

POSSESSORY LIEN AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen A. Riebe

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to a possessory lien on personal items in a vehicle that has been towed.

Highlighted Provisions:

This bill:

▶ removes certain personal items from items included in a possessory lien of a tow truck motor carrier or tow truck operator on a vehicle, vessel, or outboard motor that has been towed;

▶ requires a tow truck motor carrier or tow truck operator to grant an owner access to a vehicle, vessel, or outboard motor that has been towed for the owner to inspect the vehicle, vessel, or outboard motor or remove personal items; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-9-603, as last amended by Laws of Utah 2020, Chapter 45



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

29 Section 1. Section **72-9-603** is amended to read:

30 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
31 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

38 (i) send a report of the removal to the Motor Vehicle Division that complies with the
39 requirements of Subsection [41-6a-1406\(4\)\(b\)](#); and

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

42 (A) location of the vehicle, vessel, or outboard motor;

43 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
44 removed;

45 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

46 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

47 (E) description, including the identification number, license number, or other
48 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

49 (b) within two business days of performing the tow truck service under Subsection
50 (1)(a), send a certified letter to the last-known address of each party described in Subsection
51 [41-6a-1406\(5\)\(a\)](#) with an interest in the vehicle, vessel, or outboard motor obtained from the
52 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
53 current address, notifying the party of the:

54 (i) location of the vehicle, vessel, or outboard motor;

55 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
56 removed;

57 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;

58 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;

59 (v) a description, including its identification number and license number or other
60 identification number issued by a state agency; and

61 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

62 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
63 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
64 Towing established by the department in Subsection (16)(e).

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

68 (a) collect any fee associated with the removal; or

69 (b) begin charging storage fees.

70 (3) (a) Except as provided in Subsection (3)(b) or (9), a tow truck operator or tow truck
71 motor carrier may not perform a tow truck service at the request or direction of a private
72 property owner or the property owner's agent unless:

73 (i) the owner or a lien holder of the vehicle, vessel, or outboard motor consents to the
74 tow truck service; or

75 (ii) the property owner erects signage that meets the requirements of:

76 (A) Subsection (4)(b)(ii); and

77 (B) Subsection (7) or (8).

78 (b) Subsections (7) through (9) do not apply to the removal of a vehicle, vessel, or
79 outboard motor:

80 (i) from a location where parking is prohibited by law, including:

81 (A) a designated fire lane;

82 (B) within 15 feet of a fire hydrant, unless the vehicle is parked in a marked parking
83 stall or space; or

84 (C) a marked parking stall or space legally designated for disabled persons;

85 (ii) from a location where it is reasonably apparent that the location is not open to
86 parking;

87 (iii) from a location where all public access points are controlled by:

88 (A) a permanent gate, door, or similar feature allowing the vehicle to access the
89 facility; or

90 (B) a parking attendant;
91 (iv) from a location that materially interferes with access to private property;
92 (v) from the property of a detached single-family dwelling or duplex; or
93 (vi) pursuant to a legal repossession.
94 (4) (a) A private property owner may, subject to the requirements of a local ordinance,
95 enforce parking restrictions by:
96 (i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce
97 parking restrictions on behalf of the property owner in accordance with Subsection (7);
98 (ii) enforcing parking restrictions as needed by requesting a tow from a tow truck
99 motor carrier on a case-by-case basis in accordance with Subsection (8); or
100 (iii) requesting a tow from a tow truck motor carrier after providing 24-hour written
101 notice in accordance with Subsection (9).
102 (b) (i) Any agreement between a private property owner and tow truck motor carrier
103 authorizing the tow truck motor carrier to patrol and monitor the property under Subsection
104 (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a
105 vehicle, vessel, or outboard motor from the property.
106 (ii) In addition to the signage described in Subsection (7) or (8), a private property
107 owner who allows public parking shall erect appropriate signage on the property indicating
108 clear instructions for parking at the property.
109 (iii) Where a single parking area includes abutting parcels of property owned by two or
110 more private property owners who enforce different parking restrictions under Subsection (7)
111 or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8),
112 erect signage as required by this section:
113 (A) at each entrance to the property owner's parcel from another property owner's
114 parcel; and
115 (B) if there is no clearly defined entrance between one property owner's parcel and
116 another property owner's parcel, at intervals of 40 feet or less along the line dividing the
117 property owner's parcel from the other property owner's parcel.
118 (iv) Where there is no clearly defined entrance to a parking area from a highway, the
119 property owner shall erect signage as required by this section at intervals of 40 feet or less
120 along any portion of a property line where a vehicle, vessel, or outboard motor may enter the

121 parking area.

