

1 **VEHICLE TOWING AND REPORTING**
2 **REQUIREMENTS**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: James R. Gowans**

6 Chad E. Bennion

7 **This act modifies motor vehicle, public safety, and transportation provisions relating to**
8 **vehicles, vessels, and outboard motors that are removed by a tow truck motor carrier. The**
9 **act regulates the removal of unattended vehicles and requires reporting of towed vehicles.**
10 **The act requires certification of certain tow truck operations. The act authorizes certain fees**
11 **and provides criminal penalties. This act takes effect on July 1, 2001.**

12 This act affects sections of Utah Code Annotated 1953 as follows:

13 AMENDS:

14 **41-1a-1101**, as last amended by Chapters 270 and 281, Laws of Utah 1998

15 **41-6-44.30**, as last amended by Chapter 334, Laws of Utah 2000

16 **41-6-102**, as last amended by Chapter 270, Laws of Utah 1998

17 **41-6-116.10**, as last amended by Chapter 1, Laws of Utah 1992

18 **53-1-106**, as last amended by Chapter 130, Laws of Utah 1999

19 **53-3-106**, as last amended by Chapter 334, Laws of Utah 2000

20 **72-9-601**, as renumbered and amended by Chapter 270, Laws of Utah 1998

21 **72-9-602**, as renumbered and amended by Chapter 270, Laws of Utah 1998

22 **72-9-603**, as renumbered and amended by Chapter 270, Laws of Utah 1998

23 **73-18-12.7**, as last amended by Chapter 1, Laws of Utah 1992

24 **73-18-12.8**, as enacted by Chapter 118, Laws of Utah 1987

25 **73-18-20.1**, as enacted by Chapter 216, Laws of Utah 1990

26 **73-18-20.2**, as last amended by Chapter 1, Laws of Utah 1992

27 ENACTS:



28 **41-6-102.5**, Utah Code Annotated 1953

29 **41-6-102.7**, Utah Code Annotated 1953

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

31 Section 1. Section **41-1a-1101** is amended to read:

32 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

33 (1) The division or any peace officer, without a warrant, may seize and take possession of
34 any vehicle, vessel, or outboard motor:

35 (a) that the division or the peace officer has reason to believe has been stolen;

36 (b) on which any identification number has been defaced, altered, or obliterated;

37 (c) that has been abandoned on the public highways;

38 (d) for which the applicant has written a check for registration or title fees that has not
39 been honored by the applicant's bank and that is not paid within 30 days;

40 (e) that is placed on the water with improper registration; or

41 (f) that is being operated on a highway:

42 (i) with registration that has been expired for more than three months;

43 (ii) having never been properly registered by the current owner; or

44 (iii) with registration that is suspended or revoked.

45 (2) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized
46 to transport and store the vessel.

47 (3) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor
48 under this section shall [~~immediately notify the division of the action~~] comply with the provisions
49 of Section 41-6-102.5.

50 [~~(4) A vehicle or vessel seized under this section shall be moved by a peace officer or by~~
51 ~~a tow truck that meets the standards established:~~]

52 [~~(a) by the Department of Public Safety under Subsection 41-6-102(4)(b); and]~~

53 [~~(b) under Title 72, Chapter 9, Motor Carrier Safety Act.]~~

54 [(5)] (4) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
55 Act, the commission shall make rules setting standards for public garages, impound lots, and
56 impound yards that may be used by peace officers and the division.

57 (b) The standards shall be equitable, reasonable, and unrestrictive as to the number of
58 public garages, impound lots, or impound yards per geographical area.

59 ~~[(6)]~~ (5) (a) Except as provided under Subsection ~~[(6)]~~ (5)(b), a person may not operate
60 or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated
61 under this part without prior written permission of the owner of the vehicle.

62 (b) Incidental and necessary operation of a vehicle to move the vehicle from one parking
63 space to another within the facility and that is necessary for the normal management of the facility
64 is not prohibited under this Subsection ~~[(6)]~~ (5)(a).

65 ~~[(7)]~~ (6) A person who violates the provisions of Subsection ~~[(6)]~~ (5) is guilty of a class
66 C misdemeanor.

67 ~~[(8)]~~ (7) The division or the peace officer who seizes a vehicle shall record the mileage
68 shown on the vehicle's odometer at the time of seizure, if:

- 69 (a) the vehicle is equipped with an odometer; and
- 70 (b) the odometer reading is accessible to the division or the peace officer.

