

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 2538

"AN ACT TO AMEND SUBCHAPTER 12 OF TITLE 27 OF THE ARKANSAS CODE
CONCERNING THE REMOVAL OF UNATTENDED OR ABANDONED VEHICLES."

Amendment No. 1 to House Bill No. 2538.

Amend House Bill No. 2538 as engrossed, H3/23/01:

Page 2, line 19, delete "impound" and substitute "seizure"

AND

Page 2, line 20, delete "police power" and substitute "the Rules of Criminal Procedure"

AND

Page 4, line 3, delete "subchapter or" and substitute "subchapter."

AND

Page 4, delete lines 4 and 5

AND

Page 4, delete line 21 through 36, and page 5, delete lines 1 through 22 and substitute the following:

"(e)(1) Should the owner or lienholder of a vehicle removed pursuant to this subchapter consider that the removal of the vehicle was not legally justified, the owner or lienholder may within twenty (20) days after removal or within twenty (20) days after the receipt of notification from the towing and storage firm, whichever is later, seek review to determine if the unattended or abandoned property was wrongfully removed or withheld from the owner through the following procedures:

(A) In the case of a vehicle removed by or at the direction of a state agency, by filing a petition with the State Claims Commission;

(B) In the case of a vehicle removed by or at the direction of a county or city agency, and when the county or city has established an administrative review process, by filing a petition according

to the established administrative review process;

(C) In all other cases, including when the county or city has failed to establish an administrative review process, by filing a petition in the circuit court in the county where the unattended or abandoned vehicle is stored; or

(2) In the case of a final decision reached through a county or city administrative review, the owner or lienholder may appeal an adverse ruling to the circuit court in the county where the unattended or abandoned vehicle is stored.

(3) The petition shall name the state agency ordering the tow as a respondent, and when filed in circuit court shall also name the towing company among the respondents. In the case of removal originated by an agency of a political subdivision of the state, the petition shall name the county, city or town as a respondent.

(4) If the vehicle and its contents are subject to impoundment or seizure by law enforcement pursuant to the Arkansas Rules of Criminal Procedure or pursuant to an order by any court, Rule 15 of the Arkansas Rules of Criminal Procedure shall exclusively govern the release of the vehicle and its contents to the extent applicable.

(f) (1) Upon filing of the petition, the owner or lienholder may have the unattended or abandoned vehicle and contents released upon posting with the State Claims Commission, court or with the city or county clerk or other person designated by a political subdivision, as the case may be, a cash or surety bond equal to the amount of the charges for the towing and storage to ensure the payment of such charges in the event he or she does not prevail.

(2) Upon the posting of the bond and the payment of the applicable fees, the administrative decision-maker, State Claims Commission or court as the case may be, shall issue an order notifying the towing company and the respondent agency of the posting of the bond. Upon receipt of such order, the towing company shall release the stored property.

(3) At the time of release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing and storage firm reciting any claim for known loss or damage to the unattended or abandoned property or the contents thereof.

(g) Upon determining the respective rights of the parties, the final order of the administrative decision-maker, State Claims Commission or court as the case may be, shall provide for immediate payment in full of the reasonable recovery, towing and storage fees by the unattended or abandoned property owner or lienholder or the respective law enforcement agency.

(h) In cases where the owner or lienholder has posted a cash or surety bond to obtain immediate release and the owner or lienholder is found to be responsible for reasonable recovery, towing and storage fees, the administrative decision-maker, State Claims Commission or court, as the case may be, shall declare the bond to be forfeited with the amount paid to the towing and storage firm to cover reasonable recovery, towing and storage fees.

(i) Nothing in this section shall be construed to waive the sovereign immunity of the State of Arkansas, nor any immunity granted to its political subdivisions."

AND

Page 6, line 9, delete "five (5)" and substitute "two (2)"

AND

Page 7, line 2, delete "improper or"

AND

Page 7, line 3, delete "in a court of competent jurisdiction or the State
Claims Commission" and substitute "as defined by § 27-50-1207"

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

**By: Senator Whitaker
LH/RRS - 040420011013
RRS835**

Secretary