

TOWING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Traffic Code and the Motor Carrier Safety Act by amending provisions relating to towing.

Highlighted Provisions:

This bill:

- ▶ provides that a tow truck operator or a tow truck motor carrier may not charge a fee for a tow truck service or any service rendered, performed, or supplied in connection with the tow truck service in addition to the fees adopted by a county or municipal ordinance and administrative rule;

- ▶ provides that a county or municipality may require a tow truck motor carrier to have a business license to perform a tow truck service that:

- is performed within the county or municipality;
- is done without the vehicle, vessel, or outboard motor owner's knowledge; and
- is not ordered by a peace officer, a person acting on behalf of a law enforcement agency, or a highway authority;

- ▶ provides that a county or municipality may set maximum rates that:

- a tow truck operator or tow truck motor carrier may charge for certain tow truck services; and
- an impound yard may charge for the storage of a vehicle, vessel, or outboard motor that has been towed;



28 ▶ provides that a vehicle immobilizer may not charge a fee for the removal of a
 29 vehicle immobilization device or any service rendered, performed, or supplied in
 30 connection with the removal of the immobilization device in addition to the fees
 31 specified in the Traffic Code; and

32 ▶ makes technical changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **41-6a-1406**, as last amended by Laws of Utah 2012, Chapter 226

40 **41-6a-1409**, as last amended by Laws of Utah 2010, Chapter 91

41 **72-9-603**, as last amended by Laws of Utah 2011, Chapter 363

42 **72-9-604**, as renumbered and amended by Laws of Utah 1998, Chapter 270



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

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

46 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
 47 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

53 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or
 54 impounded to:

55 (a) a state impound yard; or

56 (b) if none, a garage, docking area, or other place of safety.

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

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

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

61 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report
62 of the removal shall be sent to the Motor Vehicle Division by:

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

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

66 (b) The report shall be in a form specified by the Motor Vehicle Division and shall
67 include:

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

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

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

72 (iv) the license number or other identification number issued by a state agency;

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

74 (vi) the reason for removal or impoundment;

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

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

78 (c) Until the tow truck operator or tow truck motor carrier reports the removal as
79 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

80 (i) collect any fee associated with the removal; and

81 (ii) begin charging storage fees.

82 (5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the
83 Motor Vehicle Division shall give notice to the registered owner of the vehicle, vessel, or
84 outboard motor and any lien holder in the manner prescribed by Section 41-1a-114.

85 (b) The notice shall:

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

89 (ii) state that the registered owner is responsible for payment of towing, impound, and

90 storage fees charged against the vehicle, vessel, or outboard motor;

91 (iii) inform the registered owner of the vehicle, vessel, or outboard motor of the
92 conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

93 (iv) inform the registered owner and lienholder of the division's intent to sell the
94 vehicle, vessel, or outboard motor, if within 30 days from the date of the removal or
95 impoundment under this section, the owner, lien holder, or the owner's agent fails to make a
96 claim for release of the vehicle, vessel, or outboard motor.

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

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

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

106 (6) (a) The vehicle, vessel, or outboard motor shall be released after the registered
107 owner, lien holder, or the owner's agent:

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

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

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

113 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
114 impound fee of \$350; and

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

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

119 (ii) \$97 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be
120 deposited in the Department of Public Safety Restricted Account created in Section 53-3-106;

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

123 (iv) the remainder of the administrative impound fee assessed under Subsection
124 (6)(a)(iv) shall be deposited in the General Fund.

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

128 (i) the Driver License Division determined that the arrested person's driver license
129 should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter
130 or other report from the Driver License Division presented within 30 days of the final
131 notification from the Driver License Division; or

132 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
133 stolen vehicle report presented within 30 days of the impoundment.

134 (d) A tow truck operator or a tow truck motor carrier may not charge a fee for the
135 removal or impoundment of a vehicle, vessel, or outboard motor under Subsection (1) or any
136 service rendered, performed, or supplied in connection with the removal or impoundment
137 under Subsection (1) in addition to the fees adopted:

138 (i) by a county or municipal ordinance; and

139 (ii) by the Department of Transportation in accordance with Subsection 72-9-603(7).

