

Senate Bill 523

Sponsored by Senator STARR (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Revises laws related to vehicle towing and foreclosure sales.

A BILL FOR AN ACT

1
2 Relating to vehicle towing; creating new provisions; and amending ORS 87.166, 87.176, 87.186, 87.192,
3 87.196, 87.202, 87.206, 87.212, 98.835, 819.100, 819.150, 819.160, 819.170, 819.180, 819.210 and
4 819.215.

5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1.** ORS 87.166 is amended to read:

7 87.166. (1) Except as provided in subsection (2) of this section, the liens created by ORS 87.152
8 to 87.162, **98.812 or 819.160** attach to the chattels described in those sections when:

9 (a) The services, **storage** or labor are performed or the materials or money are furnished by the
10 lien claimant to the lien debtor; and

11 (b) The charges for the services, **storage** or labor performed and materials or money furnished
12 are due and the lien debtor either knows or should reasonably know that the charges are due.

13 (2) The lien created by ORS 87.162 attaches to the chattels described in that section on the 20th
14 day after rents or advances occur or attaches when the occupant or tenant attempts to remove the
15 chattels from the premises while there are unpaid rents or advances. A person claiming a lien under
16 ORS 87.162 may take the chattels subject to that lien into the possession of the person when the lien
17 attaches or at any time thereafter.

18 **SECTION 2.** ORS 87.176 is amended to read:

19 87.176. (1) When the lien claimed under ORS 87.152 to 87.162 is for other than the storage of a
20 chattel, if the lien claimant incurs expenses in storing the chattel prior to foreclosure, the lien
21 claimant may charge reasonable fees for the storage of the chattel for a period not exceeding six
22 months from the date that the lien attaches to the chattel. A lien claimant seeking to recover stor-
23 age fees for storage expenses incurred prior to foreclosure shall send a written notice, within 20
24 days from the date that the storage fees began to accrue, to the lien debtor and every other person
25 that requires notification under ORS 87.196. The claimant shall transmit the notice by **first class**
26 **mail with proof of mailing or by** certified mail. A person notified under ORS 87.196 need not re-
27 ceive the notice within the 20-day period, but within a reasonable time. If the lien claimant fails to
28 comply with the notice requirements of this subsection, the lien claimant is limited to recovering
29 reasonable fees for the storage of the chattel prior to foreclosure for a period of time not exceeding
30 20 days from the date that the lien attached to the chattel.

31 (2) When the lien claimed under ORS 87.152 to 87.162 **or 819.160** is for the storage of a chattel,
32 the lien claimant shall send a written notice stating that storage fees are accruing, within 20 days

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 after the chattel has been placed in storage, to the lien debtor and every other person that requires
 2 notification under ORS 87.196. The claimant shall transmit the notice by **first class mail with proof**
 3 **of mailing or by** certified mail. A person notified under ORS 87.196 need not receive the notice
 4 within the 20-day period, but within a reasonable time. If the claimant fails to comply with the no-
 5 tice requirements of this subsection, the amount of the claimant's lien shall be limited to a sum
 6 equal to the reasonable storage expenses incurred within the 20-day period.

7 **SECTION 3.** ORS 87.186 is amended to read:

8 87.186. Foreclosure of liens created by ORS 87.152 to 87.162, **98.812 or 819.160** by public sale
 9 shall occur in the county, **or in an adjacent county**, in which the lien claimant obtained possession
 10 of the chattel subject to the lien from the lien debtor.

11 **SECTION 4.** ORS 87.192 is amended to read:

12 87.192. (1) Before a lien claimant forecloses a lien created by ORS 87.152 to 87.162, **98.812 or**
 13 **819.160** by sale, the lien claimant shall give notice of the foreclosure sale to the lien debtor by first
 14 class mail with [*certificate*] **proof** of mailing, registered mail or certified mail sent to the lien debtor
 15 at the lien debtor's last-known address. The lien claimant shall give notice of the foreclosure sale
 16 to the lien debtor:

17 (a) Except as otherwise provided in this subsection, at least 30 days before the foreclosure sale.

