

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 87th General Assembly  
3 Regular Session, 2009

As Engrossed: S3/16/09

# A Bill

SENATE BILL 829

4  
5 By: Senator Madison  
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## For An Act To Be Entitled

8  
9 *AN ACT TO PERMIT CITIES OF THE FIRST CLASS WITH A*  
10 *POPULATION EXCEEDING FIFTY THOUSAND (50,000) TO*  
11 *REGULATE PROPERTY OWNERS OR THEIR AGENTS WHO HAVE*  
12 *VEHICLES TOWED FROM THE PROPERTY; AND FOR OTHER*  
13 *PURPOSES.*

### Subtitle

14  
15 *TO PERMIT CITIES OF THE FIRST CLASS WITH*  
16 *A POPULATION EXCEEDING FIFTY THOUSAND*  
17 *(50,000) TO REGULATE PROPERTY OWNERS OR*  
18 *THEIR AGENTS WHO HAVE VEHICLES TOWED*  
19 *FROM THE PROPERTY.*  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 *SECTION 1. Arkansas Code § 27-50-1101 is amended to read as follows:*  
25 *27-50-1101. Nonconsensual towing of vehicles.*

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

34 *(B)(i) A city of the first class with a population that*  
35 *exceeds fifty thousand (50,000) by ordinance may regulate the manner that a*  
36 *property owner or other person controlling the property removes a pleasure*



1 vehicle subject to licensure under § 27-14-601(a)(1):

2 (a) By limiting:

3 (1) The distance from the location of  
4 removal to the destination of storage;

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

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

15 (b) By requiring signage under § 27-51-1305 to  
16 include:

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

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

24 (3) Disclosing whether the towing and  
25 storage firm will accept the payment methods of cash, checks, credit cards,  
26 or debit cards.

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

31 ~~(B)(C)~~ Prior to the removal of an abandoned ~~vehicles or of~~  
32 vehicles ~~vehicle or vehicle~~ parked without authority as provided by this  
33 section, the towing and storage firm shall obtain in writing from the  
34 property owners or agents a written statement that includes at a minimum the  
35 following:

36 (i) Identification of the property owner or agent,

1 including name, address, and telephone number;

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

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

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

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

12 (vi) The signature of the property owner or agent  
13 requesting removal of the vehicle.

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

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

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

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

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

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

35 ~~(ii)~~ A property owner may designate in writing a  
36 licensed towing and storage firm as its agent for the purposes of the removal

1 ~~of abandoned vehicles or vehicles parked on private property without the~~  
 2 ~~authorization of the property owners or other persons controlling the~~  
 3 ~~property.~~

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

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

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

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

24 (i) Make;

25 (ii) Model;

26 (iii) Vehicle identification number or serial  
 27 number;

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

29 (v) Name, address, and telephone number of the  
 30 person removing the vehicle.

31 (D) Each police department or sheriff's ~~department~~ office  
 32 receiving that receives notification of the removal of a vehicle as provided  
 33 in this subsection shall within twenty-four (24) hours of notification  
 34 provide to the towing and storage firm information supplied from the records  
 35 of the Office of Motor Vehicle, the Arkansas Crime Information Center, or, if  
 36 there is evidence in the vehicle indicating that the vehicle is registered in

1 another state, the motor vehicle records from that state, ~~that provide the~~  
 2 ~~vehicle identification number or serial number~~, the name and address of the  
 3 last registered owner, and the name and address of the holder of any recorded  
 4 lien on the vehicle.

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

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

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

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

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

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

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

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

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

32 (3) ~~Each~~ The removal of each vehicle ~~removed~~ in violation of  
 33 this section shall constitute a distinct and separate offense.

34  
 35 /s/ Madison  
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