71 Section 2. Section **41-6-44.30** is amended to read:

72 **41-6-44.30. Seizure and impoundment of vehicles by peace officers -- Impound**
73 **requirements -- Removal of vehicle by owner.**

74 (1) ~~[(a)]~~ If a peace officer arrests or cites the operator of a vehicle for violating Section
75 41-6-44 or 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with
76 Subsection 41-6-43(1), the officer shall seize and impound the vehicle in accordance with Section
77 41-6-102.5, except as provided under Subsection (2).

78 ~~[(b) A vehicle seized and impounded under this section shall be moved by a peace officer~~
79 ~~or by a tow truck that meets the standards established:]~~

80 ~~[(i) by the department under Subsection 41-6-102(4)(b); and]~~

81 ~~[(ii) under Title 72, Chapter 9, Motor Carrier Safety Act.]~~

82 (2) If a registered owner of the vehicle, other than the operator, is present at the time of
83 arrest, the officer may release the vehicle to that registered owner, but only if the registered owner:

- 84 (a) requests to remove the vehicle from the scene;
- 85 (b) presents to the officer a valid operator's license and sufficient identification to prove
86 ownership of the vehicle;
- 87 (c) complies with all restrictions of his operator's license; and
- 88 (d) would not, in the judgment of the officer, be in violation of Section 41-6-44 or

89 41-6-44.10, or a local ordinance similar to Section 41-6-44 which complies with Subsection

90 41-6-43(1), if permitted to operate the vehicle, and if the vehicle itself is legally operable.

91 ~~[(3) (a) The peace officer or agency by whom the officer is employed shall, within 24~~
92 ~~hours after the seizure, notify, in writing, the Motor Vehicle Division of the seizure and~~
93 ~~impoundment.]~~

94 ~~[(b) The notice shall state:]~~

95 ~~[(i) the operator's name;]~~

96 ~~[(ii) a description of the vehicle;]~~

97 ~~[(iii) its identification number, if any;]~~

98 ~~[(iv) its license number;]~~

99 ~~[(v) the date, time, and place of impoundment;]~~

100 ~~[(vi) the reason for impoundment; and]~~

101 ~~[(vii) the name of the garage or place where the vehicle is stored.]~~

102 ~~[(4) Upon receipt of notice, the Motor Vehicle Division shall give notice to the registered~~
103 ~~owner of the vehicle in the manner prescribed by Section 41-1a-114. The notice shall:]~~

104 ~~[(a) state the date, time, and place of impoundment, the name of the person operating the~~
105 ~~vehicle at the time of seizure, if applicable, the reason for seizure and impoundment, and the name~~
106 ~~of the garage or place where the vehicle is stored;]~~

107 ~~[(b) state that the registered owner is responsible for payment of towing, impound, and~~
108 ~~storage fees charged against the vehicle; and]~~

109 ~~[(c) inform the registered owner of the vehicle of the conditions under Subsection (5) that~~
110 ~~must be satisfied before the vehicle is released.]~~

111 ~~[(5) (a) The impounded vehicle shall be released after the registered owner or the owner's~~
112 ~~agent:]~~

113 ~~[(i) makes a claim in person for release of the vehicle at any office of the State Tax~~
114 ~~Commission;]~~

115 ~~[(ii) pays an administrative impound fee of \$200;]~~

116 ~~[(iii) presents identification sufficient to prove ownership of the impounded vehicle; and]~~

117 ~~[(iv) pays all towing and storage fees to the impound lot where the vehicle is stored.]~~

118 ~~[(b) (i) Twenty-five dollars of the impound fees assessed under this Subsection (5) are~~
119 ~~dedicated credits to the Motor Vehicle Division;]~~

120 ~~[(ii) \$84 of the impound fees assessed under this Subsection (5) shall be deposited in the~~

121 Department of Public Safety Restricted Account created in Section 53-3-106; and]

122 [~~(iii) the remainder shall be deposited in the General Fund.~~]

123 [~~(6) An impounded vehicle not claimed by the registered owner or the owner's agent within~~
124 ~~the time prescribed by Section 41-1a-1103 shall be sold in accordance with that section and the~~
125 ~~proceeds, if any, disposed of under Section 41-1a-1103. The date of impoundment is considered~~
126 ~~the date of seizure for computing the time period provided in Section 41-1a-1103.~~]

127 [~~(7) The registered owner of the vehicle upon the payment of all fees and charges incurred~~
128 ~~in the seizure and impoundment of the owner's vehicle has a cause of action for all the fees and~~
129 ~~charges, together with damages, court costs, and attorney fees, against the operator of the vehicle~~
130 ~~whose actions caused the impoundment.~~]

131 [~~(8) Liability may not be imposed upon any peace officer, the state, or any of its political~~
132 ~~subdivisions on account of the enforcement of this section.~~]

133 Section 3. Section **41-6-102** is amended to read:

134 **41-6-102. Peace officer authorized to move vehicle.**

135 (1) If a peace officer finds a vehicle in violation of Section 41-6-101, the officer may move
136 the vehicle, cause the vehicle to be moved, or require the driver or other person responsible for the
137 vehicle to move the vehicle to a safe position off the highway.

