

# **OKLAHOMA**

## **Department of Public Safety**



# **WRECKER & TOWING**

## **Services Manual**

**May 2023**



**CHAPTER 25 WRECKERS AND TOWING SERVICES**

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## SUBCHAPTER 1. GENERAL PROVISIONS

595:25-1-1 Purpose

595:25-1-2 Definitions

595:25-1-3 General Policies

### **595:25-1-1. Purpose**

The purpose of the Wrecker and Towing Services rules is to establish procedures for the licensing, supervision, administration, and control of wrecker vehicles and wrecking and towing services.

### **595:25-1-2. Definitions**

Any reference to "this Act" means 47 O.S. § 951 et seq. unless otherwise specified. The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"**Call**" means each request for service of an operator resulting in an operator being able to receive compensation for these services.

"**Commissioners Designee**" means the authorized individual such as a director or administrative officer of the division.

"**Class AA wrecker operator**" or "**AA truck wrecker operator**" means any wrecker operator who also meets all the requirements of 47 O.S. § 952(D) for towing for law enforcement agencies. Class AA may also be used for private property towing and consent towing. Class AA must have the ability to tow, recover and haul.

"**Class AA Wrecker Support Vehicle**" or "**Support Vehicle**" means a general class wrecker capable of assisting and supporting the towing and recovery at the scene of an incident.

"**Commission**" means the Oklahoma Corporation Commission.

"**Commissioner**" means the Commissioner of Public Safety, as defined by 47 O.S. § 1-109 and as described in 47 O.S. § 2-102.

"**Department**" means the Department of Public Safety.

"**DPS number**" means a permanent number assigned to a wrecker operator, by the Department which is personal and unique to the wrecker service.

"**GVWR**" means gross vehicle weight rating.

"**IM categories**" means the severity of the incident.

- (A) Minor incident is any incident which can be mitigated within thirty (30) minutes or less with limited traffic interference.
- (B) Intermediate incident is any incident in which mitigation is thirty (30) to sixty (60) minutes in length and one or more vehicle lanes of travel are affected; and
- (C) Major incident is any incident in which mitigation is greater than sixty (60) minutes in length and one or more lanes of travel are affected and the potential for special equipment may be needed and utilized for IM.

"**Incident Management (IM)**" means any on or off roadway incident in which traffic flow is significantly reduced, delayed, or stopped as a result of vehicle collisions, cargo/content spills, visibility/weather conditions, or any other hazards associated with severe reductions of vehicular speed and movement within a traffic lane or lanes.

**"Inspection Officer"** means the individual that has been trained and certified by the Department to inspect wrecker vehicles and wrecker facilities.

**"Junk vehicle"** means a vehicle which is ten (10) years old or older and worth less than three hundred dollars (\$300.00) [42 O.S. §91].

**"Law enforcement tow"** means a tow of a vehicle made by an operator when a law enforcement officer compels a vehicle be towed or makes a request for a tow using a law enforcement rotation log and to which the rates and fees as prescribed by the Corporation Commission shall apply.

**"Nonconsensual tow"** means *the transportation of a vehicle without the consent or knowledge of the vehicle's owner, possessor, agent, insurer, lien holder, or any other person in possession of or in charge of any vehicle and includes the transportation or towing of the vehicle under lawful circumstances or necessity for the public interest including removing from the roadway for public safety or public convenience, or accidents, by any law enforcement officer or property agent or removal from public or private property as a result of abandonment or unauthorized parking by the property owner, agent, possessor, or other legal entity for the property owner.* [47 O.S. § 951(10)]

**"Officer"** means any peace officer.

**"Operator"** means any person or legal entity owning or operating a licensed wrecker vehicle or a licensed wrecker or towing service and any employee thereof.

**"Owner request tow"** means a tow of a vehicle made by an operator at the request of the owner, or authorized agent of the owner regardless of whether the tow is compelled or required by a law enforcement officer.

**"Principal Place of business"** or **"Business location"** means a permanent structure, not mounted on wheels, occupied by the wrecker operator at the physical address of the wrecker service, as shown on the wrecker license, with a publicly listed telephone number and functioning utilities including but not limited to electricity and water, where normal business is transacted, and all wrecker records are maintained. Effective January 1, 2005, the place of business shall be located in Oklahoma. The principal business full address, including county, must be verified by documentation, such as company letterhead, business card, tax documents, or other official business documents. The facility must be capable and large enough to conduct business, storage of records and all transactions of business. Any additional location or locations within twenty-five (25) miles of the principal place of business will be considered an extension location and will not be made to meet the requirements of the primary/principal business office but shall meet all storage requirements. All business transactions including, but not limited to, invoicing, ticketing, receipting, releasing, and collecting payment, will be conducted at the location in which the vehicle is stored.

**"Private Property Tow"** means a tow of a vehicle which is made from private property by an operator at the request of the owner, legal possessor, or authorized agent in control of the real property, which shall be towed under the provisions of 47 O.S. § 954A and to which the rates and fees as prescribed by the Corporation Commissioner shall apply.

**"Rotation log"** means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose place of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

**"Tow/Towing"** means *the use of a wrecker vehicle to lift, pull, move, haul, or otherwise transport any other vehicle by means of: (a) attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or (b) loading the vehicle onto and transporting the vehicle upon the wrecker vehicle".* [47 O.S. § 951(3)]

**"Traffic tie-up"** means any situation in which any officer deems it necessary to control the orderly flow of traffic.



**"Truck wreckers"** means every motor vehicle properly designed and equipped according to Department of Public Safety specifications with wrecker body and winch or lifting apparatus suitably designed to safely move, pull or tow wrecked, damaged or disabled trucks, truck-tractors, road tractors, trailers, semi-trailers, buses and/or other vehicles and conveyances that use the highways of the state of Oklahoma. The designation as a truck wrecker shall be used for Class AA-TL wrecker vehicles only.

**"Truck wrecker rotation log"** means a list for each Highway Patrol Troop of the Department of current Class AA wrecker operators, meeting the qualifications of Class AA truck wrecker services, whose places of business are within the geographical boundaries of the Troop and who have requested and been approved by the Department to be on the list. This list governs the alternation among approved Class AA-TL truck wrecker operators only.

**"Wrecker dolly"** means a wheeled device which is used to support one end of a motor vehicle for towing.

**"Wrecker license"** means the wrecker license as provided by 47 O.S. § 951, et seq.

**"Wrecker operator"** means any operator who is licensed under this chapter and the laws of this state and who meets all requirements of the rules of this Chapter, pertaining to wrecker vehicles as defined in this Chapter.

**"Wrecker or towing service", "wrecker service", or "towing service"** means engaging in the business of or performing the act of towing or offering to tow any vehicle, except: (a) where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE", (b) where the service is performed by a transporter as defined in [47 O.S.] section 1-181 of this title, (c) where service is performed in conjunction with the transportation of household goods and property, (d) where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or (e) where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, and the vehicle is being towed: (1) in either direction across the border between Oklahoma and a neighboring state, or (2) through Oklahoma in transit to another state; provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law. [47 O.S. § 951(6)]

**"Wrecker" or "wrecker vehicle"**, as defined by 47 OS. § 951, et. seq., means any vehicle, other than a transport as defined in 47 O.S. §1-181, equipped with a winch, cable or other device designed to lift, pull, or move a disabled vehicle incapable of self-propulsion. (Does not include a vehicle with a push bumper only.)

- (A) Class AA - Any wrecker vehicle not less than nine thousand pounds (9,000 lbs.) GVWR and meeting minimum requirements as established for Class AA wreckers in this Chapter.
- (B) Class AA-TM - Any wrecker vehicle not less than twenty-four thousand pounds (24,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TM Wreckers in this Chapter.
- (C) Class AA-TL - Any wrecker vehicle not less than forty-four thousand pounds (44,000 lbs.) GVWR and meeting minimum requirements as established for Class AA-TL Wreckers in this Chapter.
- (D) Class G (General) - All other wrecker vehicles as defined by 47 O.S. § 951, et. seq., provided a Class G wrecker shall also be considered a wrecker support vehicle for the purposes of 47 O.S. § 12-218.1. If a Class G wrecker service provides storage, it must meet the same facilities, storage, and insurance as a Class AA wrecker service. If the Class G wrecker service does not provide storage, it will not be required to meet the facilities, storage, and insurance requirements as a Class AA wrecker service. Class G wreckers services must meet the Class G vehicle requirements and must have a verified primary business location.

### **595:25-1-3. General policies**

- (A) All operators of wrecker or towing services shall conduct operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Department of Public Safety and rules and orders of the Corporation Commission.
- (B) Each operator shall be knowledgeable of the laws of this state, as found in 47 O.S. § 951 et. seq., and the rules of this Chapter and the rules and orders of the Corporation Commission relating to wrecker and towing services and wrecker vehicles. Each operator shall maintain at least one (1) copy of said laws and rules on the premises of the place of business at the address specified on the license and shall require every employee to be knowledgeable of the laws and rules.
- (C) All rules in this Chapter are subject to the Administrative Procedures Act 75 O.S. § 309, et. seq., and to 47 O.S. § 951 et. seq., which shall be incorporated herein by reference, as applicable to the Department and all parties governed by this Chapter.
- (D) The Department shall be charged with the duty of enforcing the provisions of 47 O.S. § 951 et seq. except for rates and fees charged by wrecker services, which shall be under the authority of the Corporation Commission. The duly appointed officers of the Department shall have authority to make arrests for violation of law and the provisions of the rules of this Chapter.
- (E) Any Oklahoma statute now existent or duly enacted in the future shall supersede any conflicting provision of the rules of this Chapter to the extent of such conflict but shall not affect the remaining provisions herein.
- (F) Any violation of the rules of this Chapter may result in license suspension, revocation and/or penalty provisions in accordance with 47 O.S. § 951, et. seq.
- (G) Every operator shall cooperate with the Department should it become necessary to review, audit, examine, or investigate any records relating to the operation of the wrecker service. Any operator who fails to cooperate with any review, audit, investigation shall be subject to suspension, revocation, or cancellation of his or her wrecker license in accordance with 47 O.S. § 951, et. seq.
- (H) All wrecker operators must be able to communicate and understand the information related to the tow of a vehicle.

## SUBCHAPTER 3. WRECKER LICENSE

595:25-3-1 General Requirements [AMENDED]

595:25-3-2 Applications [AMENDED]

595:25-3-3 Renewal [AMENDED]

595:25-3-4 Trade Name [AMENDED]

### 595:25-3-1. General Requirements [AMENDED]

The following are the requirements for obtaining an original or renewal of a wrecker license:

- (1) **License required.** No operator as defined by law, regardless of storage location, shall operate a wrecker vehicle upon any public street, road, or highway of this state for the offering to tow vehicles or the actual towing of vehicles without first obtaining from the Department a license as provided in this Chapter. Any wrecker vehicle being operated on any public street, road, highway, or turnpike in violation of Oklahoma law, or these rules may be removed from service by Oklahoma law enforcement officers.
- (2) **Display and use.** An operator's wrecker service license shall be personal to the holder thereof and a wrecker vehicle license shall be unique to the vehicle. Each license shall be issued only to a person, a corporation, or some definite legal entity. The licenses are non-transferable and any change in ownership, whether of a wrecker service or wrecker vehicle, shall cancel the applicable license. The wrecker service license shall be conspicuously displayed at the primary place of business. The license shall be valid only at the place of business as shown on the license. Additional or satellite places of business shall not be permitted or approved on the same license but shall require a separate application and license.
- ~~(3) **Reason for application.** No showing of public convenience or necessity need to be made in support of an application for a wrecker or towing license.~~
- (3) ~~(4)~~ **Issuance.** No license for operation of a wrecker or towing service shall be issued until:
  - (A) The wrecker operator has a minimum of one towing/wrecker vehicle,
  - (B) Certificates of insurance as prescribed by the Department are on file with the Department,
  - (C) Each wrecker vehicle has been inspected by an officer of the Department to verify that equipment requirements of this Chapter have been met, and
  - (D) Each wrecker operator and driver of a wrecker/towing vehicle has successfully completed a minimum of 16 hours of Department approved course of training or have a minimum of 2 years of experience on the following:
    - (i) Traffic incident management
    - (ii) Wrecker vehicle recovery controls
    - (iii) Connecting or loading vehicle onto wrecker
    - (iv) Tie down and secure vehicle to wrecker
    - (v) Wrecker operation safety
    - (vi) Annually complete 4 hours of continuing education approved by the department.
- (4) ~~(5)~~ **Carry license.** A copy of the wrecker vehicle license issued by the Department shall be carried at all times in the wrecker vehicle for which the license was issued.
- (5) ~~(6)~~ **Return license to Department.** Any wrecker operator that disposes of or deletes any wrecker vehicle from operation shall return the license and window decal issued for that particular vehicle and window decal to the Department of Public Safety. When an unlicensed wrecker vehicle is observed with decals identifying it as a licensed wrecker vehicle, law enforcement personnel may remove the decals and seize the cab card license and return both to the Department. **Disposition of wrecker vehicles.** Any operator that ~~cancel~~ removes its last remaining wrecker vehicle from operation will have thirty (30)

days to have another wrecker vehicle inspected, approved, and licensed or the wrecker license issued to that operator will be cancelled.

**(6) ~~(7)~~ Additional wreckers.** Any wrecker operator that adds a wrecker vehicle shall:

- (A) Register the wrecker vehicle with the Oklahoma Tax Commission, in the name of the operator or the name of the wrecker service, and properly display a current license plate. A leased wrecker vehicle shall show the owner information and the name of the lessee on the vehicle registration.
- (B) Notify the Department of the make, model, GVW and serial number of the vehicle.
- (C) Send notification to the Department from the insurance carrier of the wrecker operator that the vehicle has been added to present insurance coverage.
- (D) Have the vehicle inspected and approved by an employee of the Department.
- (E) A wrecker license plate, or a proportional license plate, must be purchased and affixed to the wrecker vehicle after the vehicle has been inspected and approved and before the vehicle can be used by the operator to tow vehicles.

**(7) ~~(8)~~ License number and business name.**

- (A) The DPS number issued to the operator by the Department for the operation of a wrecker or towing service, along with the name of the wrecker service, shall be clearly visible at all times and shall be conspicuously displayed and vertically centered on each side of every tow vehicle used by the operator in the wrecker or towing service. All wrecker services will display AA or G designation at the end of the DPS number. Example: DPS 12345W AA or DPS 12345WG.
- (B) On wrecker vehicles in use the DPS number and business name shall be at least three inches (3") in height. The font shall not be a font which is highly decorative or difficult to read. The lettering shall be in a color that will contrast with the color of the tow vehicle in order to be readily noticed and legible.
- (C) The signage required by this paragraph shall be permanent in nature and shall not contain any misleading or false information. The wrecker vehicle shall not have more than one wrecker service name on the vehicle.
- (D) Magnetic signs are not approved; provided, if requested of and approved by the Commissioner's designee, a magnetic sign may be used for a period of thirty (30) days in an emergency situation.

**(8) ~~(9)~~ Service of notice.** Any notice required by law or by the rules of the Department served upon any holder of a wrecker or towing license shall be served personally or mailed to the last known address of such a person as reflected by the records on file with the Department. It is the duty of every holder of a certificate or license to notify the Department of Public Safety, Wrecker Services Division, in writing as to any change in the address of such person or of the place of business.

**(9) ~~(10)~~ License prohibited.**

- (A) No person under eighteen (18) years of age shall be licensed or employed as a wrecker operator.
- (B) No person shall be licensed as a wrecker/towing service operator or employee who has been convicted of:
  - (i) a felony offense ~~constitution~~ constituting a violent crime as defined in 57 O.S. § 571, larceny, or theft. Felony convictions expunged through deferred sentencing will not be considered as convictions; or
  - (ii) any provision of Title 21 O.S. §1029 while providing wrecker services; or
- (C) No person shall be licensed as a wrecker/towing service or be employed by a wrecker/towing service until completion of the sentence for the conviction, including probation or supervised release.
- (D) Any person who is required to register as a sex offender, as required by 57 O.S. § 582, shall be prohibited from owning or working for a wrecker service for the period of time the person is or is required to be registered.
- (E) Nothing in this section prohibits the Commissioner of Public Safety or his or her designee from approving, denying, suspending, cancelling, or not renewing a wrecker license if it is determined to be in the best interest of public safety.

(10) ~~(11)~~ **One Class AA license per place of business.** Wrecker operators shall be issued no more than one Class AA wrecker license for any one place of business.

(11) ~~(12)~~ **One Class AA wrecker service on Oklahoma Highway Patrol 's rotation log in same rotation area.** An operator shall be permitted to rotate no more than one Class AA wrecker service in the same Highway Patrol rotation area on the Highway Patrol 's rotation log. For purposes of this paragraph, "Class A wrecker service" shall include those services with a Class AA-TL wrecker vehicle.

(12) ~~(13)~~ **Business telephone number.** Each wrecker service shall have a telephone number published that is accessible to the public twenty-four hours a day. The operator shall provide in writing to the Department notice of any permanent business telephone number change prior to the new telephone number being placed in service.

(13) ~~(14)~~ **Business sign.** Each AA Wrecker Service and each G Wrecker Service with storage shall have a business sign at the business location. The sign shall be at least 2 feet by 4 feet with letters at least 3 inches in height with contrasting background and shall display, at a minimum, the name of the wrecker service as shown on the license and a telephone number accessible to the public twenty-four (24) hours a day.

(14) ~~(15)~~ **Wrecker drivers.** Wrecker services shall notify the Wrecker Services Division within ten (10) days of hiring or termination of employment of any wrecker driver.

### **595:25-3-2. Applications [AMENDED]**

- (a) Every applicant shall file with the Department a written application on a form prescribed by the Department and shall tender with the application a fee pursuant to 47 O.S. §\_953 in the form of ~~cash~~, check (business, personal, or cashier), ~~or money order, or debit/credit card~~. Checks and money orders should be made payable to the Department of Public Safety. The application shall be completed using the applicant's legal name and include every alias and nickname by which the applicant is or has been known. Every applicant shall submit with the application a current original Oklahoma State Bureau of Investigation (O.S.B.I.) criminal record check for each individual, partner or corporate officer as shown on the application. If any owner, partner, or officer has not lived in Oklahoma for the immediately preceding five (5) years, he or she shall submit a criminal record check from the agency responsible for keeping criminal history in the state or states of residence for the immediately preceding five (5) years. Upon the return of any dishonored check the application shall be canceled.
- (b) Upon receipt and approval of the application, the Department shall assign to the operator a permanent identification number for all matters relating to the approved wrecker and towing service. The Wrecker Services Inspector/Trooper will issue a contact report for the operator to present to the Oklahoma Tax Commission or a motor license agent for the purpose of being issued a wrecker license plate pursuant to 47 O.S. §\_1134.3.
- (c) The filing of an application for a license does not authorize wrecker or towing service operations by the applicant. Operation may commence only after all requirements have been met and proper authorization has been issued by the Department.
- (d) The application shall be an affidavit containing the following information together with any additional information the Department may require.
- (1) The trade name (business name) of the wrecker service. If the business name is registered with the Oklahoma Secretary of State, such registered name shall be used. A copy of the Certificate of Limited Liability Company, a Certificate of Authority, a Certificate of Limited Partnership, or a Certificate of Incorporation from the Secretary of State must be submitted with the application.
  - (2) The name of the individual (owner/applicant) or, in the event of a legal entity such as a corporation, limited liability company, partnership or limited partnership, the names of any two of the following:
    - (A) President,
    - (B) Vice-President,
    - (C) Another officer, such as a secretary or the name of the person responsible for the day-to-day operation of the legal entity. The legal entity shall notify DPS immediately in the event any officer or the person responsible should change.

- (3) A statement substantially as follows: "Under oath, I affirm the information submitted in this application is true and I further affirm that I have read the rules of the Department of Public Safety and hereby agree in good faith to abide by the applicable laws and rules governing the wrecker and towing services for which this application is made."
- (4) Date of application.
- (5) Signature of the individual applicant or of each company officer, as named on the application.
- (6) For each driver, the name, date of birth and driver license number.
- (7) ~~If an officer of the Department of Public Safety or a law enforcement officer of any political subdivision may have an interest, financial or otherwise, in or may be employed by a wrecker or towing service, the wrecker service shall affirm that its sole purpose and only business is to perform repossessions of vehicles which are subject to lien and are being repossessed by the lien holder of record [47 O.S. §956(C)].~~ an officer of the Department of Public Safety or a law enforcement officer of any political subdivision may have an interest, financial or otherwise, in or may be employed by a wrecker or towing service, the wrecker service shall affirm that its sole purpose and only business is to perform repossessions of vehicle which are subject to lien and are being repossessed by the lien holder of record, operating as a Claas G Wrecker. If a determination is made that the wrecker service performs services other than repossessions, it shall be grounds for revocation of the wrecker license.
- (e) If, within ninety (90) days of receipt of an application, the Department is unable to verify all information as required by these rules, the application shall be denied. Such applicant may reapply.
- (f) It is within the Department's discretion to disallow the licensing of a wrecker operator should it appear, by a preponderance of the evidence, that the identity of the business is substantially the same as that of one that is currently under suspension by the Department.

#### **595:25-3-3. Renewal [AMENDED]**

- (a) Title 47 O.S. §953, provides the wrecker license shall expire on the 31<sup>st</sup> day of December of each year. The renewal shall be truthfully and completely filled out.
- (b) The operator shall complete and submit a renewal application with the renewal fee prescribed in 47 O.S. §953 in the form of cash, check (business, personal, or cashier), money order, or debit/credit card, to the Department ~~not later than December 31 of the same year~~ between October 1 and December 1, each year. Checks and money orders should be made payable to the Department of Public Safety.
- ~~(e) Any Class AA wrecker service which fails to renew its wrecker license on or before December 31 shall be removed from the rotation log on the immediately following January 1.~~
- (c) ~~(d)~~ Any wrecker service which fails to ~~renew its wrecker license~~ submit a renewal application on or before December 31 shall be considered cancelled, ~~revoked, or suspended~~ and removed from the rotation log, if applicable, as of January 1 the following year. An application for an original or reinstatement license may be submitted, but not be effective until on or after February 1 with all procedures and fees to apply.

#### **595:25-3-4. Trade name [AMENDED]**

- (a) Each operator shall use a unique trade name, ~~approved by the Department,~~ which shall be printed and appear on the license and shall be clearly distinguishable from the trade name of any other operator.
- (b) Upon written request by the operator, the Department may change the trade name of a wrecker or towing service if there is no change in ownership. The identifying number shall be retained, and no license fee shall be assessed.
- (c) Any change in ownership due to sale, merger, dissolution, or any other reason, except as provided in subsection (d), shall reserve the wrecker service trade name for a period of ~~sixty (60)~~ ninety (90) days, during which time the successor or owner shall apply for a wrecker license using the same trade name or another trade name. However, the successor may not operate as a licensed wrecker service until the application has been accepted and approved by the Department.
- (d) When the owner of a sole-proprietorship wrecker service dies, the wrecker license shall be considered cancelled by the Department effective upon the date of the death of the owner. Upon the death of the wrecker service owner, the wrecker service shall be immediately removed from Oklahoma Highway Patrol

rotation. The heirs shall apply for a reinstatement of the wrecker service license using the same name and the same Department-assigned number; provided, the application shall be treated by the Department as a new application, and all procedures and fees shall apply.

## SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-1 Physical Requirements for Storage Facility [AMENDED]

595:25-5-2 Equipment Requirements for All Classes of Wrecker Vehicles [AMENDED]

595:25-5-3 Operation [AMENDED]

595:25-5-4 Insurance

595:25-5-5 Records

595:25-5-6 Schedule of Rates and Fees; [REVOKED]

595:25-5-7 Tow Request and Authorization Forms [AMENDED]

595:25-5-8 Conflicts of Interest

### **595:25-5-1. Physical requirements for storage facility [AMENDED]**

(a) **General Requirements.** All wrecker operators, who, in conjunction with or as part of a licensed wrecker operation, store, park or maintain possession of a towed vehicle, shall store such vehicle in a storage facility which shall meet the minimum physical requirements prescribed in this Section. No vehicle shall be stored in any facility or area which has not been inspected and approved by the Department except in case of exceptional circumstances such as natural disasters or at the direction of law enforcement officers at the scene of an incident.

(1) An operator shall not store vehicles:

- (A) At their home,
- (B) In another operator's storage lot; or
- (C) Any other location unknown to the Department.

(2) The entrance to the storage facility shall be separate from any other business entity.

(3) A vehicle accepted for storage may not be altered without consent of the vehicle owner or their authorized representative.

(4) No stored vehicle may be used for personal or business use without the prior written consent of the vehicle's owner.

### **(b) Outdoor Storage Facilities.**

(1) Every primary outdoor storage facility:

(A) Shall be designed to be minimum of 5000 square feet for small truck and minimum of 15000 square feet for large truck in size. A previously licensed proprietor, partnership or corporation business will be allowed to renew the DPS license for their location unless they are changing locations of business.

(B) Shall be surrounded completely by a fence. Construction material for fences shall be of wood, metal, chain link or masonry and be at least six feet (6') in height built solid, firmly, and securely to provide the best protection for restricted access. Livestock paneling (welded wire) shall not be used unless the wire diameter is equal to or larger than 8 gauge (0.160 diameter) with horizontal panels no larger than 4" x 4". T-post construction shall not be approved. Outdoor storage facilities, effective July 1, 2014, shall meet new standards or if facilities previous of date, upon a failed inspection, if found the fence did not meet previous standards, new standards will be imposed.

(C) Shall have at least one (1) gate of the same quality of material and height of the fence and must be locked if not attended.

(D) The storage lot area:

- (i) Shall be maintained, including but not limited to removal of tall weeds, overgrown vegetation, and debris.



(ii) The lot surface shall be an all-weather surface such as concrete, asphalt, blacktop, gravel, or any ~~materials~~ equivalent materials.

(iii) And cover the complete area of the storage lot that enables the safe and effective movement of stored vehicles upon all portions of the storage lot.

(2) If the construction requirements in paragraph (1) of this subsection are in violation of municipal zoning ordinances or other laws, regulations, or ordinances, the operator may ~~file with the Department a petition for~~ request an exemption in writing and submit a proposed security plan in lieu of the requirements, ~~which the Department may approve~~. The operator shall attach a copy of such zoning ordinance or other laws, regulations, or ordinances with the petition.

**(c) Facility Location and Number.**

(1) A minimum of one (1) primary storage facility shall be located within a two (2) mile radius of the place of business address as reflected on the wrecker license and, effective January 1, 2005, shall be located within Oklahoma. Secondary storage facilities may be located outside the two (2) mile radius.

(2) Each vehicle stored must be initially stored and held at the primary storage facility. After thirty (30) days from date of initial storage, vehicles may be moved to a secondary storage facility. The provisions of this paragraph shall not apply to junk vehicles.

**(d) Alternate Primary Storage Facility.** In lieu of or in addition to the primary storage facility described in this Section, a wrecker operator that tows a vehicle pursuant to a contract with a municipality or county may store such vehicle in a facility meeting the requirements set forth in such contract; provided, that:

(1) A copy of the proposed contract is furnished to the Department, along with documentation that requirements specified in this Section will be or have been met.

(2) Only vehicles towed at the request of the municipality shall be stored in such facilities unless such facility meets all the requirements of this Section.

(3) The wrecker operator shall have assumed reasonable responsibility with respect to the owner of such towed vehicle for any damages or loss of contents occurring during such time as the towed vehicle is stored in the facility.

(4) If the storage facility is not owned by the operator, the owner of such storage facility shall also assume joint responsibility for damages or loss of contents to the vehicle secured during such time as the vehicle is stored at such facility.

(5) Such storage facility must meet or exceed the requirements of this Section.

(6) If such storage facility is not operated by the operator, the operator shall have made arrangements with the owner of such storage facility to enable the owner of the vehicle to make full payment for towing and storage costs at the storage facility location and thereby obtain full release of the vehicle.

(7) A wrecker operator may not store any vehicle in a facility which has not been inspected and approved by the Department.

**(e) Indoor storage facility.** An operator may also provide an indoor storage facility as either a primary or secondary storage facility. Due to a special situation such as, but not limited to, a pending fatal collision, asset forfeiture or criminal investigation, law enforcement may select without regard to rotation, an operator nearest to the incident with appropriate indoor storage. The facility must meet the requirements of the Oklahoma Highway Patrol and the operator must comply with any special instructions. An indoor storage facility shall be a permanent structure that meets the following minimum physical requirements.

(1) A solid roof,

(2) A solid hard-surface floor,

(3) Solid walls which fully enclose all sides, i.e., reach from corner to corner on each side and from the floor to the roof on all sides so there is no public access. The walls may be penetrated by windows and doors which must be fully operable so as to make the facility fully enclosed when the windows and doors are closed, and

(4) Must be a minimum of 500 square feet in size.

**(f) Each Wrecker Service is a Separate Entity.** Each wrecker service shall be licensed as a separate legal entity. Any wrecker service with storage shall maintain a primary storage facility that is physically separated

from any other entity's storage facility as determined by the Department, so that the responsibility and accountability of the operator relating to compliance with these rules is maintained.

- (g) **Shared Storage Prohibited.** Shared use of any outdoor or indoor storage facility by two (2) or more wrecker services is not permitted, except as may be determined by the Commissioner.
- (h) **Leased or rented building, office, or storage.** Wrecker operators intending to lease or rent any building, office or storage facilities shall file such plan of lease or rent with the Department for approval. Such plan shall be signed and approved by the owner of the property or representative of the owner and be of at least one year in duration and include specific terms therein delineating the responsibility of the operator relating to compliance with the rules of this Chapter and assurance that accountability is maintained.
- (i) **Accessibility.** Any primary storage facility used to store vehicles at the request of law enforcement shall be accessible to the public by way of an all-weather road. This provision shall not apply to primary storage facilities which have been approved prior to July 14, 2003.
- ~~(i) **Accessibility.** Any primary storage facility used to store vehicles at the request of law enforcement shall be accessible to the public by way of an all-weather road. This provision shall not apply to primary storage facilities which have been approved prior to July 14, 2003.~~

### **595:25-5-2. Equipment requirements for all classes of wrecker vehicles [AMENDED]**

- (a) **All Wrecker Vehicles.** Each wrecker which is used by an operator in the performance of a wrecker or towing service shall be equipped with the following:
  - (1) **Fire Extinguisher.** One (1) or more, dry chemical, B.C. rating fire extinguisher having a minimum of ten pounds (10 lbs.) total capacity, which shall be mounted and readily accessible.
  - (2) **Flashing light.** At least one (1) amber rotating or flashing light, mounted and centered above the cab of the vehicle, visible from 360 degrees or on a light bar, and approved by an officer of the Department. The amber rotating light is for use only at the scene of an emergency or where a traffic hazard exists and there is the necessity to warn approaching vehicles, such as at a routine vehicle pickup [47 O.S. § 12-218.1]. In addition to the required amber rotating light, the wrecker may be equipped with a red or blue flashing light, or a combination of red and blue flashing lights, for use only at the scene of an emergency [47 O.S. § 12-218.1]; provided, on any wrecker vehicle approved after July 15, 2005, the red or blue light, or the combination of red and blue flashing lights, shall be on a separate switch from the amber light. Under no circumstances are any of the rotating or flashing red or blue lights intended for use when traveling on the streets or highways [47 O.S. § 12-218.1]. White rotating lights are not authorized under Oklahoma statutes.
  - (3) **Chains.** Two (2) chains of sufficient grade to assist in securing the towed vehicle.
  - (4) **Broom.** One (1) push-type broom, suitable for clearing debris from the road.
  - (5) **Shovel.** One (1) shovel, suitable for clearing debris from the road.
  - (6) **Tire Chains.** One (1) set of tire chains, mud and snow tires or other device to assist wrecker to maintain traction in mud, snow, or ice.
  - (7) **Warning Devices.** Warning devices, applicable to trucks as required in 47 O.S. § 12-407, capable of protecting the scene of a collision by day or night.
  - (8) **Lighting for Towed Vehicle.** Wreckers must be equipped to operate a towed vehicle's stop, turn and clearance lights (if applicable), or be equipped with a light bar or other lighting equipment to ~~provide the highway~~ comply with lighting requirements for vehicles. When used, the light bar or tow lights shall be affixed securely to the towed vehicle to assure a minimum of movement while traveling on the highway and to prevent any damage to the towed vehicle.
  - (9) **Safety Chains or Straps.** Two (2) safety chains or wheel straps of sufficient capacity to keep the towed vehicle attached to the wrecker in the event of disengagement.
  - (10) **Additional Equipment.** Each operator of a roll back wrecker shall secure towed vehicles with four-point tie downs. ~~Operator~~ Operators of other wrecker vehicle types shall secure towed vehicles in accordance with wrecker vehicle chassis recommendations.
  - (11) **Approved dolly use.** When a wrecker dolly is used as the lift or towing device, both the wrecker dolly and the wrecker shall first be approved and licensed as a unit by the Department. In addition to the

requirements in (a) of this Section for all wreckers, a wrecker dolly towing vehicle shall also be equipped at a minimum with the following:

- (A) A ball or pintle hook of sufficient size and capacity to safely control the wrecker dolly, securely fastened to the appropriate frame member of the wrecker.
- (B) Two safety chains of sufficient capacity to keep the wrecker dolly attached to the wrecker in the event of hitch failure.

(12) **Safety Apparel.** A minimum of (1) one high-visibility safety apparel (vest, jacket, or shirt), per wrecker vehicle, in compliance with 2009 MUTCD section 6D.03.

(13) **Safety Apparel while in right-of-way.** Each wrecker operator or driver shall wear high visibility safety apparel, in compliance with 2009 MUTCD section 6D.03, when working in any highway right-of-way.

(b) **Class AA Wrecker Vehicles.** Each Class AA wrecker vehicle, in addition to the equipment required by subsection (a), shall be equipped with the following:

- (1) **Scotch Blocks.** Two (2) scotch blocks, or similar devices, capable of adding stability to the wrecker during winching. Scotch blocks shall be constructed of steel plate with a chain or cable of sufficient grade and quality to attach to the frame or body of the wrecker. Hydraulic stabilizing equipment shall be approved. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)
- (2) **Dollies.** Dollies for the purpose of providing a method of towing a disabled vehicle which is otherwise incapable of being towed safely on either axle. (NOTE: Roll-back wrecker vehicles are exempt from this requirement.)
- (3) **Axe.** One (1) axe.
- (4) **Pry-bar.** One (1) pry-bar or wrecking bar capable of prying open doors.
- (5) **Sling and Stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.
- (6) **Dual Rear Wheels.** At least one (1) set of dual rear wheels for stability in towing another vehicle.
- (7) **Winch.** A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of eight thousand pounds (8,000 lbs.) and equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.
- (8) **Absorbent.** An adequate supply of an absorbent capable of absorbing liquid spills from vehicles (not including cargo spills); provided, the wrecker service or wrecker operator shall not be required to pick up or dispose of the used absorbent. The Department recommends keeping at least four (4) gallons of absorbent on each wrecker vehicle.
- (9) **Hydraulic Jack.** One (1) hydraulic bottleneck jack or floor jack with a minimum two and a half ton rating.
- (10) **Basic equipment list:**
  - (A) First Aid kit
  - (B) Trash bags (33 gal. min.) or 5-gallon buckets (2)
  - (C) Flashlight
  - (D) Wire/Cable cutter pliers (8")
  - (E) Jumper cables or Jumper Box
  - (F) Safety glasses (1pr)
  - (G) Traffic cones (3) MUTCD compliant
  - (H) Adjustable pliers
  - (I) Rubber gloves and or work gloves (PPE gear)

(c) **Class AA-TM Wrecker Vehicles.** Each Class AA-TM wrecker (medium truck wrecker), in addition to the equipment required by subsection (a and b), shall be equipped with the following:

(1) **Minimum Vehicle Requirements.**

- (A) **Air Brakes.** Factory or certified installed full air brakes with a full tractor package (hand control, in line foot valve, air hoses and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the towing vehicle.

- (B) **Parking Brake.** Air-activated spring parking brake.
- (C) **GVWR Compatibility.** Wrecker body and equipment shall be compatible with the chassis GVWR in size and shall be suitable by design to operate under emergency conditions.
  - (i) Vehicle body must be capable of safely anchoring scotch blocks.
  - (ii) Vehicle must be designed to adequately anchor snatch blocks.

(2) **Equipment Requirements.**

- (A) **Winch.** A winch or winches permanently mounted at the rear of the vehicle with a minimum factory rated capacity of thirty thousand pounds (30,000 lbs.) and be equipped with a cable to be compatible with manufacturer's specifications and be of sufficient length based on the design of the wrecker vehicle.
- (B) **Boom.** A boom or booms constructed so as to be compatible with winch rating.
- (C) **Snatch Blocks.** A minimum of two (2) snatch blocks compatible with winch cable size and cable rating.
- (D) **Sling and Stay-bar.** One (1) sling and stay-bar, wheel lift device, or other type of device capable of safely loading and protecting the disabled vehicle while being towed.

(d) **Class AA-TL Wrecker Vehicles.**

(1) **Minimum Vehicle Requirements.**

- (A) **Air Brakes.** Factory-installed or certified installed full air brakes with a full tractor package (hand control, in-line foot valve, air hoses, and trailer emergency valve) capable of releasing the air brakes on a tractor-trailer and capable of operating the brakes of the towed vehicle with the same application as the wrecker.
- (B) **Parking Brake.** Air-activated spring parking brake.
- (C) **Axle and Suspension.**
  - (i) Minimum front axle and suspension of twelve thousand pounds (12,000 lbs.). (Note: GVWR rating are altered or affected by tires, springs, and axles.)
  - (ii) Minimum rear axle and suspension combination of thirty-two thousand pounds (32,000 lbs.).
  - (iii) Be equipped with full-driven tandem axle (NOTE: A drag axle or pusher axle is not acceptable).
- (D) **Wheelbase:** Chassis must have a minimum Wheelbase of 280 (two hundred and eighty) inches. 200 inches will be allowed on vehicles previously licensed if they have a hydraulic wheel lift, spades, and an additional operator.
- (E) **GVWR Compatibility.** Wrecker body and equipment shall be compatible with chassis GVWR and size and shall be suitable by design to operate under emergency conditions.
  - (i) Body must be capable of safely anchoring scotch blocks.
  - (ii) Must be designed to adequately anchor snatch blocks.

(2) **Equipment Requirements.**

- (A) Winches must be maintained with at least 75% capacity of the manufactures recommended length of wire or synthetic rope. Must have at least 2 (two) winches with a minimum combined capacity of 40,000 (forty thousand) lbs.
- (B) Boom(s): Wrecker unit must have a factory built or certified 25 (twenty-five) minimum ton boom rating that is an elevating and telescoping recovery boom.
- (C) Wrecker unit must have a factory built or certified hydraulic telescoping wheel lift.
- (D) Large truck requirements:
  - (i) 2 or more air hoses 3/8", with combined minimum length of 100' (feet)
  - (ii) Cage Bolts (8)
  - (iii) Two Air outlets on the wrecker for emergency and service line activation
  - (iv) Metric and Standard end wrench sets with minimum 3/8" 1/4" to 1" and 8mm to 19mm
  - (v) Metric and Standard 1/2" drive socket set and ratchet with minimum 1/4" to 1" and 8mm to 19mm
  - (vi) Hydraulic or pneumatic jack with 10-ton min. rating

- (vii) 10 gallons of absorbent material
- (viii) 2.5 lb. Sledge/shop hammer
- (ix) 2 pr. locking pliers
- (x) 4 axle covers
- (xi) 5 traffic cones (MUTCD compliant)
- (xii) Saddle Tank fluid mitigation compound (Plug and Dyke or other similar product).
- (xiii) Minimum of 4 (four) snatch blocks that are recommended for the size of rope contained on the winches.
- (xiv) Minimum of sixty feet (60') of one-half inch ( $\frac{1}{2}$  1/2") Grade 80 Recovery Chain with hooks.
- (xv) 2 (two) - one-inch (1") screw pin clevises.
- (xvi) 2 (two) – one-half inch (1/2") screw pin clevises

### **595:25-5-3. Operation [AMENDED]**

All operators using the public roads and highways within the State of Oklahoma shall comply with the following:

- (1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof and be properly licensed for the type of vehicle operated.
- (2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.
- (3) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.
- (4) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.
- (5) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.
- (6) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of an incident to protect the scene and the vehicle involved. Only amber flashing lights may be used when leaving the scene of a wrecker service call for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking, or passing. [47 O.S. §12-218.1]
- (7) Each operator must ~~be a person of good moral character and reputation in his community, as determined by the Commissioner of Public Safety,~~ and conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.
- (8) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.
- (9) No wrecker service shall suspend, or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.
- (10) Wrecker services and operators shall be responsible for the removal of any glass or other injurious substances dropped upon the highway or highway right-of-way at the location of an accident as required by title 47 O.S. §\_11-1110(C).
- (11) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:

(A) the owner, upon presentation of one (1) of each of the following: ~~proof of ownership, identification, and insurance (if required by law):~~ Evidence of ownership may be:

**(i) Proof of ownership:**

(I) ~~(i)~~ A valid certificate of title, to show proof of purchase and ownership to include tribal and other state titles; or

(II) ~~(ii)~~ Registration Receipt (Digital or Electronic verification shall be accepted); or

(III) ~~(iii)~~ Title properly assigned by the seller, dated, notarized (if required on title) and the owner 's name filled out on the title; or

(IV) ~~(iv)~~ Written verification from a local law enforcement agency as to the identity of the owner; or

(V) ~~(v)~~ Other appropriate documentation sufficient to establish ownership

**(ii) Proof of identification:**

(I) ~~(vi)~~ Oklahoma driver license; or

(II) ~~(vii)~~ Oklahoma identification card; or

(III) ~~(viii)~~ Other state driver license; or

(IV) ~~(ix)~~ Other state or federally issued photo identification; or

(V) ~~(x)~~ Other documentation sufficient to establish identity.

**(iii) Proof of Insurance:** ~~may be: (Insurance may not be in owner's name, as required in Title 47-955A.)~~

(I) ~~(xi)~~ Valid insurance verification form, not expired with VIN of vehicle listed; or

(II) ~~(xii)~~ Valid insurance policy not expired with VIN of vehicle listed; or

(III) ~~(xiii)~~ Valid affidavit of non-use and vehicle cannot be driven from facility ~~(Digital or Electronic verification shall be accepted).~~

(B) a person representing the owner, upon presentation of, a notarized letter from the owner permitting said person to act on behalf of the owner, with year, make, model and vehicle identification number of the vehicle and proof as listed in paragraph A.

(C) a lien holder or a duly authorized agent of a lien holder, upon presentation to the wrecker operator proof of being a lien holder [47-904.1], hold harmless letter and a notarized letter from the lien holder permitting said person to act on behalf of the lien holder that includes year, make, model and vehicle identification number; or

(D) the insurer of or the representative of the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S., ~~Section §§~~ 904, 953.1, or 953.2, must provide a hold harmless letter and a letter from the insurer permitting said person to act on behalf of the insurer that includes year, make, model and vehicle identification number.

(E) a legal representative or family member within the first or second degree of consanguinity or affinity upon presentation of a notarized affidavit describing the relationship between the legal representative or family member and the owner, in the event the owner is incapacitated or deceased.

(12) Personal property, which shall include everything in a stored vehicle except the vehicle and its attached or installed equipment, vehicle keys, or devices to start and unlock the vehicle, and the spare tire and tools to change the tire, shall be released, upon request, to the owner or owner's representative, upon showing of proof as described in (11) of this section. Wrecker operators shall allow the vehicle owner or owner's representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration. [47 O.S. §\_955 (E)] Personal property shall not be removed from the vehicle unless the operator has a written company policy or procedure for the intended safekeeping of any personal property removed from a vehicle. Personal property may not be removed from vehicles with law enforcement investigative holds for evidence or vehicles with biohazards. Personal property stored at the operator's business office must be secured under lock and key or with an attendant on-duty twenty-four (24) hours per day. Any personal property removed from

the vehicle shall be released, to the owner or owner's representative, upon showing of proof as described in (11) of this section.

- (13) Each operator shall require each wrecker driver to maintain the appropriate driver license for the type of vehicle being operated.
- (14) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.
- (15) Each operator shall secure vehicles on roll back wreckers with four (4) point tie down. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.
- (16) A wrecker operator or driver responding to the scene of a motor vehicle collision in the capacity of a first responder, fireman, or volunteer fireman shall not respond to the scene in a wrecker vehicle.
- (17) Operator shall not take photos of a crash scene that would include bodies, personal information of anyone or any personal identifiers, including but not limited to, license plates or names on vehicles. Any photo of a crash scene that includes bodies, personal information, or any identifiers of any person must not be posted on any form of social media.
- (18) During normal business hours, the operator shall provide access to the vehicle for the purposes of inspection, identification, or assessment to any person or entity to whom release is authorized by these rules.

#### **595:25-5-4. Insurance**

- (a) **Liability for operator's negligent acts.** Each operator, from the time of movement of or otherwise making contact with any vehicle to be towed, may be liable for injury to persons, damage to property, fire or theft resulting from the operator's negligent acts.
- (b) **Certificate of insurance.** The Certificate of Insurance form must be obtained from and submitted by an insurance company authorized to do business in the State of Oklahoma.
  - (1) The operator is responsible for ensuring the submission of the Certificate of Insurance form when applying for an initial license, renewal of the insurance, changing a business name or changing the business address.
  - (2) The name and address of the applicant, the operator or business name shown on the Certificate of Insurance form must be the same as the name and address on the application and/or wrecker service license. The applicant or operator is responsible for ensuring that the insurance information on file with the Department reflects the correct name and address of the insured. The address for all storage facilities must be included on the form.
  - (3) Any time an operator changes insurance company during a policy period, a new Certificate of Insurance form shall be submitted by the new insurance provider showing at least the minimum coverage.
  - (4) The Certificate of Insurance form shall show the make, year, and vehicle identification number for each wrecker vehicle and wrecker support vehicle licensed by the Department.
- (c) **Insurance policy.** The insurance policy shall be issued for a period of at least six (6) months and shall protect the public against loss of life, bodily injury to person, and damage to property in the following amounts:
  - (1) **Class G General or Class AA.**
    - (A) Bodily Injury and Property Damage - Not less than One Hundred Thousand Dollars (\$100,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.
    - (B) Garagekeeper's Legal Liability - Not less than Fifty Thousand Dollars (\$50,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator. Any General class wrecker service which does not have storage facilities shall be exempt from the provisions of this subparagraph.

