

POSSESSORY LIEN AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kathleen Riebe

House Sponsor: Val K. Potter

LONG TITLE

General Description:

This bill amends provisions related to a possessory lien on personal items in a vehicle that has been towed.

Highlighted Provisions:

This bill:

- ▶ removes personal items from a possessory lien of a tow truck motor carrier or tow truck operator on a vehicle, vessel, or outboard motor that has been towed; and
- ▶ requires a tow truck motor carrier or tow truck operator to grant an owner access to a vehicle, vessel, or outboard motor that has been towed for the owner to remove personal items.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

Section 1. Section **72-9-603** is amended to read:



28 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
29 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

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

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

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

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

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

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

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

47 (b) within two business days of performing the tow truck service under Subsection
48 (1)(a), send a certified letter to the last-known address of each party described in Subsection
49 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the
50 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
51 current address, notifying the party of the:

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

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

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

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

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

59 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and
60 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
61 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
62 Towing established by the department in Subsection (7)(e).

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

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

67 (ii) begin charging storage fees.

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

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

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

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

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

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

78 (II) one of the following:

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

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

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

85 (i) that is prohibited by law; or

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

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

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

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

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

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

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

101 (ii) removes the vehicle, vessel, or outboard motor from the secure storage facility.

102 (c) The tow truck operator or tow truck motor carrier shall provide a party described in
103 Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor access to
104 the vehicle, vessel, or outboard motor to remove personal items from the vehicle, vessel, or
105 outboard motor.

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

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

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

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

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

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

120 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

121 Department of Transportation shall:

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

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

125 (A) a peace officer dispatch call;

126 (B) a motor vehicle division call; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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