

## SB0109S03 compared with SB0109

~~{deleted text}~~ shows text that was in SB0109 but was deleted in SB0109S03.

inserted text shows text that was not in SB0109 but was inserted into SB0109S03.

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Senator Michael K. McKell proposes the following substitute bill:

### TOWING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends provisions related to the towing and impounding of vehicles.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires submission of a certain form to the Division of Motor Vehicles and notification of the owner of a vehicle if the vehicle is removed;
- ▶ grants rulemaking authority to prescribe the format and contents of the form to be submitted to the Division of Motor Vehicles;

~~{ → provides that certain towing related fees and charges are a possessory lien on the vehicle and nonlife essential items in the vehicle;~~

{ ▶ allows a tow truck motor carrier to charge an after-hour fee if an owner requests

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release of a vehicle after normal business hours;

▶ prohibits a tow truck motor carrier or tow truck operator from sharing personal information of or referring other services to a person for whom the tow truck motor carrier or tow truck operator has performed a tow service; and

▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**41-1a-102**, as last amended by Laws of Utah 2019, Chapters 373, 428, 459, and 479

**41-1a-1103**, as last amended by Laws of Utah 2014, Chapter 382

**41-6a-102**, as last amended by Laws of Utah 2020, Chapters 84 and 354

**41-6a-1406**, as last amended by Laws of Utah 2019, Chapter 373

**53-3-106**, as last amended by Laws of Utah 2018, Chapter 417

**63I-1-241**, as last amended by Laws of Utah 2020, Chapters 84 and 154

**72-9-603**, as last amended by Laws of Utah 2020, Chapter 45

REPEALS:

**41-1a-1104**, as last amended by Laws of Utah 2005, Chapter 56

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

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

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

As used in this chapter:

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

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

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

(4) "All-terrain type II vehicle" means the same as that term is defined in Section

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41-22-2.

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

(6) "Alternative fuel vehicle" means:

- (a) an electric motor vehicle;
- (b) a hybrid electric motor vehicle;
- (c) a plug-in hybrid electric motor vehicle; or
- (d) a motor vehicle powered exclusively by a fuel other than:
  - (i) motor fuel;
  - (ii) diesel fuel;
  - (iii) natural gas; or
  - (iv) propane.

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

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

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

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

- (a) rebuilt and restored to operation;
- (b) flooded and restored to operation; or
- (c) not restored to operation.

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

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

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

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

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

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

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

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

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

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

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

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

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

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

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

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

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

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

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

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

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

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

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

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

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

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

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

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

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

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

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

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

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

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

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

(39) "Motor fuel" means the same as that term is defined in Section 59-13-102.

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

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(41) "Motorboat" means the same as that term is defined in Section 73-18-2.

(42) "Motorcycle" means:

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

(b) an autocycle.

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

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

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

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

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

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

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

(48) (a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

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

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

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

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(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

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

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

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

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

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

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

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

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

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

(55) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

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

(57) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(58) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

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

(60) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

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

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

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

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

(64) "Replica vehicle" means:

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

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

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

(66) "Sailboat" means the same as that term is defined in Section 73-18-2.

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

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

(69) "Special group license plate" means a type of license plate designed for a

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particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

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

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

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

(b) In making a determination under Subsection (70)(a), the division director shall give special consideration to:

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

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

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

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

(71) (a) "Special mobile equipment" means a vehicle:

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

(ii) not designed to operate in traffic; and

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

(b) "Special mobile equipment" includes:

(i) farm tractors;

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

(iii) ditch-digging apparatus.

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

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

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construction.

(73) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

(74) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

(75) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

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

(76) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

(77) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

~~(76)~~ (78) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

~~(77)~~ (79) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

~~(78)~~ (80) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

~~(79)~~ (81) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

~~(80)~~ (82) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

~~(81)~~ (83) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

~~(82)~~ (84) "Vessel" means the same as that term is defined in Section 73-18-2.

