

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.

INTERIM STUDY PROPOSAL 2009-094

State of Arkansas
87th General Assembly
Regular Session, 2009

As Engrossed: S3/16/09

A Bill

SENATE BILL 829

By: Senator Madison

Filed with: Senate Interim Committee on City, County and Local Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

*AN ACT TO PERMIT CITIES OF THE FIRST CLASS WITH A
POPULATION EXCEEDING FIFTY THOUSAND (50,000) TO
REGULATE PROPERTY OWNERS OR THEIR AGENTS WHO HAVE
VEHICLES TOWED FROM THE PROPERTY; AND FOR OTHER
PURPOSES.*

Subtitle

*TO PERMIT CITIES OF THE FIRST CLASS WITH
A POPULATION EXCEEDING FIFTY THOUSAND
(50,000) TO REGULATE PROPERTY OWNERS OR
THEIR AGENTS WHO HAVE VEHICLES TOWED
FROM THE PROPERTY.*

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

*SECTION 1. Arkansas Code § 27-50-1101 is amended to read as follows:
27-50-1101. Nonconsensual towing of vehicles.*

*(a)(1)(A) When ~~any vehicles~~ a vehicle of a type subject to
registration under the laws of this state ~~are~~ is found abandoned on private
or public property within this state or ~~are~~ is parked on private or public
property within this state without the authorization of the property owners
or other persons controlling the property, the property ~~owners or agents~~
owner or his or her agent may have the vehicle removed from the property by a
towing and storage firm licensed by and subject to the rules of the Arkansas
Towing and Recovery Board.*



1 (B)(i) A city of the first class with a population that
2 exceeds fifty thousand (50,000) by ordinance may regulate the manner that a
3 property owner or other person controlling the property removes a pleasure
4 vehicle subject to licensure under § 27-14-601(a)(1):

5 (a) By limiting:

6 (1) The distance from the location of
7 removal to the destination of storage;

8 (2) The amount of towing and storage
9 charges, including the towing charge, the storage charge, the administrative
10 fee, and any other fee that may be charged, to be assessed against the owner
11 or operator of the vehicle removed from the property, with the difference
12 between the charges allowed by the city and the actual charges to be assessed
13 to the property owner or other person controlling the property that requested
14 the removal of the vehicle; and

15 (3) The request for removal of a vehicle
16 from the property to a towing and storage firm that accepts payment methods
17 of cash, credit cards, or debit cards; and

18 (b) By requiring signage under § 27-51-1305 to
19 include:

20 (1) The name, address, and telephone
21 number of the towing and storage firm that may provide removal services from
22 the parking lot;

23 (2) The amount of towing and storage
24 charges, including the towing charge, the storage charge, sales tax,
25 administrative fees, and any other fee that is to be charged, that may be
26 assessed against the owner or operator of the vehicle; and

27 (3) Disclosing whether the towing and
28 storage firm will accept the payment methods of cash, checks, credit cards,
29 or debit cards.

30 (ii) An ordinance enacted under this subdivision
31 (a)(1)(B) shall not conflict with this section and shall only apply to the
32 towing and storage of a pleasure vehicle subject to licensure under § 27-14-
33 601(a)(1).

34 ~~(B)(C)~~ Prior to the removal of an abandoned ~~vehicles or of~~
35 vehicles ~~vehicle or vehicle~~ parked without authority as provided by this
36 section, the towing and storage firm shall obtain in writing from the

1 property owners or agents a written statement that includes at a minimum the
2 following:

3 (i) Identification of the property owner or agent,
4 including name, address, and telephone number;

5 (ii) A statement that the property from which the
6 vehicle is to be removed is property owned or otherwise under the control of
7 the agent requesting the removal;

8 (iii) That the vehicle is deemed abandoned or has
9 been parked on the property without authorization, as the case may be;

10 (iv) The make, model, and vehicle identification
11 number of the vehicle to be removed;

12 (v) The location to which the vehicle will be
13 removed, including the name, address, and telephone number of the towing and
14 storage firm removing the vehicle; and

15 (vi) The signature of the property owner or agent
16 requesting removal of the vehicle.

17 ~~(G)~~(D) A copy of the written statement shall be left with
18 the property owner or the on-site agent, who shall make the written statement
19 available for inspection upon request by any person claiming an interest in
20 the removed vehicle.

21 ~~(D)~~(E) The towing and storage firm removing the vehicle
22 shall retain a copy of the written statement for three (3) years and make the
23 statement available during regular business hours upon request to any person
24 claiming an interest in the removed vehicle or upon request to any law
25 enforcement officer or board investigator.

