

TOWING SIGNAGE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill revises provisions related to signage requirements for towing.

Highlighted Provisions:

This bill:

- ▶ prohibits towing from private property if certain signage requirements are not met;
- ▶ provides certain signage requirements for private property where parking is enforced by towing;
- ▶ allows property owners to report parking restriction violations to peace officers for towing;
- ▶ establishes an affirmative defense to certain claims arising from towing; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

72-9-603, as last amended by Laws of Utah 2019, Chapter 373

72-9-604, as last amended by Laws of Utah 2019, Chapter 373

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

Section 1. 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 a 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, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's

33 knowledge, the tow truck operator or the tow truck motor carrier shall:

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

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

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

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

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

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

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

45 (E) description, including the identification number, license number, or other

46 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

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

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

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

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

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

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

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

60 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
61 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
62 Towing established by the department in Subsection [~~(7)~~] (15)(e).

63 (2) [~~(a)~~] Until the tow truck operator or tow truck motor carrier reports the removal as

64 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
65 yard may not:

66 ~~[(†) (a) collect any fee associated with the removal; or~~

67 ~~[(ii) (b) begin charging storage fees.~~

68 ~~[(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck~~
69 ~~motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard~~
70 ~~motor owner's or a lien holder's knowledge at either of the following locations without signage~~
71 ~~that meets the requirements of Subsection (2)(b)(ii):]~~

72 ~~[(A) a mobile home park as defined in Section 57-16-3; or]~~

73 ~~[(B) a multifamily dwelling of more than eight units.]~~

74 ~~[(ii) Signage under Subsection (2)(b)(i) shall display:]~~

75 ~~[(A) where parking is subject to towing; and]~~

76 ~~[(B) (I) the Internet website address that provides access to towing database~~
77 ~~information in accordance with Section 41-6a-1406; or]~~

78 ~~[(H) one of the following:]~~

79 ~~[(Aa) the name and phone number of the tow truck operator or tow truck motor carrier~~
80 ~~that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or]~~

81 ~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone~~
82 ~~number of the mobile home park or multifamily dwelling manager or management office that~~
83 ~~authorized the vehicle, vessel, or outboard motor to be towed.]~~

84 ~~[(c) Signage is not required under Subsection (2)(b) for parking in a location:]~~

85 ~~[(i) that is prohibited by law; or]~~

86 ~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~

87 ~~[(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined~~
88 ~~in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on~~
89 ~~parking.]~~

90 (3) (a) Except as provided in Subsection (3)(b) or (8), a tow truck operator or tow truck
91 motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard
92 motor owner's or a lien holder's knowledge at any privately owned property without appropriate
93 signage that meets the requirements of:

94 (i) Subsection (4)(b)(ii); and

95 (ii) Subsection (6) or (7).

96 (b) Signage is not required under Subsection (3)(a) or (4) for parking in a location:

97 (i) that is prohibited by law; or

98 (ii) if it is reasonably apparent that the location is not open to parking.

99 (4) (a) Subject to the requirements in Subsections (6) through (8), a private property
100 owner may enforce parking restrictions by:

101 (i) entering into a contract with a certified tow truck motor carrier to patrol and monitor
102 the property and enforce parking restrictions on behalf of the property owner;

103 (ii) enforcing parking restrictions as needed by requesting a tow from a certified tow
104 truck motor carrier; or

105 (iii) reporting a violation of the parking restrictions to a peace officer within the
106 jurisdiction in accordance with Subsection (8).

107 (b) (i) The contract described in Subsection (4)(a)(i) between a private property owner
108 and a certified tow truck motor carrier shall clearly state the rules for the tow truck motor
109 carrier to remove a vehicle, vessel, or outboard motor from the property.

110 (ii) In addition to signage described in Subsection (6) or (7), a private property owner
111 shall erect appropriate signage on the property indicating clear instructions for parking at the
112 property.

