

1 **MOTOR VEHICLE IMPOUND AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis Oda**

5 Senate Sponsor: Daniel R. Liljenquist

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Motor Vehicles Code by amending provisions relating to
10 impounded motor vehicles.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ provides that any law enforcement officer ordered vehicle impound shall be
14 reported to the Motor Vehicle Division by the peace officer or the agency the peace
15 officer is employed by;

16 ▶ imposes a \$25 fee on all vehicle, vessel, or outboard motor impounds ordered for a
17 violation of certain motor vehicle offenses;

18 ▶ provides that revenues from the \$25 impound fee shall be used by the Motor
19 Vehicle Division as dedicated credits to pay the costs of providing certain
20 notifications and regulating state impound yards within the state;

21 ▶ provides that a vehicle is an abandoned vehicle if it is left in an impound yard,
22 garage, or docking area for more than ~~ten~~ thirty days after certain notices have been
23 provided;

23a ~~▶ provides that a lienholder, a leasing company that legally owns the vehicle, or~~
23b ~~certain insurance companies are not subject to the penalty for abandoning a vehicle in an~~
23c ~~impound yard, garage, or docking area;~~

24 ▶ provides that it is a class C misdemeanor to abandon a motor vehicle on public or
25 private property or in an impound yard, garage, or docking area;

25a ~~▶ establishes an affirmative defense to abandoning a vehicle in an impound yard,~~
25b ~~garage, or docking area;~~

26 ▶ requires the Motor Vehicle Division to inform the registered owner and lienholder
27 that it is a class C misdemeanor for a person to leave a motor vehicle for more than



28 ten days in an impound yard, garage, or docking area in the impound notice provided by the
29 Motor Vehicle Division; and

30 ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill takes effect on October 1, 2009.

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **41-6a-1406**, as last amended by Laws of Utah 2008, Chapters 226 and 382

38 **41-6a-1408**, as renumbered and amended by Laws of Utah 2005, Chapter 2

39 **53-3-106**, as last amended by Laws of Utah 2008, Chapters 304 and 382



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

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

43 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
44 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

45 (1) [~~If a vehicle, vessel, or outboard motor is removed or impounded as provided under~~
46 ~~Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace~~
47 ~~officer or by an order of a person acting on behalf of a law enforcement agency or highway~~
48 ~~authority, the] The removal or impoundment of the vehicle, vessel, or outboard motor shall be
49 at the expense of the owner[-] if the vehicle, vessel, or outboard motor is removed or
50 impounded by an order of a peace officer or by an order of a person acting on behalf of a law
51 enforcement agency or highway authority:~~

52 (a) as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or
53 73-18-20.1; or

54 (b) for any other reason.

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

57 (a) a state impound yard; or

58 (b) if none, a garage, docking area, or other place of safety.

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

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

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

- 65 (i) the peace officer or agency by whom the peace officer is employed; and
- 66 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
67 operator is employed.

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

- 70 (i) the operator's name, if known;
- 71 (ii) a description of the vehicle, vessel, or outboard motor;
- 72 (iii) the vehicle identification number or vessel or outboard motor identification
73 number;
- 74 (iv) the license number or other identification number issued by a state agency;
- 75 (v) the date, time, and place of impoundment;
- 76 (vi) the reason for removal or impoundment;
- 77 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
78 outboard motor; and
- 79 (viii) the place where the vehicle, vessel, or outboard motor is stored.

80 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
81 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

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

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

87 (b) The notice shall:

- 88 (i) state the date, time, and place of removal, the name, if applicable, of the person
89 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,

90 and the place where the vehicle, vessel, or outboard motor is stored;

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

93 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
94 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; ~~and~~

95 (iv) inform the registered owner and lienholder of the division's intent to sell the
96 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
97 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
98 claim for release of the vehicle, vessel, or outboard motor[-]; and

99 (v) inform the registered owner and lienholder that it is a class C misdemeanor for a
100 person to leave a motor vehicle for more than ten days in an impound yard, garage, or docking
101 area after the notice has been provided.

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

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

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

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

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

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

114 (iv) if the impoundment was made for a violation of ~~H~~→ ~~[Title 41, Motor Vehicles,]~~
114a ~~Section 41-1a-1101, 41-6a-527, 41-6a-1405, or 41-6a-1408~~ ←~~H~~ pays an
115 administrative impound fee of \$25;

116 ~~[(iv)]~~ (v) if the impoundment was made under Section 41-6a-527, pays an additional
117 administrative impound fee of \$330; and

118 ~~[(v)]~~ (vi) pays all towing and storage fees to the place where the vehicle, vessel, or
119 outboard motor is stored.

120 (b) The revenues from the administrative impound fee assessed under Subsection

121 (6)(a)(iv) are dedicated credits to the Motor Vehicle Division to cover the costs of:

122 (i) administering the provisions of this section; and

123 (ii) regulating state impound yards within the state.

124 ~~(b)~~ (c) (i) Twenty-nine dollars of the administrative impound fee assessed under

125 Subsection (6)(a)~~(iv)~~(v) shall be dedicated credits to the Motor Vehicle Division;

126 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)~~(iv)~~(v)

127 shall be deposited in the Department of Public Safety Restricted Account created in Section

128 53-3-106; and

129 (iii) the remainder of the administrative impound fee assessed under Subsection

130 (6)(a)~~(iv)~~(v) shall be deposited in the General Fund.

131 ~~(e)~~ (d) The administrative impound fee assessed under Subsection (6)(a)~~(iv)~~(v) shall

132 be waived or refunded by the State Tax Commission if the registered owner, lien holder, or

133 owner's agent presents written evidence to the State Tax Commission that:

134 (i) the Driver License Division determined that the arrested person's driver license

135 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter

136 or other report from the Driver License Division presented within 30 days of the final

137 notification from the Driver License Division; or

138 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the

139 stolen vehicle report presented within 30 days of the impoundment.

