

2010 Arkansas Code
Title 27 - Transportation
Subtitle 4 - Motor Vehicular Traffic
Chapter 50 - Penalties And Enforcement
Subchapter 12 - Removal of Unattended or Abandoned Vehicles
§ 27-50-1202 - Definitions.

27-50-1202. Definitions.

For the purposes of this subchapter, unless the context otherwise requires:

- (1) "Abandoned" means any vehicle deemed to be unattended as defined in this section;
 - (A) As to which the owner has overtly manifested some intention not to retake possession; or
 - (B) Which remains unattended, whether in its first-found location or in another location to which it has been removed pursuant to this subchapter, for a period of thirty (30) days, during which period the owner has given no evidence of an intent to retake possession;
- (2) "Consent" means towing, storage, or recovery of any vehicle, which towing, storage, or recovery is done with the permission of the owner or other person in charge of the vehicle;
- (3) "Nonconsent" means towing, storage, or recovery of any unattended or abandoned vehicle as defined in this subchapter or any disabled or inoperative vehicle for which the owner preference is waived by the owner or person in charge thereof;
- (4) "Owner" of an unattended or abandoned vehicle shall in the absence of conclusive evidence to the contrary be deemed to be the person in whose name the vehicle is registered with the Office of Motor Vehicle of the Revenue Division of the Department of Finance and Administration or in whose name the vehicle is registered in any other state;
- (5) "Owner preference" means the right of the owner, his or her agent, or any competent occupant of any disabled or inoperative vehicle to request some responsible and reasonable person, gratuitous bailee, or bailee for hire of his or her choosing to take charge and care of the vehicle;
- (6) "Person" means any individual, partnership, corporation, association, or other entity;
- (7) "Public way" means any road, highway, or street over which the public may travel, including the traveled surface and any berm or shoulder thereof. Nothing herein shall be applicable to vehicles left unattended or abandoned on private property and subject to 27-50-1101 et seq.;

(8) "Removal" means that an officer of any law enforcement agency may request a towing and storage firm which is licensed by the Arkansas Towing and Recovery Board to engage in nonconsent towing of vehicles to:

(A) Remove and store any unattended or abandoned vehicle pursuant to this subchapter;

(B) Remove and store any disabled or inoperative vehicle for which the owner or person in charge thereof has waived his or her right to owner preference as defined in this section; or

(C) Remove and store any vehicle in which the operator was apprehended by law enforcement officers;

(9) "Tow vehicle" means any motor vehicle or related equipment subject to registration in the State of Arkansas which is used to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on public highways;

(10) "Unattended" means any vehicle left on public property without the consent of an authority in charge of the property or on or near a public way without some person, gratuitous bailee, or bailee for hire in possession of the vehicle and that:

(A) Is located within a distance of three feet (3') of the traveled surface of the public way;

(B) Is located on or near a public way at a distance of three feet (3') or more of the traveled surface of the public way for a period of twenty-four (24) hours or more;

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

(D) Does not remain in the custody of some responsible person following an accident where the operator has been removed to a hospital or is otherwise unable to make personal arrangements for the vehicle's care;

(E) Was operated to a place of apprehension by law enforcement under police power and the operator thereof removed from the vehicle and taken into police custody;

(F) Is located upon any public right of way and, due to geographic location, traffic density, or climatic conditions, is creating an immediate and substantial hazard to the motoring public, as determined by a law enforcement officer; or

(G) Is subject to seizure by law enforcement under either a statute, the Arkansas Rules of Criminal Procedure, or a lawful court order; and.

(11) "Vehicle" means any device by which persons or things may be transported upon a public highway and which is of the type subject to registration in Arkansas.

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§ 27-50-1208 - Possessory lien and notice to owners and lienholders.

27-50-1208. Possessory lien and notice to owners and lienholders.

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

(2) (A) A possessory lien under this section attaches to not only the vehicle and its contents but also any trailer attached to the vehicle at the time it is towed and any contents of such trailer including, but not limited to, other vehicles or boats.

(B) A lien under this section shall not extend to the following items, without limitation:

(i) Personal or legal documents;

(ii) Medications;

(iii) Child-restraint seating;

(iv) Wallets or purses and the contents of such;

(v) Prescription eyeglasses;

(vi) Prosthetics;

(vii) Cell phones;

(viii) Photographs; and

(ix) Books.

(C) The items described in subdivision (a)(2)(B) of this section shall be released without charge by the towing and storage firm to the owner or operator of the motor vehicle or his or her duly authorized representative.

(b) The lien shall be perfected by:

(1) Maintaining possession;

(2) Mailing notice to the owner or owners and lienholders as shown on the data provided by the law enforcement agency involved as prescribed by this subchapter; or

(3) In the case of a vehicle removed pursuant to 27-50-1101, giving notice to the last known registered owner or owners and lienholders as provided from the records of the:

(A) Office of Motor Vehicle;

(B) Arkansas Crime Information Center; or

(C) If known, motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner and the name and address of the holder of any recorded lien, if any, on the vehicle.