140 (7) (a) An impounded vehicle, vessel, or outboard motor not claimed by the registered
141 owner or the owner's agent within the time prescribed by Section 41-1a-1103 shall be sold in
142 accordance with that section and the proceeds, if any, shall be disposed of as provided under
143 Section 41-1a-1104.

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

146 (8) The registered owner who pays all fees and charges incurred in the impoundment of
147 the owner's vehicle, vessel, or outboard motor, has a cause of action for all the fees and
148 charges, together with damages, court costs, and attorney fees, against the operator of the
149 vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

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

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

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

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

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

161 (A) be reasonable and fair; and

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

163 Section 2. Section **41-6a-1409** is amended to read:

164 **41-6a-1409. Vehicle immobilization devices -- Definitions -- Notice requirements**
165 **-- Maximum removal fee.**

166 (1) As used in this section:

167 (a) "Immobilize" means to affix and lock a vehicle immobilization device to the
168 exterior of a motor vehicle.

169 (b) "Vehicle immobilization device" means a device that may be affixed and locked to
170 the exterior of a motor vehicle for the purpose of prohibiting the movement or removal of the
171 vehicle from its location.

172 (c) "Vehicle immobilizer" means a person who or entity that uses or causes to be used
173 a vehicle immobilization device for the purpose of enforcing parking restrictions with prior
174 authorization from the owner or person in lawful possession or control of the real property.

175 (2) (a) A vehicle immobilizer may not immobilize a vehicle without the motor vehicle
176 owner's knowledge at either of the following locations without signage that meets the
177 requirements of Subsection (2)(b):

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

179 (ii) a multifamily dwelling of more than eight units.

180 (b) Signage under Subsection (2)(a) shall display:

181 (i) where parking is subject to being immobilized; and

182 (ii) one of the following:

183 (A) the name and phone number of the vehicle immobilizer that immobilizes a vehicle
184 for the locations listed under Subsection (2)(a)(i); or

185 (B) the name of the mobile home park or multifamily dwelling and the phone number
186 of the mobile home park or multifamily dwelling manager or management office that
187 authorized the vehicle immobilizer to immobilize the motor vehicle.

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

189 (i) that is prohibited by law; or

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

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

194 (3) (a) Upon immobilizing a vehicle, the vehicle immobilizer shall affix a notice to the
195 immobilized vehicle in a conspicuous place so as to be plainly visible to a person seeking to
196 operate the vehicle.

197 (b) The notice under Subsection (3)(a) shall include:

198 (i) the name and phone number of the vehicle immobilizer;

199 (ii) a phone number that the owner of the vehicle may call to arrange for release of the
200 vehicle; and

201 (iii) applicable fees.

202 (4) (a) The maximum fee that a vehicle immobilizer may charge to remove a vehicle
203 immobilization device may not exceed:

204 (i) \$75 for the first 24-hour period a vehicle is immobilized; plus

205 (ii) \$25 for each additional 24-hour period a vehicle is immobilized.

206 (b) Notwithstanding Subsection (4)(a), the maximum fee that a vehicle immobilizer
207 may charge to remove a vehicle immobilization device may not exceed \$150 for each instance.

208 (c) A vehicle immobilizer may not charge a fee for the removal of a vehicle
209 immobilization device or any service rendered, performed, or supplied in connection with the
210 removal of the immobilization device in addition to the fees specified under Subsection (4).

211 (5) A county or municipal legislative or governing body may not enact or enforce any
212 ordinance, regulation, rule, or fee pertaining to a vehicle immobilization device that conflicts
213 with this part.

214 Section 3. Section **72-9-603** is amended to read:

215 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
216 **vehicle title restrictions -- Rules for maximum rates and certification.**

217 (1) Except for a tow truck service that was ordered by a peace officer, or a person
218 acting on behalf of a law enforcement agency, or a highway authority, [~~as defined in Section~~
219 ~~72-1-102,~~] after performing a tow truck service that is being done without the vehicle, vessel,
220 or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier
221 shall:

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

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

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

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

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

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

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

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

235 (b) within two business days of performing the tow truck service under Subsection
236 (1)(a), send a certified letter to the last-known address of the registered owner and lien holder
237 of the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or if the
238 person has actual knowledge of the owner's address to the current address, notifying the owner
239 of the:

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

241 (ii) date, time, location from which the vehicle, vessel, or outboard motor was
242 removed;

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

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

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

247 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor.