18 [*(b) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a*
 19 *value of \$500 or less by a person who holds a certificate issued under ORS 819.480, at least 15 days*
 20 *before the foreclosure sale.*]

21 [*(c)*] (b) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised
 22 at a value of \$1,000 or less [*but more than \$500*] by a person who holds a **vehicle appraiser** certif-
 23 icate issued under ORS 819.480, at least 15 days before the foreclosure sale.

24 [*(d) If the lien is for the cost of removing, towing or storage of a vehicle that is appraised at a*
 25 *value of more than \$1,000 by a person who holds a certificate issued under ORS 819.480, at least 30*
 26 *days before the foreclosure sale.*]

27 (2) The lien claimant shall give public notice of the foreclosure sale by posting notice of it in
 28 a public place [*at or near the front door of*] **in** the county courthouse of the county in which the sale
 29 is to be held and, except as provided in paragraph (b) of this subsection, in a public place at the
 30 location where the lien claimant obtained possession of the chattel to be sold from the lien debtor.

31 The following apply to notice under this subsection:

32 (a) Notice under this subsection must be given no later than the time required for notice to a
 33 lien debtor under subsection (1) of this section.

34 (b) This subsection does not require posting of notice at the location where the chattel was
 35 obtained if the chattel is a vehicle required to obtain a certificate of title issued under ORS chapter
 36 803.

37 (3) If the chattel to be sold at a foreclosure sale is something other than an abandoned vehicle
 38 and has a fair market value of \$1,000 or more, or if the chattel to be sold is an abandoned vehicle
 39 and has a fair market value of \$2,500 or more, the lien claimant, in addition to the notice required
 40 by subsection (2) of this section, shall have a notice of foreclosure sale printed once a week for two
 41 successive weeks in a daily or weekly newspaper, as defined in ORS 193.010, published in the county
 42 in which the sale is held or, if there is none, in a daily or weekly newspaper, as defined in ORS
 43 193.010, generally circulated in the county in which the sale is held.

44 (4) The notice of foreclosure sale required under this section shall contain a particular de-
 45 scription of the property to be sold, the name of the owner or reputed owner thereof, the amount

1 due on the lien, the time and the place of the sale and the name of the person foreclosing the lien.

2 **SECTION 5.** ORS 87.196 is amended to read:

3 87.196. (1) A lien claimant who forecloses a lien created by ORS 87.152 to 87.162, **98.812 or**
4 **819.160** by sale shall give notice of the foreclosure sale by first class **mail with proof of mailing**,
5 registered **mail** or certified mail. The following apply:

6 (a) Notice shall be given to all persons with a security interest in the chattel to be sold who
7 have filed a financing statement perfecting that security interest in the office of the Secretary of
8 State or in the office of the appropriate county officer of the county in which the sale is held.

9 (b) Notwithstanding paragraph (a) of this subsection if the chattel to be sold at the foreclosure
10 sale is a chattel, other than part of the motor vehicle inventory of a dealer issued a vehicle dealer
11 certificate under ORS 822.020, for which a certificate of title is required by the laws of this state,
12 notice need only be given to persons who the certificate of title indicates have a security interest
13 or lien in the chattel.

14 (c) Notice under this subsection shall be given at least 30 days prior to the foreclosure sale.
15 However, if the lien is claimed under ORS 87.152, **98.812 or 819.160**, the lien claimant shall give the
16 notice required by this subsection:

17 (A) Not later than the 20th day after the date on which the storage charges begin;

18 (B) If no storage charges are imposed, not later than the 30th day after the date on which the
19 services provided are completed; **and**

20 (C) At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing
21 or storage of a vehicle that is appraised at a value of \$1,000 or less [*but more than \$500*] by a person
22 who holds a **vehicle appraiser** certificate issued under ORS 819.480.]; *and*

23 [*D*] *At least 15 days prior to the foreclosure sale if the lien is for the cost of removing, towing or*
24 *storage of a vehicle that is appraised at a value of \$500 or less by a person who holds a certificate*
25 *issued under ORS 819.480.]*

26 (2) A person notified under subsection (1) of this section may discharge the lien and preserve
27 the person's security interest in the chattel by paying the lien claimant the amount of the lien claim
28 and reasonable expenses actually incurred in [*foreclosing*] **filing** the lien claim. If the person does
29 not so discharge the lien before the day of the foreclosure sale, the person's security interest in the
30 chattel is extinguished on the day the foreclosure sale is completed.

