

SB0113S01 compared with SB0113

~~{deleted text}~~ shows text that was in SB0113 but was deleted in SB0113S01.

Inserted text shows text that was not in SB0113 but was inserted into SB0113S01.

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Representative Val K. Potter proposes the following substitute bill:

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 inspect the vehicle, vessel, or outboard motor or remove personal items.

Money Appropriated in this Bill:

None

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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:

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

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

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

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

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

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

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

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

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

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

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

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current address, notifying the party of the:

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

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

- (i) collect any fee associated with the removal; or
 - (ii) begin charging storage fees.
- (b) (i) Except as provided in Subsection (2)(c), a tow truck operator or tow truck motor carrier may not perform a tow truck service without the vehicle, vessel, or outboard motor owner's or a lien holder's knowledge at either of the following locations without signage that meets the requirements of Subsection (2)(b)(ii):
- (A) a mobile home park as defined in Section 57-16-3; or
 - (B) a multifamily dwelling of more than eight units.
- (ii) Signage under Subsection (2)(b)(i) shall display:
- (A) where parking is subject to towing; and
 - (B) (I) the Internet website address that provides access to towing database information in accordance with Section 41-6a-1406; or
 - (II) one of the following:
 - (Aa) the name and phone number of the tow truck operator or tow truck motor carrier that performs a tow truck service for the locations listed under Subsection (2)(b)(i); or
 - (Bb) the name of the mobile home park or multifamily dwelling and the phone number

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of the mobile home park or multifamily dwelling manager or management office that authorized the vehicle, vessel, or outboard motor to be towed.

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

- (i) that is prohibited by law; or
- (ii) if it is reasonably apparent that the location is not open to parking.

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

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

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

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

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

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

(c) The tow truck operator or tow truck motor carrier shall, for 72 hours after submitting the report described in Subsection (1)(a), provide a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor access to the vehicle, vessel, or outboard motor to inspect the vehicle, vessel, or outboard motor or remove personal items from the vehicle, vessel, or outboard motor.

(d) For purposes of this Subsection (4), "personal item" includes a:

(i) wallet;

(ii) purse;

(iii) laptop, personal computer, or tablet device;

(iv) mobile phone;

(v) government issued identification; or

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(vi) prescription medications.

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

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

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

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

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

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

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

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

- (A) a peace officer dispatch call;
- (B) a motor vehicle division call; and
- (C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

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

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

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

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

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charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); and

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

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

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

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

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

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

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

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

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

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

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