- (C) On-Hook or In-Tow - Not less than Fifty Thousand Dollars (\$50,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

**(2) Class AA-TM**

- (A) Bodily Injury and Property Damage - Not less than Two Hundred Thousand Dollars (\$200,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.
- (B) Garagekeeper's Legal Liability - Not less than One Hundred Thousand Dollars (\$100,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator.
- (C) On-Hook or In-Tow - Not less than One Hundred Thousand Dollars (\$100,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

**(3) Class AA-TL**

- (A) Bodily Injury and Property Damage - Not less than Three Hundred Thousand Dollars (\$300,000.00) combined single limit coverage for bodily injury and/or property damage as a result of the operation of the wrecker vehicle and/or as a result of the on-hook vehicle causing the bodily injury and/or property damage.
- (B) Garagekeeper's Legal Liability - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in Garagekeeper's Legal Liability with a deductible no greater than five hundred dollars (\$500.00), which must include comprehensive perils to the towed vehicle while being stored by the wrecker operator.
- (C) On-Hook or In-Tow - Not less than One Hundred Fifty Thousand Dollars (\$150,000.00) in On-Hook or In-Tow Coverage with a deductible no greater than Five Hundred Dollars (\$500.00), which must include comprehensive perils and collision to the towed vehicle while it is being towed by the wrecker operator.

- (4) **All Wrecker Classes. Bailee Coverage** - Not less than Two Thousand Five Hundred Dollars (\$2,500.00) for loss of contents of the vehicle with a deductible not greater than Five Hundred Dollars (\$500.00).

- (d) **Judgment.** Any final judgment rendered by a court of competent jurisdiction against a wrecker service or an owner or employee thereof, arising out of any services provided by the operator of or any employee of the wrecker service, including towing or storage of towed vehicles, must be satisfied within thirty (30) days. If such judgment is not timely satisfied, the wrecker license shall be revoked, and such revocation shall remain in effect until the judgment is satisfied. Provided, however, a release or written agreement signed by the judgment creditor and approved by the Department shall reinstate eligibility. Provided, if judgment is covered by insurance up to the amount and to the extent required in the rules, this Subsection shall not apply.
- (e) **Carrier certification.** The insurance company of each wrecker service shall certify to the Department on a form prescribed by the Department that the insurance company will notify the Department in writing at least ten (10) days before the date the company cancels such policy.
- (f) **Insurance information.** An operator shall provide contact and other pertinent information regarding the insurance company and policy covering the wrecker service to any person who might be eligible to file a claim against the operator's insurance policy.
- (g) A notice from the insurance company to the Department of insurance cancellation for non-payment of the premium shall be sufficient reason for suspension of the wrecker service license.



## 595:25-5-5. Records

- (a) Each operator shall comply with the provisions of 47 O.S. §4-105(c) and provide a thirty (30) day vehicle report to the Department. A junk vehicle may be reported beginning on the fifth day of storage of the junk vehicle, and the vehicle report shall be notated with the word "JUNK".
- (b) Each operator shall maintain, on a form prescribed by the Department, a record system covering all services performed in pulling or towing all vehicles impounded for law enforcement or at the request of private property owners, and such records shall include the following:
  - (1) The day and time the operator was contacted and requested to perform the service.
  - (2) The name of the person requesting this service.
  - (3) The location of the vehicle.
  - (4) A description of the towed vehicle, including license tag and vehicle identification number.
  - (5) The owner or driver of the vehicle when known.
  - (6) The service charge and fees.
- (c) The operator shall maintain said records for at least three (3) calendar years from the date the records are created.
- (d) All records herein shall be stored in a manner which makes such records readily retrievable for inspection or examination of an individual record by the Department.
- (e) Every operator shall cooperate with the Department whenever the Department requests copies of or finds it necessary to review, audit, examine, or investigate any records relating to the operation of the wrecker service.

## 595:25-5-6. Schedule of rates and fees [REVOKED]

## 595:25-5-7. Tow request and authorization forms [AMENDED]

- (a) Only Class AA wreckers are authorized to remove abandoned vehicles from real property. [47 O.S. § 954A] Wrecker services shall complete the Tow Request and Authorization Form prior to removal of abandoned vehicles from real property.
- (b) One copy of the Tow Request and Authorization Form shall be forwarded to the Department of Public Safety, Wrecker Services Division, P. O. Box 4441553004, Oklahoma City, Oklahoma 7313673152, and the local law enforcement agency with jurisdiction over the area where the vehicle was removed, within seventy-two (72) hours from time of removal. A facsimile or email of the *Tow Request and Authorization Form shall be considered the original form if a printed or digital confirmation of the facsimile transmission is available.* [47 O.S. § 954A- F]
- (c) The Tow Request and Authorization Form can be obtained from the Wrecker Services Division, Department of Public Safety, Oklahoma City, Oklahoma 73136. Disposition of copies are as follows:
  - (1) Original copy to the Department of Public Safety. Facsimile in lieu of the original will be accepted.
  - (2) One copy to the local law enforcement agency.
  - (3) One copy to be retained by the wrecker service.
  - (4) One copy to the real property owner, legal possessor, or agent.
- (d) Each wrecker operator shall be responsible for verifying the identity of the person signing the tow request and authorization form and shall put the driver license number or state-issued identification card number of that person on the tow request and authorization form.
- (e) No licensed Class AA wrecker service or operator of a licensed Class AA wrecker service shall tow or cause to be towed a vehicle from the real property until this form has been appropriately completed by the parties.
- (f) *The Tow request and authorization form shall be completed with the following information:*
  - (1) *A description of the vehicle, including the type of vehicle, year of manufacture, name of the manufacturer, vehicle color or colors, identification number and license tag number.*
  - (2) *The name, address, and business telephone number of the licensed Class AA wrecker service.*

- (3) *The name, address, telephone number and driver license number or state-issued identification card number of the real property owner, legal possessor, or authorized agent.*
- (4) *Inventory of personal property within the vehicle to be towed, if no inventory is completed, the reason shall be clearly stated on the form.*
- (5) *Time and date the form is completed; and*
- (6) *Signatures of the driver of the wrecker vehicle and of the owner, legal possessor, or authorized agent of the real property. They shall jointly, and each in the presence of the other, inventory personal property found within or upon the vehicle.*
- (g) *A copy of the completed Tow Request and Authorization Form shall be retained by the signatories and the licensed Class AA wrecker service shall maintain the wrecker vehicle driver's copy for not less than one (1) year.*
- (h) *Upon completion of the tow the Class AA wrecker service shall perform the following:*
  - (1) *Within three (3) business days of the time indicated on the form, request the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the current owner and/or lien holder of the vehicle.*
  - (2) *Within seven (7) days from receipt of the requested information from the Oklahoma Tax Commission or other motor license agent, send a notice of the location of the vehicle by certified mail, postage prepaid, at the addresses furnished, to the owner and any lien holder of the vehicle.*
  - (3) *If the licensed Class AA wrecker service has not complied with the notification procedures required in this section, the owner or lien holder shall not be required to pay for storage of the vehicle per Title 47 § 954A (G).*

#### **595:25-5-8. Conflicts of interest**

There shall be no conflict of interest between the wrecker service and the owner or legal possessor, or the agent of the owner or legal possessor, of real property from which a vehicle is towed or may be towed by a wrecker service. The operator of a wrecker service, or any employee thereof, shall not offer or attempt to offer to or shall not request or accept from the owner, legal possessor, or agent any gratuity, kickback, exchange or promise of services, incentive, or any other thing of value.

#### **595:25-5-9. Inspections**

- (a) **Availability of Records.** The wrecker operator, manager, or their representative must make available to the inspection officer all records, notices and other documents required by these rules. Due to possible noncompliance or complaint, the inspection of the facility or tow trucks may be required. May include an inspection of any and all tow trucks and inspection of records, tow authorizations, thirty (30) day reports and facilities. Upon completion of the inspection, the operator, manager, or representative shall be given a contact report that will provide the results of the inspection. A date and Time will be provided to make corrective action and a follow up inspection will be performed to assure compliance.
- (b) **Initial Inspection.** Will include inspection of all tow trucks and any or all storage facilities. Any tow truck meeting FMCSA requirements of single or combination weight limits of 26,001 GVWR, shall provide a copy of the DOT inspection, per 49 C.F.R. § 396.17, before the Department of Public Safety inspection can be performed. This will apply to the initial inspection or if the truck requires a re-inspection

## SUBCHAPTER 7. CLASS AA OPERATORS

595:25-7-1 Equipment Requirements for All Class AA Vehicles

595:25-7-2 Releasing and Holding of Vehicle

### **595:25-7-1. Equipment requirements for all Class AA vehicles**

(a) Each Class AA wrecker vehicle shall be equipped as required by OAC 595:25-5-2.

### **595:25-7-2. Release and holding of vehicle**

- (a) **Release.** The Class AA wrecker operator shall at all times have a capable person available to release impounded or stored vehicle within one (1) hour. As per 47 O.S. § 955, any vehicle impounded by law enforcement shall not be released to the owner until that owner provides proof of valid insurance or an affidavit of nonuse on the roadway. In the event an insurer or a representative of the insurer who has accepted liability for the vehicle requests the release, no proof of valid insurance or affidavit of nonuse on the roadway shall be required.
- (b) **Exceptions to release of impounded or stored vehicles.**
- (1) Officers may have a legitimate need and reason to preserve the secured status of an impounded or stored vehicle, including but not limited to:
    - (A) Failure to pay taxes due the State.
    - (B) Forfeiture proceedings under the Controlled Dangerous Substances Act [63 O.S., § 2-506].
    - (C) Evidentiary proceedings.
    - (D) Failure to provide proof of insurance
    - (E) The vehicle has been used in the commission of a felony offense. [47 O.S., § 955(A)(6)]
  - (2) In the event an officer determines a need exists to preserve the secured status of an impounded or stored vehicle, the officer may direct the operator to place a hold thereon, which the operator shall honor, subject to the following procedures.
  - (3) If the hold is because taxes due the State have not been paid, the operator shall not release the vehicle until the owner, or another person as described in OAC 595:25-5-3(13), has furnished proof from the Oklahoma Tax Commission or a motor license agent to the operator that the vehicle has been duly registered, and the license fee has been paid before the vehicle may be released to the owner. Inquiry regarding this law may be made to the Oklahoma Tax Commission.
  - (4) If the stated reason for the hold is a forfeiture proceeding under the Uniform Controlled Dangerous Substance Act, the operator may not release the vehicle unless authorization is received either from the District Attorney's Office of the county from which the vehicle was impounded or from the impounding officer.
    - (A) If, after the expiration of seventy-two (72) hours from the time of impoundment (excluding Saturday, Sunday and legal holidays), the operator has not received either the court case number under which a forfeiture proceeding has been accepted and filed or a release of the hold from the impounding officer, the operator shall contact the law enforcement agency storing the vehicle, between 7:00 a.m. and 12:00 noon following such seventy-two (72) hours period, advising the ranking supervisor on duty or dispatcher of the following information:
      - (i) That the vehicle is being held for the filing of forfeiture proceedings.
      - (ii) That no court case number of forfeiture proceedings has been received.
      - (iii) Description of vehicle, including tag and vehicle identification number.
      - (iv) Vehicle owner, if known.
      - (v) County from which the vehicle was impounded.
      - (vi) Name of impounding officer.
      - (vii) Name and telephone number of operator submitting the above information.
    - (B) The supervisor may direct the impounding officer to verify the decision of the District Attorney and to notify the operator:

- (i) Of the forfeiture proceedings style and case number; or
  - (ii) That the hold is canceled because the District Attorney has declined forfeiture proceedings and therefore, the vehicle may then be released in accordance with (a) and (b) of this Section.
- (C) Any vehicle seized or stored for forfeiture proceedings under the Uniform Controlled Dangerous Substance Act is considered to be in the custody of the District Attorney of the county where the property was seized [63 O.S., § 2-506 (K)] and therefore the operator may contact that office regarding any matter relating to such vehicle, in addition to the foregoing procedure.
- (5) If the hold is for evidentiary proceedings or for any stated reason other than taxes or forfeiture described above, or if the officer fails to state a reason, then the hold shall expire forty-eight (48) hours from the time of impoundment (if not released earlier by the officer), and the operator shall not honor the hold beyond the forty-eight (48) hour period without express direction of the law enforcement agency storing said vehicle. The vehicle may then be released in accordance with the provisions of this Chapter.
- (c) **Court orders regarding impounded or stored vehicles.** If any rule provided, herein conflicts with a court order served upon the operator relating to impoundments, release, storage, or other matter relating to the wrecker service, the court order shall take precedence.
- (d) **Release to another wrecker service.** When a wrecker service is to lawfully obtain a vehicle from another wrecker service which originally towed the vehicle, the original wrecker service shall:
- (1) allow the other wrecker service to enter its premises and remove the vehicle, or
  - (2) if the original wrecker service does not allow the other licensed wrecker services or registered owner or agent on its premises to make the tow, the original wrecker service shall properly tow the vehicle to a mutually agreeable site in order to transfer the vehicle to the requesting wrecker service.

## SUBCHAPTER 9. OKLAHOMA HIGHWAY PATROL ROTATION LOG - ADDITIONAL REQUIREMENTS

595:25-9-1 Oklahoma Highway Patrol Rotation Log

595:25-9-2 Operator Requirements

595:25-9-3 Rotation Calls for Truck Wreckers (Class AA-TL)

### **595:25-9-1. Oklahoma Highway Patrol Rotation Log**

- (a) **Official Rotation Log.** The Department of Public Safety maintains two (2) official Oklahoma Highway Patrol Rotation Logs, a Class AA wrecker log, and a Class AA-TL wrecker log, each of which shall consist of licensed wrecker services for the performance of services carried out pursuant to the request of or at the direction of any officer of the Department [47 O.S. § 72-952 (D)].
- (b) **Request for Placement on the Rotation Log.** A licensed Class AA wrecker service desiring to be placed on the Highway Patrol Rotation Log in the Highway Patrol Troop District in which the place of business and the primary storage facility of the wrecker service is located shall file a written request with the Department, pursuant to (e) of this Section. [47 O.S. § 72-952 (D)]
- (c) **Assignment to the Rotation Log.** If a request for placement on the Rotation Log is approved by the Department, the wrecker service shall be assigned by the Department to the Highway Patrol Troop District specified on the request. Both the Troop Commander of the Troop District and the wrecker service will be notified by the Department of the assignment of the wrecker service to the Rotation Log.[47 O.S. § 72-952 (D)]
- (d) **Call Assignment.** Oklahoma Turnpike Authority rotation log will be determined, for placement on rotation, by using any operator business location within 10 road miles of a gate entry. Must be capable to respond promptly to the scene, open at least one lane promptly, clear and clean the incident sight within the shortest time possible. Calls will be assigned to the wrecker nearest in time or distance to the incident scene for quick clearance.
- (e) **Geographical Areas of Rotation.** [47 O.S. § 72-955 (C)]
  - (1) The Commissioner's designee of the Wrecker Services Division shall be responsible for establishing geographical areas of rotation within the Troop District to which wrecker services on the District's Rotation Log will be assigned for operation when responding to calls for service from the Rotation Log. The Commissioner's designee shall notify each wrecker service of the geographical area of rotation to which it is assigned.
  - (2) The Commissioner's designee will establish each geographical area of rotation based upon a reasonable radius from the primary storage facility of each wrecker service operating within the geographical area. The reasonable radius will be determined by the Commissioner's designee based upon:
    - (A) The estimated time it will take the wrecker service to respond to calls for service,
    - (B) The number of wrecker services available on the Rotation Log,
    - (C) Conformity with 47 O.S. § 72-955 (C),
    - (D) Consideration of the economic impact of the wrecker services rates and fees, as prescribed by the Corporation Commission, on the owner or lien holder of the vehicle; and
    - (E) Other factors within the Troop District as deemed appropriate by the Commissioner's designee.
  - (3) The Commissioner's designee may overlap geographical areas of rotation whenever necessary to ensure adequate response to requests for wrecker services.
  - (4) The Commissioner's designee may modify geographical areas of rotation for the Troop District at any time and for just cause but shall notify as soon as practicable each wrecker service affected of such modifications.

- (5) The Commissioner's designee may extend any geographical area of rotation by a reasonable radius beyond the boundaries of the Troop District to include on the rotation log of the District a wrecker service:
  - (A) Which is located outside of but in proximity to the boundary of the District, and
  - (B) Upon receiving notification from the Department of the approval of the wrecker service for placement on the rotation log for the District of the Commander.
- (6) Nothing in this Section shall prohibit the Troop Commander from using the services of any licensed wrecker service:
  - (A) Outside of its assigned geographical area of rotation, or
  - (B) Which has not been assigned to the Rotation Log of the Troop District.
- (f) **Forms.** A request for placement on any rotation log shall be filed by the wrecker service with the Department of Public Safety on a form prescribed and provided by the Department [47 O.S. § 72-952 (D)]. When requesting placement on a rotation log, the wrecker service shall provide on the request one (1) telephone number to be used for request of services during the day and one (1) telephone number to be used for request of services during the night, specifying the time period of normal use; these numbers shall also be on file with the Wrecker Services Division. Any change in the telephone numbers shall be immediately transmitted to:
  - (1) The Troop Commander(s) of the Oklahoma Highway Patrol Troop District(s) on whose Rotation Log the wrecker service has been assigned, and
  - (2) The Wrecker Services Division of the Department of Public Safety.
- (g) **Request for Removal from the Rotation Log.** A licensed Class AA wrecker service desiring to be removed, whether temporarily or permanently, from the Highway Patrol Rotation Log on which it was placed, pursuant to this section, shall file a written request with the Department. The wrecker service shall not contact the Troop Commander(s) of the Troop District(s) for removal from the Rotation Log.

#### **595:25-9-2. Operator requirements**

Operators on the Rotation Log shall comply with the following:

- (1) When more than one (1) vehicle is towed on one (1) call, each tow shall be counted as another call to that operator.
- (2) When an operator receives a request for services from the Oklahoma Highway Patrol and no services are rendered, the operator shall not lose position on the Rotation Log.
- (3) If an operator has received a request for services but does not respond to the scene within a reasonable length of time, including but not limited to such factors as distance from the scene, weather, and nature of the collision or traffic tie-up, the Oklahoma Highway Patrol may request the services of the next operator on the Rotation Log. Under these circumstances, the operator who receives the first request shall lose position on the Rotation Log.
- (4) When an emergency condition exists, the Oklahoma Highway Patrol reserves the right to request the services of any appropriately equipped and licensed wrecker service best able to handle the emergency and can reach the scene in the shortest time, regardless of the operator's position on the Rotation Log. Said call shall count as a call on the Rotation Log.
- (5) Only one (1) wrecker service shall be approved for Highway Patrol rotation at any one place of business and/or storage facility, unless otherwise approved by the Commissioner.
- (6) Wrecker services shall respond to Highway Patrol requests only in a wrecker vehicle licensed to the requested wrecker service, unless otherwise approved by the Commissioner.
- (7) Every wrecker service on the Highway Patrol Rotation Log shall maintain twenty-four (24) hour service.
- (8) A wrecker service called from the Highway Patrol Rotation Log shall not accept a request for services unless the operator has a vehicle immediately available to perform the requested service.
- (9) Each operator shall require each driver responding to a request to maintain the appropriate driver license for the type of vehicle being operated.

- (10) Each operator shall require each driver to obey in good faith the rules of the road.
- (11) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.
- (12) Every operator shall accept each Oklahoma Highway Patrol call unless there exists a valid reason for refusal. Upon acceptance of a call an operator shall advise dispatch of their current location and estimated time of arrival.
- (13) Each operator shall provide service for a minimum of seventy-five (75%) percent of the requests made by the Highway Patrol to be computed on a quarterly basis. Failure to meet this standard for any reason shall be grounds for removal from the Oklahoma Highway Patrol Rotation Log.
- (14) Any Class AA wrecker operator who uses an answering service as a means of dispatch and who fails to properly respond in a timely manner, as determined by the Commissioner 's designee of the Wrecker Services Division, to a rotation call request may have the Class AA license revoked for failure to properly respond to rotation call requests. The operator shall not be licensed as a Class AA wrecker service while utilizing the same answering service as a means of dispatch.
- (15) Persons responding to calls must be able to speak and understand the English language.
- (16) A wrecker operator shall respond to law enforcement agencies ' wrecker service requests with a wrecker vehicle and operator capable of efficiently uprighting an overturned vehicle, pulling or winching a vehicle back onto the roadway, lifting a vehicle off a victim, or assisting with opening a vehicle to extricate a victim. In addition, the wrecker vehicle shall be equipped to remove a disabled vehicle without inflicting further damage to the disabled vehicle.
- (17) If two or more vehicles are involved in a collision and two or more wrecker services are called the following shall apply:
  - (A) The first wrecker service arriving at the scene will tow the vehicle causing the greatest traffic hazard, which shall be determined by the investigating officer.
  - (B) If a requested wrecker service is first on scene, said wrecker service will assist in removing the vehicle causing the traffic hazard from roadway, then will proceed to pick up the vehicle it has been requested to tow.
- (18) Any wrecker service having a wrecker vehicle with major or critical mechanical failure or failing to meet equipment requirements, which does not have another wrecker vehicle of the same classification approved for rotation, shall become temporarily unavailable for rotation until the wrecker vehicle has been approved to return to service or a new wrecker vehicle of the same classification has been inspected, if necessary, and approved by the Department.
- (19) A wrecker service shall become temporarily unavailable for rotation if there is no approved Certificate of Insurance (WA) filing on file with the Department for the wrecker service or wrecker vehicles approved for rotation.
- (20) Any wrecker service with a wrecker vehicle displaying an expired tag, which does not have another wrecker vehicle of the same classification approved for rotation, shall become temporarily unavailable for rotation until the wrecker license plate has been renewed and is properly displayed on the wrecker vehicle.
- (21) When a request for service has been cancelled by Oklahoma Highway Patrol dispatch, the operator shall not continue to the scene of the requested service. The operator shall not lose its position on the rotation log.

**595:25-9-3. Rotation calls for truck wreckers (Class AA-TL)**

- (a) Rules governing the rotation calls for Class AA-TL truck wrecker operators shall be the same as the rules governing the rotation calls for all other Class AA wrecker operators, except that in the case of truck wreckers the involved Trooper and/or the dispatcher shall have and be free to exercise his or her discretion as provided for in this section. If, in the judgment of any involved trooper and/or dispatcher, a Class AA-TL truck wrecker operator within a service area is needed because of an emergency situation, such wrecker service may be called without regard to position on the truck wrecker log except in relation to other operators also meeting the additional Class AA qualities in the service area.

- (b) The large trucks and operators shall be capable and expected
- (1) to clear a lane of traffic within one (1) hour upon arrival on the scene unless an extreme circumstance exists, using Traffic Incident Management (TIM) standards for the safety of the public and responders,
  - (2) have recovery and remediation resources immediately available to assist in clearing the scene as safely and as quickly as possible; and
  - (3) shall coordinate and participate in the recovery, towing and cleanup. Participation does not include only traffic management.



# SUBCHAPTER 11. DENIAL, SUSPENSION, REVOCATION OR CANCELLATION OF LICENSE; DENIAL OR REMOVAL OF CLASS AA OPERATORS FROM ROTATION LOG OF THE OKLAHOMA HIGHWAY PATROL

595:25-11-1 Failure to Qualify

595:25-11-2 ~~Violation of Rules~~ Violations [AMENDED]

595:25-11-3 Procedure [AMENDED]

## **595:25-11-1. Failure to Qualify**

The Department may deny or cancel the license, and/or remove from the Rotation Log, as applicable, any operator who fails to qualify therefore as provided in the rules of this Chapter and the laws of 47 O.S.

