

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 815

An ordinance to amend MCC 7.10.325 to conform with recent Oregon Court of Appeals rulings relating to the inventory of vehicles impounded as instrumentalities of a crime.

(Language in brackets [] is to be deleted; underlined language is new)

MULTNOMAH COUNTY ORDAINS AS FOLLOWS:

SECTION I. FINDINGS.

1. Vehicles identified as instrumentalities of a crime, including but not limited to, Driving While Suspended or Revoked in violation of Oregon Revised Statute 811.175, Driving While Under the Influence of Intoxicants in violation of Oregon Revised Statutes, Chapter 813, Reckless Driving in violation of Oregon Revised Statutes 811.140, Fleeing or Attempting to Elude Police Officer in violation of Oregon Revised Statutes 811.540, or Failure to Perform the Duties of a Driver at the Scene of an Accident in violation of Oregon Revised Statutes 811.700 and 811.705, and subsequently towed from a crime scene require inventory to allow for the accurate accounting and safekeeping of personal property contained therein, and to guard against subsequent false loss claims by the Registered Owner or operator for un-inventoried personal property.

2. Inventory of such vehicles often results in the discovery of evidence of additional crimes. It is necessary for the safety

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1 and welfare of the citizens of this community that such evidence of
2 criminal activity be seized and appropriate action be taken within
3 the criminal justice system to prosecute those responsible for the
4 criminal activity.

5 3. The Oregon Court of Appeals has held in State v. Custer,
6 126 Or App 431 (1994), that the policies and procedures of police
7 agencies providing for inventory of an impounded vehicle are not
8 sufficient authority to make a search attendant to the inventory
9 lawful.

10 4. This case law requires that the state must identify some
11 provision of law, a statute, or an ordinance authorizing a Police
12 Officer to inventory vehicles identified as instrumentalities of a
13 crime. An inventory search of vehicles without such provision of
14 law, statutes, or ordinance is unlawful and evidence obtained as a
15 result is inadmissible in court proceedings arising from the
16 inventory.

17 5. Therefore, it is in the public interest of the citizens of
18 Multnomah County to pass an ordinance authorizing Police Officers
19 to impound and inventory the contents of vehicles identified as
20 instrumentalities of a crime.

21
22 SECTION II. AMENDMENTS.

23 7.10.325 Impoundment of Vehicles

24 (A) When any motor vehicle is found standing or parked in or
25 upon any street, road or highway or parking area of Multnomah
26 County within the jurisdiction of this chapter in violation of, and

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1 contrary to, any of the provisions of this chapter applicable to
2 stopping, standing or parking of vehicles, the owner or person
3 entitled to possession of the motor vehicle may be issued a
4 citation and the vehicle removed or caused to be removed by the
5 sheriff and held at the expense of the owner or person entitled to
6 possession. If a vehicle is so removed and held, the provisions
7 relating to notice to owner, appraisal of value and owner
8 reclaiming vehicle shall be followed in ORS 483.384 and 483.386.
9 If the vehicle is not redeemed within 30 days it will be disposed
10 of as prescribed in ORS 483.388 to 483.396.

11 (B) The sheriff may authorize another police agency to remove
12 and hold motor vehicles that are found in violation of this chapter
13 and may also define the geographical area within which the agency
14 may order such removal. If a vehicle is so removed and held by
15 another police agency, that agency shall provide notice to the
16 owner of the removal in accordance with the procedures of the
17 removing agency.

18 [Ord. 54 § IX (1972); Ord. 140 § 4 (1977; Ord. 457 (1985)]

19 (C) Vehicle Inventory. The contents of all vehicles
20 identified as instrumentalities of a crime, including but not
21 limited to, Driving While Suspended or Revoked in violation of
22 Oregon Revised Statutes 811.175, Driving While Under the Influence
23 of Intoxicants in violation of Oregon Revised Statutes,
24 Chapter 813, Reckless Driving in violation of Oregon Revised
25 Statutes 811.140, Fleeing or Attempting to Elude Police Officer in
26 violation of Oregon Revised Statutes 811.540, or Failure to Perform

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the Duties of a Driver at the Scene of an Accident in violation of
Oregon Revised Statutes 811.700 and 811.705, shall be impounded and
inventoried. Impounded vehicles will be inventoried and the
contents accounted for prior to being towed from the scene. If
safety considerations are present, the vehicle impounded may be
towed to a location designated by the investigating officer and
inventoried as soon as is practicable thereafter. This provision
does not apply to vehicles impounded for subsequent search by
officers with a court authorized search warrant.

This Ordinance, being necessary for the health, safety, and
welfare of the people of Multnomah County, an emergency is
declared, and the Ordinance shall take effect upon its execution by
the County Chair, pursuant to Section 5.50 of the Charter of
Multnomah County.

ADOPTED this 6th day of April, 1995.



By Beverly Stein
Beverly Stein, Chair
Multnomah County, Oregon

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By Jacqueline A. Weber
Assistant County Counsel

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