

March 21, 2023

Re: HB 2147

To: Senate Committee on Transportation

From: Heather Klamm, A&A Auto and Truck Parts, Inc.

Mr. Chairman and Committee,

I am writing today to express our support of HB 2147. We are thankful for your time and consideration on this matter. The issue we are hoping to resolve involves the possessory lien affidavit tow lots and public agencies use to sell vehicles after they have performed a tow service. A critical timeline begins the day the vehicle is towed. The tow company has 30 days from that date to obtain a verification of last registered owner(s) and lienholder(s) from the Division of Vehicles. If the vehicle was not registered in Kansas, they must perform a multi-state search of registered owners and lienholders. Once verification is obtained, they have 10 days to send a certified letter to any listed owner, lienholder, and secured interest notifying them of their bill due and that the vehicle will be sold at public auction if not satisfied in 15 days. Finally, a notice of public auction with the vehicle's year, make, and VIN must be published in the local newspaper.

Our company, A&A Auto and Truck Parts, Inc. was first opened in Topeka in 1946. After working in the industry, Curt Lewis and his wife Jane, my parents, purchased the business in 1996. They have expanded over the years and currently have two locations in Topeka. Currently, our salvage yard purchases anywhere from 250 to 450 vehicles from tow lots and public agencies through public auction every year to be dismantled, parts inventoried, and then those parts are sold to retail and wholesale customers. At the end of the vehicle's life, what remains is crushed and sold to a metal recycling facility and the title is surrendered to the state.

Unfortunately, we have found that more often than not the requirements of the possessory lien affidavit are not met by the tow companies before selling vehicles at public auction. We are asking in this bill for tow companies and public agencies to obtain a certification from the county proving their paperwork is transferable at auction. I have had applications for titles rejected because the vehicle was listed as the wrong year in the newspaper, because a VIN had a transposition error in any part of the paperwork, because the mailings were not correct, because the tow driver crossed out their own writing on a carbon copy tow slip to fix a mistake, because a lienholder does not have an address listed in the state's snapshot so there is no address to send it to, because a mailing did not have Sr. after a name on a certified mail receipt, the list is endless. Once, I was only able to obtain 12 titles out of 48 applications due to problems within the paperwork. All these issues that prevent us from getting a title should be addressed before the vehicle can be sold at public auction, but these issues are not discovered until we attempt to obtain a title.

We purchased a 2019 Fiat at public auction that had not been previously titled in the state of Kansas. Through the KHP inspection process, it came back as stolen and the insurance company was then wanting to recover it. We ended up working with the insurance company and relinquishing the vehicle to them. We purchased a wrecked 2012 Kia Rio from AAA's public auction. It had last been titled in the state of Kansas, all mailings were made correctly, the timeline was followed, but our application for a title was rejected because a hold was placed on the vehicle by the state for an investigation. I was able to get the hold removed because the vehicle was totaled, but had it simply been abandoned I was told it could be confiscated. Had the MVE-1 (vehicle inspection) been completed on the Fiat and paperwork verification had been obtained on the Rio these issues would have been addressed before the tow companies could sell the vehicles.

If the towing company obtains the owner verification over 30 days after possession or mails the notification over 10 days past the receipt of last registered owner, the application for a title will be rejected because the timeline has been broken. The problem this presents is when the tow companies proceed through the process of the possessory lien, sells the vehicle, and then we as the purchaser are unable to obtain a title. At that point, there is nothing that we can do to "turn back the clock" to fix the timeline and are stuck with a vehicle that cannot be titled.

I feel that the spirit of the possessory lien is, rightfully, to protect the owners and lienholders. I personally agree that all requirements of the affidavit should be followed to the letter; however, there are so many problems with the language of the affidavit and the lack accountability on the part of the tow lots that a change is necessary. The tow companies we

continue to purchase vehicles from work with us to correct errors and ultimately obtain a title. There have been a few instances where we have not been able to obtain a title and the tow company refunds our money and takes back possession of the vehicle. We have made the decision to only work with tow companies who are willing to correct their errors and who truly attempt to follow the requirements of the possessory lien so that we may obtain a title and process the vehicle to the end of it's life. Not all tow companies are willing to do this, and in those instances, we would be stuck with vehicles we cannot process, and as I was told by the state, this is simply a civil matter and there is nothing they can do. They recommend that we go through the process of a quiet title or sue the tow company.

At the hearing last year about this topic, the argument was made that we are requesting this change because of the associated costs. This is far from the truth. When we purchase vehicles at auctions, we pay fees for all sorts of things: gate fees, online fees, convenience fees, admin fees. A simple "paperwork fee" could be added to any purchase and has been utilized by several of the tow lots we deal with already. Currently, we pay anywhere from \$20-45 per title depending if it needed an inspection by the Kansas Highway Patrol, so if the tow companies added a \$50 title fee to all purchases, they would cover those costs. We are paying a \$100 paperwork fee to a tow lot in Kansas City already even if they do not provide accurate paperwork. All we are really asking is that the tow companies and public agencies be held accountable for providing accurate and complete paperwork before being able to sell a vehicle at auction. Any issues that may arise through inspections or registration inquiries would have to be resolved before the vehicle could be titled and legally sold at auction.

We must have a title for every vehicle so that when we process and crush it we can surrender the title to the state. This aids in tracking VINs and getting crushed titles out of the state's system. When working with the City of Topeka's impound lot, I was told that I was the only company that was having issues with getting paperwork. After speaking with the supervisor there and working through some persistent issues in their paperwork he took it upon himself to do some research. He found I was the only person having issues with my paperwork because I was the only person getting titles. Nearly every other vehicle they were selling at their auctions was never getting registered under a new owner. This makes you wonder where all those vehicles and their paperwork ended up.

In working with the Kansas Motor Carriers Association, Kansas Department of Revenue, Kansas Highway Patrol, multiple tow lots, and other salvage yard owners, we have found this certification to be the best option to hold the tow companies accountable for following the requirements of the possessory lien. If they make a mistake in their paperwork, they will be able to start the process back over to obtain transferable paperwork and then legally be able to sell that vehicle at auction. This not only protects the owners and lienholders but also any purchaser at a public auction. Salvage yards are not the only purchasers at auctions, the general public is able to purchase vehicles at auction and if they run into these same problems, I have been told by the state that nearly every time that purchaser has to go through the process of a quiet title which can cost over a thousand dollars.

Overall, we thank you for taking this testimonial into consideration. We are hoping that with the collaboration of so many state agencies and businesses we will be able to improve the possessory lien affidavit. If you have any questions, I would be more than happy to speak further on our company's behalf.

Sincerely,
Heather Klamm
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