## **595:25-11-2. ~~Violation of Rules~~ Violations [AMENDED]**

- (a) ~~The Department may deny, suspend, cancel, or revoke the license, and/or remove from the Rotation Log, as the case may be, any operator who has committed a violation of the rules of this Chapter or the laws of 47 O.S.~~ any applicable laws of the State of Oklahoma, any applicable rules of the Department of Public Safety, and any applicable rules and orders of the Corporation Commission.
- (b) ~~The Department may institute, when circumstances warrant for offenses which occur within four (4) years of each other and as prescribed in OAC 595:25-11-3, a system of progressive discipline of any wrecker service which shall consist of:~~
- ~~(1) For a first offense as provided in (a), a letter of reprimand,~~
  - ~~(2) For a second offense as provided in (a), a suspension of the wrecker service license from the OHP rotation log for ten (10) days if applicable, and~~
  - ~~(3) For a third offense as provided in (a), a suspension of at least thirty (30) days and no more than ninety (90) days.~~ consider the following factors when determining the sanction for a violation as described in this section:
    - (1) The severity of the alleged violation.
    - (2) The Wrecker Service's history of compliance or non-compliance.
    - (3) The Wrecker Service's demonstrated willingness and ability to avoid future violations.
- (c) If the Commissioner, upon review of a report of the Commissioner's Designee related to a violation as described in this section determines the public health, safety, or welfare requires emergency action, summary suspension of the Wrecker Service license may be ordered pending a hearing. A hearing will be scheduled within three (3) business days of the date of the order of summary suspension.

## **595:25-11-3. Procedure [AMENDED]**

~~In the event that the Department has determined that a license should be denied, suspended, revoked, or canceled, or that an operator should be denied or removed from the Rotation Log for any reason, or both, the following procedures shall apply in accordance with the Administrative Procedures Act, 75 O.S. § 309, et seq.~~ This section does not apply to summary suspensions.

- ~~(1) The Department shall send by first-class mail Notice of Department Action containing all information required by 75 O.S. § 309, et seq., to the concerned applicant or operator at the last known address as reflected by the records of the Department. The Department shall follow up the mailed Notice with a documented telephone call to the telephone number on file with the Department for the wrecker service to ensure the wrecker service has received and understands the Notice.~~
- ~~(2) The notice shall provide that the effective date of the Department action shall become effective fifteen (15) days after date of mailing to the applicant or operator, unless the applicant or operator timely files a written request for a hearing with the Department of Public Safety, Wrecker Services Division as determined by the Commissioner or Commissioner's Designee, based upon the seriousness of the infraction. When an applicant or operator requests a hearing in writing with the Wrecker Services~~

Division, the Department action may be suspended until a hearing is held. Such request for hearing shall be timely when filed prior to the effective date of the Department Action.

- (3) If a timely hearing is requested, the hearing shall be scheduled within forty-five (45) days from the date the Department receives the request.
- (4) The Department hearing officer shall be designated by the Commissioner, and each party shall be afforded an opportunity to be heard and to present evidence.
- (5) The hearing officer shall render a decision based upon the law and the evidence presented and shall enter an appropriate final order regarding the matter. Each party shall be promptly notified either personally or by mail.
- (6) Unless the hearing officer timely receives a written request for a rehearing, reopening or reconsideration of the decision as provided by the Administrative Procedures Act, the final order will become effective ten (10) days after the entry of the decision.
- (7) If an applicant operator fails to appear at the scheduled hearing without good cause, the hearing officer shall record the nonappearance and enter a final order reflecting the effective date prescribed in (2) of this Subsection, in lieu of the decision and final order as prescribed in (5) and (6) of this Subsection. Each party shall be promptly notified thereof either personally or by mail.
- (8) If the Department representative fails to appear without good cause, the hearing officer shall record the nonappearance and enter a final order of dismissal of the Department Actions. The order of dismissal shall be without prejudice if the basis for the action constitutes noncompliance or a continuing violation of these rules. Each party shall be promptly notified thereof either personally or by mail.
- (9) Where a timely written request for a rehearing, reopening or reconsideration of the case is received, the Department Action shall be stayed until ten (10) days after an order is issued concerning the request for rehearing, reopening or reconsideration of the case.
- (10) Notwithstanding (2) through (9) of this Subsection, Department Action shall become effective immediately where:
  - (A) An original application for a license or placement on the Rotation Log is denied for failure to qualify under this Chapter.
  - (B) The Department finds that the health, safety, or welfare of the public imperatively requires such action and finding to that effect is incorporated in its order, pursuant to the Administrative Procedures Act, 75 O.S. § 314(c).
- (11) Where the Department has determined that a minor disqualification and/or violation exists which may be readily rectified by the applicant or operator, the Department of Public Safety may informally notify such party by mail or telephone of such minor disqualification or violation, with a request for compliance with a specified period of time. If such party fails to rectify the minor disqualification or violation, the Department may proceed according to other provisions of this Subchapter.
- (12) If the applicant or operator is organized as a corporation, a limited liability company, or a partnership, it must be represented by an attorney through all stages of the proceeding. See *Massongill v. McDevitt*, 1989 OK CIV APP 82, *Allen v. City of Chickasha*, 2009OK CIV APP 52, *Cf. Rowland v. Calif. Men's Colony*, 506 U.S. 194, 202-203(1993).

# TITLE 47 MOTOR VEHICLES

## CHAPTER 71 ABANDONMENT OF VEHICLES

### **47 O.S. § 71-901 Abandonment Unlawful – Determination**

It shall be unlawful to abandon a motor vehicle on a highway or other public property. Any member of the Oklahoma Highway Patrol or any qualified sheriff, deputy sheriff or any member of any city police department shall deem a vehicle abandoned and shall have the authority to remove or direct the removal of a vehicle when found upon any portion of the highway, shoulder, or right-of-way, if after a period of forty-eight (48) hours there is no evidence of an apparent owner who intends to remove the vehicle.

### **47 O.S. § 71-902 Authorization to Remove Abandoned Vehicle**

If such officer has reasonable cause to believe a vehicle has been abandoned in a location which would be hazardous to the free flow of traffic or be highly susceptible to damage from vandalism or other harm, he shall have the authority to remove or direct the removal of the vehicle immediately. At the time of ordering the removal of an abandoned vehicle, the authorizing officer shall also determine the sale value of the vehicle and certify that amount on the removal order.

### **47 O.S. § 71-903 Notice of Removal – Civil Liability**

Any such officer who has directed the impoundment of any vehicle, or an authorized person in the employing agency of the officer, shall within seventy-two (72) hours of the impoundment notify the Department of Public Safety of such impoundment. The notice of impoundment shall contain the name and address of the owner, if known, the make, model, vehicle identification number, registration number, date stored, place stored, and the estimated value of the vehicle as determined by the officer. Upon receipt of such notice of impoundment, the Department of Public Safety shall, within seventy-two (72) hours, request Service Oklahoma or other appropriate licensed operators to furnish the name and address of the owner of and any lienholder on the vehicle and shall within three (3) days from receipt of the requested information send a notice to the owner and any lienholder by regular mail, postage prepaid, at the addresses furnished by Service Oklahoma or the licensed operator, of the location of the vehicle. This section shall not be construed to create any civil liability upon the state, any agency of the state or employee thereof for failure to provide such notice to the owner or lienholder.

### **47 O.S. § 71-903A Contesting Validity of Removal or Storage - Request for Hearing**

- A. After the removal or storage of any abandoned or wrecked vehicle at the request of a public agency, the registered or legal owner of the vehicle, or their agent, may contest the validity of the removal or storage, by filing a written request for a hearing with the public agency. The written request may be filed before or after the vehicle is retrieved from the storage operator. Provided, however, the public agency shall not be required to conduct a hearing if the request is received more than ten (10) days following actual or constructive notice to the owner or driver of the vehicle that said vehicle has been so removed or stored. Any such hearing shall be scheduled within seventy-two (72) hours of the request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as the hearing officer is not the same person who directed the removal or storage of the vehicle. The public agency may, with the consent of the person requesting the hearing, schedule the hearing by telephone and conduct the hearing on the merits by telephone conference call. The hearing officer shall apply the law to the evidence and make a determination whether the vehicle removal and storage was justified. If deemed unjustified, the public agency shall bear the cost of hookup and tow mileage, and the operator shall waive all storage costs in such cases as a condition of eligibility to respond to a service call request from a public agency. The vehicle owner or agent shall not be charged any type of fee or costs relating to impoundment or storage in such case. If the tow and storage is deemed justified, the owner or agent shall bear the cost of reasonable tow and storage. In either case, prior to the release of the vehicle to the owner or agent, proof of security or an affidavit that the vehicle will not be used on public highways or public streets, as required pursuant to Section 7-600 et seq. of this title, shall be furnished to the public agency.

- B. Failure of either the registered or legal owner, or their agent, to timely request or to timely appear upon a scheduled hearing shall satisfy the hearing requirement of this section.
- C. The hearing conducted by the public agency pursuant to this section shall not be governed by the Administrative Procedures Act, Section 301 et seq. of Title 75 of the Oklahoma Statutes. The owner of a stored vehicle may, either in lieu of such hearing or after such hearing, file a petition in the district court of the county wherein the vehicle is stored. The district court is vested with original jurisdiction to conduct a de novo hearing and determine the validity of removal and storage.
- D. The provisions of this section shall not apply to the removal of vehicles abated pursuant to Section 954A of this title.

#### **47 O.S. § 71-904 Payment of Cost of Removal and Storage**

The owner of a motor vehicle or lienholder of the vehicle abandoned in violation of Section 901 et seq. of this title, or the owner of any vehicle or lienholder of the vehicle or insurer accepting liability for paying a claim on a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner which shall have been lawfully removed from any highway or other public property may regain possession of the vehicle in accordance with regulations of the Department of Public Safety upon payment of the reasonable cost of removal and storage of such vehicle. The operator is authorized to collect all lawful fees from the owner, lienholder that seeks possession of a vehicle under a security interest, agent, or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner of the towed vehicle for the performance of any and all such services. An operator shall release the vehicle from storage upon authorization from the owner, agent, or lienholder of the vehicle or in the case of a total loss, the insurer accepting liability for paying the claim on the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale. In the case of death or incapacitation of the owner of a motor vehicle, the operator may release the vehicle to a legal representative or an immediate family member who is within the first or second degree of consanguinity or affinity. The legal representative or family member shall provide a notarized affidavit describing his or her relationship to the owner of the motor vehicle and proof of identity in accordance with the Department's rules related to establishing identity.

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

#### **47 O.S. § 71-904.1 Lienholders Meaning Lienholders as Shown on Vehicle Title**

A lienholder as used in Sections 903, 904 and 954A of this title shall mean those lienholders as shown on the vehicle title.

#### **47 O.S. § 71-907 Special Liens**

Every person lawfully in possession of an abandoned vehicle shall have a special lien thereon for the compensation due him from the owner of such abandoned vehicle for all expenses incurred.

#### **47 O.S. § 71-908 Foreclosure of Lien – Notice**

Said lien may be foreclosed by a sale of such abandoned vehicle upon giving notice and in the manner following: The notice shall contain:

- (a) The name of the party bringing action and the name of the owner or any person claiming any interest therein.
- (b) A full description of the vehicle, giving all available information as to the make, year, serial number, license tag with year and the state from which the tag was issued.
- (c) A full statement of all the facts.
- (d) The amount of the claim, giving a full description of the work, labor, storage, or any other costs involved.
- (e) The date, time, and place of the sale.
- (f) The notice shall be posted in three public places in the county in which the vehicle is to be sold at least ten (10) days before the time specified therein for such sale, and a copy of said notice shall be mailed to

the owner and any other person claiming any interest in the abandoned motor vehicle, at their last-known mailing address, by registered mail on the same date of posting said notice.

**47 O.S. § 71-909 Time to Commence Proceedings**

Proceedings for such sale under this act shall not be commenced until ten (10) days after said lien has accrued.

**47 O.S. § 71-910 Return of Sale**

A return of such sale shall be made at the time of sale and proof of posting and mailing of the notice of sale of abandoned vehicle.

**47 O.S. § 71-911 Disbursement of Proceeds from Sale of Abandoned Vehicle**

The proceeds from the sale of an abandoned vehicle made pursuant to Section 908 of this title shall be applied in the following order:

- (1) To the reasonable cost incurred in the sale of the abandoned vehicle.
- (2) To the satisfaction of the special lien provided for in Section 907 of this title.
- (3) To the satisfaction of any indebtedness secured by a subordinate security interest or lien in the vehicle.
- (4) To the owner if such owner is known, and if such owner or the address of such owner is not known, to Service Oklahoma to be remitted to the State Treasurer and by him deposited in the General Revenue Fund.

## CHAPTER 72 WRECKERS AND TOWING SERVICES

### 47 O.S. § 72-951 Definitions

As used in Sections 951 through 965 of this title and Sections 1 through 3 of this act:

1. "**Wrecker or wrecker vehicle**" means any motor vehicle that is equipped with any device designed to tow another vehicle or combination of vehicles. The use of the term "wrecker" or "wrecker vehicle" shall be construed to include a combination wrecker or combination wrecker vehicle, as defined in paragraph 2 of this section, unless a specific differentiation is otherwise described.
2. "**Combination wrecker**" or "combination wrecker vehicle" means any wrecker vehicle which is designed and equipped with two separate and distinct devices to tow simultaneously two or more other vehicles or combinations of vehicles, whether or not both devices are in use simultaneously. One of the devices shall allow another vehicle to be loaded onto and transported upon the wrecker vehicle, and one of the devices shall allow another vehicle to be attached to and pulled by the wrecker vehicle.
3. "**Tow**" or "**towing**" means the use of a wrecker vehicle to lift, pull, move, haul, or otherwise transport any other vehicle by means of:
  - a. attaching the vehicle to and pulling the vehicle with the wrecker vehicle, or
  - b. loading the vehicle onto and transporting the vehicle upon the wrecker vehicle.
4. "**Rollback equipment**" means a towing device or equipment upon which the towed vehicle is loaded and transported, removing the towed vehicle completely from the surface of the roadway. The term "rollback equipment" shall include car haulers.
5. "**Dolly**" means a towing device or equipment which lifts and suspends one axle of the towed vehicle above the surface of the roadway.
6. "**Wrecker**" or "**towing service**" means engaging in the business of or performing the act of towing or offering to tow any vehicle, except:
  - a. where the operator owns the towed vehicle and displays on both sides of the wrecker vehicle in plainly visible letters not less than two (2) inches in height the words "NOT FOR HIRE",
  - b. where the service is performed by a transporter as defined in Section 1-181 of this title,
  - c. where service is performed in conjunction with the transportation of household goods and property,
  - d. where the wrecker vehicle is owned or operated by the United States government, the State of Oklahoma, or any department or political subdivision thereof, or
  - e. where the service is performed by an out-of-state wrecker service at the request of the vehicle owner or operator, the vehicle is not involved in a collision, and is being towed:
    - (1) in either direction across the border between Oklahoma and a neighboring state, or
    - (2) through Oklahoma in transit to another state, provided, the out-of-state wrecker service shall comply with all other requirements regarding interstate commerce as set forth in law.
7. "**Commissioner**" means the Commissioner of Public Safety.
8. "**Commission**" means the Corporation Commission.
9. "**Department**" means the Department of Public Safety.
10. "**Nonconsensual tow**" means the transportation of a vehicle without the consent or knowledge of the vehicle's owner, possessor, agent, insurer, lienholder, or any other person in possession of or in charge of any vehicle and includes the transportation or towing of the vehicle under lawful circumstances or necessity for the public interest including removing from the roadway for public safety or public convenience, or accidents, by any law enforcement officer or property agent or removal from public or private property as a result of abandonment or unauthorized parking by the property owner, agent, possessor, or other legal entity for the property owner;
11. "**Operator**" means any person owning or operating a wrecker vehicle or wrecker or towing service.
12. "**Officer**" means any duly authorized law enforcement officer.

13. "**Roadway**" means any public street, road, highway or turnpike or the median, easement, or shoulder of a roadway.
14. "**Service call**" means the act of responding to a request for service with a wrecker vehicle in which a service is performed; and
15. "**Vehicle**" shall:
  - a. have the same meaning as defined in Section 1-186 of this title, and
  - b. for the purposes of this chapter when referring to a vehicle or combination of vehicles being towed or stored, include a vessel. The term "vessel" shall have the same meaning as defined in Section 4002 of Title 63 of the Oklahoma Statutes

**47 O.S. § 72-952 Rulemaking Authority – Requests for Service by Political Subdivisions – Official Rotation Logs**

- A. Except for the rates established by the Corporation Commission and other provisions as provided for by law, the Department of Public Safety shall have the power and authority necessary to license, supervise, govern, and control wrecker vehicles and wrecker or towing services.
- B. The Department of Public Safety shall adopt and prescribe such rules as are necessary to carry out the intent of Section 951 et seq. of this title. The rules shall state the requirements for facilities, for storage of vehicles, necessary towing equipment, the records to be kept by operators, liability insurance and insurance covering the vehicle and its contents while in storage in such sum and with such provisions as the Department deems necessary to adequately protect the interests of the public, and such other matters as the Department may prescribe for the protection of the public.
- C. Unless otherwise regulated by the governing body of the political subdivision, the wrecker vehicle used to perform wrecker or towing services requested by a political subdivision of this state for removal of a vehicle from public property for reasons listed in Section 955 of this title shall be from the licensed wrecker or towing service whose location is nearest to the vehicle to be towed. Requests for service may be alternated or rotated among all such licensed wrecker or towing services which are located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all such licensed wrecker or towing services located near or in the city limits of such cities shall be considered as being equal distance and shall be called on an equal basis as nearly as possible. The police chief of any municipality and the county sheriff of each county shall keep rotation logs on all requested tows, except where there are insufficient licensed wrecker or towing services available to rotate such services or services are contracted after a competitive bid process. Rotation logs shall be made available for public inspection upon request. Any calls made from cell phones or two-way radios by any law enforcement officer or employee of any municipality or county to any wrecker service shall be listed on the rotation or call logs and made available for public inspection. A wrecker service shall not be removed from rotation without notification to the wrecker operator stating the reason for removal from the rotation log. All notification for removal from a rotation log shall be mailed to the wrecker service owner at least ten (10) days before removal from the rotation log and shall state the procedure and requirements for reinstatement.
- D. Except as otherwise provided in this subsection, the Department and any municipality, county or other political subdivision of this state shall not place any wrecker or towing service upon an official rotation log for the performance of services carried out pursuant to the request of or at the direction of any officer of the Department or municipality, county, or political subdivision unless the service meets the following requirements:
  1. Principal business facilities are located within Oklahoma.
  2. Tow trucks are registered and licensed in Oklahoma; and
  3. Owner is a resident of the State of Oklahoma, or the service is an Oklahoma corporation.

In the event a licensed wrecker or towing service is not located within a county, a wrecker or towing service that is located outside of the county or this state and does not meet the above qualifications may

be placed on the rotation log for the county or any municipality or political subdivision located within the county.

When performing services at the request of any officer, no operator or wrecker or towing service upon the rotation logs shall charge fees in excess of the maximum rates for services performed within this state, including incorporated and unincorporated areas, as established by the Commission.

- E. The Department shall place a licensed Class AA wrecker service on the Highway Patrol Rotation Log in a highway patrol troop district in which the place of business and the primary storage facility of the wrecker service are located upon written request filed by the wrecker service with the Department. Upon further request of the wrecker service, the Commissioner of Public Safety, or the Department employee with statewide responsibility for administration of wrecker services may place a wrecker service on the Highway Patrol Rotation Log in a district adjacent to the district in which the place of business and the primary storage facility of the wrecker service are located if the wrecker service is in proximity to and within a reasonable radius of the boundary of the district. When a wrecker service is placed on the rotation log in a district, the Department shall notify the wrecker service and the troop commander of the district.
- F. The Commissioner of Public Safety or the Department employee with statewide responsibility for administration of wrecker services shall be responsible for establishing geographical areas of rotation within the troop districts and for notifying each wrecker service of the geographical areas of rotation to which the service is assigned.
- G. The Department shall make all rotation logs available for public inspection at the state office and shall make rotation logs for a highway patrol troop district available for public inspection at the district office.

**47 O.S. § 72-953 Licenses to Solicit Business or Make Service Calls - Fee - Expiration and Renewal - Disciplinary Actions - Enforcement Procedures**

- A. No operator shall be permitted, nor shall any employee of any operator be permitted, allowed, or caused to solicit business or make service calls without the operator first having obtained from the Department of Public Safety a license to operate a wrecker or towing service. The number of the license shall be displayed, in conformance with rules of the Department, on both sides of every wrecker vehicle operated by the wrecker or towing service.
- B. The license fee required by this section shall be in lieu of the motor carrier filing fee as required in Section 165 of this title. No applicant for a wrecker license shall be required to prove public convenience and necessity, file notices, nor shall a public hearing be held. The fee for such license shall be Five Hundred Dollars (\$500.00), of which Ninety Dollars (\$90.00) shall be deposited in the General Revenue Fund and Four Hundred Ten Dollars (\$410.00) shall be deposited in the Department of Public Safety Restricted Revolving Fund created pursuant to Section 2-145 of this title for the administration of the Department's Wrecker Services Division and modernization of computer programs. No license fee shall be refunded in the event the license is suspended or revoked.
- C. All licenses shall expire on the last day of the calendar year and may be renewed annually at a cost of Two Hundred Fifty Dollars (\$250.00) upon application to the Department as prescribed by rule. Two Hundred Dollars (\$200.00) of the fees collected in this subsection shall be deposited in the Department of Public Safety Restricted Revolving Fund created in Section 2-145 of this title for the modernization of computer programs and the administration of the Department's Wrecker Services Division and Fifty Dollars (\$50.00) shall be deposited in the General Revenue Fund. No license fee shall be refunded in the event the license is suspended or revoked.
- D. The Department shall issue a letter of reprimand, cancel, suspend, revoke, or refuse to issue or renew the license of an operator when it finds the licensee or applicant has not complied with or has violated any of the provisions of the Nonconsensual Towing Act of 2011, or any rules adopted by the Department. A suspension or revocation shall be for a period of time deemed appropriate by the Department for the violation. Any canceled, suspended, or revoked license shall be returned to the Department by the



operator, and the operator shall not be eligible to apply for another license until the period of suspension or revocation has elapsed.

- E. The provisions of the Administrative Procedures Act are expressly made applicable to the Nonconsensual Towing Act of 2011.
- F. In any civil action to enforce the equal application of the alternation or rotation of wrecker or towing services regulated by a political subdivision of the state, the prevailing party shall be allowed attorney fees determined by the court, to be taxed and collected as costs.
- G. Fees collected pursuant to the provisions of this section shall be remitted to the State Treasurer to be credited to the General Revenue Fund in the State Treasury except as provided by subsection H of this section.
- H. Fees allocated to the Department by this section shall be deposited in the Department of Public Safety Restricted Revolving Fund.

**47 O.S. § 72-953.1 Maximum Fees and Charges for Wrecker or Towing Services**

- A. The rates established by the Corporation Commission shall determine the nonconsensual tow maximum fees and charges for wrecker or towing services performed in this state, including incorporated and unincorporated areas, by a wrecker or towing service licensed by the Department of Public Safety when that service appears on the rotation log of the Department or on the rotation log of any municipality, county or other political subdivision of this state, and the services performed are at the request or at the direction of any officer of the Department or of a municipality, county, or political subdivision. No wrecker or towing service in the performance of transporting or storing vehicles or other property towed as a result of a nonconsensual tow shall charge any fee which exceeds the maximum rates established by the Commission. Such rates shall be in addition to any other rates, fees or charges authorized, allowed, or required by law and costs to collect such fees. Any wrecker or towing service is authorized to collect from the owner, lienholder, agent, or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner of any towed or stored vehicle, the fee required by Section 904 of this title including environmental remediation fees and services.
- B. When wrecker or towing services are performed as provided in subsection A of this section:
  - 1. Each performance of a wrecker or towing service shall be recorded by the operator on a bill or invoice as prescribed by rules of the Department and by order of the Commission.
  - 2. Nothing herein shall limit the right of an operator who has provided or caused to be provided wrecker or towing services to require prepayment, in part or in full, or guarantee of payment of any charges incurred for providing such services.
  - 3. This section shall not be construed to require an operator to charge a fee for the performance of any wrecker or towing services; and
  - 4. The operator is authorized to collect all lawful fees from the owner, lienholder or agent or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner of the towed vehicle for the performance of any and all such services and costs to collect such fees. An operator shall release the vehicle from storage upon authorization from the owner, agent, or lienholder of the vehicle or, in the case of a total loss, the insurer accepting liability for paying the claim for the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.
- C. The rates in subsections D through G of this section shall be applicable until superseded by rates established by the Commission.
- D. Distance rates.
  - 1. Rates in this subsection shall apply to the distance the towed vehicle is transported and shall include services of the operator of the wrecker vehicle. Hourly rates, as provided in subsection E of this section, may be applied in lieu of distance rates. Hourly rates may be applied from the time the wrecker vehicle is assigned to the service call until the time it is released from service either upon return to the premises of the wrecker or towing service or upon being assigned to perform

another wrecker or towing service, whichever occurs first. When the hourly rate is applied in lieu of distance towing rates, the operator may not apply the two-hour minimum prescribed in subsection E of this section nor may hookup or mileage charges, as prescribed in this section, be applied.

