

TOWING REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill revises provisions related to towing, including state impound yards and towing rotations.

Highlighted Provisions:

This bill:

- ▶ amends definitions;
- ▶ amends provisions related to state impound yards, including fencing requirements for state impound yards;
- ▶ amends provisions related to fees and background checks in relation to inclusion on a towing rotation;
- ▶ requires a political subdivision or state agency to provide an appeals process regarding suspension or removal from a towing rotation; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-102, as last amended by Laws of Utah 2018, Chapters 166 and 424

41-1a-1101, as last amended by Laws of Utah 2018, Chapter 29

29 [41-6a-1406](#), as last amended by Laws of Utah 2017, Chapters 100 and 261

30 [72-9-102](#), as last amended by Laws of Utah 2017, Chapter 96

31 [72-9-603](#), as last amended by Laws of Utah 2017, Chapter 298

32 [72-9-604](#), as last amended by Laws of Utah 2017, Chapter 298

33 ENACTS:

34 [72-9-607](#), Utah Code Annotated 1953

35

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

37 Section 1. Section **41-1a-102** is amended to read:

38 **41-1a-102. Definitions.**

39 As used in this chapter:

40 (1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

41 (2) "Actual weight" means the actual unladen weight of a vehicle or combination of
42 vehicles as operated and certified to by a weighmaster.

43 (3) "All-terrain type I vehicle" means the same as that term is defined in Section
44 [41-22-2](#).

45 (4) "All-terrain type II vehicle" means the same as that term is defined in Section
46 [41-22-2](#).

47 (5) "All-terrain type III vehicle" means the same as that term is defined in Section
48 [41-22-2](#).

49 (6) "Alternative fuel vehicle" means:

50 (a) an electric motor vehicle;

51 (b) a hybrid electric motor vehicle;

52 (c) a plug-in hybrid electric motor vehicle; or

53 (d) a motor vehicle powered by a fuel other than:

54 (i) motor fuel;

55 (ii) diesel fuel;

56 (iii) natural gas; or

57 (iv) propane.

58 (7) "Amateur radio operator" means any person licensed by the Federal
59 Communications Commission to engage in private and experimental two-way radio operation
60 on the amateur band radio frequencies.

61 (8) "Autocycle" means the same as that term is defined in Section [53-3-102](#).

62 (9) "Branded title" means a title certificate that is labeled:

63 (a) rebuilt and restored to operation;

64 (b) flooded and restored to operation; or

65 (c) not restored to operation.

66 (10) "Camper" means any structure designed, used, and maintained primarily to be
67 mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a
68 mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for
69 camping.

70 (11) "Certificate of title" means a document issued by a jurisdiction to establish a
71 record of ownership between an identified owner and the described vehicle, vessel, or outboard
72 motor.

73 (12) "Certified scale weigh ticket" means a weigh ticket that has been issued by a
74 weighmaster.

75 (13) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or
76 maintained for the transportation of persons or property that operates:

77 (a) as a carrier for hire, compensation, or profit; or

78 (b) as a carrier to transport the vehicle owner's goods or property in furtherance of the
79 owner's commercial enterprise.

80 (14) "Commission" means the State Tax Commission.

81 (15) "Consumer price index" means the same as that term is defined in Section
82 [59-13-102](#).

83 (16) "Dealer" means a person engaged or licensed to engage in the business of buying,
84 selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on
85 conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established
86 place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

87 (17) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

88 (18) "Division" means the Motor Vehicle Division of the commission, created in
89 Section 41-1a-106.

90 (19) "Electric motor vehicle" means a motor vehicle that is powered solely by an
91 electric motor drawing current from a rechargeable energy storage system.

92 (20) "Essential parts" means all integral and body parts of a vehicle of a type required
93 to be registered in this state, the removal, alteration, or substitution of which would tend to
94 conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of
95 operation.

96 (21) "Farm tractor" means every motor vehicle designed and used primarily as a farm
97 implement for drawing plows, mowing machines, and other implements of husbandry.

98 (22) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for
99 the owner's or operator's own use in the transportation of:

100 (i) farm products, including livestock and its products, poultry and its products,
101 floricultural and horticultural products;

102 (ii) farm supplies, including tile, fence, and every other thing or commodity used in
103 agricultural, floricultural, horticultural, livestock, and poultry production; and

104 (iii) livestock, poultry, and other animals and things used for breeding, feeding, or
105 other purposes connected with the operation of a farm.

