

Chapter 98

Lost, Unordered and Unclaimed Property; Unlawfully Parked Vehicles

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DISPOSITION OF UNLAWFULLY PARKED VEHICLES AND ABANDONED VEHICLES

98.805 Definitions for ORS 98.810 to 98.818, 98.830, 98.835 and 98.840. As used in this section and ORS 98.810 to 98.818, 98.830, 98.835 and 98.840:

- (1) “Owner of a parking facility” means:
 - (a) The owner, lessee or person in lawful possession of a private parking facility; or
 - (b) Any officer or agency of this state with authority to control or operate a parking facility.
- (2) “Owner of proscribed property” means the owner, lessee or person in lawful possession of proscribed property.
- (3) “Parking facility” means any property used for vehicle parking.
- (4) “Proscribed property” means any part of private property:
 - (a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or
 - (b) That is used primarily for parking at a dwelling unit. As used in this paragraph, “dwelling unit” means a single-family residential dwelling or a duplex.
- (5) “Tower” means a person issued a towing business certificate under ORS 822.205.
- (6) “Vehicle” has the meaning given that term in ORS 801.590. [1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2; 2007 c.538 §9]

98.810 Unauthorized parking of vehicle on proscribed property prohibited. A person may not, without the permission of:

- (1) The owner of a parking facility, leave or park any vehicle on the parking facility if there is a sign displayed in plain view at the parking facility prohibiting or restricting public parking on the parking facility.
- (2) The owner of proscribed property, leave or park any vehicle on the proscribed property whether or not there is a sign prohibiting or restricting parking on the proscribed property. [1953 c.575 §1; 1979 c.100 §3; 1981 c.861 §24; 1983 c.436 §3; 2007 c.538 §10]

98.812 Towing and storage of unlawfully parked vehicle; lien for towage, care and storage charges; notice requirements. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the parking facility or the owner of the proscribed property may have a tower tow the vehicle from the parking facility or the proscribed property and place the vehicle in storage at a secure location under the control of the tower.

(2) A tower who tows a vehicle at the request of an owner of a parking facility or the owner of proscribed property under this section shall provide to the owner or operator of the vehicle the information required in ORS 98.856 in the manner provided in ORS 98.856.

(3) A tower is entitled to a lien on a towed vehicle and its contents for the tower’s just and reasonable charges and may retain possession thereof until the just and reasonable charges for the towage, care and storage of the towed vehicle have been paid if the tower complies with the following requirements:

- (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage;
- (b) If the towed vehicle is registered in Oregon, the tower shall give notice, within 15 days after the towed vehicle is placed in storage, to the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be

received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

(c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the towed vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information from the state motor vehicle agency to notify the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of information from the state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care and storage of the towed vehicle.

(4) The lien created by subsection (3) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1953 c.575 §2; 1977 c.634 §1; 1979 c.100 §4; 1981 c.861 §25; 1983 c.436 §4; 1993 c.385 §2; 2001 c.424 §1; 2007 c.538 §11]

98.814 [1953 c.575 §4; 1965 c.343 §21; repealed by 1983 c.436 §15]

98.816 [1953 c.575 §5; 1965 c.343 §22; repealed by 1983 c.436 §15]

98.818 Preference of lien. The lien created by ORS 98.812 shall have preference over any and all other liens or encumbrances upon the vehicle. [1953 c.575 §3; 2007 c.538 §11a]

98.830 Towing abandoned vehicle from private property; conditions. A person who is the owner, or is in lawful possession, of private property on which a vehicle has been abandoned may have a tower tow the vehicle from the property if:

(1) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed. The notice required by this subsection must remain on the vehicle for 72 hours before the vehicle may be removed.

(2) The person fills out and signs a form that includes:

(a) A description of the vehicle to be towed;

(b) The location of the property from which the vehicle will be towed; and

(c) A statement that the person has complied with subsection (1) of this section. [1995 c.758 §1; 2007 c.538 §12]

98.835 Immunity from civil liability for towing abandoned vehicle; lien for towage, care and storage charges; notice requirements. (1) A tower who tows a vehicle pursuant to ORS 98.830 is immune from civil liability for towing the vehicle if the tower has a form described in ORS 98.830 (2), filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to,

or destruction of, the vehicle that occurs during the course of the towing.

