

Representative Matthew H. Gwynn proposes the following substitute bill:

TOWING MODIFICATIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill makes changes regarding what information can be shared when a vehicle is towed and makes changes related to the Uninsured Motorist Identification Restricted Account.

Highlighted Provisions:

This bill:

- ▶ allows information to be shared with a designated agent;
- ▶ amends provisions related to the Uninsured Motorist Identification Restricted

Account; and

- ▶ allows a designated agent to share information with a towed vehicle's insurance company in certain circumstances.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2023, Chapter 335



26 [41-12a-805](#), as last amended by Laws of Utah 2012, Chapter 243



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

29 Section 1. Section **41-6a-1406** is amended to read:

30 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
31 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

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

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

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

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

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

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

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

47 (b) Before noon on the next business day after the date of the removal of the vehicle,
48 vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division
49 by:

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

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

53 (c) The report shall be in a form specified by the Motor Vehicle Division and shall
54 include:

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

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

- 57 (iii) the vehicle identification number or vessel or outboard motor identification
58 number;
- 59 (iv) the license number, temporary permit number, or other identification number
60 issued by a state agency;
- 61 (v) the date, time, and place of impoundment;
- 62 (vi) the reason for removal or impoundment;
- 63 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
64 outboard motor; and
- 65 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 66 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
67 State Tax Commission shall make rules to establish proper format and information required on
68 the form described in this Subsection (4).
- 69 (e) Until the tow truck operator or tow truck motor carrier reports the removal as
70 required under this Subsection (4), a tow truck motor carrier or impound yard may not:
- 71 (i) collect any fee associated with the removal; and
72 (ii) begin charging storage fees.
- 73 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
74 Motor Vehicle Division shall give notice, in the manner described in Section [41-1a-114](#), to the
75 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:
- 76 (i) the registered owner;
77 (ii) any lien holder; or
78 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor
79 is currently operating under a temporary permit issued by the dealer, as described in Section
80 [41-3-302](#).
- 81 (b) The notice shall:
- 82 (i) state the date, time, and place of removal, the name, if applicable, of the person
83 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
84 and the place where the vehicle, vessel, or outboard motor is stored;
- 85 (ii) state that the registered owner is responsible for payment of towing, impound, and
86 storage fees charged against the vehicle, vessel, or outboard motor;
- 87 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard

88 motor is released; and

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

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

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

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

102 (f) (i) The Motor Vehicle Division shall disclose the information in the report
103 described in Subsection (4) and Section [72-9-603\(1\)\(a\)\(i\)](#) to a designated agent as defined in
104 Section [41-12a-802](#) regarding a tow that was initiated:

105 (A) by law enforcement; or

106 (B) without the vehicle owner's consent.

107 (ii) The Motor Vehicle Division may rely on the information provided by the tow truck
108 operator or tow truck motor carrier to determine if a tow meets the criteria described in
109 Subsections (5)(f)(i)(A) and (B).

110 (iii) The designated agent may disclose information received regarding a tow described
111 in Subsections (5)(f)(i)(A) and (B) to the vehicle owner and to the vehicle owner's verified
112 insurance company.

113 (iv) The designated agent may not disclose information to a vehicle owner's insurance
114 company if the tow does not meet the criteria described in Subsections (5)(f)(i)(A) and (B).

115 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
116 in Subsection (5)(a):

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

- 119 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
120 vessel, or outboard motor;
- 121 (iii) completes the registration, if needed, and pays the appropriate fees;
- 122 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
123 impound fee of \$400; and
- 124 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
125 motor is stored.
- 126 (b) (i) Twenty-nine dollars of the administrative impound fee assessed under
127 Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;
- 128 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
129 be deposited into the Department of Public Safety Restricted Account created in Section
130 53-3-106;
- 131 (iii) \$20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
132 be deposited into the Neuro-Rehabilitation Fund created in Section 26B-1-319; and
- 133 (iv) the remainder of the administrative impound fee assessed under Subsection
134 (6)(a)(iv) shall be deposited into the General Fund.
- 135 (c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be
136 waived or refunded by the State Tax Commission if the registered owner, lien holder, or
137 owner's agent presents written evidence to the State Tax Commission that:
- 138 (i) the Driver License Division determined that the arrested person's driver license
139 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
140 or other report from the Driver License Division presented within 180 days after the day on
141 which the Driver License Division mailed the final notification; or
- 142 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
143 stolen vehicle report presented within 180 days after the day of the impoundment.
- 144 (d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept
145 payment by cash and debit or credit card for a removal or impoundment under Subsection (1)
146 or any service rendered, performed, or supplied in connection with a removal or impoundment
147 under Subsection (1).
- 148 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
149 impounded vehicle, vessel, or outboard motor if:

150 (i) the vehicle, vessel, or outboard motor is being held as evidence; and
151 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
152 Subsection (5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or
153 outboard motor under this Subsection (6).

