

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S2/27/07

A Bill

HOUSE BILL 1472

5 By: Representative Davenport
6
7

For An Act To Be Entitled

9 AN ACT TO AMEND CURRENT LAW TO LIMIT THE
10 POSSESSORY LIEN OF A TOWING AND STORAGE FIRM TO
11 THE VEHICLE ONLY; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO AMEND CURRENT LAW TO LIMIT THE
15 POSSESSORY LIEN OF A TOWING AND STORAGE
16 FIRM TO THE VEHICLE ONLY.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 27-50-1208(a), regarding a possessory lien
22 and notice to owners and lienholders of vehicles that are towed and stored,
23 is amended to read as follows:

24 (a)(1) The towing and storage firm shall have a first priority
25 possessory lien on the vehicle ~~and its contents~~ for all reasonable charges
26 for towing, recovery, and storage for which the owner is liable.

27 (2) The towing and storage firm shall have a first priority
28 possessory lien on any commercial freight contained within the towed vehicle
29 for all reasonable charges for towing, recovery, and storage for which the
30 owner is liable. The term "commercial freight" does not include any personal
31 property of the owner, driver, or any passenger of the motor vehicle.
32

33 SECTION 2. Arkansas Code § 27-50-1208(e), regarding a possessory lien
34 and notice to owners and lienholders of vehicles that are towed and stored,
35 is amended to read as follows:

36 (e) The notice shall contain the following information:



1 (1) The year, make, model, and vehicle identification number of
2 the vehicle towed;

3 (2) The name, address, and telephone number of the storage
4 facility;

5 (3) That the vehicle is in the possession of that towing and
6 storage firm under police order, describing the general circumstances of any
7 law enforcement or other official hold on the vehicle;

8 (4) That towing, storage, and administrative costs are accruing
9 as a legal liability of the owner;

10 (5) That the towing and storage firm claims a first priority
11 *possessory lien on the vehicle ~~and its contents~~ including any commercial*
12 *freight located in the vehicle for all such charges;*

13 (6) That unless claimed within forty-five (45) days, the vehicle
14 and its contents will be dismantled, destroyed, or sold at public sale to the
15 highest bidder;

16 (7) That the failure to exercise their right to reclaim the
17 vehicle and its contents within the time prescribed by this section
18 constitutes a waiver by the owners and lienholders of all right, title, and
19 interest in the vehicle and its contents and constitutes their consent to the
20 sale, dismantling, or destruction of the vehicle and its contents;

21 (8) That the owner or lienholder may retake possession at any
22 time during business hours by appearing, proving ownership, and releasing the
23 law enforcement or other official hold, if any, and by paying all charges or
24 by other written arrangement between the owner or lienholder and the towing
25 and storage firm;

26 (9) That should the owner consider that the original taking was
27 not legally justified, he or she has a right for twenty (20) days to contest
28 the original taking as defined by § 27-50-1207; ~~and~~

29 (10) That the owner may recover possession of the contents of
30 the vehicle, except any commercial freight contained in the vehicle, during
31 normal business hours of the towing and storage firm by providing the towing
32 and storage firm with proof within forty-five (45) days that the claiming
33 owner is the registered owner of the vehicle; and

34 ~~(10)~~(11) Notices to owners of vehicles deemed abandoned on the
35 premises of automobile repair facilities pursuant to § 27-50-1101 shall also
36 advise that the automobile repair person holds an absolute lien on the

1 vehicle pursuant to § 18-45-201 et seq.

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3 SECTION 3. Arkansas Code § 27-50-1209(b), regarding foreclosure of
4 liens on vehicles related to towing and storage, is amended to read as
5 follows:

6 (b)(1) Except as provided in subsection (c) of this section, the
7 towing and storage firm, municipality, or county that holds a perfected
8 *possessory lien on any vehicle ~~and its contents~~ including any commercial*
9 *freight located in the vehicle not redeemed by its owner or security*
10 *lienholder within the forty-five (45) days provided by this subchapter shall*
11 *sell the vehicle and its contents at a nonjudicial public sale for cash.*

12 (2) The sale shall not occur later than ninety (90) days after
13 perfection of the lien.

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15 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
16 General Assembly of the State of Arkansas that current law regarding towing
17 and storage, resulting possessory liens, and notice to owners and lienholders
18 of the towed and stored vehicle is unclear; that the law has been interpreted
19 to allow liens on vehicle contents; that people are not being given adequate
20 notice of their rights to recover possession of the contents of their
21 vehicles or access to recover the contents of their vehicles; and that this
22 act is necessary because it was never the intention of the law to allow a
23 possessory lien on the contents or to deny an owner access to the vehicle to
24 recover its contents. Therefore, an emergency is declared to exist and this
25 act being necessary for the preservation of the public peace, health, and
26 safety shall become effective on:

27 (1) The date of its approval by the Governor;

28 (2) If the bill is neither approved nor vetoed by the Governor,
29 the expiration of the period of time during which the Governor may veto the
30 bill; or

31 (3) If the bill is vetoed by the Governor and the veto is
32 overridden, the date the last house overrides the veto.

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34 /s/ Davenport