October 29, 2013

Wrecker Owners & Operators

No Wrecker Service rules were passed this year. However, there were a couple of changes to the wrecker services section of law passed this last legislative session that you need to update and change some of your procedures. These new changes go into effective November 1, 2013.

Class G wrecker services with storage, will no longer be allowed to have the Tow Request and Authorization Forms from DPS. Class G wrecker services attempting to tow vehicles from private property at the property owner’s request could have larceny of a vehicle charges filed against them if they continue to tow private property impounds after November 1, 2013.

**TITLE 47 § 954A. Abandoned Motor Vehicle - Removal**

A. In addition to any procedure provided by local ordinance, whenever the owner or legal possessor of real property or an authorized agent has reasonable cause to believe that a vehicle has been abandoned thereon, said vehicle having been on said property for a minimum of forty-eight (48) hours, or whenever a vehicle is left upon said real property without express or implied permission, such vehicle may be removed as provided in this section.

B. The owner, legal possessor or authorized agent may request any licensed Class AA wrecker or towing service within the county wherein the real property is located to remove the abandoned vehicle from the premises by signing a Tow Request and Authorization Form prescribed by the Department of Public Safety and furnished to licensed Class AA wrecker operators as hereinafter provided.

2. If the owner, legal possessor or authorized agent of the property owner is unable to obtain the services of a licensed Class AA wrecker service to remove the abandoned vehicle in a reasonable amount of time, the owner, legal possessor or authorized agent may contact and request that a licensed Class AA wrecker service from an adjacent county perform the service. A notation shall be made on the Tow Request and Authorization Form that a licensed Class AA wrecker service in the county in which the real property is located was contacted but the licensed Class AA wrecker service was not able to perform the removal in a reasonable amount of time.

C. A licensed Class AA wrecker service removing an abandoned vehicle pursuant to this section shall be subject to the maximum rates established by the Corporation Commission.

D. The Department shall design and promulgate a suitable Tow Request and Authorization Form to be completed in quadruplicate, containing space for the following information:

1. A description of the vehicle, including the type of vehicle, year of manufacture, name of the manufacturer, vehicle color or colors, identification number and license tag number;

2. The name, address and business telephone number of the licensed Class AA wrecker service;

3. The name, address, telephone number and driver license number or state-issued identification card number of the real property owner, legal possessor or authorized agent;

4. Inventory of personal property within the vehicle to be towed;

5. Time and date the form is completed; and

6. Signatures of the driver of the wrecker vehicle and of the owner, legal possessor or authorized agent of the real property.

The Department or the Commission may require additional information on the Tow Request and Authorization Form. The driver license number or state-issued identification card number of the real property owner, legal possessor or authorized agent shall not be disclosed by the Department or the
Commission to any entity inquiring about services performed without a court order or without written consent from the property owner, legal possessor or authorized agent.

E. The real property owner, legal possessor or authorized agent and the wrecker vehicle driver shall jointly, and each in the presence of the other, inventory personal property found within or upon the vehicle and each shall accordingly sign a statement on the form reflecting this requirement has been fulfilled. In the event an inventory cannot be completed, the reasons therefor shall be clearly stated on the form.

F. A copy of the completed Tow Request and Authorization Form shall be retained by the signatories and the licensed Class AA wrecker service shall maintain the wrecker vehicle driver’s copy for not less than one (1) year, or longer if required by the Department or the Commission. The licensed Class AA wrecker service shall forthwith send the completed original Tow Request and Authorization Form to the Department and the remaining copy of the completed form to the local police department of the municipality in which the real property is located, or the sheriff’s office of the county from which the vehicle was towed, if the real property is located outside of an incorporated municipality. A facsimile copy of the Tow Request and Authorization Form shall be considered the original form if a printed or digital confirmation of the facsimile transmission is available.

G. Within three (3) business days of the time indicated on the form, the licensed Class AA wrecker service shall request the Oklahoma Tax Commission or other appropriate motor license agent to furnish the name and address of the current owner of and any lienholder upon the vehicle. The Tax Commission or appropriate motor license agent shall respond in person or by certified mail to the licensed Class AA wrecker service within five (5) business days from the receipt of the request for information. The Department and the Oklahoma Tax Commission shall render assistance to ascertain ownership, if needed. The licensed Class AA wrecker service shall, within seven (7) days from receipt of the requested information from the Oklahoma Tax Commission or other motor license agent, send a notice of the location of the vehicle by certified mail, postage prepaid, at the addresses furnished, to the owner and any lienholder of the vehicle. The owner or lienholder may regain possession of the vehicle in accordance with rules of the Department upon payment of the licensed Class AA wrecker services, costs of certified mailing and the reasonable cost of towing and storage of the vehicle. If the licensed Class AA wrecker service has not complied with the notification procedures required by this subsection, the owner or lienholder shall not be required to pay for storage of the vehicle.

H. No licensed Class AA wrecker service or operator of a licensed Class AA wrecker service shall tow or cause to be towed a vehicle pursuant to this section until the form furnished by the Department has been appropriately completed by the parties as required by rules of the Department.

The most notable changes for wrecker services was made to Title 47 Section 955. Paragraph A, changed roadway to include all public roads, highways streets, turnpikes, private parking lots accessible to the public, other public places or upon any private road, street, alley or lane which provides access to one or more single-family or multifamily dwellings. This will allow law enforcement officers to impound more vehicles when necessary. They added subparagraph 8 to the paragraph which allows law enforcement to impound a vehicle for a fatal motor vehicle collision when needed for evidentiary purposes.

