

Senator Wayne A. Harper proposes the following substitute bill:

VEHICLE IMMOBILIZATION AND IMPOUND AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: R. Curt Webb

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions relating to vehicle impounds and vehicle immobilization devices.

Highlighted Provisions:

This bill:

- ▶ prohibits a vehicle immobilizer from charging a fee for the immobilization of a vehicle for any period in which the vehicle has been towed and custody of the vehicle has been transferred to a vehicle impound yard;
- ▶ provides that an impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:
 - the vehicle, vessel, or outboard motor is being held as evidence; and
 - the vehicle, vessel, or outboard motor is not being released to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor;
- ▶ provides that certain administrative rules made by the Department of Transportation are subject to the provision prohibiting an impound yard from charging a fee for the storage of an impounded vehicle, vessel, or outboard motor in certain



26 circumstances;

27 ▶ provides that a county or municipal legislative governing body may not charge a fee
28 for the storage of an impounded vehicle, vessel, or outboard motor if the county or
29 municipality:

- 30 • is holding the vehicle, vessel, or outboard motor as evidence; and
- 31 • will not release the vehicle, vessel, or outboard motor to the registered owner,
32 lien holder, or the owner's agent even if the registered owner, lien holder, or the
33 owner's agent satisfies the requirements to release the vehicle, vessel, or
34 outboard motor; and
- 35 ▶ makes technical corrections.

36 **Money Appropriated in this Bill:**

37 None

38 **Other Special Clauses:**

39 None

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **41-6a-1406**, as last amended by Laws of Utah 2013, Chapter 328

43 **41-6a-1409**, as last amended by Laws of Utah 2013, Chapter 328

44 **72-9-603**, as last amended by Laws of Utah 2013, Chapter 328

45 **72-9-604**, as last amended by Laws of Utah 2013, Chapter 328



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

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

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

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

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

57 impounded to:

58 (a) a state impound yard; or

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

60 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be

61 removed by a tow truck motor carrier that meets standards established:

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

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

64 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report

65 of the removal shall be sent to the Motor Vehicle Division by:

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

67 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
68 operator is employed.

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

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

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

73 (iii) the vehicle identification number or vessel or outboard motor identification
74 number;

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

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

77 (vi) the reason for removal or impoundment;

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

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

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

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

84 (ii) begin charging storage fees.

85 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
86 Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
87 outboard motor and any lien holder in the manner prescribed by Section [41-1a-114](#).

88 (b) The notice shall:

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

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

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

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

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

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

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

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

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

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

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

116 (iv) if the impoundment was made under Section [41-6a-527](#), pays an administrative
117 impound fee of \$350; and

118 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard

119 motor is stored.

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

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

124 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
125 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and

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

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

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

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

137 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
138 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)
139 or any service rendered, performed, or supplied in connection with a removal or impoundment
140 under Subsection (1).

141 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
142 impounded vehicle, vessel, or outboard motor if:

143 (i) the vehicle, vessel, or outboard motor is being held as evidence; and

144 (ii) the vehicle, vessel, or outboard motor is not being released to the registered owner,
145 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
146 satisfies the requirements to release the vehicle, vessel, or outboard motor under this
147 Subsection (6).

148 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
149 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in

150 accordance with that section and the proceeds, if any, shall be disposed of as provided under
151 Section 41-1a-1104.

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

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

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

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

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

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

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

169 (A) be reasonable and fair; and

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

171 Section 2. Section 41-6a-1409 is amended to read:

172 **41-6a-1409. Vehicle immobilization devices -- Definitions -- Notice requirements**
173 **-- Maximum removal fee.**

174 (1) As used in this section:

175 (a) "Immobilize" means to affix and lock a vehicle immobilization device to the
176 exterior of a motor vehicle.

177 (b) "Vehicle immobilization device" means a device that may be affixed and locked to
178 the exterior of a motor vehicle for the purpose of prohibiting the movement or removal of the
179 vehicle from its location.

