L. 2012 (47 O.S. Supp. 2012,  
14 Section 4-105), is amended to read as follows:

15 Section 4-105. A. It shall be the duty of every sheriff, chief  
16 of police or peace officer to make immediate report to the  
17 Department of Public Safety of all vehicles reported to their  
18 respective jurisdictions as being stolen or recovered. Such report  
19 shall be made as prescribed by the Department.

20 B. An owner or a lienholder may report the theft of a vehicle,  
21 or its conversion if a crime, to the Department, but the Department  
22 may disregard the report of a conversion unless a warrant has been  
23 issued for the arrest of a person charged with the conversion. A  
24 person who has so reported the theft or conversion of a vehicle

1 shall, forthwith after learning of its recovery, report the recovery  
2 to the Department.

3 C. An operator of a place of business for garaging, repairing,  
4 parking or storing vehicles for the public, in which a vehicle  
5 remains unclaimed for a period of thirty (30) days, shall, within  
6 five (5) days after the expiration of that period, report the  
7 vehicle as unclaimed to the Department. Such report shall be on a  
8 form prescribed by the Department.

9 ~~A vehicle left by its owner whose name and address are known to~~  
10 ~~the operator or employee of the operator is not considered~~  
11 ~~unclaimed.~~ A person who fails to report a vehicle as unclaimed in  
12 accordance with this subsection forfeits all claims and liens for  
13 its garaging, parking or storing and is guilty of a misdemeanor  
14 punishable by a fine or not more than Twenty-five Dollars (\$25.00)  
15 for each day the failure to report continues.

16 D. The Department shall maintain and appropriately index  
17 cumulative public records of stolen, converted, recovered and  
18 unclaimed vehicles reported to it pursuant to this section. The  
19 Department may make and distribute weekly lists of such vehicles so  
20 reported to it to peace officers upon request without fee and to  
21 others for the fee, if any, the Department prescribes.

22 E. Any peace officer who has reason to believe or upon  
23 receiving information that a motor vehicle has been stolen shall  
24 have and is hereby vested with authority to confiscate and hold such

1 vehicle until satisfactory proof of ownership is established.  
2 Provided, any vehicle that is towed by a licensed wrecker operator  
3 pursuant to the provisions of Section 954A of this title shall be  
4 returned to the licensed wrecker operator prior to any other claim  
5 or assertion of ownership.

6 SECTION 2. AMENDATORY 47 O.S. 2011, Section 903, is  
7 amended to read as follows:

8 Section 903. Any such officer who has directed the impoundment  
9 of any vehicle, or an authorized person in the employing agency of  
10 the officer, shall within seventy-two (72) hours of the impoundment  
11 notify the Department of Public Safety of such impoundment. The  
12 notice of impoundment shall contain the name and address of the  
13 owner, if known, the make, model, vehicle identification number,  
14 registration number, date stored, place stored and the estimated  
15 value of the vehicle as determined by the officer. Upon receipt of  
16 such notice of impoundment, the Department of Public Safety shall,  
17 within seventy-two (72) hours, request the Oklahoma Tax Commission  
18 or other appropriate motor license agent to furnish the name and  
19 address of the owner of and any lienholder on the vehicle and shall  
20 within three (3) days from receipt of the requested information send  
21 a notice to the owner and any lienholder by regular ~~mail, postage~~  
22 ~~prepaid~~, first class United States mail and by certified mail,  
23 return receipt requested, at the addresses furnished by the Tax  
24 Commission or motor license agent, of the location of the vehicle.

1 On the day of mailing of such notice, the Department of Public  
2 Safety shall provide written notice to the impounding wrecker  
3 service of the fact of the mailing. This section shall not be  
4 construed to create any civil liability upon the state, any agency  
5 of the state or employee thereof for failure to provide such notice  
6 to the owner or lienholder.

