

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 583

By: Brinkley

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6 AS INTRODUCED

7 An Act relating to motor vehicle liens; amending 47
8 O.S. 2011, Sections 4-105, as amended by Section 1,
9 Chapter 197, O.S.L. 2012, 903, 903A, 908, 954A and
10 964 (47 O.S. Supp. 2012, Section 4-105), which relate
11 to stolen and unclaimed vehicles, abandonment of
12 vehicles and wreckers and towing; deleting certain
13 exception; modifying certain mailing requirements;
14 requiring certain notice; modifying time period for
15 request for certain hearing; modifying required
16 contents for certain notice; modifying certain
17 notification procedures; specifying contents of
18 certain notice; establishing procedures for certain
19 hearing; modifying applicability of certain
20 provisions; repealing 47 O.S. 2011, Sections 909 and
21 910, which relate to time to commence proceedings and
22 return of sale; and providing an effective date.

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

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

Section 4-105. A. It shall be the duty of every sheriff, chief
of police or peace officer to make immediate report to the
Department of Public Safety of all vehicles reported to their

1 respective jurisdictions as being stolen or recovered. Such report
2 shall be made as prescribed by the Department.

3 B. An owner or a lienholder may report the theft of a vehicle,
4 or its conversion if a crime, to the Department, but the Department
5 may disregard the report of a conversion unless a warrant has been
6 issued for the arrest of a person charged with the conversion. A
7 person who has so reported the theft or conversion of a vehicle
8 shall, forthwith after learning of its recovery, report the recovery
9 to the Department.

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

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

23 D. The Department shall maintain and appropriately index
24 cumulative public records of stolen, converted, recovered and

1 unclaimed vehicles reported to it pursuant to this section. The
2 Department may make and distribute weekly lists of such vehicles so
3 reported to it to peace officers upon request without fee and to
4 others for the fee, if any, the Department prescribes.

5 E. Any peace officer who has reason to believe or upon
6 receiving information that a motor vehicle has been stolen shall
7 have and is hereby vested with authority to confiscate and hold such
8 vehicle until satisfactory proof of ownership is established.

9 Provided, any vehicle that is towed by a licensed wrecker operator
10 pursuant to the provisions of Section 954A of this title shall be
11 returned to the licensed wrecker operator prior to any other claim
12 or assertion of ownership.

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

15 Section 903. Any such officer who has directed the impoundment
16 of any vehicle, or an authorized person in the employing agency of
17 the officer, shall within seventy-two (72) hours of the impoundment
18 notify the Department of Public Safety of such impoundment. The
19 notice of impoundment shall contain the name and address of the
20 owner, if known, the make, model, vehicle identification number,
21 registration number, date stored, place stored and the estimated
22 value of the vehicle as determined by the officer. Upon receipt of
23 such notice of impoundment, the Department of Public Safety shall,
24 within seventy-two (72) hours, request the Oklahoma Tax Commission

1 or other appropriate motor license agent to furnish the name and
2 address of the owner of and any lienholder on the vehicle and shall
3 within three (3) days from receipt of the requested information send
4 a notice to the owner and any lienholder by regular mail, ~~postage~~
5 ~~prepaid~~, first class United States mail and by certified mail,
6 return receipt requested, at the addresses furnished by the Tax
7 Commission or motor license agent, of the location of the vehicle.
8 On the day of mailing of such notice, the Department of Public
9 Safety shall provide written notice to the impounding wrecker
10 service of the fact of the mailing. This section shall not be
11 construed to create any civil liability upon the state, any agency
12 of the state or employee thereof for failure to provide such notice
13 to the owner or lienholder.

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

16 Section 903A. A. After the removal or storage of any abandoned
17 or wrecked vehicle at the request of a public agency, the registered
18 or legal owner of the vehicle, or their agent, may contest the
19 validity of the removal or storage, by filing a written request for
20 a hearing with the public agency. The written request may be filed
21 before or after the vehicle is retrieved from the storage operator.
22 Provided, however, the public agency shall not be required to
23 conduct a hearing if the request is received more than ~~ten (10) days~~
24 fifteen (15) days following actual or constructive notice to the

1 owner or driver of the vehicle that ~~said~~ the vehicle has been so
2 removed or stored. Any such hearing shall be scheduled within
3 seventy-two (72) hours of the request, excluding weekends and
4 holidays. The public agency may authorize its own officer or
5 employee to conduct the hearing, so long as the hearing officer is
6 not the same person who directed the removal or storage of the
7 vehicle. The public agency 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 The hearing officer shall apply the law to the evidence and make
11 a determination whether the vehicle removal and storage was
12 justified. If deemed unjustified, the public agency shall bear the
13 cost of hookup and tow mileage, and the operator shall waive all
14 storage costs in such cases as a condition of eligibility to respond
15 to a service call request from a public agency. The vehicle owner
16 or agent shall not be charged any type of fee or costs relating to
17 impoundment or storage in such case. If the tow and storage is
18 deemed justified, the owner or agent shall bear the cost of
19 reasonable tow and storage. In either case, prior to the release of
20 the vehicle to the owner or agent, proof of security or an affidavit
21 that the vehicle will not be used on public highways or public
22 streets, as required pursuant to Section 7-600 et seq. of this
23 title, shall be furnished to the public agency.

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1 B. Failure of either the registered or legal owner, or their
2 agent, to timely request or to timely appear upon a scheduled
3 hearing shall satisfy the hearing requirement of this section,
4 providing the state has satisfied the notification requirements of
5 this section.

