

Representative Todd E. Kiser proposes the following substitute bill:

TOW TRUCK AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill modifies provisions relating to tow truck carrier liabilities and responses to customer service calls.

Highlighted Provisions:

This bill:

- ▶ allows a tow truck carrier to cross certain road barriers under certain circumstances;
- ▶ provides a good faith exception for cargo damaged when responding to a service call; and
- ▶ provides that certain towing fees are a possessory lien on non-life essential items that are owned by the owner of the towed vehicle and securely stored by the tow truck operator.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-401.9, as enacted by Laws of Utah 2009, Chapter 115



26 **41-6a-712**, as renumbered and amended by Laws of Utah 2005, Chapter 2
 27 **41-6a-1401**, as renumbered and amended by Laws of Utah 2005, Chapter 2
 28 **72-9-603**, as last amended by Laws of Utah 2009, Chapter 167



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

31 Section 1. Section **41-6a-401.9** is amended to read:

32 **41-6a-401.9. Authority to remove and dispose of vehicles and cargoes of vehicles**
 33 **involved in accidents.**

34 (1) As a result of a motor vehicle accident, a law enforcement agency with jurisdiction
 35 may, without the consent of the owner or carrier, remove a vehicle, cargo, or other personal
 36 property that:

- 37 (a) has been damaged or spilled within the right-of-way or any portion of a roadway on
- 38 the state highway system;
- 39 (b) is blocking the roadway; or
- 40 (c) is otherwise endangering public safety.

41 (2) The Department of Transportation [~~or~~], a law enforcement agency, or an authorized
 42 tow truck motor carrier shall not be held responsible for any damages or claims that result from
 43 exercising any authority or the failure to exercise any authority granted under this section
 44 provided they are acting in good faith.

45 Section 2. Section **41-6a-712** is amended to read:

46 **41-6a-712. Divided highway -- Use of right-hand side -- Crossing only where**
 47 **permitted.**

48 (1) A person operating a vehicle on a divided highway shall use the right-hand roadway
 49 unless directed or permitted to use another roadway by a traffic-control device or a peace
 50 officer.

51 (2) A person operating a vehicle may not operate the vehicle over, across, or within any
 52 dividing space, median, or barrier of a divided highway, except [~~where~~] when:

- 53 (a) authorized by a traffic-control device or a peace officer[-]; or
- 54 (b) operating a tow truck in response to a customer service call and the tow truck motor
 55 carrier has already received authorization from the local law enforcement agency in the
 56 jurisdiction where the vehicle to be towed is located.

57 Section 3. Section **41-6a-1401** is amended to read:

58 **41-6a-1401. Standing or parking vehicles -- Restrictions and exceptions.**

59 (1) Except when necessary to avoid conflict with other traffic, or in compliance with
60 law, the directions of a peace officer, or a traffic-control device, a person may not:

61 (a) stop, stand, or park a vehicle:

62 (i) on the roadway side of any vehicle stopped or parked at the edge or curb of a street;

63 (ii) on a sidewalk;

64 (iii) within an intersection;

65 (iv) on a crosswalk;

66 (v) between a safety zone and the adjacent curb or within 30 feet of points on the curb
67 immediately opposite the ends of a safety zone, unless a different length is indicated by signs or
68 markings;

69 (vi) alongside or opposite any street excavation or obstruction when stopping, standing,
70 or parking would obstruct traffic;

71 (vii) on any bridge or other elevated structure, on a highway, or within a highway
72 tunnel;

73 (viii) on any railroad tracks;

74 (ix) on any controlled-access highway;

75 (x) in the area between roadways of a divided highway, including crossovers; or

76 (xi) any place where a traffic-control device prohibits stopping, standing, or parking; or

77 (b) stand or park a vehicle, whether occupied or not, except momentarily to pick up or
78 discharge a passenger or passengers:

79 (i) in front of a public or private driveway;

80 (ii) within 15 feet of a fire hydrant;

81 (iii) within 20 feet of a crosswalk;

82 (iv) within 30 feet upon the approach to any flashing signal, stop sign, yield sign, or
83 traffic-control signal located at the side of a roadway;

84 (v) within 20 feet of the driveway entrance to any fire station and on the side of a street
85 opposite the entrance to any fire station within 75 feet of the entrance when properly
86 signposted; or

87 (vi) at any place where a traffic-control device prohibits standing; or

88 (c) park a vehicle, whether occupied or not, except temporarily for the purpose of and
89 while actually engaged in loading or unloading property or passengers:

- 90 (i) within 50 feet of the nearest rail of a railroad crossing; or
- 91 (ii) at any place where traffic-control devices prohibit parking.

