

1 **ABANDONED VEHICLES AMENDMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: James R. Gowans**

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**LONG TITLE**

6 **General Description:**

7 This bill modifies the Motor Vehicles Code to amend provisions related to abandoned  
8 vehicles.  
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10 **Highlighted Provisions:**

11 This bill:

12 ▶ allows the Motor Vehicle Division to authorize certain public garages, impound  
13 lots, or impound yards to conduct the sale of seized vehicles, vessels, and outboard  
14 motors;

15 ▶ requires the Motor Vehicle Division to provide notice to the registered owner of the  
16 vehicle, vessel, or outboard motor that is removed or impounded that the vehicle,  
17 vessel, or outboard motor will be sold if, within 30 days from the date of the  
18 removal or impoundment, the owner fails to make a claim for release of the vehicle,  
19 vessel, or outboard motor; and

20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **41-1a-1101**, as last amended by Chapter 202, Laws of Utah 2001



28 **41-1a-1103**, as renumbered and amended by Chapter 1, Laws of Utah 1992

29 **41-1a-1104**, as renumbered and amended by Chapter 1, Laws of Utah 1992

30 **41-6-102.5**, as last amended by Chapter 91, Laws of Utah 2003

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

33 Section 1. Section **41-1a-1101** is amended to read:

34 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

35 (1) The division or any peace officer, without a warrant, may seize and take possession  
36 of any vehicle, vessel, or outboard motor:

- 37 (a) that the division or the peace officer has reason to believe has been stolen;
- 38 (b) on which any identification number has been defaced, altered, or obliterated;
- 39 (c) that has been abandoned [~~on the public highways~~] in accordance with Section

40 41-6-116.10;

41 (d) for which the applicant has written a check for registration or title fees that has not  
42 been honored by the applicant's bank and that is not paid within 30 days;

43 (e) that is placed on the water with improper registration; or

44 (f) that is being operated on a highway:

- 45 (i) with registration that has been expired for more than three months;
- 46 (ii) having never been properly registered by the current owner; or
- 47 (iii) with registration that is suspended or revoked.

48 (2) If necessary for the transportation of a seized vessel, the vessel's trailer may be  
49 seized to transport and store the vessel.

50 (3) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard  
51 motor under this section shall comply with the provisions of Section 41-6-102.5.

52 (4) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
53 the commission shall make rules setting standards for public garages, impound lots, and  
54 impound yards that may be used by peace officers and the division.

55 (b) The standards shall be equitable, reasonable, and unrestrictive as to the number of  
56 public garages, impound lots, or impound yards per geographical area.

57 (5) (a) Except as provided under Subsection (5)(b), a person may not operate or allow  
58 to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated

59 under this part without prior written permission of the owner of the vehicle.

60 (b) Incidental and necessary operation of a vehicle to move the vehicle from one  
61 parking space to another within the facility and that is necessary for the normal management of  
62 the facility is not prohibited under this Subsection (5)(a).

63 (6) A person who violates the provisions of Subsection (5) is guilty of a class C  
64 misdemeanor.

65 (7) The division or the peace officer who seizes a vehicle shall record the mileage  
66 shown on the vehicle's odometer at the time of seizure, if:

67 (a) the vehicle is equipped with an odometer; and

68 (b) the odometer reading is accessible to the division or the peace officer.

69 Section 2. Section **41-1a-1103** is amended to read:

70 **41-1a-1103. Sale.**

71 (1) If the owner or lienholder of a seized vehicle, vessel, or outboard motor does not  
72 recover the vehicle, vessel, or outboard motor within 30 days from the date of seizure, or if the  
73 division is unable to determine the owner or lienholder through reasonable efforts, the division  
74 shall sell the vehicle, vessel, or outboard motor.

75 (2) The sale [~~shall be conducted by an authorized representative of the division and~~]  
76 shall:

77 (a) be held in the form of a public auction at the place of storage[-]; and

78 (b) at the discretion of the division, be conducted by:

79 (i) an authorized representative of the division; or

80 (ii) a public garage, impound lot, or impound yard that:

81 (A) is authorized by the division;

82 (B) meets the standards under Subsection 41-1a-1101(4); and

83 (C) complies with the requirements of Section 72-9-603.

84 (3) At least five days prior to the date set for sale, the division shall publish a notice of  
85 sale in a newspaper of general statewide circulation setting forth the date, time, and place of  
86 sale and a description of the vehicle, vessel, or outboard motor to be sold.

87 (4) At the time of sale the division or other person authorized to conduct the sale shall  
88 tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the  
89 vehicle, vessel, or outboard motor.

90 (5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this  
91 section shall be distributed as provided under Section 41-1a-1104.

92 (6) ~~Where~~ If the owner or lienholder of a vehicle, vessel, or outboard motor seized  
93 under Section 41-1a-1101 and subsequently released by the division fails to take possession of  
94 the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within  
95 30 days from the date of release, the division shall renotify the owner or lienholder and sell the  
96 vehicle, vessel, or outboard motor in accordance with this section 30 days from the date of the  
97 notice.

98 Section 3. Section **41-1a-1104** is amended to read:

99 **41-1a-1104. Disposition of proceeds from sale.**

100 (1) If, for purposes of this part and Section 41-1a-1301, the ownership of a vehicle,  
101 vessel, or outboard motor seized ~~[and sold by the division under Section 41-1a-1301 or this~~  
102 ~~part]~~ cannot be determined, ~~[then]~~ the excess of the proceeds of any sale over the fees for  
103 registration or transfer and penalties and costs shall be deposited with the state treasurer in a  
104 suspense account.