31 (3) If the chattel to be sold at a foreclosure sale is a chattel for which a certificate of title is
32 required by the laws of this state and if the lien claimant does not notify a person as required by
33 this section, the chattel remains subject to that security interest or lien and the buyer of the chattel
34 at a foreclosure sale held under ORS 87.142 to 87.490 or 87.700 to 87.736 takes the chattel subject
35 to the security interest or lien.

36 (4) If a lien claimant does not notify a person[, *other than a person*] indicated on a certificate
37 of title as a secured party or lienholder, who claims a security interest or lien on the chattel sold
38 at a foreclosure sale as required by subsection (1) of this section, the lien claimant is liable to that
39 person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the
40 amount due that person under the security agreement or lien at the time of the foreclosure sale,
41 whichever amount is less. The secured party or other lien claimant may recover that sum by an
42 action at law.

43 **SECTION 6.** ORS 87.202 is amended to read:

44 87.202. (1) A person who forecloses a lien created by ORS 87.152 to 87.162, **98.812 or 819.160**
45 by sale shall file a statement of account verified by the oath of the person with the recording officer

1 of the county in which the sale took place when:

2 (a) The chattel sold at the foreclosure sale has a fair market value of \$250 or more; or

3 (b) The chattel sold at the foreclosure sale is an animal bearing a brand or other mark recorded
4 with the State Department of Agriculture under ORS chapter 604.

5 (2) The statement of account required under subsection (1) of this section must contain:

6 (a) The amount of the lien claim and the cost of foreclosing the lien;

7 (b) A copy of the published or posted notice of foreclosure sale;

8 (c) The amount received for the chattel sold at the sale; and

9 (d) The name of each person who received proceeds from the foreclosure sale as described in
10 ORS 87.206 and the amount each person received.

11 (3) A person filing a statement of account under this section shall send a copy of the statement
12 by registered or certified mail to the owner of the chattel sold at the foreclosure sale. The person
13 filing the statement of account shall send the copy to the last-known address of the owner. If the
14 chattel sold at a foreclosure sale is an animal bearing a brand or other mark recorded with the
15 State Department of Agriculture under ORS chapter 604, a person filing a statement of account
16 under this section shall send a copy of the statement to the State Department of Agriculture.

17 **SECTION 7.** ORS 87.206 is amended to read:

18 87.206. (1) The proceeds of a sale to foreclose a lien created by ORS 87.152 to 87.162, **98.812 or**
19 **819.160** shall be applied in the following order:

20 (a) To the payment of the reasonable and necessary expenses of the sale;

21 (b) To satisfy the indebtedness secured by the lien under which the sale is made;

22 (c) Subject to subsection (2) of this section, to satisfy the indebtedness secured by any subordi-
23 nate lien or security interest, in order of priority, in the chattel; *[and]*

24 *[(d) To the treasurer of the county in which the foreclosure sale is made. The payment to the*
25 *treasurer must be accompanied by a copy of the statement of account described in ORS 87.202.]*

26 **(d) To the payment of court costs; and**

27 **(e) To be held for recovery by the lien claimant for the lien debtor if a claim is made by**
28 **the lien debtor within two years of the date of the foreclosure sale.**

29 (2) Proceeds may be applied under subsection (1)(c) of this section if the person who forecloses
30 a lien created by ORS 87.152 to 87.162, **98.812 or 819.160** by sale receives a written request for
31 proceeds from the holder of any subordinate lien or security interest before the day of the foreclo-
32 sure sale. The person foreclosing the lien may require the holder of the subordinate lien or security
33 interest to furnish reasonable proof of the existence of the security interest or lien **within 90 days**
34 **after the date of the request.** If the person foreclosing the lien does not receive proof of the ex-
35 istence of the subordinate security interest or lien, the person is not required to apply proceeds of
36 the sale to satisfy the indebtedness secured by the subordinate security interest or lien.

