

Hall of the House of Representatives

88th General Assembly - Regular Session, 2011

Amendment Form

Subtitle of House Bill No. 1484

TO REVISE AND SIMPLIFY THE MINIMUM LIABILITY INSURANCE LAW FOR MOTOR
VEHICLES AND THE LAW RELATED TO THE REMOVAL OF UNATTENDED AND
ABANDONED VEHICLES.

Amendment No. 1 to House Bill No. 1484

Amend House Bill No. 1484 as originally introduced:

Add the following mark-up language to the top header centered on the first page of bill that states in size 10 Times New Roman bold font:

"Stricken language would be deleted from and underlined language would be added to present law."

AND

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 27-22-103(b), regarding penalties for failing to comply with the mandatory motor vehicle liability insurance law, is amended to add an additional subdivision to read as follows:

(4)(A)(i) If the person is unable to establish that liability coverage required by §§ 27-22-101 – 27-22-104 is in effect at the time of the disposition of the charge, the judge or clerk of the court shall prepare and transmit to the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration an order suspending the registration of the motor vehicle involved in the violation until such time as the person presents proof of coverage to the Office of Motor Vehicle.

(ii) The order shall include:

- (a) The name and address of the person charged;
- (b) The driver's license number, if any, of the person charged;
- (c) The vehicle identification number or license plate number of the motor vehicle involved;
- (d) The date of the hearing;
- (e) The judgment of the court; and



(f) The amount of the fine.

(iii) The judge or clerk of the court shall prepare and transmit an order under subdivision (b)(4)(A) of this section within five (5) business days after the plea or judgment is entered.

(B)(i) In order to reinstate the suspended registration for any suspended motor vehicle, the owner shall present proof of the requisite liability coverage to the Office of Motor Vehicle and shall pay to the Office of Motor Vehicle a twenty dollar (\$20.00) fee for reinstatement of the registration and reissuance of the license plate.

(ii) The revenues derived from this reinstatement fee shall be deposited as a special revenue into the State Central Services Fund and credited as a direct revenue to be used by the Office of Motor Vehicle to offset the costs of administering this section.

(iii) This fee shall be in addition to any other fines, fees, or other penalties for other violations of this subchapter.

SECTION 2. Arkansas Code § 27-22-104 is amended to read as follows:
27-22-104. Insurance required – Minimum coverage.

(a)(1) It ~~shall be~~ is unlawful for ~~any a~~ a person to operate a motor vehicle within this state ~~unless if~~ both the motor vehicle and the person's operation of the motor vehicle are not covered by:

(A) a A certificate of self-insurance under ~~the provisions~~ of § 27-19-107; or

(B) an An insurance policy issued by an insurance company authorized to do business in this state.

(2) Failure to present proof of insurance coverage at the time of arrest or a failure of the Vehicle Insurance Database or proof of an insurance card issued under § 23-89-213 to show current insurance coverage at the time of the traffic stop creates a rebuttable presumption that the motor vehicle or the person's operation of the motor vehicle is uninsured.

(b) The policy shall provide ~~as~~ at a minimum the following coverage:

(1) Not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident;

(2) Not less than fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident; and

(3) If the accident ~~has resulted~~ results in injury to or destruction of property, not less than twenty-five thousand dollars (\$25,000) for the injury to or destruction of property of others in any one (1) accident.

~~(c)(1)(A) If the operator of the motor vehicle is unable to present proof of insurance coverage as required in subsection (a) of this section when requested by a law enforcement officer or if a check of the Vehicle Insurance Database at the time of the traffic stop fails to show current insurance coverage, the operator shall be issued, in addition to any traffic citation issued for a violation of this section, a notice of noncompliance with the provisions of this section on a form to be provided to the Department of Finance and Administration.~~

~~(B)(i)(a) If the operator of the motor vehicle proves that the liability coverage required by §§ 27-22-101 – 27-22-104 was in effect at the time of the traffic stop, then the failure to present proof of insurance at the time of the traffic stop when requested by a law enforcement officer shall be punished by a fine of twenty-five dollars (\$25.00). No court costs~~

