

Representative Keven J. Stratton proposes the following substitute bill:

TOWING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Traffic Code and the Motor Carrier Safety Act by amending provisions relating to towing.

Highlighted Provisions:

This bill:

- ▶ provides that a tow truck operator, a tow truck motor carrier, or an impound yard may not charge a fee for a tow truck service or any service rendered, performed, or supplied in connection with the tow truck service in addition to the fees adopted by a county or municipal ordinance or the Department of Transportation;
- ▶ provides that a tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card;
- ▶ requires a tow truck motor carrier or impound yard to clearly and conspicuously post and disclose acceptable forms of payment;
- ▶ removes the signage exception for parking in a location that is prohibited by a declaration of the conditions, covenants, and restrictions or by a contract;
- ▶ provides that nothing in Title 72, Chapter 9, Part 6, Motor Carrier Safety Act, shall be construed to prevent a county or municipality from enacting and enforcing an ordinance, regulation, or rule pertaining to a tow truck operator, a tow truck motor



26 carrier, or an impound yard that is more restrictive than the provisions of Title 72, Chapter 9,
27 Part 6, Motor Carrier Safety Act with exceptions;

28 ▶ provides that a county or municipality may set rates for certain fees or charges
29 authorized by the Department of Transportation for certain tow truck services;

30 ▶ provides that a rate set by a county or municipality may not:
31 • exceed by more than 25% the equivalent rate set by the department; or
32 • be over 25% less than the equivalent rate set by the department;

33 ▶ provides that a vehicle immobilizer may not charge a fee for the removal of a
34 vehicle immobilization device or any service rendered, performed, or supplied in
35 connection with the removal of the immobilization device in addition to the fees
36 specified in the Traffic Code;

37 ▶ provides that a vehicle immobilizer shall accept payment by cash and debit or credit
38 card; and

39 ▶ makes technical corrections.

40 **Money Appropriated in this Bill:**

41 None

42 **Other Special Clauses:**

43 None

44 **Utah Code Sections Affected:**

45 **AMENDS:**

46 **41-6a-1406**, as last amended by Laws of Utah 2012, Chapter 226

47 **41-6a-1409**, as last amended by Laws of Utah 2010, Chapter 91

48 **72-9-603**, as last amended by Laws of Utah 2011, Chapter 363

49 **72-9-604**, as renumbered and amended by Laws of Utah 1998, Chapter 270



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

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

53 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
54 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

55 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
56 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace

57 officer or by an order of a person acting on behalf of a law enforcement agency or highway
58 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
59 expense of the owner.

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

62 (a) a state impound yard; or

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

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

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

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

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

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

71 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
72 operator is employed.

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

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

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

77 (iii) the vehicle identification number or vessel or outboard motor identification
78 number;

79 (iv) the license number or other identification number issued by a state agency;

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

81 (vi) the reason for removal or impoundment;

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

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

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

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

88 (ii) begin charging storage fees.

89 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
90 Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
91 outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

92 (b) The notice shall:

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

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

98 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
99 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

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

104 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
105 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
106 to notify the registered owner and any lien holder of the removal and the place where the
107 vehicle, vessel, or outboard motor is stored.

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

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

113 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered
114 owner, lien holder, or the owner's agent:

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

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

119 (iii) completes the registration, if needed, and pays the appropriate fees;
120 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
121 impound fee of \$350; and
122 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
123 motor is stored.

124 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
125 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;
126 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
127 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;
128 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
129 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and
130 (iv) the remainder of the administrative impound fee assessed under Subsection
131 (6)(a)(iv) shall be deposited in the General Fund.

132 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
133 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
134 owner's agent presents written evidence to the State Tax Commission that:
135 (i) the Driver License Division determined that the arrested person's driver license
136 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
137 or other report from the Driver License Division presented within 30 days of the final
138 notification from the Driver License Division; or
139 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
140 stolen vehicle report presented within 30 days of the impoundment.

141 (d) A tow truck operator, a tow truck motor carrier, or an impound yard may not charge
142 a fee for the removal or impoundment of a vehicle, vessel, or outboard motor under Subsection
143 (1) or any service rendered, performed, or supplied in connection with the removal or
144 impoundment under Subsection (1) in addition to the fees adopted by:

145 (i) the Department of Transportation in accordance with Subsection 72-9-603(7); or
146 (ii) a county or municipal ordinance.

147 (e) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
148 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)
149 or any service rendered, performed, or supplied in connection with a removal or impoundment

150 under Subsection (1).

151 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
152 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
153 accordance with that section and the proceeds, if any, shall be disposed of as provided under
154 Section 41-1a-1104.