37 **(3) If the proceeds of a sale to foreclose a lien created by ORS 87.152 to 87.162, 98.812 or**
38 **819.160 do not cover the costs described in subsection (1)(a) to (d) of this section, the regis-**
39 **tered owner of the vehicle, as shown by records of the Department of Transportation, is li-**
40 **able for the remaining balance in addition to the following:**

41 **(a) The court costs associated with collecting the remaining balance; and**

42 **(b) Interest on the amounts specified in subsection (1)(a) to (d) of this section at the rate**
43 **provided for judgments in ORS 82.010 for the period of time beginning on the date the costs**
44 **were incurred and ending upon recovery of the amounts under this section.**

45 *[(3) If a county treasurer receives proceeds under subsection (1) of this section, the county treasurer*

1 shall credit the proceeds to the general revenue fund of the county, subject to the right of the lien debtor
 2 or the representative of the lien debtor, to reclaim the proceeds at any time within three years of the
 3 date of deposit with the treasurer. If the proceeds are not demanded and claimed within the three-year
 4 period, the proceeds become the property of the county.]

5 **SECTION 8.** ORS 87.212 is amended to read:

6 87.212. A person claiming a lien under ORS 87.152 to 87.162, **98.812 or 819.160** for the storage
 7 of fungible chattels [*shall*] **may** not sell more of those chattels than is necessary to pay charges due
 8 that person for the storage. If a person unnecessarily sells fungible chattels without the consent of
 9 the owner thereof, the person shall, for each offense, forfeit to the owner of the chattels a sum equal
 10 to the fair market value of the chattels unnecessarily sold and 50 percent of the fair market value
 11 in addition as a penalty. The owner shall recover such value and penalty by an action at law.

12 **SECTION 9.** ORS 98.835 is amended to read:

13 98.835. (1) A tower who tows a vehicle pursuant to ORS 98.830 is immune from civil liability for
 14 towing the vehicle if the tower has a form described in ORS 98.830 (2), filled out by a person pur-
 15 porting to be the owner or a person in lawful possession of the private property from which the
 16 vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out
 17 of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course
 18 of the towing.

19 (2) The tower who tows a vehicle pursuant to ORS 98.830 is entitled to a lien on the towed ve-
 20 hicle and its contents for the tower's just and reasonable charges. The tower may retain possession
 21 of the towed vehicle until the just and reasonable charges for the [*towage*] **towing**, care and storage
 22 of the towed vehicle have been paid **or the tower has foreclosed on the lien in the manner**
 23 **provided in this section** if the tower complies with the following requirements:

24 (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle
 25 within one hour after the towed vehicle is placed in storage;

26 (b) If the towed vehicle is registered in Oregon, the tower shall give notice by first class mail
 27 with a [*certificate*] **proof** of mailing, within 15 days after the towed vehicle is placed in storage, to
 28 the owner of the towed vehicle and any other person with an interest in the towed vehicle, as in-
 29 dicated by the certificate of title. If notice under this paragraph is given by mail, it must be trans-
 30 mitted within the 15-day period, but need not be received within that period, but within a reasonable
 31 time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the
 32 lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for
 33 [*towage*] **towing**, care and storage of the towed vehicle; and

34 (c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the
 35 towed vehicle is placed in storage, notify and request the title information and the name and address
 36 of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed
 37 vehicle is registered. The tower shall have 15 days from the date of receipt of the information from
 38 the state motor vehicle agency to notify the owner of the towed vehicle or any other person with
 39 an interest in the towed vehicle, as indicated by the certificate of title. If notice under this para-
 40 graph is given by [*mail, it*] **first class mail with proof of mailing, the notice** must be transmitted
 41 within 15 days from the receipt of information from the state motor vehicle agency, but need not
 42 be received within that period, but within a reasonable time. If the tower fails to comply with the
 43 notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the rea-
 44 sonable expenses incurred within the period between storage of the towed vehicle and receipt of
 45 information from the state motor vehicle agency for [*towage*] **towing**, care and storage of the towed

1 vehicle.