~~under § 16-10-305 or other costs or fees shall be assessed under this subdivision (c)(1)(B)(i)(a).~~

~~(b)(1) Eighty percent (80%) of the fines collected under this subdivision (c)(1)(B)(i) shall be paid to the Treasurer of State for the benefit of the Arkansas Citizens First Responder Safety Enhancement Fund.~~

~~(2) Twenty percent (20%) of the fines collected under this subdivision (c)(1)(B)(i) shall be retained by the court that tries the offense.~~

~~(ii) If the operator of the motor vehicle is unable to prove that the liability coverage required by §§ 27-22-101 - 27-22-104 was in effect at the time of the traffic stop, then the failure to present proof of insurance at the time of the traffic stop when requested by a law enforcement officer shall be punished as provided under § 27-22-103.~~

~~(2) The officer shall forward a copy of the notice of noncompliance to the department within ten (10) days of issuance.~~

~~(3)(A) In addition, the officer shall remove and impound the license plate attached to the vehicle.~~

~~(B) The license plate shall be returned to the Office of Driver Services or to the local revenue office.~~

~~(d)(1) The law enforcement officer who removes and impounds the license plate pursuant to subdivision (c)(3)(A) of this section shall issue for attachment to the rear of the vehicle a temporary sticker denoting its use in lieu of an official license plate.~~

~~(2) The sticker shall bear the date upon which it shall expire in written or stamped numerals or alphabetic characters not less than three inches (3'') in height.~~

~~(3) This temporary sticker shall only be effective for a period of ten (10) days beginning from the day on which the license plate was taken.~~

~~(4) The temporary stickers shall be designed by the department and supplied at no cost to all law enforcement agencies authorized to enforce traffic laws in Arkansas.~~

~~(e)(1) Upon receipt of the notice of noncompliance by the department, the department shall proceed to suspend the registration of the vehicle effective ten (10) days after the license plate was taken and the notice of noncompliance was issued.~~

~~(2) However, if both the vehicle and the driver's operation of the vehicle were insured at the time of the offense, the owner of the vehicle shall have ten (10) days to present proof of insurance coverage or other financial security in effect at the time of the offense, whereupon the license plate shall be returned at no cost to the owner of the vehicle.~~

~~(f) Any suspension by the department under this section shall be subject to the notice and hearing provisions of § 27-19-404 and shall remain in effect and no registration shall be renewed for or issued to any person whose vehicle registration is so suspended until:~~

~~(1) The person shall deposit or there shall be deposited on his or her behalf sufficient security as provided for under the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.; or~~

~~(2) The person shall furnish the department one of the following:~~

~~(A) A certificate of self-insurance under the provisions of § 27-19-107; or~~

~~(B) A sufficient insurance policy issued by an insurance company authorized to do business in this state.~~

~~(g)(1) In order to reinstate the suspended registration and be reissued a license plate for any suspended motor vehicle, the owner shall present the proof of renewed or new financial coverage required in subdivision (f)(1) or (2) of this section to the department and shall pay to the department a twenty dollar (\$20.00) fee for reinstatement of the registration and reissuance of the license plate.~~

~~(2) The revenues derived from this reinstatement fee shall be deposited as a special revenue into the State Central Services Fund and credited as a direct revenue to be used by the department to offset the costs of administering this section.~~

~~(3) This fee shall be in addition to any other fines, fees, or other penalties for other violations of this section.~~

~~(h) The department shall promulgate necessary rules and regulations for the administration of this section.~~

~~(i)(1) For purposes of this subsection, "operating motor vehicle" means a motor vehicle that is actually driven out of the government-owned and government-operated storage facility under its own power.~~

~~(2) A government-owned and government-operated storage facility for motor vehicles may refuse to release an operating motor vehicle from the storage facility if the owner of the motor vehicle cannot establish that the motor vehicle is covered by insurance as required under this section.~~

~~(3) The following are exempt from the requirements of this subsection:~~

~~(A) A motor vehicle that is considered salvage;~~

~~(B) A motor vehicle when an insurer holds the title to the motor vehicle; and~~

~~(C) A motor vehicle that is not driven out of the government-owned and government-operated storage facility under its own power.~~

SECTION 3. Arkansas Code Title 22, Chapter 1, is amended to add additional sections to read as follows:

27-22-109. Impounding a motor vehicle for a violation.

