

Representative Kim Coleman proposes the following substitute bill:

VEHICLE TOWING AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to tow truck operations.

Highlighted Provisions:

This bill:

- ▶ enacts provisions requiring tow truck drivers to have a criminal background check before performing tow truck services; and
- ▶ enacts provisions related to towing vehicles from privately owned lots.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-1407, as renumbered and amended by Laws of Utah 2005, Chapter 2

72-9-601, as last amended by Laws of Utah 2005, Chapter 2

72-9-602, as last amended by Laws of Utah 2009, Chapter 183

72-9-603, as last amended by Laws of Utah 2014, Chapter 249

72-9-604, as last amended by Laws of Utah 2014, Chapter 249



26 ENACTS:

27 [72-9-602.5](#), Utah Code Annotated 1953



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

30 Section 1. Section **41-6a-1407** is amended to read:

31 **41-6a-1407. Removal of unattended vehicles prohibited without authorization --**
32 **Penalties.**

33 (1) In cases not amounting to burglary or theft of a vehicle, a person may not remove
34 an unattended vehicle without prior authorization of:

- 35 (a) a peace officer;
- 36 (b) a law enforcement agency;
- 37 (c) a highway authority having jurisdiction over the highway on which there is an
38 unattended vehicle; or
- 39 (d) the owner or person in lawful possession or control of the real property.

40 (2) (a) An authorization from a person specified under Subsection (1)(a), (b), or (c)
41 shall be in a form specified by the Motor Vehicle Division.

42 (b) The removal of the unattended vehicle shall comply with requirements of Section
43 [41-6a-1406](#).

44 (3) The removal of the unattended vehicle authorized under Subsection (1)(d) shall
45 comply with the requirements of [Section] Sections [72-9-602.5](#) and [72-9-603](#).

46 (4) A person who violates Subsection (1) or (3) is guilty of a class C misdemeanor.

47 Section 2. Section **72-9-601** is amended to read:

48 **72-9-601. Tow truck motor carrier requirements -- Authorized towing**
49 **certificates.**

50 (1) In addition to the requirements of this chapter, a tow truck motor carrier shall:

- 51 (a) ensure that all the motor carrier's tow truck drivers are properly:
 - 52 (i) trained to operate tow truck equipment;
 - 53 (ii) licensed, as required under Title 53, Chapter 3, Uniform Driver License Act; [~~and~~]
 - 54 (iii) certified, as described in Section [72-9-602](#); and
 - 55 [~~(iii)~~] (iv) complying with the requirements under Sections [41-6a-1406](#) and [72-9-603](#);
 - 56 [~~and~~]

57 (b) ensure that employees of the tow truck motor carrier have cleared the criminal
58 background check as described in Subsections 72-9-602(3) through (6); and

59 ~~[(b)]~~ (c) obtain and display a current authorized towing certificate for the tow truck
60 motor carrier, and each tow truck and driver, as required under Section 72-9-602.

61 (2) A tow truck motor carrier may only perform a towing service described in Section
62 41-6a-1406, 41-6a-1407, or 72-9-603, with a tow truck and driver that has a current authorized
63 towing certificate under this part.

64 Section 3. Section 72-9-602 is amended to read:

65 **72-9-602. Towing inspections, investigations, and certification -- Equipment**
66 **requirements -- Consumer information.**

67 (1) (a) The department shall inspect, investigate, and certify tow truck motor carriers,
68 tow trucks, and tow truck drivers to ensure compliance with this chapter and compliance with
69 Sections 41-6a-1406 and 41-6a-1407.

70 (b) The inspection, investigation, and certification shall be conducted prior to any tow
71 truck operation and at least every two years thereafter.

72 (c) (i) The department shall issue an authorized towing certificate for each tow truck
73 motor carrier, tow truck, and driver that complies with this part.

74 (ii) The certificate shall expire two years from the month of issuance.

75 (d) The department may charge a biennial fee established under Section 63J-1-504 to
76 cover the cost of the inspection, investigation, and certification required under this part.

77 (2) The department shall make consumer protection information available to the public
78 that may use a tow truck motor carrier.

79 (3) (a) At the tow truck driver's expense, a tow truck driver shall obtain a criminal
80 background check of Utah criminal history from the Bureau of Criminal Identification, and
81 provide a copy of the criminal background check to the department.