A second paragraph added says any vehicle impounded for the 8 reasons listed above shall not be released without proof of insurance or must be given a nonuse affidavit. It goes on to exempt an insurer or representative of the insurer from this requirement. When given a nonuse affidavit the vehicle must be towed or hauled on a trailer to leave your lot. A nonuse affidavit means it will not be driven on the streets. Wrecker Services and owners of vehicles can find a nonuse affidavit at any tag agent or you can go online www.tax.ok.gov/mvforms/797 to print one out and have available for them. This insurance requirement or nonuse affidavit is only if the vehicle was impounded for the eight (8) listed reasons in statute or when a law enforcement officer gives specific instructions to hold for proof of insurance. Be sure and write down the officers name in case of questions. Wrecker Services can not require proof of insurance or a nonuse affidavit on vehicle impounded from private property.
Paragraph E was added regarding the release of personal property and states it must be release at no charge during normal business hours. Personal property shall include everything in the vehicle except attached or installed equipment and the spare tire and tools to change the tire. Release of personal property is now a state law and not just in our rules. Any law enforcement may assist owners with proof of ownership and proper identification in getting personal property out of vehicles.

Listed below is the new law for Title 47, Section 955

**TITLE 47 § 955. Towing of Vehicle from Roadway – Grounds**

A. Any officer of the Department of Public Safety or any other political subdivision of this state is hereby authorized to cause to be towed any vehicle found upon public roads, highways, streets, turnpikes, private parking lots accessible to the public, other public places or upon any private road, street, alley or lane which provides access to one or more single-family or multifamily dwellings when:

1. Report has been made that the vehicle has been stolen or taken without the consent of its owner;
2. The officer has reason to believe the vehicle has been abandoned as defined in Sections 901 and 902 of this title;
3. The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested or summoned before a proper magistrate without unnecessary delay;
4. At the scene of an accident, when the owner or driver is not in a position to take charge of the vehicle and direct or request its proper removal;
5. The officer has probable cause that the person operating the vehicle has not been granted driving privileges or that the driving privileges of the person are currently suspended, revoked, canceled, denied, or disqualified;
6. The officer has probable cause that the vehicle has been used in the commission of a felony offense and the officer has obtained a search warrant authorizing the search and seizure of the vehicle;
7. The officer has probable cause that the vehicle is not insured as required by the Compulsory Insurance Law of this state; or
8. The vehicle is involved in a fatal motor vehicle collision and is needed for evidentiary purposes.

No vehicle shall be released after impoundment unless the owner provides to the storing facility proof of valid insurance or an affidavit of nonuse on the roadway, or in the event of a release request from an insurer or the representative of the insurer who has accepted liability for the vehicle, no such proof of insurance or affidavit of nonuse on the roadway shall be required.

B. A licensed wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer, unless there is failure to exercise reasonable care in the performance of the act or for conduct that is willful or malicious.

C. Each officer of the Department shall use the services of the licensed wrecker operator whose location is nearest to the vehicle to be towed in all instances in subsection A of this section. The requests for services may be alternated or rotated among all licensed wrecker operators who are located within a reasonable radius of each other. In like manner, the officer shall advise any person requesting information as to the availability of a wrecker or towing service, the name of the nearest licensed wrecker operator, giving equal consideration to all licensed wrecker operators located within a reasonable radius of each other. In cities of less than fifty thousand (50,000) population, all licensed wrecker operators located near or in the city limits of such cities shall be considered as being equal distance and shall be called on an equal basis as nearly as possible. In counties bordering other states, if the officer deems safety and time considerations warrant, the officer may call a wrecker or towing service that is not on the rotation log.

D. Any officer of the Department who has been requested by a person in need of wrecker or towing service to call a specific wrecker or towing service for such person, and who calls a different wrecker or towing service other than the one requested, without the consent of the person, except where hazardous conditions exist, shall be suspended from the Department, without compensation, for a period of thirty (30) days, except in instances where a vehicle is removed from the roadway under the authority of paragraphs 3, 4 and 6 of subsection A of this section.
E. Operators conducting a tow under this section shall release all personal property within the vehicle to an insurer or representative of the insurer who has accepted liability for the vehicle, or to any person upon proof of ownership and an Oklahoma driver license or other state or federally issued photo identification. Personal property shall include everything in a vehicle except the vehicle, the attached or installed equipment, and the spare tire and tools to change the tire. If release of personal property occurs during normal business hours as prescribed by the Corporation Commission, it shall be at no cost to the registered owner or the owner prior to the repossession. After-hour fees may be assessed as prescribed by this Chapter or by the Corporation Commission, when the release is made after the prescribed normal business hours.

Please print this out and keep it handy for reference to your rules or you can go to the Department of Public Safety, Wrecker Services web page [www.dps.state.ok.us/ws/WSManual.pdf](http://www.dps.state.ok.us/ws/WSManual.pdf) and print out a new wrecker service manual as the changes have been made to it.

Wrecker Services Division is trying to update our programs to be more efficient. When you need a new wrecker vehicle inspected you can go to our web page and get a Wrecker Vehicle Inspection request form. It is a fillable PDF file that you can email to us. Also if you have questions or need Report of Stored Vehicle forms or Tow Request and Authorizations forms please mail your request to the email address of wrecker@dps.state.ok.us.

Sincerely,

Department of Public Safety
Wrecker Services Division