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

- (1) If a vehicle, vessel, or outboard motor is impounded as provided under Section 41-1a-1101, 41-6a-210, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.
- (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be impounded to a state impound yard.
- (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:
 - (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
 - (b) by the department under Subsection (11).
- (4)
 - (a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is impounded as described in Subsection (1).
 - (b) Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the impoundment shall be sent to the Motor Vehicle Division, in an electronic format approved by the Motor Vehicle Division, by:
 - (i) the peace officer or agency by whom the peace officer is employed; and
 - (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.
 - (c) The report shall be in a form specified by the Motor Vehicle Division and shall include:
 - (i) the operator's name, if known;
 - (ii) a description of the vehicle, vessel, or outboard motor;
 - (iii) the vehicle identification number or vessel or outboard motor identification number;
 - (iv) the case number designated by the peace officer, law enforcement agency number, or government entity;
 - (v) the license number, temporary permit number, or other identification number issued by a state agency;
 - (vi) the date, time, and place of impoundment;
 - (vii) the reason for removal or impoundment;
 - (viii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and
 - (ix) the place where the vehicle, vessel, or outboard motor is stored.
 - (d)
 - (i) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this Subsection (4).
 - (ii) The State Tax Commission shall ensure that the form described in this Subsection (4) is provided in an electronic format.
 - (e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:
 - (i) collect any fee associated with the removal; and
 - (ii) begin charging storage fees.
- (5)

- (a) A report described in this Subsection (5) is required for any vehicle, vessel, or outboard motor that is removed, except for:
 - (i) a vehicle, vessel, or outboard motor that is impounded for a reason described in Subsection (1); or
 - (ii) a vehicle, vessel, or outboard motor for which a removal is performed in accordance with Section 72-9-603.
 - (b) For a removal described in Subsection (5)(a), the relevant law enforcement officer shall provide documentation to the tow truck operator or tow truck motor carrier that includes:
 - (i) the name and badge number of the peace officer;
 - (ii) the name and originating agency identifier of the law enforcement agency; and
 - (iii) the case number designated by the law enforcement officer or law enforcement agency.
 - (c) For a removal described in Subsection (5)(a), before noon on the next business day following the date of the removal of the vehicle, vessel, or outboard motor, the tow truck operator or tow truck motor carrier shall send to the Motor Vehicle Division in an electronic format approved by the Motor Vehicle Division:
 - (i) the report described in Subsection (4); or
 - (ii) the report described in Subsection (5)(d).
 - (d) For a removal described in Subsection (5)(a), if the tow truck operator or tow truck motor carrier does not provide the report described in Subsection (4), the tow truck operator or tow truck motor carrier shall provide a report to the Motor Vehicle Division that includes:
 - (i) the name and badge number of the relevant peace officer;
 - (ii) the name and originating agency identifier of the law enforcement agency;
 - (iii) the law enforcement agency case number;
 - (iv) subject to Subsection (5)(e), the vehicle identification number and the license number, temporary permit number, or other identification number issued by a state agency;
 - (v) the date and time of the removal of the vehicle, vessel, or outboard motor; and
 - (vi) the reason for the removal of the vehicle, vessel, or outboard motor.
 - (e) If either the vehicle identification number or the license number, temporary permit number, or other identification number issued by a state agency is not available, the report shall include:
 - (i) as much information as is available from both the vehicle identification number and the license plate number of the vehicle, vessel, or outboard motor; and
 - (ii) a description of the vehicle, vessel, or outboard motor, including the color, make, model, and model year of the vehicle, vessel, or outboard motor.
 - (f) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (5), a tow truck motor carrier may not:
 - (i) collect any fee associated with the removal; or
 - (ii) begin charging storage fees.
 - (g) A vehicle, vessel, or outboard motor removed under this Subsection (5) shall be removed to:
 - (i) a state impound yard; or
 - (ii) a location that has been requested by the registered owner at the time of removal, if payment is made to the tow truck motor carrier or tow truck operator at the time of removal.
 - (h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission may make rules to establish proper format and information required on the form described in Subsection (5)(d), including submission in an electronic format.
- (6)
- (a) Except as provided in Subsection (6)(d) and upon receipt of a report described in Subsection (4) or (5), the Motor Vehicle Division shall give notice, in the manner described in Section

41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

- (i) the registered owner;
 - (ii) any lien holder; or
 - (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.
- (b) The notice shall:
- (i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;
 - (ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;
 - (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and
 - (iv) inform the parties described in Subsection (6)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.
- (c) Except as provided in Subsection (6)(d) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (6)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.
- (d) The Motor Vehicle Division is not required to give notice under this Subsection (6) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).
- (e)
- (i) The Motor Vehicle Division shall disclose the information in the report described in Subsection (4) and Subsection 72-9-603(1)(a)(i) to a designated agent as defined in Section 41-12a-802 regarding a tow that was initiated:
 - (A) by law enforcement; or
 - (B) without the vehicle owner's consent.
 - (ii) The Motor Vehicle Division may rely on the information provided by the tow truck operator or tow truck motor carrier to determine if a tow meets the criteria described in Subsections (6)(e)(i)(A) and (B).
 - (iii) The designated agent may disclose information received regarding a tow described in Subsections (6)(e)(i)(A) and (B) to the vehicle owner and to the vehicle owner's verified insurance company.
 - (iv) The designated agent may not disclose information to a vehicle owner's insurance company if the tow does not meet the criteria described in Subsections (6)(e)(i)(A) and (B).
- (7)
- (a) The vehicle, vessel, or outboard motor impounded or removed to a state impound yard as described in this section shall be released after a party described in Subsection (6)(a) or (7)(f):
 - (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;
 - (ii) presents identification sufficient to prove ownership of the impounded or removed vehicle, vessel, or outboard motor;