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

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

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

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

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

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

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

172 (A) be reasonable and fair; and

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

174 Section 2. Section **41-6a-1409** is amended to read:

175 **41-6a-1409. Vehicle immobilization devices -- Definitions -- Notice requirements**
176 **-- Maximum removal fee.**

177 (1) As used in this section:

178 (a) "Immobilize" means to affix and lock a vehicle immobilization device to the
179 exterior of a motor vehicle.

180 (b) "Vehicle immobilization device" means a device that may be affixed and locked to

181 the exterior of a motor vehicle for the purpose of prohibiting the movement or removal of the
182 vehicle from its location.

183 (c) "Vehicle immobilizer" means a person who or entity that uses or causes to be used
184 a vehicle immobilization device for the purpose of enforcing parking restrictions with prior
185 authorization from the owner or person in lawful possession or control of the real property.

186 (2) (a) A vehicle immobilizer may not immobilize a vehicle without the motor vehicle
187 owner's knowledge at either of the following locations without signage that meets the
188 requirements of Subsection (2)(b):

- 189 (i) a mobile home park as defined in Section 57-16-3; or
- 190 (ii) a multifamily dwelling of more than eight units.

191 (b) Signage under Subsection (2)(a) shall display:

- 192 (i) where parking is subject to being immobilized; and
- 193 (ii) one of the following:

194 (A) the name and phone number of the vehicle immobilizer that immobilizes a vehicle
195 for the locations listed under Subsection (2)(a)(i); or

196 (B) the name of the mobile home park or multifamily dwelling and the phone number
197 of the mobile home park or multifamily dwelling manager or management office that
198 authorized the vehicle immobilizer to immobilize the motor vehicle.

199 (c) Signage is not required under Subsection (2)(b) for parking in a location:

- 200 (i) that is prohibited by law; or
- 201 (ii) if it is reasonably apparent that the location is not open to parking.

202 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
203 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
204 parking.

205 (3) (a) Upon immobilizing a vehicle, the vehicle immobilizer shall affix a notice to the
206 immobilized vehicle in a conspicuous place so as to be plainly visible to a person seeking to
207 operate the vehicle.

208 (b) The notice under Subsection (3)(a) shall include:

- 209 (i) the name and phone number of the vehicle immobilizer;
- 210 (ii) a phone number that the owner of the vehicle may call to arrange for release of the
211 vehicle; and

212 (iii) applicable fees.

213 (4) (a) The maximum fee that a vehicle immobilizer may charge to remove a vehicle
214 immobilization device may not exceed:

215 (i) \$75 for the first 24-hour period a vehicle is immobilized; plus

216 (ii) \$25 for each additional 24-hour period a vehicle is immobilized.

217 (b) Notwithstanding Subsection (4)(a), the maximum fee that a vehicle immobilizer
218 may charge to remove a vehicle immobilization device may not exceed \$150 for each instance.

219 (c) A vehicle immobilizer may not charge a fee for the removal of a vehicle
220 immobilization device or any service rendered, performed, or supplied in connection with the
221 removal of the immobilization device in addition to the fees specified under this Subsection
222 (4).

223 (d) A vehicle immobilizer shall accept payment by cash and debit or credit card for the
224 removal of a vehicle immobilization device or any service rendered, performed, or supplied in
225 connection with the removal of the immobilization device.

226 (5) A county or municipal legislative or governing body may not enact or enforce any
227 ordinance, regulation, rule, or fee pertaining to a vehicle immobilization device that conflicts
228 with this part.

229 Section 3. Section **72-9-603** is amended to read:

230 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
231 **vehicle title restrictions -- Rules for maximum rates and certification.**

232 (1) Except for a tow truck service that was ordered by a peace officer, or a person
233 acting on behalf of a law enforcement agency, or a highway authority, [~~as defined in Section~~
234 ~~72-1-102,~~] after performing a tow truck service that is being done without the vehicle, vessel,
235 or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier
236 shall:

237 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
238 or outboard motor:

239 (i) send a report of the removal to the Motor Vehicle Division that complies with the
240 requirements of Subsection 41-6a-1406(4)(b); and

241 (ii) contact the law enforcement agency having jurisdiction over the area where the
242 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

- 243 (A) location of the vehicle, vessel, or outboard motor;
- 244 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
245 removed;
- 246 (C) reasons for the removal of the vehicle, vessel, or outboard motor;
- 247 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and
- 248 (E) vehicle, vessel, or outboard motor's description, including its identification number
249 and license number or other identification number issued by a state agency; and
- 250 (b) within two business days of performing the tow truck service under Subsection
251 (1)(a), send a certified letter to the last-known address of the registered owner and lien holder
252 of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the
253 person has actual knowledge of the owner's address to the current address, notifying the owner
254 of the:
- 255 (i) location of the vehicle, vessel, or outboard motor;
- 256 (ii) date, time, location from which the vehicle, vessel, or outboard motor was
257 removed;
- 258 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
- 259 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
- 260 (v) a description, including its identification number and license number or other
261 identification number issued by a state agency; and
- 262 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.
- 263 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as
264 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
265 yard may not:
- 266 (i) collect any fee associated with the removal; or
- 267 (ii) begin charging storage fees.
- 268 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
269 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
270 owner's or a lien holder's knowledge at either of the following locations without signage that
271 meets the requirements of Subsection (2)(b)(ii):
- 272 (A) a mobile home park as defined in Section 57-16-3; or
- 273 (B) a multifamily dwelling of more than eight units.

