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TOWING REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Matthew H. Gwynn

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to towing to exempt tows at the request of the owner of the vehicle from certain requirements.

Highlighted Provisions:

This bill:

- ▶ creates a distinction between a tow for impound purposes from other tows initiated by law enforcement for the convenience of the owner of the vehicle;
- ▶ exempts a tow initiated at the request of the owner of the vehicle from certain reporting and other requirements; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1406, as last amended by Laws of Utah 2022, Chapter 92

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

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



28 **41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification**
29 **requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.**

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

35 (b) (i) If a vehicle, vessel, or outboard motor is not required to be removed or
36 impounded as described in Subsection (1)(a), the owner may consent to the removal of the
37 vehicle, vessel, or outboard motor to a place of the owner's choosing at the expense of the
38 owner.

39 (ii) This Subsection (1)(b) may apply regardless of whether law enforcement or a
40 government entity assisted the owner in the initial contact of the tow truck operator or tow
41 truck motor carrier.

42 (iii) If a vehicle, vessel, or outboard motor is removed as described in this Subsection
43 (1)(b), the removal of the vehicle, vessel, or outboard motor:

44 (A) is subject to the provisions of Section [72-9-603](#); and

45 (B) except as provided in this Subsection (1)(b) or Section [72-9-603](#), is not subject to
46 the provisions of this section.

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

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

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

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

53 (4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or
54 outboard motor that is ~~is~~ removed or impounded as described in Subsection ~~[(1); or~~ (1)(a).
55 ~~[(ii) removed or impounded by any law enforcement or government entity.]~~

56 (b) Before noon on the next business day after the date of the removal of the vehicle,
57 vessel, or outboard motor, ~~[a]~~ the report of the removal shall be sent to the Motor Vehicle
58 Division by:

- 59 (i) the peace officer or agency by whom the peace officer is employed; and
60 (ii) the tow truck operator or the tow truck motor carrier by whom the tow truck
61 operator is employed.
- 62 (c) The report shall be in a form specified by the Motor Vehicle Division and shall
63 include:
- 64 (i) the operator's name, if known;
65 (ii) a description of the vehicle, vessel, or outboard motor;
66 (iii) the vehicle identification number or vessel or outboard motor identification
67 number;
68 (iv) the license number, temporary permit number, or other identification number
69 issued by a state agency;
70 (v) the date, time, and place of impoundment;
71 (vi) the reason for removal or impoundment;
72 (vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or
73 outboard motor; and
74 (viii) the place where the vehicle, vessel, or outboard motor is stored.
- 75 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
76 State Tax Commission shall make rules to establish proper format and information required on
77 the form described in this ~~subsection~~ Subsection (4).
- 78 (e) 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, in the manner described in Section [41-1a-114](#), to the
84 following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:
- 85 (i) the registered owner;
86 (ii) any lien holder; or
87 (iii) a dealer, as defined in Section [41-1a-102](#), if the vehicle, vessel, or outboard motor
88 is currently operating under a temporary permit issued by the dealer, as described in Section
89 [41-3-302](#).

- 90 (b) The notice shall:
- 91 (i) state the date, time, and place of removal, the name, if applicable, of the person
- 92 operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal,
- 93 and the place where the vehicle, vessel, or outboard motor is stored;
- 94 (ii) state that the registered owner is responsible for payment of towing, impound, and
- 95 storage fees charged against the vehicle, vessel, or outboard motor;
- 96 (iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard
- 97 motor is released; and
- 98 (iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the
- 99 vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or
- 100 impoundment under this section, one of the parties fails to make a claim for release of the
- 101 vehicle, vessel, or outboard motor.
- 102 (c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard
- 103 motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort
- 104 to notify the parties described in Subsection (5)(a) of the removal and the place where the
- 105 vehicle, vessel, or outboard motor is stored.
- 106 (d) The Motor Vehicle Division shall forward a copy of the notice to the place where
- 107 the vehicle, vessel, or outboard motor is stored.
- 108 (e) The Motor Vehicle Division is not required to give notice under this Subsection (5)
- 109 if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck
- 110 service in accordance with Subsection [72-9-603\(1\)\(a\)\(i\)](#).
- 111 (6) (a) The vehicle, vessel, or outboard motor shall be released after a party described
- 112 in Subsection (5)(a):
- 113 (i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of
- 114 the State Tax Commission;
- 115 (ii) presents identification sufficient to prove ownership of the impounded vehicle,
- 116 vessel, or outboard motor;
- 117 (iii) completes the registration, if needed, and pays the appropriate fees;
- 118 (iv) if the impoundment was made under Section [41-6a-527](#), pays an administrative
- 119 impound fee of \$400; and
- 120 (v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard

121 motor is stored.

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

124 (ii) \$147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall
125 be deposited into the Department of Public Safety Restricted Account created in Section
126 [53-3-106](#);

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

129 (iv) the remainder of the administrative impound fee assessed under Subsection
130 (6)(a)(iv) shall be deposited into the General Fund.

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

134 (i) the Driver License Division determined that the arrested person's driver license
135 should not be suspended or revoked under Section [53-3-223](#) or [41-6a-521](#) as shown by a letter
136 or other report from the Driver License Division presented within 180 days after the day on
137 which the Driver License Division mailed the final notification; or

138 (ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the
139 stolen vehicle report presented within 180 days after the day of the impoundment.

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

144 (e) The owner of an impounded vehicle may not be charged a fee for the storage of the
145 impounded vehicle, vessel, or outboard motor if:

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

147 (ii) the vehicle, vessel, or outboard motor is not being released to a party described in
148 Subsection ~~[5(a)]~~ (5)(a), even if the party satisfies the requirements to release the vehicle,
149 vessel, or outboard motor under this Subsection (6).

150 (7) (a) For an impounded vehicle, vessel, or outboard motor not claimed by a party
151 described in Subsection (5)(a) within the time prescribed by Section [41-1a-1103](#), the Motor

152 Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard
153 motor as described in Section 41-1a-1103.

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

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

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

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

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

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

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

171 (A) be reasonable and fair; and

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