TITLE 595. DEPARTMENT OF PUBLIC SAFETY  
CHAPTER 25. WRECKERS AND TOWING SERVICES

RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking

PROPOSED RULE:
Subchapter 5  All Wrecker Operators  
595:25-5-3  Operations [Amended]

SUMMARY:
This amendment is necessary due to the passage of SB 582 of the 2nd Session of the 54th Oklahoma Legislature. SB 582 clarifies a vehicle may be released to a lien holder after reasonable fees have been paid to and proof of valid lien is shown to the wrecker and/or towing company.

AUTHORITY:
Commissioner of Public Safety; 47 O.S. § 952.

COMMENT PERIOD:
Interested persons may present their views or questions regarding these rules in writing to the contact person referenced below. Comments will be accepted up to the close of the public hearing.

PUBLIC HEARING:
A public hearing regarding these proposed rules will be held at 9:00 A.M., February 2, 2015 in the Robert R. Lester Training Center Conference Room, 3600 N. Martin Luther King Ave., Oklahoma City, OK. Anyone who wishes to speak must sign in at the door by 9:05 A.M.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:
Any business entity affected by these proposed rules is requested to provide the Department of Public Safety, in writing to the contact person referenced below, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, record keeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred due to compliance with these proposed rules.

COPIES OF PROPOSED RULES:
A copy of the proposed rules may be obtained from the Department’s website, http://www.dps.state.ok.us/rules/ or from the contact person.

RULE IMPACT STATEMENT:
A Rule Impact Statement for the proposed rules will be prepared, as required by 75 O.S. § 303(D), and will be posted on the Internet at www.dps.state.ok.us/rules or may be obtained from the contact person.

CONTACT PERSON:
Kimberly D. Dammen, DPS Legislative Services Manager, Department of Public Safety, 3600 N. Martin Luther King Ave., PO Box 11415, Oklahoma City, OK 73136-0415. Phone: 405.425.2757. E-mail: kdammen@dps.state.ok.us
SUBCHAPTER 5. ALL WRECKER OPERATORS

595:25-5-3. Operation
All operators using the public roads and highways within the State of Oklahoma shall comply with the following:

(1) All operators shall require each driver of a wrecker vehicle be proficient in the operation thereof, and be properly licensed for the type vehicle operated.

(2) No operator shall knowingly permit any operator of a wrecker vehicle to consume beer, wine, intoxicating beverages, drugs or other stimulants or depressants while subject to call nor knowingly permit any operator to come on duty after having inhaled or consumed any such beverage, drug or other stimulants or depressants.

(3) No operator shall proceed to the scene of a collision or traffic tie-up without being requested to do so by a law enforcement agency or the owner or driver of a vehicle involved.

(4) Any operator traveling on the roads and highways of the State of Oklahoma during the normal course of his business may, upon arriving at the scene of a collision or traffic tie-up, stop and assist in rendering emergency aid. However, the operator shall not solicit business directly or indirectly from the owner or drivers at the scene.

(5) An operator at the scene of a collision or traffic tie-up is subject to the same traffic-control directions issued by an officer to the motoring public.

(6) An operator shall not use the rotating or flashing light while traveling on the roadway en route to any location. The use of the flashing or rotating light is authorized only in the vicinity of hook-up or at the scene of an incident to protect the scene and the vehicle involved. Only amber flashing lights may be used when leaving the scene of a wrecker service call for the purpose of warning the operators of other vehicles to exercise care in approaching, overtaking or passing. [47 O.S. § 12-218.1]

(7) Each operator must be a person of good moral character and reputation in his community, as determined by the Commissioner of Public Safety, and conduct the operation of the storage facilities and towing service in a responsible manner so as not to endanger the public safety of persons or property of others in the custody of the operator.

(8) No operator shall tow a vehicle when the combined weight of the wrecker vehicle and the wrecker supported weight of the towed vehicle exceeds the factory gross vehicle weight rating of the wrecker vehicle, regardless of the weight for which the wrecker vehicle is licensed.

(9) No wrecker service shall suspend or abandon said service without prior written notice to this Department of such intent and returning of all wrecker licenses issued.

(10) Wrecker services shall comply with 47 O.S. § 11-1110(C).

(11) Upon payment of the reasonable cost of removal, and storage of a stored vehicle, whether stored at the request of law enforcement or a private property owner and recorded by the wrecker service as provided in OAC 595:25-5-5(b), the vehicle shall be released to:

(A) the owner, upon presentation of an Oklahoma driver license, Oklahoma identification card, other state driver license, other state identification card, or any federally issued identification, proof of valid insurance or affidavit of nonuse, and evidence of ownership which is satisfactory to the wrecker operator and required by 47 O.S., § 904, 955, such as a certificate of title, to show proof of purchase and ownership, or recent registration, or written verification from a local law enforcement agency as to the identity of the owner,
or other documentation acceptable to the wrecker owner/operator. If unacceptable, the wrecker service shall explain why an ownership document is not acceptable;

(B) a person representing the owner, upon presentation of the certificate of title, a notarized letter from the owner permitting said person to act in behalf of the owner, and proper personal identification, such as a driver license, of the representative, or written verification from a local law enforcement agency as to the identity of the person representing the owner;

(C) an individual with possessory interest in the vehicle, upon presentation of an agreement with the owner of the vehicle giving that individual a present possessory interest in the vehicle;

(D) a lien holder or a duly authorized agent of a lien holder, upon presentation to the wrecker operator a recent repossession title receipt issued by the Oklahoma Tax Commission and a hold harmless letter proof of being a lien holder [42 O.S. § 91A]; or

(E) the insurer of or the representative of the insurer accepting liability for or purchasing a motor vehicle as provided in 47 O.S.—Section § 904, 953.1, or 953.2.

(12) Personal property, which shall include everything in a stored vehicle except the vehicle and its attached or installed equipment, shall be released, upon request, to the owner or owner’s representative, upon showing of proof as described in (11) of this section. Wrecker operators shall allow the vehicle owner or owner’s representative to have access to the vehicle for the sole purpose of retrieving ownership documentation, such as title or registration. [47 O.S. § 955]

(13) Wrecker operators shall not call hazardous materials remediation companies unless at the direction of the vehicle owner or a governmental agency.

(14) Each operator shall require each wrecker driver to maintain the appropriate driver license for the type vehicle being operated.

(15) Each operator shall prohibit any known thief or felon from loitering, visiting, or otherwise being on the premises of the place of business or any storage facility of the wrecker service.

(16) Each operator shall secure vehicles on roll back wreckers with four (4) point tie down. Other wrecker vehicles shall secure vehicles in accordance with wrecker vehicle chassis recommendations.

(17) A wrecker operator or driver responding to the scene of a motor vehicle collision in the capacity of a first responder, fireman, or volunteer fireman shall not respond to the scene in a wrecker vehicle.

(18) Each wrecker operator or driver shall wear high-visibility safety apparel, in compliance with 23 C.F.R.—Section § 634, when working in any highway right-of-way.