(a) As used in this section, "repeat violator" means a person who has plead guilty or nolo contendere to or been found guilty of one (1) or more violations of § 27-22-104 in the previous two (2) years.

(b) If an operator of a motor vehicle is unable to present proof of insurance coverage to a law enforcement officer as required under § 27-22-104, the motor vehicle may be impounded at the officer's discretion if one (1) or more of the following occur:

(1) The officer issues a citation for a traffic violation that is classified as an offense under § 27-50-302;

(2) The driver is operating a motor vehicle on a cancelled, suspended, or revoked driver's license in violation of § 27-16-303;

(3) The driver is operating the motor vehicle without a driver's license in violation of § 27-16-602;

(4) The driver is a repeat violator of this subchapter, the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq., or both; or

(5) The driver is operating a motor vehicle:

(A) Without a license plate in violation of § 27-14-304;

(B) With an unofficial license plate in violation of § 27-14-305;

(C) With improper use of evidence of registration in violation of § 27-14-306; or

(D) With false evidences of title or registration in violation of § 27-14-307.

(c) If a motor vehicle is impounded under this section:

(1) The law enforcement agency shall use its towing policy as required for the towing and storage of motor vehicles under § 27-50-1207 and towing rotation list if applicable;

(2) The provisions of § 27-50-1201 et seq. regarding the towing and storage of motor vehicles shall apply;

(3) An inventory of the contents of the motor vehicle shall be taken; and

(4) The owner, operator, or other person in charge of the vehicle:

(A) Has the right to contest the impoundment; and

(B) Shall be given notice at the time of impoundment of the right to contest the impoundment consistent with § 27-50-1207.

(d)(1) If a motor vehicle is properly and lawfully impounded under this section, the following are responsible for all reasonable towing, recovery, storage, and other incidental costs:

(A) The operator of the vehicle;

(B) The owner of the vehicle; or

(C) Both the owner and the operator of the vehicle.

(2) This subsection applies even if the owner has insurance but fails to present proof of insurance.

27-22-110. Hold on release from storage facility authorized.

(a) For purposes of this section:

(1) "Operational motor vehicle" means a motor vehicle that is driven under its own power out of a storage facility; and

(2) "Proof of compliance" means:

(A) An order of a court of competent jurisdiction issued under § 27-50-1207(e)(5)(A);

(B) A certificate of self-insurance under § 27-19-107; or

(C) An insurance policy that meets the requirements of §

27-22-104.

(b)(1) A law enforcement agency that impounds a motor vehicle under § 27-22-109 may place a hold on the release of an operational motor vehicle from a storage facility consistent with § 27-50-1206(a)(3) until the owner or operator of the motor vehicle provides proof of compliance to the law enforcement agency.

(2) If the owner or operator provides proof of compliance to the law enforcement agency, the law enforcement agency shall release the hold on the vehicle and notify the storage facility in writing of the release.

