

**VEHICLE TOWING AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: A. Cory Maloy**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends provisions related to tow truck operations.

**Highlighted Provisions:**

This bill:

- ▶ requires tow truck operators to have a criminal background check and valid medical examiner's certificate before performing tow truck operations;
- ▶ requires the Department of Transportation to make certain consumer protection information electronically available to the public;
- ▶ provides for circumstances where the Department of Transportation may suspend a tow truck motor carrier's and tow truck operator's authorized towing certificate;
- ▶ enacts provisions related to towing vehicles from privately owned lots;
- ▶ amends provisions related to certification of tow truck operators and tow truck motor carriers;
- ▶ creates the Towing Advisory Board to make recommendations regarding towing-related rules to:
  - the Department of Transportation;
  - the Department of Public Safety; and
  - the State Tax Commission;
- ▶ prohibits a member of the Towing Advisory Board from receiving compensation or reimbursement for expenses related to the member's service on the board; and



28           ▶ makes technical changes.

29 **Money Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           This bill provides a special effective date.

33 **Utah Code Sections Affected:**

34 AMENDS:

35           **41-6a-1407**, as last amended by Laws of Utah 2015, Chapter 412

36           **72-9-601**, as last amended by Laws of Utah 2005, Chapter 2

37           **72-9-602**, as last amended by Laws of Utah 2009, Chapter 183

38           **72-9-603**, as last amended by Laws of Utah 2016, Chapters 103 and 148

39           **72-9-604**, as last amended by Laws of Utah 2014, Chapter 249

40 ENACTS:

41           **72-9-602.5**, Utah Code Annotated 1953

42           **72-9-606**, Utah Code Annotated 1953



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

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

46           **41-6a-1407. Removal of unattended vehicles prohibited without authorization --**

47 **Penalties.**

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

50           (a) a peace officer;

51           (b) a law enforcement agency;

52           (c) a highway authority having jurisdiction over the highway on which there is an  
53 unattended vehicle; or

54           (d) the owner or person in lawful possession or control of the real property.

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

57           (b) The removal of the unattended vehicle shall comply with requirements of Section

58 **41-6a-1406.**

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

61 (4) A person who violates Subsection (1) or (3) is guilty of an infraction.

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

63 **72-9-601. Tow truck motor carrier requirements -- Authorized towing**  
64 **certificates.**

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

66 (a) ensure that all the tow truck motor carrier's tow truck [drivers] operators are  
67 properly:

68 (i) trained to operate tow truck equipment;

69 (ii) licensed, as required under Title 53, Chapter 3, Uniform Driver License Act; and

70 (iii) complying with the requirements under Sections 41-6a-1406 and 72-9-603; [and]

71 (b) ensure that all the tow truck motor carrier's tow truck operators:

72 (i) have cleared the criminal background check required in Subsections 72-9-602(2)

73 and (3); and

74 (ii) obtain and maintain a valid medical examiner's certificate under 49 C.F.R. Sec.

75 391.45; and

76 ~~(b)~~ (c) obtain and display a current authorized towing certificate for the tow truck  
77 motor carrier, and each tow truck and [driver] tow truck operator, as required under Section  
78 72-9-602.

79 (2) A tow truck motor carrier may only perform a towing service described in Section  
80 41-6a-1406, 41-6a-1407, or 72-9-603, with a tow truck and [driver] tow truck operator that has  
81 a current authorized towing certificate under this part.

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

83 **72-9-602. Towing inspections, investigations, and certification -- Equipment**  
84 **requirements -- Consumer information.**

85 (1) (a) The department shall inspect, investigate, and certify tow truck motor carriers,  
86 tow trucks, and tow truck [drivers] operators to ensure compliance with this chapter and  
87 compliance with Sections 41-6a-1406 and 41-6a-1407.

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

90 (c) (i) The department shall issue an authorized towing certificate for each tow truck  
91 motor carrier, tow truck, and [~~driver~~] tow truck operator that complies with this part and rules  
92 made by the department in accordance with Subsection (6).

93 (ii) The authorized towing certificate described in this section shall expire two years  
94 from the month of issuance.

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

97 (2) (a) To qualify for an authorized towing certificate described in Subsection (1), a  
98 tow truck operator shall:

99 (i) submit to a fingerprint-based criminal background check, as described in Subsection  
100 (3); and

101 (ii) obtain and maintain a valid medical examiner's certificate under 49 C.F.R. Sec.  
102 391.45.