- (iii) completes the registration, if needed, and pays the appropriate fees;
 - (iv) if the impoundment was made under Section 41-6a-527 or Subsection 41-1a-1101(3), pays:
 - (A) an administrative impound fee of \$425; and
 - (B) in addition to the administrative fee described in Subsection (7)(a)(iv)(A), an administrative testing fee of \$30; and
 - (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.
- (b)
- (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (7)(a)(iv) (A) shall be dedicated credits to the Motor Vehicle Division.
 - (ii) One-hundred and forty-seven dollars of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be deposited into the Department of Public Safety Restricted Account created in Section 53-3-106.
 - (iii) Twenty dollars of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be deposited into the Brain and Spinal Cord Injury Fund created in Section 26B-1-318.
 - (iv) After the distributions described in Subsections (7)(b)(i) through (iii), the remainder of the administrative impound fee assessed under Subsection (7)(a)(iv)(A) shall be deposited into the General Fund.
 - (v) The administrative testing fee described in Subsection (7)(a)(iv)(B) shall be deposited into the State Laboratory Drug Testing Account created in Section 26B-1-304.
- (c) The administrative impound fee and the administrative testing fee assessed under Subsection (7)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:
- (i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or
 - (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.
- (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).
- (e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:
- (i) the vehicle, vessel, or outboard motor is being held as evidence; and
 - (ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection (6)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (7).
- (f) In addition to the parties described in Subsection (6)(a), the vehicle, vessel, or outboard motor impounded or removed to a state impound yard as described in this section shall be released to an individual that is not described in Subsection (6)(a) if the individual:
- (i)
 - (A) satisfies the requirements of Subsections (7)(a)(i) and (7)(a)(iii) through (v);
 - (B) presents the individual's driver license or other government-issued identification; and
 - (C) demonstrates that the individual has authority granted by a person described in Subsection (6)(a) to obtain and operate the vehicle; or
 - (ii) is a tow truck operator or tow truck motor carrier that:

- (A) demonstrates that the tow truck operator or tow truck motor carrier has authority granted by a person described in Subsection (6)(a) to obtain and operate the vehicle, vessel, or outboard motor;
 - (B) provides the driver's tow truck operator certificate issued by the Department of Transportation in accordance with Section 72-9-602;
 - (C) pays all towing and storage fees; and
 - (D) obtains or presents an impound release for the vehicle, vessel, or outboard motor in accordance with Subsection (7)(a).
- (8)
- (a) For an impounded or a removed vehicle, vessel, or outboard motor not claimed by a party described in Subsection (6)(a) or (7)(f) within the time prescribed by Section 41-1a-1103, the Motor Vehicle Division shall issue a certificate of sale for the impounded or removed vehicle, vessel, or outboard motor as described in Section 41-1a-1103.
 - (b) The date of impoundment or removal is considered the date of seizure for computing the time period provided under Section 41-1a-1103.
- (9) A party described in Subsection (6)(a) that pays all fees and charges incurred in the impoundment or removal of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.
- (10)
- (a) As used in this Subsection (10), "life essential item" means the same as that term is defined in Subsection 72-9-603(13).
 - (b) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.
 - (c) Towing fees are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor.
 - (d) Except for a vehicle, vessel, or outboard motor being held as evidence, a tow truck operator, a tow truck motor carrier, or an impound yard shall allow a person described in Subsection (6)(a) or an individual described in Subsection (7)(f)(i) to take possession of any life essential item within the vehicle, vessel, or outboard motor during normal business hours regardless of whether the towing, impound fees, or storage fees have been paid.
 - (e) Except for a vehicle, vessel, or outboard motor being held as evidence, upon payment of the towing fee, a tow truck operator, a tow truck motor carrier, or an impound yard shall allow a person described in Subsection (6)(a) or an individual described in Subsection (7)(f)(i) to enter the vehicle, vessel, or outboard motor during normal business hours and remove personal property not attached to the vehicle, vessel, or outboard motor.
- (11)
- (a) If the tow truck motor carrier, tow truck operator, or state impound yard fails to release the vehicle, vessel, or outboard motor in accordance with Subsection (7), the individual acting on behalf of the tow truck motor carrier, tow truck operator, or state impound yard may be charged with a violation described in Section 41-1a-1314.
 - (b) Subsection (11)(a) may be enforced by:
 - (i) a local law enforcement agency;
 - (ii) Utah Highway Patrol; or
 - (iii) the Motor Vehicle Enforcement Division created in Section 41-3-104.

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

(13)

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

(b)

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

(ii) The fees under this Subsection (13)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.