

**VEHICLE IMPOUND FEE FOR DRIVING
UNDER THE INFLUENCE CASES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Joseph G. Murray

This act modifies the Motor Vehicles Code by allowing a wavier or refund for the \$200 DUI administrative impound fee if written evidence is presented to the State Tax Commission that the Driver License Division did not suspend or revoke the person's driver license or that the vehicle was stolen. This act increases the administrative impound fee to \$230 and increases current distributions to the Motor Vehicle Division, the Department of Public Safety, and the General Fund proportionately.

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

AMENDS:

41-6-102.5, as last amended by Chapter 200, Laws of Utah 2002

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

Section 1. Section **41-6-102.5** is amended to read:

41-6-102.5. 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 removed or impounded as provided under Sections 41-1a-1101, 41-6-44.30, 41-6-102, 41-6-116.10, 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 as defined in Section 72-1-102, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner, to a state impound yard, or if none, to a garage, docking area, or other place of safety.

(2) 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 (9).

(3) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report

of the removal shall be sent to 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.

(b) 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 license number or other identification number issued by a state agency;
- (v) the date, time, and place of impoundment;
- (vi) the reason for removal or impoundment;
- (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or

outboard motor; and

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

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

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

(4) (a) Upon receipt of the report, the Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

(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; and

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

(c) 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 registered owner and any lien holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

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

(5) (a) The vehicle, vessel, or outboard motor shall be released after the registered owner, lien holder, or the owner's agent:

(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 vehicle, vessel, or outboard motor;

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

(iv) if the impoundment was made under Section 41-6-44.30, pays an administrative impound fee of [~~\$200;~~] \$230; and

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

(b) (i) [~~Twenty-five~~] Twenty-nine dollars of the administrative impound [~~fees~~] fee assessed under Subsection (5)(a)(iv) [~~are~~] shall be dedicated credits to the Motor Vehicle Division;

(ii) [~~\$84~~] \$97 of the administrative impound [~~fees~~] fee assessed under Subsection (5)(a)(iv) shall be deposited in the Department of Public Safety Restricted Account created in Section 53-3-106; and

(iii) the remainder of the administrative impound [~~fees~~] fee assessed under Subsection (5)(a)(iv) shall be deposited in the General Fund.

(c) The administrative impound fee assessed under Subsection (5)(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 Section 41-6-44.10 as shown by a letter or other report from the Driver License Division presented within 30 days of the final notification from the Driver License Division; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 30 days of the impoundment.

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

(7) The registered owner who pays all fees and charges incurred in the impoundment 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.

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

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

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

(b) 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. The fees shall be reasonable and fair and shall reflect the cost of administering the database.