274 (ii) Signage under Subsection (2)(b)(i) shall display:
275 (A) where parking is subject to towing; and
276 (B) (I) the Internet website address that provides access to towing database information
277 in accordance with Section 41-6a-1406; or
278 (II) one of the following:
279 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
280 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or
281 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
282 of the mobile home park or multifamily dwelling manager or management office that
283 authorized the vehicle, vessel, or outboard motor to be towed.
284 (c) Signage is not required under Subsection (2)(b) for parking in a location:
285 (i) that is prohibited by law; or
286 [~~(ii) that is prohibited by a declaration of the conditions, covenants, and restrictions or~~
287 ~~by a contract; or~~]
288 [~~(iii)~~ (ii) if it is reasonably apparent that the location is not open to parking.
289 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
290 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
291 parking.
292 (3) (a) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
293 responsible for paying:
294 [~~(a)~~] (i) the tow truck service and storage fees set in accordance with Subsection (7);
295 and
296 [~~(b)~~] (ii) the administrative impound fee set in Section 41-6a-1406, if applicable.
297 (b) A tow truck operator, a tow truck motor carrier, or an impound yard may not charge
298 a fee for a tow truck service of a vehicle, vessel, or outboard motor under Subsection (1) or any
299 service rendered, performed, or supplied in connection with the towing service under
300 Subsection (1) in addition to the fees adopted by:
301 (i) the department under Subsection (7); or
302 (ii) a county or municipal ordinance.
303 (4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life
304 essential items that are owned by the owner of the vehicle and securely stored by the tow truck

305 operator, vessel, or outboard motor until paid.

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

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

311 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
312 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
313 service rendered, performed, or supplied in connection with a tow truck service under
314 Subsection (1).

315 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
316 Department of Transportation shall:

317 (a) set maximum rates that:

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

320 (A) a peace officer dispatch call;

321 (B) a motor vehicle division call; and

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

324 (ii) an impound [~~yards~~] yard may charge for the storage of a vehicle, vessel, or
325 outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

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

328 (c) specify the form and content of the posting and disclosure of fees and rates charged
329 and acceptable forms of payment by a tow truck motor carrier or impound yard; and

330 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
331 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
332 the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as
333 required in Subsection (1)(b).

334 Section 4. Section **72-9-604** is amended to read:

335 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

336 ~~[(1) A county or municipal legislative or governing body may not enact or enforce any~~
337 ~~ordinance, regulation, rule, or fee pertaining to a tow truck or tow truck motor carrier that~~
338 ~~conflicts with this part.]~~

339 (1) Except as provided in this section, nothing in this part shall be construed to prevent
340 a county or municipal legislative or governing body from enacting and enforcing an ordinance,
341 regulation, or rule pertaining to a tow truck operator, a tow truck motor carrier, or an impound
342 yard that is more restrictive than the provisions of this part.

343 (2) (a) Except for a fee or charge a tow truck operator, a tow truck motor carrier, or an
344 impound yard may charge as a result of a tow truck service that was ordered by a peace officer,
345 a person acting on behalf of a law enforcement agency, or a highway authority, a county or
346 municipal legislative or governing body may set a rate for any fee or charge authorized by the
347 department in accordance with Subsection 72-9-603(7) for a tow truck service that is done
348 without the vehicle, vessel, or outboard motor owner's knowledge.

349 (b) A rate set by a county or municipality under Subsection (2)(a) may not:
350 (i) exceed by more than 25% the equivalent rate set by the department under
351 Subsection 72-9-603(7); or

352 (ii) be over 25% less than the equivalent rate set by the department under Subsection
353 72-9-603(7).

354 ~~[(2)]~~ (3) A tow truck motor carrier that has a county or municipal business license for a
355 place of business located within that county or municipality may not be required to obtain
356 another business license in order to perform a tow truck service in another county or
357 municipality if there is not a business location in the other county or municipality.

358 ~~[(3)]~~ (4) A county or municipal legislative body may require an annual tow truck safety
359 inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

360 (a) no fee is charged for the inspection; and

361 (b) the inspection complies with federal motor carrier safety regulations.

362 ~~[(4)]~~ (5) A tow truck shall be subject to only one annual safety inspection under
363 Subsection ~~[(3)]~~ (4). A county or municipality that requires the additional annual safety
364 inspection shall accept the same inspection performed by another county or municipality.

365