

1 **VEHICLE TOWING AMENDMENTS**

2 2009 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd E. Kiser**

5 Senate Sponsor: Jon J. Greiner

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ requires a tow truck operator or tow truck motor carrier to send a report of the
14 removal of a vehicle, vessel, or outboard motor if the tow truck service is being
15 done without the vehicle, vessel, or outboard motor owner's knowledge or express
16 consent;
- 17 ▶ provides that the Motor Vehicle Division is not required to give certain notices
18 after receiving a report from a tow truck operator or tow truck motor carrier for a
19 tow truck service that:
 - 20 • was not ordered by a peace officer or person acting on behalf of a law
21 enforcement agency; and
 - 22 • was done without the vehicle, vessel, or outboard motor owner's knowledge;
- 23 ▶ grants the Department of Transportation rulemaking authority to set a maximum
24 rate for an administrative fee that a tow truck motor carrier may charge for
25 reporting the removal to the Motor Vehicle Division and providing notice of the
26 removal to the registered owner and lienholder of the vehicle, vessel, or outboard
27 motor; and
- 28 ▶ makes technical changes.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **41-6a-1406**, as last amended by Laws of Utah 2008, Chapters 226 and 382

36 **72-9-603**, as last amended by Laws of Utah 2008, Chapters 75 and 382



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

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

40 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
41 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

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

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

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

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

58 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
59 operator is employed.

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

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

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

64 (iii) the vehicle identification number or vessel or outboard motor identification
65 number;

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

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

68 (vi) the reason for removal or impoundment;

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

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

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

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

75 (ii) begin charging storage fees.

76 (5) (a) ~~Upon~~ Except as provided in Subsection (5)(e) and upon receipt of the report,
77 the Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
78 outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

79 (b) The notice shall:

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

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

85 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the

86 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

87 (iv) inform the registered owner and lienholder of the division's intent to sell the
88 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
89 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
90 claim for release of the vehicle, vessel, or outboard motor.

91 (c) [~~H~~] Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
92 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
93 to notify the registered owner and any lien holder of the removal and the place where the
94 vehicle, vessel, or outboard motor is stored.

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

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

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

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

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

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

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

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

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

113 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall

114 be deposited in the Department of Public Safety Restricted Account created in Section
115 53-3-106; and

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

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

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

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

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

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

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

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

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

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

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

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

148 (A) be reasonable and fair; and

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

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

151 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
152 **vehicle title restrictions -- Rules for maximum rates and certification.**

153 (1) Except for tow truck service that was ordered by a peace officer, or a person acting
154 on behalf of a law enforcement agency, or a highway authority, as defined in Section
155 72-1-102, after performing a tow truck service that is being done without the vehicle, vessel,
156 or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier
157 shall:

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

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

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

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

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

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

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

169 and

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

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

- 177 (i) location of the vehicle, vessel, or outboard motor;
- 178 (ii) date, time, location from which the vehicle, vessel, or outboard motor was
179 removed;
- 180 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
- 181 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
- 182 (v) a description, including its identification number and license number or other
183 identification number issued by a state agency; and
- 184 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.

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

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

190 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck
191 motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard
192 motor owner's or a lien holder's knowledge at either of the following locations without signage
193 that meets the requirements of Subsection (2)(b)(ii):

- 194 (A) a mobile home park as defined in Section 57-16-3; or
- 195 (B) a multifamily dwelling of more than eight units.

196 (ii) Signage under Subsection (2)(b)(i) shall display:

- 197 (A) where parking is subject to towing; and

198 (B) (I) the Internet website address that provides access to towing database
199 information in accordance with Section 41-6a-1406; or
200 (II) one of the following:
201 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
202 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or
203 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
204 of the mobile home park or multifamily dwelling manager or management office that
205 authorized the vehicle, vessel, or outboard motor to be towed.
206 (c) Signage is not required under Subsection (2)(b) for parking in a location:
207 (i) that is prohibited by law;
208 (ii) that is prohibited by a declaration of the conditions, covenants, and restrictions or
209 by a contract; or
210 (iii) if it is reasonably apparent that the location is not open to parking.
211 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
212 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
213 parking.
214 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
215 responsible for paying:
216 (a) the tow truck service and storage fees set in accordance with Subsection (7); and
217 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.
218 (4) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
219 outboard motor until paid.
220 (5) A person may not request a transfer of title to an abandoned vehicle until at least
221 30 days after notice has been sent under Subsection (1)(b).
222 (6) A tow truck motor carrier or impound yard shall clearly and conspicuously post
223 and disclose all its current fees and rates for tow truck service and storage of a vehicle in
224 accordance with rules established under Subsection (7).
225 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

226 the Department of Transportation shall:

227 (a) set maximum rates that:

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

230 (A) a peace officer dispatch call;

231 (B) a motor vehicle division call; and

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

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

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

238 (c) specify the form and content of the posting and disclosure of fees and rates charged
239 by a tow truck motor carrier or impound yard~~[-]; and~~

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