106 (b) "Farm truck" does not include the operation of trucks by commercial processors of
107 agricultural products.

108 (23) "Fleet" means one or more commercial vehicles.

109 (24) "Foreign vehicle" means a vehicle of a type required to be registered, brought into

110 this state from another state, territory, or country other than in the ordinary course of business
111 by or through a manufacturer or dealer, and not registered in this state.

112 (25) "Gross laden weight" means the actual weight of a vehicle or combination of
113 vehicles, equipped for operation, to which shall be added the maximum load to be carried.

114 (26) "Highway" or "street" means the entire width between property lines of every way
115 or place of whatever nature when any part of it is open to the public, as a matter of right, for
116 purposes of vehicular traffic.

117 (27) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion
118 energy from onboard sources of stored energy that are both:

- 119 (a) an internal combustion engine or heat engine using consumable fuel; and
- 120 (b) a rechargeable energy storage system where energy for the storage system comes
121 solely from sources onboard the vehicle.

122 (28) (a) "Identification number" means the identifying number assigned by the
123 manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard
124 motor.

125 (b) "Identification number" includes a vehicle identification number, state assigned
126 identification number, hull identification number, and motor serial number.

127 (29) "Implement of husbandry" means every vehicle designed or adapted and used
128 exclusively for an agricultural operation and only incidentally operated or moved upon the
129 highways.

130 (30) (a) "In-state miles" means the total number of miles operated in this state during
131 the preceding year by fleet power units.

132 (b) If fleets are composed entirely of trailers or semitrailers, "in-state miles" means the
133 total number of miles that those vehicles were towed on Utah highways during the preceding
134 year.

135 (31) "Interstate vehicle" means any commercial vehicle operated in more than one
136 state, province, territory, or possession of the United States or foreign country.

137 (32) "Jurisdiction" means a state, district, province, political subdivision, territory, or
138 possession of the United States or any foreign country.

139 (33) "Lienholder" means a person with a security interest in particular property.

140 (34) "Manufactured home" means a transportable factory built housing unit constructed
141 on or after June 15, 1976, according to the Federal Home Construction and Safety Standards
142 Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body
143 feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more
144 square feet, and which is built on a permanent chassis and designed to be used as a dwelling
145 with or without a permanent foundation when connected to the required utilities, and includes
146 the plumbing, heating, air-conditioning, and electrical systems.

147 (35) "Manufacturer" means a person engaged in the business of constructing,
148 manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or
149 outboard motors for the purpose of sale or trade.

150 (36) "Mobile home" means a transportable factory built housing unit built prior to June
151 15, 1976, in accordance with a state mobile home code which existed prior to the Federal
152 Manufactured Housing and Safety Standards Act (HUD Code).

153 (37) "Motor fuel" means the same as that term is defined in Section [59-13-102](#).

154 (38) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and
155 operation on the highways.

156 (b) "Motor vehicle" does not include an off-highway vehicle.

157 (39) "Motorboat" means the same as that term is defined in Section [73-18-2](#).

158 (40) "Motorcycle" means:

159 (a) a motor vehicle having a saddle for the use of the rider and designed to travel on not
160 more than three wheels in contact with the ground; or

161 (b) an autocycle.

162 (41) "Natural gas" means a fuel of which the primary constituent is methane.

163 (42) (a) "Nonresident" means a person who is not a resident of this state as defined by

164 Section 41-1a-202, and who does not engage in intrastate business within this state and does
165 not operate in that business any motor vehicle, trailer, or semitrailer within this state.

166 (b) A person who engages in intrastate business within this state and operates in that
167 business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in
168 interstate commerce, maintains any vehicle in this state as the home station of that vehicle is
169 considered a resident of this state, insofar as that vehicle is concerned in administering this
170 chapter.

171 (43) "Odometer" means a device for measuring and recording the actual distance a
172 vehicle travels while in operation, but does not include any auxiliary odometer designed to be
173 periodically reset.

174 (44) "Off-highway implement of husbandry" means the same as that term is defined in
175 Section 41-22-2.