(c) The following vehicles are exempt from a hold on release under this section:

(1) A salvage vehicle as defined under § 27-14-2301 that is acquired by an insurance company;

(2) A motor vehicle that is incapable of being driven out of the storage facility under its own power and is removed by a towing firm licensed by and subject to the rules of the Arkansas Towing and Recovery Board;

(3) A motor vehicle acquired by a lienholder if the lienholder provides to the law enforcement agency:

(A) A sworn statement in the form of either a repossession title or an affidavit that the lienholder is entitled to take immediate possession of the vehicle; and

(B) If the vehicle is to be driven from the storage facility, proof of insurance coverage as required under § 27-22-104; or

(4) A motor vehicle acquired subsequent to impounding by a transferee if the transferee provides to the law enforcement agency:

(A) A sworn statement in the form of an affidavit that the transferee has obtained all right, title, and interest in the vehicle;

(B) A copy of the document transferring ownership of the vehicle; and

(C) If the vehicle is to be driven from the storage facility, proof of insurance coverage as required under § 27-22-104.

27-22-111. Fine for failure to present proof of insurance at time of traffic stop.

(a) After a traffic stop has been completed, if an operator of a motor vehicle proves that the liability coverage required by §§ 27-22-101 – 27-22-104 was in effect at the time of the traffic stop, the failure to present proof of insurance at the time of the traffic stop when requested by a law enforcement officer shall be punished by a fine of twenty-five dollars (\$25.00).

(b) Court costs under § 16-10-305 or other costs or fees shall not be assessed under this section.

(c) The fines collected under this section shall be distributed as follows:

(1) Eighty percent (80%) shall be paid to the Treasurer of State for the benefit of the Arkansas Citizens First Responder Safety Enhancement Fund; and

(2) Twenty percent (20%) shall be retained by the court that tries the offense.

(d) If an operator of a motor vehicle is unable to prove that the liability coverage required by §§ 27-22-101 – 27-22-104 was in effect at the time of the traffic stop, the failure to present proof of insurance at the time of the traffic stop when requested by a law enforcement officer shall be punished as provided under § 27-22-103.

SECTION 4. Arkansas Code § 27-50-1202 is amended to read as follows:
27-50-1202. Definitions.

~~For the purposes of this subchapter, unless the context otherwise requires~~ As used in this subchapter:

(1) “Abandoned vehicle” means any a vehicle deemed to be an unattended vehicle as defined in this section:

(A) As to which the owner has overtly manifested some intention not to retake possession; or

(B) ~~Which~~ That remains unattended, whether in its first-found location or in another location to which it has been removed pursuant

~~to~~ under this subchapter, for a period of thirty (30) days, during which period the owner ~~has given~~ gives no evidence of an intent to retake possession;

(2) "Consent" means towing, storage, or recovery of ~~any~~ a vehicle, which towing, storage, or recovery is done with the permission of the owner or other person in charge of the vehicle;

(3) "Impounded or seized vehicle" means a vehicle subject to impounding or seizure by law enforcement under the Arkansas Code, the Arkansas Rules of Criminal Procedure, a court order, or an ordinance;

~~(3)(4)~~ (4) "Nonconsent" means towing, storage, or recovery of ~~any~~ an unattended vehicle, or abandoned vehicle, or impounded or seized vehicle as defined in this ~~subchapter~~ section or ~~any~~ a disabled or inoperative vehicle for which the owner preference is waived by the owner or person in charge ~~thereof~~ of the vehicle;

~~(4)(5)~~ (5) "~~Owner~~" of ~~an unattended or abandoned vehicle~~ "Owner" means, shall in the absence of conclusive evidence to the contrary, ~~be deemed to be~~ the person in whose name the vehicle is registered with the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration or in whose name the vehicle is registered in ~~any other~~ another state;

~~(5)(6)~~ (6) "Owner preference" means the right of the owner, his or her agent, or ~~any~~ a competent occupant of ~~any~~ a disabled or inoperative vehicle to request some responsible and reasonable person, gratuitous bailee, or bailee for hire of his or her choosing to take charge and care of the vehicle;

~~(6)(7)~~ (7) "Person" means ~~any~~ an individual, partnership, corporation, association, or other entity;

~~(7)(8)~~ (8) "Public way" means ~~any~~ a road, highway, or street over which the public may travel, including the traveled surface and ~~any~~ a berm or shoulder ~~thereof~~ of a road, highway, or street. ~~Nothing herein shall be applicable to vehicles left unattended or abandoned on private property and subject to § 27-50-1101 et seq.;~~

