

TITLE 49
MOTOR VEHICLES

CHAPTER 17
LABOR AND MATERIAL LIENS

49-1701. LABOR AND MATERIAL LIENS ON MOTOR VEHICLES. Every person has a lien, dependent upon possession, for the compensation to which he is legally entitled for making repairs or performing labor upon, and/or for the furnishing supplies or materials for, and/or for the towing, storage, repair or safekeeping of, and/or for the rental of parking space for any vehicle of a type subject to registration under the motor vehicle code, and upon the contents thereof.

[49-1701, added 1988, ch. 265, sec. 408, p. 789.]

49-1702. FORM FOR NOTICE OF LIEN. To claim the benefits of the provisions of this chapter a lien claimant shall, prior to making any repairs, provide notice to the registered and legal owner of a motor vehicle of intended repairs, service, or storage at the request of a person in possession of the vehicle. The notice shall be substantially in the following form:

To: (Name of registered and legal owner and addresses)

Notice is hereby given, in accordance with the provisions of, Idaho Code, that the undersigned, of, (address) has been requested by, of, (address), (the registered owner, or agent thereof), to (repair or as the case may be) the following described motor vehicle of which you are designated the registered or legal owner on the title: (specify year, make and model), (vehicle identification no.), (license no.) If appropriate, add: The repairs requested are as follows:

The undersigned intends to begin such (repairs or as the case may be) on approximately,

The approximate charges for the services requested will be \$....., and the undersigned will claim a lien on the vehicle for the actual amount of such charges.

In accordance with the provisions of sections and, Idaho Code, the undersigned requests that you consent to the performance of (such repairs or as the case may be) by signing and returning the enclosed copy of this notice.

Dated,

.....
(Signature)

Consent

I hereby consent to the performance of the above described (repairs or as the case may be.)

Dated,

.....
(Signature of registered or legal owner)

[49-1702, added 1988, ch. 265, sec. 409, p. 789; am. 1998, ch. 392, sec. 23, p. 1228; am. 2002, ch. 32, sec. 21, p. 58.]

49-1703. ASSIGNMENT OF LIEN. Any lien provided for in this chapter may be assigned by written instrument accompanied by delivery of possession of the vehicle subject to the lien, and the assignee may exercise the rights of a lien holder. Any lien holder assigning a lien, as authorized herein, shall at the time of assigning the lien give written notice of the assignment by certified mail to the registered and legal owner, including the name and address of the person to whom the lien is assigned.

[49-1703, added 1988, ch. 265, sec. 410, p. 790.]

49-1704. REVIVAL OF LOST LIENS. Whenever the lien upon any vehicle is lost by reason of the loss of possession through trick, fraud, or device, the repossession of the vehicle by the lien holder revives the lien, but any lien so revived is subordinate to any right, title or interest of any person under any sale, transfer, encumbrance, lien or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

[49-1704, added 1988, ch. 265, sec. 411, p. 790.]

49-1705. SALE TO SATISFY LIENS. (1) When a possessory lienholder is not paid the amount of the lien due, within ten (10) days after the same becomes due, the lienholder may proceed to conduct a sale as provided by this section to satisfy the lien and costs of sale, if an authorization to conduct a lien sale has been issued by the department, or a judgment has been entered in favor of the lienholder on the claim which gives rise to the lien, or the registered and legal owners of the vehicle have signed, after the lien has arisen, a release of any interest in the vehicle.

(2) A possessory lienholder may apply to the department for the issuance of an authorization to conduct a lien sale. The application shall include all of the following information:

- (a) A description of the vehicle, including make, vehicle identification number, and license number;
- (b) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from registration certificates within the vehicle, and the names and addresses of other persons whom the lienholder knows or reasonably should know to claim an interest in the vehicle;
- (c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and
- (d) A statement that the lienholder has no information or belief that there is a valid defense to the claim which gives rise to the lien.