122 (5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner
123 from, subject to the provisions of this section, instituting and enforcing regulations for parking
124 at the property.

125 (6) In addition to any other powers provided by law, a political subdivision or state
126 agency may:

127 (a) enforce parking restrictions in accordance with Subsections (7) through (9) on
128 property that is:

129 (i) owned by the political subdivision or state agency;

130 (ii) located outside of the public right-of-way; and

131 (iii) open to public parking; and

132 (b) request or direct a tow truck service in order to abate a public nuisance on private
133 property over which the political subdivision or state agency has jurisdiction.

134 (7) For private property where parking is enforced under Subsection (4)(a)(i), the
135 property owner shall ensure that each entrance to the property has the following signs located
136 on the property and clearly visible to the driver of a vehicle entering the property:

137 (a) a top sign that is 24 inches tall by 18 inches wide and has:

138 (i) a blue, reflective background with a 1/2 inch white border;

139 (ii) two-inch, white letters at the top of the sign with the capitalized words "Lot is
140 Patrolled";

141 (iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire
142 tow truck, a tow hook, and an entire vehicle being towed; and

143 (iv) two-inch, white letters at the bottom of the sign with the capitalized words
144 "Towing Enforced"; and

145 (b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white,
146 reflective border, and has:

147 (i) a top half that is red background with white, reflective letters indicating:

148 (A) who is authorized to park or restricted from parking at the property; and

149 (B) any type of vehicle prohibited from parking at the property; and

150 (ii) a bottom half that has a white, reflective background with red letters indicating:

151 (A) the name and telephone number of the tow truck motor carrier that the property

152 owner has authorized to patrol the property; and
153 (B) the Internet web address "tow.utah.gov".
154 (8) For private property where parking is enforced under Subsection (4)(a)(ii):
155 (a) a tow truck motor carrier may not:
156 (i) patrol and monitor the property;
157 (ii) perform a tow truck service without the written or verbal request of the property
158 owner or the property owner's agent; or
159 (iii) act as the property owner's agent to request a tow truck service; and
160 (b) the property owner shall ensure that each entrance to the property has a clearly
161 visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch
162 white, reflective border, and has:
163 (i) at the top of the sign, a blue background with a white, reflective towing logo that is
164 at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an
165 entire vehicle being towed;
166 (ii) immediately below the towing logo described in Subsection (8)(b)(i), a blue
167 background with white, reflective letters at least two inches tall with the capitalized words
168 "Towing Enforced";
169 (iii) in the middle of the sign, a red background with white, reflective letters at least
170 one inch tall indicating:
171 (A) who is authorized to park or restricted from parking at the property; and
172 (B) any type of vehicle prohibited from parking at the property; and
173 (iv) at the bottom of the sign, a white, reflective background with red letters at least
174 one inch tall indicating:
175 (A) either:
176 (I) the name and telephone number of the property owner or the property owner's agent
177 who is authorized to request a tow truck service; or
178 (II) the name and telephone number of the tow truck motor carrier that provides tow
179 truck services for the property; and
180 (B) the Internet web address "tow.utah.gov".
181 (9) (a) For private property without signage meeting the requirements of Subsection (7)
182 or (8), the property owner may request a tow truck motor carrier to remove a vehicle, vessel, or

183 outboard motor from the private property 24 hours after the property owner or the property
184 owner's agent affixes a written notice to the vehicle, vessel, or outboard motor in accordance
185 with this Subsection (9).

