

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

HOUSE BILL 3372

By: Ford

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2011, Section 904, which relates to payment of the cost of removal and storage; allowing for the certain release of a vehicle; requiring certain affidavit; amending 47 O.S. 2011, Section 953, as amended by Section 15, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2019, Section 953), which relates to licenses, fees and renewal; modifying fees and directing deposit; prohibiting certain refund; modifying fee for renewal; directing deposit of funds; amending 47 O.S. 2011, Section 954A, as amended by Section 1, Chapter 137, O.S.L. 2013 (47 O.S. Supp. 2019, Section 954A), which relates to abandoned motor vehicles; eliminating requirement for multiple copies of certain document; requiring certain notification by first-class mail; amending 47 O.S. 2011, Section 955, as last amended by Section 1, Chapter 283, O.S.L. 2014 (47 O.S. Supp. 2019, Section 955), which relates to towing of vehicle from roadway; modifying certain punishment; modifying party allowed to claim vehicle; requiring certain proof of identity; and providing effective dates.

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

SECTION 1. AMENDATORY 47 O.S. 2011, Section 904, is amended to read as follows:

1 Section 904. The owner of a motor vehicle or lienholder of the
2 vehicle abandoned in violation of Section 901 et seq. of this title,
3 or the owner of any vehicle or lienholder of the vehicle or insurer
4 accepting liability for paying a claim on a vehicle or purchasing
5 the vehicle as a total loss vehicle from the registered owner which
6 shall have been lawfully removed from any highway or other public
7 property may regain possession of the vehicle in accordance with
8 regulations of the Department of Public Safety upon payment of the
9 reasonable cost of removal and storage of such vehicle. The
10 operator is authorized to collect all lawful fees from the owner,
11 lienholder that seeks possession of a vehicle under a security
12 interest, agent, or insurer accepting liability for paying the claim
13 for a vehicle or purchasing the vehicle as a total loss vehicle from
14 the registered owner of the towed vehicle for the performance of any
15 and all such services. An operator shall release the vehicle from
16 storage upon authorization from the owner, agent or lienholder of
17 the vehicle or in the case of a total loss, the insurer accepting
18 liability for paying the claim on the vehicle or purchasing the
19 vehicle where the vehicle is to be moved to an insurance pool yard
20 for sale. In the case of death or incapacitation of the owner of a
21 motor vehicle, the operator may release the vehicle to a legal
22 representative or an immediate family member who is within the first
23 or second degree of consanguinity or affinity. The legal
24 representative or family member shall provide a notarized affidavit

1 describing his or her relationship to the owner of the motor vehicle
2 and proof of identity in accordance with the Department's rules
3 related to establishing identity.

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

6 SECTION 2. AMENDATORY 47 O.S. 2011, Section 953, as
7 amended by Section 15, Chapter 283, O.S.L. 2012 (47 O.S. Supp. 2019,
8 Section 953), is amended to read as follows:

9 Section 953. A. No operator shall be permitted nor shall any
10 employee of any operator be permitted, allowed or caused to solicit
11 business or make service calls without the operator first having
12 obtained from the Department of Public Safety a license to operate a
13 wrecker or towing service. The number of the license shall be
14 displayed, in conformance with rules of the Department, on both
15 sides of every wrecker vehicle operated by the wrecker or towing
16 service.

17 B. The license fee required by this section shall be in lieu of
18 the motor carrier filing fee as required in Section 165 of this
19 title. No applicant for a wrecker license shall be required to
20 prove public convenience and necessity, file notices, nor shall a
21 public hearing be held. The fee for such license shall be ~~One~~
22 ~~Hundred Dollars (\$100.00),~~ Five Hundred Dollars (\$500.00), all of
23 which ~~Ten Dollars (\$10.00)~~ shall be allocated to the Department
24 deposited in the Department of Public Safety Restricted Revolving

1 Fund created pursuant to Section 2-145 of this title for the
2 administration of the ~~Nonconsensual Towing Act of 2011~~ Department's
3 Wrecker Services Division. No license fee shall be refunded in the
4 event the license is suspended or revoked.

5 C. All licenses shall expire on the last day of the calendar
6 year and may be renewed annually at a cost of ~~Fifty Dollars (\$50.00)~~
7 Two Hundred Fifty Dollars (\$250.00) upon application to the
8 Department as prescribed by rule. Fees collected in this subsection
9 shall be deposited in the Department of Public Safety Restricted
10 Revolving Fund as created in Section 2-145 of this title for the
11 administration of the Department's Wrecker Services Division. No
12 license fee shall be refunded in the event ~~that~~ the license is
13 suspended or revoked.