(2) The tower who tows a vehicle pursuant to ORS 98.830 is entitled to a lien on the towed vehicle and its contents for the tower's just and reasonable charges. The tower may retain possession of the towed vehicle until the just and reasonable charges for the towage, care and storage of the towed vehicle have been paid if the tower complies with the following requirements:

(a) The tower shall notify the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage;

(b) If the towed vehicle is registered in Oregon, the tower shall give notice by first class mail with a certificate of mailing, within 15 days after the towed vehicle is placed in storage, to the owner of the towed vehicle and any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within the 15-day period, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

(c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the towed vehicle is placed in storage, notify and request the title information and the name and address of the owner of the towed vehicle from the motor vehicle agency for the state in which the towed vehicle is registered. The tower shall have 15 days from the date of receipt of the information from the state motor vehicle agency to notify the owner of the towed vehicle or any other person with an interest in the towed vehicle, as indicated by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted within 15 days from the receipt of information from the state motor vehicle agency, but need not be received within that period, but within a reasonable time. If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable expenses incurred within the period between storage of the towed vehicle and receipt of information from the state motor vehicle agency for towage, care and storage of the towed vehicle.

(3) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152. [1995 c.758 §2; 2001 c.424 §2; 2007 c.538 §13]

98.840 Towing vehicle alternative to procedure in ORS 98.810 to 98.818. The procedure authorized by ORS 98.830 and 98.835 for removal of abandoned vehicles from private property may be used by persons described in ORS 98.805 as an alternative to the procedures described in ORS 98.810 to 98.818. [1995 c.758 §4; 2007 c.538 §13a]

98.990 [Repealed by 1957 c.670 §37]

INVOLUNTARY LOSS OF USE OF VEHICLES

98.850 Legislative findings and declaration. (1) The Legislative Assembly finds that:

(a) 49 U.S.C. 14501(c)(1) limits the authority of the state and political subdivisions of the state to enact or enforce laws or ordinances related to price, route or service of motor carriers with respect to the transportation of property.

(b) 49 U.S.C. 14501(c)(2)(A) exempts, from the limits described in paragraph (a) of this

subsection, safety regulations with respect to motor vehicles.

(c) 49 U.S.C. 14501(c)(2)(C) exempts, from the limits described in paragraph (a) of this subsection, laws or ordinances relating to the price of for-hire motor vehicle transportation by a tow truck if the transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(2) The Legislative Assembly declares that:

(a) Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public.

(b) ORS 98.810 to 98.818 do not preempt any authority that a local government, as defined in ORS 174.116, may have to regulate the price of for-hire motor vehicle transportation by a tow vehicle if the transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. [2007 c.538 §1]

98.852 Definitions for ORS 98.854 to 98.862. As used in ORS 98.854 to 98.862:

(1) “Consideration” has the meaning given that term in ORS 171.725.

(2) “Motor vehicle” has the meaning given that term in ORS 801.360.

(3) “Parking facility” has the meaning given that term in ORS 98.805.

(4) “Tower” means a person that:

(a) Owns or operates a tow vehicle for profit; or

(b) Is employed by a person that owns or operates a tow vehicle for profit.

(5) “Tow vehicle” has the meaning given that term in ORS 801.530. [2007 c.538 §2]

98.854 Prohibitions placed on tower of vehicles. A tower may not:

(1) Tow a motor vehicle without providing to the owner or operator of the motor vehicle the information required under ORS 98.856 in the manner required under ORS 98.856.

(2) Charge more than a price disclosed under ORS 98.856.

(3) Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident, unless the tower tows the motor vehicle pursuant to a prenegotiated payment agreement between the tower and a motor vehicle road service company.

(4)(a) Except as provided in paragraph (b) of this subsection, park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

(b) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business if the tower provides notice of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.

(5)(a) Provide consideration to obtain the privilege of towing motor vehicles from a parking facility.

(b) Provision of:

(A) Signs by a tower under ORS 98.862 does not constitute consideration.

(B) Goods or services by a tower below fair market value constitutes consideration.