176 (45) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

177 (46) "Operate" means to drive or be in actual physical control of a vehicle or to
178 navigate a vessel.

179 (47) "Outboard motor" means a detachable self-contained propulsion unit, excluding
180 fuel supply, used to propel a vessel.

181 (48) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle,
182 vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a
183 security interest.

184 (b) If a vehicle is the subject of an agreement for the conditional sale or installment
185 sale or mortgage of the vehicle with the right of purchase upon performance of the conditions
186 stated in the agreement and with an immediate right of possession vested in the conditional
187 vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the
188 conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this
189 chapter.

190 (c) If a vehicle is the subject of an agreement to lease, the lessor is considered the

191 owner until the lessee exercises the lessee's option to purchase the vehicle.

192 (49) "Park model recreational vehicle" means a unit that:

193 (a) is designed and marketed as temporary living quarters for recreational, camping,
194 travel, or seasonal use;

195 (b) is not permanently affixed to real property for use as a permanent dwelling;

196 (c) requires a special highway movement permit for transit; and

197 (d) is built on a single chassis mounted on wheels with a gross trailer area not
198 exceeding 400 square feet in the setup mode.

199 (50) "Personalized license plate" means a license plate that has displayed on it a
200 combination of letters, numbers, or both as requested by the owner of the vehicle and assigned
201 to the vehicle by the division.

202 (51) (a) "Pickup truck" means a two-axle motor vehicle with motive power
203 manufactured, remanufactured, or materially altered to provide an open cargo area.

204 (b) "Pickup truck" includes motor vehicles with the open cargo area covered with a
205 camper, camper shell, tarp, removable top, or similar structure.

206 (52) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that
207 has the capability to charge the battery or batteries used for vehicle propulsion from an
208 off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle
209 while the vehicle is in motion.

210 (53) "Pneumatic tire" means every tire in which compressed air is designed to support
211 the load.

212 (54) "Preceding year" means a period of 12 consecutive months fixed by the division
213 that is within 16 months immediately preceding the commencement of the registration or
214 license year in which proportional registration is sought. The division in fixing the period shall
215 conform it to the terms, conditions, and requirements of any applicable agreement or
216 arrangement for the proportional registration of vehicles.

217 (55) "Public garage" means every building or other place where vehicles or vessels are

218 kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

219 (56) "Receipt of surrender of ownership documents" means the receipt of surrender of
220 ownership documents described in Section [41-1a-503](#).

221 (57) "Reconstructed vehicle" means every vehicle of a type required to be registered in
222 this state that is materially altered from its original construction by the removal, addition, or
223 substitution of essential parts, new or used.

224 (58) "Recreational vehicle" means the same as that term is defined in Section
225 [13-14-102](#).

226 (59) "Registration" means a document issued by a jurisdiction that allows operation of
227 a vehicle or vessel on the highways or waters of this state for the time period for which the
228 registration is valid and that is evidence of compliance with the registration requirements of the
229 jurisdiction.

230 (60) (a) "Registration year" means a 12 consecutive month period commencing with
231 the completion of all applicable registration criteria.

232 (b) For administration of a multistate agreement for proportional registration the
233 division may prescribe a different 12-month period.

234 (61) "Repair or replacement" means the restoration of vehicles, vessels, or outboard
235 motors to a sound working condition by substituting any inoperative part of the vehicle, vessel,
236 or outboard motor, or by correcting the inoperative part.

237 (62) "Replica vehicle" means:

238 (a) a street rod that meets the requirements under Subsection [41-21-1\(3\)\(a\)\(i\)\(B\)](#); or

239 (b) a custom vehicle that meets the requirements under Subsection
240 [41-6a-1507\(1\)\(a\)\(i\)\(B\)](#).

241 (63) "Road tractor" means every motor vehicle designed and used for drawing other
242 vehicles and constructed so it does not carry any load either independently or any part of the
243 weight of a vehicle or load that is drawn.

244 (64) "Sailboat" means the same as that term is defined in Section [73-18-2](#).

245 (65) "Security interest" means an interest that is reserved or created by a security
246 agreement to secure the payment or performance of an obligation and that is valid against third
247 parties.