~~(8)(9)~~ (9) "Removal" means that ~~an officer of any law enforcement agency~~ a law enforcement officer may request a towing and storage firm ~~which that~~ is licensed by the Arkansas Towing and Recovery Board to engage in nonconsent towing of vehicles to remove and store:

(A) ~~Remove and store any~~ An unattended vehicle or abandoned vehicle ~~pursuant to~~ under this subchapter;

(B) ~~Remove and store any~~ A disabled or inoperative vehicle for which the owner or person in charge ~~thereof~~ of the vehicle has waived his or her right to owner preference as defined in this section; ~~or~~

(C) ~~Remove and store any~~ A vehicle in which the operator was apprehended by law enforcement officers; or

(D) An impounded or seized vehicle;

~~(9)(10)~~ (10) "Tow vehicle" means ~~any~~ a motor vehicle or related equipment subject to registration in the State of Arkansas ~~which that~~ is used to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on public highways;

~~(10)(11)~~ (11) "Unattended vehicle" means ~~any~~ a vehicle that:

(A) Is left on public property without the consent of an authority in charge of the property or on or near a public way without some

person, gratuitous bailee, or bailee for hire in possession of the vehicle and that:

~~(A)(i)~~ Is located within a distance of three feet (3') of the traveled surface of the public way;

~~(B)(ii)~~ Is located on or near a public way at a distance of three feet (3') or more of the traveled surface of the public way for a period of twenty-four (24) hours or more; or

~~(C)(iii)~~ Is not located on or near a public way but is left for a period of forty-eight (48) hours or more;

~~(D)(B)~~ Does not remain in the custody of ~~some~~ a responsible person following an accident where the operator has been removed to a hospital or is otherwise unable to make personal arrangements for the vehicle's care;

~~(E)(C)~~ Was operated to a place of apprehension by law enforcement under police power and the operator ~~thereof~~ was removed from the vehicle and taken into police custody;

~~(F)(D)~~ Is located upon ~~any~~ a public right of way and, due to geographic location, traffic density, or climatic conditions, is creating an immediate and substantial hazard to the motoring public, as determined by a law enforcement officer; or

(E) Is disabled or inoperative, located on or near a public way or on a public right-of-way, and honoring the owner preference would create an immediate and substantial hazard to the motoring public, as determined by a law enforcement officer, due to:

(i) Geographic location;

(ii) Traffic density; or

(iii) Climatic conditions; and

~~(G) Is subject to seizure by law enforcement under either a statute, the Arkansas Rules of Criminal Procedure, or a lawful court order; and~~

~~(11)(12)~~ "Vehicle" means ~~any~~ a device by which persons or things may be transported upon a public highway and which is of the type subject to registration in Arkansas.

SECTION 5. Arkansas Code § 27-50-1204(a)(1), regarding penalties related to the towing, recovery, and storage of an unattended or abandoned vehicle, is amended to read as follows:

(a)(1) ~~The owner of a vehicle and the person who left the vehicle unattended or abandoned or any owner or operator waiving an owner's preference following~~ shall be liable for all reasonable costs of towing, recovery, storage, and other incidental costs related to ~~such~~ a removal of a vehicle under this subchapter:

(A) The owner of the vehicle;

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

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

SECTION 6. Arkansas Code § 27-50-1205 is amended to read as follows:
27-50-1205. Tagging.

(a) Any law enforcement officer or code enforcement officer as defined by municipal ordinance observing a vehicle on or near a public way which appears to be unattended or abandoned an unattended vehicle, abandoned

vehicle, disabled vehicle, or inoperative vehicle on or near a public way shall:

(1)(A) Order immediate removal of ~~any unattended, abandoned, disabled, or inoperative~~ the vehicle if it:

(i) ~~Located~~ Is located within three feet (3') of the traveled surface of a public way; or

(ii) ~~That appears~~ Appears to create an immediate and substantial hazard to the public; and

(B) Log the removal order accordingly; or

(2) Tag ~~any unattended, abandoned, disabled, or inoperative~~ the vehicle if it is located at a distance of three feet (3') or more from the traveled surface of a public way by affixing securely affixing a colored form or other easily observable sticker.

