

TRANSPORTATION REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to transportation issues.

Highlighted Provisions:

This bill:

► 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 shall prohibit an impound yard from charging 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 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;

- 35 ▶ provides that a division, municipality, county, or airport authority operating an
36 international airport in a county of the first class may not exercise the authority
37 conferred to an airport to regulate transportation outside the geographical limits of
38 the airport;

- 39 ▶ provides that a municipality, county, or airport authority operating an airport in a
40 county of the first class as an international airport shall have a minimum number of
41 vendors that provide short-term leases and rentals of motor vehicles and are
42 operating at a location on the airport premises; and

- 43 ▶ makes technical corrections.

44 **Money Appropriated in this Bill:**

45 None

46 **Other Special Clauses:**

47 This bill provides revisor instructions.

48 **Utah Code Sections Affected:**

49 AMENDS:

50 [41-6a-1406](#), as last amended by Laws of Utah 2013, Chapter 328

51 [72-9-603](#), as last amended by Laws of Utah 2013, Chapter 328

52 [72-9-604](#), as last amended by Laws of Utah 2013, Chapter 328

53 [72-10-203](#), as renumbered and amended by Laws of Utah 1998, Chapter 270

54 ENACTS:

55 [72-10-216](#), Utah Code Annotated 1953

56 **Utah Code Sections Affected by Revisor Instructions:**

57 [72-10-203](#), as renumbered and amended by Laws of Utah 1998, Chapter 270

58

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

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

61 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
62 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

70 (a) a state impound yard; or

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

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

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

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

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

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

79 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
80 operator is employed.

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

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

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

85 (iii) the vehicle identification number or vessel or outboard motor identification
86 number;

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

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

89 (vi) the reason for removal or impoundment;

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

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

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

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

96 (ii) begin charging storage fees.

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

100 (b) The notice shall:

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

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

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

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

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

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

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

- 121 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered
122 owner, lien holder, or the owner's agent:
- 123 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
124 the State Tax Commission;
- 125 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
126 vessel, or outboard motor;
- 127 (iii) completes the registration, if needed, and pays the appropriate fees;
- 128 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
129 impound fee of \$350; and
- 130 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
131 motor is stored.
- 132 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
133 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;
- 134 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
135 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;
- 136 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
137 be deposited in the Traumatic Spinal Cord and Brain Injury Rehabilitation Fund; and
- 138 (iv) the remainder of the administrative impound fee assessed under Subsection
139 (6)(a)(iv) shall be deposited in the General Fund.
- 140 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
141 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 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
150 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)
151 or any service rendered, performed, or supplied in connection with a removal or impoundment

152 under Subsection (1).

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

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

156 (ii) the vehicle, vessel, or outboard motor is not being released to the registered owner,
157 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
158 satisfies the requirements to release the vehicle, vessel, or outboard motor under Subsection
159 (6).

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

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

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

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

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

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

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

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

181 (A) be reasonable and fair; and

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

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

184 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
185 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

213 (v) a description, including its identification number and license number or other

214 identification number issued by a state agency; and

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

216 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was

217 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding

218 Towing established by the department in Subsection (7)(e).

219 (2) (a) Until the tow truck operator or tow truck motor carrier reports the removal as

220 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound

221 yard may not:

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

223 (ii) begin charging storage fees.

224 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor

225 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor

226 owner's or a lien holder's knowledge at either of the following locations without signage that

227 meets the requirements of Subsection (2)(b)(ii):

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

229 (B) a multifamily dwelling of more than eight units.

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

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

232 (B) (I) the Internet website address that provides access to towing database information

233 in accordance with Section 41-6a-1406; or

234 (II) one of the following:

235 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier

236 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

237 (Bb) the name of the mobile home park or multifamily dwelling and the phone number

238 of the mobile home park or multifamily dwelling manager or management office that

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

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

241 (i) that is prohibited by law; or

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

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

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

245 parking.

246 (3) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
247 responsible for paying:

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

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

250 (4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life
251 essential items that are owned by the owner of the vehicle and securely stored by the tow truck
252 operator, vessel, or outboard motor until paid.