7 SECTION 3. AMENDATORY 47 O.S. 2011, Section 903A, is  
8 amended to read as follows:

9 Section 903A. A. After the removal or storage of any abandoned  
10 or wrecked vehicle at the request of a public agency, the registered  
11 or legal owner of the vehicle, or their agent, may contest the  
12 validity of the removal or storage, by filing a written request for  
13 a hearing with the public agency. The written request may be filed  
14 before or after the vehicle is retrieved from the storage operator.  
15 Provided, however, the public agency shall not be required to  
16 conduct a hearing if the request is received more than ~~ten (10) days~~  
17 fifteen (15) days following actual or constructive notice to the  
18 owner or driver of the vehicle that ~~said~~ the vehicle has been so  
19 removed or stored. Any such hearing shall be scheduled within  
20 seventy-two (72) hours of the request, excluding weekends and  
21 holidays. The public agency may authorize its own officer or  
22 employee to conduct the hearing, so long as the hearing officer is  
23 not the same person who directed the removal or storage of the  
24 vehicle. The public agency may, with the consent of the person

1 requesting the hearing, schedule the hearing by telephone and  
2 conduct the hearing on the merits by telephone conference call.

3 The hearing officer shall apply the law to the evidence and make  
4 a determination whether the vehicle removal and storage was  
5 justified. If deemed unjustified, the public agency shall bear the  
6 cost of hookup and tow mileage, and the operator shall waive all  
7 storage costs in such cases as a condition of eligibility to respond  
8 to a service call request from a public agency. The vehicle owner  
9 or agent shall not be charged any type of fee or costs relating to  
10 impoundment or storage in such case. If the tow and storage is  
11 deemed justified, the owner or agent shall bear the cost of  
12 reasonable tow and storage. In either case, prior to the release of  
13 the vehicle to the owner or agent, proof of security or an affidavit  
14 that the vehicle will not be used on public highways or public  
15 streets, as required pursuant to Section 7-600 et seq. of this  
16 title, shall be furnished to the public agency.

17 B. Failure of either the registered or legal owner, or their  
18 agent, to timely request or to timely appear upon a scheduled  
19 hearing shall satisfy the hearing requirement of this section,  
20 providing the state has satisfied the notification requirements of  
21 this section.

22 C. The hearing conducted by the public agency pursuant to this  
23 section shall not be governed by the Administrative Procedures Act,  
24 ~~Section 301 et seq. of Title 75 of the Oklahoma Statutes.~~ The owner

1 of a stored vehicle may, either in lieu of such hearing or after  
2 such hearing, file a petition in the district court of the county  
3 wherein the vehicle is stored. The district court is vested with  
4 original jurisdiction to conduct a de novo hearing and determine the  
5 validity of removal and storage.

6 D. The provisions of this section shall not apply to the  
7 removal of vehicles abated pursuant to Section 954A of this title.

8 SECTION 4. AMENDATORY 47 O.S. 2011, Section 908, is  
9 amended to read as follows:

10 Section 908. ~~Said~~ A lien may be foreclosed by a sale of ~~such an~~  
11 abandoned vehicle upon giving notice and in the manner ~~following:~~  
12 ~~The notice shall contain:~~

13 ~~(a) The name of the party bringing action and the name of the~~  
14 ~~owner or any person claiming any interest therein.~~

15 ~~(b) A full description of the vehicle, giving all available~~  
16 ~~information as to the make, year, serial number, license tag with~~  
17 ~~year and the state from which the tag was issued.~~

18 ~~(c) A full statement of all the facts.~~

19 ~~(d) The amount of the claim, giving a full description of the~~  
20 ~~work, labor, storage or any other costs involved.~~

21 ~~(e) The date, time and place of the sale.~~

22 ~~(f) The notice shall be posted in three public places in the~~  
23 ~~county in which the vehicle is to be sold at least ten (10) days~~  
24 ~~before the time specified therein for such sale, and a copy of said~~

1 ~~notice shall be mailed to the owner and any other person claiming~~  
2 ~~any interest in the abandoned motor vehicle, at their last-known~~  
3 ~~mailing address, by registered mail on the same date of posting said~~  
4 ~~notice~~ prescribed in Sections 91 and 91A of Title 42 of the Oklahoma  
5 Statutes.