82 (b) The department shall ensure that a tow truck driver has submitted the criminal
83 background check described in this Subsection (3) as a condition of the tow truck driver's
84 initial and biennial certification.

85 (c) The department may deny a tow truck driver's certification if the tow truck driver
86 has been convicted of any felony offense within the previous five years that involves a motor
87 vehicle, fraud, or theft.

88 (4) (a) An employee of a tow truck motor carrier who has access to a motor vehicle,
89 vessel, or outboard motor that has been towed shall obtain a criminal background check of
90 Utah criminal history from the Bureau of Criminal Identification, and provide a copy of the
91 criminal background check to the department.

92 (b) The department shall ensure that each tow truck motor carrier employee described
93 in Subsection (4)(a) has submitted the criminal background check described in this Subsection
94 (3) as a condition of the tow truck motor carrier's certification.

95 (c) The department may deny a tow truck motor carrier's certification if the tow truck
96 motor carrier has not terminated an employee, described in Subsection (4)(a), who has been
97 convicted of any felony offense within the previous five years that involves a motor vehicle,
98 fraud, or theft.

99 (5) The department may deny a tow truck motor carrier's certification if the department
100 has evidence that a tow truck motor carrier's tow truck driver is not providing copies of the
101 Utah Consumer Bill of Rights Regarding Towing to owners, as described in Subsection
102 72-9-603(1)(c).

103 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
104 department shall make rules governing the inspection, investigation, and certification
105 procedures described in this section.

106 Section 4. Section **72-9-602.5** is enacted to read:

107 **72-9-602.5. Towing from privately owned lot -- Notice requirements.**

108 (1) Except as provided in Subsection (4), a tow truck driver may not tow a vehicle,
109 vessel, or outboard motor from a privately owned lot, without the vehicle, vessel, or outboard
110 motor owner's consent, unless:

111 (a) the tow truck driver or tow truck motor carrier has entered into a contract with the
112 private lot owner or the private lot owner's lessee for tow truck services on the lot; and

113 (b) the private lot owner or the private lot owner's lessee erects:

114 (i) a physical barricade that prevents vehicular access to the lot; or

115 (ii) two signs at each vehicular entrance to the lot, as described in Subsection (2).

116 (2) (a) Each sign shall be posted, one beneath the other, and shall have reflective
117 lettering that can be read at a distance of 25 feet.

118 (b) The top sign shall be 18 inches wide by 24 inches high and shall state in red

119 lettering:

120 (i) who is allowed to park in the lot;

121 (ii) the name and telephone number of the tow truck motor carrier; and

122 (iii) the website address, "tow.utah.gov."

123 (c) The bottom sign shall be 18 inches wide by 18 inches high and shall have a blue
124 towing symbol, as described in Subsection (3).

125 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
126 department shall:

127 (a) create an image of the blue towing symbol, to be displayed on a sign described in
128 Subsection (2)(c), that depicts a tow truck with a hook; and

129 (b) post an example of the blue towing symbol on the department's website.

130 (4) A private property owner of a privately owned lot, who does not have a physical
131 barricade or signs posted as described in Subsections (1) through (3), may remove an
132 unattended vehicle, vessel, or outboard motor from the lot according to the following
133 procedure:

134 (a) the private property owner shall call a certified tow truck motor carrier to remove
135 the vehicle, vessel, or outboard motor from the privately owned lot;

136 (b) the private property owner shall enter into a single tow agreement with the tow
137 truck motor carrier to remove the vehicle, vessel, or outboard motor from the privately owned
138 lot;

139 (c) the tow truck motor carrier shall affix a notice to the vehicle, vessel, or outboard
140 motor in a conspicuous place warning the owner of the vehicle, vessel, or outboard motor that
141 if the owner does not remove the vehicle, vessel, or outboard motor from the private property
142 within 24 hours, the vehicle, vessel, or outboard motor will be towed to an impound lot; and

143 (d) the tow truck motor carrier shall wait for the 24 hours to expire, and if the owner of
144 the vehicle, vessel or outboard motor has not removed the vehicle, vessel, or outboard motor
145 from the privately owned lot, the tow truck motor carrier shall remove the vehicle, vessel, or
146 outboard motor as described in Section [72-9-603](#).