2 (3) The lien created by subsection (2) of this section may be foreclosed only in the manner pro-
 3 vided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS
 4 87.152.

5 **SECTION 10.** ORS 819.100 is amended to read:

6 819.100. (1) A person commits the offense of abandoning a vehicle if the person abandons a ve-
 7 hicle upon a highway or upon any public or private property.

8 (2) The owner of the vehicle as shown by the records of the Department of Transportation shall
 9 be considered responsible for the abandonment of a vehicle in the manner prohibited by this section
 10 and shall be liable for the cost of towing and disposition of the abandoned vehicle.

11 *[(3) A vehicle abandoned in violation of this section is subject to the provisions for towing and sale
 12 of abandoned vehicles under ORS 819.110 to 819.215.]*

13 **(3) A vehicle abandoned in violation of this section may be removed and taken into cus-
 14 tody under ORS 819.110 or 819.120 and sold or disposed of as described in ORS 819.210 or
 15 819.215.**

16 (4) The offense described in this section, abandoning a vehicle, is a Class B traffic violation.

17 **SECTION 11.** ORS 819.150 is amended to read:

18 819.150. The owner, a person entitled to possession or any person with an interest recorded on
 19 the title of a vehicle taken into custody under ORS 819.110 or 819.120:

20 (1) Is liable for all costs and expenses incurred in the towing, **selling of the vehicle and its
 21 contents**, preservation and custody of the vehicle and its contents except that:

22 (a) The owner, a person entitled to the vehicle or any person with an interest recorded on the
 23 title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days
 24 unless the person has received a written notice under ORS 819.160. In no case shall a person be
 25 required to pay storage charges for a storage period in excess of 60 days.

26 (b) A security interest holder is not liable under this subsection unless the security interest
 27 holder reclaims the vehicle.

28 (2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is
 29 sold or disposed of under ORS 819.210 or 819.215 upon presentation to the authority holding the
 30 vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and ex-
 31 penses for which the person is liable under this section.

32 (3) If the vehicle is taken into custody under ORS 819.110 or 819.120, has a right to request and
 33 have a hearing under ORS 819.190 or under procedures established under ORS 801.040, as appro-
 34 priate.

35 (4) If the vehicle is sold or disposed of under ORS 819.210 or 819.215, has no further right, title
 36 or claim to or interest in the vehicle or the contents of the vehicle.

37 (5) If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of
 38 the proceeds from the sale or disposition as provided under ORS 87.206.

39 (6) Has no right to a hearing if the vehicle *[is disposed of]* **is a vehicle described** under ORS
 40 819.215.

41 **SECTION 12.** ORS 819.160 is amended to read:

42 819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the ve-
 43 hicle and its contents if the person, at the request of an authority described under ORS 819.140, tows
 44 any of the following vehicles:

45 (a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a ve-

1 **hicle appraiser** certificate issued under ORS 819.480.

2 (b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle
 3 appraised at a value of \$500 or less by a person who holds a **vehicle appraiser** certificate issued
 4 under ORS 819.480.

5 (c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

6 (2) A lien established under this section shall be on the vehicle and its contents for the just and
 7 reasonable charges for the towing service performed and any storage provided. However, if the
 8 person that tows the vehicle fails to comply with the notice requirements [*of subsection (3) of this*
 9 *section*] **under ORS 87.176**, the amount of any lien claimed under this section is limited to an
 10 amount equal to the just and reasonable charges for the towing service performed and storage pro-
 11 vided for a period not exceeding 20 days from the date the vehicle and its contents were placed in
 12 storage. The lien is subject to the provisions for liens under ORS 98.812. The person holding the lien
 13 may retain possession of the vehicle and contents until the charges on which the lien is based are
 14 paid. A lien described under this section does not attach[:] **to personal property of an emergency**
 15 **nature for the first 15 days after taking the vehicle into custody.**

16 [*(a) To the contents of any vehicle taken from public property until 15 days after taking the vehicle*
 17 *into custody.*]

18 [*(b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or*
 19 *811.570.*]