~~(83)~~ (85) "Vintage vehicle" means the same as that term is defined in Section

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41-21-1.

~~[(84)]~~ (86) "Waters of this state" means the same as that term is defined in Section 73-18-2.

~~[(85)]~~ (87) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section **41-1a-1103** is amended to read:

### **41-1a-1103. Sale.**

(1) (a) ~~[H]~~ For a vehicle, vessel, or outboard motor with a model year of seven years old or older, if the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 30 days from the date of ~~[seizure,]~~ the original notice described in Section 41-6a-1406, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall ~~[sell]~~ transfer title of the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier.

(b) For a vehicle, vessel, or outboard motor with a model year under seven years old, if the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 55 days from the date of ~~[seizure]~~ the original notice described in Section 41-6a-1406, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall transfer title of the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier.

~~[(2) The sale shall:]~~

~~[(a) be held in the form of a public auction at the place of storage; and]~~

~~[(b) at the discretion of the division, be conducted by:]~~

~~[(i) an authorized representative of the division; or]~~

~~[(ii) a public garage, impound lot, or impound yard that:]~~

~~[(A) is authorized by the division;]~~

~~[(B) meets the standards under Subsection 41-1a-1101(5); and]~~

~~[(C) complies with the requirements of Section 72-9-603.]~~

~~[(3) At least five days prior to the date set for sale, the division shall publish a notice of sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or~~

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~~outboard motor to be sold:]~~

~~[(a) on the division's website; and]~~

~~[(b) as required in Section 45-1-101.]~~

~~[(4) At the time of sale the division or other person authorized to conduct the sale shall tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the vehicle, vessel, or outboard motor.]~~

~~[(5) The proceeds from the sale of a vehicle, vessel, or outboard motor under this section shall be distributed as provided under Section 41-1a-1104.]~~

~~[(6)] (2) (a) [If] For a vehicle, vessel, or outboard motor with a model year of seven years old or older, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall renotify the owner or lienholder and [set] transfer title to the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier, in accordance with this section, 30 days from the date of the original notice described in Section 41-6a-1406.~~

~~(b) For a vehicle, vessel, or outboard motor with a model year under seven years old, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 55 days from the date of release, the division shall renotify the owner or lienholder and transfer title to the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier, in accordance with this section, 55 days from the date of the original notice described in Section 41-6a-1406.~~

Section 3. Section **41-6a-102** is amended to read:

### **41-6a-102. Definitions.**

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section

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41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the

Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

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(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

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(i) an electric assisted bicycle equipped with a motor or electronics that:  
(A) provides assistance only when the rider is pedaling; and  
(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:  
(A) may be used exclusively to propel the bicycle; and  
(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:  
(A) provides assistance only when the rider is pedaling;  
(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;  
(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

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

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(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a [~~tagliabue~~] Tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) "Golf cart" means a device that:

- (i) is designed for transportation by players on a golf course;
- (ii) has not less than three wheels in contact with the ground;
- (iii) has an unladen weight of less than 1,800 pounds;
- (iv) is designed to operate at low speeds; and
- (v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

- (i) a low-speed vehicle or an off-highway vehicle;
- (ii) a motorized wheelchair;
- (iii) an electric personal assistive mobility device;
- (iv) an electric assisted bicycle;
- (v) a motor assisted scooter;
- (vi) a personal delivery device, as defined in Section 41-6a-1119; or
- (vii) a mobile carrier, as defined in Section 41-6a-1120.

(24) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(25) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(26) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(27) "Highway authority" means the same as that term is defined in Section 72-1-102.

(28) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

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(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(29) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(30) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(31) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(32) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(33) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(34) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

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(35) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(36) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(37) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (37)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(38) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

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(ii) a motor assisted scooter.

(39) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(40) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(41) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(42) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

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(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(43) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

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

(45) "Operate" means the same as that term is defined in Section 41-1a-102.

