

TOWING SIGNAGE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: A. Cory Maloy

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill revises provisions related to towing.

Highlighted Provisions:

This bill:

- ▶ prohibits towing from private property unless certain requirements are met;
- ▶ allows political subdivisions and state agencies to enforce certain towing regulations;
- ▶ provides certain signage requirements where parking is enforced by towing;
- ▶ allows towing from property without signage after providing 24 hour written notice;
- ▶ establishes an affirmative defense to certain claims arising from towing; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

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

72-9-604, as last amended by Laws of Utah 2019, Chapter 373

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

Section 1. 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, ~~or~~ 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); 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;

(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;

58 (iv) person who requested the removal of the vehicle, vessel, or outboard motor;
59 (v) a description, including its identification number and license number or other
60 identification number issued by a state agency; and
61 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and
62 (c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was
63 removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding
64 Towing established by the department in Subsection ~~[(7)]~~ (16)(e).

65 (2) ~~[(a)]~~ Until the tow truck operator or tow truck motor carrier reports the removal as
66 required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound
67 yard may not:

68 ~~[(i)]~~ (a) collect any fee associated with the removal; or

69 ~~[(ii)]~~ (b) begin charging storage fees.

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

74 ~~[(A) a mobile home park as defined in Section 57-16-3; or]~~

75 ~~[(B) a multifamily dwelling of more than eight units.]~~

76 ~~[(ii) Signage under Subsection (2)(b)(i) shall display:]~~

77 ~~[(A) where parking is subject to towing; and]~~

78 ~~[(B) (I) the Internet website address that provides access to towing database~~
79 ~~information in accordance with Section 41-6a-1406; or]~~

80 ~~[(H) one of the following:]~~

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

83 ~~[(Bb) the name of the mobile home park or multifamily dwelling and the phone~~
84 ~~number of the mobile home park or multifamily dwelling manager or management office that~~
85 ~~authorized the vehicle, vessel, or outboard motor to be towed:]~~

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

~~[(i) that is prohibited by law; or]~~

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

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

(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:

(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;

114 (v) from the property of a detached single-family dwelling or duplex; or

115 (vi) pursuant to a legal repossession.

116 (4) (a) A private property owner may, subject to the requirements of a local ordinance,
117 enforce parking restrictions by:

118 (i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce
119 parking restrictions on behalf of the property owner in accordance with Subsection (7);

120 (ii) enforcing parking restrictions as needed by requesting a tow from a tow truck
121 motor carrier on a case-by-case basis in accordance with Subsection (8); or

122 (iii) requesting a tow from a tow truck motor carrier after providing 24-hour written
123 notice in accordance with Subsection (9).

124 (b) (i) Any agreement between a private property owner and tow truck motor carrier
125 authorizing the tow truck motor carrier to patrol and monitor the property under Subsection
126 (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a
127 vehicle, vessel, or outboard motor from the property.

128 (ii) In addition to the signage described in Subsection (7) or (8), a private property
129 owner who allows public parking shall erect appropriate signage on the property indicating
130 clear instructions for parking at the property.

131 (iii) Where a single parking area includes abutting parcels of property owned by two or
132 more private property owners who enforce different parking restrictions under Subsection (7)
133 or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8),
134 erect signage as required by this section:

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

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

140 (iv) Where there is no clearly defined entrance to a parking area from a highway, the
141 property owner shall erect signage as required by this section at intervals of 40 feet or less

142 along any portion of a property line where a vehicle, vessel, or outboard motor may enter the
143 parking area.

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

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

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

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

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

153 (iii) open to public parking; and

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

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

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

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

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

163 (iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire
164 tow truck, a tow hook, and an entire vehicle being towed; and

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

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

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

170 (A) who is authorized to park or restricted from parking at the property; and
171 (B) any type of vehicle prohibited from parking at the property; and
172 (ii) a bottom half that has a white, reflective background with red letters indicating:
173 (A) the name and telephone number of the tow truck motor carrier that the property
174 owner has authorized to patrol the property; and
175 (B) the Internet web address "tow.utah.gov".
176 (8) For private property where parking is enforced under Subsection (4)(a)(ii):
177 (a) a tow truck motor carrier may not:
178 (i) patrol and monitor the property;
179 (ii) perform a tow truck service without the written or verbal request of the property
180 owner or the property owner's agent; or
181 (iii) act as the property owner's agent to request a tow truck service; and
182 (b) the property owner shall ensure that each entrance to the property has a clearly
183 visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch
184 white, reflective border, and has:
185 (i) at the top of the sign, a blue background with a white, reflective towing logo that is
186 at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an
187 entire vehicle being towed;
188 (ii) immediately below the towing logo described in Subsection (8)(b)(i), a blue
189 background with white, reflective letters at least two inches tall with the capitalized words
190 "Towing Enforced";
191 (iii) in the middle of the sign, a red background with white, reflective letters at least
192 one inch tall indicating:
193 (A) who is authorized to park or restricted from parking at the property; and
194 (B) any type of vehicle prohibited from parking at the property; and
195 (iv) at the bottom of the sign, a white, reflective background with red letters at least
196 one inch tall indicating:
197 (A) either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