113 (5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner
114 from, subject to the provisions of this section, instituting and enforcing regulations on parking
115 at the property.

116 (6) For private property where parking is enforced by a certified tow truck motor
117 carrier as described in Subsection (4)(a)(i), the property owner shall ensure that each entrance
118 to the property has the following signs located on the property and clearly visible to the driver
119 of a vehicle entering the property:

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

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

122 (ii) two-inch, white, reflective letters at the top of the sign with the words "private
123 property";

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

126 (iv) two-inch, white, reflective letters at the bottom of the sign with the words "towing
127 enforced"; and

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

130 (i) a top half that is red, reflective background with white, reflective letters that
131 indicates:

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

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

134 (ii) a bottom half that has a white, reflective background with red, reflective letters that
135 indicate:

136 (A) the name and telephone number of the tow truck motor carrier that the property
137 owner has contracted with to patrol the property; and

138 (B) the Internet web address "tow.utah.gov."

139 (7) For private property where parking is enforced by requesting a tow from a certified
140 tow truck motor carrier on a case-by-case basis as described in Subsection (4)(a)(ii), the
141 property owner shall ensure that each entrance to the property has a clearly visible sign located
142 on the property that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border,
143 and has:

144 (a) in the top eight inches of the sign, a blue, reflective background with a white,
145 reflective towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck,
146 a tow hook, and an entire vehicle being towed;

147 (b) in the middle eight inches of the sign, a red, reflective background with white,
148 reflective letters indicating:

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

150 (ii) any type of vehicle prohibited from parking at the property; and

151 (c) in the bottom eight inches of the sign, a white, reflective background with red,
152 reflective letters that indicate:

153 (i) the name and telephone number of the tow truck motor carrier that provides towing
154 services for the property on a case-by-case basis; and

155 (ii) the Internet web address "tow.utah.gov."

156 (8) For private property without signage meeting the requirements of Subsection (6) or

157 (7), the property owner may request a peace officer:

158 (a) mark a vehicle, vessel, or outboard motor indicating a violation of the parking
159 restrictions;

160 (b) provide to the property owner a case number; and

161 (c) 24 hours after the vehicle, vessel, or outboard motor was marked, request that the
162 vehicle, vessel, or outboard motor be towed by a certified tow truck motor carrier.

163 (9) The department shall publish on the department Internet website the signage
164 requirements and illustrated or photographed examples of the signage described in Subsections
165 (6) and (7).

166 (10) (a) Except as described in Subsection (10)(b), it is an affirmative defense to any
167 claim arising from the towing of a vehicle, vessel, or outboard motor from private property that
168 the property had signage meeting the requirements of:

169 (i) Subsection (4)(b)(ii); and

170 (ii) Subsection (6) or (7).

171 (b) The affirmative defense described in Subsection (10)(a) does not apply to any claim
172 arising from damage to a towed vehicle, vessel, or outboard motor.

173 ~~[(3)]~~ (11) The party described in Subsection 41-6a-1406(5)(a) with an interest in a
174 vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

175 (a) the tow truck service and storage fees set in accordance with Subsection ~~[(7)]~~ (15);
176 and

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

178 ~~[(4)]~~ (12) (a) The fees under Subsection ~~[(3)]~~ (11) are a possessory lien on the vehicle,
179 vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or
180 outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until
181 paid.

182 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
183 vessel, or outboard motor and items described in Subsection ~~[(4)]~~ (12)(a) in an approved state
184 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
185 vehicle, vessel, or outboard motor:

186 (i) pays the fees described in Subsection ~~[(3)]~~ (11); and

187 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

188 ~~[(5)]~~ (13) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a
189 party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or
190 outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

191 (i) pay the fees described in Subsection ~~[(3)]~~ (11); and
192 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

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

195 ~~[(6)]~~ (14) (a) A tow truck motor carrier or impound yard shall clearly and
196 conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for
197 tow truck service and storage of a vehicle in accordance with rules established under
198 Subsection ~~[(7)]~~ (15).

