

Representative A. Cory Maloy proposes the following substitute bill:

TOWING AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions to require parking lot owners to post towing signs.

Highlighted Provisions:

This bill:

- ▶ requires owners of parking lots to post towing signs;
- ▶ prohibits any tow truck service from towing at any noncompliant lot;
- ▶ provides guidelines for the attributes and contents of each sign;
- ▶ provides for towing after 24 hours when other signage requirements aren't met; and
- ▶ modifies provisions relating to prohibitions on local laws' interference with

statutory towing laws or rules.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-215, as renumbered and amended by Laws of Utah 2005, Chapter 2

72-9-603, as last amended by Laws of Utah 2017, Chapter 298



26 72-9-604, as last amended by Laws of Utah 2017, Chapter 298

27

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

29 Section 1. Section **41-6a-215** is amended to read:

30 **41-6a-215. Right of real property owner to regulate traffic.**

31 (1) As used in this section, "certified tow truck motor carrier" means a tow truck
32 operator or tow truck motor carrier that has a current authorized towing certificate as described
33 in Subsection 72-9-602(1)(c).

34 (2) Except as provided under Section 41-6a-214, this chapter does not prevent the
35 owner of real property used by the public for purposes of vehicular travel by permission of the
36 owner and not as matter of right from:

- 37 [~~(1)~~] (a) prohibiting the use;
- 38 [~~(2)~~] (b) requiring other conditions not specified in this chapter; or
- 39 [~~(3)~~] (c) otherwise regulating the use as preferred by the owner.

40 (3) (a) Except as provided in Subsection (4), a person may not perform a tow truck
41 service at any parking lot where towing occurs without the vehicle owner's or a lien holder's
42 knowledge unless the requirements described in Subsection (3)(b) are met.

43 (b) The owner of a parking lot where towing occurs shall install two signs at the
44 entrances of the lot and at one or more additional locations in the lot that meet the following
45 requirements:

46 (i) each sign shall be posted, one beneath the other, as described in Subsections
47 (3)(b)(ii) and (iii), and shall have reflective lettering;

48 (ii) the top sign shall be 18 inches wide by 24 inches high and state in red lettering on a
49 white background:

- 50 (A) who is allowed to park in the lot;
- 51 (B) the name and telephone number of the tow truck motor carrier that performs the
52 towing service for the owner of the real property; and

53 (C) the Internet website address that provides access to towing database information in
54 accordance with Section 41-6a-1406; and

55 (iii) the bottom sign shall be 18 inches wide by 18 inches high with a white background
56 and display the international towing symbol recommended by the "Manual on Uniform Traffic

57 Control Devices for Streets and Highways."

58 (c) In addition to the requirements described in Subsection (3)(b), if the parking lot is
59 located at either a mobile home park as defined in Section 57-16-3 or a multifamily dwelling of
60 more than eight units, the sign described in Subsection (3)(b)(ii) shall also display:

61 (i) the name of the mobile home park or multifamily dwelling; and

62 (ii) the phone number of the mobile home park or multifamily dwelling manager or
63 management office that authorized the vehicle tow.

64 (4) Notwithstanding Subsection (3), a certified tow truck motor carrier may perform a
65 tow truck service on that lot if:

66 (a) before a vehicle, vessel, or outboard motor is towed, a certified tow truck motor
67 carrier posts written notice of intent to tow on the vehicle, vessel, or outboard motor that
68 contains the following information:

69 (i) notice that if the vehicle, vessel, or outboard motor is not removed from the
70 property within 24 hours, the vehicle, vessel, or outboard motor will be towed to an impound
71 yard;

72 (ii) the date and time of posting of the notice;

73 (iii) the name and phone number of the certified tow truck motor carrier that will
74 perform the tow; and

75 (iv) the Internet website address that provides access to towing database information in
76 accordance with Section 41-6a-1406;

77 (b) the certified tow truck motor carrier creates and retains for a period of one year:

78 (i) a time stamped photograph of the notice placed on the vehicle;

79 (ii) other documentation showing the date and time the notice was placed on the
80 vehicle; and

81 (iii) documentation showing the date and time the vehicle was removed from the
82 property 24 hours or more after notice was posted; and

83 (c) the name, phone number, and Internet website address of the certified tow truck
84 motor carrier that the owner has used for the tow is available at any office or place of business
85 of the owner that is associated with or adjacent to the parking lot.

86 Section 2. Section 72-9-603 is amended to read:

87 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**

88 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

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

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

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

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

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

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

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

106 (b) within two business days of performing the tow truck service under Subsection
107 (1)(a), send a certified letter to the last-known address of each party described in Subsection
108 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
109 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
110 current address, notifying the party of the:

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

112 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was
113 removed;

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

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

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

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

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

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

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

126 (ii) begin charging storage fees.

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

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

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

133 (ii) Signage under Subsection (2)(b)(i) shall ~~[display:]~~ conform with the requirements
134 described in Section 41-6a-215.

