

SB0155S06 compared with SB0155S04

~~{deleted text}~~ shows text that was in SB0155S04 but was deleted in SB0155S06.

Inserted text shows text that was not in SB0155S04 but was inserted into SB0155S06.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Senator Wayne}~~ Representative A. ~~{Harper}~~ 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 ~~{Section 41-6a-215}~~ 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.

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Money Appropriated in this Bill:

None

Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~{ 41-6a-214, as renumbered and amended by Laws of Utah 2005, Chapter 2~~

~~‡ 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

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

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

Section 1. Section ~~{41-6a-214}~~41-6a-215 is amended to read:

~~{ 41-6a-214. Quasi-public roads and parking areas -- Local ordinances.~~

~~—— (1) As used in this section, "quasi-public road or parking area" means a privately owned and maintained road or parking area that is generally held open for use of the public for purposes of vehicular travel or parking.~~

~~—— (2) (a) Any municipality or county may by ordinance provide that a quasi-public road or parking area within the municipality or county is subject to this chapter.~~

~~—— (b) An ordinance may not be enacted under this section without:~~

~~—— (i) a public hearing; and~~

~~—— (ii) the agreement of a majority of the owners of the quasi-public road or parking area involved.~~

~~—— (3) This section:~~

~~—— (a) supercedes conflicting provisions under [Section] Subsection 41-6a-215(1);~~

~~—— (b) does not require a peace officer to patrol or enforce any provisions of this chapter on any quasi-public road or parking area; or~~

~~—— (c) does not affect the duty of a peace officer to enforce those provisions of this chapter applicable to private property other than under this section.~~

~~—— Section 2. Section 41-6a-215 is amended to read:~~

~~‡ 41-6a-215. Right of real property owner to regulate traffic.~~

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

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

~~[(1)]~~ (a) prohibiting the use;

~~[(2)]~~ (b) requiring other conditions not specified in this chapter; or

~~[(3)]~~ (c) otherwise regulating the use as preferred by the owner.

(3) (a) Except as provided in Subsection (4) or (5), a person may not perform a tow truck service at any parking lot where towing occurs without the vehicle owner's or a lien holder's knowledge unless ~~{signage that meets }~~the~~{ following }~~ requirements ~~{is present.}~~described in Subsection (3)(b) are met.

~~{a}b~~ The owner of a parking lot where towing occurs shall install two signs at the entrances of the lot and at ~~{least }~~one ~~{other area in the lot.~~

~~— (b) Each~~or more additional locations in the lot that meet the following requirements:

(i) each sign shall be ~~{no less than }~~posted, one beneath the other, as described in Subsections (3)(b)(ii) and (iii), and shall have reflective lettering;

(ii) the top sign shall be 18 inches wide by 24 inches high~~{, have }~~ and state in red ~~{letters }~~lettering on a white background~~{, and shall state in reflective lettering.~~

~~— (i) the conditions under which towing will occur;~~

~~— (ii) the consequence for parking under those conditions;~~

~~— (iii) one of the following:~~

~~— (A):~~

(A) who is allowed to park in the lot;

(B) the name and ~~{phone }~~telephone number of the~~{ certified }~~ tow truck motor carrier that performs the towing service for the owner of the real property; ~~{or~~

~~— (B) the name of the property manager and the phone number of the property manager or management office that has authorized towing to occur;~~

~~— (iv) the internet~~{and~~~~

(C) the Internet website address that provides access to towing database information in

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accordance with Section 41-6a-1406; and

(~~v~~) on the uppermost portion of the sign; iii) the bottom sign shall be 18 inches wide by 18 inches high with a white background and display the international towing symbol recommended by the "Manual on Uniform Traffic Control Devices for Streets and Highways."

(c) ~~A sign may provide a link or address to the Utah Consumer Bill of Rights Regarding Towing, or other similar document provided by the Utah Department of Transportation;~~ In addition to the requirements described in Subsection (3)(b), if the parking lot is located at either a mobile home park as defined in Section 57-16-3 or a multifamily dwelling of more than eight units, the sign described in Subsection (3)(b)(ii) shall also display:

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

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

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

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

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

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

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

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

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

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

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

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

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

~~{(5) A tow truck service may be performed without the vehicle owner's knowledge, and the signage requirements under Subsection (3) are not required for parking:~~

~~— (a) in a location that is prohibited by law; or~~

~~— (b) where it is reasonably apparent that the location is not open to parking.~~

~~— (6) Notwithstanding any other provision of law, a political subdivision of this state must follow any rules or standards adopted under Section 72-9-604.}~~ Section 2. Section 72-9-603 is amended to read:

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

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

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

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

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

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

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

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

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

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

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection

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41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

- (i) location of the vehicle, vessel, or outboard motor;
 - (ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;
 - (iii) reasons for the removal of the vehicle, vessel, or outboard motor;
 - (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
 - (v) a description, including its identification number and license number or other identification number issued by a state agency; and
 - (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and
- (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (7)(e).

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

- (i) collect any fee associated with the removal; or
- (ii) begin charging storage fees.

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

- (A) a mobile home park as defined in Section 57-16-3; or
- (B) a multifamily dwelling of more than eight units.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post

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and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (7).

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

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

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

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

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (7)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the

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removal; and

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

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

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

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

(9) In addition to the maximum rates established under Subsection (7) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee of 3% of the transaction total.

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

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

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

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

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

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

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

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

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

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

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

(i) any provision of this part;

(ii) Section 41-6a-215;

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

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

~~[(iv)]~~ (v) rules made by the ~~department~~ Department of Public Safety under Section 41-6a-1406;

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

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

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

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

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

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

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

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

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

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

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

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

Section 4. Effective date.

This bill takes effect on July 1, 2019.