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

203 ~~[(7)]~~ (15) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
204 Act, the department shall:

205 (a) subject to the restriction in Subsection ~~[(8)]~~ (16), set maximum rates that:

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

208 (A) a peace officer dispatch call;

209 (B) a motor vehicle division call; and

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

212 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
213 stored as a result of one of the conditions listed under Subsection ~~[(7)]~~ (15)(a)(i);

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

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

218 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may

219 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
220 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
221 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

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

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

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

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

232 ~~[(8)]~~ (16) An impound yard may not charge a fee for the storage of an impounded
233 vehicle, vessel, or outboard motor if:

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

235 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
236 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
237 vessel, or outboard motor under Section 41-6a-1406.

238 ~~[(9)]~~ (17) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate
239 set by the department in rules made under Subsection ~~[(7)]~~ (15).

240 (ii) In addition to the maximum rates established under Subsection ~~[(7)]~~ (15) and when
241 receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an
242 impound yard may charge a credit card processing fee of 3% of the transaction total.

243 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
244 higher level than required in rules made pursuant to Subsection ~~[(7)]~~ (15).

245 ~~[(10)]~~ (18) When a tow truck motor carrier or impound lot is in possession of a vehicle,
246 vessel, or outboard motor as a result of a tow service that was performed without the consent of
247 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law
248 enforcement agency, the tow truck motor carrier or impound yard shall make personnel
249 available:

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

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

253 Section 2. Section **72-9-604** is amended to read:

254 **72-9-604. Preemption of local authorities -- Tow trucks.**

255 (1) (a) Notwithstanding any other provision of law, a political subdivision of this state
256 may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor
257 carrier, tow truck operator, or tow truck that conflicts with:

258 (i) any provision of this part;

259 (ii) Section 41-6a-1401;

260 (iii) Section 41-6a-1407; or

261 (iv) rules made by the department under this part.

262 (b) A county or municipal legislative governing body may not charge a fee for the
263 storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

264 (i) is holding the vehicle, vessel, or outboard motor as evidence; and

265 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien
266 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
267 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
268 41-6a-1406.

269 (2) A tow truck motor carrier that has a county or municipal business license for a
270 place of business located within that county or municipality may not be required to obtain
271 another business license in order to perform a tow truck service in another county or
272 municipality if there is not a business location in the other county or municipality.

273 (3) A county or municipal legislative or governing body may not require a tow truck
274 motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing
275 certificate by the department, as described in Section 72-9-602, to obtain an additional towing
276 certificate.

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

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

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

281 (5) A tow truck shall be subject to only one annual safety inspection under Subsection
282 (4)(b). A county or municipality that requires the additional annual safety inspection shall
283 accept the same inspection performed by another county or municipality.

284 (6) (a) Beginning on July 1, 2021, a political subdivision or state agency may not
285 charge an applicant a fee or charge related to dispatch costs in order to be part of the towing
286 rotation of that political subdivision or state agency.

287 (b) In addition to the fees set by the department in rules made in accordance with
288 Subsection 72-9-603[~~(7)~~](15), a tow truck motor carrier may charge a fee to cover the costs of
289 a dispatch charge described in Subsection (6)(a).

290 (c) The amount of the fee described in Subsection (6)(b) may not exceed the amount
291 charged to the tow truck motor carrier by the political subdivision or state agency for dispatch
292 services.

293 (d) A political subdivision or state agency that does not charge a dispatch fee as of
294 January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a).

295 (7) A towing entity may not require a tow truck operator who has received an
296 authorized towing certificate from the department to submit additional criminal background
297 check information for inclusion of the tow truck motor carrier on a rotation.

298 (8) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck
299 operator that responds may not respond to the location in a tow truck that is owned by a tow
300 truck motor carrier that is different than the tow truck motor carrier that was dispatched.

301 **Section 3. Effective date.**

302 This bill takes effect on May 13, 2021.