248 (66) "Semitrailer" means every vehicle without motive power designed for carrying
249 persons or property and for being drawn by a motor vehicle and constructed so that some part
250 of its weight and its load rests or is carried by another vehicle.

251 (67) "Special group license plate" means a type of license plate designed for a
252 particular group of people or a license plate authorized and issued by the division in accordance
253 with Section 41-1a-418.

254 (68) (a) "Special interest vehicle" means a vehicle used for general transportation
255 purposes and that is:

256 (i) 20 years or older from the current year; or

257 (ii) a make or model of motor vehicle recognized by the division director as having
258 unique interest or historic value.

259 (b) In making a determination under Subsection (68)(a), the division director shall give
260 special consideration to:

261 (i) a make of motor vehicle that is no longer manufactured;

262 (ii) a make or model of motor vehicle produced in limited or token quantities;

263 (iii) a make or model of motor vehicle produced as an experimental vehicle or one
264 designed exclusively for educational purposes or museum display; or

265 (iv) a motor vehicle of any age or make that has not been substantially altered or
266 modified from original specifications of the manufacturer and because of its significance is
267 being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a
268 leisure pursuit.

269 (69) (a) "Special mobile equipment" means every vehicle:

270 (i) not designed or used primarily for the transportation of persons or property;

271 (ii) not designed to operate in traffic; and

272 (iii) only incidentally operated or moved over the highways.

273 (b) "Special mobile equipment" includes:

274 (i) farm tractors;

275 (ii) off-road motorized construction or maintenance equipment including backhoes,
276 bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

277 (iii) ditch-digging apparatus.

278 (c) "Special mobile equipment" does not include a commercial vehicle as defined
279 under Section [72-9-102](#).

280 (70) "Specially constructed vehicle" means every vehicle of a type required to be
281 registered in this state, not originally constructed under a distinctive name, make, model, or
282 type by a generally recognized manufacturer of vehicles, and not materially altered from its
283 original construction.

284 (71) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard
285 motor that meets the requirements of rules made by the commission pursuant to Subsection
286 [41-1a-1101\(5\)](#).

287 [~~71~~] (72) "Title" means the right to or ownership of a vehicle, vessel, or outboard
288 motor.

289 [~~72~~] (73) (a) "Total fleet miles" means the total number of miles operated in all
290 jurisdictions during the preceding year by power units.

291 (b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means
292 the number of miles that those vehicles were towed on the highways of all jurisdictions during
293 the preceding year.

294 [~~73~~] (74) "Trailer" means a vehicle without motive power designed for carrying
295 persons or property and for being drawn by a motor vehicle and constructed so that no part of
296 its weight rests upon the towing vehicle.

297 [~~74~~] (75) "Transferee" means a person to whom the ownership of property is
298 conveyed by sale, gift, or any other means except by the creation of a security interest.

299 ~~[(75)]~~ (76) "Transferor" means a person who transfers the person's ownership in
300 property by sale, gift, or any other means except by creation of a security interest.

301 ~~[(76)]~~ (77) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable
302 vehicle without motive power, designed as a temporary dwelling for travel, recreational, or
303 vacation use that does not require a special highway movement permit when drawn by a
304 self-propelled motor vehicle.

305 ~~[(77)]~~ (78) "Truck tractor" means a motor vehicle designed and used primarily for
306 drawing other vehicles and not constructed to carry a load other than a part of the weight of the
307 vehicle and load that is drawn.

308 ~~[(78)]~~ (79) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle,
309 camper, park model recreational vehicle, manufactured home, and mobile home.

310 ~~[(79)]~~ (80) "Vessel" means the same as that term is defined in Section 73-18-2.

311 ~~[(80)]~~ (81) "Vintage vehicle" means the same as that term is defined in Section
312 41-21-1.

313 ~~[(81)]~~ (82) "Waters of this state" means the same as that term is defined in Section
314 73-18-2.

315 ~~[(82)]~~ (83) "Weighmaster" means a person, association of persons, or corporation
316 permitted to weigh vehicles under this chapter.