92 (2) A person may not move a vehicle that is not lawfully under the person's control into
93 any prohibited area or into an unlawful distance from the curb.

94 (3) This section does not apply to a tow truck motor carrier responding to a customer
95 service call if the tow truck motor carrier has already received authorization from the local law
96 enforcement agency in the jurisdiction where the vehicle to be towed is located.

97 Section 4. Section **72-9-603** is amended to read:

98 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
99 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

104 (a) immediately upon arriving at the place of storage or impound of the vehicle, vessel,
105 or outboard motor:

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

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

110 (A) location of the vehicle, vessel, or outboard motor;

111 (B) date, time, and location from which the vehicle, vessel, or outboard motor was
112 removed;

113 (C) reasons for the removal of the vehicle, vessel, or outboard motor;

114 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and

115 (E) vehicle, vessel, or outboard motor's description, including its identification number
116 and license number or other identification number issued by a state agency; and

117 (b) within two business days of performing the tow truck service under Subsection
118 (1)(a), send a certified letter to the last-known address of the registered owner and lien holder

119 of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the
120 person has actual knowledge of the owner's address to the current address, notifying the owner
121 of the:

- 122 (i) location of the vehicle, vessel, or outboard motor;
- 123 (ii) date, time, location from which the vehicle, vessel, or outboard motor was
124 removed;
- 125 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
- 126 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
- 127 (v) a description, including its identification number and license number or other
128 identification number issued by a state agency; and
- 129 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.

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

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

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

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

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

142 (A) where parking is subject to towing; and

143 (B) (I) the Internet website address that provides access to towing database information
144 in accordance with Section 41-6a-1406; or

145 (II) one of the following:

146 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
147 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

148 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
149 of the mobile home park or multifamily dwelling manager or management office that

150 authorized the vehicle, vessel, or outboard motor to be towed.

151 (c) Signage is not required under Subsection (2)(b) for parking in a location:

152 (i) that is prohibited by law;

153 (ii) that is prohibited by a declaration of the conditions, covenants, and restrictions or

154 by a contract; or

155 (iii) if it is reasonably apparent that the location is not open to parking.

156 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined

157 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on

158 parking.

159 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only

160 responsible for paying:

161 (a) the tow truck service and storage fees set in accordance with Subsection (7); and

162 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.

163 (4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life

164 essential items that are owned by the owner of the vehicle and securely stored by the tow truck

165 operator, vessel, or outboard motor until paid.

166 (5) A person may not request a transfer of title to an abandoned vehicle until at least 30

167 days after notice has been sent under Subsection (1)(b).

168 (6) A tow truck motor carrier or impound yard shall clearly and conspicuously post and

169 disclose all its current fees and rates for tow truck service and storage of a vehicle in

170 accordance with rules established under Subsection (7).

171 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

172 Department of Transportation shall:

173 (a) set maximum rates that:

174 (i) tow truck motor carriers may charge for the tow truck service of a vehicle, vessel, or

175 outboard motor that are transported in response to:

176 (A) a peace officer dispatch call;

177 (B) a motor vehicle division call; and

178 (C) any other call where the owner of the vehicle, vessel, or outboard motor has not

179 consented to the removal; and

180 (ii) impound yards may charge for the storage of a vehicle, vessel, or outboard motor

181 stored as a result of one of the conditions listed under Subsection (7)(a)(i);

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

184 (c) specify the form and content of the posting and disclosure of fees and rates charged
185 by a tow truck motor carrier or impound yard; and

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