

VEHICLE TOWING AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Traffic Code by amending provisions for use of a tow truck motor carrier.

Highlighted Provisions:

This bill:

- ▶ amends rulemaking authority of the Department of Public Safety related to the use of a tow truck motor carrier by a peace officer on certain unhealthy air quality days;
- and
- ▶ makes technical changes.

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 2014, Chapter 249

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



28 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

- 36 (a) a state impound yard; or
- 37 (b) if none, a garage, docking area, or other place of safety.

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

- 40 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 41 (b) by the department under Subsection (10).

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

- 44 (i) the peace officer or agency by whom the peace officer is employed; and
- 45 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
46 operator is employed.

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

- 49 (i) the operator's name, if known;
- 50 (ii) a description of the vehicle, vessel, or outboard motor;
- 51 (iii) the vehicle identification number or vessel or outboard motor identification
52 number;
- 53 (iv) the license number or other identification number issued by a state agency;
- 54 (v) the date, time, and place of impoundment;
- 55 (vi) the reason for removal or impoundment;
- 56 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
57 outboard motor; and
- 58 (viii) the place where the vehicle, vessel, or outboard motor is stored.

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

- 61 (i) collect any fee associated with the removal; and
- 62 (ii) begin charging storage fees.

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

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

74 (iv) inform the registered owner and lienholder of the division's intent to sell the
75 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
76 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
77 claim for release of the 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 registered owner and any lien holder 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 the registered
88 owner, lien holder, or the owner's agent:

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 \$350; 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) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
101 deposited in the Department of Public Safety Restricted Account created in Section [53-3-106](#);

102 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
103 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund created in
104 Section [26-54-102](#); 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 the Driver License Division; or

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

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

120 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the

121 impounded vehicle, vessel, or outboard motor if:

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

123 (ii) the vehicle, vessel, or outboard motor is not being released to the registered owner,

124 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent

125 satisfies the requirements to release the vehicle, vessel, or outboard motor under this

126 Subsection (6).

127 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered

128 owner or the owner's agent within the time prescribed by Section [41-1a-1103](#) shall be sold in

129 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) The registered owner who pays all fees and charges incurred in the impoundment of

134 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and

135 charges, together with damages, court costs, and attorney fees, against the operator of the

136 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) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking

140 Act, the department shall make rules setting the performance standards for towing companies

141 to be used by the department.

142 (b) The rules described in Subsection (10)(a) shall require that the closest available

143 qualified tow truck motor carrier within an applicable county provide the tow truck service on a

144 day for which the Division of Air Quality issues an air quality action alert under Section

145 [19-2-107](#) that designates mandatory action in response to levels of air pollution that may

146 impact public health.

147 (11) (a) The Motor Vehicle Division may specify that a report required under

148 Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and

149 retrieval of the information.

150 (b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the

151 administrator of the database may adopt a schedule of fees assessed for utilizing the database.

- 152 (ii) The fees under this Subsection (11)(b) shall:
153 (A) be reasonable and fair; and
154 (B) reflect the cost of administering the database.

Legislative Review Note
as of 2-3-15 12:42 PM

Office of Legislative Research and General Counsel