(b) The tag or sticker used under subdivision (a)(2) of this section shall show:

~~(A)(1)~~ (1) The date and time of tagging;

~~(B)(2)~~ (2) That the vehicle will be removed ~~pursuant to~~ under this subchapter unless the vehicle is removed within twenty-four (24) hours;

~~(C)(3)~~ (3) The location and telephone number where more information may be obtained; and

~~(D)(4)~~ (4) The identification of the officer.

SECTION 7. Arkansas Code § 27-50-1206 is amended to read as follows:
27-50-1206. Notice to storage firm.

(a)(1) ~~Any order issued by a law enforcement officer~~ For all requests to a licensed towing and storage firm to remove and store an unattended vehicle, ~~or~~ abandoned vehicle, or impounded or seized vehicle, the law enforcement agency shall issue a written order that states the removal is for nonconsent services and shall provide information supplied from the records of the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration, Arkansas Crime Information Center records, or the motor vehicle records of ~~any other~~ another state indicating the name and address of the last registered owner, the name and address of the holder of any recorded lien on the vehicle, and the vehicle identification or serial number of the vehicle.

(2) If there is evidence in the vehicle indicating that the vehicle is registered in another state, the information shall be supplied from the motor vehicle records of that state.

(3)(A) If a law enforcement officer or other official issues a hold against the release of the vehicle, the law enforcement officer's order to remove and store the vehicle shall include a written explanation for the issuance of the hold.

(B) When the hold on the vehicle is released, the law enforcement officer or other official who issued the hold shall provide written notice of the release to the towing and storage firm.

(b)(1) In the event that readily available records fail to disclose the name of the owner or any lienholder of record, the law enforcement officer or his or her agency shall notify in writing the towing and storage firm that after receiving the notice ~~shall~~ the towing and storage firm is required to perform a good faith search to locate documents or other evidence of ownership and lienholder information on or within the unattended vehicle, ~~or~~ abandoned vehicle, or impounded or seized vehicle.

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

(3) The towing and storage firm shall provide in writing to the law enforcement officer or agency the results of the search and, if appropriate, certify that a physical search of the unattended vehicle, ~~or~~ abandoned vehicle, or impounded or seized vehicle disclosed that no ownership documents were found and that a good faith search was conducted.

(4) If the vehicle is subject to a hold limiting access to the vehicle, the law enforcement agency issuing the hold shall perform a good faith search to locate documents or other evidence of ownership and lienholder information to the extent required to preserve limited access to the vehicle.

(c)(1) Within not more than twenty-four (24) hours from the order to remove, the officer involved or his or her agency shall contact the towing and storage firm and advise the firm of any unusual circumstances causing the delay of the required information that was not available to the officer at the time the order to remove was issued.

(2) The officer or agency shall provide the delayed information immediately upon receipt.

(d) When a vehicle is removed ~~pursuant to~~ under this subchapter by law enforcement and is subject to impoundment or seizure pursuant to police power or any lawful court order, the law enforcement officer shall provide to the towing and storage firm a written statement setting forth the conditions of release of the vehicle.

SECTION 8. Arkansas Code § 27-50-1207(a)(1), regarding removal of vehicles, is amended to read as follows:

(a)(1) ~~Any~~ A law enforcement agency ~~which that~~ that directs the removal of an unattended vehicle, ~~or~~ abandoned vehicle, or impounded or seized vehicle shall adopt a written vehicle removal policy, the provisions of which shall not be in conflict with this subchapter.