103 (b) For each tow truck operator employed, a tow truck motor carrier shall:

104 (i) maintain records of the updated background checks and a valid medical examiner's  
105 certificate, as required under this section; and

106 (ii) biennially, make the records described in Subsection (2)(b)(i) available to the  
107 department.

108 (3) (a) Before a tow truck motor carrier may hire an individual as a tow truck operator  
109 and receive an authorized towing certificate from the department as required in Subsection (2),  
110 the tow truck motor carrier shall require the individual to submit to the Department of Public  
111 Safety:

112 (i) a fingerprint card in a form acceptable to the Department of Public Safety; and

113 (ii) consent to a state and regional fingerprint background check by the Bureau of  
114 Criminal Identification.

115 (b) The Bureau of Criminal Identification shall:

116 (i) check the fingerprints submitted under this section against the applicable state and  
117 regional criminal records databases;

118 (ii) report the results of the background check to the requesting tow truck motor carrier;

119 (iii) maintain a separate file of fingerprints submitted under this part for search by  
120 future submissions to the local and regional criminal records databases, including latent prints;

121 and

122 (iv) establish a privacy risk mitigation strategy to ensure that the entity only receives  
123 notifications for the individuals with whom the entity maintains an authorizing relationship.

124 (c) (i) For an individual hired as a tow truck operator after June 30, 2017, the  
125 department shall deny an individual's authorized towing certification, and the individual may  
126 not operate a tow truck in this state, if the individual has been convicted of any felony offense  
127 within the previous five years.

128 (ii) The department may deny or revoke the authorized towing certification of a tow  
129 truck motor carrier that employs an individual who fails to comply with the background check  
130 required in this section.

131 ~~[(2)]~~ (4) The department shall make [consumer protection information] available to the  
132 public [that may use a tow truck motor carrier] electronically accessible consumer protection  
133 information, including a list of all tow truck motor carriers that are currently certified by the  
134 department.

135 (5) The department may deny a tow truck motor carrier's certification if the department  
136 has evidence that a tow truck motor carrier's tow truck operator fails to provide copies of the  
137 Utah Consumer Bill of Rights Regarding Towing to vehicle owners, as required under Section  
138 [72-9-603](#).

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

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

143 **72-9-602.5. Towing from privately owned lot -- Notice requirements.**

144 (1) Except as provided in Subsection (2), a tow truck operator may not tow a vehicle,  
145 vessel, or outboard motor from a privately owned lot without the vehicle, vessel, or outboard  
146 motor owner's consent, unless the tow truck operator or tow truck motor carrier has entered  
147 into a contract with the private lot owner or the private lot owner's lessee for tow truck services  
148 on the lot.

149 (2) If a private property owner of a privately owned parking lot does not have a  
150 physical barricade or signs posted that clearly prohibit public parking in the lot, the owner may  
151 only remove an unattended vehicle, vessel, or outboard motor from a parking lot according to

152 the following procedures:

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

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

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

162 (d) 24 hours after posting the notice as described in Subsection (2)(c), if the owner of  
163 the vehicle, vessel, or outboard motor has not removed the vehicle, vessel, or outboard motor  
164 from the privately owned lot, the tow truck motor carrier may remove the vehicle, vessel, or  
165 outboard motor as described in Section [72-9-603](#).

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

167 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**  
168 **vehicle title restrictions -- Rules for maximum rates and certification.**

169 (1) Except for a tow truck service that was ordered by a peace officer, or a person  
170 acting on behalf of a law enforcement agency, or a highway authority, after performing a tow  
171 truck service that is being done without the vehicle, vessel, or outboard motor owner's  
172 knowledge, the tow truck operator or the tow truck motor carrier shall:

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

175 (i) send a report of the removal to the Motor Vehicle Division that complies with the  
176 requirements of Subsection [41-6a-1406\(4\)\(b\)](#); and

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

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

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

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

183 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and  
 184 (E) vehicle, vessel, or outboard motor's description, including its identification number  
 185 and license number or other identification number issued by a state agency;

186 (b) within two business days of performing the tow truck service under Subsection  
 187 (1)(a), send a certified letter to the last-known address of each party described in Subsection  
 188 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the  
 189 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the  
 190 current address, notifying the party of the:

191 (i) location of the vehicle, vessel, or outboard motor;  
 192 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was  
 193 removed;

194 (iii) reasons for the removal of the vehicle, vessel, or outboard motor;  
 195 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;  
 196 (v) a description, including its identification number and license number or other  
 197 identification number issued by a state agency; and

198 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and  
 199 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was  
 200 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding  
 201 Towing established by the department in Subsection (7)(e).