138 (2) A peace officer may remove or cause to be removed to a place of safety any unattended
139 vehicle left standing upon any highway in violation of this article or in a position or under
140 circumstances that the vehicle obstructs the normal movement of traffic.

141 (3) [~~A~~] In accordance with Section 41-6-102.5, a peace officer may remove or cause to be
142 removed to the nearest garage or other place of safety any vehicle found upon a highway when:

143 (a) the vehicle has been reported stolen or taken without the consent of its owner;

144 (b) the person responsible for the vehicle is unable to provide for its custody or removal;

145 or

146 (c) the person operating the vehicle is arrested for an alleged offense for which the peace
147 officer is required by law to take the person arrested before a proper magistrate without
148 unnecessary delay.

149 [~~(4) (a) A peace officer who causes to be removed a vehicle under this section shall have~~
150 ~~the vehicle removed by a tow truck service that meets standards established:~~]

151 [~~(i) by the department under Subsection (b);~~]

152 ~~[(ii) under Title 72, Chapter 9, Motor Carrier Safety Act.]~~

153 ~~[(b) The department shall make rules in accordance with Title 63, Chapter 46a, Utah~~
154 ~~Administrative Rulemaking Act, setting the performance standards for towing companies to be~~
155 ~~used by the department.]~~

156 Section 4. Section **41-6-102.5** is enacted to read:

157 **41-6-102.5. Removal and impound of vehicles -- Reporting and notification**
158 **requirements.**

159 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
160 Sections 41-1a-1101, 41-6-44.30, 41-6-102, 41-6-116.10, 73-18-12.7, 73-18-12.8, or 73-18-20.1
161 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement
162 agency or highway authority as defined in Section 72-1-102, the removal or impoundment of the
163 vehicle, vessel, or outboard motor shall be at the expense of the owner, to a state impound yard,
164 or if none, to a garage, docking area, or other place of safety.

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

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

168 (b) by the department under Subsection (9).

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

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

172 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator
173 is employed.

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

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

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

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

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

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

181 (vi) the reason for removal or impoundment;

182 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard

183 motor; and

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

185 (c) Until the tow truck operator or tow truck motor carrier reports the removal as required
186 under Subsection (3), a tow truck motor carrier or impound yard may not:

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

188 (ii) begin charging storage fees.

189 (4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the
190 registered owner of the vehicle, vessel, or outboard motor ~~h~~ [or] AND ~~h~~ any lien holder in the
190a manner

191 prescribed by Section 41-1a-114.

192 (b) The notice shall:

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

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

198 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the conditions
199 that must be satisfied before the vehicle, vessel, or outboard motor is released.

200 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor
201 Vehicle Division shall make a reasonable effort to notify the registered owner ~~h~~ [-or] AND ~~h~~ any
201a lien holder
202 of the removal and the place where the vehicle, vessel, or outboard motor is stored.

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

205 (5) (a) The vehicle, vessel, or outboard motor shall be released after the registered owner
205a ~~h~~ , LIEN HOLDER, ~~h~~

206 or the owner's agent:

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

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

211 (iii) completes the registration, if needed, and pays the appropriate fees;

212 (iv) pays an administrative impound fee of \$200, if the vehicle was impounded under
213 Section 41-6-44.30;

214 (v) pays an administrative impound fee of \$25, if the vessel or outboard motor was
215 impounded under Section 73-18-12.7; and

216 (vi) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
217 motor is stored.

218 (b) (i) Twenty-five dollars of the impound fees assessed under Subsection (5)(a)(iv) are
219 dedicated credits to the Motor Vehicle Division;

220 (ii) \$84 of the impound fees assessed under Subsection (5)(a)(iv) shall be deposited in the
221 Department of Public Safety Restricted Account created in Section 53-3-106; and

222 (iii) the remainder of the impound fees assessed under Subsection (5)(a)(iv) shall be
223 deposited in the General Fund.

224 (c) The revenue from the administrative impound fee assessed under Subsection (5)(a)(v)
225 are dedicated credits to the Motor Vehicle Division.