SECTION 9. Arkansas Code § 27-50-1207(b), regarding removal of vehicles, is amended to read as follows:

(b) All law enforcement officers shall comply with the policies prescribed by their agencies as to the removal of ~~any~~ an unattended vehicle, ~~or~~ abandoned vehicle, or impounded or seized vehicle as defined by this subchapter.

SECTION 10. Arkansas Code § 27-50-1207(e), regarding removal of vehicles, is amended to read as follows:

(e)(1) Should the owner or lienholder of a vehicle removed ~~pursuant to~~ under this subchapter consider that the removal of the vehicle was not legally justified or properly subject to a law enforcement hold, the owner or lienholder may within thirty (30) days after removal or within thirty (30) days after the receipt of notification of ~~any~~ a law enforcement hold from the towing and storage firm, whichever is later, seek a review to determine whether the unattended vehicle, abandoned vehicle, disabled vehicle, or

~~inoperative vehicle 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 Arkansas 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; and

(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 vehicle or abandoned vehicle is stored.

(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 vehicle 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 if the towing company still possesses the vehicle. 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)(A) If the vehicle, and its contents, or both are subject to impoundment or seizure by law enforcement pursuant to under the Arkansas Rules of Criminal Procedure or pursuant to an a court order by any court, the procedure for return or restoration of the impounded or seized vehicle and its contents shall be governed exclusively by Rule 15 of the Arkansas Rules of Criminal Procedure shall exclusively govern the release of the vehicle and its contents to the extent applicable.~~

~~(B) Nothing in this section shall operate to defeat the lien held by the towing company under § 27-50-1208.~~

(5)(A) If a vehicle is impounded under § 27-22-109 and the impoundment is contested by the filing of a petition with the court having jurisdiction over the offense in question:

(i) The court shall conduct a hearing within two (2) days after the filing of the petition, excluding weekends and holidays;

(ii)(a) The owner of a motor vehicle may request a continuance of this initial hearing, but the extension shall not exceed five (5) business days.

(b) If the owner of the motor vehicle requests a continuance under this subdivision (e)(5)(A)(ii), the owner is responsible for the reasonable cost for storage of the vehicle during the extension.

(iii) The owner is required to establish to the court that he or she was in compliance with the Motor Vehicle Safety Responsibility Act, § 27-19-101 et seq.

(B) If the court finds that the operator of the vehicle proved at the time of the traffic stop that both the vehicle and the person's operation of the vehicle was covered by a certificate of liability coverage as required under § 27-22-104, the court shall order:

(i) The return of the vehicle to the owner;

(ii) The reinstatement of the registration and license of the motor vehicle; and

(iii) That the fees for towing, recovery, storage, and other incidental costs related to the removal be paid by the law enforcement agency that directed the removal, not the owner.

SECTION 11. Arkansas Code § 27-50-1207, regarding removal of vehicles, is amended to add an additional subsection to read as follows:

(j) Except as provided under § 27-50-1207(e)(5)(B) of this section, this section shall not be construed to defeat a lien held by a towing company under § 27-50-1208.

SECTION 12. Arkansas Code § 27-50-1208(h), regarding possessory liens and notice to owners and lienholders, is amended to read as follows:

(h)(1) ~~Any~~ A towing and storage firm that in good faith follows the procedures of this subchapter or the provisions of § 27-50-1101 shall not be subject to claims of unlawful detainer or conversion for vehicles or their contents for maintaining property pursuant to the possessory lien as provided by this subchapter.

(2) ~~Any~~ A challenge to the removal and holding of an unattended vehicle, or abandoned vehicle, or impounded or seized vehicle as provided by this subchapter shall be controlled exclusively by the provisions of § 27-50-1207.

(3) ~~Nothing in this~~ This section shall not be construed to limit liability of the towing and storage firm for any other act or omission otherwise actionable under statutory or common law."

The Amendment was read _____
By: Representative D. Altes
JSE/JSE - 03/10/11 05:05
JSE192

Chief Clerk