

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

3                                   2003 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Joseph G. Murray**

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

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

13 AMENDS:

14           **41-6-102.5**, as last amended by Chapter 200, Laws of Utah 2002

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

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

17           **41-6-102.5. Removal and impoundment of vehicles -- Reporting and notification**  
18 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

19           (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under  
20 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  
21 officer or by an order of a person acting on behalf of a law enforcement agency or highway  
22 authority as defined in Section 72-1-102, the removal or impoundment of the vehicle, vessel, or  
23 outboard motor shall be at the expense of the owner, to a state impound yard, or if none, to a  
24 garage, docking area, or other place of safety.

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

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



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

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

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

32 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck  
33 operator is employed.

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

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

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

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

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

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

42 (vi) the reason for removal or impoundment;

43 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or  
44 outboard motor; and

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

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

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

49 (ii) begin charging storage fees.

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

53 (b) The notice shall:

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

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

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

61 (c) If the vehicle, vessel, or outboard motor is not registered in this state, the Motor  
62 Vehicle Division shall make a reasonable effort to notify the registered owner and any lien  
63 holder of the removal and the place where the vehicle, vessel, or outboard motor is stored.

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

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

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

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

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

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

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

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

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

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

85 (c) The administrative impound fee assessed under Subsection (5)(a)(iv) shall be  
86 waived or refunded by the State Tax Commission if the registered owner, lien holder, or  
87 owner's agent presents written evidence to the State Tax Commission that:

88 (i) the Driver License Division determined that the arrested person's driver license  
89 should not be suspended or revoked under Section 53-3-223 or Section 41-6-44.10 as shown by

90 a letter or other report from the Driver License Division presented within 30 days of the final  
91 notification from the Driver License Division; or

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

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

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

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

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

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

111 (b) Unless otherwise provided by statute, the Motor Vehicle Division or the  
112 administrator of the database may adopt a schedule of fees assessed for utilizing the database.  
113 The fees shall be reasonable and fair and shall reflect the cost of administering the database.

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**Legislative Review Note**  
**as of 11-26-02 2:38 PM**

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

**Office of Legislative Research and General Counsel**

**Interim Committee Note**

**12-12-02 4:06 PM**

**H.B. 32**

**as of 12-12-02 4:06 PM**

The Transportation Interim Committee recommended this bill.

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**Fiscal Note****Vehicle Impound Fee for Driving Under the Influence Cases***11-Jan-03***Bill Number HB0032***4:09 PM*

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**State Impact**

This bill is estimated to be revenue neutral. Any increase in revenues will likely be offset by an increase in refunds. Provisions of the bill can be implemented within existing resources.

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**Individual and Business Impact**

No significant fiscal impact.

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**Office of the Legislative Fiscal Analyst**