6 SECTION 5. AMENDATORY 47 O.S. 2011, Section 954A, is  
7 amended to read as follows:

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

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

22 2. If the owner, legal possessor or authorized agent of the  
23 property owner is unable to obtain the services of a licensed  
24 wrecker or towing service to remove the abandoned vehicle in a

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

9 C. A licensed wrecker or towing service removing an abandoned  
10 vehicle pursuant to this section shall be subject to the maximum  
11 rates established by the Corporation Commission.

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

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

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

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

23 4. Inventory of personal property within the vehicle to be  
24 towed;

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

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

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

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

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

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

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

1 accompanied by a fee, as established by the Tax Commission,  
2 sufficient to cover the cost of processing and mailing, but in no  
3 event greater than Thirty-five Dollars (\$35.00). The Tax Commission  
4 or other motor license agent shall send such notice within three (3)  
5 business days of receipt of the request. The owner or lienholder may  
6 regain possession of the vehicle in accordance with rules of the  
7 Department upon payment of the wrecker or towing services, costs of  
8 ~~certified mailing~~ notification and the reasonable cost of towing and  
9 storage of the vehicle. If the wrecker or towing service has not  
10 complied with the notification procedures required by this  
11 subsection, the owner or lienholder shall not be required to pay for  
12 storage of the vehicle.

13 H. The notice to the registered or legal owner or lienholder  
14 shall include:

15 1. The complete legal name, physical and mailing address and  
16 telephone number of the wrecker or towing service;

17 2. The complete physical and mailing address of the location of  
18 the vehicle;

19 3. A description of the vehicle, including a photograph; and

20 4. A statement informing the owner or lienholder of the right  
21 to a hearing, in accordance with subsection I of this section.

22 I. Upon receipt of the notice, the registered or legal owner or  
23 lienholder may contest the validity of the removal or storage, by  
24 filing a written request for a hearing with the Department of Public

1 Safety. The written request may be filed before or after the  
2 vehicle is retrieved from the storage operator. Provided, however,  
3 the Department shall not be required to conduct a hearing if the  
4 request is received more than fifteen (15) days following actual or  
5 constructive notice. Any such hearing shall be scheduled within  
6 seventy-two (72) hours of the request, excluding weekends and  
7 holidays. The Department may, with the consent of the person  
8 requesting the hearing, schedule the hearing by telephone and  
9 conduct the hearing on the merits by telephone conference call.

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

15 SECTION 6. AMENDATORY 47 O.S. 2011, Section 964, is  
16 amended to read as follows:

17 Section 964. Whenever a vehicle that is subject to registration  
18 in this state has been stored, parked or left in a garage, trailer  
19 park, or any type of storage or parking lot for a period of thirty  
20 (30) days, the owner of the garage, trailer park or lot shall,  
21 within five (5) days after the expiration of that period, report the  
22 make, motor and serial number of the vehicle to the Department of  
23 Public Safety. Provided, these provisions shall not apply where  
24 arrangements have been made for continuous storage or parking by the

1 owner of the motor vehicle so parked or stored, ~~and where the owner~~  
2 ~~of said motor vehicle so parked or stored is personally known to the~~  
3 ~~owner or operator of the garage, trailer park, storage or parking~~  
4 ~~lot~~ and the vehicle is not unclaimed and a lien has not accrued.

5 Any person who fails to report a vehicle as required under this  
6 section shall forfeit all claims for storage of the vehicle, and  
7 shall be subject to a fine not to exceed Twenty-five Dollars  
8 (\$25.00), and each day's failure to make a report as required by  
9 this section shall constitute a separate offense.

10 SECTION 7. REPEALER 47 O.S. 2011, Sections 909 and 910,  
11 are hereby repealed.

12 SECTION 8. This act shall become effective November 1, 2013.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
14 February 19, 2013 - DO PASS AS AMENDED  
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