(3) Upon receipt of an application, the department shall send a copy of the application to the registered and legal owners at their addresses of record with the department and to any other interested persons listed in the application. The department shall also send a notice which shall include the following information:

- (a) That an application has been made with the department for the issuance of an authorization to conduct a lien sale;
- (b) That the person has a legal right to a hearing in court;
- (c) That if a hearing in court is desired, an enclosed declaration of opposition must be signed and returned;
- (d) That if the declaration is signed and returned, the possessory lienholder will be allowed to sell the vehicle only if he obtains a

judgment in court or obtains a release from the registered and legal owners;

(e) That the department will issue the authorization to conduct a lien sale unless the person signs and returns the declaration of opposition within ten (10) days after the date the notice was mailed; and

(f) That the person may be liable for costs if the lienholder brings an action and if a judgment is entered in favor of the lienholder.

(4) If the department receives a timely mailed declaration of opposition, it shall notify the possessory lienholder that he may not conduct a lien sale unless:

(a) A judgment has been entered in his favor on the claim which gives rise to the lien; or

(b) The registered and legal owners of the vehicle have signed a release of any interest in the vehicle.

(5) An applicant shall include with his application for lien sale a fee of ten dollars (\$10.00) which shall be deposited in the abandoned vehicle trust account. The fee shall be recoverable as a cost by the lienholder.

[49-1705, added 1988, ch. 265, sec. 412, p. 790; am. 1998, ch. 392, sec. 24, p. 1229.]

49-1706. RELEASE OF OWNER'S INTEREST IN VEHICLE. (1) A registered or legal owner of a vehicle in the possession of a person holding a lien under the provisions of this chapter may release any interest in the vehicle after the lien has attached.

(2) The release shall contain the following information:

(a) A description of the vehicle, including the year and make, the engine or vehicle identification number, and the license number;

(b) The names and addresses of the registered and legal owners of record;

(c) A statement of the amount of the lien and the facts concerning the claim which give rise to the lien; and

(d) A statement that the person releasing the interest understands that he has a legal right to a hearing in court prior to the sale of the vehicle and that he waives the right to contest the claim.

(3) A copy of the release shall be filed with the department in connection with the transfer of interest in a vehicle under the provisions of this section.

[49-1706, added 1988, ch. 265, sec. 413, p. 792.]

49-1707. NOTICE OF SALE. Prior to any sale the possessory lienholder shall give at least ten (10) days' notice of the sale by advertising in one (1) issue of a newspaper of general circulation in the county in which the vehicle is located. Prior to the sale of any vehicle to satisfy a lien, twenty (20) days' notice by certified mail shall be given to the legal owner and to the registered owner of the vehicle, if registered in this state, as the same appear in the registration certificate, and to the department. All notices specify the make, the vehicle identification number, and license number, and the date, time, and place of the sale.

[49-1707, added 1988, ch. 265, sec. 414, p. 792; am. 1998, ch. 392, sec. 25, p. 1230.]

49-1708. INSPECTION PRIOR TO SALE. No lien sale conducted pursuant to this chapter shall be undertaken unless the vehicle has been available for public inspection, at a location easily accessible to the public, for at least one (1) hour before sale. Sealed bids shall not be accepted. The possessory lien holder shall conduct the sale in a commercially reasonable manner.

[49-1708, added 1988, ch. 265, sec. 415, p. 792.]

49-1709. DISPOSITION OF PROCEEDS. (1) The proceeds of a lien sale shall be disbursed as follows:

(a) To discharge the lien; then to actual costs of selling the property. The cost of selling shall be the actual cost, not to exceed seventy-five dollars (\$75.00), for each vehicle;

(b) The balance, if any, shall be forwarded to the department within five (5) days of the sale for payment to the legal owner of any unpaid obligation or for deposit in the abandoned vehicle trust account.

(2) Any person claiming an interest in the vehicle may file a claim with the department for any portion of the funds from the lien sale which were forwarded to the department. Upon determination of the department that the claimant is entitled to some amount, the department shall pay an amount which in no case shall exceed the amount forwarded to the department in connection with the sale of the vehicle. The department shall not honor any claim not filed within two (2) years of the sale.

[49-1709, added 1988, ch. 265, sec. 416, p. 793.]

49-1710. UNLAWFUL REMOVAL OR OBTAINING OF VEHICLE SUBJECT TO LIEN. No person shall obtain possession of any vehicle or any part of that vehicle, subject to a lien under the provisions of this chapter, through surreptitious removal or by trick, fraud, or device perpetrated upon the lien holder.

[49-1710, added 1988, ch. 265, sec. 417, p. 793.]