20 [*(3) A person that tows any vehicle at the request of an authority under ORS 819.110 or 819.120*
 21 *shall transmit by first class mail with a certificate of mailing, within 20 days after the vehicle and its*
 22 *contents are placed in storage, written notice, approved by the authority, containing information on the*
 23 *procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided to the*
 24 *owner, a person entitled to possession or any person with an interest recorded on the title to the vehicle.*
 25 *This subsection does not apply to a person that tows an abandoned vehicle that is appraised at a value*
 26 *of \$500 or less by a person who holds a certificate issued under ORS 819.480.*]

27 **(3) As used in this section, “personal property of an emergency nature” includes but is**
 28 **not limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse,**
 29 **a credit card, a checkbook, cash and child safety car and booster seats.**

30 **SECTION 13.** ORS 819.170 is amended to read:

31 819.170. If an authority proposes to take custody of a vehicle under ORS 819.110, the authority
 32 shall provide notice and shall provide an explanation of procedures available for obtaining a hearing
 33 under ORS 819.190. Except as otherwise provided under ORS 801.040, notice required under this
 34 section shall comply with all of the following:

35 (1) Notice shall be given by affixing a notice to the vehicle with the required information. The
 36 notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The
 37 24-hour period under this subsection includes holidays, Saturdays and Sundays.

38 (2) Notice shall state all of the following:

39 (a) That the vehicle will be subject to being taken into custody and towed by the appropriate
 40 authority if the vehicle is not removed before the time set by the appropriate authority.

41 (b) The statute, ordinance or rule violated by the vehicle and under which the vehicle will be
 42 towed.

43 (c) The place where the vehicle will be held in custody or the telephone number and address
 44 of the appropriate authority that will provide the information.

45 (d) That the vehicle, if taken into custody and towed by the appropriate authority, will be sub-

1 ject to towing and storage charges and that a lien will attach to the vehicle and its contents.

2 [(e) *That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not*
3 *paid.*]

4 (e) **That the vehicle will be sold if the towing and storage charges are not paid by the**
5 **foreclosure date and the proceeds of the sale will be applied toward the costs of towing and**
6 **storing the vehicle, the lien fees and the costs incurred in the sale of the vehicle.**

7 (f) **That, if the sale of the vehicle does not cover the costs described in paragraph (e) of**
8 **this subsection, the registered owner of the vehicle, as shown by records of the Department**
9 **of Transportation, is liable for any remaining costs as described in ORS 87.206.**

10 [(f)] (g) That the owner, possessor or person having an interest in the vehicle is entitled to a
11 hearing, before the vehicle is impounded, to contest the proposed custody and towing if a hearing
12 is timely requested.

13 [(g)] (h) That the owner, possessor or person having an interest in the vehicle may also chal-
14 lenge the reasonableness of any towing and storage charges at the hearing.

15 [(h)] (i) The time within which a hearing must be requested and the method for requesting a
16 hearing.

17 **SECTION 14.** ORS 819.180 is amended to read:

18 819.180. (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall
19 provide, by **mail with proof of mailing within three business days of the tow**, [*certified mail*
20 *within 48 hours of the towing,*] written notice with an explanation of procedures available for ob-
21 taining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security in-
22 terest holders as shown in the records of the Department of Transportation. The notice shall state
23 that the vehicle has been taken into custody and shall give the location of the vehicle and describe
24 procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The
25 [*48-hour*] **three-day** period under this subsection does not include holidays, Saturdays or Sundays.

26 (2) Any notice given under this section after a vehicle is taken into custody and towed shall
27 state all of the following:

28 (a) That the vehicle has been taken into custody and towed, the identity of the appropriate au-
29 thority that took the vehicle into custody and towed the vehicle and the statute, ordinance or rule
30 under which the vehicle has been taken into custody and towed.

31 (b) The location of the vehicle or the telephone number and address of the appropriate authority
32 that will provide the information.

33 (c) That the vehicle is subject to towing and storage charges, the amount of charges that have
34 accrued to the date of the notice and the daily storage charges.

35 (d) That the vehicle and its contents are subject to a lien for payment **of towing and storing**
36 **charges, the lien fees and the costs incurred in the sale of the vehicle** [*of the towing and stor-*
37 *age charges*] and that the vehicle and its contents will be sold to cover the [*charges*] **costs** if the
38 [*charges*] **costs** are not paid by a date specified by the [*appropriate authority*] **lien notice**.