(46) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(47) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(48) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(49) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(50) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(51) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture,

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governmental agency, public corporation, or any other legal or commercial entity.

(52) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(53) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(54) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

(55) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(56) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(57) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(58) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(59) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(60) (a) "School bus" means a motor vehicle that:

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(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(61) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(62) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(63) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(64) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(65) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(66) "Stop" when required means complete cessation from movement.

(67) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(68) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with

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Section 41-6a-1509.

(69) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

(70) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

~~(69)~~ (71) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

~~(70)~~ (72) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

~~(71)~~ (73) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

~~(72)~~ (74) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

~~(73)~~ (75) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

~~(74)~~ (76) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

~~(75)~~ (77) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

~~(76)~~ (78) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

~~(77)~~ (79) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

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~~[(78)]~~ (80) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 4. Section **41-6a-1406** is amended to read:

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

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

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

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

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

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

(4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

~~[(4)(a)]~~ (b) [Immediately] Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

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

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

~~[(b)]~~ (c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

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

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

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

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

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

(vi) the reason for removal or impoundment;

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

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

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this subsection (4).

~~[(c)]~~ (e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not ~~[(f)]:~~

(i) ~~[(f)]~~ collect any fee associated with the removal ~~[(f)]~~; and ~~[(f)]~~

~~[(f)]~~(ii) begin charging storage fees. ~~[(f)]~~

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

(i) the registered owner;

(ii) any lien holder; or

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

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard

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motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

~~{ (6) (a) Fees described in this Subsection (6) are a possessory lien on the vehicle, vessel, outboard motor, and any nonlife essential items contained in the vehicle, vessel, or outboard motor until paid.~~

† ~~{(b)}~~ (6) (a) ~~{(b)}~~ The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of \$400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

~~{(b)}~~ ~~{(c)}~~ (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection ~~{(6)}~~(a)(iv) ~~{(6)}~~(b)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) \$147 of the administrative impound fee assessed under Subsection ~~{(6)}~~(a)(iv) ~~{(6)}~~

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~~(6)(b)(iv)~~ shall be deposited [in] into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) \$20 of the administrative impound fee assessed under Subsection ~~(6)(a)(iv)~~ ~~(6)(b)(iv)~~ shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection ~~(6)(a)(iv)~~ ~~(6)(b)(iv)~~ shall be deposited [in] into the General Fund.

~~(c)~~ ~~(d)~~ The administrative impound fee assessed under Subsection ~~(6)(a)(iv)~~ ~~(6)(b)(iv)~~ shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

~~(d)~~ ~~(e)~~ 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 removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

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

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

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

(7) (a) ~~[An]~~ For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 ~~[shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104]~~, the Motor Vehicle Division shall transfer title of the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

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

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

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

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

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

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

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

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 5. Section **53-3-106** is amended to read:

**53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.**

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

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(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of \$45 of the fees collected under Subsection 53-3-105(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of \$45, \$100 shall be deposited ~~[in]~~ into the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)~~(b)~~(c)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate \$100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(25) in the next fiscal year.

Section 6. Section **63I-1-241** is amended to read:

### **63I-1-241. Repeal dates, Title 41.**

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle

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business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102(30) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)[~~(b)~~](c)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which create the Off-highway Vehicle Advisory Council, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section 7. 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, 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)~~] 41-6a-1406(4); 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) description, including the identification number, license number, or other identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

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(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 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 (16)(e).

(2) 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:

- (a) collect any fee associated with the removal; or
- (b) begin charging storage fees.

(3) (a) Except as provided in Subsection (3)(b) or (9), a tow truck operator or tow truck motor carrier may not perform a tow truck service at the request or direction of a private property owner or the property owner's agent unless:

- (i) the owner or a lien holder of the vehicle, vessel, or outboard motor consents to the tow truck service; or
- (ii) the property owner erects signage that meets the requirements of:
  - (A) Subsection (4)(b)(ii); and
  - (B) Subsection (7) or (8).