180 (c) "Vehicle immobilizer" means a person who or entity that uses or causes to be used

181 a vehicle immobilization device for the purpose of enforcing parking restrictions with prior
182 authorization from the owner or person in lawful possession or control of the real property.

183 (2) (a) A vehicle immobilizer may not immobilize a vehicle without the motor vehicle
184 owner's knowledge at either of the following locations without signage that meets the
185 requirements of Subsection (2)(b):

186 (i) a mobile home park as defined in Section 57-16-3; or

187 (ii) a multifamily dwelling of more than eight units.

188 (b) Signage under Subsection (2)(a) shall display:

189 (i) where parking is subject to being immobilized; and

190 (ii) one of the following:

191 (A) the name and phone number of the vehicle immobilizer that immobilizes a vehicle
192 for the locations listed under Subsection (2)(a)(i); or

193 (B) the name of the mobile home park or multifamily dwelling and the phone number
194 of the mobile home park or multifamily dwelling manager or management office that
195 authorized the vehicle immobilizer to immobilize the motor vehicle.

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

197 (i) that is prohibited by law; or

198 (ii) if it is reasonably apparent that the location is not open to parking.

199 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
200 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
201 parking.

202 (3) (a) Upon immobilizing a vehicle, the vehicle immobilizer shall affix a notice to the
203 immobilized vehicle in a conspicuous place so as to be plainly visible to a person seeking to
204 operate the vehicle.

205 (b) The notice under Subsection (3)(a) shall include:

206 (i) the name and phone number of the vehicle immobilizer;

207 (ii) a phone number that the owner of the vehicle may call to arrange for release of the
208 vehicle; and

209 (iii) applicable fees.

210 (4) (a) The maximum fee that a vehicle immobilizer may charge to remove a vehicle
211 immobilization device may not exceed:

212 (i) \$75 for the first 24-hour period a vehicle is immobilized; plus
213 (ii) \$25 for each additional 24-hour period a vehicle is immobilized.

214 (b) Notwithstanding Subsection (4)(a), the maximum fee that a vehicle immobilizer
215 may charge to remove a vehicle immobilization device may not exceed \$150 for each instance.

216 (c) A vehicle immobilizer may not charge a fee for the removal of a vehicle
217 immobilization device or any service rendered, performed, or supplied in connection with the
218 removal of the immobilization device in addition to the fees specified under this Subsection
219 (4).

220 (d) A vehicle immobilizer may not charge a fee under this Subsection (4) for the
221 immobilization of a vehicle for any period in which the vehicle has been towed and custody of
222 the vehicle has been transferred to a vehicle impound yard.

223 ~~[(d)]~~ (e) A vehicle immobilizer shall accept payment by cash and debit or credit card
224 for the removal of a vehicle immobilization device or any service rendered, performed, or
225 supplied in connection with the removal of the immobilization device.

226 (5) A county or municipal legislative or governing body may not enact or enforce any
227 ordinance, regulation, rule, or fee pertaining to a vehicle immobilization device that conflicts
228 with this part.

229 Section 3. Section **72-9-603** is amended to read:

230 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
231 **vehicle title restrictions -- Rules for maximum rates and certification.**

232 (1) Except for a tow truck service that was ordered by a peace officer, or a person
233 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
234 truck service that is being done without the vehicle, vessel, or outboard motor owner's
235 knowledge, the tow truck operator or the tow truck motor carrier shall:

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

238 (i) send a report of the removal to the Motor Vehicle Division that complies with the
239 requirements of Subsection [41-6a-1406\(4\)\(b\)](#); and

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

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

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

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

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

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

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

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

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

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

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

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

261 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

262 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
263 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
264 Towing established by the department in Subsection (7)(e).

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

268 (i) collect any fee associated with the removal; or

269 (ii) begin charging storage fees.