226 (6) An impounded vehicle, vessel, or outboard motor not claimed by the registered owner
227 or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in accordance
228 with that section and the proceeds, if any, shall be disposed of as provided in Section 41-1a-1104.
229 The date of impoundment is considered the date of seizure for computing the time period provided
230 in Section 41-1a-1103.

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

235 (8) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
236 or outboard motor.

237 (9) The department shall make rules in accordance with Title 63, Chapter 46a, Utah
238 Administrative Rulemaking Act, setting the performance standards for towing companies to be
239 used by the department.

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

243 (b) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator
244 of the database may adopt a schedule of fees assessed for utilizing the database. The fees shall be

245 reasonable and fair and shall reflect the cost of administering the database.

246 Section 5. Section **41-6-102.7** is enacted to read:

247 **41-6-102.7. Removal of unattended vehicles prohibited without authorization --**

248 **Penalties.**

249 (1) In cases not amounting to burglary or theft of a vehicle, a person may not remove an
250 unattended vehicle without prior authorization of:

251 (a) a peace officer;

252 (b) a law enforcement agency;

253 (c) a highway authority, as defined under Section 72-1-102, having jurisdiction over the
254 highway on which there is an unattended vehicle; or

255 (d) the owner or person in lawful possession or control of the real property.

256 (2) (a) An authorization from a person specified under Subsection (1)(a), (b), or (c) shall
257 be in a form specified by the Motor Vehicle Division.

258 (b) The removal of the unattended vehicle shall comply with requirements of Section
259 41-6-102.5.

260 (3) The removal of the unattended vehicle authorized under Subsection (1)(d) shall comply
261 with requirements of Section 72-9-603.

262 (4) A person who violates Subsections (1) or (3) is guilty of a class C misdemeanor.

263 Section 6. Section **41-6-116.10** is amended to read:

264 **41-6-116.10. Abandoned vehicles -- Removal by peace officer -- Report -- Procedure**
265 **if not reclaimed.**

266 (1) As used in this section, "abandoned vehicle" means a vehicle that is left unattended:

267 (a) on a highway for a period in excess of 48 hours; or

268 (b) on any public or private property for a period in excess of seven days without express
269 or implied consent of the owner or person in lawful possession or control of the property.

270 ~~[(1)]~~ (2) A person may not abandon a vehicle upon any highway.

271 ~~[(2)]~~ (3) A person may not abandon a vehicle upon any public or private property without
272 the express or implied consent of the owner or person in lawful possession or control of the
273 property.

274 ~~[(3)]~~ ~~(a)~~ (4) A peace officer who has reasonable grounds to believe that a vehicle has been
275 abandoned may remove the vehicle or cause it to be removed~~[-, at the expense of the owner, to the~~

276 nearest state impound yard or if none, to a garage or other place of safety] in accordance with
277 Section 41-6-102.5.

278 ~~[(b) The peace officer shall immediately send a written report of the removal to the Motor~~
279 ~~Vehicle Division. The report shall include a description of the vehicle, the date, time and place~~
280 ~~of removal, the grounds for removal, and the name of the garage or place where the vehicle is~~
281 ~~stored.]~~

282 ~~[(c) Upon receipt of a report, the Motor Vehicle Division shall attempt to notify the~~
283 ~~registered owner of the vehicle or any lien holder giving the grounds for removal and the name of~~
284 ~~the garage or place where the vehicle is stored.]~~

285 ~~[(d) If the vehicle is not registered in this state, the Motor Vehicle Division shall make a~~
286 ~~reasonable effort to notify the registered owner or any lien holder of the removal and the name of~~
287 ~~the garage or place where the vehicle is stored.]~~

288 ~~[(e) The Motor Vehicle Division shall forward a copy of the notice to the owner or person~~
289 ~~in charge of the garage or place where the vehicle is stored.]~~

290 ~~[(4) For the purposes of this section, a vehicle is presumed to be abandoned if it is left~~
291 ~~unattended:]~~

292 ~~[(a) on a highway for a period in excess of 24 hours; or]~~

293 ~~[(b) on any public or private property for a period in excess of seven days without express~~
294 ~~or implied consent of the owner or person in lawful possession or control of the property.]~~

295 (5) If the motor number, manufacturer's number or identification mark of the abandoned
296 vehicle has been defaced, altered or obliterated, the vehicle may not be released or sold until the
297 original motor number, manufacturer's number or identification mark has been replaced, or until
298 a new number assigned by the Motor Vehicle Division has been stamped on the vehicle.

