

# House Bill 2913

Sponsored by Representative EVANS

## 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**.

Removes requirement for person to have surety bond in effect before making, altering, repairing, transporting, storing, providing services for, supplying materials for or performing labor in connection with motor vehicle.

Reimposes requirement for surety bond beginning July 1, 2020.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

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

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

5 **SECTION 1.** ORS 87.152, as amended by section 1, chapter 58, Oregon Laws 2018, is amended  
6 to read:

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

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

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

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

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

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

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

30 (A) The greater of \$2,000 or an amount equivalent to twice the value of the motor vehicle, up

**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 to a maximum amount of \$20,000; and

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

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

5 (A) A judgment that:

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

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

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

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

13 **SECTION 2.** ORS 87.152, as amended by section 1, chapter 58, Oregon Laws 2018, and section  
14 1 of this 2019 Act, is amended to read:

15 87.152. (1) Except as provided in subsection (2) of this section, a person that makes, alters, re-  
16 pairs, transports, stores, pastures, cares for, provides services for, supplies materials for or performs  
17 labor on a chattel at the request of the owner or lawful possessor of the chattel has a lien on the  
18 chattel in the possession of the person for the reasonable or agreed charges for labor, materials or  
19 services of the person, and the person may retain possession of the chattel until the charges are  
20 paid.

21 [(2)] **(2)(a)** A person may not create, attach, assert or claim a possessory lien on a motor vehicle,  
22 as defined in ORS 801.360, unless the person performs a service that complies with ORS 646A.480  
23 to 646A.495 and that involves making, altering, repairing, transporting, storing, providing services  
24 for, supplying material for or performing labor in connection with the motor vehicle and the person:

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

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

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

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

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

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

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

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

43 (A) A judgment that:

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

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

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

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

6 **SECTION 3. The amendments to ORS 87.152 by section 1 of this 2019 Act apply to**  
7 **possessory liens that a person creates, attaches, asserts or claims on or after the effective**  
8 **date of this 2019 Act.**

9 **SECTION 4. The amendments to ORS 87.152 by section 2 of this 2019 Act become opera-**  
10 **tive on July 1, 2020.**

11 **SECTION 5. This 2019 Act being necessary for the immediate preservation of the public**  
12 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
13 **on its passage.**

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