

**TOWING SURCHARGE AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to tow truck operations.

**Highlighted Provisions:**

This bill:

▶ enacts a provision related to the collection of a credit card processing fee by a tow truck driver, a tow truck motor carrier, or an impound yard.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**72-9-603**, as last amended by Laws of Utah 2014, Chapter 249

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*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



28 truck service that is being done without the vehicle, vessel, or outboard motor owner's  
29 knowledge, the tow truck operator or the tow truck motor carrier shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

55 (vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

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

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

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

63 (ii) begin charging storage fees.

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

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

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

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

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

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

74 (II) one of the following:

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

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

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

81 (i) that is prohibited by law; or

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

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

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

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

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

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

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

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

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

102 ~~Ĥ→ [(c) A tow truck operator, a tow truck motor carrier, or an impound yard, when~~  
 103 ~~receiving payment by credit card, may charge a credit card processing fee in an amount equal to~~  
 104 ~~the lesser of:~~

105 ~~—— (i) the actual cost of processing the credit card transaction; or~~

106 ~~—— (ii) 3% of the transaction total.] ←Ĥ~~

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

109 (a) subject to the restriction in Subsection (8), set maximum rates that:

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

112 (A) a peace officer dispatch call;

113 (B) a motor vehicle division call; and

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

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

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

120 (c) specify the form and content of the posting and disclosure of fees and rates charged

121 and acceptable forms of payment by a tow truck motor carrier or impound yard;

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

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

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

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

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

136 (8) An impound yard may not charge a fee for the storage of an impounded vehicle,  
 137 vessel, or outboard motor if:

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

139 (b) the vehicle, vessel, or outboard motor is not being released to the registered owner,  
 140 lien holder, or the owner's agent even if the registered owner, lien holder, or the owner's agent  
 141 satisfies the requirements to release the vehicle, vessel, or outboard motor under Section  
 142 [41-6a-1406](#).

142a **Ĥ→ (9) In addition to the maximum rates established under Subsection (7) and when**  
 142b **receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an**  
 142c **impound yard may charge a credit card processing fee in an amount equal to the lesser of:**  
 142d **(a) the actual cost of processing the credit card transaction; or**  
 142e **(b) 3% of the transaction total. ←Ĥ**

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**