

VEHICLE TOWING AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd E. Kiser

Senate Sponsor: Jon J. Greiner

LONG TITLE

General Description:

This bill modifies the Transportation Code by amending provisions relating to the towing notice requirements for a tow truck operator or tow truck motor carrier.

Highlighted Provisions:

This bill:

- ▶ requires a tow truck operator or tow truck motor carrier to send a report of the removal of a vehicle, vessel, or outboard motor if the tow truck service is being done without the vehicle, vessel, or outboard motor owner's knowledge or express consent;
- ▶ provides that the Motor Vehicle Division is not required to give certain notices after receiving a report from a tow truck operator or tow truck motor carrier for a tow truck service that:

- was not ordered by a peace officer or person acting on behalf of a law enforcement agency; and

- was done without the vehicle, vessel, or outboard motor owner's knowledge;

§→ [and] ▶ grants the Department of Transportation rulemaking authority to set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal to the Motor Vehicle Division and providing notice of the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor; and ←§

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **41-6a-1406**, as last amended by Laws of Utah 2008, Chapters 226 and 382

32 **72-9-603**, as last amended by Laws of Utah 2008, Chapters 75 and 382



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

35 Section 1. Section **41-6a-1406** is amended to read:

36 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
37 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

38 (1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under
39 Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace
40 officer or by an order of a person acting on behalf of a law enforcement agency or highway
41 authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the
42 expense of the owner.

43 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
44 impounded to:

- 45 (a) a state impound yard; or
- 46 (b) if none, a garage, docking area, or other place of safety.

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

- 49 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 50 (b) by the department under Subsection (10).

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

- 53 (i) the peace officer or agency by whom the peace officer is employed; and
- 54 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
55 operator is employed.

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

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

- 59 (ii) a description of the vehicle, vessel, or outboard motor;
- 60 (iii) the vehicle identification number or vessel or outboard motor identification
61 number;
- 62 (iv) the license number or other identification number issued by a state agency;
- 63 (v) the date, time, and place of impoundment;
- 64 (vi) the reason for removal or impoundment;
- 65 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
66 outboard motor; and
- 67 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 68 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
69 required under this Subsection (4), a tow truck motor carrier or impound yard may not:
- 70 (i) collect any fee associated with the removal; and
- 71 (ii) begin charging storage fees.
- 72 (5) (a) ~~Upon~~ Except as provided in Subsection (5)(e) and upon receipt of the report,
73 the Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
74 outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.
- 75 (b) The notice shall:
- 76 (i) state the date, time, and place of removal, the name, if applicable, of the person
77 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
78 and the place where the vehicle, vessel, or outboard motor is stored;
- 79 (ii) state that the registered owner is responsible for payment of towing, impound, and
80 storage fees charged against the vehicle, vessel, or outboard motor;
- 81 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
82 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and
- 83 (iv) inform the registered owner and lienholder of the division's intent to sell the
84 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
85 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
86 claim for release of the vehicle, vessel, or outboard motor.
- 87 (c) ~~If~~ Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
88 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
89 to notify the registered owner and any lien holder of the removal and the place where the

90 vehicle, vessel, or outboard motor is stored.

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

93 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
94 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
95 service in accordance with Subsection 72-9-603(1)(a)(i).

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

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

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

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

103 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
104 impound fee of \$330; and

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

107 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
108 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

109 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
110 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;
111 and

112 (iii) the remainder of the administrative impound fee assessed under Subsection
113 (6)(a)(iv) shall be deposited in the General Fund.

114 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
115 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
116 owner's agent presents written evidence to the State Tax Commission that:

117 (i) the Driver License Division determined that the arrested person's driver license
118 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
119 or other report from the Driver License Division presented within 30 days of the final
120 notification from the Driver License Division; or

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

123 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
124 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
125 accordance with that section and the proceeds, if any, shall be disposed of as provided under
126 Section 41-1a-1104.

127 (b) The date of impoundment is considered the date of seizure for computing the time
128 period provided under Section 41-1a-1103.