186 (b) The written notice described in Subsection (9)(a) shall:

187 (i) indicate the exact time when the written notice is affixed to the vehicle, vessel, or
188 outboard motor;

189 (ii) warn the owner of the vehicle, vessel, or outboard motor that the vehicle, vessel, or
190 outboard motor will be towed from the property if it is not removed within 24 hours after the
191 time indicated in Subsection (9)(b)(i);

192 (iii) be at least four inches tall and four inches wide; and

193 (iv) be affixed to the vehicle, vessel, or outboard motor at a conspicuous location on
194 the driver's side window of the vehicle, vessel, or outboard motor.

195 (c) A property owner may authorize a tow truck motor carrier to act as the property
196 owner's agent for purposes of affixing the written notice described in Subsection (9)(a) to a
197 vehicle, vessel, or outboard motor.

198 (10) The department shall publish on the department Internet website the signage
199 requirements and written notice requirements and illustrated or photographed examples of the
200 signage and written notice requirements described in Subsections (7) through (9).

201 (11) It is an affirmative defense to any claim, based on the lack of notice, that arises
202 from the towing of a vehicle, vessel, or outboard motor from private property that the property
203 had signage meeting the requirements of:

204 (a) Subsection (4)(b)(ii); and

205 (b) Subsection (7) or (8).

206 (12) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
207 vessel, or outboard motor lawfully removed is only responsible for paying:

208 (a) the tow truck service and storage fees set in accordance with Subsection (16); and

209 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.

210 (13) (a) The fees under Subsection (12) are a possessory lien on the vehicle, vessel, or
211 outboard motor [~~and any nonlife essential items contained in the vehicle, vessel, or outboard~~
212 ~~motor that are owned by the owner of the vehicle, vessel, or outboard motor~~] until paid.

213 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,

214 vessel, or outboard motor and items described in Subsection (13)~~(a)~~(d) in an approved state
215 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
216 vehicle, vessel, or outboard motor:

- 217 (i) pays the fees described in Subsection (12); and
- 218 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.
- 219 (c) The tow truck operator or tow truck motor carrier shall, for 72 hours after
220 submitting the report described in Subsection (1)(a), provide a party described in Subsection
221 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor access to the
222 vehicle, vessel, or outboard motor to inspect the vehicle, vessel, or outboard motor or remove
223 personal items from the vehicle, vessel, or outboard motor.

224 (d) For purposes of this Subsection (13), "personal item" includes a:

- 225 (i) wallet;
- 226 (ii) purse;
- 227 (iii) laptop, personal computer, or tablet device;
- 228 (iv) mobile phone;
- 229 (v) government issued identification; or
- 230 (vi) prescription medications.

231 (14) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
232 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
233 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

- 234 (i) pay the fees described in Subsection (12); and
- 235 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

236 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
237 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

238 (15) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously
239 post and disclose all its current fees, rates, and acceptable forms of payment for tow truck
240 service and storage of a vehicle in accordance with rules established under Subsection (16).

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

245 (16) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
246 the department shall:

247 (a) subject to the restriction in Subsection (17), set maximum rates that:

248 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
249 or outboard motor that are transported in response to:

250 (A) a peace officer dispatch call;

251 (B) a motor vehicle division call; and

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

254 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
255 stored as a result of one of the conditions listed under Subsection (16)(a)(i);

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

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

260 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
261 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
262 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
263 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

264 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
265 specific information regarding:

266 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

267 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
268 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
269 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
270 removal; and

271 (iii) identifies the maximum rates that an impound yard may charge for the storage of
272 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
273 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

274 (17) An impound yard may not charge a fee for the storage of an impounded vehicle,
275 vessel, or outboard motor if:

276 (a) the vehicle, vessel, or outboard motor is being held as evidence; and
277 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
278 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
279 vessel, or outboard motor under Section 41-6a-1406.

280 (18) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
281 the department in rules made under Subsection (16).

282 (ii) In addition to the maximum rates established under Subsection (16) and when
283 receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an
284 impound yard may charge a credit card processing fee of 3% of the transaction total.

285 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
286 higher level than required in rules made pursuant to Subsection (16).

287 (19) When a tow truck motor carrier or impound lot is in possession of a vehicle,
288 vessel, or outboard motor as a result of a tow service that was performed without the consent of
289 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
290 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
291 available:

292 (a) by phone 24 hours a day, seven days a week; and

293 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
294 one hour of when the owner calls the tow truck motor carrier or impound yard.