

MOTOR VEHICLE IMPOUND AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis Oda

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides that any law enforcement officer ordered vehicle impound shall be reported to the Motor Vehicle Division by the peace officer or the agency the peace officer is employed by;
- ▶ imposes a \$25 fee on vehicle, vessel, or outboard motor impounds ordered for a violation of certain motor vehicle offenses;
- ▶ provides that revenues from the \$25 impound fee shall be used by the Motor Vehicle Division as dedicated credits to pay the costs of providing certain notifications and regulating state impound yards within the state;
- ▶ provides that a vehicle is an abandoned vehicle if it is left in an impound yard, garage, or docking area for more than 30 days after certain notices have been provided;
- ▶ provides that a lienholder or a leasing company that legally owns the vehicle is not subject to the penalty for abandoning a vehicle in an impound yard, garage, or docking area;
- ▶ provides that it is a class C misdemeanor to abandon a motor vehicle on public or



28 private property or in an impound yard, garage, or docking area;

29 ▶ establishes an affirmative defense to abandoning a vehicle in an impound yard,
30 garage, or docking area;

31 ▶ requires the Motor Vehicle Division to inform the registered owner and lienholder
32 that it is a class C misdemeanor for a person to leave a motor vehicle for more than
33 30 days in an impound yard, garage, or docking area in the impound notice provided
34 by the Motor Vehicle Division; and

35 ▶ makes technical changes.

36 **Monies Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 This bill takes effect on October 1, 2010.

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **41-6a-1406**, as last amended by Laws of Utah 2009, Chapter 167

43 **41-6a-1408**, as renumbered and amended by Laws of Utah 2005, Chapter 2

44 **53-3-106**, as last amended by Laws of Utah 2009, Chapters 113 and 183



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

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

48 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
49 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

57 (a) as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or
58 73-18-20.1; or

59 (b) for any other reason.

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

62 (a) a state impound yard; or

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

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

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

67 (b) by the department under Subsection (10).

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

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

71 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
72 operator is employed.

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

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

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

77 (iii) the vehicle identification number or vessel or outboard motor identification
78 number;

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

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

81 (vi) the reason for removal or impoundment;

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

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

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

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

88 (ii) begin charging storage fees.

89 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the

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

92 (b) The notice shall:

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

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

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

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

104 (v) inform the registered owner and lienholder that it is a class C misdemeanor for a
105 person to leave a motor vehicle for more than 30 days in an impound yard, garage, or docking
106 area after the notice has been provided.

107 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
108 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
109 to notify the registered owner and any lien holder of the removal and the place where the
110 vehicle, vessel, or outboard motor is stored.

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

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

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

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

120 (ii) presents identification sufficient to prove ownership of the impounded vehicle,

121 vessel, or outboard motor;

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

123 (iv) if the impoundment was made for a violation of Section 41-1a-1101, 41-6a-527,
124 41-6a-1405, or 41-6a-1408, pays an administrative impound fee of \$25;

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

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

129 (b) The revenues from the administrative impound fee assessed under Subsection
130 (6)(a)(iv) are dedicated credits to the Motor Vehicle Division to cover the costs of:

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

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

133 [~~(b)~~] (c) (i) Twenty-nine dollars of the administrative impound fee assessed under
134 Subsection (6)(a)[~~(iv)~~](v) shall be dedicated credits to the Motor Vehicle Division;

135 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)[~~(iv)~~](v)
136 shall be deposited in the Department of Public Safety Restricted Account created in Section
137 53-3-106; and

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

140 [~~(c)~~] (d) The administrative impound fee assessed under Subsection (6)(a)[~~(iv)~~](v) shall
141 be waived or refunded by the State Tax Commission if the registered owner, lien holder, or
142 owner's agent presents written evidence to the State Tax Commission that:

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

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

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

152 Section 41-1a-1104.

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

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

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

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

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

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

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

170 (A) be reasonable and fair; and

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

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

173 **41-6a-1408. Abandoned vehicles -- Removal by peace officer -- Report -- Vehicle**
174 **identification.**

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

176 (a) is left unattended:

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

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

181 (b) is left for more than 30 days in an impound yard, garage, or docking area after
182 notice has been provided under Section 41-6a-1406 or 72-9-603 to the registered owner and

183 lienholder of the vehicle.

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

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

188 (4) (a) Except as provided in Subsection (4)(b), a person may not abandon a vehicle in
189 an impound yard, garage, or docking area by leaving the vehicle for more than 30 days in an
190 impound yard, garage, or docking area after notice has been provided under Section
191 41-6a-1406 or 72-9-603 to the registered owner and lienholder of the vehicle.

192 (b) A person is not subject to a penalty for a violation described in Subsection (4)(a) if
193 the person is:

194 (i) a lienholder; or

195 (ii) a leasing company that legally owns the vehicle.

196 (c) It is an affirmative defense to a violation of Subsection (4)(a) if the person:

197 (i) has made a good faith attempt to recover the vehicle or surrender a clear title for the
198 vehicle to the impound yard, garage, or docking area within the 30-day time period described in
199 Subsection (4)(a); and

200 (ii) recovers the vehicle or surrenders a clear title for the vehicle to the impound yard,
201 garage, or docking area within 40 days after the notice has been provided under Section
202 41-6a-1406 or 72-9-603 to the registered owner and lienholder of the vehicle.

203 ~~[(4)]~~ (5) A peace officer who has reasonable grounds to believe that a vehicle has been
204 abandoned may remove the vehicle or cause it to be removed in accordance with Section
205 41-6a-1406.

206 ~~[(5)]~~ (6) If the motor number, manufacturer's number or identification mark of the
207 abandoned vehicle has been defaced, altered or obliterated, the vehicle may not be released or
208 sold until:

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

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

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

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

215 **53-3-106. Disposition of revenues under this chapter -- Restricted account created**
216 **-- Uses as provided by appropriation -- Nonlapsing.**

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

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

220 (a) all monies received under this chapter;

221 (b) administrative fees received according to the fee schedule authorized under this
222 chapter and Section 63J-1-504; and

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

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

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

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

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

232 (6) All monies received under Subsection 41-6a-1406(6)(~~b~~)(c)(ii) shall be
233 appropriated by the Legislature from this account to the department to implement the
234 provisions of Section 53-1-117.

235 (7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000
236 annually from the account to the state medical examiner appointed under Section 26-4-4 for
237 use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

238 (8) Appropriations to the department from the account are nonlapsing.

239 Section 4. **Effective date.**

240 This bill takes effect on October 1, 2010.

Legislative Review Note
as of 1-28-10 2:01 PM

Office of Legislative Research and General Counsel

H.B. 119 - Motor Vehicle Impound Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will require an appropriation from dedicated credits to the Division of Motor Vehicles of \$420,300 in FY 2011 and \$558,400 starting in FY 2012. It will require a General Fund appropriations to the Courts of \$10,100 in FY 2011 and \$13,400 beginning in FY 2012. The bill will generate General Fund revenue of \$3,500 in FY 2010 and \$4,700 beginning in FY 2012 for a net General Fund cost of \$6,600 and \$8,700 in FY 2011 and FY 2012 respectively. It will generate dedicated credits equal to the amount needed for appropriation to the Division of Motor Vehicles.

	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2011</u> <u>Approp.</u>	<u>FY 2012</u> <u>Approp.</u>	<u>FY 2010</u> <u>Revenue</u>	<u>FY 2011</u> <u>Revenue</u>	<u>FY 2012</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.