135 ~~[(A) where parking is subject to towing; and]~~

136 ~~[(B) (I) the Internet website address that provides access to towing database~~
137 ~~information in accordance with Section 41-6a-1406; or]~~

138 ~~[(H) one of the following:]~~

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

141 ~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone~~
142 ~~number of the mobile home park or multifamily dwelling manager or management office that~~
143 ~~authorized the vehicle, vessel, or outboard motor to be towed.]~~

144 (c) Signage is not required under Subsection (2)(b) for parking in a location~~[(i)]~~ that
145 is prohibited by law~~;~~~~or~~.

146 ~~[(ii) if it is reasonably apparent that the location is not open to parking.]~~

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

150 (3) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle,
151 vessel, or outboard motor lawfully removed is only responsible for paying:

- 152 (a) the tow truck service and storage fees set in accordance with Subsection (7); and
- 153 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.

154 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or
155 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
156 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

157 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
158 vessel, or outboard motor and items described in Subsection (4)(a) until a party described in
159 Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:

- 160 (i) pays the fees described in Subsection (3); and
- 161 (ii) removes the vehicle, vessel, or outboard motor from the secure storage facility.

162 (5) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party
163 described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard
164 motor does not, within 30 days after notice has been sent under Subsection (1)(b):

- 165 (i) pay the fees described in Subsection (3); and
- 166 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

167 (b) A person may not request a transfer of title to an abandoned vehicle, vessel, or
168 outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

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

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

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

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

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

- 181 (A) a peace officer dispatch call;
- 182 (B) a motor vehicle division call; and
- 183 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
- 184 has not consented to the removal; and
- 185 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
- 186 stored as a result of one of the conditions listed under Subsection (7)(a)(i);
- 187 (b) establish authorized towing certification requirements, not in conflict with federal
- 188 law, related to incident safety, clean-up, and hazardous material handling;
- 189 (c) specify the form and content of the posting and disclosure of fees and rates charged
- 190 and acceptable forms of payment by a tow truck motor carrier or impound yard;
- 191 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
- 192 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
- 193 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the
- 194 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and
- 195 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains
- 196 specific information regarding:
- 197 (i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;
- 198 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow
- 199 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or
- 200 request where the owner of the vehicle, vessel, or outboard motor has not consented to the
- 201 removal; and
- 202 (iii) identifies the maximum rates that an impound yard may charge for the storage of
- 203 vehicle, vessel, or outboard motor that is transported in response to a call or request where the
- 204 owner of the vehicle, vessel, or outboard motor has not consented to the removal.
- 205 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,
- 206 vessel, or outboard motor if:
- 207 (a) the vehicle, vessel, or outboard motor is being held as evidence; and
- 208 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
- 209 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
- 210 vessel, or outboard motor under Section 41-6a-1406.
- 211 (9) In addition to the maximum rates established under Subsection (7) and when

212 receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an
213 impound yard may charge a credit card processing fee of 3% of the transaction total.

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

- 219 (a) by phone 24 hours a day, seven days a week; and
- 220 (b) to release the impounded vehicle, vessel, or outboard motor to the owner within
221 one hour of when the owner calls the tow truck motor carrier or impound yard.

222 Section 3. Section 72-9-604 is amended to read:

223 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

224 [~~(1) (a) Notwithstanding any other provision of law, a political subdivision of this state
225 may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor
226 carrier, tow truck operator, or tow truck that conflicts with:]~~

227 [~~(i) any provision of this part;~~

228 [~~(ii) Section 41-6a-1401;~~

229 [~~(iii) Section 41-6a-1407; or]~~

230 [~~(iv) rules made by the department under this part.]~~

231 (1) (a) Notwithstanding any other provision of law, a political subdivision of this state
232 may neither enact nor enforce any ordinance, regulation, or rule pertaining to a parking lot, tow
233 truck motor carrier, tow truck driver, or tow truck that conflicts with, or is preempted by:

234 (i) any provision of this part;

235 (ii) Section 41-6a-215;

236 (iii) Section 41-6a-1401;

237 (iv) Section 41-6a-1407;

238 (v) rules made by the Department of Public Safety under Section 41-6a-1406;

239 (vi) rules made by the Department of Transportation under this part; or

240 (vii) rules made by the State Tax Commission under Title 41, Chapter 1a, Motor
241 Vehicle Act.

242 (b) A county or municipal legislative governing body may not charge a fee for the

243 storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

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

245 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien
246 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
247 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
248 [41-6a-1406](#).

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

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

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

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

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

261 (5) A tow truck shall be subject to only one annual safety inspection under Subsection

262 (4)(b). A county or municipality that requires the additional annual safety inspection shall
263 accept the same inspection performed by another county or municipality.

264 Section 4. **Effective date.**

265 This bill takes effect on July 1, 2019.