

State of Arkansas

As Engrossed: H3/3/99 S3/26/99

82nd General Assembly

A Bill

Regular Session, 1999

HOUSE BILL 1770

By: Representative Angel

For An Act To Be Entitled

"AN ACT TO AMEND ARKANSAS CODE 27-50-1101 TO ALLOW TOWED VEHICLE OWNERS TO MAKE ALTERNATIVE ARRANGEMENTS AND TO ELIMINATE CERTAIN STORAGE CHARGES FOR TOWING FIRMS FAILING TO PROVIDE NOTICE; TO AMEND VARIOUS SECTIONS OF ARKANSAS CODE TITLE 27, CHAPTER 50 SUBCHAPTER 12, TO CHANGE THE MEMBERSHIP OF THE TOWING AND RECOVERY BOARD, TO MAKE THE TIME FOR TAGGING OF TOWED VEHICLES CONSISTENT, AND TO PROVIDE A PENALTY FOR FAILING TO NOTIFY OWNERS; AND FOR OTHER PURPOSES."

Subtitle

"TO AMEND ARKANSAS LAWS ON TOWED VEHICLES TO ALLOW OWNERS ALTERNATIVES, ELIMINATE STORAGE CHARGES, CHANGE THE MEMBERSHIP OF THE TOWING AND RECOVERY BOARD, MAKE TIMES FOR TAGGING VEHICLES CONSISTENT, AND PROVIDE A PENALTY FOR NOT NOTIFYING OWNERS."

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

SECTION 1. Arkansas Code § 27-50-1101(a)(3), regarding the procedure to sell abandoned vehicles, is amended to read as follows:

"(3) Not later than the tenth (10th) day after taking possession of and storing the vehicle, or it being deemed abandoned, the towing-storage firm which takes possession of and stores the abandoned vehicle, or the automobile repair business upon whose premises the vehicle has been deemed

1 abandoned shall notify, by certified mail, return receipt requested, the last
2 known registered owner of the vehicle and all lienholders of record pursuant
3 to § 27-14-101, et seq. that the vehicle is being held and, unless claimed
4 within forty-five (45) days, will be dismantled, destroyed or sold at public
5 sale to the highest bidder. The name of the last known registered owner of the
6 vehicle and all lienholders of record may be obtained from the records of the
7 Office of Motor Vehicles, the Arkansas Crime Information Center records, or
8 the motor vehicle records of any other state where the vehicle was last
9 registered. Nothing in this section shall preclude the owner or his or her
10 authorized agent from making alternative arrangements with the towing-storage
11 firm within the ten-day time period and waiving, in writing, his or her right
12 to the required notice.

13 (A) The notice shall describe the year, make, model, and
14 vehicle identification number of the abandoned vehicle, set forth the name,
15 address, and telephone number of the facility where the vehicle is being held,
16 inform the owner and any lienholders of their right to reclaim the vehicle not
17 later than the forty-fifth (45th) day after the date of the notice, upon
18 payment of all towing and storage charges resulting from placing the vehicle
19 in custody of the towing-storage firm, or upon payment of all outstanding
20 bills due the automobile repair business. Notices to owners of vehicles deemed
21 abandoned on the premises of automobile repair facilities shall also advise
22 that the auto repairman holds an absolute lien on the vehicle pursuant to §
23 18-45-201, et seq.

24 (B) The notice shall also state that the failure of the
25 owner or lienholders to exercise their right to reclaim the vehicle within the
26 time provided constitutes a waiver by the owner and lienholders of all right,
27 title, and interest in the vehicle and their consent to the sale, dismantling
28 or destruction of the abandoned vehicle and that the towing-storage firm
29 claims a possessory lien for all charges, pursuant to § 27-50-1208.

30 (C) If the identity of the last registered owner cannot be
31 determined, if the registration contains no address for the owner, or if it is
32 impossible to determine with reasonable certainty the identity and address of
33 all lienholders, notice by publication one (1) time in one (1) newspaper of
34 general circulation in the area where the vehicle was abandoned is sufficient
35 notice under this section.

36 (D) The notice by publication may contain multiple listings

1 of abandoned vehicles, shall be published within the time requirements
2 prescribed for notice by certified mail, and shall have the same contents
3 required for a notice by certified mail."

4
5 SECTION 2. Arkansas Code § 27-50-1203(a), concerning the membership of
6 the Arkansas Towing and Recovery Board, is amended to read as follows:

7 "(a)(1) There is hereby created the Arkansas Towing and Recovery Board
8 consisting of ~~seven (7)~~ nine (9) members appointed by the Governor and
9 confirmed by the Senate who shall serve terms of three (3) years.

