

**ARKANSAS SENATE**  
87th General Assembly - Regular Session, 2009  
**Amendment Form**

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**Subtitle of Senate Bill No. 829**

"TO PERMIT CITIES OF THE FIRST CLASS WITH A POPULATION EXCEEDING FIFTY  
THOUSAND (50,000) TO REGULATE NONCONSENSUAL TOWING AND STORAGE."

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**Amendment No. 1 to Senate Bill No. 829.**

Amend Senate Bill No. 829 as originally introduced:

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Delete the title in its entirety and substitute:

"AN ACT TO PERMIT CITIES OF THE FIRST CLASS WITH A POPULATION EXCEEDING FIFTY  
THOUSAND (50,000) TO REGULATE PROPERTY OWNERS OR THEIR AGENTS WHO HAVE  
VEHICLES TOWED FROM THE PROPERTY; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"TO PERMIT CITIES OF THE FIRST CLASS WITH  
A POPULATION EXCEEDING FIFTY THOUSAND  
(50,000) TO REGULATE PROPERTY OWNERS OR  
THEIR AGENTS WHO HAVE VEHICLES TOWED  
FROM THE PROPERTY."

AND

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 27-50-1101 is amended to read as follows:  
27-50-1101. Nonconsensual towing of vehicles.

(a)(1)(A) When ~~any vehicles~~ a vehicle of a type subject to  
registration under the laws of this state ~~are~~ is found abandoned on private  
or public property within this state or ~~are~~ is parked on private or public  
property within this state without the authorization of the property owners  
or other persons controlling the property, the property ~~owners or agents~~  
owner or his or her agent may have the vehicle removed from the property by a  
towing and storage firm licensed by and subject to the rules of the Arkansas  
Towing and Recovery Board.



(B)(i) A city of the first class with a population that exceeds fifty thousand (50,000) by ordinance may regulate the manner that a property owner or other person controlling the property removes a pleasure vehicle subject to licensure under § 27-14-601(a)(1):

(a) By limiting:

(1) The distance from the location of removal to the destination of storage;

(2) The amount of towing and storage charges, including the towing charge, the storage charge, the administrative fee, and any other fee that may be charged, to be assessed against the owner or operator of the vehicle removed from the property, with the difference between the charges allowed by the city and the actual charges to be assessed to the property owner or other person controlling the property that requested the removal of the vehicle; and

(3) The request for removal of a vehicle from the property to a towing and storage firm that accepts payment methods of cash, credit cards, or debit cards; and

(b) By requiring signage under § 27-51-1305 to include:

(1) The name, address, and telephone number of the towing and storage firm that may provide removal services from the parking lot;

(2) The amount of towing and storage charges, including the towing charge, the storage charge, sales tax, administrative fees, and any other fee that is to be charged, that may be assessed against the owner or operator of the vehicle; and

(3) Disclosing whether the towing and storage firm will accept the payment methods of cash, checks, credit cards, or debit cards.

(ii) An ordinance enacted under this subdivision (a)(1)(B) shall not conflict with this section and shall only apply to the towing and storage of a pleasure vehicle subject to licensure under § 27-14-601(a)(1).

~~(B)(C)~~ Prior to the removal of ~~an~~ abandoned ~~vehicles or of vehicles~~ vehicle or vehicle parked without authority as provided by this section, the towing and storage firm shall obtain in writing from the property owners or agents a written statement that includes at a minimum the following:

(i) Identification of the property owner or agent, including name, address, and telephone number;

(ii) A statement that the property from which the vehicle is to be removed is property owned or otherwise under the control of the agent requesting the removal;

(iii) That the vehicle is deemed abandoned or has been parked on the property without authorization, as the case may be;

(iv) The make, model, and vehicle identification number of the vehicle to be removed;

(v) The location to which the vehicle will be removed, including the name, address, and telephone number of the towing and storage firm removing the vehicle; and

(vi) The signature of the property owner or agent requesting removal of the vehicle.

~~(C)~~(D) A copy of the written statement shall be left with the property owner or the on-site agent, who shall make the written statement available for inspection upon request by any person claiming an interest in the removed vehicle.

~~(D)~~(E) The towing and storage firm removing the vehicle shall retain a copy of the written statement for three (3) years and make the statement available during regular business hours upon request to any person claiming an interest in the removed vehicle or upon request to any law enforcement officer or board investigator.