(b) Subsections (7) through (9) do not apply to the removal of a vehicle, vessel, or outboard motor:

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- (i) from a location where parking is prohibited by law, including:
  - (A) a designated fire lane;
  - (B) within 15 feet of a fire hydrant, unless the vehicle is parked in a marked parking stall or space; or
  - (C) a marked parking stall or space legally designated for disabled persons;
- (ii) from a location where it is reasonably apparent that the location is not open to parking;
  - (iii) from a location where all public access points are controlled by:
    - (A) a permanent gate, door, or similar feature allowing the vehicle to access the facility; or
    - (B) a parking attendant;
  - (iv) from a location that materially interferes with access to private property;
  - (v) from the property of a detached single-family dwelling or duplex; or
  - (vi) pursuant to a legal repossession.
- (4) (a) A private property owner may, subject to the requirements of a local ordinance, enforce parking restrictions by:
  - (i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce parking restrictions on behalf of the property owner in accordance with Subsection (7);
  - (ii) enforcing parking restrictions as needed by requesting a tow from a tow truck motor carrier on a case-by-case basis in accordance with Subsection (8); or
  - (iii) requesting a tow from a tow truck motor carrier after providing 24-hour written notice in accordance with Subsection (9).
- (b) (i) Any agreement between a private property owner and tow truck motor carrier authorizing the tow truck motor carrier to patrol and monitor the property under Subsection (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the property.
  - (ii) In addition to the signage described in Subsection (7) or (8), a private property owner who allows public parking shall erect appropriate signage on the property indicating clear instructions for parking at the property.
  - (iii) Where a single parking area includes abutting parcels of property owned by two or more private property owners who enforce different parking restrictions under Subsection (7)

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or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8), erect signage as required by this section:

(A) at each entrance to the property owner's parcel from another property owner's parcel; and

(B) if there is no clearly defined entrance between one property owner's parcel and another property owner's parcel, at intervals of 40 feet or less along the line dividing the property owner's parcel from the other property owner's parcel.

(iv) Where there is no clearly defined entrance to a parking area from a highway, the property owner shall erect signage as required by this section at intervals of 40 feet or less along any portion of a property line where a vehicle, vessel, or outboard motor may enter the parking area.

(5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.

(6) In addition to any other powers provided by law, a political subdivision or state agency may:

(a) enforce parking restrictions in accordance with Subsections (7) through (9) on property that is:

(i) owned by the political subdivision or state agency;

(ii) located outside of the public right-of-way; and

(iii) open to public parking; and

(b) request or direct a tow truck service in order to abate a public nuisance on private property over which the political subdivision or state agency has jurisdiction.

(7) For private property where parking is enforced under Subsection (4)(a)(i), the property owner shall ensure that each entrance to the property has the following signs located on the property and clearly visible to the driver of a vehicle entering the property:

(a) a top sign that is 24 inches tall by 18 inches wide and has:

(i) a blue, reflective background with a 1/2 inch white border;

(ii) two-inch, white letters at the top of the sign with the capitalized words "Lot is Patrolled";

(iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire

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tow truck, a tow hook, and an entire vehicle being towed; and

(iv) two-inch, white letters at the bottom of the sign with the capitalized words "Towing Enforced"; and

(b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) a top half that is red background with white, reflective letters indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(ii) a bottom half that has a white, reflective background with red letters indicating:

(A) the name and telephone number of the tow truck motor carrier that the property owner has authorized to patrol the property; and

(B) the Internet web address "tow.utah.gov".

