

Enrolled
House Bill 4087

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

CHAPTER

AN ACT

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

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

SECTION 1. ORS 87.152 is amended to read:

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

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

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

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

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

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

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

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

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

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

(A) **A judgment that:**

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

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

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

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

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

Passed by House February 8, 2018

Received by Governor:

Repassed by House March 3, 2018

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Approved:

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

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Kate Brown, Governor

Passed by Senate March 1, 2018

Filed in Office of Secretary of State:

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Peter Courtney, President of Senate

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Dennis Richardson, Secretary of State