299 ~~[(6) If the abandoned vehicle is not reclaimed by the registered owner or any lien holder~~
300 ~~within 30 days after actual notice or reasonable attempt to give notice to the registered owner or~~
301 ~~any lien holder, the provisions of Sections 41-1a-1009 and 41-1a-1102 shall apply, and the~~
302 ~~abandoned vehicle may be sold as provided in Section 41-1a-1301.]~~

303 Section 7. Section **53-1-106** is amended to read:

304 **53-1-106. Department duties -- Powers.**

305 (1) In addition to the responsibilities contained in this title, the department shall:

306 (a) make rules and perform the functions specified in Title 41, Chapter 6, Traffic Rules

307 and Regulations, including:

308 (i) setting performance standards for towing companies to be used by the department, as
309 required by Section [~~41-6-102~~] 41-6-102.5; and

310 (ii) advising the Department of Transportation regarding the safe design and operation of
311 school buses, as required by Section 41-6-115;

312 (b) make rules to establish and clarify standards pertaining to the curriculum and teaching
313 methods of a motor vehicle accident prevention course under Section 31A-19a-211;

314 (c) aid in enforcement efforts to combat drug trafficking using funds appropriated under
315 Section 58-37-20;

316 (d) as part of the annual budget hearings, provide the Executive Offices, Criminal Justice,
317 and Legislature Appropriations Subcommittee with a complete accounting of expenditures and
318 revenues from the funds under Section 58-37-20;

319 (e) meet with the Department of Administrative Services to formulate contracts, establish
320 priorities, and develop funding mechanisms for dispatch and telecommunications operations, as
321 required by Section 63A-6-107;

322 (f) provide assistance to the Crime Victims' Reparations Board and Reparations Office in
323 conducting research or monitoring victims' programs, as required by Section 63-25a-405;

324 (g) develop sexual assault exam protocol standards in conjunction with the Utah Hospital
325 Association, as required by Section 63-25a-409; and

326 (h) engage in emergency planning activities, including preparation of policy and procedure
327 and rulemaking necessary for implementation of the federal Emergency Planning and Community
328 Right to Know Act of 1986, as required by Section 63-5-5.

329 (2) (a) The department may establish a schedule of fees as required or allowed in this title
330 for services provided by the department.

331 (b) The fees shall be established in accordance with Section 63-38-3.2.

332 Section 8. Section **53-3-106** is amended to read:

333 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**
334 **-- Uses as provided by appropriation -- Nonlapsing.**

335 (1) There is created within the Transportation Fund a restricted account known as the
336 "Department of Public Safety Restricted Account."

337 (2) The account consists of monies generated from the following revenue sources:

- 338 (a) all monies received under this chapter;
- 339 (b) administrative fees received according to the fee schedule authorized under this chapter
340 and Section 63-38-3.2; and
- 341 (c) any appropriations made to the account by the Legislature.
- 342 (3) (a) The account shall earn interest.
- 343 (b) All interest earned on account monies shall be deposited in the account.
- 344 (4) The expenses of the department in carrying out this chapter shall be provided for by
345 legislative appropriation from this account.
- 346 (5) The amount in excess of \$35 of the fees collected under Subsection 53-3-105(29) shall
347 be appropriated by the Legislature from this account to the department to implement the provisions
348 of Section 53-1-117, except that of the amount in excess of \$35, \$30 shall be deposited in the State
349 Laboratory Drug Testing restricted account created in Section 26-1-34.
- 350 (6) All monies received under ~~[Section 41-6-44.30]~~ Subsection 41-6-102.5(5)(b)(ii) shall
351 be appropriated by the Legislature from this account to the department to implement the provisions
352 of Section 53-1-117.

353 (7) Appropriations to the department from the account are nonlapsing.

354 Section 9. Section **72-9-601** is amended to read:

355 **72-9-601. Tow truck motor carrier requirements -- Authorized towing certificates.**

356 (1) In addition to the requirements of this chapter, a tow truck motor carrier shall:

357 ~~[(1)]~~ (a) ensure that all the motor carrier's tow truck drivers are properly:

358 ~~[(a)]~~ (i) trained to operate tow truck equipment; [and]

359 ~~[(b)]~~ (ii) licensed, as required under Title 53, Chapter 3, Uniform Driver License Act; and

360 (iii) complying with the requirements under Sections 41-6-102.5 and 72-9-603; and

361 ~~[(2)]~~ (b) obtain and display a current authorized towing certificate ~~[of inspection]~~ for the
362 tow truck motor carrier, and each tow truck and driver, as required under Section 72-9-602.