317 Section 2. Section 41-1a-1101 is amended to read:

318 **41-1a-1101. Seizure -- Circumstances where permitted -- Impound lot standards.**

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

- 321 (a) that the division or the peace officer has reason to believe has been stolen;
- 322 (b) on which any identification number has been defaced, altered, or obliterated;
- 323 (c) that has been abandoned in accordance with Section 41-6a-1408;
- 324 (d) for which the applicant has written a check for registration or title fees that has not
325 been honored by the applicant's bank and that is not paid within 30 days;

- 326 (e) that is placed on the water with improper registration;
- 327 (f) that is being operated on a highway:
- 328 (i) with registration that has been expired for more than three months;
- 329 (ii) having never been properly registered by the current owner; or
- 330 (iii) with registration that is suspended or revoked; or
- 331 (g) (i) that the division or the peace officer has reason to believe has been involved in
- 332 an accident described in Section 41-6a-401, 41-6a-401.3, or 41-6a-401.5; and
- 333 (ii) whose operator did not remain at the scene of the accident until the operator
- 334 fulfilled the requirements described in Section 41-6a-401 or 41-6a-401.7.
- 335 (2) (a) Subject to the restriction in Subsection (2)(b), the division or any peace officer,
- 336 without a warrant:
- 337 (i) shall seize and take possession of any vehicle that is being operated on a highway
- 338 without owner's or operator's security in effect for the vehicle as required under Section
- 339 41-12a-301 and the vehicle was involved in an accident; or
- 340 (ii) may seize and take possession of any vehicle that is being operated on a highway
- 341 without owner's or operator's security in effect for the vehicle as required under Section
- 342 41-12a-301 after the division or any peace officer makes a reasonable determination whether
- 343 the vehicle would:
- 344 (A) present a public safety concern to the operator or any of the occupants in the
- 345 vehicle; or
- 346 (B) prevent the division or the peace officer from addressing other public safety
- 347 considerations.
- 348 (b) The division or any peace officer may not seize and take possession of a vehicle
- 349 under Subsection (2)(a):
- 350 (i) if the operator of the vehicle is not carrying evidence of owner's or operator's
- 351 security as defined in Section 41-12a-303.2 in the vehicle unless the division or peace officer
- 352 verifies that owner's or operator's security is not in effect for the vehicle through the Uninsured

353 Motorist Identification Database created in accordance with Section 41-12a-803; or
354 (ii) if the operator of the vehicle is carrying evidence of owner's or operator's security
355 as defined in Section 41-12a-303.2 in the vehicle and the Uninsured Motorist Identification
356 Database created in accordance with Section 41-12a-803 indicates that the owner's or operator's
357 security is not in effect for the vehicle, unless the division or a peace officer makes a
358 reasonable attempt to independently verify that owner's or operator's security is not in effect for
359 the vehicle.

360 (3) If necessary for the transportation of a seized vessel, the vessel's trailer may be
361 seized to transport and store the vessel.

362 (4) Any peace officer seizing or taking possession of a vehicle, vessel, or outboard
363 motor under this section shall comply with the provisions of Section 41-6a-1406.

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

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

369 (c) A crusher, dismantler, or salvage dealer may not operate as a state impound yard
370 unless the crusher, dismantler, or salvage dealer meets all of the requirements for a state
371 impound yard set forth in this section and rules made in accordance with Subsection (5)(a).

372 (d) (i) Rules made by the commission shall include a requirement that a state impound
373 yard have opaque fencing on any side of the state impound yard that has frontage with a
374 highway.

375 (ii) The opaque fencing described in Subsection (5)(d)(i) may be opaque chain link
376 fencing.

377 (6) (a) Except as provided under Subsection (6)(b), a person may not operate or allow
378 to be operated a vehicle stored in a public garage, impound lot, or impound yard regulated
379 under this part without prior written permission of the owner of the vehicle.

380 (b) Incidental and necessary operation of a vehicle to move the vehicle from one
381 parking space to another within the facility and that is necessary for the normal management of
382 the facility is not prohibited under Subsection (6)(a).

383 (7) A person who violates the provisions of Subsection (6) is guilty of a class C
384 misdemeanor.

385 (8) The division or the peace officer who seizes a vehicle shall record the mileage
386 shown on the vehicle's odometer at the time of seizure, if:

387 (a) the vehicle is equipped with an odometer; and

388 (b) the odometer reading is accessible to the division or the peace officer.

