

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S1/28/15
A Bill

SENATE BILL 37

5 By: Senator E. Williams
6

7 **For An Act To Be Entitled**

8 AN ACT TO AMEND THE LAW CONCERNING NONCONSENT TOWING;
9 TO REQUIRE CITIES AND COUNTIES TO REGULATE CERTAIN
10 TOWING SERVICES; AND FOR OTHER PURPOSES.
11

12
13 **Subtitle**

14 TO AMEND THE LAW CONCERNING NONCONSENT
15 TOWING; AND TO REQUIRE CITIES AND
16 COUNTIES TO REGULATE CERTAIN TOWING
17 SERVICES.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 27-50-1204 is amended to read as follows:
23 27-50-1204. Penalties.

24 (a)(1) If a county, city of the first class, city of the second class,
25 or incorporated town engages in or authorizes nonconsent removal, towing, or
26 storage under this subchapter, the county, city of the first class, city of
27 the second class, or incorporated town shall enact one (1) or more ordinances
28 that:

29 (A) Create a procedure for a person to file a complaint
30 concerning a violation of an ordinance concerning removal, towing, or storage
31 of a vehicle;

32 (B) Create a system for investigation of a complaint;

33 (C) Impose sanctions for a violation of the ordinance of
34 the county, city of the first class, city of the second class, or
35 incorporated town; and

36 (D) Allow for an order of restitution when appropriate.



1 (2)(A) Except as provided under subdivision (a)(2)(C) of this
2 section, an ordinance for a city of the first class, city of the second
3 class, or incorporated town under this section has effect within the
4 boundaries of the respective city of the first class, city of the second
5 class, or incorporated town.

6 (B) Except as provided under subdivision (a)(2)(C) of this
7 section, a county ordinance under this section has effect in the areas within
8 the boundaries of the county and outside the boundaries of a city of the
9 first class, city of the second class, or incorporated town.

10 (C) If the ordinance under this section governs the
11 removal, towing, or storage of a vehicle as engaged in or authorized by a law
12 enforcement agency of a city of the first class, city of the second class,
13 incorporated town, or county, the ordinance has effect within the legal
14 jurisdiction of the law enforcement agency.

15 (b)(1) The following shall be liable for all reasonable costs of
16 towing, recovery, storage, and other incidental costs related to a removal of
17 a vehicle under this subchapter:

18 (A) The owner of the vehicle;

19 (B) The person who left the unattended vehicle or
20 abandoned vehicle before removal; and

21 (C) An owner or operator who waives the owner preference.

22 (2) If the vehicle is sold by foreclosure under § 27-50-1209,
23 the owner or operator shall be liable for such costs in excess of the
24 proceeds of the sale of the vehicle.

25 ~~(b)(c)~~ Any law enforcement agency that without reasonable
26 justification fails to provide information to the towing and storage firm
27 within twenty-four (24) hours as prescribed by this subchapter shall be
28 liable to the towing and storage firm for any accrued storage fees between
29 the expiration of the twenty-four-hour period and such time as the
30 information is provided.

31 ~~(e)(d)~~ Upon any complaint or on its own initiative when the Arkansas
32 Towing and Recovery Board has reason to believe that a law enforcement
33 officer failed to adhere to an owner preference request or otherwise violated
34 this subchapter, the board may investigate the matter and submit its findings
35 to proper law enforcement authorities.

36 ~~(d)(e)~~ Any person, excluding a law enforcement officer, who is

1 determined by the board after reasonable notice and opportunity for a fair
2 and impartial hearing held in accordance with the Arkansas Administrative
3 Procedure Act, § 25-15-201 et seq., to have committed an act that is in
4 violation of this subchapter or any rules and regulations promulgated under
5 this subchapter is subject to civil penalties prescribed by the board,
6 including monetary penalties not to exceed five thousand dollars (\$5,000) or
7 the suspension or revocation of any towing license or permit, or both.

8 ~~(e)~~(f) Nothing in this section shall be construed to limit the right
9 to seek judicial review of any determination of the board pursuant to the
10 provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

11 ~~(f)~~~~(1)~~(g)(1) A penalty assessed by the board shall be paid no later
12 than fifteen (15) days after the conclusion of the appeals process under the
13 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

14 (2) If not paid timely, a license or permit issued by the board
15 may be suspended until the penalty is paid.

16 (3)(A) If an entity or individual fails to pay a fine or an
17 installment payment as provided under subdivision ~~(f)~~(g)(1) of this section,
18 the board may provide written notice to the Office of Motor Vehicle of the
19 failure to pay.

20 (B) The notice of the failure to pay a fine ordered by the
21 board shall contain the following information:

22 (i) The name of the entity or individual that is
23 subject to the fine;

24 (ii) The vehicle identification number or other
25 identifying information for the vehicle owned by the entity or individual
26 that is the subject of the fine;

27 (iii) The date the board imposed the fine;

28 (iv) The amount of the fine;

29 (v) The date the fine or installment payment became
30 delinquent; and

31 (vi) The amount of the fine or installment payments
32 that remain delinquent.

33 (C) Upon receipt of the notice of the failure to pay a
34 fine or installment payment, the Office of Motor Vehicle shall suspend the
35 tow vehicle license plate issued under § 27-14-601(a)(3)(J)(i) and the
36 vehicle's registration.

1 (D) A suspension under this subdivision ~~(f)~~(g)(3) for
2 failure to pay a fine ordered by the board shall remain in effect until the
3 Office of Motor Vehicle receives written notice from the board that the fine
4 has been paid.

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6 SECTION 2. Arkansas Code Title 27, Chapter 50, Subchapter 12, is
7 amended to add an additional section to read as follows:

8 27-50-1217. County and city ordinances.

9 (a) If a county, city of the first class, city of the second class, or
10 incorporated town engages in or authorizes nonconsent removal, towing, or
11 storage of a vehicle under this subchapter, the county, city of the first
12 class, city of the second class, or incorporated town shall enact one (1) or
13 more ordinances that set procedures and regulations for the nonconsent
14 removal, towing, or storage of a vehicle.

15 (b) The ordinances enacted under subsection (a) of this section shall
16 include without limitation regulations and procedures concerning:

17 (1) A request to obtain removal of a vehicle;

18 (2) The removal of a vehicle;

19 (3) The storage of a vehicle; and

20 (4) The reasonable charge for the nonconsent removal, towing, or
21 storage of a vehicle.

22 (c)(1) Except as provided under subdivision (c)(3) of this section, an
23 ordinance for a city of the first class, city of the second class, or
24 incorporated town under this section has effect within the boundaries of the
25 respective city of the first class, city of the second class, or incorporated
26 town.

27 (2) Except as provided under subdivision (c)(3) of this section,
28 a county ordinance under this section has effect in the areas within the
29 boundaries of the county and outside the boundaries of a city of the first
30 class, city of the second class, or incorporated town.

31 (3) If the ordinance under this section governs the removal,
32 towing, or storage of a vehicle as engaged in or authorized by a law
33 enforcement agency of a city of the first class, city of the second class,
34 incorporated town, or county, the ordinance has effect within the legal
35 jurisdiction of the law enforcement agency.

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