(c) (1) The notice shall be mandatory and by certified mail, return receipt requested.

(2) The notice shall be posted not sooner than two (2) business days but within eight (8) business days after the date that the towing and storage firm receives the vehicle.

(d) (1) If within forty-eight (48) hours the ownership and lienholder information has not been received from the law enforcement agency requesting the removal of a vehicle pursuant to this subchapter, the towing and storage firm shall obtain information concerning the last known registered owner or owners and lienholders as provided from the records of the:

(A) Office of Motor Vehicle;

(B) Arkansas Crime Information Center; or

(C) If known, motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner and the name and address of the holder of any recorded lien, if any, on the vehicle.

(2) (A) For the purpose of notices required by this section, if the data records of the Office of Motor Vehicle or the office of motor vehicles for the state where the vehicle is registered, if known, do not contain any information as to the last known registered owner or owners and lienholders, notice by publication one (1) time in one (1) newspaper of general circulation in the

county where the vehicle was found unattended, abandoned, or improperly parked is sufficient notice under this section.

(B) The notice by publication may contain multiple listings of vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(e) (1) The notice shall contain the following information:

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

(B) The name, address, and telephone number of the storage facility;

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

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

(E) That the towing and storage firm claims a first priority possessory lien on the vehicle and its contents for all such charges;

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

(G) That the failure to exercise the right to reclaim the vehicle and its contents within the time prescribed by this section constitutes a waiver by the owner and lienholder of all right, title, and interest in the vehicle and its contents and constitutes consent to the sale, dismantling, or destruction of the vehicle and its contents;

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

(I) That should the owner consider that the original taking was not legally justified, he or she has a right for thirty (30) days to contest the original taking as described by 27-50-1207; and

(J) That the owner of the vehicle or operator or his or her authorized representative may recover without charge any item described in subdivision (a)(2)(B) of this section by providing within forty-five (45) days to the towing and storage firm proof that the claimant is the registered owner of the vehicle or has been authorized by the registered owner of the vehicle to take possession of the items.

(2) A notice to an owner of a vehicle deemed abandoned on the premises of an automobile repair facility under 27-50-1101 shall also advise that the automobile repair person holds an absolute lien on the vehicle under 18-45-201 et seq.

(f) Nothing in this section is to preclude the owner, lienholder, or agent from making alternative arrangements within the two-day to eight-day period with the towing and storage firm, waiving his or her rights to the notice requirement.

(g) When any vehicle reclaimed from the towing and storage firm by a lienholder contains contents not subject to the lienholder's interest, the lienholder shall be accountable to the owner of the contents in the same manner as the lienholder would in any other case of repossession of a vehicle, and the towing and recovery firm releasing the vehicle and its contents shall be relieved from all responsibility for the contents.

(h) (1) Any towing and storage firm that in good faith follows the procedures of this subchapter or the provisions of 27-50-1101 shall not be subject to claims of unlawful detainer or conversion for vehicles or their contents for maintaining property pursuant to the possessory lien as provided by this subchapter.

(2) Any challenge to the removal and holding of an unattended or abandoned vehicle as provided by this subchapter shall be controlled exclusively by the provisions of 27-50-1207.

(3) Nothing in this section shall be construed to limit liability of the towing and storage firm for any other act or omission otherwise actionable under statutory or common law.

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*** Current through all 2016 laws; and including unofficial updates through laws effective April 7, 2017 of the 2017 Regular Session and laws effective May 4, 2017 of the 2017 First Extraordinary Session. Unofficial updates do not include changes and corrections by the Arkansas Code Revision Commission. The final official version of statutes affected by the 2017 Regular Session will appear on Lexis Advance and lexis.com in July-Aug. 2017. ***

Title 27 Transportation
Subtitle 4. Motor Vehicular Traffic
Chapter 50 Penalties And Enforcement
Subchapter 12 -- Removal or Immobilization of Unattended or Abandoned Vehicles

A.C.A. § 27-50-1210 (2017)

27-50-1210. Nonjudicial public sale.

(a) After complying with the requirements of foreclosure of liens provided by this subchapter, ownership of the vehicle and its contents shall thereupon vest in the purchaser free of all liens of any nature. Should the nonjudicial public sale produce more funds than the sum of all charges, including the costs of the sale and including a reasonable charge for processing the paperwork, the excess shall be paid as follows:

(1) (A) If the vehicle was removed to an impound lot at the request of a law enforcement agency as authorized by this subchapter, the excess shall be maintained for a period of one (1) year by the entity that operates the impound lot.

