

B-Engrossed
House Bill 4087

Ordered by the Senate February 28
Including House Amendments dated February 6 and Senate Amendments
dated February 28

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Business and Labor)

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.

[Requires person, before creating, attaching, asserting or claiming lien on motor vehicle, to have in effect bond of not less than \$20,000 for purpose of paying owner of motor vehicle full amount of damages, costs, reimbursements or attorney fees owner obtains in action to obtain release or restored title to motor vehicle. Permits owner to bring action and obtain damages and other relief.]

Provides that person may not create, attach, assert or claim possessory lien on motor vehicle unless person performs service that complies with certain statutes and that involves making, altering, repairing, transporting, storing, providing services for, supplying material for or performing labor in connection with motor vehicle and person is franchised motor vehicle dealership, holds towing business certificate or creates, attaches, asserts or claims lien against abandoned motor vehicle.

Requires person other than franchised motor vehicle dealership, person that holds towing business certificate or person that creates, attaches, asserts or claims lien against abandoned motor vehicle to have in effect valid surety bond in amount not less than \$20,000 before making, altering, repairing, transporting, storing, performing services for, supplying materials for or performing labor in connection with motor vehicle.

Permits owner of motor vehicle to bring action and obtain damages and other relief.

A BILL FOR AN ACT

1
2 Relating to possessory liens on motor vehicles; creating new provisions; and amending ORS 87.152.

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

4 **SECTION 1.** ORS 87.152 is amended to read:

5 87.152. (1) **Except as provided in subsection (2) of this section,** a person [*who*] **that** makes,
6 alters, repairs, transports, stores, pastures, cares for, provides services for, supplies materials for
7 or performs labor on a chattel at the request of the owner or lawful possessor of the chattel has a
8 lien on [*that*] **the** chattel in the possession of the person for the reasonable or agreed charges for
9 labor, materials or services of the person, and the person may retain possession of the chattel until
10 [*those*] **the** charges are paid.

11 (2)(a) **A person may not create, attach, assert or claim a possessory lien on a motor ve-**
12 **hicle, as defined in ORS 801.360, unless the person performs a service that complies with ORS**
13 **646A.480 to 646A.495 and that involves making, altering, repairing, transporting, storing,**
14 **providing services for, supplying material for or performing labor in connection with the**
15 **motor vehicle and the person:**

16 (A) **Is a franchised motor vehicle dealership, as defined in ORS 650.120 (5);**

17 (B) **Holds a towing business certificate that the Department of Transportation issued**
18 **under ORS 822.205, provided that the person creates, attaches, asserts or claims a possessory**
19 **lien only for transporting or storing the motor vehicle; or**

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 (C) Creates, attaches, asserts or claims the lien against an abandoned motor vehicle.

2 (b) A person, other than a person that is described in paragraph (a)(A), (B) or (C) of this
3 subsection, shall have in effect before making, altering, repairing, transporting, storing,
4 performing services for, supplying materials for or performing labor in connection with a
5 motor vehicle a valid surety bond in an amount not less than \$20,000.

6 (3)(a) The owner of a motor vehicle may bring an action to recover from a person that
7 refuses, at the owner's demand and without a valid possessory lien created and attached as
8 provided in subsection (2) of this section, to release the owner's motor vehicle or restore to
9 the owner title to the owner's motor vehicle if the person changed the title:

10 (A) The greater of \$2,000 or an amount equivalent to twice the value of the motor vehicle,
11 up to a maximum amount of \$20,000; and

12 (B) The owner's reasonable costs and attorney fees.

13 (b) In addition to the recovery described in paragraph (a) of this subsection, the owner
14 may obtain:

15 (A) A judgment that:

16 (i) Directs the Department of Transportation to restore title to the motor vehicle to the
17 owner and to invalidate the title the person obtained; or

18 (ii) Extinguishes the person's interest in the motor vehicle and directs the department
19 to issue title in the name of the plaintiff in the action;

20 (B) A judgment that declares that the person's lien is invalid if the person obtained title
21 to the motor vehicle without complying with this section; and

22 (C) Reimbursement for any fees the owner pays to the department to reissue the title.

23 **SECTION 2.** The amendments to ORS 87.152 by section 1 of this 2018 Act apply to
24 possessory liens that a person creates, attaches, asserts or claims on or after the effective
25 date of this 2018 Act.

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