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

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

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

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

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

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

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

214 ~~[(A) where parking is subject to towing; and]~~  
215 ~~[(B) (f) the Internet website address that provides access to towing database~~  
216 ~~information in accordance with Section 41-6a-1406; or]~~  
217 ~~[(H) one of the following:]~~  
218 ~~[(Aa) the name and phone number of the tow truck operator or tow truck motor carrier~~  
219 ~~that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or]~~  
220 ~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone~~  
221 ~~number of the mobile home park or multifamily dwelling manager or management office that~~  
222 ~~authorized the vehicle, vessel, or outboard motor to be towed.]~~  
223 ~~[(c) Signage is not required under Subsection (2)(b) for parking in a location:]~~  
224 ~~[(i) that is prohibited by law; or]~~  
225 ~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~  
226 ~~[(d) Nothing in Subsection (2)(b) restricts the ability of a mobile home park as defined~~  
227 ~~in Section 57-16-3 or a multifamily dwelling from instituting and enforcing regulations on~~  
228 ~~parking.]~~  
229 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,  
230 vessel, or outboard motor lawfully removed is only responsible for paying:  
231 (a) the tow truck service and storage fees set in accordance with Subsection (7); and  
232 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.  
233 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or  
234 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard  
235 motor that are owned by the owner of the vehicle [and securely stored by the tow truck  
236 operator], vessel, or outboard motor until paid.  
237 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,  
238 vessel, or outboard motor and items described in Subsection (4)(a) until a party described in  
239 Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:  
240 (i) pays the fees described in Subsection (3); and  
241 (ii) removes the vehicle, vessel, or outboard motor from the secure storage facility.  
242 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party  
243 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard  
244 motor does not, within 30 days after notice has been sent under Subsection (1)(b):



- 245           (i) pay the fees described in Subsection (3); and
- 246           (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.
- 247           ~~[(5)]~~ (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
- 248 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).
- 249           (6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post
- 250 and disclose all its current fees, rates, and acceptable forms of payment for tow truck service
- 251 and storage of a vehicle in accordance with rules established under Subsection (7).
- 252           (b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
- 253 payment by cash and debit or credit card for a tow truck service under Subsection (1) or any
- 254 service rendered, performed, or supplied in connection with a tow truck service under
- 255 Subsection (1).
- 256           (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 257 Department of Transportation shall:
- 258           (a) subject to the restriction in Subsection (8), set maximum rates that:
- 259           (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,
- 260 or outboard motor that are transported in response to:
- 261           (A) a peace officer dispatch call;
- 262           (B) a motor vehicle division call; and
- 263           (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
- 264 has not consented to the removal; and
- 265           (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
- 266 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
- 267           (b) establish authorized towing certification requirements, not in conflict with federal
- 268 law, related to incident safety, clean-up, and hazardous material handling;
- 269           (c) specify the form and content of the posting and disclosure of fees and rates charged
- 270 and acceptable forms of payment by a tow truck motor carrier or impound yard;
- 271           (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
- 272 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
- 273 the removal to each party described in Subsection [41-6a-1406\(5\)\(a\)](#) with an interest in the
- 274 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
- 275           (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains

276 specific information regarding:

277 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;  
278 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow  
279 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or  
280 request where the owner of the vehicle, vessel, or outboard motor has not consented to the  
281 removal; and

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

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

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

288 (b) the vehicle, vessel, or outboard motor is not being released to a party described in  
289 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,  
290 vessel, or outboard motor under Section 41-6a-1406.

291 (9) In addition to the maximum rates established under Subsection (7) and when  
292 receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an  
293 impound yard may charge a credit card processing fee [~~in an amount equal to the lesser of: (a)~~  
294 ~~the actual cost of processing the credit card transaction; or (b)] of 3% of the transaction total.~~

295 (10) When a tow truck motor carrier or impound lot is in possession of a vehicle,  
296 vessel, or outboard motor as a result of a tow service that was performed without the consent of  
297 the owner, and that was not ordered by a peace officer or a person acting on behalf of a law  
298 enforcement agency, the tow truck motor carrier or impound yard shall make personnel  
299 available:

300 (a) by phone 24 hours a day, seven days a week; and

301 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within  
302 one hour of when the owner calls the tow truck motor carrier or impound yard.

