

DUI IMPOUND FEE REFUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions relating to DUI impound fee refunds.

Highlighted Provisions:

This bill:

- ▶ modifies the time frame for submission of documents for DUI impound fee refunds.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2016, Chapters 100 and 148

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6a-1406** is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to:

(a) a state impound yard; or

(b) if none, a garage, docking area, or other place of safety.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be

33 removed by a tow truck motor carrier that meets standards established:

34 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

35 (b) by the department under Subsection (10).

36 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report
37 of the removal shall be sent to the Motor Vehicle Division by:

38 (i) the peace officer or agency by whom the peace officer is employed; and

39 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
40 operator is employed.

41 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
42 include:

43 (i) the operator's name, if known;

44 (ii) a description of the vehicle, vessel, or outboard motor;

45 (iii) the vehicle identification number or vessel or outboard motor identification
46 number;

47 (iv) the license number, temporary permit number, or other identification number
48 issued by a state agency;

49 (v) the date, time, and place of impoundment;

50 (vi) the reason for removal or impoundment;

51 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
52 outboard motor; and

53 (viii) the place where the vehicle, vessel, or outboard motor is stored.

54 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
55 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

56 (i) collect any fee associated with the removal; and

57 (ii) begin charging storage fees.

58 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
59 Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the
60 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

61 (i) the registered owner;

62 (ii) any lien holder; or

63 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor

64 is currently operating under a temporary permit issued by the dealer, as described in Section
65 41-3-302.

66 (b) The notice shall:

67 (i) state the date, time, and place of removal, the name, if applicable, of the person
68 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
69 and the place where the vehicle, vessel, or outboard motor is stored;

70 (ii) state that the registered owner is responsible for payment of towing, impound, and
71 storage fees charged against the vehicle, vessel, or outboard motor;

72 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
73 motor is released; and

74 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
75 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or
76 impoundment under this section, one of the parties fails to make a claim for release of the
77 vehicle, vessel, or outboard motor.

78 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
79 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
80 to notify the parties described in Subsection (5)(a) of the removal and the place where the
81 vehicle, vessel, or outboard motor is stored.

82 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
83 the vehicle, vessel, or outboard motor is stored.

84 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
85 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
86 service in accordance with Subsection 72-9-603(1)(a)(i).

87 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
88 in Subsection (5)(a):

89 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
90 the State Tax Commission;

91 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
92 vessel, or outboard motor;

93 (iii) completes the registration, if needed, and pays the appropriate fees;

94 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative

95 impound fee of \$400; and

96 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
97 motor is stored.

98 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
99 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

100 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
101 be deposited in the Department of Public Safety Restricted Account created in Section
102 53-3-106;

103 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
104 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

105 (iv) the remainder of the administrative impound fee assessed under Subsection
106 (6)(a)(iv) shall be deposited in the General Fund.

107 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
108 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
109 owner's agent presents written evidence to the State Tax Commission that:

110 (i) the Driver License Division determined that the arrested person's driver license
111 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
112 or other report from the Driver License Division presented within ~~[30 days of the final~~
113 ~~notification from]~~ 180 days after the day on which the Driver License Division mailed the final
114 notification; or

115 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
116 stolen vehicle report presented within ~~[30 days]~~ 180 days after the day of the impoundment.

117 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
118 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)
119 or any service rendered, performed, or supplied in connection with a removal or impoundment
120 under Subsection (1).

121 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
122 impounded vehicle, vessel, or outboard motor if:

123 (i) the vehicle, vessel, or outboard motor is being held as evidence; and

124 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
125 Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or

126 outboard motor under this Subsection (6).

127 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party
128 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 shall be sold
129 in accordance with that section and the proceeds, if any, shall be disposed of as provided under
130 Section 41-1a-1104.

131 (b) The date of impoundment is considered the date of seizure for computing the time
132 period provided under Section 41-1a-1103.

133 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the
134 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the
135 fees and charges, together with damages, court costs, and attorney fees, against the operator of
136 the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

137 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
138 or outboard motor.

139 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
140 the department shall make rules setting the performance standards for towing companies to be
141 used by the department.

142 (11) (a) The Motor Vehicle Division may specify that a report required under
143 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and
144 retrieval of the information.

145 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the
146 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

147 (ii) The fees under this Subsection (11)(b) shall:

148 (A) be reasonable and fair; and

149 (B) reflect the cost of administering the database.