10 (2) Four (4) members shall be appointed from the towing industry
11 and shall be licensed by the board to engage in nonconsent towing, with one
12 (1) of such members being a resident of each of the four (4) congressional
13 districts, two (2) members who are permitted to engage in the consent only
14 business shall be appointed from the state at large, two (2) members who are
15 not associated with the towing industry shall be appointed from the state at
16 large, and one (1) member shall be appointed from the insurance industry."

17
18 SECTION 3. Arkansas Code § 27-50-1205 is amended to read as follows:
19 "27-50-1205. Tagging.

20 Any law enforcement officer observing a vehicle on or near a public way
21 which appears to be unattended or abandoned shall:

22 (1) Order immediate removal of any unattended, abandoned, disabled, or
23 inoperative vehicle located within three feet (3') of the traveled surface of
24 a public way, or which vehicle appears to create a hazard to the public, and
25 shall log such removal order accordingly;

26 (2) Tag any unattended, abandoned, disabled, or inoperative vehicle
27 located a distance three feet (3') or more by affixing securely a colored form
28 or other easily observable sticker. The tag or sticker shall show:

- 29 (A) The date and time of tagging;
30 (B) That said vehicle will be removed pursuant to this subchapter
31 unless the vehicle is removed within ~~seventy-two (72)~~ twenty-four (24) hours;
32 (C) The location and telephone number where more information may
33 be obtained; and
34 (D) The identification of the officer."

35
36 SECTION 4. Arkansas Code § 27-50-1202(1), regarding the

1 definitions for the law on removing unattended or abandoned motor vehicles, is
2 amended to read as follows:

3 “(1) ‘Unattended’ means any vehicle left on public property
4 without the consent of an authority in charge of such property or on or near a
5 public way without some person, gratuitous bailee, or bailee for hire in
6 possession of such vehicle; and

7 (A) Which vehicle is located within a distance of three (3)
8 feet of the traveled surface of the public way; or

9 (B) Which vehicle is located on or near a public way at a
10 distance of three (3) or more feet of the traveled surface of the public way
11 for a period of ~~twelve (12)~~ twenty-four (24) hours or more; or

12 (C) Which vehicle is not located on or near a public way,
13 but is left for a period of forty-eight (48) hours or more; or

14 ~~(C)~~(D) Which vehicle remains not in the custody of some
15 responsible person following an accident where the operator has been removed
16 to a hospital or is otherwise unable to make personal arrangements for the
17 vehicle's care; or

18 ~~(D)~~(E) Which vehicle was operated to a place of
19 apprehension by law enforcement under police power, the operator thereof
20 removed from the vehicle and taken into police custody; or

21 ~~(E)~~(F) Which vehicle is located upon any public right of
22 way, and due to geographic location, traffic density, or climatic conditions,
23 creates a substantial hazard to the motoring public, as determined by a law
24 enforcement officer.”

25
26 SECTION 5. Arkansas Code § 27-50-1208 is amended to read as follows:

27 “27-50-1208. Possessory lien.

28 (a) The towing-storage firm shall have a possessory lien on the vehicle
29 and its contents for all reasonable charges of towing, recovery, and storage
30 for which the owner is liable.

31 (b) Such lien shall be perfected by:

32 (1) Maintaining possession; and

33 (2) Giving notice to the owner or owners and lienholders as
34 prescribed in § 27-50-1101, informing the owners and lienholders that the
35 vehicle may be sold at public auction if not claimed within the time period
36 prescribed in § 27-50-1101. The towing and storage firm shall obtain the names

1 and addresses of the owners and lienholders, if any, from the motor vehicle
2 records of the state in which the vehicle is titled or registered.

3 (c) Any towing-storage firm failing to give the notice to the owner or
4 owners and lienholders as prescribed in § 27-50-1101 shall be in violation of
5 the subchapter and shall be subject to the civil penalties as prescribed by
6 the board or to a suspension or revocation of any towing license or permit, or
7 both."

8
9 SECTION 6. Arkansas Code § 27-50-1101(b), regarding the procedure to
10 sell abandoned vehicles, is amended to read as follows:

11 "(b) If the person who has custody of an abandoned vehicle fails to
12 comply with the notice requirement of subsection (a) of this section within
13 ten (10) days of the date the vehicle is obtained or deemed abandoned, the
14 amount recoverable for storage ~~of the vehicle shall be limited to the amount~~
15 ~~ordinarily charged for ten (10) days~~ shall be forfeited."

16
17 SECTION 7. All provisions of this act of a general and permanent nature
18 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
19 Revision Commission shall incorporate the same in the Code.

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21 SECTION 8. If any provision of this act or the application thereof to
22 any person or circumstance is held invalid, such invalidity shall not affect
23 other provisions or applications of the act which can be given effect without
24 the invalid provision or application, and to this end the provisions of this
25 act are declared to be severable.

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27 SECTION 9. All laws and parts of laws in conflict with this act are
28 hereby repealed.

29 /s/ Angel
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