6 C. The hearing conducted by the public agency pursuant to this
7 section shall not be governed by the Administrative Procedures Act,
8 ~~Section 301 et seq. of Title 75 of the Oklahoma Statutes.~~ The owner
9 of a stored vehicle may, either in lieu of such hearing or after
10 such hearing, file a petition in the district court of the county
11 wherein the vehicle is stored. The district court is vested with
12 original jurisdiction to conduct a de novo hearing and determine the
13 validity of removal and storage.

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

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

18 Section 908. ~~Said~~ A lien may be foreclosed by a sale of ~~such an~~ an
19 abandoned vehicle upon giving notice and in the manner ~~following:~~

20 ~~The notice shall contain:~~

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

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

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

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

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

8 ~~(f) The notice shall be posted in three public places in the~~
9 ~~county in which the vehicle is to be sold at least ten (10) days~~
10 ~~before the time specified therein for such sale, and a copy of said~~
11 ~~notice shall be mailed to the owner and any other person claiming~~
12 ~~any interest in the abandoned motor vehicle, at their last-known~~
13 ~~mailing address, by registered mail on the same date of posting said~~
14 ~~notice prescribed in Sections 91 and 91A of Title 42 of the Oklahoma~~
15 ~~Statutes.~~

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

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

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

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

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

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

4 1. A description of the vehicle, including the type of vehicle,
5 year of manufacture, name of the manufacturer, vehicle color or
6 colors, identification number and license tag number;

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

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

12 4. Inventory of personal property within the vehicle to be
13 towed;

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

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

17 The Department or the Commission may require additional
18 information on the Tow Request and Authorization Form. The driver
19 license number or state-issued identification card number of the
20 real property owner, legal possessor or authorized agent shall not
21 be disclosed by the Department or the Commission to any entity
22 inquiring about services performed without a court order or without
23 written consent from the property owner, legal possessor or
24 authorized agent.

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

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

22 G. Within three (3) business days of the time indicated on the
23 form, the wrecker or towing service shall request the Oklahoma Tax
24 Commission or other appropriate motor license agent to furnish the

1 name and address of the current owner of and any lienholder upon the
2 vehicle. The Tax Commission or appropriate motor license agent
3 shall respond in person or by certified mail to the wrecker or
4 towing service within five (5) business days from the receipt of the
5 request for information. The Department and the Oklahoma Tax
6 Commission shall render assistance to ascertain ownership, if
7 needed. The wrecker or towing service shall, within ~~seven (7) days~~
8 three (3) business days from receipt of the requested information
9 from the Oklahoma Tax Commission or other motor license agent,
10 request the Tax Commission or other motor license agent to send a
11 notice of the location of the vehicle by certified mail, postage
12 prepaid, return receipt requested, at the addresses furnished, to
13 the owner and any lienholder of the vehicle. The request shall be
14 accompanied by a fee, as established by the Tax Commission,
15 sufficient to cover the cost of processing and mailing, but in no
16 event greater than Thirty-five Dollars (\$35.00). The Tax Commission
17 or other motor license agent shall send such notice within three (3)
18 business days of receipt of the request. The owner or lienholder may
19 regain possession of the vehicle in accordance with rules of the
20 Department upon payment of the wrecker or towing services, costs of
21 ~~certified mailing~~ notification and the reasonable cost of towing and
22 storage of the vehicle. If the wrecker or towing service has not
23 complied with the notification procedures required by this
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1 subsection, the owner or lienholder shall not be required to pay for
2 storage of the vehicle.

3 H. The notice to the registered or legal owner or lienholder
4 shall include:

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

7 2. The complete physical and mailing address of the location of
8 the vehicle;

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

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

12 I. Upon receipt of the notice, the registered or legal owner or
13 lienholder may contest the validity of the removal or storage, by
14 filing a written request for a hearing with the Department of Public
15 Safety. The written request may be filed before or after the
16 vehicle is retrieved from the storage operator. Provided, however,
17 the Department shall not be required to conduct a hearing if the
18 request is received more than fifteen (15) days following actual or
19 constructive notice. Any such hearing shall be scheduled within
20 seventy-two (72) hours of the request, excluding weekends and
21 holidays. The Department may, with the consent of the person
22 requesting the hearing, schedule the hearing by telephone and
23 conduct the hearing on the merits by telephone conference call.

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

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

8 Section 964. Whenever a vehicle that is subject to registration
9 in this state has been stored, parked or left in a garage, trailer
10 park, or any type of storage or parking lot for a period of thirty
11 (30) days, the owner of the garage, trailer park or lot shall,
12 within five (5) days after the expiration of that period, report the
13 make, motor and serial number of the vehicle to the Department of
14 Public Safety. Provided, these provisions shall not apply where
15 arrangements have been made for continuous storage or parking by the
16 owner of the motor vehicle so parked or stored, ~~and where the owner~~
17 ~~of said motor vehicle so parked or stored is personally known to the~~
18 ~~owner or operator of the garage, trailer park, storage or parking~~
19 ~~lot~~ and the vehicle is not unclaimed and a lien has not accrued.

20 Any person who fails to report a vehicle as required under this
21 section shall forfeit all claims for storage of the vehicle, and
22 shall be subject to a fine not to exceed Twenty-five Dollars
23 (\$25.00), and each day's failure to make a report as required by
24 this section shall constitute a separate offense.

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

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

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