253 (5) A person may not request a transfer of title to an abandoned vehicle until at least 30
254 days after notice has been sent under Subsection (1)(b).

255 (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
256 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
257 and storage of a vehicle in accordance with rules established under Subsection (7).

258 (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
259 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
260 service rendered, performed, or supplied in connection with a tow truck service under
261 Subsection (1).

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

264 (a) subject to Subsection (8), set maximum rates that:

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

267 (A) a peace officer dispatch call;

268 (B) a motor vehicle division call; and

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

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

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

275 (c) specify the form and content of the posting and disclosure of fees and rates charged

276 and acceptable forms of payment by a tow truck motor carrier or impound yard;

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

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

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

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

288 (iii) identifies the maximum rates that an impound yard may charge for the storage of
289 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
290 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

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

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

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

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

299 (8) The rules made by the department under Subsection (8) shall prohibit an impound
300 yard from charging a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

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

302 (b) the vehicle, vessel, or outboard motor is not being released to the registered owner,
303 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
304 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
305 [41-6a-1406](#).

306 Section 3. Section **72-9-604** is amended to read:

307 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

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

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

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

314 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien
315 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
316 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
317 41-6a-1406.

318 (2) A tow truck motor carrier that has a county or municipal business license for a
319 place of business located within that county or municipality may not be required to obtain
320 another business license in order to perform a tow truck service in another county or
321 municipality if there is not a business location in the other county or municipality.

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

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

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

326 (4) A tow truck shall be subject to only one annual safety inspection under Subsection
327 (3). A county or municipality that requires the additional annual safety inspection shall accept
328 the same inspection performed by another county or municipality.

329 Section 4. Section 72-10-203 is amended to read:

330 **72-10-203. Division, municipality, counties, and airport authorities authorized to**
331 **acquire and regulate airports.**

332 (1) The division [~~and municipalities, counties, and airport authorities may~~], a
333 municipality, a county, or an airport authority may:

334 (a) acquire, establish, construct, expand, own, lease, control, equip, improve, maintain,
335 operate, regulate, and police airports for the use of aircraft; and [may]

336 (b) use for [these] the purposes described in Subsection (1)(a) any available property
337 that is owned or controlled by the division [or by], a municipality, a county, or an airport

338 authority.

339 (2) (a) The division, a municipality, a county, or an airport authority operating an
340 international airport in a county of the first class may not exercise the authority conferred in
341 Subsection (1), Subsection 72-10-207(1), or Section 10-8-8 to regulate transportation by a
342 ground transportation vehicle or service, common carrier, or motor carrier outside of the
343 geographical limits of the airport.

344 (b) The restriction under Subsection (2)(a) applies to:

345 (i) an ordinance;

346 (ii) a regulation, including a regulation established by a request for proposal; or

347 (iii) an establishment of a charge, whether the charge is established through a fee, toll,
348 minimum annual guarantee, or other requirement.

349 (c) The provisions of this Subsection (2) do not affect any contract entered into by the
350 division, a municipality, a county, or an airport authority before the effective date of this bill.

351 ~~[(2)]~~ (3) A county may not exercise the authority conferred in this section outside of its
352 geographical limits except jointly with an adjoining county.

353 Section 5. Section **72-10-216** is enacted to read:

354 **72-10-216. Requirements for operations of international airport in a county of the**
355 **first class.**

356 A municipality, county, or airport authority operating an airport in a county of the first
357 class as an international airport shall have at least nine vendors that:

358 (1) provide short-term leases and rentals of motor vehicles not exceeding 30 days; and

359 (2) are operating at a location on the airport premises.

360 Section 6. **Revisor instructions.**

361 The Legislature intends that the Office of Legislative Research and General Counsel, in
362 preparing the Utah Code database for publication, replace the language in Subsection
363 72-10-203(2)(c) from "the effective date of this bill" with the bill's actual effective date.

Legislative Review Note

as of 2-21-14 11:58 AM

Office of Legislative Research and General Counsel