140 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered

141 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in

142 accordance with that section and the proceeds, if any, shall be disposed of as provided under

143 Section 41-1a-1104.

144 (b) The date of impoundment is considered the date of seizure for computing the time

145 period provided under Section 41-1a-1103.

146 (8) The registered owner who pays all fees and charges incurred in the impoundment of

147 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and

148 charges, together with damages, court costs, and attorney fees, against the operator of the

149 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

150 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,

151 or outboard motor.

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

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

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

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

161 (A) be reasonable and fair; and

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

163 Section 2. Section **41-6a-1408** is amended to read:

164 **41-6a-1408. Abandoned vehicles -- Removal by peace officer -- Report -- Vehicle**
 165 **identification.**

166 (1) As used in this section, "abandoned vehicle" means a vehicle that:

167 (a) is left unattended:

168 ~~[(a)]~~ (i) on a highway for a period in excess of 48 hours; or

169 ~~[(b)]~~ (ii) on public or private property for a period in excess of seven days without
 170 express or implied consent of the owner or person in lawful possession or control of the
 171 property[-]; or

172 (b) is left for more than ten days in an impound yard, garage, or docking area after
 173 notice has been provided under Section 41-6a-1406 or 72-9-603 to the registered owner and
 174 lienholder of the vehicle.

175 (2) A person may not abandon a vehicle on a highway.

176 (3) A person may not abandon a vehicle on public or private property without the
 177 express or implied consent of the owner or person in lawful possession or control of the
 178 property.

179 (4) ~~H~~→ [A] (a) Except as provided in Subsection (4)(b), a ~~H~~ person may not abandon a
 179a vehicle in an impound yard, garage, or docking area

180 by leaving the vehicle for more than ~~H~~→ [ten] thirty ~~H~~ days in an impound yard, garage, or
 180a docking area after

181 notice has been provided under Section 41-6a-1406 or 72-9-603 to the registered owner and
 182 lienholder of the vehicle.

182a ~~H~~→ (b) A person is not subject to a penalty for a violation described in Subsection (4)(a) if

182b **the person is:**
182c **(i) a lienholder;**
182d **(ii) a leasing company that legally owns the vehicle; or**
182e **(iii) an insurance company, if the insurance company is the registered owner of the**
182f **vehicle as the result of a total loss settlement .**
182g **(c) It is an affirmative defense to a violation of Subsection (4)(a) if the person:**
182h **(i) has made a good faith attempt to recover the vehicle or surrender a clear title for the**
182i **vehicle to the impound yard, garage, or docking area within the thirty day time period**
182j **described in Subsection (4)(a); and**
182k **(ii) recovers the vehicle or surrenders a clear title for the vehicle to the impound yard,**
182l **garage, or docking area within 40 days after notice has been provided under**
182m **Section 41-6a-1406 or 72-9-603 to the registered owner and lienholder of the vehicle. ←H**

183 [~~(4)~~] (5) A peace officer who has reasonable grounds to believe that a vehicle has been
184 abandoned may remove the vehicle or cause it to be removed in accordance with Section
185 41-6a-1406.

186 [~~(5)~~] (6) If the motor number, manufacturer's number or identification mark of the
187 abandoned vehicle has been defaced, altered or obliterated, the vehicle may not be released or
188 sold until:

189 (a) the original motor number, manufacturer's number or identification mark has been
190 replaced; or

191 (b) a new number assigned by the Motor Vehicle Division has been stamped on the
192 vehicle.

193 (7) A violation of this section is a class C misdemeanor.

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

195 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**
196 **-- Uses as provided by appropriation -- Nonlapsing.**

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

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

200 (a) all monies received under this chapter;

201 (b) administrative fees received according to the fee schedule authorized under this
202 chapter and Section 63J-1-303; and

203 (c) any appropriations made to the account by the Legislature.

204 (3) (a) The account shall earn interest.

205 (b) All interest earned on account monies shall be deposited in the account.

206 (4) The expenses of the department in carrying out this chapter shall be provided for by
207 legislative appropriation from this account.

208 (5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(24)
209 shall be appropriated by the Legislature from this account to the department to implement the
210 provisions of Section 53-1-117, except that of the amount in excess of \$45, \$40 shall be
211 deposited in the State Laboratory Drug Testing Account created in Section 26-1-34.

212 (6) All monies received under Subsection 41-6a-1406(6)[~~(b)~~](c)(ii) shall be
213 appropriated by the Legislature from this account to the department to implement the

214 provisions of Section 53-1-117.

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

216 Section 4. **Effective date.**

217 This bill takes effect on October 1, 2009.

Legislative Review Note
as of 2-12-09 1:35 PM

Office of Legislative Research and General Counsel

H.B. 333 - Motor Vehicle Impound Amendments

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will increase state revenues by \$423,800 in FY 2010 and \$563,100 in FY 2011 and each fiscal year thereafter. The bill will provide the Division of Motor Vehicles \$420,300 in FY 2010 and \$558,400 in FY 2011 and each fiscal year thereafter. The Courts will require General Fund appropriations of \$10,100 in FY 2010 and \$13,400 in FY 2011 and each fiscal year thereafter.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$10,100	\$13,400	\$0	\$3,500	\$4,700
Dedicated Credits	\$0	\$420,300	\$558,400	\$0	\$420,300	\$558,400
Total	\$0	\$430,400	\$571,800	\$0	\$423,800	\$563,100

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