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

- a. for distances or portions of distances not specifically provided for in the governing highway map, the actual mileage via the shortest practical route will apply,
- b. in computing distances, fractions of a mile will be retained until the final and full mileage is determined, at which time any remaining fraction shall be increased to the next whole mile,
- c. when, due to circumstances beyond the control of the wrecker or towing service, roadway conditions make it impractical to travel via the shortest route, distance rates shall be computed based on the shortest practical route over which the wrecker vehicle and the vehicle it is towing can be moved, which route shall be noted on the bill or invoice, or
- d. when the wrecker or towing service is performed upon any turnpike or toll road, the turnpike or toll road mileage shall be used to determine the distance rates charged and the turnpike or toll road fees may be added to the bill or invoice.

2. Maximum distance rates shall be as follows:

<u>Weight of Towed Vehicle</u> <u>(In pounds, including equipment and lading)</u>	<u>Distance Towed</u>	<u>Rate Per Mile</u>
Single vehicle: 8,000 or less	25 miles or less	\$3.00
Single vehicle: 8,000 or less	Over 25 miles	\$2.50
Single vehicle: 8,001 to 12,000	25 miles or less	\$3.40
Single vehicle: 8,001 to 12,000	Over 25 miles	\$3.00
Single vehicle: 12,001 to 40,000	Any	\$5.75
Single vehicle: 40,000 or over	Any	\$6.75
Combination of vehicles	Any	\$6.75

#### E. Hourly Rates

1. Rates in this subsection shall apply for the use of a wrecker vehicle and shall include services of the operator of such wrecker, except as provided in paragraph 4 of this subsection. Rates shall apply for all wrecker or towing services performed that are not otherwise provided for in this section, including, but not limited to, waiting and standby time, but shall not include the first fifteen (15) minutes of service following the hookup of a vehicle when a hookup fee is assessed, as provided in subsection F of this section.

Hourly rates shall apply from the time the vehicle or labor is assigned to the service call until the time it is released from service either upon return to the premises of the wrecker or towing service or upon being assigned to perform another wrecker or towing service, whichever occurs first. Whenever a wrecker vehicle is used to tow a vehicle subject to distance rates, as provided in subsection D of this section, hourly rates shall apply only for the time such wrecker is used in the

performance of services other than transportation, except when such hourly rates are used in lieu of such distance rates.

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

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

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

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

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

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.

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

2. Maximum hookup rates shall be as follows:

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

G. Additional Service Rates.

1. Rates in this subsection shall apply to the performance of the following services:
  - a. the disconnection and reconnection of a towed vehicle's drive line when necessary to prevent mechanical damage to such vehicle,
  - b. the removal and replacement of a towed vehicle's axle when necessary to prevent mechanical damage to such vehicle, or
  - c. the use of a dolly or rollback equipment when essential to prevent mechanical damage to a towed vehicle or when neither end of such vehicle is capable of being towed safely while in contact with the roadway.
2. Maximum additional service rates shall be as follows:

<u>Weight of Towed</u> <u>Vehicle (In pounds,</u> <u>including equipment</u> <u>and lading)</u>	<b>Service Performed</b>		
	<u>Disconnect</u> <u>Drive Line;</u> <u>Remove</u> <u>Axle</u>	<u>Reconnect</u> <u>Drive Line;</u> <u>Replace</u> <u>Axle</u>	<u>Use of</u> <u>Dolly or</u> <u>Rollback</u> <u>Equipment</u>
	<b>Rate Per Service Performed</b>		
8,000 or less	\$10.00	\$15.00	\$25.00
8,001 to 12,000	\$15.00	\$20.00	\$30.00
	<b>Rate Per 15 Minutes of Service Performed</b>		
12,001 or over	\$20.00	\$20.00	N/A

- H. An operator shall be required to provide reasonable documentation to substantiate all lawful fees charged the owner, lienholder, agent, or insurer paying the claim for the towed vehicle. Fees for which the operator is being reimbursed or having paid to a third party, shall include copies of the invoice or other appropriate documents to substantiate such payment to said third party.
- I. Wrecker fees, including maximum distance, hourly, and hookup rates shall be adjusted weekly by adding a fuel surcharge as provided in this section. The fuel surcharge shall be based on the Department

of Energy "weekly retail on-highway diesel prices" for the "Midwest region" using Two Dollars (\$2.00) per gallon as the base price with no fees added. The wrecker fees shall be adjusted to allow a one-percent increase in fees for every ten-cent increase in fuel cost starting at Two Dollars and ten cents (\$2.10) per gallon.

- J. When skilled or specialized labor or equipment is required, the cost incurred by the wrecker operator for such skilled or specialized labor or equipment plus an additional twenty-five percent (25%) gross profit markup or gross profit margin shall be allowed to cover overhead costs for such labor and will be added to the invoice or freight bill to be collected in addition to all other applicable charges. This applies to labor and equipment not regulated by the Commission.
- K. Wrecker operators shall be allowed to obtain ownership and insurer information, including accident reports and other public records, from the Oklahoma Tax Commission or other states' motor vehicle agencies or from law enforcement agencies for the purpose of determining ownership and responsibility for wrecker fees. In the event a state of origin is not known, the Department of Public Safety and the Oklahoma Tax Commission shall assist in providing such information. The wrecker operator is authorized to collect lawful fees for such costs and services from the owner, lienholder that seeks possession of a vehicle under a security interest, agent, or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the owner of any towed or stored vehicle.

**47 O.S. § 72-953.2 Determination of Fees and Charges for Storage and After-Hours Release of Towed Vehicles**

- A. The rates established by order of the Corporation Commission shall determine the maximum fees and charges for the storage and after-hours release of nonconsensual towed vehicles, including incorporated and unincorporated areas, by a wrecker or towing service licensed by the Department of Public Safety. No wrecker or towing service shall charge any fee for nonconsensual towed vehicles and storage which exceeds the maximum rates established by the Commission. Such rates shall be in addition to any other rates, fees or charges authorized, allowed, or required by law, including environmental remediation fees and services.
- B.
  - 1. Storage or after-hours release of a towed vehicle, or both, provided by a wrecker or towing service shall be recorded by the operator on a bill or invoice as prescribed by rules of the Department.
  - 2. Nothing herein shall limit the right of an operator who has provided or caused to be provided storage or after-hours release of a towed vehicle, or both, to require prepayment, in part or in full, or guarantee of payment of any charges incurred for providing such services.
  - 3. This section shall not be construed to require an operator to charge a fee for the storage or after-hours release, or both, of any towed vehicle.
  - 4. The operator is authorized to collect all lawful fees from the owner, lienholder or agent of the towed vehicle or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle from the registered owner for the performance of any and all such services. An operator shall release the vehicle from storage upon authorization from the owner, agent, or lienholder of the vehicle or in the case of a total loss, the insurer accepting liability for paying the claim for the vehicle or purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.
- C. The rates in subsections D through F of this section shall be applicable until superseded by rates established by the Commission.
- D. Outdoor Storage Rates.
  - 1. Rates in this subsection shall apply to the outdoor storage of a towed vehicle. Rates may be applied from the time the towed vehicle is brought onto the outdoor storage facility premises. Rates shall apply to each calendar day of outdoor storage; provided, the maximum twenty-four-hour fee, as

provided for in this section, may be charged for any towed vehicle which is stored for a portion of a twenty-four-hour period.

2. Maximum outdoor storage rates shall be as follows.

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

E. Indoor Storage Rates:

1. Rates in this subsection shall apply to the indoor storage of a towed vehicle. Rates may be applied from the time the towed vehicle is brought into the indoor storage facility premises. Rates shall apply to each calendar day of indoor storage; provided, the maximum twenty-four-hour fee, as provided for in this section, may be charged for any towed vehicle which is stored for a portion of a twenty-four-hour period.
2. Maximum indoor storage rates shall be as follows:

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

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

F. After-Hours Release Rate.

1. The rate in this subsection shall apply to the release of a towed vehicle to the owner, lienholder, or agent when such release occurs at a time other than normal business hours.
2. As used in this subsection:
  - a. "after-hours release rate" shall mean the rate charged for the release of a towed vehicle between the hours of midnight and 8:00 a.m., or between the hours of 4:00 p.m. and midnight Monday through Friday, or any time on Saturday, Sunday, or a national holiday, and
  - b. "national holiday" shall mean New Year's Day, Martin Luther King Day, George Washington's Birthday, on the third Monday in February, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day, and shall further include the Friday before such national holiday which falls on a Saturday and the Monday following such national holiday which falls on a Sunday.

3. The maximum after-hours release rate shall be Fifteen Dollars (\$15.00) per quarter hour for the release of any single vehicle or combination of vehicles.
- G. An operator shall be required to provide reasonable documentation to substantiate all lawful fees charged the owner, lienholder, agent, or insurer accepting liability for paying the claim for the towed vehicle or purchasing the towed vehicle. Fees for which the operator is being reimbursed, or having paid to a third party, shall include copies of the invoice or other appropriate documents to substantiate the payment to the third party.

#### **47 O.S. § 72-954 Enforcement**

- A. The Department of Public Safety shall be charged with the duty of enforcing the provisions of Section 951 et seq. of this title for licensed wreckers and towing services operating in this state.
- B. Duly appointed peace officers of the political subdivisions of this state shall have authority to detain and arrest any person operating a wrecker or tow truck or offering towing services to the public for a charge without a valid license issued pursuant to the provisions of Section 951 et seq. of this title. Such officers, upon reasonable belief that any wrecker or tow truck is being operated without proper authority or without a valid license issued pursuant to Section 951 et seq. of this title, shall be authorized to require the operator thereof to stop and exhibit such documentation as may be required to establish his or her authority to tow or transport another vehicle or to prove possession of a valid wrecker or tow service license issued in this state. Any person convicted of operating a wrecker or tow truck or offering towing services to the public for a charge in this state without a license shall be guilty of a misdemeanor and punished with a fine of One Thousand Dollars (\$1,000.00). Law enforcement shall impound the tow truck being used in violation of this section.

#### **47 O.S. § 72-954A Abandoned Motor Vehicle – Removal**

- A. In addition to any procedure provided by local ordinance, whenever the owner or legal possessor of real property or an authorized agent has reasonable cause to believe that a vehicle has been abandoned thereon, said vehicle having been on said property for a minimum of forty-eight (48) hours, or whenever a vehicle is left upon said real property without express or implied permission, such vehicle may be removed as provided in this section.
- B.
  1. The owner, legal possessor or authorized agent may request any licensed Class AA wrecker service within the county wherein the real property is located to remove the abandoned vehicle from the premises by signing a Tow Request and Authorization Form prescribed by the Department of Public Safety and furnished to licensed Class AA wrecker service operators as hereinafter provided.
  2. If the owner, legal possessor, or authorized agent of the property owner is unable to obtain the services of a licensed Class AA wrecker service to remove the abandoned vehicle in a reasonable amount of time, the owner, legal possessor, or authorized agent may contact and request that a licensed Class AA wrecker service from an adjacent county perform the service. A notation shall be made on the Tow Request and Authorization Form that a licensed Class AA wrecker service in the county in which the real property is located was contacted but the licensed Class AA wrecker service was not able to perform the removal in a reasonable amount of time.
- C. A licensed Class AA wrecker service removing an abandoned vehicle pursuant to this section shall be subject to the maximum rates established by the Corporation Commission.
- D. The Department shall design and promulgate a suitable Tow Request and Authorization Form containing space for the following information:
  1. A description of the vehicle, including the type of vehicle, year of manufacture, name of the manufacturer, vehicle color or colors, identification number and license tag number.
  2. The name, address, and business telephone number of the licensed Class AA wrecker service.
  3. The name, address, telephone number and driver license number or state-issued identification card number of the real property owner, legal possessor, or authorized agent.

4. Inventory of personal property within the vehicle to be towed.
5. Time and date the form is completed; and
6. Signatures of the driver of the wrecker vehicle and of the owner, legal possessor, or authorized agent of the real property.

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

- E. The real property owner, legal possessor or authorized agent and the wrecker vehicle driver shall jointly, and each in the presence of the other, inventory personal property found within or upon the vehicle and each shall accordingly sign a statement on the form reflecting this requirement has been fulfilled. In the event an inventory cannot be completed, the reasons therefor shall be clearly stated on the form.
- F. A copy of the completed Tow Request and Authorization Form shall be retained by the signatories and the licensed Class AA wrecker service shall maintain the wrecker vehicle driver's copy for not less than one (1) year, or longer if required by the Department or the Commission. The licensed Class AA wrecker service shall forthwith send the completed original Tow Request and Authorization Form to the Department and the remaining copy of the completed form to the local police department of the municipality in which the real property is located, or the sheriff's office of the county from which the vehicle was towed, if the real property is located outside of an incorporated municipality. A facsimile copy of the Tow Request and Authorization Form shall be considered the original form if a printed or digital confirmation of the facsimile transmission is available.
- G. Within three (3) business days of the time indicated on the form, the licensed Class AA wrecker service shall request the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the current owner of and any lienholder upon the vehicle. The Tax Commission or appropriate motor license agent shall respond in person or by certified mail to the licensed Class AA wrecker service within five (5) business days from the receipt of the request for information. The Department and the Oklahoma Tax Commission shall render assistance to ascertain ownership, if needed. The licensed Class AA wrecker service shall, within seven (7) days from receipt of the requested information from the Oklahoma Tax Commission or other motor license agent, send a notice of the location of the vehicle by certified mail, or if by Department notification, the Department may notify by first-class mail, postage prepaid, at the addresses furnished, to the owner and any lienholder of the vehicle. The owner or lienholder may regain possession of the vehicle in accordance with rules of the Department upon payment of the licensed Class AA wrecker services, costs of certified mailing and the reasonable cost of towing and storage of the vehicle. If the licensed Class AA wrecker service has not complied with the notification procedures required by this subsection, the owner or lienholder shall not be required to pay for storage of the vehicle.
- H. No licensed Class AA wrecker service or operator of a licensed Class AA wrecker service shall tow or cause to be towed a vehicle pursuant to this section until the form furnished by the Department has been appropriately completed by the parties as required by rules of the Department.

#### **47 O.S. § 72-955 Towing of Vehicle from Roadway – Grounds**

- A. Any officer of the Department of Public Safety or any other political subdivision of this state is hereby authorized to cause to be towed any vehicle found upon public roads, highways, streets, turnpikes, private parking lots accessible to the public, other public places or upon any private road, street, alley, or lane which provides access to one or more single-family or multifamily dwellings when:
  1. A report has been made that the vehicle has been stolen or taken without the consent of its owner.
  2. The officer has reason to believe the vehicle has been abandoned as defined in Sections 901 and 902 of this title.



3. The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay.
4. At the scene of an accident, if the owner or driver is not in a position to take charge of the vehicle and direct or request its proper removal.
5. The officer has probable cause that the person operating the vehicle has not been granted driving privileges or that the driving privileges of the person are currently suspended, revoked, canceled, denied, or disqualified.
6. The officer has probable cause that the vehicle has been used in the commission of a felony offense and the officer has obtained a search warrant authorizing the search and seizure of the vehicle.
7. The officer has probable cause that the vehicle is not insured as required by the Compulsory Insurance Law of this state; or
8. The vehicle is involved in a fatal motor vehicle collision and is needed for evidentiary purposes; or
9. A vehicle is left unattended upon any street, sidewalk, alley, or thoroughfare and constitutes a hazard or obstruction to the normal movement of public transit along a rail fixed guideway. An unattended vehicle shall be deemed to constitute an obstruction if any portion of the vehicle remains in that lane utilized for the rail fixed guideway as designated by traffic lane markings or if any portion of the vehicle is outside of the designated parking location and protrudes into the lane of traffic utilized for the rail fixed guideway. For purposes of this paragraph, the head of a political subdivision's transportation division may authorize employees to cause to be towed any vehicle which constitutes a hazard or obstruction to the normal movement of public transit along a rail fixed guideway.

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

- B. A licensed wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer, unless there is failure to exercise reasonable care in the performance of the act or for conduct that is willful or malicious.
- C. Each officer of the Department shall use the services of the licensed wrecker operator whose location is nearest to the vehicle to be towed in all instances in subsection A of this section. The requests for services may be alternated or rotated among all licensed wrecker operators who are located within a reasonable radius of each other. In like manner, the officer shall advise any person requesting information as to the availability of a wrecker or towing service, the name of the nearest licensed wrecker operator, giving equal consideration to all licensed wrecker operators located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all licensed wrecker operators located near or in the city limits of such cities shall be considered as being equal distance and shall be called on an equal basis as nearly as possible. In counties bordering other states, if the officer deems safety and time considerations warrant, the officer may call a wrecker or towing service that is not on the rotation log.
- D. Any officer of the Department who has been requested by a person in need of wrecker or towing service to call a specific wrecker or towing service for such person, and who calls a different wrecker or towing service other than the one requested, without the consent of the person, except where hazardous conditions exist, shall be subject to progressive discipline issued by the Department except in instances where a vehicle is removed from the roadway under the authority of paragraphs 3, 4 and 6 of subsection A of this section.
- E. Operators conducting a tow under this section shall release all personal property within the vehicle to an insurer or representative of the insurer who has accepted liability for the vehicle, or to the registered

owner or the owner's personal representative as designated by the registered owner on a form approved by the Department. The registered owner or representative of the registered owner shall provide proof of identity in accordance with the Department's rules related to establishing identity. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss. Personal property shall include everything in a vehicle except the vehicle, the attached or installed equipment, vehicle keys or devices to start and unlock the vehicle, and the spare tire and tools to change the tire. Interlock devices may be removed pursuant to Section 11-902a of this title. If release of personal property occurs during normal business hours as prescribed by the Corporation Commission, it shall be at no cost to the registered owner or the owner prior to the repossession. After-hour fees may be assessed as prescribed by this Chapter or by the Corporation Commission, when the release of property is made after the prescribed normal business hours.

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

#### **47 O.S. § 72-956 Gifts Prohibited – Financial Interest of Officers**

- A. No operator, employee, or contractor of a wrecker or towing service or of a person or business that derives any business or income from a wrecker or towing service shall offer, and no officer or employee of the Corporation Commission, Department of Public Safety or any political subdivision of the state shall accept, directly or indirectly, any compensation, gift, loan, favor or service given for the purpose of influencing the officer or employee in the discharge of official duties of the person.
- B. Except as provided in subsection C of this section, no officer of the Commission, Department or any law enforcement officer of any political subdivision of the state shall have any interest, financial or otherwise, in a wrecker or towing service, or with a person or in a business that derives business or income from a wrecker or towing service, nor shall a wrecker or towing service or a person or business that derives any business or income from a wrecker or towing service employ such officer.
- C. An officer of the Commission, Department or a law enforcement officer of any political subdivision may have an interest, financial or otherwise, in or may be employed by a wrecker or towing service when the sole purpose and only business of the wrecker or towing service is to perform repossessions of vehicles which are subject to lien and are being repossessed by the lien holder of record.

#### **47 O.S. § 72-957 Independent Employment of Wrecker or Towing Services**

The provisions of Section 951 et seq. of this title shall not preclude any person from employing or contracting with any wrecker or towing service of his own choice, except where hazardous conditions exist.

#### **47 O.S. § 72-958 Violations and Penalties**

Violation of any provision of Section 951 et seq. of this title or any regulation promulgated pursuant hereto shall constitute a misdemeanor, and any person, upon conviction therefor, shall be punished by a fine of not less than One Hundred Dollars (\$100.00) or imprisonment for not more than thirty (30) days in the county jail, or both such fine and imprisonment.

#### **47 O.S. § 72-961 – Referral Fees - Misdemeanor**

It shall be unlawful and constitute a misdemeanor offense for any person, firm, corporation, or association to charge, directly or indirectly, any wrecker service operator any fee or other compensation for referral of service calls to such operator.

#### **47 O.S. § 72-962 Foreclosure of Lien**

- A. Every person legally entitled to compensation for the removal or storage of any vehicle subject to registration, which vehicle's removal has been authorized by any public agency, has a lien on the vehicle, dependent on possession. The lien is deemed to arise on the date of possession of the vehicle.

Any person perfecting a lien under this section shall foreclose this lien according to the provisions for sale under Sections 908 through 911 of this title.

- B. Every owner of such vehicle towed or stored pursuant to Section 955 of this title shall be responsible for the total amount of the debt for services rendered.
- C. Any wrecker or towing service is authorized to collect from the owner, lienholder that seeks possession of a vehicle under a security interest, agent, or insurer accepting liability for paying the claim for a vehicle or purchasing the vehicle as a total loss vehicle, the fee authorized by Section 904 of this title.

**47 O.S. § 72-964 Vehicles Subject to Registration to be Reported if Stored, Parked or Left in Storage or Parking Lot for More than 30 Days**

Whenever a vehicle that is subject to registration in this state has been stored, parked, or left in a garage, trailer park, or any type of storage or parking lot for a period of thirty (30) days, the owner of the garage, trailer park or lot shall, within five (5) days after the expiration of that period, report the make, motor, and serial number of the vehicle to the Department of Public Safety. Provided, these provisions shall not apply where arrangements have been made for continuous storage or parking by the owner of the motor vehicle so parked or stored, and where the owner of said motor vehicle so parked or stored is personally known to the owner or operator of the garage, trailer park, storage, or parking lot. Any person who fails to report a vehicle as required under this act section shall forfeit all claims for storage of the vehicle and shall be subject to a fine not to exceed Twenty-five Dollars (\$25.00), and each day's failure to make a report as required by this section shall constitute a separate offense.

**47 O.S. § 72-965 Duty of Wrecker or Towing Service to Notify Law Enforcement of Repossession of Vehicle**

Any wrecker or towing service that repossesses a vehicle at the request of the lien holder of record shall, within two (2) hours of the time the vehicle is repossessed, notify either the local law enforcement authority or sheriff's office of the county where the vehicle was located. The wrecker or towing service operator shall furnish the law enforcement agency with information concerning the tow including, but not limited to, a description of the vehicle, the physical address or approximate location of where the vehicle was repossessed, the name of the owner of the vehicle and the name of the lien holder of the vehicle. The wrecker or towing service operator shall further be required to provide to the law enforcement agency the name, address and business telephone number of the wrecker or towing service provider.