105 (2) (a) If the owner or the owner's heirs or assigns file a claim for the excess of the  
106 proceeds within one year of date of sale of the vehicle, vessel, or outboard motor, the excess of  
107 the proceeds shall be refunded to the claimant.

108 (b) If a claim is not filed in accordance with Subsection (2)(a), then the moneys shall  
109 be deposited in the General Fund.

110 Section 4. Section **41-6-102.5** is amended to read:

111 **41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification**  
112 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

113 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under  
114 Sections 41-1a-1101, 41-6-44.30, 41-6-102, 41-6-116.10, or 73-18-20.1 by an order of a peace  
115 officer or by an order of a person acting on behalf of a law enforcement agency or highway  
116 authority as defined in Section 72-1-102, the removal or impoundment of the vehicle, vessel, or  
117 outboard motor shall be at the expense of the owner, to a state impound yard, or if none, to a  
118 garage, docking area, or other place of safety.

119 (2) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be  
120 removed by a tow truck motor carrier that meets standards established:

- 121 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and  
122 (b) by the department under Subsection (9).
- 123 (3) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report  
124 of the removal shall be sent to the Motor Vehicle Division by:
- 125 (i) the peace officer or agency by whom the peace officer is employed; and  
126 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck  
127 operator is employed.
- 128 (b) The report shall be in a form specified by the Motor Vehicle Division and shall  
129 include:
- 130 (i) the operator's name, if known;  
131 (ii) a description of the vehicle, vessel, or outboard motor;  
132 (iii) the vehicle identification number or vessel or outboard motor identification  
133 number;  
134 (iv) the license number or other identification number issued by a state agency;  
135 (v) the date, time, and place of impoundment;  
136 (vi) the reason for removal or impoundment;  
137 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or  
138 outboard motor; and  
139 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 140 (c) Until the tow truck operator or tow truck motor carrier reports the removal as  
141 required under this Subsection (3), a tow truck motor carrier or impound yard may not:
- 142 (i) collect any fee associated with the removal; and  
143 (ii) begin charging storage fees.
- 144 (4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the  
145 registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner  
146 prescribed by Section 41-1a-114.
- 147 (b) The notice shall:
- 148 (i) state the date, time, and place of removal, the name, if applicable, of the person  
149 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,  
150 and the place where the vehicle, vessel, or outboard motor is stored;  
151 (ii) state that the registered owner is responsible for payment of towing, impound, and

152 storage fees charged against the vehicle, vessel, or outboard motor; ~~and~~

153 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the  
154 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released[-];  
155 and

156 (iv) inform the registered owner of the division's intent to sell the vehicle, vessel, or  
157 outboard motor, if within 30 days from the date of the removal or impoundment under this  
158 section, the owner, lien holder, or the owner's agent fails to make a claim for release of the  
159 vehicle, vessel, or outboard motor.

160 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor  
161 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien  
162 holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

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

165 (5) (a) The vehicle, vessel, or outboard motor shall be released after the registered  
166 owner, lien holder, or the owner's agent:

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

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

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

172 (iv) if the impoundment was made under Section 41-6-44.30, pays an administrative  
173 impound fee of \$230; and

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

176 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under  
177 Subsection (5)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

178 (ii) \$97 of the administrative impound fee assessed under Subsection (5)(a)(iv) shall be  
179 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;  
180 and

181 (iii) the remainder of the administrative impound fee assessed under Subsection  
182 (5)(a)(iv) shall be deposited in the General Fund.

183 (c) The administrative impound fee assessed under Subsection (5)(a)(iv) shall be  
184 waived or refunded by the State Tax Commission if the registered owner, lien holder, or  
185 owner's agent presents written evidence to the State Tax Commission that:

186 (i) the Driver License Division determined that the arrested person's driver license  
187 should not be suspended or revoked under Section 53-3-223 or Section 41-6-44.10 as shown by  
188 a letter or other report from the Driver License Division presented within 30 days of the final  
189 notification from the Driver License Division; or

190 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the  
191 stolen vehicle report presented within 30 days of the impoundment.

192 (6) An impounded vehicle, vessel, or outboard motor not claimed by the registered  
193 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in  
194 accordance with that section and the proceeds, if any, shall be disposed of as provided in  
195 Section 41-1a-1104. The date of impoundment is considered the date of seizure for computing  
196 the time period provided in Section 41-1a-1103.

197 (7) The registered owner who pays all fees and charges incurred in the impoundment of  
198 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and  
199 charges, together with damages, court costs, and attorney fees, against the operator of the  
200 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

201 (8) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,  
202 or outboard motor.

203 (9) The department shall make rules in accordance with Title 63, Chapter 46a, Utah  
204 Administrative Rulemaking Act, setting the performance standards for towing companies to be  
205 used by the department.

206 (10) (a) The Motor Vehicle Division may specify that a report required under  
207 Subsection (3) be submitted in electronic form utilizing a database for submission, storage, and  
208 retrieval of the information.

209 (b) Unless otherwise provided by statute, the Motor Vehicle Division or the  
210 administrator of the database may adopt a schedule of fees assessed for utilizing the database.  
211 The fees shall be reasonable and fair and shall reflect the cost of administering the database.

**Legislative Review Note**

**as of 1-12-05 9:07 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0067**

**Abandoned Vehicles Amendments**

*19-Jan-05*

*3:24 PM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**