228 ~~[(3)]~~ (12) The party described in Subsection 41-6a-1406(5)(a) with an interest in a
229 vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

230 (a) the tow truck service and storage fees set in accordance with Subsection ~~[(7)]~~ (16);
231 and

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

233 ~~[(4)]~~ (13) (a) The fees under Subsection ~~[(3)]~~ (12) are a possessory lien on the vehicle,
234 vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or
235 outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until
236 paid.

237 (b) The tow truck operator or tow truck motor carrier shall securely store the vehicle,
238 vessel, or outboard motor and items described in Subsection ~~[(4)]~~ (13)(a) in an approved state
239 impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the
240 vehicle, vessel, or outboard motor:

241 (i) pays the fees described in Subsection ~~[(3)]~~ (12); and

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

243 ~~[(5)]~~ (14) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a
244 party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or
245 outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

246 (i) pay the fees described in Subsection ~~[(3)]~~ (12); and

247 (ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

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

250 ~~[(6)]~~ (15) (a) A tow truck motor carrier or impound yard shall clearly and
251 conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for
252 tow truck service and storage of a vehicle in accordance with rules established under
253 Subsection ~~[(7)]~~ (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).

~~[(7)]~~ (16) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall:

(a) subject to the restriction in Subsection ~~[(8)]~~ (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 ~~[(7)]~~ (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.

~~[(8)]~~ (17) An impound yard may not charge a fee for the storage of an impounded vehicle, 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~~.

~~[(9)]~~ (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 ~~[(7)]~~ (16).

(ii) In addition to the maximum rates established under Subsection ~~[(7)]~~ (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 ~~[(7)]~~ (16).

~~[(10)]~~ (19) 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) by phone 24 hours a day, seven days a week; and

(b) 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.

Section 2. Section ~~72-9-604~~ is amended to read:

72-9-604. Preemption of local authorities -- Tow trucks.

(1) (a) Notwithstanding any other provision of law, a political subdivision of this state may neither enact nor enforce any ordinance, regulation, or rule pertaining to a tow truck motor carrier, tow truck operator, or tow truck that conflicts with:

(i) any provision of this part;

(ii) Section 41-6a-1401;

(iii) Section 41-6a-1407; or

(iv) rules made by the department under this part.

(b) A county or municipal legislative governing body may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if the county or municipality:

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

(ii) will not release the vehicle, vessel, or outboard motor to the registered owner, lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

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

(3) A county or municipal legislative or governing body may not require a tow truck motor carrier, tow truck, or tow truck operator that has been issued a current, authorized towing certificate by the department, as described in Section 72-9-602, to obtain an additional towing certificate.

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

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

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

(5) A tow truck shall be subject to only one annual safety inspection under Subsection (4)(b). A county or municipality that requires the additional annual safety inspection shall

accept the same inspection performed by another county or municipality.

(6) (a) Beginning on July 1, 2021, a political subdivision or state agency may not charge an applicant a fee or charge related to dispatch costs in order to be part of the towing rotation of that political subdivision or state agency.

(b) In addition to the fees set by the department in rules made in accordance with Subsection 72-9-603~~(7)~~(16), a tow truck motor carrier may charge a fee to cover the costs of a dispatch charge described in Subsection (6)(a).

(c) The amount of the fee described in Subsection (6)(b) may not exceed the amount charged to the tow truck motor carrier by the political subdivision or state agency for dispatch services.

(d) A political subdivision or state agency that does not charge a dispatch fee as of January 1, 2019, may not charge a dispatch fee described in Subsection (6)(a).

(7) A towing entity may not require a tow truck operator who has received an authorized towing certificate from the department to submit additional criminal background check information for inclusion of the tow truck motor carrier on a rotation.

(8) If a tow truck motor carrier is dispatched as part of a towing rotation, the tow truck operator that responds may not respond to the location in a tow truck that is owned by a tow truck motor carrier that is different than the tow truck motor carrier that was dispatched.

Section 3. **Effective date.**

This bill takes effect on January 1, 2021.