**Nonconsensual Towing Act of 2011**

**47 O.S. § 72-966 Short Title – Applicability of Act – Authority of Corporation Commission**

- A. This act shall be known and may be cited as the "Nonconsensual Towing Act of 2011".
- B. The provisions of this act shall apply to every wrecker operating within the State of Oklahoma removing and storing vehicles from Oklahoma roads and highways or private property as a result of a nonconsensual tow.
- C. The Corporation Commission, by Commission order, shall have the power and authority necessary:
  - 1. To establish wrecker rates for the transportation and storage of motor vehicles removed due to a nonconsensual tow from Oklahoma roads and highways or private property;
  - 2. To supervise and enforce such rates; and
  - 3. To mediate and adjudicate complaints that may arise from charges assessed as a result of such vehicle removal.
- D. Rates as specified in Sections 953.1 and 953.2 of Title 47 of the Oklahoma Statutes shall remain in effect until rates are established by order of the Commission.
- E. Rates established by the Commission shall be fair and reasonable.
- F. The Commission may assess fines or other penalties to any wrecker or towing service for failure to comply with prescribed rates as established by the Commission, failure to pay a levied assessment or

comply with any applicable order of the Commission. Repeat violations by a wrecker or towing service are cause for revocation of its license issued by the Department of Public Safety.

- G. The Department shall cooperate with the Commission to implement this act and may enter into agreements to facilitate this act.

**47 O.S. § 72-967 Assessment of Annual Fees to be Paid by Licensed Wrecker or Towing Services**

- A. The Corporation Commission is hereby authorized to assess a fee upon each wrecker or towing service licensed by the Department of Public Safety and placed upon an official rotation log, as specified in Section 952 of Title 47 of the Oklahoma Statutes, to perform nonconsensual tows.
- B. Each wrecker or towing service shall pay the assessment, levied pursuant to this section, on an annual basis.
- C. The assessment shall be predicated upon the number of wrecker or towing vehicles utilized by the wrecker or towing service to conduct its Department-licensed operations.
- D. Commencing with assessments made after June 30, 2017, failing to pay the wrecker or towing services assessment by the due date established by the Corporation Commission shall result in an additional penalty of twenty-five percent (25%) per vehicle. The Transportation Division Director, or designee, may waive the penalty for good cause shown. Failure to pay the assessment and penalty within thirty (30) days of the notice of penalty issued by the Corporation Commission shall result in revocation of the wrecker or towing license issued by the Department.
- E. Beginning fiscal year 2013, the Legislature shall establish budgetary limits for the Commission to fulfill the duties of the Nonconsensual Towing Act of 2011. The total assessments levied pursuant to this section shall not exceed the amount of the budgetary limits and indirect costs for related support functions established by the Legislature for any fiscal year. Annual budgetary limits shall stay in effect unless superseded by action of the Legislature.

**47 O.S. § 72-968 Appointment of Unclassified Employees by the Corporation Commission**

The Corporation Commission is authorized to appoint unclassified employees to perform the duties and responsibilities associated with the Nonconsensual Towing Act of 2011.

## CHAPTER 1 DEFINITIONS OF WORDS AND PHRASES

### 47 O.S. § 1-181 Transporter

Every person engaged in the business of delivering vehicles of a type required to be registered hereunder from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer or from the place of business of a dealer, sales agent, or auto auction to a place of business of the same or another dealer, sales agent, or auto auction.

## CHAPTER 4 ANTITHEFT LAWS

### 47 O.S. § 4-105 Stolen, Converted, Recovered and Unclaimed Vehicles

- 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 respective jurisdictions as being stolen or recovered. Such report shall be made as prescribed by the Department.
- B. An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the Department, but the Department may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A person who has so reported the theft or conversion of a vehicle shall, forthwith after learning of its recovery, report the recovery to the Department.
- C. An operator of a place of business for garaging, repairing, parking, or storing vehicles for the public, in which a vehicle remains unclaimed for a period of thirty (30) days, shall, within five (5) days after the expiration of that period, report the vehicle as unclaimed to the Department. Such report shall be on a form prescribed by the Department.

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

- D. The Department shall maintain and appropriately index cumulative public records of stolen, converted, recovered and unclaimed vehicles reported to it pursuant to this section. The Department may make and distribute weekly lists of such vehicles so reported to it to peace officers upon request without fee and to others for the fee, if any, the Department prescribes.
- E. Any peace officer who has reason to believe or upon receiving information that a motor vehicle has been stolen shall have and is hereby vested with authority to confiscate and hold such vehicle until satisfactory proof of ownership is established. Provided, any vehicle that is towed by a licensed wrecker operator pursuant to the provisions of Section 954A of this title shall be returned to the licensed wrecker operator prior to any other claim or assertion of ownership.

## CHAPTER 11 RULES OF THE ROAD

### 47 O.S. § 11-314 Bernardo's Law

- A. This section shall be known and may be cited as "Bernardo's Law".
- B. The driver of a motor vehicle, upon approaching a stationary authorized emergency vehicle, a Department of Transportation maintenance vehicle, a Turnpike Authority maintenance vehicle, a stationary vehicle that is displaying flashing lights or a licensed wrecker that is displaying a flashing amber light, a combination red or blue light or any combination of amber, red or blue lights, shall:
  - 1. If traveling on a highway that consists of two or more lanes that carry traffic in the same direction of travel as that of the driver, the driver shall proceed with due caution and shall, if possible and with due regard to the road, weather, and traffic conditions, change lanes into a lane that is not adjacent to the stationary authorized emergency vehicle, a Department of Transportation maintenance vehicle, a Turnpike Authority maintenance vehicle, or licensed wrecker; or if the driver is not able to change lanes or if to do so would be unsafe, the driver shall proceed with due caution and reduce the speed of the motor vehicle to a safe speed for the existing road, weather, and traffic conditions; and
  - 2. If traveling on a highway other than a highway described in paragraph 1 of this subsection, the driver shall proceed with due caution and reduce the speed of the motor vehicle to a safe speed for the existing road, weather, and traffic conditions.
- C. This section does not relieve the operator of a stationary authorized emergency vehicle, a Department of Transportation maintenance vehicle, a Turnpike Authority maintenance vehicle, or licensed wrecker from the consequences of reckless disregard for the safety of all persons and property upon the highway.

### 47 O.S. § 11-605 Signals by Hand and Arm or Signal Lamps

- (a) Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamps, except as otherwise provided in paragraph (b).
- (b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles.

### 47 O.S. § 11-902a Allowing Use of Motor Vehicle without Ignition Interlock Device - Penalty

- A. No person shall knowingly authorize or permit a motor vehicle owned or under the control of that person which is not equipped with an ignition interlock device to be driven upon any street or highway of this state by any person who is required to have an ignition interlock device installed upon the vehicle of that person.
- B. No person shall willfully attempt to interfere in any way with the intended and proper functioning of an ignition interlock device installed in a vehicle as required by law, or intentionally fail to return an ignition interlock device when it is no longer required in the vehicle or upon request by the owner of the device.
- C. No person granted permission to drive a motor vehicle on the condition of installation of an ignition interlock device shall drive any vehicle that is not equipped with an ignition interlock device unless driving a vehicle of an employer in accordance with subsection A of Section 6-212.3 of this title.
- D. A violation of subsection A, B or C of this section shall be a misdemeanor and shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

**47 O.S. § 11-1007 Placing or Parking Vehicle in Parking Space Designated and Posted for Physically Disabled Persons – Penalties – Offender Database**

A.

1. It shall be unlawful for any person to place or park a motor vehicle in any parking space that is designated and posted as a reserved area for the parking of a motor vehicle operated by or transporting a physically disabled person unless such person has applied for and been issued a detachable placard indicating physical disability under the provisions of Section 15-112 of this title, and such placard is displayed as provided in Section 15-112 of this title or in rules adopted pursuant thereto, or has applied for and been issued a physically disabled license plate pursuant to the provisions of Section 1135.1 or 1135.2 of this title, and such license plate is displayed pursuant to the provisions of the Oklahoma Vehicle License and Registration Act.
2. It shall also be unlawful for any person to place or park a motor vehicle, whether with or without a physically disabled placard or plate, in any disabled parking space access aisle, wheelchair ramp, wheelchair loading/unloading area or any portion thereof.

B.

1. Violation of these provisions shall be a misdemeanor and upon conviction the person shall be fined Five Hundred Dollars (\$500.00). Provided, any person cited for a first offense of a violation of this section who has displayed a placard which has expired pursuant to paragraph 4 or 5 of subsection D of Section 15-112 of this title shall be entitled to dismissal of such charge and shall not be required to pay the fine or court costs if the person presents to the court within thirty (30) days of the issuance of the citation a notice from Service Oklahoma that the person has obtained a valid placard pursuant to the provisions of subsection D of Section 15-112 of this title. Fines collected pursuant to this section shall be distributed as follows:
  - a. eighty percent (80%) to the general fund of the municipality in which the citation was issued, subject to the provisions of subsection C of Section 15-115 of this title, and
  - b. twenty percent (20%) to a dedicated fund established by the Department of Public Safety for the development, implementation, and maintenance of a system for the enforcement of the disability parking provisions of this title through October 31, 2022. Beginning November 1, 2022, these fines will be distributed to a dedicated fund established by Service Oklahoma for the development, implementation, and maintenance of a system for the enforcement of the disability parking provisions of this title.
2. In addition, vehicles unlawfully parked in violation of these provisions shall be subject to immediate tow by a licensed tow truck operator at the request of the landowner or a duly appointed agent of the landowner, at the request of any person unable to lawfully gain access to or move their vehicle, at the request of any person unable to lawfully gain access to the area blocked by the unlawfully parked vehicle, or at the request of appropriate law-enforcement personnel. The owner of any vehicle unlawfully parked in violation of these provisions shall pay any and all reasonable and necessary costs associated with towing and storage of the vehicle.

C. Upon the accumulation of the total necessary funds in the Department of Public Safety Restricted Revolving Fund pursuant to subsection B of this section, the Department of Public Safety shall develop, implement, deploy, and administer a database which identifies all persons to whom disabled parking permits have been issued. The database shall be available twenty-four (24) hours a day to any person authorized by statute to enforce disabled parking laws of this state, in order to verify the validity of a disabled parking permit and the person to whom it is issued. Beginning November 1, 2022, Service Oklahoma shall administer the database.

**47 O.S. § 11-1110 Putting Glass, etc., on Highway Prohibited – Throwing Substance at Standing Vehicle or Person**

- A. No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, or any other substances likely to injure any person, animal, or vehicle upon such highway.

- B. Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.
1. Any person removing a wrecked or damaged vehicle from a highway, highway right-of-way or any other location as the result of an accident shall remove any glass or other injurious substance dropped upon the highway or highway right-of-way or other location from such vehicle. The owner or insurer of the owner of the vehicle if the owner's insurance policy provides coverage for such expense, shall be responsible for the cost of removal of the vehicle and the glass or other injurious substance and any vehicle storage fees. The cost of the removal of the vehicle and any storage fees shall be the same as established by the Corporation Commission for nonconsensual tows.
  2. Truck-tractors carrying cargo on the roadways of this state shall maintain a commercial auto, farm and ranch, inland marine or cargo liability insurance policy that covers the costs of cleanup of any substance that is spilled or otherwise deposited on the roadway or right-of-way in violation of this section.
- C. No person shall throw any substance at a standing vehicle or any occupant thereof, nor shall any person throw any substance at a person on or adjacent to a highway.



## CHAPTER 12 EQUIPMENT OF VEHICLES

### 47 O.S. § 12-204 Tail Lamps

- A. Every motor vehicle, trailer, semitrailer and pole trailer, and any vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, on the same level and as widely spaced laterally as practicable which, when lighted, shall emit a red light visible from a distance of one thousand (1,000) feet to the rear; provided that, in the case of a combination of vehicles, only the tail lamp on the rearmost vehicle need actually be seen from the distance specified.
- B. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two (72) inches nor less than fifteen (15) inches.
- C. Any tail lamps shall be lighted whenever the clearance lamps and:
  - 1. Headlamps;
  - 2. Combination of headlamps and auxiliary driving lamps, as defined in Section 12-217 of this title; or
  - 3. Fog lamps, as defined in Section 12-217 of this title, are lighted.

### 47 O.S. § 12-218.1 Lights on Wreckers and Tow Vehicles

Flashing red or blue lights or a combination of flashing red and blue lights may be used on licensed Class AA wreckers or wrecker support vehicles at the scene of an emergency.

Any licensed Class AA wrecker or wrecker support vehicle may be equipped with a lamp displaying an amber light, visible from a distance of not less than five hundred (500) feet to the front of the vehicle or from a distance of not less than five hundred (500) feet to the rear of the vehicle. Such lamp shall only be used when leaving the scene of a tow service call and for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking, or passing such vehicle.

### 47 O.S. § 12-227 Special Restriction on Lamps

- A. Any lighted lamp or illuminating device upon a motor vehicle, other than headlamps, spot lamps, auxiliary driving lamps, flashing turn signals, vehicular hazard warning lamps, authorized emergency vehicle lamps, snow removal and construction and maintenance vehicle warning lamps and school bus and church bus warning lamps, which projects a beam of light of an intensity greater than three hundred (300) candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five (75) feet from the vehicle.
- B. Except as provided in Sections 12-218, 12-218.1, 12-228, and 12-229 of this title, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device thereon displaying or capable of displaying a red or blue light visible from directly in front of the center thereof.
- C. Flashing lights are prohibited except on:
  - 1. An authorized emergency vehicle, as provided in Section 12-218 of this title;
  - 2. A school bus or a church bus, as provided in Section 12-228 of this title;
  - 3. Any snow-removal, construction, and maintenance equipment, as provided in Section 12-229 of this title;
  - 4. A wrecker or tow vehicle while at the scene of an emergency or loading or unloading a vehicle in close proximity to traffic as needed for safety precautions or as a means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing, as provided in Section 12-218.1 of this title;
  - 5. Any vehicle as a means of indicating a right or left turn, as provided in Sections 12-206.1 and 12-606 of this title;

6. Any vehicle as a means of indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing, as provided in Section 12-220 of this title;
  7. Any vehicle displaying side marker lamps which flash in conjunction with turn signal lamps or vehicle hazard warning lamps, as provided in Section 12-220 of this title;
  8. A farm tractor or an implement of husbandry, as provided in Section 12-215 of this title;
  9. Any vehicle used while performing official duties as a rural or contract route mail carrier of the United States Postal Service, as provided in Section 12-218.2 of this title;
  10. Any vehicle being used in the collection of refuse, solid waste or recyclables displaying side marker lamps which flash in conjunction with turn signal lamps or vehicle hazard warning lamps indicating the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking, or passing, as provided in Section 12-220 of this title; or
  11. Any road-service vehicle, as provided in Section 2 of this act.
- D. Blue lights are prohibited except as allowed in Sections 12-218, 12-218.1, and 12-229 of this title.
- E. Any person violating the provisions of subsection B, C or D of this section shall, upon conviction, be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

**47 O.S. § 12-405.1 Coupling Device For Trailer, Semitrailer, Manufactured Home, or Towed Motor Vehicle**

- A. Every trailer, semitrailer, manufactured home, or towed motor vehicle shall be equipped with a coupling device which shall be designed, constructed, and used so that the trailer, semitrailer, manufactured home, or towed motor vehicle will follow substantially in the path of the vehicle drawing it without whipping or swerving from side to side. In addition, every such trailer, semitrailer, manufactured home, or towed motor vehicle, except a semitrailer drawn by a truck-tractor type designed to draw or support the front end of a semitrailer, shall be coupled with:
1. Stay chains or cables to the vehicle by which it is being drawn, which chains or cable shall be of sufficient size and strength to prevent parting from the drawing vehicle, should the regular coupling device break or become otherwise disengaged; or
  2. Chains, cables, or a safety device which provides strength, security of attachment and directional stability equal to or greater than that provided by safety chains, and which prevent parting from the drawing vehicle should the regular coupling device break or otherwise become disengaged. The safety device shall be designed, constructed, and installed so that if the coupling device fails or becomes disconnected the coupling device will not drop to the ground.
- B. Nothing in this section shall be construed as excepting commercial vehicles subject to the provisions of 49 C.F.R., Subpart F, Coupling Devices and Towing Methods, from complying with the provisions thereof.
- C. No person shall tow any vehicle by sole use of a chain, cable, ropes, or any combination thereof.

**47 O.S. § 12-407 Certain Vehicles to Carry Flares or Other Warning Devices - Exceptions**

- A. No person shall operate any truck, bus, truck-tractor, or any drive-away, tow-away operation upon any highway at any time unless such vehicle is equipped with emergency equipment, including, but not limited to, reflectors, flares, fusees, flags, and fire extinguishers, as provided by 49 C.F.R., Section 393.95. This section shall not apply to lightweight vehicles.
- B. Every bus which is licensed for the express purpose of transporting persons for hire shall have at least one hand axe and one metal heavy-duty, ten-unit size, first-aid kit.

## CHAPTER 14 SIZE, WEIGHT, AND LOAD

### **47 O.S. § 14-109 Single-axle Load Limit – Gross Weight Vehicle and Load – Exception – Annual Special Overload Permit – Exceptions – Specialized Transportation, Utility, or Refuse Collection Vehicles**

- A. On any road or highway:
1. No single axle weight shall exceed twenty thousand (20,000) pounds; and
  2. The total gross weight in pounds imposed thereon by a vehicle or combination of vehicles shall not exceed the value calculated in accordance with the Federal Bridge formula imposed by 23 U.S.C., Section 127.
- B. Except as to gross limits, the formula of this section shall not apply to a truck-tractor and dump semitrailer when used as a combination unit. In no event shall the maximum load in pounds carried by any set of tandem axles exceed thirty-four thousand (34,000) pounds. Any vehicle operating with split tandem axles or tri-axles shall adhere to the formula.
- C. Except for loads moving under special permits as provided in this title, no department or agency of this state or any county, city, or public entity thereof shall pay for any material that exceeds the legal weight limits moving in interstate or intrastate commerce in excess of the legal load limits of this state.
- D.
1. An annual special overload permit may be purchased for vehicles transporting roll-off recycle metals, rock, sand, gravel, coal, flour, timber, pulpwood, and chips in their natural state, oil field fluids, oil field equipment or equipment used in oil and gas well drilling or exploration, and vehicles transporting grain, fertilizer, cottonseed, cotton, livestock, peanuts, canola, sunflowers, soybeans, feed, any other raw agricultural products, and any other unprocessed agricultural products, if the following conditions are met:
    - a. the vehicles are registered for the maximum allowable rate,
    - b. the vehicles do not exceed five percent (5%) of the gross limits set forth in subsection A of this section,
    - c. the vehicles do not exceed eight percent (8%) of the axle limits set forth in subsection A of this section,
    - d. no component of the vehicles exceeds the manufacturer's component weight rating as shown on the vehicle certification label or tag, and
    - e. the vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways.
  2. Vehicles operating pursuant to this section must register for the maximum allowable rate and additionally shall purchase a nontransferable annual special overload permit from the Department of Transportation for a fee of Three Hundred Fifty Dollars (\$350.00). All monies collected shall be deposited to the credit of the Highway Construction and Maintenance Fund.
- E.
1. Oversize or overweight vehicles used for specialized transportation if the maximum weight does not exceed twenty-three thousand (23,000) pounds on any single axle and:
    - a. is a dual lane trailer with dual lane axles and the width of the transport vehicle or trailer exceeds twelve (12) feet in width, or
    - b. the overall gross vehicle weight of a single trailer meets or exceeds three hundred thousand (300,000) pounds, originates, or terminates at the Tulsa Port of Catoosa, and the trip is confined within a thirty-mile radius of the Port.
  2. Permit fees for oversize or overweight vehicles used for specialized transportation shall be in accordance with subsection A of Section 14-116 of this title.
  3. Vehicles operating pursuant to the provisions of this paragraph will not be allowed to operate on the National System of Interstate and Defense Highways.
- F. Exceptions to this section will be:

1. Utility or refuse collection vehicles used by counties, cities, or towns or by private companies contracted by counties, cities, or towns if the following conditions are met
  - a. calculation of weight for a utility or refuse collection vehicle shall be "Gross Vehicle Weight". The "Gross Vehicle Weight" of a utility or refuse collection vehicle may not exceed the otherwise applicable weight by more than fifteen percent (15%). The weight on individual axles must not exceed the manufacturer's component rating which includes axle, suspension, wheels, rims, brakes, and tires as shown on the vehicle certification label or tag, and
  - b. utility or refuse collection vehicles operated under these exceptions will not be allowed to operate on interstate highways;
2. A combination of a wrecker or tow vehicle and another vehicle or vehicle combination if:
  - a. the service provided by the wrecker or tow vehicle is needed to remove disabled, abandoned, or accident-damaged vehicles, and
  - b. the wrecker or tow vehicle is towing the other vehicle or vehicle combination directly to the nearest appropriate place of repair, terminal, or vehicle storage facility;
3. A vehicle operating pursuant to the provisions of paragraph 2 of this subsection shall not be allowed to operate on the National System of Interstate and Defense Highways unless it is a covered heavy-duty tow and recovery vehicle that:
  - a. is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility, and
  - b. has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported; and
4. On the interstate highway system, a vehicle designed to be used under emergency conditions to transport personnel and equipment and to support the suppression of fires and mitigation of other hazardous situations with a vehicle weight limit up to a maximum gross vehicle weight of eighty-six thousand (86,000) pounds with less than:
  - a. twenty-four thousand (24,000) pounds on a single steering axle,
  - b. thirty-three thousand five hundred (33,500) pounds on a single drive axle,
  - c. sixty-two thousand (62,000) pounds on a tandem axle, or
  - d. fifty-two thousand (52,000) pounds on a tandem rear drive steer axle.

G.

1. Any vehicle utilizing an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling shall be allowed an additional four hundred (400) pounds total to the total gross weight limits set by this section.
2. To be eligible for the exception provided in this subsection, the operator of the vehicle must obtain written proof or certification of the weight of the auxiliary power or idle reduction technology unit and be able to demonstrate or certify that the idle reduction technology is fully functional.
3. Written proof or certification of the weight of the auxiliary power or idle reduction technology unit must be available to law enforcement officers if the vehicle is found in violation of applicable weight laws. The additional weight allowed cannot exceed four hundred (400) pounds or the actual proven or certified weight of the unit, whichever is less.

H. On the Interstate Highway System, a vehicle carrying fluid milk products shall be considered a load that cannot be easily dismantled or divided, or "nondivisible".

I. Utility, refuse collection vehicles or a combination of a wrecker or tow vehicle as described in paragraphs 1 and 2 of subsection F of this section operating under exceptions shall purchase an annual special overload permit from the Department of Transportation for One Hundred Dollars (\$100.00). All monies collected shall be deposited to the credit of the Highway Construction and Maintenance Fund.

## CHAPTER 74 REGISTRATION, FEES, AND LICENSE PLATES

### 47 O.S. § 74-1134.3 Requirements of Wrecker or Towing Service Operations

- A. Each operator of a wrecker or towing service licensed pursuant to Sections 951 through 957 of this title operating a wrecker, wrecker vehicle, combination wrecker, combination wrecker vehicle, or any other motor vehicle which:
1. Is required to be registered in this state pursuant to the Oklahoma Vehicle License and Registration Act except for any vehicle which is properly registered on a proportional basis pursuant to Section 1120 of this title; and
  2. Is used primarily for towing other motor vehicles

shall register such vehicle in accordance with this section.