147 Section 5. Section **72-9-603** is amended to read:

148 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
149 **vehicle title restrictions -- Rules for maximum rates and certification.**

150 (1) Except for a tow truck service that was ordered by a peace officer, or a person
151 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow
152 truck service that is being done without the vehicle, vessel, or outboard motor owner's
153 knowledge, the tow truck [~~operator~~] driver or the tow truck motor carrier shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
 182 Towing established by the department in Subsection (7)(e).

183 (2) ~~[(a)]~~ Until the tow truck ~~[operator]~~ driver or tow truck motor carrier reports the
 184 removal as required under Subsection (1)(a), a tow truck ~~[operator]~~ driver, tow truck motor
 185 carrier, or impound yard may not:

186 ~~[(i)]~~ (a) collect any fee associated with the removal; or

187 ~~[(ii)]~~ (b) begin charging storage fees.

188 ~~[(b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck~~
 189 ~~motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard~~
 190 ~~motor owner's or a lien holder's knowledge at either of the following locations without signage~~
 191 ~~that meets the requirements of Subsection (2)(b)(i):]~~

192 ~~[(A) a mobile home park as defined in Section 57-16-3; or]~~

193 ~~[(B) a multifamily dwelling of more than eight units.]~~

194 ~~[(ii) Signage under Subsection (2)(b)(i) shall display:]~~

195 ~~[(A) where parking is subject to towing; and]~~

196 ~~[(B) (I) the Internet website address that provides access to towing database~~
 197 ~~information in accordance with Section 41-6a-1406; or]~~

198 ~~[(H) one of the following:]~~

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

201 ~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone~~
 202 ~~number of the mobile home park or multifamily dwelling manager or management office that~~
 203 ~~authorized the vehicle, vessel, or outboard motor to be towed.]~~

204 ~~[(c) Signage is not required under Subsection (2)(b) for parking in a location:]~~

205 ~~[(i) that is prohibited by law; or]~~

206 ~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~

207 ~~[(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined~~
 208 ~~in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on~~
 209 ~~parking.]~~

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

212 (a) the tow truck service and storage fees set in accordance with Subsection (7); and
213 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.

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

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

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

222 (b) A tow truck ~~operator~~ driver, a tow truck motor carrier, and an impound yard shall
223 accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or
224 any service rendered, performed, or supplied in connection with a tow truck service under
225 Subsection (1).

226 (c) A tow truck driver, a tow truck motor carrier, or an impound yard may charge a 3%
227 credit card processing fee.

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

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

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

233 (A) a peace officer dispatch call;

234 (B) a motor vehicle division call; and

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

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

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

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

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

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

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

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

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

257 (8) A tow truck motor carrier or a tow truck driver may not charge fees that are not
258 expressly allowed in the Utah Consumer Bill of Rights Regarding Towing.

259 [~~8~~] (9) An impound yard may not charge a fee for the storage of an impounded
260 vehicle, vessel, or outboard motor if:

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

262 (b) the vehicle, vessel, or outboard motor is not being released to the registered owner,
263 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
264 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
265 [41-6a-1406](#).

266 (10) For a tow truck service of a vehicle, vessel, or outboard motor that was requested
267 without the consent of the owner, and that was not ordered by a peace officer, or a person
268 acting on behalf of a law enforcement agency, an impound yard shall make personnel available
269 24 hours a day, seven days a week, to release an impounded vehicle to the owner of the
270 impounded vehicle within two hours of when the owner calls the tow truck motor carrier.

271 (11) A complaint about a tow truck driver, a tow truck motor carrier, or an impound
272 yard, regardless of whether the complaint is made by an owner, a law enforcement officer or
273 agency, or a local government, shall be made to the department.

274 Section 6. Section 72-9-604 is amended to read:

275 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

276 (1) (a) [~~Except as provided in Subsection (1)(b), a]~~ A county or municipal legislative or
277 governing body may not enact or enforce any ordinance, regulation, or rule pertaining to a tow
278 truck or tow truck motor carrier that [~~does not conflict with~~] is not the same as the provisions
279 in this part, Section 41-6a-1406, Section 41-6a-1407, or rules made by the department under
280 this part or under Sections 41-6a-1401 through 41-6a-1408.

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

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

284 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien
285 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
286 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
287 41-6a-1406.

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

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

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

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

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

299 Section 7. **Effective date.**

300 This bill takes effect on May 12, 2015, except the amendments in this bill to Section
301 72-9-602 take effect on May 10, 2016.