389 Section 3. Section **41-6a-1406** is amended to read:

390 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
391 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

397 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
398 impounded to~~[(a)]~~ a state impound yard~~[, or]~~.

399 ~~[(b) if none, a garage, docking area, or other place of safety.]~~

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

402 (a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

403 (b) by the department under Subsection (10).

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

406 (i) the peace officer or agency by whom the peace officer is employed; and

407 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
408 operator is employed.

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

411 (i) the operator's name, if known;

412 (ii) a description of the vehicle, vessel, or outboard motor;

413 (iii) the vehicle identification number or vessel or outboard motor identification
414 number;

415 (iv) the license number, temporary permit number, or other identification number
416 issued by a state agency;

417 (v) the date, time, and place of impoundment;

418 (vi) the reason for removal or impoundment;

419 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
420 outboard motor; and

421 (viii) the place where the vehicle, vessel, or outboard motor is stored.

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

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

425 (ii) begin charging storage fees.

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

429 (i) the registered owner;

430 (ii) any lien holder; or

431 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor
432 is currently operating under a temporary permit issued by the dealer, as described in Section
433 [41-3-302](#).

- 434 (b) The notice shall:
- 435 (i) state the date, time, and place of removal, the name, if applicable, of the person
436 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
437 and the place where the vehicle, vessel, or outboard motor is stored;
- 438 (ii) state that the registered owner is responsible for payment of towing, impound, and
439 storage fees charged against the vehicle, vessel, or outboard motor;
- 440 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
441 motor is released; and
- 442 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
443 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or
444 impoundment under this section, one of the parties fails to make a claim for release of the
445 vehicle, vessel, or outboard motor.
- 446 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
447 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
448 to notify the parties described in Subsection (5)(a) of the removal and the place where the
449 vehicle, vessel, or outboard motor is stored.
- 450 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
451 the vehicle, vessel, or outboard motor is stored.
- 452 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
453 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
454 service in accordance with Subsection [72-9-603\(1\)\(a\)\(i\)](#).
- 455 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
456 in Subsection (5)(a):
- 457 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
458 the State Tax Commission;
- 459 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
460 vessel, or outboard motor;

461 (iii) completes the registration, if needed, and pays the appropriate fees;
462 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
463 impound fee of \$400; and
464 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
465 motor is stored.

466 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
467 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;
468 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
469 be deposited in the Department of Public Safety Restricted Account created in Section
470 53-3-106;
471 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
472 be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and
473 (iv) the remainder of the administrative impound fee assessed under Subsection
474 (6)(a)(iv) shall be deposited in the General Fund.

475 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
476 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
477 owner's agent presents written evidence to the State Tax Commission that:
478 (i) the Driver License Division determined that the arrested person's driver license
479 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
480 or other report from the Driver License Division presented within 180 days after the day on
481 which the Driver License Division mailed the final notification; or
482 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
483 stolen vehicle report presented within 180 days after the day of the impoundment.

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

488 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
489 impounded vehicle, vessel, or outboard motor if:

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

491 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
492 Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or
493 outboard motor under this Subsection (6).

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

498 (b) The date of impoundment is considered the date of seizure for computing the time
499 period provided under Section 41-1a-1103.

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

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

506 (10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
507 the department shall make rules setting the performance standards for towing companies to be
508 used by the department.

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

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

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

- 515 (A) be reasonable and fair; and
- 516 (B) reflect the cost of administering the database.

517 Section 4. Section **72-9-102** is amended to read:

518 **72-9-102. Definitions.**

519 As used in this chapter:

520 (1) (a) "Commercial vehicle" includes:

- 521 (i) an interstate commercial vehicle; and
- 522 (ii) an intrastate commercial vehicle.

523 (b) "Commercial vehicle" does not include the following vehicles for purposes of this
524 chapter:

525 (i) equipment owned and operated by the United States Department of Defense when
526 driven by any active duty military personnel and members of the reserves and national guard on
527 active duty including personnel on full-time national guard duty, personnel on part-time
528 training, and national guard military technicians and civilians who are required to wear military
529 uniforms and are subject to the code of military justice;

530 (ii) firefighting and emergency vehicles, operated by emergency personnel, not
531 including commercial tow trucks;

532 (iii) recreational vehicles that are driven solely as family or personal conveyances for
533 noncommercial purposes; or

534 (iv) vehicles owned by the state or a local government.

