

1 **IMPOUND FEES AMENDMENTS**

2 2020 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel McCay**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to towing to prohibit a tow truck operator or tow
10 truck motor carrier from collecting fees or charging for storage for a vehicle that was
11 towed without the knowledge of the owner until certain notice requirements are met.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ amends provisions related to towing to prohibit a tow truck operator or tow truck
15 motor carrier from collecting fees or charging for storage for a vehicle that was
16 towed without the knowledge of the owner until:

- 17 • a report is sent to the Motor Vehicle Division;
- 18 • the law enforcement agency having jurisdiction is notified;
- 19 • within two business days of performing the tow truck service, a certified letter
20 is sent to the last known address of the owner; and
- 21 • upon contacting the owner, the Utah Consumer Bill of Rights Regarding

22 Towing is provided to the owner.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **72-9-603**, as last amended by Laws of Utah 2019, Chapter 373



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

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

33 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
34 **vehicle title restrictions -- Rules for maximum rates and certification.**

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

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

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

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

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

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

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

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

50 (E) description, including the identification number, license number, or other
51 identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

52 (b) within two business days of performing the tow truck service under Subsection
53 (1)(a), send a certified letter to the last-known address of each party described in Subsection
54 **41-6a-1406(5)(a)** with an interest in the vehicle, vessel, or outboard motor obtained from the
55 Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the
56 current address, notifying the party of the:

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

58 (ii) date, time, and location from which the vehicle, vessel, or outboard motor was

59 removed;

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

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

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

63 identification number issued by a state agency; and

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

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

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

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

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

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

70 yard may not:

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

72 (ii) begin charging storage fees.

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

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

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

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

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

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

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

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

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

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

83 (II) one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

106 (i) pays the fees described in Subsection (3); and
107 (ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

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

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

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

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

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

121 Subsection (1).

122 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
123 department shall:

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

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

127 (A) a peace officer dispatch call;

128 (B) a motor vehicle division call; and

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

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

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

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

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

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

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

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

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

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

152 vessel, or outboard motor if:

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

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

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

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

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

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

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

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