(8) For private property where parking is enforced under Subsection (4)(a)(ii):

(a) a tow truck motor carrier may not:

(i) patrol and monitor the property;

(ii) perform a tow truck service without the written or verbal request of the property owner or the property owner's agent; or

(iii) act as the property owner's agent to request a tow truck service; and

(b) the property owner shall ensure that each entrance to the property has a clearly visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) at the top of the sign, a blue background with a white, reflective towing logo that is at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed;

(ii) immediately below the towing logo described in Subsection (8)(b)(i), a blue background with white, reflective letters at least two inches tall with the capitalized words "Towing Enforced";

(iii) in the middle of the sign, a red background with white, reflective letters at least one inch tall indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

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(iv) at the bottom of the sign, a white, reflective background with red letters at least one inch tall indicating:

(A) either:

(I) the name and telephone number of the property owner or the property owner's agent who is authorized to request a tow truck service; or

(II) the name and telephone number of the tow truck motor carrier that provides tow truck services for the property; and

(B) the Internet web address "tow.utah.gov".

(9) (a) For private property without signage meeting the requirements of Subsection (7) or (8), the property owner may request a tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the private property 24 hours after the property owner or the property owner's agent affixes a written notice to the vehicle, vessel, or outboard motor in accordance with this Subsection (9).

(b) The written notice described in Subsection (9)(a) shall:

(i) indicate the exact time when the written notice is affixed to the vehicle, vessel, or outboard motor;

(ii) warn the owner of the vehicle, vessel, or outboard motor that the vehicle, vessel, or outboard motor will be towed from the property if it is not removed within 24 hours after the time indicated in Subsection (9)(b)(i);

(iii) be at least four inches tall and four inches wide; and

(iv) be affixed to the vehicle, vessel, or outboard motor at a conspicuous location on the driver's side window of the vehicle, vessel, or outboard motor.

(c) A property owner may authorize a tow truck motor carrier to act as the property owner's agent for purposes of affixing the written notice described in Subsection (9)(a) to a vehicle, vessel, or outboard motor.

(10) The department shall publish on the department Internet website the signage requirements and written notice requirements and illustrated or photographed examples of the signage and written notice requirements described in Subsections (7) through (9).

(11) It is an affirmative defense to any claim, based on the lack of notice, that arises from the towing of a vehicle, vessel, or outboard motor from private property that the property had signage meeting the requirements of:

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(a) Subsection (4)(b)(ii); and

(b) Subsection (7) or (8).

(12) 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 (16); and

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

(13) (a) The fees under Subsection (12) 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 (13)(a) in an approved state impound yard 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 (12); and

(ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

(14) (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 (12); 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).

(15) (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 (16).

(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).

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

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(a) subject to the restriction in Subsection (17), 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 (16)(a)(i); and

(iii) an impound yard may charge for the after-hours release of a vehicle, vessel, or outboard motor stored as a result of one of the conditions described in Subsection (16)(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 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~~[-];~~ and

(f) set a maximum rate for an after-hours fee allowed under Subsection (19)(b).

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

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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.

(18) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (16).

(ii) In addition to the maximum rates established under Subsection (16) 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.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (16).

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

~~(b)~~ (ii) 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.

(b) (i) If an owner of a vehicle, vessel, or outboard motor requests a release of the vehicle, vessel, or outboard motor outside of normal business hours, the tow truck motor carrier may charge an after-hours release fee.

(ii) For purposes of this Subsection (19), "outside of normal business hours" means:

(A) any time before 8 a.m.;

(B) any time after 5 p.m.;

(C) on a Saturday or Sunday; or

(D) on a state or federal holiday.

(20) A tow truck motor carrier or a tow truck operator may not:

(a) share contact or other personal information of an owner of a vehicle, vessel, or outboard motor for which the tow truck motor carrier or tow truck operator has performed a

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tow service; or

(b) receive payment for referring a person for whom the tow truck motor carrier or tow truck operator has performed a tow service to another service, including:

(i) a lawyer referral service;

(ii) a medical provider;

(iii) a funding agency;

(iv) a marketer for any service described in Subsections (20)(b)(i) through (iii); or

(v) a marketer for any other service.

**Section 8. Repealer.**

This bill repeals:

**Section 41-1a-1104, Disposition of proceeds from sale.**

**Section 9. Effective date.**

This bill takes effect on October 15, 2022.