

TOWING SURCHARGE AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to tow truck operations.

Highlighted Provisions:

This bill:

enacts a provision related to the collection of a credit card processing fee by a tow truck driver, a tow truck motor carrier, or an impound yard.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **72-9-603** is amended to read:

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

(1) Except for a tow truck service that was ordered by a peace officer, or a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow



28 truck service that is being done without the vehicle, vessel, or outboard motor owner's
29 knowledge, the tow truck operator or the tow truck motor carrier shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

63 (ii) begin charging storage fees.

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

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

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

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

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

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

74 (II) one of the following:

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

77 (Bb) the name of the mobile home park or multifamily dwelling and the phone number
78 of the mobile home park or multifamily dwelling manager or management office that
79 authorized the vehicle, vessel, or outboard motor to be towed.

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

81 (i) that is prohibited by law; or

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

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

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

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

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

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

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

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

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

102 ~~Ĥ→ [(c) A tow truck operator, a tow truck motor carrier, or an impound yard, when~~
 103 ~~receiving payment by credit card, may charge a credit card processing fee in an amount equal to~~
 104 ~~the lesser of:~~

105 ~~—— (i) the actual cost of processing the credit card transaction; or~~

106 ~~—— (ii) 3% of the transaction total.] ←Ĥ~~

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

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

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

112 (A) a peace officer dispatch call;

113 (B) a motor vehicle division call; and

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

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

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

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

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

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

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

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

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

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

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

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

139 (b) the vehicle, vessel, or outboard motor is not being released to the registered owner,
 140 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
 141 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
 142 [41-6a-1406](#).

142a **Ĥ→ (9) In addition to the maximum rates established under Subsection (7) and when**
 142b **receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an**
 142c **impound yard may charge a credit card processing fee in an amount equal to the lesser of:**
 142d **(a) the actual cost of processing the credit card transaction; or**
 142e **(b) 3% of the transaction total. ←Ĥ**

Legislative Review Note
Office of Legislative Research and General Counsel