363 (2) A tow truck motor carrier may only perform a towing service described in Section
364 41-6-102.5, 41-6-102.7, or 72-9-603, with a tow truck and driver that has a current authorized
365 towing certificate under this part.

366 Section 10. Section **72-9-602** is amended to read:

367 **72-9-602. Towing inspections, investigations, and certification -- Equipment**
368 **requirements -- Consumer information.**

369 (1) (a) The department shall ~~[conduct inspections of]~~ inspect, investigate, and certify tow
 370 truck motor carriers, tow trucks, and tow truck drivers to ensure compliance with this chapter and
 371 compliance with Sections 41-6-102.5 and 41-6-102.7.

372 (b) ~~[Each]~~ The inspection [of a tow truck], investigation, and certification shall be
 373 conducted prior to ~~[the]~~ any tow truck ~~[beginning]~~ operation and at least every two years thereafter.

374 (c) (i) The department shall issue ~~[a]~~ an authorized towing certificate ~~[of inspection]~~ for
 375 each tow truck motor carrier, tow truck, and driver that complies with this part.

376 (ii) The ~~[inspection]~~ certificate shall expire two years from the month of issuance.

377 (d) The department may charge a biennial fee established under Section 63-38-3.2 to cover
 378 the cost of the inspection, investigation, and certification required under this ~~[section]~~ part.

379 (2) The department shall make consumer protection information available to the public
 380 that may use a tow truck motor carrier.

381 Section 11. Section **72-9-603** is amended to read:

382 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle**
 383 **title restrictions -- Rules for maximum rates and certification.**

384 (1) ~~[Unless a vehicle is impounded under Section 41-6-44.30, after performing a]~~ Except
 385 for tow truck service that was ordered by a peace officer, or a person acting on behalf of a law
 386 enforcement agency, or a highway authority, as defined in Section 72-1-102, after performing a
 387 tow truck service that is being done without the vehicle, vessel, or outboard motor owner's
 388 knowledge, the ~~[person operating the]~~ tow truck operator or the tow truck motor carrier shall:

389 (a) ~~[within one hour of]~~ immediately upon arriving at the place of storage or impound of
 390 the vehicle, vessel, or outboard motor, contact the law enforcement agency having jurisdiction over
 391 the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

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

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

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

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

397 (v) ~~[vehicle's]~~ vehicle, vessel, or outboard motor's description, including its identification
 398 number and license number or other identification number issued by a state agency; and

399 (b) within ~~[five]~~ two business days of performing the tow truck service, send a certified

400 letter to the last known address of the registered owner of the vehicle, vessel, or outboard motor
 401 obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's
 402 address to the current address, notifying him of the:

- 403 (i) location of the vehicle, vessel, or outboard motor;
- 404 (ii) date, time, location from which the vehicle, vessel, or outboard motor was removed;
- 405 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
- 406 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
- 407 (v) [~~vehicle's~~] a description, including its identification number and license number or
 408 other identification number issued by a state agency; and
- 409 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.

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

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

414 [~~(2)~~] (3) The [~~registered~~] owner of a vehicle, vessel, or outboard motor lawfully removed
 415 is only responsible for paying:

- 416 (a) the towing[, ~~impound,~~] and storage fees set in accordance with Subsection (7); and
- 417 (b) the administrative impound fee set in Section 41-6-102.5, if applicable.

418 [~~(3)~~] (4) [~~Towing, impound, and storage~~] The fees under Subsection (3) are a possessory
 419 lien on the vehicle, vessel, or outboard motor until paid.

420 [~~(4)~~] (5) A person may not request a transfer of title to an abandoned vehicle until at least
 421 30 days after notice has been sent under Subsection (1)(b).

422 (6) A tow truck motor carrier or impound yard shall clearly and conspicuously post and
 423 disclose all its current fees and rates for towing and storage of a vehicle in accordance with rules
 424 established under Subsection (7).

425 [~~(5)~~] (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
 426 the Department of Transportation [~~may~~] shall:

427 (a) set maximum rates that:

428 [~~(a)~~] (i) tow truck motor carriers may charge for the towing of [~~vehicles~~] a vehicle, vessel,
 429 or outboard motor that are transported in response to:

430 [~~(i)~~] (A) a peace officer dispatch call;

- 431 ~~[(ii)]~~ (B) a motor vehicle division call; and
- 432 ~~[(iii)]~~ (C) any other call where the owner of the vehicle, vessel, or outboard motor has not
- 433 consented to the removal ~~[of his vehicle]~~; and
- 434 ~~[(b)]~~ (ii) impound yards may charge for the storage of ~~[vehicles]~~ a vehicle, vessel, or
- 435 outboard motor stored as a result of one of the conditions listed under Subsection ~~[(5)]~~ (7)(a)~~[-]~~;
- 436 (b) establish authorized towing certification requirements, not in conflict with federal law,
- 437 related to incident safety, clean-up, and hazardous material handling; and
- 438 (c) specify the form and content of the posting and disclosure of fees and rates charged by
- 439 a tow truck motor carrier or impound yard.