26 ~~(E)~~(F) ~~Vehicles~~ Unless other arrangements have been made
27 with a repair business, a vehicle on the premises of ~~an automobile~~ a repair
28 business shall be deemed abandoned if either:

29 (i) the The vehicle is unclaimed by the ~~vehicle~~
30 owner within forty-five (45) days; or

31 (ii) the The debt is not paid within forty-five (45)
32 days from the time the repair work is complete.

33 ~~(F)~~(i)(G) ~~No~~ A towing and storage firm shall not remove
34 any abandoned vehicle or improperly parked vehicle without the authorization
35 of the property owner or on-site agent as provided in this section except as
36 may otherwise be authorized by the provisions of § 27-50-1201 et seq. or as

1 directed by any law enforcement officer.

2 ~~(ii) A property owner may designate in writing a~~
3 ~~licensed towing and storage firm as its agent for the purposes of the removal~~
4 ~~of abandoned vehicles or vehicles parked on private property without the~~
5 ~~authorization of the property owners or other persons controlling the~~
6 ~~property.~~

7 ~~(G)(H) No A~~ towing and storage firm removing a vehicle as
8 provided by this section shall not pay any compensation related to the
9 removal of the vehicle, whether as a referral fee or otherwise, to the owner
10 or agent requesting the removal of the vehicle.

11 (2)(A) Any person towing a vehicle as provided by this section
12 and any person towing a vehicle without the authorization of the owner ~~of the~~
13 ~~vehicle~~ or ~~of the owner's~~ agent, including towing pursuant to a directive of
14 repossession from a holder of a security interest in the vehicle, shall
15 notify the local police department or sheriff's ~~department~~ office within
16 whose jurisdiction the vehicle was removed of the ~~vehicle's~~ removal within
17 two (2) hours of taking possession of the vehicle.

18 (B) The towing and storage firm may not charge a storage
19 fee for the vehicle for the time it is stored prior to the notification
20 required to the local police department or sheriff's ~~department~~ office.

21 (C) Each police department or sheriff's ~~department~~ office
22 receiving notification of the removal of a vehicle as provided in this
23 subsection shall maintain a log recording the following information related
24 to the vehicle: the make, model, and vehicle identification number of the
25 vehicle, the date, time, and location of the removal, and the name, address,
26 and telephone number of the person removing the vehicle

27 (i) Make;

28 (ii) Model;

29 (iii) Vehicle identification number or serial
30 number;

31 (iv) Date, time, and location of the removal; and

32 (v) Name, address, and telephone number of the
33 person removing the vehicle.

34 (D) Each police department or sheriff's ~~department~~ office
35 ~~receiving~~ that receives notification of the removal of a vehicle as provided
36 in this subsection shall within twenty-four (24) hours of notification

1 provide to the towing and storage firm information supplied from the records
2 of the Office of Motor Vehicle, the Arkansas Crime Information Center, or, if
3 there is evidence in the vehicle indicating that the vehicle is registered in
4 another state, the motor vehicle records from that state, ~~that provide the~~
5 ~~vehicle identification number or serial number~~, the name and address of the
6 last registered owner, and the name and address of the holder of any recorded
7 lien on the vehicle.

8 (E)(i) In the event that readily available records fail to
9 disclose the name of the owner of the vehicle or any lienholder of record,
10 the towing and storage firm shall perform a good faith search to locate
11 documents or other evidence of ownership and lienholder information on or
12 within the unattended or abandoned vehicle.

13 (ii) For purposes of this subsection, a "good faith
14 search" means that the towing and storage firm checks the unattended or
15 abandoned vehicle for any type of license plate, license plate record,
16 temporary permit, inspection sticker, decal, or other evidence that indicates
17 a possible state of registration and title.

18 (3) Following removal of an abandoned vehicle or vehicle parked
19 without authority, possession of the vehicle, notice requirements to owners
20 and lienholders, and procedures for sale of unclaimed vehicles shall be
21 governed by the provisions of §§ 27-50-1208 – 27-50-1210.

22 (b) A city attorney may refer a possible violation of this section or
23 an ordinance enacted under this section to the Arkansas Towing and Recovery
24 Board for investigation.

25 ~~(b)(1)(c)(1)~~ It shall be unlawful for a person to:

26 (A) Direct the removal of or to remove a vehicle in
27 violation of this section; and

28 (B) Violate or aid or abet any violation of this section.

29 (2)(A) A person who pleads guilty or nolo contendere to or is
30 found guilty of any violation of this section is guilty of a Class B
31 misdemeanor.

32 (B) The information related to a plea of guilty or nolo
33 contendere to or conviction for a violation as provided under subdivision
34 (b)(1)(A) shall be reported to the Arkansas Towing and Recovery Board.

35 (3) ~~Each~~ The removal of each vehicle ~~removal~~ in violation of
36 this section shall constitute a distinct and separate offenses

/s/ Madison

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Filed Date: 04/07/2009 By: DLP\VJF