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

- 274 (A) a mobile home park as defined in Section 57-16-3; or
275 (B) a multifamily dwelling of more than eight units.
276 (ii) Signage under Subsection (2)(b)(i) shall display:
277 (A) where parking is subject to towing; and
278 (B) (I) the Internet website address that provides access to towing database information
279 in accordance with Section 41-6a-1406; or
280 (II) one of the following:
281 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier
282 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or
283 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
284 of the mobile home park or multifamily dwelling manager or management office that
285 authorized the vehicle, vessel, or outboard motor to be towed.
286 (c) Signage is not required under Subsection (2)(b) for parking in a location:
287 (i) that is prohibited by law; or
288 (ii) if it is reasonably apparent that the location is not open to parking.
289 (d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined
290 in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on
291 parking.
292 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
293 responsible for paying:
294 (a) the tow truck service and storage fees set in accordance with Subsection (7); and
295 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.
296 (4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life
297 essential items that are owned by the owner of the vehicle and securely stored by the tow truck
298 operator, vessel, or outboard motor until paid.
299 (5) A person may not request a transfer of title to an abandoned vehicle until at least 30
300 days after notice has been sent under Subsection (1)(b).
301 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
302 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
303 and storage of a vehicle in accordance with rules established under Subsection (7).
304 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept

305 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
306 service rendered, performed, or supplied in connection with a tow truck service under
307 Subsection (1).

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

310 (a) subject to the restriction in Subsection (8), set maximum rates that:

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

313 (A) a peace officer dispatch call;

314 (B) a motor vehicle division call; and

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

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

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

321 (c) specify the form and content of the posting and disclosure of fees and rates charged
322 and acceptable forms of payment by a tow truck motor carrier or impound yard;

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

327 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
328 specific information regarding:

329 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

330 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
331 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
332 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
333 removal; and

334 (iii) identifies the maximum rates that an impound yard may charge for the storage of
335 vehicle, vessel, or outboard motor that is transported in response to a call or request where the

336 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

337 ~~[(8) By August 31, 2013, the department shall report and make recommendations to the~~
338 ~~Transportation Interim Committee regarding:]~~

339 ~~[(a) the methods the department uses to set maximum rates of fees established by the~~
340 ~~department under Subsection (7);]~~

341 ~~[(b) the methods used by other entities to set maximum rates of fees equivalent to the~~
342 ~~fees established by the department under Subsection (7); and]~~

343 ~~[(c) administering state laws and rules pertaining to towing including the procedures~~
344 ~~for tow truck motor carrier violations:]~~

345 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
346 vessel, or outboard motor if:

347 (a) the vehicle, vessel, or outboard motor is being held as evidence; and

348 (b) the vehicle, vessel, or outboard motor is not being released to the registered owner,
349 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
350 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
351 41-6a-1406.

352 Section 4. Section **72-9-604** is amended to read:

353 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

354 (1) [A] (a) Except as provided in Subsection (1)(b), a county or municipal legislative
355 or governing body may enact or enforce any ordinance, regulation, or rule pertaining to a tow
356 truck or tow truck motor carrier that does not conflict with this part.

357 (b) A county or municipal legislative governing body may not charge a fee for the
358 storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

359 (i) is holding the vehicle, vessel, or outboard motor as evidence; and

360 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien
361 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
362 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
363 41-6a-1406.

364 (2) A tow truck motor carrier that has a county or municipal business license for a
365 place of business located within that county or municipality may not be required to obtain
366 another business license in order to perform a tow truck service in another county or

367 municipality if there is not a business location in the other county or municipality.

368 (3) A county or municipal legislative body may require an annual tow truck safety
369 inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

370 (a) no fee is charged for the inspection; and

371 (b) the inspection complies with federal motor carrier safety regulations.

372 (4) A tow truck shall be subject to only one annual safety inspection under Subsection

373 (3). A county or municipality that requires the additional annual safety inspection shall accept
374 the same inspection performed by another county or municipality.