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

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

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

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

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

143 (ii) The fees under this Subsection (11)(b) shall:

144 (A) be reasonable and fair; and

145 (B) reflect the cost of administering the database.

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

147 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
148 **vehicle title restrictions -- Rules for maximum rates and certification.**

149 (1) Except for tow truck service that was ordered by a peace officer, or a person acting
150 on behalf of a law enforcement agency, or a highway authority, as defined in Section 72-1-102,
151 after performing a tow truck service that is being done without the vehicle, vessel, or outboard

152 motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

153 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
154 or outboard motor[;]:

155 (i) send a report of the removal to the Motor Vehicle Division that complies with the
156 requirements of Subsection 41-6a-1406(4)(b); and

157 (ii) contact the law enforcement agency having jurisdiction over the area where the
158 vehicle, vessel, or outboard motor was picked up and notify the agency of the:

159 [(i)] (A) location of the vehicle, vessel, or outboard motor;

160 [(ii)] (B) date, time, and location from which the vehicle, vessel, or outboard motor
161 was removed;

162 [(iii)] (C) reasons for the removal of the vehicle, vessel, or outboard motor;

163 [(iv)] (D) person who requested the removal of the vehicle, vessel, or outboard motor;
164 and

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

167 (b) within two business days of performing the tow truck service under Subsection
168 (1)(a), send a certified letter to the last-known address of the registered owner and lien holder
169 of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the
170 person has actual knowledge of the owner's address to the current address, notifying the owner
171 of the:

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

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

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

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

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

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

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

- 183 (i) collect any fee associated with the removal; or
- 184 (ii) begin charging storage fees.
- 185 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor
- 186 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor
- 187 owner's or a lien holder's knowledge at either of the following locations without signage that
- 188 meets the requirements of Subsection (2)(b)(ii):
 - 189 (A) a mobile home park as defined in Section 57-16-3; or
 - 190 (B) a multifamily dwelling of more than eight units.
- 191 (ii) Signage under Subsection (2)(b)(i) shall display:
 - 192 (A) where parking is subject to towing; and
 - 193 (B) (I) the Internet website address that provides access to towing database information
 - 194 in accordance with Section 41-6a-1406; or
 - 195 (II) one of the following:
 - 196 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
 - 197 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or
 - 198 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
 - 199 of the mobile home park or multifamily dwelling manager or management office that
 - 200 authorized the vehicle, vessel, or outboard motor to be towed.
 - 201 (c) Signage is not required under Subsection (2)(b) for parking in a location:
 - 202 (i) that is prohibited by law;
 - 203 (ii) that is prohibited by a declaration of the conditions, covenants, and restrictions or
 - 204 by a contract; or
 - 205 (iii) if it is reasonably apparent that the location is not open to parking.
 - 206 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
 - 207 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
 - 208 parking.
- 209 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
- 210 responsible for paying:
 - 211 (a) the tow truck service and storage fees set in accordance with Subsection (7); and
 - 212 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.
 - 213 (4) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or

214 outboard motor until paid.

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

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

220 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
221 Department of Transportation shall:

222 (a) set maximum rates that:

223 (i) tow truck motor carriers may charge for the tow truck service of a vehicle, vessel, or
224 outboard motor that are transported in response to:

225 (A) a peace officer dispatch call;

226 (B) a motor vehicle division call; and

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

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

231 (b) establish authorized towing certification requirements, not in conflict with federal
232 law, related to incident safety, clean-up, and hazardous material handling; ~~§~~ → [and] ← ~~§~~

233 (c) specify the form and content of the posting and disclosure of fees and rates charged
234 by a tow truck motor carrier or impound yard. ~~§~~ → ; and

234a (d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge
234b for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to
234c the registered owner and lienholder of the vehicle, vessel, or outboard motor as required in Subsection
234d (1)(b) ← ~~§~~

Legislative Review Note
as of 12-22-08 1:48 PM

Office of Legislative Research and General Counsel

H.B. 112 - Vehicle Towing Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits to local governments. Individuals and businesses that impound vehicles covered by provisions of this bill could incur additional expenses. It is unknown at this time how many such impounds will occur.
