

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 506 of the Regular Session

As Engrossed: S2/27/07 S3/13/07

A Bill

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

HOUSE BILL 1472

4
5 By: Representative Davenport
6
7

8 **For An Act To Be Entitled**

9 AN ACT TO AMEND CURRENT LAW TO LIMIT THE
10 POSSESSORY LIEN OF A TOWING AND STORAGE FIRM TO
11 THE VEHICLE ONLY; AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 TO AMEND CURRENT LAW TO LIMIT THE
15 POSSESSORY LIEN OF A TOWING AND STORAGE
16 FIRM TO THE VEHICLE ONLY.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 27-50-1208(a), regarding a possessory lien
22 and notice to owners and lienholders of vehicles that are towed and stored,
23 is amended to read as follows:

24 (a)(1) The towing and storage firm shall have a first priority
25 *possessory lien on the vehicle and its contents for all reasonable charges*
26 *for towing, recovery, and storage for which the owner is liable.*

27 (2)(A) *A possessory lien under this section attaches to not only*
28 *the vehicle and its contents, but also any trailer attached to the vehicle at*
29 *the time it is towed, and any contents of such trailer including, but not*
30 *limited to, other vehicles or boats.*

31 (B) *A lien under this section shall not extend to the*
32 *following items, without limitation:*

33 (i) *Personal or legal documents;*

34 (ii) *Medications;*

35 (iii) *Child restraint seating;*



1 (iv) Wallets or purses and the contents of such;

2 (v) Prescription eyeglasses;

3 (vi) Prosthetics;

4 (vii) Cell phones;

5 (viii) Photographs; and

6 (ix) Books.

7 (C) The items described in subdivision (a)(2)(B) of this
8 section shall be released without charge by the towing and storage firm to
9 the owner or operator of the motor vehicle or his or her duly authorized
10 representative.

11
12 SECTION 2. Arkansas Code § 27-50-1208(e), regarding a possessory lien
13 and notice to owners and lienholders of vehicles that are towed and stored,
14 is amended to read as follows:

15 (e) The notice shall contain the following information:

16 (1) The year, make, model, and vehicle identification number of
17 the vehicle towed;

18 (2) The name, address, and telephone number of the storage
19 facility;

20 (3) That the vehicle is in the possession of that towing and
21 storage firm under police order, describing the general circumstances of any
22 law enforcement or other official hold on the vehicle;

23 (4) That towing, storage, and administrative costs are accruing
24 as a legal liability of the owner;

25 (5) That the towing and storage firm claims a first priority
26 *possessory lien on the vehicle and its contents for all such charges;*

27 (6) That unless claimed within forty-five (45) days, the vehicle
28 and its contents will be dismantled, destroyed, or sold at public sale to the
29 highest bidder;

30 (7) That the failure to exercise their right to reclaim the
31 vehicle and its contents within the time prescribed by this section
32 constitutes a waiver by the owners and lienholders of all right, title, and
33 interest in the vehicle and its contents and constitutes their consent to the
34 sale, dismantling, or destruction of the vehicle and its contents;

35 (8) That the owner or lienholder may retake possession at any
36 time during business hours by appearing, proving ownership, and releasing the

1 law enforcement or other official hold, if any, and by paying all charges or
2 by other written arrangement between the owner or lienholder and the towing
3 and storage firm;

4 (9) That should the owner consider that the original taking was
5 not legally justified, he or she has a right for twenty (20) days to contest
6 the original taking as defined by § 27-50-1207; ~~and~~

7 (10) That the owner, operator, or his or her authorized
8 representative may recover without charge possession of any items identified
9 in § 27-50-1208(a)(2)(B) by providing within forty-five (45) days the towing
10 and storage firm with proof that the claiming person is the registered owner
11 of the vehicle or has been authorized by the registered owner of the vehicle
12 to obtain such property; and

13 ~~(10)(11)~~ Notices to owners of vehicles deemed abandoned on the
14 premises of automobile repair facilities pursuant to § 27-50-1101 shall also
15 advise that the automobile repair person holds an absolute lien on the
16 vehicle pursuant to § 18-45-201 et seq.

17
18 SECTION 3. Arkansas Code § 27-50-1209(b), regarding foreclosure of
19 liens on vehicles related to towing and storage, is amended to read as
20 follows:

21 (b)(1) Except as provided in subsection (c) of this section, the
22 towing and storage firm, municipality, or county that holds a perfected
23 *possessory lien on any vehicle and its contents not redeemed by its owner or*
24 *security lienholder within the forty-five (45) days provided by this*
25 *subchapter shall sell the vehicle and its contents at a nonjudicial public*
26 *sale for cash.*

27 (2) The sale shall not occur later than ninety (90) days after
28 perfection of the lien.

29
30 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
31 General Assembly of the State of Arkansas that current law regarding towing
32 and storage, resulting possessory liens, and notice to owners and lienholders
33 of the towed and stored vehicle has been interpreted to allow a possessory
34 lien on items of a personal nature that are found in the content of a towed
35 or stored vehicle; that most items of a personal nature have little if any
36 value to a towing and storage firm worth securing through a possessory lien;

1 and this act is immediately necessary to prevent an undue hardship from being
2 placed on consumers in this state by depriving them of access to personal
3 necessities because a possessory lien has been placed on items of a personal
4 nature in their vehicle that has been towed and stored. Therefore, an
5 emergency is declared to exist and this act being necessary for the
6 preservation of the public peace, health, and safety shall become effective
7 on:

8 (1) The date of its approval by the Governor;

9 (2) If the bill is neither approved nor vetoed by the Governor,
10 the expiration of the period of time during which the Governor may veto the
11 bill; or

12 (3) If the bill is vetoed by the Governor and the veto is
13 overridden, the date the last house overrides the veto.

14
15 /s/ Davenport

16
17 APPROVED: 3/26/2007