- B. Service Oklahoma shall design an appropriate license plate for all wrecker vehicles registered pursuant to this section. Such license plates shall be permanent in nature and shall be designed in such manner as to remain with the vehicle for the duration of the vehicle's life span or until the title is transferred or the vehicle is no longer used for the purposes specified in Sections 951 through 957 of this title.
- C. When registering the vehicle, a person shall be required to submit to Service Oklahoma or a licensed operator a copy of the license issued pursuant to law to operate a wrecker or towing service. In addition, a security verification form as required pursuant to Sections 7-601.1 and 7-602 of this title shall be presented clearly setting forth on the face of such verification the vehicle identification number (VIN) of the vehicle being registered.
- D. The owner of any wrecker or towing vehicle not properly registered pursuant to this section or the Oklahoma Vehicle License and Registration Act shall be immediately notified in writing by Service Oklahoma, and such owner shall be subject to any penalties and fines imposed by law for improper registration of a vehicle, for failure to register a vehicle, or for failure to display a proper commercial license plate and decal. The owner shall also be subject to revocation of the owner's license to operate a wrecker or towing service.
- E. Whenever a term defined in Section 951 of this title is used in this section, it shall have the meaning provided in that section.

## TITLE 21 CRIMES AND PUNISHMENTS

### CHAPTER 39 - OKLAHOMA LAW ON OBSCENITY AND CHILD PORNOGRAPHY

#### **21 O.S. § 39-1029 - Engaging in or Soliciting Prostitution – Residing or Remaining in Place for Prohibited Purpose – Aiding, Abetting, or Participating in Prohibited Acts – Child Prostitution – Human Trafficking**

- A. It shall further be unlawful:
  - 1. To engage in prostitution, lewdness, or assignation;
  - 2. To solicit, induce, entice, or procure another to commit an act of lewdness, assignation, or prostitution, with himself or herself;
  - 3. To reside in, enter, or remain in any house, place, building, or other structure, or to enter or remain in any vehicle, trailer, or other conveyance with the intent of committing an act of prostitution, lewdness, or assignation; or
  - 4. To aid, abet, or participate in the doing of any of the acts prohibited in paragraph 1, 2 or 3 of this subsection.
- B. Any prohibited act described in paragraph 1, 2, 3 or 4 of subsection A of this section committed with a person under eighteen (18) years of age shall be deemed child prostitution, as defined in Section 1030 of this title, and shall be punishable as provided in Section 1031 of this title.
- C. No child who is a victim of human trafficking shall be subject to juvenile delinquency or criminal proceedings for the offenses described in subsection A of this section which occurred as a result of the child being a victim of human trafficking.

## TITLE 42 LIENS

### CHAPTER 2 LIENS ON PERSONAL PROPERTY

#### 42 O.S. § 2-91 Lien on Personal Property for Service Thereon—Foreclosure – Notice—Purchaser – Unpaid Checks

A.

1.

- a. This section applies to every vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that has a certificate of title issued by the Oklahoma Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, except as otherwise provided in subsection D of this section. This section does not apply to farm equipment as defined in Section 91.2 of this title. The items of personal property to which this section applies are collectively referred to as "Section 91 Personal Property". If personal property is apparently covered both by this section and by Sections 191 through 200 of this title, the procedures set out in this section shall apply instead of Sections 191 through 200 of this title.
- b. Salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes and class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with or at the direction of, or dispatched by, a state or local law enforcement or government agency, or pursuant to the abandoned vehicle renewal provisions of Section 954A of Title 47 of the Oklahoma Statutes, shall not be subject to the provisions of this section, but shall be subject to the provisions of Section 91A of this title. Unless otherwise provided by this subparagraph, class AA licensed wrecker services performing consensual tows shall be subject to the provisions of this section.

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

3. This special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section. Failure to comply with any requirements of this section shall result in denial of any title application and cause the special lien to be subordinate to any perfected lien. Upon such denial, the applicant shall be entitled to one resubmission of the title application within fifteen (15) business days of receipt of the denial and proceed to comply with the requirements of this section. In the event of a denial, the Notice of Possessory Lien and the Notice of Sale may be mailed on the same day in separate envelopes and storage charges shall only be charged from the date of resubmission. "Failure to comply" includes, but is not limited to:

- a. failure to timely provide additional documentation supporting or verifying any entry on submitted forms as requested by the Tax Commission, including but not limited to United States Postal Service proof of return receipt requested such as Form 3811 or United States Postal Service electronic equivalent,
- b. failure to provide the documentation supporting lawful possession as defined in paragraph 3 of subsection H of this section,
- c. claimant or the agent being other than the individual who provided the service giving rise to the special lien, as in paragraph 2 of this subsection,
- d. claimant not being in possession of the vehicle,
- e. notice of lien not filed in accordance with paragraph 4 of this subsection, or
- f. foreclosure notification and proceedings not accomplished in accordance with paragraph 6 of this section.

4. Any person claiming the special lien provided in paragraph 2 of this subsection shall mail a notice of such lien, no later than sixty (60) days after the first services are rendered, by regular, first-class United States mail, and by certified mail, return receipt requested, to all interested parties who reside at separate locations. If services provided are pursuant to a contract primarily for the purpose of storage or rental of space, the beginning date of the sixty-day period provided in the previous sentence shall be the first day of the first period or partial period for which rental or storage charges remain unpaid. The notice shall be in writing and shall contain, but not be limited to, the following:
  - a. a statement that the notice is a Notice of Possessory Lien,
  - b. the complete legal name, physical and mailing address, and telephone number of the claimant,
  - c. the complete legal name, physical and mailing address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or rental space, or the date the property was abandoned if the claimant did not render any other service,
  - d. a description of the article of personal property, including a photograph if the property is Section 91 Personal Property, and the complete physical and mailing address of the location of the article of personal property,
  - e. an itemized statement describing the date or dates the labor or services were performed and material furnished, and the charges claimed for each item, the totals of which shall equal the total compensation claimed,
  - f. a statement by the claimant that the materials, labor or skill furnished, or arrangement for storage or rental of space, was authorized by the owner of the personal property and was in fact provided or performed, and written proof of authority to perform the work, labor or service, or that the property was abandoned by the owner if the claimant did not render any other service, and that storage or rental fees will accrue as allowed by law, and
  - g. the signature of the claimant which shall be notarized and, if applicable, the signature of the claimant's attorney. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted.
5. For services rendered or vehicles abandoned on or after November 1, 2005, storage charges or charges for rental of space, unless agreed to by contract as part of an overall transaction or arrangement that was primarily for the purpose of storage of the Section 91 Personal Property or rental of space, may only be assessed beginning with the day that the Notice of Possessory Lien is mailed as evidenced by certified mail. Provided, however, in the case of contractual charges incurred for storage or rental of space in an overall transaction primarily for the purpose of storage or rental, charges subject to the special lien may only be assessed beginning with a date not more than sixty (60) days prior to the day that the Notice of Possessory Lien is mailed, and shall accrue only at the regular periodic rate for storage or rental as provided in the contract, adjusted for partial periods of storage or rental. The maximum allowable compensation for storage shall not exceed the fees established by the Corporation Commission for nonconsensual tows.
6. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The Notice of Sale shall be in writing and shall contain, but not be limited to:
  - a. a statement that the notice is a Notice of Sale,
  - b. the names of all interested parties known to the claimant,
  - c. a description of the property to be sold, including a photograph if the property is Section 91 Personal Property and if the condition of such property has materially changed since the mailing of Notice of Possessory Lien required pursuant to paragraph 4 of this subsection,
  - d. a notarized statement of the nature of the work, labor or service performed, material furnished, or storage or rental of space, and the date thereof, and the name of the person



- who authorized the work, labor or service performed, or the storage or rental arrangement, and written proof of authority to perform the work, labor, or service, or that the property was abandoned if the claimant did not render any other service,
- e. the date, time, and exact physical location of sale,
  - f. the name, complete physical address, mailing address, and telephone number of the party foreclosing such lien. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
  - g. itemized charges which shall equal the total compensation claimed.
7. Such Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of the notice shall be mailed to all interested parties at their last-known post office address by regular, first-class United States mail and by certified mail, return receipt requested, at least ten (10) days before the date of the sale. If the item of personal property is a manufactured home, notice shall also be sent by certified mail to the county treasurer and to the county assessor of the county where the manufactured home is located.
  8. Interested parties shall include all owners of the article of personal property as indicated by the certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma; lien debtors, if any, other than the owners; any lienholder whose lien is noted on the face of the certificate of title; and any other person having any interest in the article of personal property, of whom the claimant has actual notice.
  9. Any interested party shall be permitted to inspect and verify the services rendered by the claimant prior to the sale of the article of personal property during normal business hours. The lienholder shall be allowed to retrieve the Section 91 Personal Property without being required to bring the title into the lienholder's name, if the lienholder provides proof it is a lienholder and any payment due the claimant for lawful charges where the claimant has complied with the requirements of this section. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss.
  10. The claimant or any other person may in good faith become a purchaser of the property sold.
  11. Proceedings for foreclosure under this act shall be commenced no sooner than ten (10) days and no later than thirty (30) days after the Notice of Possessory Lien has been mailed as evidenced by certified mail. The date actually sold shall be within sixty (60) days from the date of the Notice of Sale as evidenced by certified mail.

B.

1.
  - a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which the person has a special lien created by subsection A of this section, which check or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon the personal property.
  - b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of the check or other written order for payment of money, file in the office of the county clerk of the county in which the property is situated a sworn statement that:
    - (1) the check or other written order for immediate payment of money, copy thereof being attached, was received for labor, material or supplies for producing or repairing an article of personal property, or for other specific property-related services covered by this section,
    - (2) the check or other written order was not paid, and

- (3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.
  2.
    - a. Any person who renders service to the owner of an article of personal property by furnishing storage, rental space, material, labor, or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage, or carriage thereof shall have a special lien on such property pursuant to this section if such property is removed from the person's possession, without such person's written consent or without payment for such service.
    - b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office of the county clerk of the county in which the property is located, a sworn statement including:
      - (1) that services were rendered on or in relation to the article of personal property by the person claiming such lien,
      - (2) that the property was in the possession of the person claiming the lien, but such property was removed without his or her written consent,
      - (3) an identifying description of the article of personal property on which the service was rendered, and
      - (4) that the debt for the services rendered on or in relation to the article of personal property was not paid. Provided, if the unpaid total amount of the debt for services rendered on or in relation to the article of personal property is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement, but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.
  3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.
- C. If the person who renders service to the owner of an article of personal property to which this section applies relinquishes or loses possession of the article due to circumstances described in subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of subsection B of this section, the person claiming the lien shall be entitled to possession of the article until the amount due is paid, unless the article is possessed by a person who became a bona fide purchaser. Entitlement to possession shall be in accordance with the following:
1. The claimant may take possession of an article pursuant to this subsection only if the person obligated under the contract for services has signed an acknowledgement of receipt of a notice that the article may be subject to repossession. The notice and acknowledgement pursuant to this subsection shall be:
    - a. in writing and separate from the written contract for services, or
    - b. printed on the written contract for services, credit agreement or other document which displays the notice in bold-faced, capitalized, and underlined type, or is separated from surrounding written material so as to be conspicuous with a separate signature line;
  2. The claimant may require the person obligated under the contract for services to pay the costs of repossession as a condition for reclaiming the article only to the extent of the reasonable fair market value of the services required to take possession of the article;
  3. The claimant shall not transfer to a third party or to a person who performs repossession services, a check, money order, or credit card transaction that is received as payment for services with respect to an article and that is returned to the claimant because of insufficient funds or no funds, because the person writing the check, issuing the money order, or credit cardholder has no account or

because the check, money order, or credit card account has been closed. A person violating this paragraph shall be guilty of a misdemeanor; and

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

D.

1. If a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, but there is no active lien recorded on the certificate of title, Section 91A of this title will apply instead of this section. Likewise, if there is an active lien recorded on the certificate of title, but the lien is over fifteen (15) years old and the property is not a manufactured home, Section 91A of this title will apply instead of this section.
2. If personal property that otherwise would be covered by this section has been registered by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, and there is a lien of record, but no certificate of title has been issued, Section 91A of this title will apply instead of this section.
3. If personal property otherwise would be covered by this section, but the services were rendered or the property was abandoned prior to November 1, 2005, Section 91A of this title will apply instead of this section.

E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of this section to foreclose an owner or lienholder's interest in a vehicle knowing that any of the statements made in the proceeding are false, upon conviction, shall be guilty of a felony.

F. Upon receipt of notice of legal proceedings, the Tax Commission shall cause the sale process to be put on hold until notice of resolution of court proceedings is received from the court. If such notice of commencement of court proceedings is not filed with the Tax Commission, the possessory lien sale process may continue.

G. No possessory lien sale shall be held on a Sunday.

H. For purposes of this section:

1. "Possession" includes actual possession and constructive possession;
2. "Constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon property, knowingly has both power and the intention at a given time to exercise dominion or control over the property, and who holds claim to such thing by virtue of some legal right;
3. "Lawfully in possession" means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor, or storage, or that the property was authorized to be towed to a repair facility. If the person lacks such documentation, he or she shall not be lawfully in possession of the Section 91 Personal Property and shall not be entitled to a special lien as set forth in this section; and
4. "Itemized charges" means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of any other fee groups, the sum total of which shall equal the compensation claimed.

I. For purposes of this section, the United States Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.

J. If a person claiming a special lien pursuant to this section fails to comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising therefrom, including conversion, if the article of personal property has been sold. If the notice or notices required by this section shall be shown to be knowingly false or fraudulent, the interested party

shall be entitled to treble damages. The prevailing party shall be entitled to all costs, including reasonable attorney fees.

K. This section shall apply to all actions or proceedings that commence on or after the effective date of this act.

**42 O.S. § 2-91A Lien on Personal Property for Furnishing Certain Services to Owner – Foreclosure – Notice – Purchasers – Applicability**

A.

1.

- a. This section applies to all types of personal property other than:
  - (1) farm equipment as defined in Section 91.2 of this title, and
  - (2) "Section 91 Personal Property" as defined in Section 91 of this title.
- b. This section applies to any vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer that is excluded from coverage under subsection A of Section 91 of this title because the personal property:
  - (1) does not have a certificate of title,
  - (2) has a certificate of title but does not have an active lien recorded on the certificate of title,
  - (3) has a certificate of title that is not issued by the Oklahoma Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, or
  - (4) is otherwise excluded by subparagraph b of paragraph 1 of subsection A of Section 91 of this title or subsection D of Section 91 of this title.
- c. If personal property has a certificate of title or would be required to have a certificate of title under Oklahoma law and is apparently covered both by this section and by Sections 191 through 200 of this title, the procedures set out in this section shall apply instead of Sections 191 through 200 of this title. If personal property without a certificate of title and not required to be titled under Oklahoma law is covered both by this section and Sections 191 through 200 of this title, the procedures set out in Sections 191 through 200 of this title shall apply instead of this section.

2.

- a. Any person who, while lawfully in possession of an article of personal property to which this section applies, renders any service to the owner thereof by furnishing storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to such person from the owner for such service. Charges owed under a contract primarily for the purpose of storage or rental of space shall be accrued only at the regular periodic rate for storage or rental as provided in the contract, adjusted for partial periods of storage or rental.
- b. Except for Class AA licensed wrecker towing charges, the special lien shall be subordinate to any perfected security interest unless the claimant complies with the requirements of this section. Failure to comply with any requirements of this section shall result in denial of any title application and cause the special lien to be subordinate to any perfected lien. Upon such denial, the applicant shall be entitled to one resubmission of the title application within thirty (30) business days of receipt of the denial and proceed to comply with the requirements of this section. "Failure to comply" includes, but is not limited to:
  - (1) failure to timely provide additional documentation supporting or verifying any entry on submitted forms as requested by the Tax Commission,
  - (2) failure to provide the documentation supporting lawful possession as outlined in paragraph 3 of subsection H of this section,

- (3) claimant being other than the individual who provided the service giving rise to the special lien, as in subparagraph a of this paragraph,
  - (4) claimant not being in possession of the vehicle, or
  - (5) notification and proceedings not accomplished in accordance with subparagraph c of this paragraph, and paragraph 3 of this subsection.
- c. Any person claiming a lien under this section shall request, within five (5) business days of performing any service or work on the property, the Tax Commission or other appropriate license agency to furnish the name and address of the current owner of and any lienholder upon the property. The Motor Vehicle Division of the Tax Commission or appropriate license agency shall respond in person or by mail to the lien claimant within ten (10) business days of the receipt of the request for information. The Tax Commission shall render assistance to ascertain ownership, if needed. The lien claimant shall send, within seven (7) business days of receipt of the requested information from the Oklahoma Tax Commission or other license agency, a notice of the location of the property by certified mail with return receipt requested, postage prepaid, to the owner and any lienholder of the vehicle at the addresses furnished. The lien claimant may charge Twenty Dollars (\$20.00) for processing plus the cost of postage if the notice is timely sent pursuant to the requirements of this subparagraph in addition to fees regulated by the Oklahoma Corporation Commission for licensed wreckers. If the lien claimant is unable to meet the time requirements due to a lack of or an altered vehicle identification number on the property, the lien claimant shall proceed diligently to obtain the proper vehicle identification number and shall meet the time requirements on the notice once the vehicle identification number is known. If the lien claimant is required to send additional notices because of change of ownership or lienholder after it has timely complied with the requirements of this subparagraph, the lien claimant shall remain in compliance if such additional notices are sent within the required time periods from the date of discovery of the new owners or lienholders. The notice shall be in writing and shall contain, but not be limited to, the following:
- (1) a statement that the notice is a Notice of Possessory Lien,
  - (2) the complete legal name, physical and mailing address, and telephone number of the claimant,
  - (3) the complete legal name, physical and mailing address of the person who requested that the claimant render service to the owner by furnishing material, labor or skill, storage, or rental space, or the date the property was abandoned if the claimant did not render any other service,
  - (4) a description of the article of personal property, and the complete physical and mailing address of the location of the article of personal property,
  - (5) the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof, and written proof of authority to perform the work, labor or service provided that, in the case of a law enforcement directed tow, the logbook entry prescribed in OAC 595:25-5-5 or the tow ticket as defined by the Corporation Commission shall serve as written proof of authority,
  - (6) the signature of the claimant which shall be notarized and, if applicable, the signature of the claimant's attorney. If the claimant is a business, the name of the contact person representing the business shall be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
  - (7) an itemized statement describing the date or dates the labor or services were performed and material furnished, and the charges claimed for each item, the totals of which shall equal the total compensation claimed.

The lien claimant shall not be required to send the notice required in this subparagraph if the property is released to an interested party before the notice is mailed and no additional charges or fees continue to accrue. If a law enforcement agency has the property towed to a law enforcement facility, the person claiming a lien under this section shall not be required to send notice until the property is released by law enforcement to the claimant or the date which claimant starts charging storage, whichever is earlier. A lien claimant shall have an extension of ten (10) business days to send the notice required in this subparagraph if a state of emergency has been declared in the county in which the property is located.

- d. Subparagraphs b and c of this paragraph shall not apply to salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes.
3. The lien may be foreclosed by a sale of such personal property upon the notice and in the manner following: The notice shall be in writing and shall contain, but not be limited to:
    - a. the names of the owner and any other known party or parties who may claim any interest in the property,
    - b. a description of the property to be sold, including a visual inspection or a photograph if the property is a motor vehicle, and the physical location of the property,
    - c. the nature of the work, labor or service performed, material furnished, or the storage or rental arrangement, and the date thereof, and written proof of authority to perform the work, labor or service provided. In the case of a law enforcement directed tow, the logbook entry prescribed in OAC 595:25-5-5 or the tow ticket as defined by the Corporation Commission, shall serve as written proof of authority,
    - d. the time and place of sale,
    - e. the name, telephone number, physical address and mailing address of the claimant, and agent or attorney, if any, foreclosing such lien. If the claimant is a business, then the name of the contact person representing the business must be shown. In place of an original signature and notary seal, a digital or electronic signature or seal shall be accepted, and
    - f. itemized charges which shall equal the total compensation claimed.
  4.
    - a. Such Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and a copy of the notice shall be mailed to the owner and any other party claiming any interest in the property, if known, at their last-known post office address, by certified mail, return receipt requested, at least ten (10) days before the time therein specified for such sale. If the item of personal property is a manufactured home, notice shall also be sent by certified mail to the county treasurer and to the county assessor of the county where the manufactured home is located.
    - b. In the case of any item of personal property without a certificate of title and not required to be titled under Oklahoma law, a party who claims any interest in the property shall include all owners of the property; any secured party who has an active financing statement on file with the county clerk of Oklahoma County listing one or more owners of the property by legal name as debtors and indicating a collateral description that would include the property; and any other person having any interest in the personal property, of whom the claimant has actual notice.
    - c. In the case of personal property subject to this section for which a certificate of title has been issued by any jurisdiction, a party who claims any interest in the property shall include all owners of the article of personal property as indicated by the certificate of title; lien debtors, if any, other than the owners; any lienholder whose lien is noted on the face of the certificate of title; and any other person having any interest in the article of personal property, of whom the claimant has actual notice.

- d. When the jurisdiction of titling for a vehicle, all-terrain vehicle, motorcycle, boat, outboard motor, or trailer that is five (5) model years old or newer, or a manufactured home that is fifteen (15) model years old or newer, cannot be determined by ordinary means, the claimant, the agent of the claimant, or the attorney of the claimant, shall request, in writing, that the Oklahoma Tax Commission Motor Vehicle Division ascertain the jurisdiction where the vehicle or manufactured home is titled. The Oklahoma Tax Commission Motor Vehicle Division shall, within fourteen (14) days from the date the request is received, provide information as to the jurisdiction where the personal property is titled. If the Oklahoma Tax Commission Motor Vehicle Division is unable to provide the information, it shall provide notice that the record is not available.
  - e. When personal property is of a type that Oklahoma law requires to be titled, the owner of record of that property is unknown, and the jurisdiction of titling and owner of record cannot be determined by ordinary means and also, if applicable, cannot be determined in accordance with the preceding subparagraph, then the special lien may be foreclosed by publication of a legal notice in a legal newspaper in the county where the personal property is located, as defined in Section 106 of Title 25 of the Oklahoma Statutes. Such notice shall include the description of the property by year, make, vehicle identification number if available from the property, the name of the individual who may be contacted for information, and the telephone number of that person or the address where the vehicle is located. The legal notice shall be published once per week for three (3) consecutive weeks. As soon as circumstances exist as described in the first sentence of this subparagraph, the first date of publication may occur even if the special lien has not accrued for over thirty (30) days. The first date available for public sale of the vehicle is the day following publication of the final notice, but no fewer than thirty (30) days after the lien has accrued. When the owner of record is unknown, the Notice of Sale nevertheless must be completed and mailed to any known interested party by certified mail. For purposes of this paragraph, interested parties shall include all persons described in subparagraph b or subparagraph c of this paragraph, whichever is applicable, with the exception of any owner who is unknown. Except in circumstances described in paragraph 7 of this subsection that provide for a shorter time period, the Notice of Sale shall be posted in two public places in the county where the property is to be sold at least ten (10) days before the time therein specified for such sale, and the Notice of Sale shall not be mailed until at least thirty (30) days after the lien has accrued.
5. The lienor or any other person may in good faith become a purchaser of the property sold.
  6. Proceedings for foreclosure under this act shall not be commenced until thirty (30) days after the lien has accrued, except as provided elsewhere in Oklahoma law.
  7. Notwithstanding any other provision of law, proceedings for foreclosures for the storage of junk vehicles towed and stored pursuant to Section 955 of Title 47 of the Oklahoma Statutes by Class AA wreckers listed with the Motor Vehicle Division of the Department of Public Safety, may be commenced five (5) days after the lien has accrued. For purposes of this paragraph, "junk vehicles" means any vehicle that is more than ten (10) years old if the cost of a comparable vehicle would be less than Three Hundred Dollars (\$300.00) as quoted in the latest edition of the National Automobile Dealers Association Official Used Car Guide or latest monthly edition of any other nationally recognized published guidebook, adjusting to the condition of the vehicle.

B.

1.