14 D. The Department shall issue a letter of reprimand, cancel,
15 suspend, revoke, or refuse to issue or renew the license of an
16 operator when it finds the licensee or applicant has not complied
17 with or has violated any of the provisions of the Nonconsensual
18 Towing Act of 2011, or any rules adopted by the Department. A
19 suspension or revocation shall be for a period of time deemed
20 appropriate by the Department for the violation. Any canceled,
21 suspended, or revoked license shall be returned to the Department by
22 the operator, and the operator shall not be eligible to apply for
23 another license until the period of suspension or revocation has
24 elapsed.

1 E. The provisions of the Administrative Procedures Act are
2 expressly made applicable to the Nonconsensual Towing Act of 2011.

3 F. In any civil action to enforce the equal application of the
4 alternation or rotation of wrecker or towing services regulated by a
5 political subdivision of the state, the prevailing party shall be
6 allowed attorney fees determined by the court, to be taxed and
7 collected as costs.

8 G. Fees collected pursuant to the provisions of this section
9 shall be remitted to the State Treasurer to be credited to the
10 General Revenue Fund in the State Treasury except as provided by
11 subsection H of this section.

12 H. Fees allocated to the Department by this section shall be
13 deposited in the Department of Public Safety Restricted Revolving
14 Fund.

15 SECTION 3. AMENDATORY 47 O.S. 2011, Section 954A, as
16 amended by Section 1, Chapter 137, O.S.L. 2013 (47 O.S. Supp. 2019,
17 Section 954a), is 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 vehicle having been on
22 said property for a minimum of forty-eight (48) hours, or whenever a
23 vehicle is left upon said real property without express or implied
24 permission, such vehicle may be removed as provided in this section.

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

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

17 C. A licensed Class AA wrecker service removing an abandoned
18 vehicle pursuant to this section shall be subject to the maximum
19 rates established by the Corporation Commission.

20 D. The Department shall design and promulgate a suitable Tow
21 Request and Authorization Form ~~to be completed in quadruplicate,~~
22 containing space for the following information:
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1 1. A description of the vehicle, including the type of vehicle,
2 year of manufacture, name of the manufacturer, vehicle color or
3 colors, identification number and license tag number;

4 2. The name, address and business telephone number of the
5 licensed Class AA wrecker service;

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

9 4. Inventory of personal property within the vehicle to be
10 towed;

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

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

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

22 E. The real property owner, legal possessor or authorized agent
23 and the wrecker vehicle driver shall jointly, and each in the
24 presence of the other, inventory personal property found within or

1 upon the vehicle and each shall accordingly sign a statement on the
2 form reflecting this requirement has been fulfilled. In the event
3 an inventory cannot be completed, the reasons therefor shall be
4 clearly stated on the form.

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

19 G. Within three (3) business days of the time indicated on the
20 form, the licensed Class AA wrecker service shall request the
21 Oklahoma Tax Commission or other appropriate motor license agent to
22 furnish the name and address of the current owner of and any
23 lienholder upon the vehicle. The Tax Commission or appropriate
24 motor license agent shall respond in person or by certified mail to

1 the licensed Class AA wrecker service within five (5) business days
2 from the receipt of the request for information. The Department and
3 the Oklahoma Tax Commission shall render assistance to ascertain
4 ownership, if needed. The licensed Class AA wrecker service shall,
5 within seven (7) days from receipt of the requested information from
6 the Oklahoma Tax Commission or other motor license agent, send a
7 notice of the location of the vehicle by certified mail, or if by
8 Department notification, the Department may notify by first-class
9 mail, postage prepaid, at the addresses furnished, to the owner and
10 any lienholder of the vehicle. The owner or lienholder may regain
11 possession of the vehicle in accordance with rules of the Department
12 upon payment of the licensed Class AA wrecker services, costs of
13 certified mailing and the reasonable cost of towing and storage of
14 the vehicle. If the licensed Class AA wrecker service has not
15 complied with the notification procedures required by this
16 subsection, the owner or lienholder shall not be required to pay for
17 storage of the vehicle.

18 H. No licensed Class AA wrecker service or operator of a
19 licensed Class AA wrecker service shall tow or cause to be towed a
20 vehicle pursuant to this section until the form furnished by the
21 Department has been appropriately completed by the parties as
22 required by rules of the Department.
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1 SECTION 4. AMENDATORY 47 O.S. 2011, Section 955, as last
2 amended by Section 1, Chapter 283, O.S.L. 2014 (47 O.S. Supp. 2019,
3 Section 955), is amended to read as follows:

4 Section 955. A. Any officer of the Department of Public Safety
5 or any other political subdivision of this state is hereby
6 authorized to cause to be towed any vehicle found upon public roads,
7 highways, streets, turnpikes, private parking lots accessible to the
8 public, other public places or upon any private road, street, alley
9 or lane which provides access to one or more single-family or
10 multifamily dwellings when:

11 1. ~~Report~~ A report has been made that the vehicle has been
12 stolen or taken without the consent of its owner;