440 Section 12. Section **73-18-12.7** is amended to read:

441 **73-18-12.7. Operating under the influence -- Seizure and impoundment of vessel.**

- 442 (1) If a peace officer arrests or cites the operator of a vessel for violating Section
- 443 73-18-12.2 or a local ordinance similar to Section 73-18-12.2, which complies with Section
- 444 73-18-12.1, the peace officer shall seize and impound the vessel in accordance with Section
- 445 41-6-102.5, except as provided under Subsection (2). If necessary for transportation of the vessel
- 446 for impoundment, the vessel's trailer may be used to transport the vessel.
- 447 (2) If a registered owner of the vessel, other than the driver, is present at the time of arrest,
- 448 the peace officer may release the vessel to that registered owner, but only if:
- 449 (a) the registered owner:
- 450 (i) requests removal of the vessel from the scene;
- 451 (ii) presents to the peace officer sufficient identification to prove ownership of the vessel;
- 452 and
- 453 (iii) would not, in the judgment of the peace officer, be in violation of Section 73-18-12.2
- 454 or a local ordinance adopted in compliance with Section 73-18-12.1, if permitted to operate the
- 455 vessel; and
- 456 (b) the vessel is legally operable.
- 457 ~~[(3) (a) Any peace officer who impounds a vessel under this section shall remove, or cause~~
- 458 ~~the vessel to be removed, to the nearest accessible docking area, public or private garage, state~~
- 459 ~~impound lot, or other approved storage facility that meets the standards set by rule by the Motor~~
- 460 ~~Vehicle Division of the State Tax Commission, or if there is none, another reasonably safe place.~~
- 461 ~~The standards set by the Motor Vehicle Division shall be fair and reasonable and shall be~~

462 unrestrictive as to the number of docking or other impoundment areas per geographical area.]

463 ~~[(b) The peace officer or agency by whom the peace officer is employed shall within 24~~
464 ~~hours after the seizure notify the Motor Vehicle Division of the seizure and impoundment. The~~
465 ~~notice shall set forth:]~~

466 ~~[(i) the operator's name;]~~

467 ~~[(ii) a description of the vessel, its identification number, if any, and its assigned number;]~~

468 ~~[(iii) the date, time, and place of impoundment;]~~

469 ~~[(iv) the reason for impoundment; and]~~

470 ~~[(v) the location of the dock or other place where the vessel is stored.]~~

471 ~~[(4) Upon receipt of the notice, the Motor Vehicle Division shall give notice to the~~
472 ~~registered owner of the vessel in the same manner as prescribed for vehicles by Section 41-1a-114.~~
473 ~~The notice shall:]~~

474 ~~[(a) set forth:]~~

475 ~~[(i) the date, time, and place of impoundment;]~~

476 ~~[(ii) the name of the person operating the vessel at the time of seizure;]~~

477 ~~[(iii) the reason for seizure and impoundment; and]~~

478 ~~[(iv) the location where the vessel is stored;]~~

479 ~~[(b) inform the registered owner that he is responsible for payment of transportation~~
480 ~~charges, impound fees, and storage fees charged against the vessel; and]~~

481 ~~[(c) inform the registered owner of the vessel of the conditions prescribed in Subsection~~
482 ~~(5) which must be satisfied before the vessel may be released.]~~

483 ~~[(5) (a) The impounded vessel shall be released after the registered owner or the owner's~~
484 ~~agent:]~~

485 ~~[(i) makes a claim for release of the vessel at any state office designated by the Motor~~
486 ~~Vehicle Division;]~~

487 ~~[(ii) pays an impound fee of \$25;]~~

488 ~~[(iii) presents identification sufficient to prove ownership of the impounded vessel; and]~~

489 ~~[(iv) pays all transportation, impound, and storage fees.]~~

490 ~~[(b) The transportation and storage fees shall be paid to the docking area or other storage~~
491 ~~facility where the vessel is stored. All impound fees assessed under this subsection are dedicated~~
492 ~~revenue to the Motor Vehicle Division.]~~

