

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015

# A Bill

SENATE BILL 37

4  
5 By: Senator E. Williams

## For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING NONCONSENT TOWING;  
9 TO REQUIRE CITIES AND COUNTIES TO REGULATE CERTAIN  
10 TOWING SERVICES; AND FOR OTHER PURPOSES.

## Subtitle

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14 TO AMEND THE LAW CONCERNING NONCONSENT  
15 TOWING; AND TO REQUIRE CITIES AND  
16 COUNTIES TO REGULATE CERTAIN TOWING  
17 SERVICES.

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

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22 SECTION 1. Arkansas Code § 27-50-1204 is amended to read as follows:  
23 27-50-1204. Penalties.

24 (a)(1) If a county, city of the first class, city of the second class,  
25 or incorporated town engages in or authorizes nonconsent removal, towing, or  
26 storage under this subchapter, the county, city of the first class, city of  
27 the second class, or incorporated town shall enact one (1) or more ordinances  
28 that:

29 (A) Create a procedure for a person to file a complaint  
30 concerning a violation of an ordinance concerning removal, towing, or storage  
31 of a vehicle;

32 (B) Create a system for investigation of a complaint;

33 (C) Impose sanctions for a violation of the ordinance of  
34 the county, city of the first class, city of the second class, or  
35 incorporated town; and

36 (D) Allow for an order of restitution when appropriate.



1           (2)(A) Except as provided under subdivision (a)(2)(C) of this  
 2 section, an ordinance for a city of the first class, city of the second  
 3 class, or incorporated town under this section has effect within the  
 4 boundaries of the respective city of the first class, city of the second  
 5 class, or incorporated town.

6           (B) Except as provided under subdivision (a)(2)(C) of this  
 7 section, a county ordinance under this section has effect in the areas within  
 8 the boundaries of the county and outside the boundaries of a city of the  
 9 first class, city of the second class, or incorporated town.

10           (C) If the ordinance under this section governs the  
 11 removal, towing, or storage of a vehicle as engaged in or authorized by a law  
 12 enforcement agency of a city of the first class, city of the second class,  
 13 incorporated town, or county, the ordinance has effect within the legal  
 14 jurisdiction of the law enforcement agency.

15           (b)(1) The following shall be liable for all reasonable costs of  
 16 towing, recovery, storage, and other incidental costs related to a removal of  
 17 a vehicle under this subchapter:

18                   (A) The owner of the vehicle;

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

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

22           (2) If the vehicle is sold by foreclosure under § 27-50-1209,  
 23 the owner or operator shall be liable for such costs in excess of the  
 24 proceeds of the sale of the vehicle.

25           ~~(b)(c)~~ Any law enforcement agency that without reasonable  
 26 justification fails to provide information to the towing and storage firm  
 27 within twenty-four (24) hours as prescribed by this subchapter shall be  
 28 liable to the towing and storage firm for any accrued storage fees between  
 29 the expiration of the twenty-four-hour period and such time as the  
 30 information is provided.

31           ~~(e)(d)~~ Upon any complaint or on its own initiative when the Arkansas  
 32 Towing and Recovery Board has reason to believe that a law enforcement  
 33 officer failed to adhere to an owner preference request or otherwise violated  
 34 this subchapter, the board may investigate the matter and submit its findings  
 35 to proper law enforcement authorities.

36           ~~(d)(e)~~ Any person, excluding a law enforcement officer, who is

1 determined by the board after reasonable notice and opportunity for a fair  
2 and impartial hearing held in accordance with the Arkansas Administrative  
3 Procedure Act, § 25-15-201 et seq., to have committed an act that is in  
4 violation of this subchapter or any rules and regulations promulgated under  
5 this subchapter is subject to civil penalties prescribed by the board,  
6 including monetary penalties not to exceed five thousand dollars (\$5,000) or  
7 the suspension or revocation of any towing license or permit, or both.

8 ~~(e)~~(f) Nothing in this section shall be construed to limit the right  
9 to seek judicial review of any determination of the board pursuant to the  
10 provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

11 ~~(f)~~~~(1)~~(g)(1) A penalty assessed by the board shall be paid no later  
12 than fifteen (15) days after the conclusion of the appeals process under the  
13 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

14 (2) If not paid timely, a license or permit issued by the board  
15 may be suspended until the penalty is paid.

16 (3)(A) If an entity or individual fails to pay a fine or an  
17 installment payment as provided under subdivision ~~(f)~~(g)(1) of this section,  
18 the board may provide written notice to the Office of Motor Vehicle of the  
19 failure to pay.

20 (B) The notice of the failure to pay a fine ordered by the  
21 board shall contain the following information:

22 (i) The name of the entity or individual that is  
23 subject to the fine;

24 (ii) The vehicle identification number or other  
25 identifying information for the vehicle owned by the entity or individual  
26 that is the subject of the fine;

27 (iii) The date the board imposed the fine;

28 (iv) The amount of the fine;

29 (v) The date the fine or installment payment became  
30 delinquent; and

31 (vi) The amount of the fine or installment payments  
32 that remain delinquent.

33 (C) Upon receipt of the notice of the failure to pay a  
34 fine or installment payment, the Office of Motor Vehicle shall suspend the  
35 tow vehicle license plate issued under § 27-14-601(a)(3)(J)(i) and the  
36 vehicle's registration.

1 (D) A suspension under this subdivision ~~(f)~~(g)(3) for  
2 failure to pay a fine ordered by the board shall remain in effect until the  
3 Office of Motor Vehicle receives written notice from the board that the fine  
4 has been paid.

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6 SECTION 2. Arkansas Code Title 27, Chapter 50, Subchapter 12, is  
7 amended to add an additional section to read as follows:

8 27-50-1217. County and city ordinances.

9 (a) If a county, city of the first class, city of the second class, or  
10 incorporated town engages in or authorizes nonconsent removal, towing, or  
11 storage of a vehicle under this subchapter, the county, city of the first  
12 class, city of the second class, or incorporated town shall enact one (1) or  
13 more ordinances that set procedures and regulations for the nonconsent  
14 removal, towing, or storage of a vehicle.

15 (b) The ordinances enacted under subsection (a) of this section shall  
16 include without limitation regulations and procedures concerning:

17 (1) A request to obtain removal of a vehicle;

18 (2) The removal of a vehicle;

19 (3) The storage of a vehicle; and

20 (4) The reasonable charge for the nonconsent removal, towing, or  
21 storage of a vehicle.

22 (c)(1) Except as provided under subdivision (c)(3) of this section, an  
23 ordinance for a city of the first class, city of the second class, or  
24 incorporated town under this section has effect within the boundaries of the  
25 respective city of the first class, city of the second class, or incorporated  
26 town.

27 (2) Except as provided under subdivision (c)(3) of this section,  
28 a county ordinance under this section has effect in the areas within the  
29 boundaries of the county and outside the boundaries of a city of the first  
30 class, city of the second class, or incorporated town.

31 (3) If the ordinance under this section governs the removal,  
32 towing, or storage of a vehicle as engaged in or authorized by a law  
33 enforcement agency of a city of the first class, city of the second class,  
34 incorporated town, or county, the ordinance has effect within the legal  
35 jurisdiction of the law enforcement agency.

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