

DUI ENFORCEMENT FUNDING AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Curtis S. Bramble

Cosponsor: Lee B. Perry

LONG TITLE

General Description:

This bill increases the administrative fee for impounding a vehicle.

Highlighted Provisions:

This bill:

- ▶ increases the administrative fee for impounding a vehicle due to an arrest, citation, or referral for administrative action for driving under the influence or reckless driving; and

- ▶ allocates the funds from the increased impound fee to the Department of Public Safety Restricted Account.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2017:

- ▶ to the Department of Public Safety - Highway Safety as a one-time appropriation:
 - from the Department of Public Safety Restricted Account, \$423,200.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2014, Chapter 249

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

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

30 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
31 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

- 39 (a) a state impound yard; or
- 40 (b) if none, a garage, docking area, or other place of safety.

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

- 43 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and
- 44 (b) by the department under Subsection (10).

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

- 47 (i) the peace officer or agency by whom the peace officer is employed; and
- 48 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
49 operator is employed.

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

- 52 (i) the operator's name, if known;
- 53 (ii) a description of the vehicle, vessel, or outboard motor;
- 54 (iii) the vehicle identification number or vessel or outboard motor identification
55 number;
- 56 (iv) the license number or other identification number issued by a state agency;

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

58 (vi) the reason for removal or impoundment;

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

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

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

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

65 (ii) begin charging storage fees.

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

69 (b) The notice shall:

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

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

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

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

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

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

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

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

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

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

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

97 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
98 impound fee of [~~\$350~~] \$400; and

99 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
100 motor is stored.

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

103 (ii) [~~\$97~~] \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv)
104 shall be deposited in the Department of Public Safety Restricted Account created in Section
105 53-3-106;

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

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

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

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

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

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

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

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

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

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

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

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

140 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,

141 or outboard motor.

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

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

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

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

151 (A) be reasonable and fair; and

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

153 Section 2. **Appropriation.**

154 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
155 the fiscal year beginning July 1, 2016, and ending June 30, 2017, the following sums of money
156 are appropriated from resources not otherwise appropriated, or reduced from amounts
157 previously appropriated, out of the funds or amounts indicated. These sums of money are in
158 addition to amounts previously appropriated for fiscal year 2017.

159 To Department of Public Safety - Highway Safety

160 From Department of Public Safety Restricted Account \$423,200

161 Schedule of Programs:

162 Highway Safety \$423,200

163 The Legislature intends that the appropriation under this section be used to carry out the
164 requirements described in Section [53-1-117](#).