

VEHICLE IMPOUND AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred C. Cox

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill modifies the Motor 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;

- ▶ 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; and

- ▶ makes technical 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



28 [41-1a-1103](#), as last amended by Laws of Utah 2014, Chapter 382

29 [41-12a-806](#), as last amended by Laws of Utah 2015, Chapter 109

30

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

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

33 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

34 (1) (a) The division or any peace officer, without a warrant, may seize and take
35 possession of any vehicle, vessel, or outboard motor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

73 ~~[(3)]~~ (2) If necessary for the transportation of a seized vessel, the vessel's trailer may be
74 seized to transport and store the vessel.

75 ~~[(4)]~~ (3) Any peace officer seizing or taking possession of a vehicle, vessel, or
76 outboard motor under this section shall comply with the provisions of Section 41-6a-1406.

77 ~~[(5)]~~ (4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
78 Act, the commission shall make rules setting standards for public garages, impound lots, and
79 impound yards that may be used by peace officers and the division.

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

82 ~~[(6)]~~ (5) (a) Except as provided under Subsection ~~[(6)]~~ (5)(b), a person may not operate
83 or allow to be operated a vehicle stored in a public garage, impound lot, or impound yard
84 regulated under this part without prior written permission of the owner of the vehicle.

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

88 ~~[(7)]~~ (6) A person who violates the provisions of Subsection ~~[(6)]~~ (5) is guilty of a
89 class C misdemeanor.

90 ~~[(8)]~~ (7) The division or the peace officer who seizes a vehicle shall record the mileage
91 shown on the vehicle's odometer at the time of seizure, if:

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

94 Section 2. Section **41-1a-1103** is amended to read:

95 **41-1a-1103. Sale.**

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

100 (2) The sale shall:

- 101 (a) be held in the form of a public auction at the place of storage; and
- 102 (b) at the discretion of the division, be conducted by:
 - 103 (i) an authorized representative of the division; or
 - 104 (ii) a public garage, impound lot, or impound yard that:
 - 105 (A) is authorized by the division;
 - 106 (B) meets the standards under Subsection **41-1a-1101**~~[(5)]~~(4); and
 - 107 (C) complies with the requirements of Section **72-9-603**.

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

- 111 (a) on the division's website; and
- 112 (b) as required in Section **45-1-101**.

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

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

118 (6) If the owner or lienholder of a vehicle, vessel, or outboard motor seized under
119 Section **41-1a-1101** and subsequently released by the division fails to take possession of the
120 vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30

121 days from the date of release, the division shall renotify the owner or lienholder and sell the
122 vehicle, vessel, or outboard motor, in accordance with this section, 30 days from the date of the
123 notice.

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

125 **41-12a-806. Restricted account -- Creation -- Funding -- Interest -- Purposes.**

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

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

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

131 (b) money received by the state under Section [41-1a-1220](#), the registration
132 reinstatement fee; and

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

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

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

136 (4) The Legislature shall appropriate money from the account to:

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

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

140 (c) the Tax Commission to offset the costs to the Motor Vehicle Division for revoking
141 and reinstating vehicle registrations under Subsection [41-1a-110\(2\)\(a\)\(ii\)](#); and

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

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

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

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

150 (iv) the department determines that the person's vehicle was wrongfully impounded.

151 (5) The Legislature may appropriate not more than \$500,000 annually from the account

152 to the Peace Officer Standards and Training Division, created under Section 53-6-103, for use
153 in law enforcement training, including training on the use of the Uninsured Motorist
154 Identification Database Program created under Title 41, Chapter 12a, Part 8, Uninsured
155 Motorist Identification Database Program.

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

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

162 (c) A person is not eligible for a reimbursement under Subsection (4)(d) unless the
163 person applies for the reimbursement within six months from the date that the motor vehicle
164 was impounded.

Legislative Review Note
Office of Legislative Research and General Counsel