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

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

252 (ii) begin charging storage fees.

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

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

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

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

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

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

263 (II) one of the following:

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

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

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

270 (i) that is prohibited by law;

271 (ii) that is prohibited by a declaration of the conditions, covenants, and restrictions or
272 by a contract; or

273 (iii) if it is reasonably apparent that the location is not open to parking.

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

276 parking.

277 (3) (a) The owner of a vehicle, vessel, or outboard motor lawfully removed is only
278 responsible for paying:

279 [~~(a)~~] (i) the tow truck service and storage fees set in accordance with Subsection (7);
280 and

281 [~~(b)~~] (ii) the administrative impound fee set in Section 41-6a-1406, if applicable.

282 (b) A tow truck operator or a tow truck motor carrier may not charge a fee for a tow
283 truck service of a vehicle, vessel, or outboard motor under Subsection (1) or any service
284 rendered, performed, or supplied in connection with the towing service under Subsection (1) in
285 addition to the fees adopted:

286 (i) by a county or municipal ordinance; and

287 (ii) by the department under Subsection (7).

288 (4) The fees under Subsection (3) are a possessory lien on the vehicle, non-life
289 essential items that are owned by the owner of the vehicle and securely stored by the tow truck
290 operator, vessel, or outboard motor until paid.

291 (5) A person may not request a transfer of title to an abandoned vehicle until at least 30
292 days after notice has been sent under Subsection (1)(b).

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

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

298 (a) set maximum rates that:

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

301 (A) a peace officer dispatch call;

302 (B) a motor vehicle division call; and

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

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

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

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

311 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
312 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
313 the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as
314 required in Subsection (1)(b).

315 Section 4. Section **72-9-604** is amended to read:

316 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

317 (1) A county or municipal legislative or governing body may not enact or enforce any
318 ordinance, regulation, rule, or fee pertaining to a tow truck or tow truck motor carrier that
319 conflicts with this part.

320 ~~[(2) A tow truck motor carrier that has a county or municipal business license for a~~
321 ~~place of business located within that county or municipality may not be required to obtain~~
322 ~~another business license in order to perform a tow truck service in another county or~~
323 ~~municipality if there is not a business location in the other county or municipality.]~~

324 (2) A county or municipality may require a tow truck motor carrier to have a business
325 license to perform a tow truck service that:

326 (a) is performed within the county or municipality;

327 (b) is done without the vehicle, vessel, or outboard motor owner's knowledge; and

328 (c) is not ordered by:

329 (i) a peace officer;

330 (ii) a person acting on behalf of a law enforcement agency; or

331 (iii) a highway authority.

332 (3) (a) Subject to Subsection (3)(b), a county or municipal legislative body may set a
333 maximum rate that:

334 (i) a tow truck operator or tow truck motor carrier may charge for a tow truck service
335 of a vehicle, vessel, or outboard motor that is removed in response to:

336 (A) a peace officer dispatch call;

337 (B) a motor vehicle division call; and

338 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor
339 has not consented to the tow truck service; and

340 (ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor
341 stored as a result of one of the conditions under Subsection (3)(a)(i).

342 (b) A maximum rate set by a county or municipality under Subsection (3)(a) may not
343 exceed the equivalent rate set by the department under Subsection 72-9-603(7).

344 [~~3~~] (4) A county or municipal legislative body may require an annual tow truck safety
345 inspection in addition to the inspections required under Sections 53-8-205 and 72-9-602 if:

346 (a) no fee is charged for the inspection; and

347 (b) the inspection complies with federal motor carrier safety regulations.

348 [~~4~~] (5) A tow truck shall be subject to only one annual safety inspection under
349 Subsection [~~3~~] (4). A county or municipality that requires the additional annual safety
350 inspection shall accept the same inspection performed by another county or municipality.

Legislative Review Note
as of 2-4-13 3:02 PM

Office of Legislative Research and General Counsel