

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Henry**

A Bill

HOUSE BILL 1272

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE 27-50-1201 ET SEQ.
9 PERTAINING TO THE REMOVAL OF UNATTENDED AND ABANDONED
10 VEHICLES; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Arkansas Code 27-50-1202(c) is hereby amended to read as
15 follows:

16 "(c) 'Vehicle' means any device by which persons or things may be
17 transported upon a public highway and is of the type subject to registration
18 in Arkansas."

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20 SECTION 2. Arkansas Code 27-50-1202(f) is hereby amended to read as
21 follows:

22 "(f) In the absence of conclusive evidence to the contrary, the
23 'Owner' of an abandoned vehicle shall be deemed to be the person in whose
24 name the same is registered with the Office of Motor Vehicles, Revenue
25 Division, Department of Finance and Administration, State of Arkansas, or in
26 whose name said vehicle is registered in any other state."

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28 SECTION 3. Arkansas Code 27-50-1203(b)-(g) are hereby amended to read
29 as follows:

30 "(b) The board shall annually elect a chairman from its membership.

31 (c) The board shall promulgate such rules and regulations to carry out
32 the intent of this subchapter and shall regulate the towing industry including
33 requirements for licensing. Such authority shall not extend to the setting of
34 rates or tariffs for the towing industry.

35 (d) The Board shall have the authority to levy a license fee and to

1 specify the fee, not to exceed one hundred dollars (\$100) base fee plus
2 thirty-five dollars (\$35) per tow truck.

3 (e) The Board shall have full authority to employ, and discharge, a
4 secretary who shall also be the treasurer, and other personnel as may be
5 necessary to administer and enforce the provisions of this subchapter and the
6 rules and regulations promulgated hereunder.

7 (f) The Board shall have the authority to obtain office space,
8 furniture, stationery, and other proper supplies and conveniences reasonably
9 necessary to carry out the provisions of this subchapter.

10 (g) Each member of the Board shall receive the sum of fifty dollars
11 (\$50) per diem for each day actually spent on the work of the Board, and each
12 member of the Board shall receive reimbursement for his actual and necessary
13 expenses incurred in the performance of duties pertaining to his/her office
14 including necessary traveling expenses, board and lodging."

15

16 SECTION 4. Arkansas Code 27-50-1204(b) is hereby amended to read as
17 follows:

18 "(b) Any person, firm, organization, or corporation who is determined
19 by the Arkansas Towing and Recovery Board, after reasonable notice and
20 opportunity for a fair and impartial hearing held in accordance with the
21 Administrative Procedure Act of Arkansas, to have committed an act that is in
22 violation of this Act and/or any rules and regulations promulgated hereunder,
23 is subject to civil penalties prescribed by the Board e.g., monetary penalties
24 not to exceed five hundred dollars (\$500) and/or suspension or revocation of
25 any towing license. Nothing in this section shall be construed to limit the
26 right to contest such penalties by judicial review in a court of competent
27 jurisdiction."

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29 SECTION 5. Arkansas Code 27-50-1208(a)&(b) are hereby amended to read
30 as follows:

31 "(a) The towing-storage firm shall have a possessory lien on the
32 vehicle and its contents for all charges for which the owner is liable.

33 (b) Such lien shall be perfected by:

34 (1) Maintaining possession, and

35 (2) By giving notice to the owner or owners and lien holders as shown

1 on the data furnished by the officer's department, which shall be available
2 from the law enforcement agency upon demand after the expiration of the
3 twenty-four (24) hour period prescribed in 27-50-1206."

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5 SECTION 6. Subchapter 12 of Chapter 50 of Title 27 of the Arkansas Code
6 is hereby amended by inserting two additional sections at the end thereof to
7 read as follows:

8 "27-50-1211. Disposition of Funds.

9 (a) All fees, fines and charges collected by the Board under the
10 provisions of this subchapter shall be paid to the secretary-treasurer who
11 shall be the custodian of all funds and shall deposit the same in a bank or
12 banks to be designated by the Board.

13 (b) The secretary-treasurer shall execute a bond in an amount
14 determined by the state risk manager pursuant to the blanket bond program as
15 authorized in Arkansas Code Annotated 21-2-601 et seq.

16 (c) The secretary-treasurer shall pay funds of the Board only on
17 vouchers signed by himself/herself and countersigned by the chairman. The
18 total expenses for all purposes and obligations of the Board shall not exceed
19 the total fees, charges, and other funds paid to the Board, under the
20 provisions of this subchapter.

21 (d) The secretary-treasurer shall make semi-annual financial reports in
22 detail to the Board not later than January 31 and July 31 of each year, which
23 financial reports will be kept on permanent file by the Board.

24 27-50-1212. Scope.

25 (a) The provisions of this Act shall apply to any person, firm,
26 organization or corporation engaged in the business of towing vehicles in the
27 State of Arkansas for direct compensation.

28 (b) The following are exempted from the provisions of this Act:

29 (1) Car carriers that are capable of carrying five (5) or more vehicles
30 and which have Interstate Commerce Commission authority.

31 (2) Tow trucks that are owned by a governmental entity and that are not
32 used for commercial purposes.

33 (3) Tow trucks that are registered in another state with ICC authority
34 and which do not regularly do business or solicit business in the State of
35 Arkansas.

1 (4) Tow trucks that are owned by a business not engaged in towing
2 and/or storage for direct compensation. The following examples are
3 illustrative only and not intended to be exhaustive: a tow truck owned by a
4 company to tow vehicles belonging to that company's fleet; and a tow truck
5 used to pick up vehicles from salvage pools provided that the owner of the tow
6 truck also is the owner of the salvage vehicles.

7 (5) Tow trucks that are operated by a repair facility in which a tow
8 truck is used exclusively as a service, with or without compensation, to tow a
9 customer's vehicle to that repair facility for the purpose of service or
10 repair."

11

12 SECTION 7. All provisions of this Act of a general and permanent nature
13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
14 Revision Commission shall incorporate the same in the Code.

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16 SECTION 8. If any provision of this Act or the application thereof to
17 any person or circumstance is held invalid, such invalidity shall not affect
18 other provisions or applications of the Act which can be given effect without
19 the invalid provision or application, and to this end the provisions of this
20 Act are declared to be severable.

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22 SECTION 9. All laws and parts of laws in conflict with this Act are
23 hereby repealed.

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25 SECTION 10. EMERGENCY. It is hereby found and determined by the
26 General Assembly that the Arkansas Towing and Recovery Board law does not
27 provide adequate authority for the Board; that this Act grants such authority;
28 and that until this Act takes effect the Board will not have the necessary
29 authority to carry out its responsibilities. Therefore, an emergency is
30 hereby declared to exist and this Act being immediately necessary for the
31 preservation of the public peace, health and safety shall be in full force and
32 effect from and after its passage and approval.

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/s/ Carol Henry

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