

House Bill 2904

Sponsored by Representative GORSEK

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**.

Provides that auction company has lien on motor vehicle that auction company possesses and stored on premises that auction company owns or controls. Permits auction company to title motor vehicle in name of auction company if motor vehicle remains unclaimed on auction company's premises for more than 30 days, in name of insurer that directed auction company to take possession of motor vehicle or in name of nonprofit organization that directed auction company to take possession of motor vehicle.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to possessory liens on motor vehicles that auction company stores; creating new provisions;
3 amending ORS 87.152; and 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)*] **subsections (2) and (3)** of this section, a person
8 that makes, alters, repairs, transports, stores, pastures, cares for, provides services for, supplies
9 materials for or performs labor on a chattel at the request of the owner or lawful possessor of the
10 chattel has a lien on the chattel in the possession of the person for the reasonable or agreed charges
11 for labor, materials or services of the person, and the person may retain possession of the chattel
12 until the charges are paid.

13 (2)(a) **Except as provided in subsection (3) of this section**, a person may not create, attach,
14 assert or claim a possessory lien on a motor vehicle, as defined in ORS 801.360, unless the person
15 performs a service that complies with ORS 646A.480 to 646A.495 and that involves making, altering,
16 repairing, transporting, storing, providing services for, supplying material for or performing labor in
17 connection with the motor vehicle and the person:

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

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

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

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

27 **(3)(a) As used in this subsection:**

28 **(A) "Auction company" means an entity:**

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 (i) That operates throughout the United States;

2 (ii) That holds a vehicle dealer certificate that the Department of Transportation issued
3 or renewed under ORS 822.020 or 822.040, or a dismantler certificate that the department
4 issued or renewed under ORS 822.110 or 822.125; and

5 (iii) The primary activity of which, in this state, consists of disposing of totaled motor
6 vehicles.

7 (B) "Motor vehicle" has the meaning given that term in ORS 801.360.

8 (b) An auction company has a lien on a motor vehicle that the auction company pos-
9 sesses and stored on premises the auction company owns or controls. The auction company
10 may title the motor vehicle in the name of:

11 (A) The auction company, if the motor vehicle has remained unclaimed on the auction
12 company's premises for more than 30 days;

13 (B) The insurance company that directed the auction company to take possession of the
14 motor vehicle; or

15 (C) An organization with an exemption from taxation under section 501(c)(3) of the
16 Internal Revenue Code that directed the auction company to take possession of the motor
17 vehicle.

18 (c) ORS 87.166 and 87.172 to 87.212 do not apply to chattel that is subject to this sub-
19 section.

20 [(3)(a)] (4)(a) The owner of a motor vehicle may bring an action to recover from a person that
21 refuses, at the owner's demand and without a valid possessory lien created and attached as provided
22 in subsection (2) or (3) of this section, to release the owner's motor vehicle or restore to the owner
23 title to the owner's motor vehicle if the person changed the title:

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

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

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

29 (A) A judgment that:

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

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

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

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

37 **SECTION 2.** The amendments to ORS 87.152 by section 1 of this 2019 Act apply to motor
38 vehicles that an auction company possesses on or after the effective date of this 2019 Act
39 and that the auction company stored before, on or after the effective date of this 2019 Act.

40 **SECTION 3.** This 2019 Act being necessary for the immediate preservation of the public
41 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
42 on its passage.