39 (e) **That, if the sale of the vehicle does not cover the costs described in paragraph (d) of**
40 **this subsection, the registered owner of the vehicle, as shown by records of the department,**
41 **is liable for any remaining costs as described in ORS 87.206.**

42 [(e)] (f) That the owner, possessor or person having an interest in the vehicle and its contents
43 is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing
44 it and to contest the reasonableness of the charges for towing and storage if a hearing is timely
45 requested.

1 [(f)] (g) The time within which a hearing must be requested and the method for requesting a
2 hearing.

3 [(g)] (h) That the vehicle and its contents may be immediately reclaimed by presentation to the
4 appropriate authority **or to the person who towed the vehicle at the request of the appropriate**
5 **authority** of satisfactory proof of ownership or right to possession and either payment of the towing
6 and storage charges or the deposit of cash security or a bond equal to the charges with the appro-
7 priate authority.

8 **SECTION 15.** ORS 819.210 is amended to read:

9 819.210. (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is not reclaimed within
10 30 days after it is taken into custody, the person that towed the vehicle shall either:

11 (a) Sell the vehicle and its contents at [public auction] **a foreclosure sale** in the manner pro-
12 vided in ORS 87.192 and 87.196; or

13 (b) Dispose of the vehicle in a manner provided by local ordinance.

14 (2) The contents of any vehicle sold under this section are subject to the same conditions of sale
15 as the vehicle in which they are found.

16 **SECTION 16.** ORS 819.215 is amended to read:

17 819.215. (1) If an abandoned vehicle is appraised at a value of \$500 or less by a person who holds
18 a **vehicle appraiser** certificate issued under ORS 819.480, the person that towed the vehicle shall:

19 (a) Notify the registered owner and secured parties as provided in subsection (3) of this section;

20 (b) Photograph the vehicle;

21 (c) Notify the Department of Transportation that the vehicle will be disposed of; and

22 (d) Unless the vehicle is claimed by a person entitled to possession of it within 15 days of the
23 date of notice under subsection (3) of this section, **sell or** dispose of the vehicle and its contents
24 [to a person who holds a valid dismantler certificate issued under ORS 822.110].

25 (2) The authority that requests towing of an abandoned vehicle shall provide to the person that
26 tows the vehicle, at the time of the tow or as soon as possible thereafter, a written statement that
27 contains the name and address of the registered owner of the vehicle, as shown by records of the
28 department, and the names and addresses of any persons claiming interests in the vehicle, as shown
29 by records of the department.

30 (3) Within 48 hours after the written statement is provided under subsection (2) of this section
31 to a person that tows a vehicle, the person must give written notice to the persons whose names
32 are furnished in the statement. The 48-hour period does not include Saturdays, Sundays or holidays.
33 The notice shall state that a person that is entitled to possession of the vehicle has 15 days from
34 the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be
35 disposed of as provided in this section.

36 (4) If the authority that requests towing of an abandoned vehicle does not provide to the person
37 that tows the vehicle the written statement within 48 hours after the vehicle is towed, the person
38 may **sell or** dispose of the vehicle as provided in ORS 819.210.

39 (5) **Sale or** disposal of a vehicle [to a dismantler] as provided in this section extinguishes all
40 prior ownership and possessory rights.

41 (6) The department shall adopt rules specifying the form in which notification to the department
42 required by subsection (1) of this section shall be submitted and what information shall be conveyed
43 to the department. [The person that tows the vehicle may submit to the dismantler a copy of any no-
44 tification submitted to the department under this section instead of submitting to the dismantler own-
45 ership or other title documents for the vehicle.]

1 **SECTION 17.** The amendments to ORS 87.166, 87.176, 87.186, 87.192, 87.196, 87.202, 87.206,
2 87.212, 98.835, 819.100, 819.150, 819.160, 819.170, 819.180, 819.210 and 819.215 by sections 1 to 16
3 of this 2011 Act apply to vehicles towed on or after the effective date of this 2011 Act.

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