- a. Any person who is induced by means of a check or other form of written order for immediate payment of money to deliver up possession of an article of personal property on which the person has a special lien created by subsection A of this section, which check, or other written order is dishonored, or is not paid when presented, shall have a lien for the amount thereof upon the personal property.
- b. The person claiming such lien shall, within thirty (30) days from the date of dishonor of the check or other written order for payment of money, file in the office of the county clerk of the county in which the property is situated a sworn statement that:
  - (1) the check or other written order for immediate payment of money, copy thereof being attached, was received for labor, material or supplies for producing or repairing an article of personal property, or for other specific property-related services covered by this section,
  - (2) the check or other written order was not paid, and
  - (3) the uttering of the check or other written order constituted the means for inducing the person, one possessed of a special lien created by subsection A of this section upon the described article of personal property, to deliver up the article of personal property.

2.

- a. Any person who renders service to the owner of an article of personal property by furnishing storage, rental space, material, labor, or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage, or carriage thereof shall have a special lien on such property pursuant to this section if such property is removed from the person's possession, without such person's written consent or without payment for such service.
  - b. The person claiming such lien shall, within five (5) days of such nonauthorized removal, file in the office of the county clerk of the county in which the property is located, a sworn statement including:
    - (1) that services were rendered on or in relation to the article of personal property by the person claiming such lien,
    - (2) that the property was in the possession of the person claiming the lien, but such property was removed without his or her written consent,
    - (3) an identifying description of the article of personal property on or in relation to which the service was rendered, and
    - (4) that the debt for the services rendered on or in relation to the article of personal property was not paid. Provided, if the unpaid total amount of the debt for services rendered on or in relation to the article of personal property is unknown, an approximated amount of the debt due and owing shall be included in the sworn statement, but such approximated debt may be amended within thirty (30) days of such filing to reflect the actual amount of the debt due and owing.
3. The enforcement of the lien shall be within sixty (60) days after filing the lien in the manner provided by law for enforcing the lien of a security agreement and provided that the lien shall not affect the rights of innocent, intervening purchasers without notice.



- C. If the person who renders service to the owner of an article of personal property to which this section applies relinquishes or loses possession of the article due to circumstances described in subparagraph a of paragraph 1 or subparagraph a of paragraph 2 of subsection B of this section, the person claiming the lien shall be entitled to possession of the article until the amount due is paid, unless the article is possessed by a person who became a bona fide purchaser. Entitlement to possession shall be in accordance with the following:
1. The claimant may take possession of an article pursuant to this subsection only if the person obligated under the contract for services has signed an acknowledgment of receipt of a notice that the article may be subject to repossession. The notice and acknowledgment pursuant to this subsection shall be:
    - a. in writing and separate from the written contract for services, or
    - b. printed on the written contract for services, credit agreement or other document which displays the notice in bold-faced, capitalized, and underlined type, or is separated from surrounding written material so as to be conspicuous with a separate signature line;
  2. The claimant may require the person obligated under the contract for services to pay the costs of repossession as a condition for reclaiming the article only to the extent of the reasonable fair market value of the services required to take possession of the article;
  3. The claimant shall not transfer to a third party or to a person who performs repossession services, a check, money order, or credit card transaction that is received as payment for services with respect to an article and that is returned to the claimant because of insufficient funds or no funds, because the person writing the check, issuing the money order, or credit cardholder has no account or because the check, money order, or credit card account has been closed. A person violating this paragraph shall be guilty of a misdemeanor; and
  4. An article that is repossessed pursuant to this subsection shall be promptly delivered to the location where the services were performed. The article shall remain at the services location at all times until the article is lawfully returned to the record owner or a lienholder or is disposed of pursuant to this section.
- D.
1. This section applies if a vehicle, all-terrain vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in Oklahoma, but there is no active lien recorded on the certificate of title.
  2. This section applies if a vehicle, all-terrain vehicle, utility vehicle, motorcycle, boat, outboard motor, or trailer has a certificate of title issued by the Tax Commission or by a federally recognized Indian tribe in Oklahoma, and there is an active lien recorded on the certificate of title, but the lien is over fifteen (15) years old.
  3. This section applies if personal property to which Section 91 of this title otherwise would apply has been registered by the Tax Commission or by a federally recognized Indian tribe in the State of Oklahoma, and there is a lien of record, but no certificate of title has been issued.
  4. This section applies if personal property to which Section 91 of this title otherwise would apply has not been registered by either the Tax Commission or a federally recognized Indian tribe in the State of Oklahoma, and no certificate of title has been issued, but there is a lien of record.
  5. This section applies to personal property that otherwise would be covered by Section 91 of this title, except that the services were rendered, or the property was abandoned prior to November 1, 2005.
  6. This section applies to a vehicle, all-terrain vehicle, utility vehicle, manufactured home, motorcycle, boat, outboard motor, or trailer for which ownership cannot be determined by ordinary means or by the Oklahoma Tax Commission Motor Vehicle Division, as provided in subparagraphs d and e of paragraph 4 of subsection A of this section, as applicable.

7. This section applies to items of personal property that are not required by Oklahoma law to be titled, and that do not have a certificate of title.
  8. This section applies to salvage pools as defined in Section 591.2 of Title 47 of the Oklahoma Statutes.
  9. This section applies to class AA licensed wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched by a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes with respect to all types of personal property, regardless of whether that personal property has a certificate of title.
  10. For a vehicle abandoned at a salvage pool, if the cost of repairing the vehicle for safe operation on the highway does not exceed sixty percent (60%) of the fair market value of the vehicle as defined in Section 1111 of Title 47 of the Oklahoma Statutes, a salvage title shall not be required.
- E. A person who knowingly makes a false statement of a material fact regarding the furnishing of storage, rental space, material, labor or skill for the protection, improvement, safekeeping, towing, right to occupy space, storage or carriage thereof in a proceeding under this section, or attempts to use or uses the provisions of this section to foreclose an owner or lienholder's interest in a vehicle knowing that any of the statements made in the proceeding are false, upon conviction, shall be guilty of a felony.
- F. Upon receipt of notice of legal proceedings, the Tax Commission shall cause the sale process to be put on hold until notice of resolution of court proceedings is received from the court. If such notice of commencement of court proceedings is not filed with the Tax Commission, the possessory lien sale process may continue.
- G. No possessory lien sale shall be held on a Sunday.
- H. For purposes of this section:
1. "Possession" includes actual possession and constructive possession;
  2. "Constructive possession" means possession by a person who, although not in actual possession, does not have an intention to abandon property, knowingly has both power and the intention at a given time to exercise dominion or control over the property, and who holds claim to such thing by virtue of some legal right;
  3. "Lawfully in possession" means a person has documentation from the owner or the owner's authorized agent, or an insurance company or its authorized agent, authorizing the furnishing of material, labor, or storage, or that the property was authorized to be towed to a repair facility.
- Class AA wrecker services taking possession of a vehicle pursuant to an agreement with, or at the direction of, or dispatched by, a state or local law enforcement or government agency, or pursuant to the abandoned vehicle removal provisions of Section 954A of Title 47 of the Oklahoma Statutes, shall be considered lawfully in possession of the vehicle. If the person lacks such documentation, the procedures established by this section shall not apply; and
4. "Itemized charges" means total parts, total labor, total towing fees, total storage fees, total processing fees and totals of any other fee groups, the sum total of which shall equal the compensation claimed.
- I. For purposes of this section, the United States Postal Service approved electronic equivalent of proof of return receipt requested Form 3811 shall satisfy return receipt requested documentation requirements.
- J. If a person claiming a special lien pursuant to this section fails to comply with any of the requirements of this section, any interested party may proceed against the person claiming such lien for all damages arising therefrom, including conversion, if the article of personal property has been sold. If the notice or notices required by this section shall be shown to be knowingly false or fraudulent, the interested party shall be entitled to treble damages. The prevailing party shall be entitled to all costs, including reasonable attorney fees.
- K. Any interested party shall be permitted to visually inspect and verify the services rendered by the claimant prior to the sale of the article of property during normal business hours. If the claimant fails to allow any interested party to inspect the property, the interested party shall mail a request for inspection

by certified mail, return receipt requested, to the claimant. Within three (3) business days of receipt of the request for inspection, the claimant shall mail a photograph of the property, by certified mail, return receipt requested, and a date of inspection within five (5) business days from the date of the notice to inspect. The lienholder shall be allowed to retrieve the property without being required to bring the title into the lienholder's name, if the lienholder provides proof it is a lienholder and any payment due the claimant for lawful charges where the claimant has complied with this section. Upon the release of personal property to an insurer or representative of the insurer, wrecker operators shall be exempt from all liability and shall be held harmless for any losses or claims of loss. In the event any law enforcement agency places a hold on the property, the party wanting to inspect or photograph the property shall obtain permission from the law enforcement agency that placed the hold on the property before inspecting or photographing.

- L. This section shall apply to all actions or proceedings that commence on or after the effective date of this act.

## TITLE 63 PUBLIC HEALTH AND SAFETY

### CHAPTER 70 OKLAHOMA VESSEL AND MOTOR REGISTRATION ACT

#### 63 O.S. § 70-4002 Definitions

As used in the Oklahoma Vessel and Motor Registration Act:

1. "**Boat livery**" means a business establishment engaged in renting or hiring out vessels for profit;
2. "**Canoe**" means a light narrow vessel with both ends typically tapered to a sharp point which is propelled solely by its occupants, using a single-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, thole pins, crutches, or similar arrangements;
3. "**Certificate of documentation**" means a document issued by the United States Coast Guard which is legal proof of ownership of a vessel;
4. "**Certificate of registration**" means a document which is legal proof of registration of a vessel or motor;
5. "**Certificate of title**" means a document which is proof of legal ownership of a vessel and/or motor;
6. "**Service Oklahoma**" means:
  - a. Service Oklahoma, or
  - b. the equivalent vessel registration and licensing agency of a federally recognized Indian tribe in this state;
7. "**Dealer**" means any person engaged in the business of selling, trading, renting with option to purchase, or attempting to negotiate or negotiating sales or exchanges of interests in new or used vessels or motors, or new and used vessels or motors, or any combination thereof;
8. "**Dealer agreement**" means the agreement, authorization or written contract between a manufacturer and distributor and a new vessel dealer which purports to establish the legal rights and obligations of the parties to the agreement, authorization, or written contract with regard to the purchase and sale of new vessels or new motors;
9. "**Designated successor**" means one or more persons nominated by the new vessel dealer, in a written document filed by the dealer with the manufacturer or distributor at the time the dealer agreement is executed, to succeed the dealer in the event of the dealer's death or incapacity. If a designated successor is not able to succeed the new vessel dealer because of the designated successor's death or legal incapacity, the dealer shall execute a new document nominating a designated successor within sixty (60) calendar days after the date of the death or incapacity;
10. "**Distributor**" means a person, resident, or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer or who maintains a factory representative, resident, or nonresident, or who controls a person, resident, or nonresident, who in whole or in part offers for sale, sells, or distributes a new vessel or new motor to a new vessel dealer;
11. "**Distributor branch**" means a branch office similarly maintained by a distributor or wholesaler for the same purposes a factory branch is maintained;
12. "**Distributor representative**" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a distributor or distributor branch of vessels or motors, for the purpose of making or promoting the sale of his or her, its or their vessels or motors, or for supervising or contacting his or her, its or their dealers or prospective dealers;
13. "**Documented vessel**" means any vessel in this state which shall have and carry-on board the original certificate of documentation in legible form as issued by the United States Coast Guard or federal agency successor thereto. All documented vessels shall be required to display a current State of Oklahoma annual registration decal;
14. "**Factory branch**" means a branch office maintained by a person, firm, association, corporation or trust who manufactures or assembles vessels or motors for the sale of vessels or motors to distributors, or for the sale of vessels or motors to dealers, or for directing or supervising, in whole or in part, its representatives;

15. "**Factory representative**" means any person, firm, association, corporation or trust and each officer and employee thereof engaged as a representative of a manufacturer of vessels or motors or by a factory branch, for the purpose of making or promoting the sale of his, her, its or their vessels or motors, or for supervising or contacting his, its or their dealers or prospective dealers;
16. "**Hull identification number**" means the serial number affixed to the outside of the hull of a vessel on the upper starboard side (right) corner of the transom (back wall) which is assigned by the manufacturer or Service Oklahoma;
17. "**Inboard motor**" means an internal combustion engine mounted inside a vessel which provides the transfer of power to move a vessel through the water;
18. "**Inboard/outboard motor**" means an internal combustion engine mounted inside a vessel and an external stern drive attached through the transom of the vessel providing the transfer of power to move the vessel through the water;
19. "**John boat**" means a narrow, flat-bottomed square-ended vessel propelled by a pole, paddle, or a motor of less than ten (10) horsepower;
20. "**Kayak**" means a light narrow vessel with both ends typically tapered to a sharp point and propelled by double-bladed paddles as a lever without the aid of a fulcrum provided by oarlocks, thole pins, crutches, or similar arrangements by one or more individuals seated inside or on top of the vessel and facing the direction of travel;
21. "**Kiteboard**" means a vessel, similar in appearance to a surfboard, with or without foot straps or bindings, combined with a large controllable kite to propel the rider and board across the water;
22. "**Lifeboat**" means a vessel carried on another vessel in excess of sixty-five (65) feet for use if such other vessel has to be abandoned;
23. "**Manufacturer**" means a person who manufactures or assembles new vessels or new motors, or a distributor, factory branch, or factory representative;
24. "**Motor**" means any internal combustion engine mounted at the stern of a vessel or placed inside a vessel which provides the transfer of power to move the vessel through the water;
25. "**New vessel dealer**" means a person who holds a dealer agreement granted by a manufacturer or distributor for the sale of the manufacturer's or distributor's vessels or motors, who is engaged in the business of purchasing, selling, exchanging, or dealing in new vessels or new motors, and who has an established place of business;
26. "**Operate**" means to navigate or be in actual physical control of a vessel or otherwise use a vessel or motor;
27. "**Outboard motor**" means an internal combustion engine capable of being externally mounted at the stern of a vessel which provides the transfer of power to move a vessel through the water;
28. "**Owner**" means a person, other than a lienholder, having a property interest in or title to a vessel or motor. The term includes a person entitled to the use or possession of a vessel or motor subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;
29. "**Paddleboard**" means a vessel, similar in appearance to a surfboard, intended to be propelled only by its occupants using a single- or double-bladed paddle as a lever without the aid of a fulcrum provided by oarlocks, thole pins, crutches, or similar arrangements;
30. "**Paddleboat**" means a vessel less than eight (8) feet in length designed to be propelled solely by human power through a belt, chain, or gears;
31. "**Permanent number**" means the distinctive and unique number which:
  - a. Service Oklahoma permanently assigns to a vessel, irrespective of any change of ownership of said vessel. The permanent number shall begin with the letters "OK", followed by four numerals, and then followed by two letters, or
  - b. any federally recognized Indian tribe in this state assigns to a vessel;  
provided, the number is configured as prescribed in 33 C.F.R., Parts 173 and 174;

32. "**Person**" means a natural person, partnership, corporation, association, trust, estate, or other legal entity;
33. "**Proposed new vessel dealer**" means a person who has an application pending for a new dealer agreement with a manufacturer or distributor. Proposed new vessel dealer does not include a person whose dealer agreement is being renewed or continued;
34. "**Purchase date**" means the purchase date on a bill of sale or the date of complete assignment of title by the current owner;
35. "**Sailboard**" means a vessel, similar in appearance to a surfboard, equipped with a swivel-mounted mast and sail not secured to a hull by guys or stays;
36. "**State**" means the State of Oklahoma;
37. "**State of principal use**" means the state where the vessel or motor is used, is to be used, or remains for any period in excess of sixty (60) calendar days;
38. "**Vessel**" means every device, other than a seaplane on the water, used or capable of being used as a means of transportation on water;
39. "**Waters of this state**" means and includes all waters within the territorial limits of this state; provided, such phrase shall not mean or include waters which are entirely owned by a private person or persons, and to which the public is not permitted access; and
40. "**Water-thrust device**" means a device tethered to the water jet mechanism of a vessel in a manner so that the water jet of the powering vessel provides propulsion for the attached device. Such devices shall be considered a component of the powering vessel.

## CHAPTER 72 BOATING SAFETY

### **63 O.S. § 72-4217 Removal of Abandoned Vessel**

- A. It shall be unlawful to abandon a vessel on the waters of this state or other public property. Any officer of the Department of Public Safety or any other law enforcement agency shall deem a vessel abandoned and shall have authority to remove or direct the removal of a vessel when found upon any portion of the waters of this state or other public property, if, after a period of forty-eight (48) hours, there is no evidence of an apparent owner who intends to remove the vessel. Any law enforcement officer prior to removing such vessel shall attempt to notify the owner of such vessel if the vessel has an identification number registered in this state or if the name and address of the owner is attached to such vessel.
- B. If such officer has reasonable cause to believe a vessel has been abandoned in a location which would be hazardous to the free flow of traffic or would be highly susceptible to damage from vandalism or other harm, he shall have authority to remove or direct the removal of the vessel immediately. At the time of ordering the removal of an abandoned vessel, the authorizing officer shall also determine the sale value of the vessel and certify that amount on the removal order. Any officer of the Department of Public Safety is hereby authorized to cause to be removed any vessel found upon the waters of this state or any other public property when:
1. Report has been made that such vessel has been stolen or taken without the consent of its owner;
  2. The officer has reason to believe the vessel has been abandoned as defined in this section;
  3. The person operating or in control of such vessel is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;
  4. At the scene of an accident, when the owner or operator is not in a position to take charge of his vessel and direct or request proper removal; or
  5. When a vessel and/or motor registration is thirty (30) days past the date of expiration.

Such officer may ensure the safe removal of said vessel by use of a trailer.

### **63 O.S. § 72-4217.1 Notification Requirement of Removal of Vessels**

Any officer who has removed or directed the removal of any vessel, or an authorized person in the employing agency of the officer, shall within seventy-two (72) hours of the removal notify the Department of Public Safety of the removal. The notice of removal shall contain the name and address of the owner, if known, the make, model, vessel identification number, registration number, date stored, place stored and the estimated value. Upon receipt of such notice of removal, the Department of Public Safety shall promptly request the Oklahoma Tax Commission or other appropriate registering jurisdiction to furnish the name and address of the owner of and any lienholder on the vessel and must within five (5) days from receipt of the requested information send a notice to the owner and any lienholder by regular mail, postage prepaid, at the addresses furnished by the Tax Commission or registering jurisdiction, of the location of the vessel. This section shall not be construed to create any civil liability upon the state, any agency of the state or employee thereof for failure to provide notice to the owner or lienholder.

### **63 O.S. § 72-4217.2 Time Period for Certain Notices – Hearing Process for Abandoned Vessels**

- A. After the removal or storage of any abandoned or wrecked vessel at the request of a public agency, the registered or legal owner of the vessel, or their agent, may contest the validity of the removal or storage, by filing a written request for a hearing with the public agency. The written request may be filed before or after the vessel is retrieved from the storage operator. The public agency shall not be required to conduct a hearing if the request is received more than ten (10) days following actual or constructive notice to the owner or driver of the vessel that the vessel has been so removed or stored. A hearing shall be scheduled within seventy-two (72) hours of the request, excluding weekends and holidays. The public agency may authorize its own officer or employee to conduct the hearing, so long as the hearing officer is not the same person who directed the removal or storage of the vessel. The public agency may, with

the consent of the person requesting the hearing, schedule the hearing by telephone and conduct the hearing on the merits by telephone conference call.

The hearing officer shall apply the law to the evidence and make a determination whether the vessel removal and storage was justified. If deemed unjustified, the public agency shall bear the cost of hookup and tow mileage, and the operator shall waive all storage costs in such cases as a condition of eligibility to respond to a service call request from a public agency. The vessel owner or agent shall not be charged any type of fee or costs relating to impoundment or storage in such case. If the tow and storage is deemed justified, the owner or agent shall bear the cost of reasonable tow and storage.

- B. Failure of either the registered or legal owner, or their agent, to timely request or to timely appear for a scheduled hearing shall satisfy the hearing requirement of this section.
- C. The hearing conducted by the public agency pursuant to this section shall not be governed by the Administrative Procedures Act. The owner of a stored vessel may, either in lieu of such hearing or after such hearing, file a petition in the district court of the county wherein the vessel is stored. The district court is vested with original jurisdiction to conduct a de novo hearing and determine the validity of removal and storage.
- D. The provisions of this section shall not apply to the removal of vessels pursuant to Section 954A of Title 47 of the Oklahoma Statutes.

### **63 O.S. § 72-4217.3 Authorization for Owner or Insurer to Regain Possession of Abandoned Vessel**

The owner of a vessel or lienholder of the vessel abandoned in violation of Section 4217 of Title 63 of the Oklahoma Statutes, or the owner of any vessel or lienholder of the vessel or insurer of a vessel when the insurer has purchased the vessel as a total loss vessel from the registered owner which shall have been lawfully removed from any waters of this state or other public property may regain possession of the vessel in accordance with rules of the Department of Public Safety upon payment of the reasonable cost of removal and storage of the vessel. The cost of removal and storage shall be paid to the wrecker or towing service. An operator shall release the vessel from storage upon authorization from the owner, agent, or lienholder of the vessel or, in the case of a total loss, the insurer of the vessel where the vessel is to be moved to an insurance pool yard for sale.

### **63 O.S. § 72-4217.4 Special Liens for Possession of Abandoned Property – Notice Contents – Proceeds from Sale**

- A. Every person lawfully in possession of an abandoned vessel shall have a special lien thereon for the compensation due from the owner of such abandoned vessel for all expenses incurred.
- B. The lien may be foreclosed by a sale of such abandoned vessel upon giving notice and in the following manner. The notice shall contain:
  - 1. The name of the party bringing action and the name of the owner or any person claiming any interest therein;
  - 2. A full description of the vessel, giving all available information as to the make, year, serial number, registration decal number with year and the state from which the registration was issued;
  - 3. A full statement of all the facts;
  - 4. The amount of the claim, giving a full description of the work, labor, storage or any other costs involved; and
  - 5. The date, time, and place of the sale.

The notice shall be posted in three public places in the county in which the vessel is to be sold at least ten (10) days before the time specified therein for such sale, and a copy of said notice shall be mailed to the owner and any other person claiming any interest in the abandoned motor vehicle, at their last-known mailing address, by registered mail on the same date of posting said notice.

- C. Proceedings for such sale under this section shall not be commenced until ten (10) days after the lien has accrued.



- D. A return of such sale shall be made at the time of sale and proof of posting and mailing of the notice of sale of abandoned vessel.
- E. The proceeds from the sale of an abandoned vessel made pursuant to subsection B of this section shall be applied in the following order:
  - 1. To the reasonable cost incurred in the sale of the abandoned vessel;
  - 2. To the satisfaction of the special lien provided for in subsection A of this section;
  - 3. To the satisfaction of any indebtedness secured by a subordinate security interest or lien in the vessel; and
  - 4. To the owner if the owner is known, and if the owner or the address of the owner is not known, to the Oklahoma Tax Commission to be remitted to the State Treasurer and deposited in the General Revenue Fund.

**63 O.S. § 72-4218 Penalties for Violations**

- A. Except as otherwise provided by the provisions of this section, any person violating the provisions of the Oklahoma Boating Safety Regulation Act for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine not to exceed Fifty Dollars (\$50.00) for each such violation.
- B. Any person who violates Section 4213 of this title for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not less than Two Hundred Dollars (\$200.00) and not more than One Thousand Dollars (\$1,000.00).
- C. Any person who violates any provision of Sections 4206 through 4212 of this title, for which another penalty is not provided, upon conviction thereof, shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed One Hundred Dollars (\$100.00) for each such violation.