~~(E)~~(F) Vehicles Unless other arrangements have been made with a repair business, a vehicle on the premises of ~~an automobile~~ a repair business shall be deemed abandoned if either:

(i) ~~the~~ The vehicle is unclaimed by the ~~vehicle~~ owner within forty-five (45) days; or

(ii) ~~the~~ The debt is not paid within forty-five (45) days from the time the repair work is complete.

~~(F)~~(i)(G) ~~No~~ A towing and storage firm shall not remove any abandoned vehicle or improperly parked vehicle without the authorization of the property owner or on-site agent as provided in this section except as may otherwise be authorized by the provisions of § 27-50-1201 et seq. or as directed by any law enforcement officer.

~~(ii) A property owner may designate in writing a licensed towing and storage firm as its agent for the purposes of the removal of abandoned vehicles or vehicles parked on private property without the authorization of the property owners or other persons controlling the property.~~

~~(G)~~(H) ~~No~~ A towing and storage firm removing a vehicle as provided by this section shall not pay any compensation related to the removal of the vehicle, whether as a referral fee or otherwise, to the owner or agent requesting the removal of the vehicle.

(2)(A) Any person towing a vehicle as provided by this section and any person towing a vehicle without the authorization of the owner ~~of the vehicle~~ or ~~of the owner's agent~~, including towing pursuant to a directive of repossession from a holder of a security interest in the vehicle, shall notify the local police department or sheriff's department office within whose jurisdiction the vehicle was removed of the ~~vehicle's~~ removal within two (2) hours of taking possession of the vehicle.

(B) The towing and storage firm may not charge a storage fee for the vehicle for the time it is stored prior to the notification required to the local police department or sheriff's department office.

(C) Each police department or sheriff's department office receiving notification of the removal of a vehicle as provided in this subsection shall maintain a log recording the following information related to the vehicle: the make, model, and vehicle identification number of the vehicle, the date, time, and location of the removal, and the name, address, and telephone number of the person removing the vehicle

(i) Make;

(ii) Model;

(iii) Vehicle identification number or serial number;

(iv) Date, time, and location of the removal; and

(v) Name, address, and telephone number of the

person removing the vehicle.

(D) Each police department or sheriff's department office ~~receiving~~ that receives notification of the removal of a vehicle as provided in this subsection shall within twenty-four (24) hours of notification provide to the towing and storage firm information supplied from the records of the Office of Motor Vehicle, the Arkansas Crime Information Center, or, if there is evidence in the vehicle indicating that the vehicle is registered in another state, the motor vehicle records from that state, ~~that provide the vehicle identification number or serial number,~~ the name and address of the last registered owner, and the name and address of the holder of any recorded lien on the vehicle.

(E)(i) In the event that readily available records fail to disclose the name of the owner of the vehicle or any lienholder of record, the towing and storage firm shall perform a good faith search to locate documents or other evidence of ownership and lienholder information on or within the unattended or abandoned vehicle.

(ii) For purposes of this subsection, a "good faith search" means that the towing and storage firm checks the unattended or abandoned vehicle for any type of license plate, license plate record, temporary permit, inspection sticker, decal, or other evidence that indicates a possible state of registration and title.

(3) Following removal of an abandoned vehicle or vehicle parked without authority, possession of the vehicle, notice requirements to owners and lienholders, and procedures for sale of unclaimed vehicles shall be governed by the provisions of §§ 27-50-1208 – 27-50-1210.

(b) A city attorney may refer a possible violation of this section or an ordinance enacted under this section to the Arkansas Towing and Recovery Board for investigation.

~~(b)(1)(c)(1)~~ It shall be unlawful for a person to:

(A) Direct the removal of or to remove a vehicle in violation of this section; and

(B) Violate or aid or abet any violation of this section.

(2)(A) A person who pleads guilty or nolo contendere to or is found guilty of any violation of this section is guilty of a Class B misdemeanor.

(B) The information related to a plea of guilty or nolo contendere to or conviction for a violation as provided under subdivision (b)(1)(A) shall be reported to the Arkansas Towing and Recovery Board.

(3) ~~Each~~ The removal of each vehicle removal in violation of this section shall constitute a distinct and separate offense."

The Amendment was read the first time, rules suspended and read the second time and \_\_\_\_\_

By: Senator Madison

JSE/JSE - 03-12-2009 16:14

JSE260

Secretary