

1 **TOW TRUCK REQUIREMENTS**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: James R. Gowans**

5 **This act modifies the Transportation Code by adding a definition of tow truck service**
6 **which includes recovery functions and related operations. This act replaces the word**
7 **"towing" with "tow truck service" for purposes of charges an owner is responsible for**
8 **paying. The act also uses this defined phrase to require posting of rates by a tow truck**
9 **motor carrier, and to require the Department of Transportation to set maximum rates**
10 **that may be charged for certain tow truck services by administrative rule.   THIS ACT**
10a **REQUIRES THAT IN ADDITION TO NOTIFYING THE OWNER IF A VEHICLE, VESSEL, OR OUTBOARD**
10b **MOTOR IS TOWED WITHOUT THE OWNER'S KNOWLEDGE THAT THE TOW TRUCK MOTOR CARRIER**
10c **ALSO NOTIFY THE LIEN HOLDER.  **

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

12 AMENDS:

13 **72-9-102**, as renumbered and amended by Chapter 270, Laws of Utah 1998

14 **72-9-603**, as last amended by Chapter 202, Laws of Utah 2001

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

16 Section 1. Section **72-9-102** is amended to read:

17 **72-9-102. Definitions.**

18 As used in this chapter:

19 (1) (a) "Commercial vehicle" means a motor vehicle, vehicle, trailer, or semitrailer
20 used or maintained for business, compensation, or profit to transport passengers or property on
21 a highway if the commercial vehicle:

22 (i) has a manufacturer's gross vehicle weight rating or gross combination weight rating
23 of 10,001 or more pounds;

24 (ii) is designed to transport more than 15 passengers, including the driver; or

25 (iii) is used in the transportation of hazardous materials and is required to be placarded
26 in accordance with 49 C.F.R. Part 172, Subpart F.

27 (b) The following vehicles are not considered a commercial vehicle for purposes of this



28 chapter:

29 (i) equipment owned and operated by the United States Department of Defense when
30 driven by any active duty military personnel and members of the reserves and national guard on
31 active duty including personnel on full-time national guard duty, personnel on part-time
32 training, and national guard military technicians and civilians who are required to wear military
33 uniforms and are subject to the code of military justice;

34 (ii) firefighting and emergency vehicles, operated by emergency personnel, not
35 including commercial tow trucks; and

36 (iii) recreational vehicles that are driven solely as family or personal conveyances for
37 noncommercial purposes.

38 (2) "Motor carrier" means a person engaged in or transacting the business of
39 transporting passengers, freight, merchandise, or other property by a commercial vehicle on a
40 highway within this state and includes a tow truck business.

41 (3) "Tow truck" means a motor vehicle constructed, designed, altered, or equipped
42 primarily for the purpose of towing or removing damaged, disabled, abandoned, seized, or
43 impounded vehicles from a highway or other place by means of a crane, hoist, tow bar, tow
44 line, dolly, tilt bed, or other means.

45 (4) "Tow truck service" means the functions and any ancillary operations associated
46 with recovering, removing, and towing a vehicle and its load from a highway or other place by
47 means of a tow truck.

48 [~~4~~] (5) "Transportation" means the actual movement of property or passengers by
49 motor vehicle, including loading, unloading, and any ancillary service provided by the motor
50 carrier in connection with movement by motor vehicle, which is performed by or on behalf of
51 the motor carrier, its employees or agents, or under the authority of the motor carrier, its
52 employees or agents, or under the apparent authority and with the knowledge of the motor
53 carrier.

54 Section 2. Section **72-9-603** is amended to read:

55 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
56 **vehicle title restrictions -- Rules for maximum rates and certification.**

57 (1) Except for tow truck service that was ordered by a peace officer, or a person acting
58 on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102,

59 after performing a tow truck service that is being done without the vehicle, vessel, or outboard
60 motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

61 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
62 or outboard motor, contact the law enforcement agency having jurisdiction over the area where
63 the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

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

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

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

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

69 (v) vehicle, vessel, or outboard motor's description, including its identification number
70 and license number or other identification number issued by a state agency; and

71 (b) within two business days of performing the tow truck service, send a certified letter
72 to the last known address of the registered owner **h AND LIEN HOLDER h** of the vehicle, vessel, or
72a outboard motor

73 obtained from the Motor Vehicle Division or if the person has actual knowledge of the owner's
74 address to the current address, notifying him of the:

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

76 (ii) date, time, location from which the vehicle, vessel, or outboard motor was
77 removed;

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

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

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

82 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.

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

85 (a) collect any fee associated with the removal; and

86 (b) begin charging storage fees.

87 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
88 responsible for paying:

89 (a) the [towing] tow truck service and storage fees set in accordance with Subsection

90 (7); and

91 (b) the administrative impound fee set in Section 41-6-102.5, if applicable.

92 (4) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
93 outboard motor until paid.

94 (5) A person may not request a transfer of title to an abandoned vehicle until at least 30
95 days after notice has been sent under Subsection (1)(b).

96 (6) A tow truck motor carrier or impound yard shall clearly and conspicuously post and
97 disclose all its current fees and rates for ~~[towing]~~ tow truck service and storage of a vehicle in
98 accordance with rules established under Subsection (7).

99 (7) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
100 Department of Transportation shall:

101 (a) set maximum rates that:

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

104 (A) a peace officer dispatch call;

105 (B) a motor vehicle division call; and

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

108 (ii) impound yards may charge for the storage of a vehicle, vessel, or outboard motor
109 stored as a result of one of the conditions listed under Subsection (7)(a);

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

112 (c) specify the form and content of the posting and disclosure of fees and rates charged
113 by a tow truck motor carrier or impound yard.

Legislative Review Note

as of 12-12-02 2:08 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0055

Tow Truck Requirements

16-Jan-03

7:13 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst