

HB0086S01 compared with HB0086

~~{deleted text}~~ shows text that was in HB0086 but was deleted in HB0086S01.

inserted text shows text that was not in HB0086 but was inserted into HB0086S01.

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Representative Fred C. Cox proposes the following substitute bill:

VEHICLE IMPOUND AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lee B. Perry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Motor ~~{Vehicle Act}~~Vehicles Code by amending provisions relating to vehicle impoundment.

Highlighted Provisions:

This bill:

- ▶ provides that the Motor Vehicle Division or a peace officer may seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle except in certain circumstances:
- ▶ provides that the Motor Vehicle Division or any peace officer, without a warrant, may seize and take possession of any vehicle, vessel, or outboard motor:
 - whose operator is operating the vehicle and has never been issued a valid driver license; or

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- whose operator is operating the vehicle with a suspended or revoked driver license or with a driver license that has been expired for more than one year;
- ▶ authorizes a peace officer to release a vehicle that is subject to impoundment to another licensed driver in certain circumstances; and
- ▶ repeals the requirement that the Motor Vehicle Division or a peace officer shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle except in certain circumstances;
- ▶ repeals the provisions that provide that money in the Uninsured Motorist Identification Restricted Account shall be appropriated to the Department of Public Safety to reimburse a person for the costs of towing and storing the person's vehicle in certain circumstances;
- ▶ repeals the requirement that the Department of Public Safety shall hold a hearing to determine whether a vehicle was wrongfully impounded;
- ▶ repeals the Department of Public Safety's rulemaking authority to make rules establishing procedures for a person to apply for a reimbursement; and
- ▶ makes technical ~~{corrections}~~ and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-1101, as last amended by Laws of Utah 2014, Chapter 382

41-1a-1103, as last amended by Laws of Utah 2014, Chapter 382

41-12a-806, as last amended by Laws of Utah 2014, Chapter 382

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

Section 1. Section **41-1a-1101** is amended to read:

41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.

(1) (a) The division or any peace officer, without a warrant, may seize and take

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possession of any vehicle, vessel, or outboard motor:

~~[(a)]~~ [(i)] that the division or the peace officer has reason to believe has been stolen;

~~[(b)]~~ [(ii)] on which any identification number has been defaced, altered, or obliterated;

~~[(c)]~~ [(iii)] that has been abandoned in accordance with Section 41-6a-1408;

~~[(d)]~~ [(iv)] for which the applicant has written a check for registration or title fees that has not been honored by the applicant's bank and that is not paid within 30 days;

~~[(e)]~~ [(v)] that is placed on the water with improper registration;

~~[(f)]~~ [(vi)] that is being operated on a highway:

~~[(i)]~~ [(A)] with registration that has been expired for more than three months;

~~[(ii)]~~ [(B)] having never been properly registered by the current owner; ~~[(or)]~~

~~[(iii)]~~ [(C)] with registration that is suspended or revoked; or

[(D)] subject to the restriction in Subsection (1)(c), without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301;

~~[(or)]~~ ~~[(g)]~~ ~~[(i)]~~ [(v)] [(A)] that the division or the peace officer has reason to believe has been involved in an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and

~~[(ii)]~~ [(B)] whose operator did not remain at the scene of the accident until the operator fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7[-];

~~[(h)]~~ [(vi)] whose operator is operating the vehicle and has never been issued a valid driver license; or

~~[(i)]~~ [(vii)] whose operator is operating the vehicle:

~~[(i)]~~ [(A)] with a suspended or revoked driver license; or

~~[(i)]~~ [(B)] with a driver license that has been expired for more than one year.

~~[(2)]~~ ~~[(a)]~~ Subject to the restriction in Subsection (2)(b), the division or any peace officer, without a warrant, shall seize and take possession of any vehicle that is being operated on a highway without owner's or operator's security in effect for the vehicle as required under Section 41-12a-301 unless the division or any peace officer makes a reasonable determination that:

~~[(i)]~~ the seizure of the vehicle would present a public safety concern to the operator or any of the occupants in the vehicle; or

~~[(ii)]~~ the impoundment of the vehicle would prevent the division or the peace officer from addressing other public safety considerations. ~~[(f)]~~

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~~(b)}~~

(b) Notwithstanding Subsection (1)(a), a peace officer may release a vehicle that is subject to impoundment under Subsection (1)(a)(vi) or (vii) to another licensed driver who:

(i) (A) is in the vehicle; or

(B) is otherwise available within a reasonably short period of time; and

(ii) can legally operate the vehicle on a highway.

~~(b) (c)~~ The division or any peace officer may not seize and take possession of a vehicle under Subsection ~~(2)(a): { } (i)~~ (1)(a)(vi)(D) if the operator of the vehicle is not carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803~~; or~~

~~(ii) if the operator of the vehicle is carrying evidence of owner's or operator's security as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's security is not in effect for the vehicle, unless the division or a peace officer makes a reasonable attempt to independently verify that owner's or operator's security is not in effect for the vehicle.~~

~~}~~

~~(3) (2)~~ If necessary for the transportation of a seized vessel, the vessel's trailer may be seized to transport and store the vessel.

~~(4) (3)~~ Any peace officer seizing or taking possession of a vehicle, vessel, or outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

~~(5) (4)~~ (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules setting standards for public garages, impound lots, and impound yards that may be used by peace officers and the division.

(b) The standards shall be equitable, reasonable, and unrestrictive as to the number of public garages, impound lots, or impound yards per geographical area.

~~(6) (5)~~ (a) Except as provided under Subsection ~~(6) (5)~~(b), a person may not operate or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated under this part without prior written permission of the owner of the vehicle.

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(b) Incidental and necessary operation of a vehicle to move the vehicle from one parking space to another within the facility and that is necessary for the normal management of the facility is not prohibited under Subsection ~~[(6)](5)(a)~~.

~~[(7)](6)~~ A person who violates the provisions of Subsection ~~[(6)](5)~~ is guilty of a class C misdemeanor.

~~[(8)](7)~~ The division or the peace officer who seizes a vehicle shall record the mileage shown on the vehicle's odometer at the time of seizure, if:

- (a) the vehicle is equipped with an odometer; and
- (b) the odometer reading is accessible to the division or the peace officer.

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~~Legislative Review Note as of 1-2-15 10:37 AM~~

~~Office of Legislative Research and General Counsel; Section 2. Section 41-1a-1103 is amended to read:~~

41-1a-1103. Sale.

(1) If the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 30 days from the date of seizure, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall sell the vehicle, vessel, or outboard motor.

(2) The sale shall:

(a) be held in the form of a public auction at the place of storage; and

(b) at the discretion of the division, be conducted by:

(i) an authorized representative of the division; or

(ii) a public garage, impound lot, or impound yard that:

(A) is authorized by the division;

(B) meets the standards under Subsection 41-1a-1101~~[(5)](4)~~; and

(C) complies with the requirements of Section 72-9-603.

(3) At least five days prior to the date set for sale, the division shall publish a notice of sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or outboard motor to be sold:

(a) on the division's website; and

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(b) as required in Section 45-1-101.

(4) At the time of sale the division or other person authorized to conduct the sale shall tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the vehicle, vessel, or outboard motor.

(5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this section shall be distributed as provided under Section 41-1a-1104.

(6) If the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall renotify the owner or lienholder and sell the vehicle, vessel, or outboard motor, in accordance with this section, 30 days from the date of the notice.

Section 3. Section 41-12a-806 is amended to read:

41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.

(1) There is created within the Transportation Fund a restricted account known as the "Uninsured Motorist Identification Restricted Account."

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

(a) money received by the state under Section 41-1a-1218, the uninsured motorist identification fee;

(b) money received by the state under Section 41-1a-1220; and

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

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

(b) All interest earned on account money shall be deposited into the account.

(4) Money shall be appropriated from the account by the Legislature to:

(a) the department to fund the contract with the designated agent;

(b) the department to offset the costs to state and local law enforcement agencies of using the information for the purposes authorized under this part; and

(c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking and reinstating vehicle registrations under Subsection 41-1a-110(2)(a)(ii) ~~and~~.

~~(d) the department to reimburse a person for the costs of towing and storing the person's vehicle if:~~

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~~[(i) the person's vehicle was impounded in accordance with Subsection 41-1a-1101(2);]~~

~~[(ii) the impounded vehicle had owner's or operator's security in effect for the vehicle at the time of the impoundment;]~~

~~[(iii) the database indicated that owner's or operator's security was not in effect for the impounded vehicle; and]~~

~~[(iv) the department determines that the person's vehicle was wrongfully impounded;]~~

~~[(5)(a) By following the procedures in Title 63G, Chapter 4, Administrative Procedures Act, the department shall hold a hearing to determine whether a person's vehicle was wrongfully impounded under Subsection 41-1a-1101(2);]~~

~~[(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for a person to apply for a reimbursement under Subsection (4)(d);]~~

~~[(c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the person applies for the reimbursement within six months from the date that the motor vehicle was impounded;]~~