

**Representative A. Cory Maloy** proposes the following substitute bill:

**TOWING REVISIONS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: A. Cory Maloy**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill 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:**



26 AMENDS:

27 [41-1a-102](#), as last amended by Laws of Utah 2018, Chapters 166 and 424

28 [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

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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 autocyycle.

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) "Central office" means a central place of business of a tow truck motor carrier  
521 located within a 10 mile radius of each state impound yard owned or operated by the tow truck

522 motor carrier.

523 (b) "Central office" does not include a remote state impound yard owned or operated  
524 by the tow truck motor carrier.

525 [~~1~~] (2) (a) "Commercial vehicle" includes:

526 (i) an interstate commercial vehicle; and

527 (ii) an intrastate commercial vehicle.

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

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

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

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

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

540 [~~2~~] (3) "Interstate commercial vehicle" means a self-propelled or towed motor vehicle  
541 used on a highway in interstate commerce to transport passengers or property if the vehicle:

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

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

546 (c) is designed or used to transport more than 15 passengers, including the driver, and  
547 is not used to transport passengers for compensation; or

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

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

552 [~~3~~] (4) "Intrastate commercial vehicle" means a motor vehicle, vehicle, trailer, or

553 semitrailer used or maintained for business, compensation, or profit to transport passengers or  
554 property on a highway only within the boundaries of this state if the commercial vehicle:

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

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

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

560 [~~4~~] (5) "Motor carrier" means a person engaged in or transacting the business of  
561 transporting passengers, freight, merchandise, or other property by a commercial vehicle on a  
562 highway within this state and includes a tow truck business.

563 (6) "Owner" as pertaining to a vehicle, vessel, or outboard motor, means the same as  
564 that term is defined in Section [41-1a-102](#).

565 (7) "Property owner" means the owner or lessee of real property.

566 (8) "State impound yard" means the same as that term is defined in Section [41-1a-102](#).

567 [~~5~~] (9) "Tow truck" means a motor vehicle constructed, designed, altered, or  
568 equipped primarily for the purpose of towing or removing damaged, disabled, abandoned,  
569 seized, or impounded vehicles from a highway or other place by means of a crane, hoist, tow  
570 bar, tow line, dolly, tilt bed, or other means.

571 (10) "Tow truck motor carrier" means a motor carrier that is engaged in or transacting  
572 business for tow truck services.

573 (11) "Tow truck operator" means an individual that performs operations related to a  
574 tow truck service as an employee or as an independent contractor on behalf of a tow truck  
575 motor carrier.

576 [~~6~~] (12) "Tow truck service" means the functions and any ancillary operations  
577 associated with recovering, removing, and towing a vehicle and its load from a highway or  
578 other place by means of a tow truck.

579 [~~7~~] (13) "Transportation" means the actual movement of property or passengers by  
580 motor vehicle, including loading, unloading, and any ancillary service provided by the motor  
581 carrier in connection with movement by motor vehicle, which is performed by or on behalf of  
582 the motor carrier, its employees or agents, or under the authority of the motor carrier, its  
583 employees or agents, or under the apparent authority and with the knowledge of the motor

584 carrier.

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

586 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**  
587 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

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

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

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

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

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

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

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

606 (b) within two business days of performing the tow truck service under Subsection  
607 (1)(a), send a certified letter to the last-known address of each party described in Subsection  
608 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the  
609 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the  
610 current address, notifying the party of the:

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

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

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

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

616 (v) a description, including its identification number and license number or other

617 identification number issued by a state agency; and

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

619 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was

620 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding

621 Towing established by the department in Subsection (7)(e).

622 (2) Until the tow truck operator or tow truck motor carrier reports the removal as

623 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound

624 yard may not:

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

626 (ii) begin charging storage fees.

627 (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor

628 carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor

629 owner's or a lien holder's knowledge at either of the following locations without signage that

630 meets the requirements of Subsection (2)(b)(ii):

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

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

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

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

635 (B) (I) the Internet website address that provides access to towing database information

636 in accordance with Section 41-6a-1406; or

637 (II) one of the following:

638 (Aa) the name and phone number of the tow truck operator or tow truck motor carrier

639 that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or

640 (Bb) the name of the mobile home park or multifamily dwelling and the phone number

641 of the mobile home park or multifamily dwelling manager or management office that

642 authorized the vehicle, vessel, or outboard motor to be towed.

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

644 (i) that is prohibited by law; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

682 (A) a peace officer dispatch call;

683 (B) a motor vehicle division call; and

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

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

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

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

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

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

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

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

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

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

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

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

714 [~~9~~] (ii) In addition to the maximum rates established under Subsection (7) and when  
715 receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an  
716 impound yard may charge a credit card processing fee of 3% of the transaction total.

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

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

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

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

728 **72-9-604. Preemption of local authorities -- Tow trucks.**

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

- 732 (i) any provision of this part;
- 733 (ii) Section 41-6a-1401;
- 734 (iii) Section 41-6a-1407; or
- 735 (iv) rules made by the department under this part.

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

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



739 (ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien  
740 holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent  
741 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section  
742 [41-6a-1406](#).

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

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

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

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

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

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

759 (6) A political subdivision or state agency may not charge an applicant a fee or charge  
760 related to dispatch costs in order to be part of the towing rotation.

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

764 Section 7. Section [72-9-607](#) is enacted to read:

765 **[72-9-607](#). Required process before removal from towing rotation.**

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

770           (2) In conducting an appeal as described in Subsection (1):  
771           (a) the appeal process may be conducted by a single appeal officer or a panel; and  
772           (b) an individual hearing an appeal, whether as a single appeal officer or as part of a  
773 panel, may not be the same individual who made the decision to suspend or remove the tow  
774 truck motor carrier or tow truck operator from the towing rotation.