493 ~~[(6) (a) Any impounded vessel not claimed by the registered owner or the owner's agent~~
494 ~~within 30 days shall be sold in accordance with the procedures specified in Section 41-1a-1103 for~~
495 ~~the sale of impounded motor vehicles.]~~

496 ~~[(b) The proceeds, if any, shall be disposed of in the manner specified in Section~~
497 ~~41-1a-1104.]~~

498 ~~[(c) The date of impoundment is considered the date of seizure for purposes of computing~~
499 ~~the time period.]~~

500 ~~[(7)]~~ (3) (a) Transportation and storage fees shall be established by the Motor Vehicle
501 Division and shall be reviewed by the Motor Vehicle Division annually to ensure equity for vessel
502 owners and transportation and storage operators.

503 (b) Transportation, impound fees, or storage fees are a lien on the vessel.

504 ~~[(8) The registered owner of the vessel, upon the payment of all fees and charges incurred~~
505 ~~in the seizure and impoundment of the owner's vessel, has a cause of action for all the fees and~~
506 ~~charges, together with damages, court costs, and attorney fees, against the operator of the vessel~~
507 ~~whose actions caused the impoundment.]~~

508 ~~[(9) Liability may not be imposed upon any peace officer, the state, or any of its political~~
509 ~~subdivisions on account of the enforcement of this section.]~~

510 Section 13. Section **73-18-12.8** is amended to read:

511 **73-18-12.8. Operating under the influence -- Removal or impoundment of vehicle**
512 **used to tow impounded vessel.**

513 A vehicle used to tow a vessel which is impounded under this chapter may be removed
514 under the provisions of Subsection 41-6-44.30 (2), but if no person is able to move the vehicle
515 under that section, the vehicle may be removed and impounded under Section 41-6-102.5 if
516 leaving it unattended is contrary to the safety of the public.

517 Section 14. Section **73-18-20.1** is amended to read:

518 **73-18-20.1. Seizure of a vessel.**

519 (1) A peace officer, without a warrant, may seize and take possession of a vessel:

520 (a) that is placed or being operated on the waters of this state with improper registration;

521 (b) that the peace officer has reason to believe has been stolen;

522 (c) on which any hull identification number or serial number for an engine or outboard
523 motor has been defaced, altered, or obliterated;

524 (d) that has been abandoned on public land, highways, or waters of this state; or
525 (e) if the registration or title fees for the vessel or outboard motor have not been paid.
526 (2) If necessary for the transportation of a seized vessel, the vessel's trailer may be seized
527 to transport and store the vessel.

528 (3) Any peace officer seizing or taking possession of a vessel under this section shall
529 [~~immediately notify the Motor Vehicle Division of the State Tax Commission of the action and~~
530 ~~shall impound the vessel at a docking area, public or private garage, state impound lot, or other~~
531 ~~storage facility approved by the Motor Vehicle Division]~~ comply with the provisions of Section
532 41-6-102.5.

533 Section 15. Section **73-18-20.2** is amended to read:

534 **73-18-20.2. Release and sale of a seized vessel.**

535 [~~(1) A vessel seized under Section 73-18-20.1 shall remain impounded until:]~~

536 [~~(a) the vessel's registration has been properly completed and the appropriate fees have~~
537 ~~been paid; or]~~

538 [~~(b) the ownership of the vessel is established to the satisfaction of the division or its~~
539 ~~authorized agent.]~~

540 [~~(2)]~~ If the hull identification number or serial number for the engine or outboard motor
541 of a vessel seized under Section 73-18-20.1 has been defaced, altered, or obliterated, the vessel
542 may not be released until:

543 [~~(a)]~~ (1) the original manufacturer's hull identification number or engine or outboard motor
544 serial number has been replaced; or

545 [~~(b)]~~ (2) a new number assigned by the division or its authorized agent has been provided
546 and has been affixed to the vessel, engine, or outboard motor.

547 [~~(3) (a) Any seized vessel not claimed by the registered owner or the owner's agent within~~
548 ~~30 days shall be sold and handled in accordance with the procedures specified in Sections~~
549 ~~41-1a-1103 through 41-1a-1106 for the sale of impounded motor vehicles.]~~

550 [~~(b) The proceeds, if any, shall be disposed of in the same manner as under Section~~
551 ~~41-1a-1104.]~~

552 [~~(c) Transportation, impound fees, or storage fees are a lien on the vessel.]~~

553 Section 16. **Effective date.**

554 This act takes effect on July 1, 2001.

Legislative Review Note
as of 11-9-00 11:08 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Transportation Interim Committee recommended this bill.