(B) If the excess is not claimed during this period by the person legally entitled thereto, the moneys shall be paid to the entity operating the impound lot; or

(2) (A) If the vehicle was removed to a private impound lot under § 27-50-1101, the excess shall be paid to the county clerk to the account of the person legally entitled to the excess.

(B) The Unclaimed Property Act, § 18-28-201 et seq., shall apply to any unclaimed funds or excess moneys that have been paid to the county clerk.

(b) Should the sale produce the same or less than the sum of all charges:

(1) At the election of the possessory lienholder, the sale of the vehicle may be cancelled and ownership of the vehicle and its contents shall thereupon vest in the possessory lienholder as purchaser free of all liens of any nature; and

(2) The possessory lienholder shall have a valid claim against the owner for the full amount of the charges, including the costs of the sale and including a reasonable charge for processing the paperwork,

less the sale price of the vehicle and its contents.

(c) (1) Upon presentation of documentation to the Office of Motor Vehicle to the effect that the sale procedure provided in this subsection has been complied with protecting the rights of the owner or lienholder, the purchaser of the vehicle shall be entitled to receive a new title to the vehicle upon meeting other applicable administrative requirements of title and registration laws.

(2) The towing and storage firm shall execute an affidavit stating that the vehicle has been towed and stored as an unattended or abandoned vehicle and that notice has been given as required in this subchapter to the registered owners and all lienholders of record.

(3) The affidavit shall describe the vehicle by make, year, model, and vehicle identification number.

HISTORY: Acts 1993, No. 1000, § 9; 1997, No. 841, § 4; 2001, No. 1820, § 1; 2001, No. 1830, § 7; 2005, No. 1878, § 9; 2005, No. 2211, § 5; 2007, No. 1053, § 13; 2011, No. 872, § 1.

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Title 27 Transportation
Subtitle 4. Motor Vehicular Traffic
Chapter 50 Penalties And Enforcement
Subchapter 11 -- Abandoned Vehicles

A.C.A. § 27-50-1101 (2017)

27-50-1101. Nonconsensual towing of a vehicle, implement, or piece of machinery.

(a) (i) (A) When a vehicle of a type subject to registration under the laws of this state, an implement, or a piece of machinery is found abandoned on private or public property within this state or 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 owner or his or her agent may have the vehicle, implement, or piece of machinery removed from the property by a towing and storage firm licensed by and subject to the rules of the Arkansas Towing and Recovery Board.

(B) (i) A county, city of the first class, city of the second class, or incorporated town by ordinance may regulate the manner that a property owner or other person controlling the property removes a vehicle, implement, or piece of machinery:

(a) By limiting:

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

(2) The amount of towing and storage charges, including the towing charge, the storage charge, the administrative fee, and any other fee that may be charged, to be assessed against the owner or operator of the vehicle, implement, or piece of machinery removed from the property, with the difference between the charges allowed by the county, city, or incorporated town and the actual towing and storage charges to be assessed to the property owner or other person controlling the property that requested the removal of the vehicle; and

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

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

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

(2) The amount of towing and storage charges that may be assessed against the owner or

operator of the vehicle, implement, or other machinery; and

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

(ii) An ordinance enacted under this subdivision (a)(1)(B) shall not conflict with this section.

(C) Prior to the removal of an abandoned vehicle, implement, or piece of machinery or a vehicle, implement, or piece of machinery parked without authority as provided by this section, the towing and storage firm shall obtain in writing from the property owner or agent a written statement that includes at a minimum the following:

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

(ii) A statement that the property from which the vehicle, implement, or piece of machinery is to be removed is property owned or otherwise under the control of the agent requesting the removal;

(iii) That the vehicle, implement, or piece of machinery is deemed abandoned or has been parked on the property without authorization, as the case may be;

(iv) The make, model, and vehicle identification number or serial number of the vehicle, implement, or piece of machinery to be removed;

(v) The location to which the vehicle, implement, or piece of machinery will be removed, including the name, address, and telephone number of the towing and storage firm removing the vehicle, implement, or piece of machinery; and

(vi) The signature of the property owner or agent requesting removal of the vehicle, implement, or piece of machinery.

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

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

(F) Unless other arrangements have been made with a repair business, a vehicle, implement, or piece of machinery on the premises of a repair business shall be deemed abandoned if either:

(i) The vehicle, implement, or piece of machinery is unclaimed by the owner within forty-five (45) days; or

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

(G) A towing and storage firm shall not remove any abandoned vehicle, implement, or piece of machinery or improperly parked vehicle, implement, or piece of machinery without the authorization of the property owner or on-site agent as provided in this section except as may otherwise be authorized by the provisions of § 27-50-1201 et seq. or as directed by any law enforcement officer.

(H) A towing and storage firm removing a vehicle, implement, or piece of machinery as provided by this section shall not pay any compensation related to the removal of the vehicle, implement, or piece of machinery, whether as a referral fee or otherwise, to the owner or agent requesting the removal of the vehicle, implement, or piece of machinery.