154 (7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party
155 described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103, the Motor
156 Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard
157 motor as described in Section 41-1a-1103.

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

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

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

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

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

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

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

175 (A) be reasonable and fair; and

176 (B) reflect the cost of administering the database.

177 Section 2. Section 41-12a-805 is amended to read:

178 **41-12a-805. Disclosure of insurance information -- Penalty.**

179 (1) Information in the database established under Section 41-12a-803 provided by a
180 person to the designated agent is considered to be the property of the person providing the

181 information.

182 (2) The information may not be disclosed from the database under Title 63G, Chapter
183 2, Government Records Access and Management Act, or otherwise, except as follows:

184 (a) for the purpose of investigating, litigating, or enforcing the owner's or operator's
185 security requirement under Section 41-12a-301, the designated agent shall verify insurance
186 information through the state computer network for a state or local government agency or
187 court;

188 (b) for the purpose of investigating, litigating, or enforcing the owner's or operator's
189 security requirement under Section 41-12a-301, the designated agent shall, upon request, issue
190 to any state or local government agency or court a certificate documenting the insurance
191 information, according to the database, of a specific individual or motor vehicle for the time
192 period designated by the government agency;

193 (c) upon request, the department or its designated agent shall disclose whether or not a
194 person is an insured individual and the insurance company name to:

195 (i) that individual or, if that individual is deceased, any interested person of that
196 individual, as defined in Section 75-1-201;

197 (ii) the parent or legal guardian of that individual if the individual is an unemancipated
198 minor;

199 (iii) the legal guardian of that individual if the individual is legally incapacitated;

200 (iv) a person who has power of attorney from the insured individual;

201 (v) a person who submits a notarized release from the insured individual dated no more
202 than 90 days before the date the request is made; or

203 (vi) a person suffering loss or injury in a motor vehicle accident in which the insured
204 individual is involved, but only as part of an accident report as authorized in Section
205 41-12a-202;

206 (d) for the purpose of investigating, enforcing, or prosecuting laws or issuing citations
207 by state or local law enforcement agencies related to the:

208 (i) registration and renewal of registration of a motor vehicle under Title 41, Chapter
209 1a, Motor Vehicle Act;

210 (ii) purchase of a motor vehicle under Title 59, Chapter 12, Sales and Use Tax Act; and

211 (iii) owner's or operator's security requirements under Section 41-12a-301;

212 (e) upon request of a peace officer acting in an official capacity under the provisions of
213 Subsection (2)(d), the department or the designated agent shall, upon request, disclose relevant
214 information for investigation, enforcement, or prosecution;

215 (f) for the purpose of the state auditor, the legislative auditor general, or other auditor
216 of the state conducting audits of the program;

217 (g) upon request of a financial institution as defined under Section 7-1-103 for the
218 purpose of protecting the financial institution's bona fide security interest in a motor vehicle;
219 [~~and~~]

220 (h) upon the request of a state or local law enforcement agency for the purpose of
221 investigating and prosecuting identity theft and other crimes[-]; and

222 (i) the designated agent shall provide information from the database regarding a towed
223 vehicle to the vehicle owner's insurance company of record at the time the vehicle was towed,
224 including, if available, the name, address, and contact information of the tow yard where the
225 vehicle is stored.

226 (3) (a) The department may allow the designated agent to prepare and deliver upon
227 request, a report on the insurance information of a person or motor vehicle in accordance with
228 this section.

229 (b) The report may be in the form of:

230 (i) a certified copy that is considered admissible in any court proceeding in the same
231 manner as the original; or

232 (ii) information accessible through the Internet or through other electronic medium if
233 the department determines that sufficient security is provided to ensure compliance with this
234 section.

235 (c) The department may allow the designated agent to charge a fee established by the
236 department under Section 63J-1-504 for each:

237 (i) document authenticated, including each certified copy;

238 (ii) record accessed by the Internet or by other electronic medium; and

239 (iii) record provided to a financial institution under Subsection (2)(g).

240 (4) A person who knowingly releases or discloses information from the database for a
241 purpose other than those authorized in this section or to a person who is not entitled to it is
242 guilty of a third degree felony.

243 (5) An insurer is not liable to any person for complying with Sections 31A-22-315 and
244 31A-22-315.5 by providing information to the designated agent.

245 (6) Neither the state nor the department's designated agent is liable to any person for
246 gathering, managing, or using the information in the database as provided in Sections
247 31A-22-315 and 31A-22-315.5 and this part.

248 Section 3. **Effective date.**

249 This bill takes effect on July 1, 2024.