535 (2) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle used
536 on a highway in interstate commerce to transport passengers or property if the vehicle:

537 (a) has a gross vehicle weight rating or gross combination weight rating of 10,001 or
538 more pounds;

539 (b) is designed or used to transport more than eight passengers, including the driver, for
540 compensation;

541 (c) is designed or used to transport more than 15 passengers, including the driver, and

542 is not used to transport passengers for compensation; or

543 (d) (i) is used to transport materials designated as hazardous in accordance with 49
544 U.S.C. Sec. 5103; and

545 (ii) is required to be placarded in accordance with regulations under 49 C.F.R., Subtitle
546 B, Chapter I, Subchapter C.

547 (3) " Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or
548 semitrailer used or maintained for business, compensation, or profit to transport passengers or
549 property on a highway only within the boundaries of this state if the commercial vehicle:

550 (a) has a manufacturer's gross vehicle weight rating or gross combination weight rating
551 of 10,001 or more pounds;

552 (b) is designed to transport more than 15 passengers, including the driver; or

553 (c) is used in the transportation of hazardous materials and is required to be placarded
554 in accordance with 49 C.F.R. Part 172, Subpart F.

555 (4) "Motor carrier" means a person engaged in or transacting the business of
556 transporting passengers, freight, merchandise, or other property by a commercial vehicle on a
557 highway within this state and includes a tow truck business.

558 (5) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as
559 that term is defined in Section 41-1a-102.

560 (6) "Property owner" means the owner or lessee of real property.

561 (7) "State impound yard" means the same as that term is defined in Section 41-1a-102.

562 [~~5~~] (8) "Tow truck" means a motor vehicle constructed, designed, altered, or
563 equipped primarily for the purpose of towing or removing damaged, disabled, abandoned,
564 seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow
565 bar, tow line, dolly, tilt bed, or other means.

566 (9) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting
567 business for tow truck services.

568 (10) "Tow truck operator" means an individual that performs operations related to a

569 tow truck service as an employee or as an independent contractor on behalf of a tow truck
570 motor carrier.

571 [~~6~~] (11) "Tow truck service" means the functions and any ancillary operations
572 associated with recovering, removing, and towing a vehicle and its load from a highway or
573 other place by means of a tow truck.

574 [~~7~~] (12) "Transportation" means the actual movement of property or passengers by
575 motor vehicle, including loading, unloading, and any ancillary service provided by the motor
576 carrier in connection with movement by motor vehicle, which is performed by or on behalf of
577 the motor carrier, its employees or agents, or under the authority of the motor carrier, its
578 employees or agents, or under the apparent authority and with the knowledge of the motor
579 carrier.

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

581 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
582 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

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

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

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

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

596 (C) reasons for the removal of the vehicle, vessel, or outboard motor;
597 (D) person who requested the removal of the vehicle, vessel, or outboard motor; and
598 (E) [~~vehicle, vessel, or outboard motor's description, including its identification~~
599 ~~number and license number or other identification number issued by a state agency;~~]
600 description, including the identification number, license number, or other identification number
601 issued by a state agency, of the vehicle, vessel, or outboard motor;

602 (b) within two business days of performing the tow truck service under Subsection
603 (1)(a), send a certified letter to the last-known address of each party described in Subsection
604 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
605 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
606 current address, notifying the party of the:

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

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

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

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

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

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

629 (ii) Signage under Subsection (2)(b)(i) shall display:

630 (A) where parking is subject to towing; and

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

633 (II) one of the following:

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

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

639 (c) Signage is not required under Subsection (2)(b) for parking in a location:

640 (i) that is prohibited by law; or

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

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

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

647 (a) the tow truck service and storage fees set in accordance with Subsection (7); and

648 (b) the administrative impound fee set in Section 41-6a-1406, if applicable.

649 (4) (a) The fees under Subsection (3) are a possessory lien on the vehicle, vessel, or

650 outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard
651 motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

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

656 (i) pays the fees described in Subsection (3); and

657 (ii) removes the vehicle, vessel, or outboard motor from the [~~secure storage facility~~]
658 state impound yard.

