

TOWING AMENDMENTS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Keven J. Stratton

Senate Sponsor: Aaron Osmond

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, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card;

- ▶ requires a tow truck motor carrier or impound yard to clearly and conspicuously post and disclose acceptable forms of payment;

- ▶ removes the signage exception for parking in a location that is prohibited by a declaration of the conditions, covenants, and restrictions or by a contract;

- ▶ provides that a county or municipality may enact and enforce any ordinance, regulation, or rule pertaining to a tow truck operator or a tow truck motor carrier that does not conflict with the provisions of Title 72, Chapter 9, Part 6, Tow Truck Provisions;

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

- ▶ provides that a vehicle immobilizer shall accept payment by cash and debit or credit card;

- ▶ requires the Department to Transportation to make rules establishing a Utah

30 Consumer Bill of Rights Regarding Towing form;

31 ▶ requires the department to report and make recommendations to the Transportation
32 Interim Committee;

33 ▶ requires a tow truck operator or a tow truck motor carrier to, upon initial contact
34 with the owner whose vehicle, vessel, or outboard motor was removed, provide the
35 owner with a copy of the Utah Consumer Bill of Rights Regarding Towing; and

36 ▶ makes technical corrections.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 None

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **41-6a-1406**, as last amended by Laws of Utah 2012, Chapter 226

44 **41-6a-1409**, as last amended by Laws of Utah 2010, Chapter 91

45 **72-9-603**, as last amended by Laws of Utah 2011, Chapter 363

46 **72-9-604**, as renumbered and amended by Laws of Utah 1998, Chapter 270



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

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

50 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
51 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

57 (2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or

58 impounded to:

59 (a) a state impound yard; or

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

61 (3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be

62 removed by a tow truck motor carrier that meets standards established:

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

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

65 (4) (a) Immediately after the removal of the vehicle, vessel, or outboard motor, a report

66 of the removal shall be sent to the Motor Vehicle Division by:

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

68 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck

69 operator is employed.

70 (b) The report shall be in a form specified by the Motor Vehicle Division and shall

71 include:

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

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

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

75 number;

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

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

78 (vi) the reason for removal or impoundment;

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

80 outboard motor; and

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

82 (c) Until the tow truck operator or tow truck motor carrier reports the removal as

83 required under this Subsection (4), a tow truck motor carrier or impound yard may not:

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

85 (ii) begin charging storage fees.

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

89 (b) The notice shall:

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

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

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

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

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

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

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

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

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

114 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
115 vessel, or outboard motor;
116 (iii) completes the registration, if needed, and pays the appropriate fees;
117 (iv) if the impoundment was made under Section 41-6a-527, pays an administrative
118 impound fee of \$350; and
119 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard
120 motor is stored.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

163 (A) be reasonable and fair; and

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

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

166 **41-6a-1409. Vehicle immobilization devices -- Definitions -- Notice requirements**

167 **-- Maximum removal fee.**

168 (1) As used in this section:

169 (a) "Immobilize" means to affix and lock a vehicle immobilization device to the

170 exterior of a motor vehicle.

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

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

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

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

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

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

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

184 (ii) one of the following:

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

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

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

191 (i) that is prohibited by law; or

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

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

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

198 operate the vehicle.

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

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

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

203 (iii) applicable fees.

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

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

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

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

210 (c) A vehicle immobilizer may not charge a fee for the removal of a vehicle
211 immobilization device or any service rendered, performed, or supplied in connection with the
212 removal of the immobilization device in addition to the fees specified under this Subsection
213 (4).

214 (d) A vehicle immobilizer shall accept payment by cash and debit or credit card for the
215 removal of a vehicle immobilization device or any service rendered, performed, or supplied in
216 connection with the removal of the immobilization device.

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

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

221 **72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned**
222 **vehicle title restrictions -- Rules for maximum rates and certification.**

223 (1) Except for a tow truck service that was ordered by a peace officer, or a person
224 acting on behalf of a law enforcement agency, or a highway authority, [~~as defined in Section~~
225 ~~72-1-102,~~] after performing a tow truck service that is being done without the vehicle, vessel,

226 or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier
227 shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

253 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor[~~:-~~]; and

254 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
255 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
256 Towing established by the department in Subsection (7)(e).

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

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

261 (ii) begin charging storage fees.

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

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

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

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

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

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

272 (II) one of the following:

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

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

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

279 (i) that is prohibited by law; or

280 [~~(ii) that is prohibited by a declaration of the conditions, covenants, and restrictions or~~
281 ~~by a contract; or]~~

282 [(iii)] (ii) if it is reasonably apparent that the location is not open to parking.

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

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

288 (a) the tow truck service and storage fees set in accordance with Subsection (7); and

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

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

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

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

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

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

304 (a) set maximum rates that:

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

307 (A) a peace officer dispatch call;

308 (B) a motor vehicle division call; and

309 (C) any other call or request where the owner of the vehicle, vessel, or outboard motor

310 has not consented to the removal; and

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

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

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

317 (d) set a maximum rate for an administrative fee that a tow truck motor carrier may
318 charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of
319 the removal to the registered owner and lienholder of the vehicle, vessel, or outboard motor as
320 required in Subsection (1)(b)~~[-]~~; and

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

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

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

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

331 (8) By August 31, 2013, the department shall report and make recommendations to the
332 Transportation Interim Committee regarding:

333 (a) the methods the department uses to set maximum rates of fees established by the
334 department under Subsection (7);

335 (b) the methods used by other entities to set maximum rates of fees equivalent to the
336 fees established by the department under Subsection (7); and

337 (c) administering state laws and rules pertaining to towing including the procedures for

338 tow truck motor carrier violations.

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

340 **72-9-604. Regulatory powers of local authorities -- Tow trucks.**

341 (1) A county or municipal legislative or governing body may [~~not~~] enact or enforce any
342 ordinance, regulation, or rule[~~, or fee~~] pertaining to a tow truck or tow truck motor carrier that
343 [~~conflicts~~] does not conflict with this part.

344 (2) A tow truck motor carrier that has a county or municipal business license for a
345 place of business located within that county or municipality may not be required to obtain
346 another business license in order to perform a tow truck service in another county or
347 municipality if there is not a business location in the other county or municipality.

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

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

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

352 (4) A tow truck shall be subject to only one annual safety inspection under Subsection

353 (3). A county or municipality that requires the additional annual safety inspection shall accept
354 the same inspection performed by another county or municipality.