

TOW TRUCK REQUIREMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: James R. Gowans

This act modifies the Transportation Code by adding a definition of tow truck service which includes recovery functions and related operations. This act replaces the word "towing" with "tow truck service" for purposes of charges an owner is responsible for paying. The act also uses this defined phrase to require posting of rates by a tow truck motor carrier, and to require the Department of Transportation to set maximum rates that may be charged for certain tow truck services by administrative rule. This act requires that in addition to notifying the owner if a vehicle, vessel, or outboard motor is towed without the owner's knowledge that the tow truck motor carrier also notify the lien holder.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

72-9-102, as renumbered and amended by Chapter 270, Laws of Utah 1998

72-9-603, as last amended by Chapter 202, Laws of Utah 2001

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

Section 1. Section **72-9-102** is amended to read:

72-9-102. Definitions.

As used in this chapter:

(1) (a) "Commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer used or maintained for business, compensation, or profit to transport passengers or property on a highway if the commercial vehicle:

(i) has a manufacturer's gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds;

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used in the transportation of hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial vehicle for purposes of this chapter:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) firefighting and emergency vehicles, operated by emergency personnel, not including commercial tow trucks; and

(iii) recreational vehicles that are driven solely as family or personal conveyances for noncommercial purposes.

(2) "Motor carrier" means a person engaged in or transacting the business of transporting passengers, freight, merchandise, or other property by a commercial vehicle on a highway within this state and includes a tow truck business.

(3) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow line, dolly, tilt bed, or other means.

(4) "Tow truck service" means the functions and any ancillary operations associated with recovering, removing, and towing a vehicle and its load from a highway or other place by means of a tow truck.

[~~(4)~~] (5) "Transportation" means the actual movement of property or passengers by motor vehicle, including loading, unloading, and any ancillary service provided by the motor carrier in connection with movement by motor vehicle, which is performed by or on behalf of the motor carrier, its employees or agents, or under the authority of the motor carrier, its employees or agents, or under the apparent authority and with the knowledge of the motor carrier.

Section 2. Section **72-9-603** is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle

title restrictions -- Rules for maximum rates and certification.

(1) Except for tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor, contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

- (i) location of the vehicle, vessel, or outboard motor;
- (ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;
- (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
- (iv) person who requested the removal of the vehicle, vessel, or outboard motor; and
- (v) vehicle, vessel, or outboard motor's description, including its identification number and license number or other identification number issued by a state agency; and

(b) within two business days of performing the tow truck service, send a certified letter to the last-known address of the registered owner and lien holder of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's address to the current address, notifying him of the:

- (i) location of the vehicle, vessel, or outboard motor;
- (ii) date, time, location from which the vehicle, vessel, or outboard motor was removed;
- (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
- (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
- (v) a description, including its identification number and license number or other identification number issued by a state agency; and
- (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.

(2) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck motor carrier or impound yard may not:

- (a) collect any fee associated with the removal; and
- (b) begin charging storage fees.

(3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the ~~[towing]~~ tow truck service and storage fees set in accordance with Subsection (7); and

(b) the administrative impound fee set in Section 41-6-102.5, if applicable.

(4) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or outboard motor until paid.

(5) A person may not request a transfer of title to an abandoned vehicle until at least 30 days after notice has been sent under Subsection (1)(b).

(6) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees and rates for ~~[towing]~~ tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

(7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the Department of Transportation shall:

(a) set maximum rates that:

(i) tow truck motor carriers may charge for the ~~[towing]~~ tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) impound yards may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling; and

(c) specify the form and content of the posting and disclosure of fees and rates charged

by a tow truck motor carrier or impound yard.