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

304 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

305 ~~[(1) (a) Except as provided in Subsection (1)(b), a county or municipal legislative or~~  
306 ~~governing body may enact or enforce any ordinance, regulation, or rule pertaining to a tow~~

307 ~~truck or tow truck motor carrier that does not conflict with this part.]~~

308 (1) (a) Notwithstanding any other provision of law, a political subdivision of this state  
309 may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor  
310 carrier, tow truck operator, or tow truck that conflicts with or is preempted by:

311 (i) any provision of this part;

312 (ii) Section [41-6a-1401](#);

313 (iii) Section [41-6a-1407](#);

314 (iv) rules made by the department under this part;

315 (v) rules made by the Department of Public Safety under Sections 41-6a-1401 through  
316 [41-6a-1408](#); or

317 (vi) rules made by the State Tax Commission under Title 41, Chapter 1a, Motor  
318 Vehicle Act.

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

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

322 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien  
323 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent  
324 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section  
325 [41-6a-1406](#).

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

330 (3) A county or municipal legislative or governing body may not require a tow truck  
331 motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing  
332 certificate by the department, as described in Section [72-9-602](#), to obtain an additional towing  
333 certificate.

334 ~~[(3)]~~ (4) A county or municipal legislative body may require an annual tow truck safety  
335 inspection in addition to the inspections required under Sections [53-8-205](#) and [72-9-602](#) if:

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

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

338           ~~[(4)]~~ (5) A tow truck shall be subject to only one annual safety inspection under  
339 Subsection ~~[(3)]~~ (4)(b). A county or municipality that requires the additional annual safety  
340 inspection shall accept the same inspection performed by another county or municipality.

341           Section 7. Section **72-9-606** is enacted to read:

342           **72-9-606. Towing Advisory Board created -- Appointment -- Terms -- Meetings --**  
343 **Per diem and expenses -- Duties.**

344           (1) There is created within the department the Towing Advisory Board consisting of  
345 the following nine members:

346           (a) one member of the Senate appointed by the president of the Senate;

347           (b) one member of the House of Representatives appointed by the speaker of the House  
348 of Representatives;

349           (c) the executive director of the department, or the executive director's designee;

350           (d) the chair of the State Tax Commission, or the chair's designee;

351           (e) the commissioner of the Department of Public Safety, or the commissioner's  
352 designee;

353           (f) one person appointed by the Utah Association of Counties;

354           (g) one person appointed by the Utah League of Cities and Towns;

355           (h) one person from the state's towing industry, appointed by the governor; and

356           (i) one person representing private property owners in the state, appointed by the  
357 governor.

358           (2) A person appointed to the board as described in Subsections (1)(a), (b), and (f)  
359 through (i) shall:

360           (a) be appointed to a four-year term; and

361           (b) serve from the date of appointment until a replacement is appointed.

362           (3) When a vacancy occurs in the appointed membership for any reason, the  
363 replacement shall be appointed for the unexpired term beginning the day following the  
364 expiration of the preceding term.

365           (4) The board shall elect a chair and vice chair at the first regular meeting of each  
366 calendar year.

367           (5) The board shall meet at least twice each year and at the discretion of the chair.

368           (6) Any five voting members constitute a quorum for the transaction of business that

369 comes before the board.

370 (7) A member of the board may not receive compensation, benefits, per diem, or travel  
371 expenses for the member's service.

372 (8) The board shall advise the department, the Department of Public Safety, and the  
373 State Tax Commission on interpretation and adoption of rules, and implementation of this  
374 chapter and other issues related to tow truck motor carriers, tow trucks, tow truck operators,  
375 and impound yards, including advice on developing statewide standards for:

376 (a) private property towing notice and signage requirements;

377 (b) due process procedures for contested towing matters;

378 (c) towing rotation policies; and

379 (d) penalties for abandoning a motor vehicle that has been towed and failing to pay all  
380 required fees.

381 (9) The department, the Department of Public Safety, and the State Tax Commission  
382 shall provide staff support to the board.

383 **Section 8. Effective date.**

384 This bill takes effect on July 1, 2017.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**