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

(B) The towing and storage firm may not charge a storage fee for the vehicle, implement, or piece of machinery for the time it is stored prior to the notification required to the local police department or sheriff's office.

(C) Each police department or sheriff's office receiving notification of the removal of a vehicle, implement, or piece of machinery as provided in this subsection shall maintain a log recording the following information related to the vehicle, implement, or piece of machinery:

(i) Make;

(ii) Model;

(iii) Vehicle identification number or serial number;

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

(v) Name, address, and telephone number of the person removing the vehicle, implement, or piece of machinery.

(D) (i) Each police department or sheriff's office that receives notification of the removal of a vehicle, implement, or piece of machinery as provided in this subsection shall within twenty-four (24) hours of notification provide to the towing and storage firm information supplied from the records of the Office of Motor Vehicle, the Arkansas Crime Information Center, or, if there is evidence in the vehicle, implement, or piece of machinery indicating that it is registered in or from another state, the registration records from that state, the name and address of the last registered owner, and the name and address of the holder of any recorded lien on the vehicle, implement, or piece of machinery.

(ii) If the information under subdivision (a)(2)(D)(i) of this section is not available for an implement or piece of machinery, the police department or sheriff's office that receives notice of the removal shall provide at a minimum whether any record exists in the records of the Office of Motor Vehicle or the Arkansas Crime Information Center regarding the implement or piece of machinery.

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

(ii) For purposes of this subdivision (a)(2)(E), a "good faith search" means that the towing and storage firm checks the unattended or abandoned vehicle, implement, or piece of machinery for any type of license plate, license plate record, temporary permit, inspection sticker, decal, or other evidence that indicates a possible state of registration and title or other information related to the owner.

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

(B) (i) The following procedures for the sale of an abandoned and unattended vehicle that is

removed from a property as provided under §§ 27-50-1208 -- 27-50-1210 shall apply in the same manner to an abandoned and unattended implement or piece of machinery:

- (a) Possession of the implement or piece of machinery;
- (b) Notice to owners and lienholders; and
- (c) Procedures for sale.

(ii) The towing and storage company shall have a first priority possessory lien on the implement or piece of machinery and its contents for all reasonable charges for towing, recovery, and storage subject to the limits provided by ordinance if one is in effect.

(iii) Except as provided under subdivision (a)(3)(B)(iv) of this section, the lien against the implement or piece of machinery shall be perfected and all of the procedures related to the implement or piece of machinery shall be handled in the same manner as provided under § 27-50-1208(b)-(e) for abandoned and unattended vehicles.

(iv) If information on the owner or owners of an implement or piece of machinery that is in the possession of a towing and storage company is not available pursuant to subdivision (a)(2)(D)-(E) of this section, the towing and storage company shall provide notice by publication in a newspaper of general circulation in the region from where the implement or piece of machinery was removed.

(C) (i) Notwithstanding any provision of law to the contrary and to the extent that the county, city of the first class, city of the second class, or incorporated town enacted an ordinance that limits the amount of towing and storage charges assessed against the owner or operator of the vehicle, implement, or piece of machinery, the towing and storage company shall have a first priority possessory lien limited to the amount allowed under the ordinance.

(ii) The towing and storage company may assess any remaining charges to the property owner or other person controlling the property who requested the vehicle, implement, or piece of machinery be removed from the property.

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

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

(A) Direct the removal of or to remove a vehicle, implement, or piece of machinery in violation of this section; and

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

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

(B) The information related to a plea of guilty or nolo contendere to or conviction for a violation as provided under subdivision (c)(2)(A) of this section shall be reported to the Arkansas Towing and Recovery Board.

(3) The removal of each vehicle, implement, or piece of machinery in violation of this section shall constitute a distinct and separate offense.

18-45-201. Right to absolute lien.

All blacksmiths, horse shoers, wheelwrights, automobile repairmen, airplane repairmen, machine shops, farm implement repairmen, automotive storage men, firms, and corporations who perform, or have performed, work or labor for any person, firm, or corporation, who have furnished any materials or parts for the repair of any vehicle or farm implement, including tires and all other motor accessories and bodies for automobiles, trucks, tractors, airplanes, and all other motor propelling conveyances, or who store on their premises any automobile, truck, tractor, airplane, or other automotive vehicle, if unpaid, shall have an absolute lien upon the product or object of their labor, repair, or storage and upon all wagons, carriages, automobiles, trucks, tractors, airplanes, farm implements, and other articles repaired or stored and all horses or other animals shod by them, for the sums of money due for their work, labor, storage, and for materials furnished by them and used in the product, the shoeing and repairing, including the furnishing of tires and all other accessories and bodies for automobiles, trucks, tractors, airplanes, and all other motor-propelled vehicles.