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

662 (i) pay the fees described in Subsection (3); and

663 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

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

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

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

673 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
674 [~~Department of Transportation~~] department shall:

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

676 (i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel,

677 or outboard motor that are transported in response to:

678 (A) a peace officer dispatch call;

679 (B) a motor vehicle division call; and

680 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor

681 has not consented to the removal; and

682 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor

683 stored as a result of one of the conditions listed under Subsection (7)(a)(i);

684 (b) establish authorized towing certification requirements, not in conflict with federal

685 law, related to incident safety, clean-up, and hazardous material handling;

686 (c) specify the form and content of the posting and disclosure of fees and rates charged

687 and acceptable forms of payment by a tow truck motor carrier or impound yard;

688 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may

689 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of

690 the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the

691 vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

692 (e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains

693 specific information regarding:

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

695 (ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow

696 truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or

697 request where the owner of the vehicle, vessel, or outboard motor has not consented to the

698 removal; and

699 (iii) identifies the maximum rates that an impound yard may charge for the storage of

700 vehicle, vessel, or outboard motor that is transported in response to a call or request where the

701 owner of the vehicle, vessel, or outboard motor has not consented to the removal.

702 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,

703 vessel, or outboard motor if:

704 (a) the vehicle, vessel, or outboard motor is being held as evidence; and
705 (b) the vehicle, vessel, or outboard motor is not being released to a party described in
706 Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle,
707 vessel, or outboard motor under Section 41-6a-1406.

708 (9) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by
709 the department in rules made under Subsection (7).

710 [~~9~~] (ii) In addition to the maximum rates established under Subsection (7) and when
711 receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an
712 impound yard may charge a credit card processing fee of 3% of the transaction total.

713 (b) A tow truck motor carrier may not be required to maintain insurance coverage at a
714 higher level than required in rules made pursuant to Subsection (7).

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

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

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

724 **72-9-604. Preemption of local authorities -- Tow trucks.**

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

- 728 (i) any provision of this part;
- 729 (ii) Section 41-6a-1401;
- 730 (iii) Section 41-6a-1407; or

731 (iv) rules made by the department under this part.

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

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

735 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien
736 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent
737 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section
738 [41-6a-1406](#).

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

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

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

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

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

751 (5) A tow truck shall be subject to only one annual safety inspection under Subsection
752 (4)(b). A county or municipality that requires the additional annual safety inspection shall
753 accept the same inspection performed by another county or municipality.

754 (6) (a) Beginning on July 1, 2021, a political subdivision or state agency may not
755 charge an applicant a fee or charge related to dispatch costs in order to be part of the towing
756 rotation of that political subdivision or state agency.

757 (b) In addition to the fees set by the department in rules made in accordance with

758 Subsection 72-9-603(7), a tow truck motor carrier may charge a fee to cover the costs of a
759 dispatch charge described in Subsection (6)(a).

760 (c) The amount of the fee described in Subsection (6)(b) may not exceed the amount
761 charged to the tow truck motor carrier by the political subdivision or state agency for dispatch
762 services.

763 (d) A political subdivision or state agency that does not charge a dispatch fee as of
764 January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a).

765 (7) A towing entity may not require a tow truck operator who has received an
766 authorized towing certificate from the department to submit additional criminal background
767 check information for inclusion of the tow truck motor carrier on a rotation.

768 (8) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck
769 operator that responds may not respond to the location in a tow truck that is owned by a tow
770 truck motor carrier that is different than the tow truck motor carrier that was dispatched.

771 Section 7. Section 72-9-607 is enacted to read:

772 **72-9-607. Required process before removal from towing rotation.**

773 (1) Each political subdivision or state agency that establishes a towing rotation to
774 facilitate tows initiated by the political subdivision or state agency shall establish a policy for
775 an appeals process to hear and decide appeals from a decision to suspend or remove a tow truck
776 motor carrier or tow truck operator from a towing rotation.

777 (2) In conducting an appeal as described in Subsection (1):

778 (a) the appeal process may be conducted by a single appeal officer or a panel; and

779 (b) an individual hearing an appeal, whether as a single appeal officer or as part of a
780 panel, may not be the same individual who made the decision to suspend or remove the tow
781 truck motor carrier or tow truck operator from the towing rotation.