13 2. The officer has reason to believe the vehicle has been
14 abandoned as defined in Sections 901 and 902 of this title;

15 3. The person driving or in control of the vehicle is arrested
16 for an alleged offense for which the officer is required by law to
17 take the person arrested or summoned before a proper magistrate
18 without unnecessary delay;

19 4. At the scene of an accident, if the owner or driver is not
20 in a position to take charge of the vehicle and direct or request
21 its proper removal;

22 5. The officer has probable cause that the person operating the
23 vehicle has not been granted driving privileges or that the driving
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1 privileges of the person are currently suspended, revoked, canceled,
2 denied, or disqualified;

3 6. The officer has probable cause that the vehicle has been
4 used in the commission of a felony offense and the officer has
5 obtained a search warrant authorizing the search and seizure of the
6 vehicle;

7 7. The officer has probable cause that the vehicle is not
8 insured as required by the Compulsory Insurance Law of this state;
9 or

10 8. The vehicle is involved in a fatal motor vehicle collision
11 and is needed for evidentiary purposes.

12 No vehicle shall be released after impoundment unless the owner
13 provides to the storing facility proof of valid insurance or an
14 affidavit of nonuse on the roadway, or in the event of a release
15 request from an insurer or the representative of the insurer who has
16 accepted liability for the vehicle, no such proof of insurance or
17 affidavit of nonuse on the roadway shall be required.

18 B. A licensed wrecker operator is not liable for damage to a
19 vehicle, vessel, or cargo that obstructs the normal movement of
20 traffic or creates a hazard to traffic and is removed in compliance
21 with the request of a law enforcement officer, unless there is
22 failure to exercise reasonable care in the performance of the act or
23 for conduct that is willful or malicious.

1 C. Each officer of the Department shall use the services of the
2 licensed wrecker operator whose location is nearest to the vehicle
3 to be towed in all instances in subsection A of this section. The
4 requests for services may be alternated or rotated among all
5 licensed wrecker operators who are located within a reasonable
6 radius of each other. In like manner, the officer shall advise any
7 person requesting information as to the availability of a wrecker or
8 towing service, the name of the nearest licensed wrecker operator,
9 giving equal consideration to all licensed wrecker operators located
10 within a reasonable radius of each other. In cities of less than
11 fifty thousand (50,000) population, all licensed wrecker operators
12 located near or in the city limits of such cities shall be
13 considered as being equal distance and shall be called on an equal
14 basis as nearly as possible. In counties bordering other states, if
15 the officer deems safety and time considerations warrant, the
16 officer may call a wrecker or towing service that is not on the
17 rotation log.

18 D. Any officer of the Department who has been requested by a
19 person in need of wrecker or towing service to call a specific
20 wrecker or towing service for such person, and who calls a different
21 wrecker or towing service other than the one requested, without the
22 consent of the person, except where hazardous conditions exist,
23 shall be ~~suspended from~~ subject to progressive discipline issued by
24 the Department, ~~without compensation, for a period of thirty (30)~~

1 ~~days,~~ except in instances where a vehicle is removed from the
2 roadway under the authority of paragraphs 3, 4 and 6 of subsection A
3 of this section.

4 E. Operators conducting a tow under this section shall release
5 all personal property within the vehicle to an insurer or
6 representative of the insurer who has accepted liability for the
7 vehicle, ~~or to any person upon proof of ownership of the vehicle and~~
8 ~~an Oklahoma driver license or other state or federally issued photo~~
9 ~~identification~~ the registered owner or his or her personal
10 representative as designated by the registered owner on a form
11 approved by the Department. The registered owner or representative
12 of the registered owner shall provide proof of identity in
13 accordance with the Department's rules related to establishing
14 identity. Upon the release of personal property to an insurer or
15 representative of the insurer, wrecker operators shall be exempt
16 from all liability and shall be held harmless for any losses or
17 claims of loss. Personal property shall include everything in a
18 vehicle except the vehicle, the attached or installed equipment,
19 vehicle keys or devices to start and unlock the vehicle, and the
20 spare tire and tools to change the tire. Interlock devices may be
21 removed pursuant to Section 11-902a of this title. If release of
22 personal property occurs during normal business hours as prescribed
23 by the Corporation Commission, it shall be at no cost to the
24 registered owner or the owner prior to the repossession. After-hour

1 fees may be assessed as prescribed by this Chapter or by the
2 Corporation Commission, when the release of property is made after
3 the prescribed normal business hours.

4 F. The operator of a wrecker or towing service may request a
5 person offering proof of ownership of personal property and any
6 interlock device to execute a form provided by the operator
7 exempting the operator from liability for such release.

8 SECTION 5. Sections 1, 2 and 4 of this act shall become
9 effective November 1, 2020.

10 SECTION 6. Section 3 of this act shall become effective
11 November 1, 2021.

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