

DUI IMPOUND FEE REFUND AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies provisions relating to DUI impound fee refunds.

Highlighted Provisions:

This bill:

- ▶ modifies the time frame for submission of documents for DUI impound fee refunds.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2016, Chapters 100 and 148

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

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

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

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

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

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

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

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

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

- 40 (i) the peace officer or agency by whom the peace officer is employed; and
- 41 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
42 operator is employed.

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

- 45 (i) the operator's name, if known;
- 46 (ii) a description of the vehicle, vessel, or outboard motor;
- 47 (iii) the vehicle identification number or vessel or outboard motor identification
48 number;
- 49 (iv) the license number, temporary permit number, or other identification number
50 issued by a state agency;
- 51 (v) the date, time, and place of impoundment;
- 52 (vi) the reason for removal or impoundment;
- 53 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
54 outboard motor; and
- 55 (viii) the place where the vehicle, vessel, or outboard motor is stored.

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

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

59 (ii) begin charging storage fees.

60 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
61 Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the
62 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

63 (i) the registered owner;

64 (ii) any lien holder; or

65 (iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor
66 is currently operating under a temporary permit issued by the dealer, as described in Section
67 41-3-302.

68 (b) The notice shall:

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

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

74 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
75 motor is released; and

76 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
77 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or
78 impoundment under this section, one of the parties fails to make a claim for release of the
79 vehicle, vessel, or outboard motor.

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

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

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

89 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
90 in Subsection (5)(a):

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

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

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

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

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

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

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

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

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

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

112 (i) the Driver License Division determined that the arrested person's driver license
113 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter

114 or other report from the Driver License Division presented within [~~30 days of the final~~
115 ~~notification from~~] 180 days after the day on which the Driver License Division mailed the final
116 notification; 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~~] 180 days after the day 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 a party described in
127 Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or
128 outboard motor under this Subsection (6).

129 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by a party
130 described in Subsection (5)(a) within the time prescribed by Section [41-1a-1103](#) shall be sold
131 in accordance with that section and the proceeds, if any, shall be disposed of as provided under
132 Section [41-1a-1104](#).

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

135 (8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the
136 impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the
137 fees and charges, together with damages, court costs, and attorney fees, against the operator of
138 the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

139 (9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel,
140 or outboard motor.

141 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

142 the department shall make rules setting the performance standards for towing companies to be
143 used by the department.

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

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

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

150 (A) be reasonable and fair; and

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