(6) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or personal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to dispute:

(a) The reason for the tow;

(b) The validity or amount of charges; or

(c) The responsibility of the tower for the condition of the motor vehicle or personal property in the motor vehicle.

(7) Hold a towed motor vehicle for more than 24 hours without:

(a) Taking an inventory of all personal property in the motor vehicle that is visible from the exterior of the motor vehicle; and

(b) Holding the personal property in the motor vehicle in a secure manner.

(8) Accept cash as a method of payment for towing services unless the tower provides exact change not later than the end of the business day following receipt of payment. [2007 c.538 §3]

98.856 Tower responsibility of disclosure to owner or operator of vehicle. (1) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written statement of at least 10-point boldfaced type:

(a) The prices the tower charges for goods and services;

(b) The location where the tower will:

(A) Store the motor vehicle and personal property in the motor vehicle; or

(B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a location under the control of the tower;

(c) The telephone number and any other means of contacting the tower, and the hours of availability at that telephone number and at the other means of contacting the tower;

(d) The methods of payment that the tower accepts; and

(e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower will provide, in person or by mail, exact change not later than the end of the business day following receipt of payment.

(2) If the owner or operator is present at the time of the tow, the tower shall provide the information required under subsection (1) of this section to the owner or operator of the motor vehicle before towing the motor vehicle.

(3) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower shall provide the information required under subsection (1) of this section to the owner or person in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession of the motor vehicle redeems the motor vehicle.

(4)(a) As used in this subsection, "business day" means Monday through Friday, excluding legal holidays.

(b) If the owner or operator of the motor vehicle is not present at the time of the tow:

(A) Within five business days from the date of the tow, the tower shall request the name and address of the owner of the motor vehicle from the state motor vehicle agency for the state in which the motor vehicle is registered.

(B) The tower shall provide the information required under subsection (1) of this section to the owner of the motor vehicle by mail by the end of the first business day following receipt of the information from the state motor vehicle agency.

(C) If the owner of the motor vehicle or a person in lawful possession of the motor vehicle redeems the motor vehicle or contacts the tower prior to five business days after the tow, the tower is not required to contact the state motor vehicle agency.

(5) If the owner or operator of the motor vehicle is not present at the time of the tow but the owner or operator of the motor vehicle requested the tow and arranged to pay the tower directly, the tower may obtain the name and address of the owner of the motor vehicle from the owner or operator of the motor vehicle and may provide the information required under subsection (1) of

this section:

(a) Within five business days after the tow; or

(b) With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs.

[2007 c.538 §4]

98.858 Right of owner or person in lawful possession of vehicle to redeem vehicle, contact tower and obtain property of emergency nature. (1) A tower in physical possession of a motor vehicle shall permit the owner or person in lawful possession of a motor vehicle the tower has towed to:

(a) Redeem the motor vehicle:

(A) Between 8 a.m. and 6 p.m. Monday through Friday, excluding legal holidays;

(B) At all other hours, within 60 minutes after asking the tower to release the motor vehicle;

and

(C) Within 30 minutes of a time mutually agreed upon between the tower and the owner or person in lawful possession of the motor vehicle;

(b) Contact the tower at any time to receive information about the location of the motor vehicle and instructions for obtaining release of the motor vehicle; and

(c) Obtain all personal property of an emergency nature in the motor vehicle within the time allowed under paragraph (a) of this subsection.

(2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee in any amount to obtain personal property of an emergency nature except for a gate fee between the hours of 6 p.m. and 8 a.m. Monday through Friday, or on a Saturday, a Sunday or a legal holiday.

(3) As used in this section, “personal property of an emergency nature” includes but is not limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit card, a checkbook, cash and child safety car and booster seats. [2007 c.538 §5]

98.860 Conditions for release of vehicle to insurance company undertaking to adjust claim; tower’s good-faith release of vehicle. (1) For purposes of this section, an insurance company undertaking to adjust a claim involving a towed motor vehicle is a person in lawful possession and entitled to release of the motor vehicle if:

(a) The insurance company has obtained permission from the owner or another person in lawful possession of the motor vehicle to secure release of the motor vehicle; and

(b) The insurance company transmits to the tower by facsimile or electronic mail a document that reasonably identifies the insurance company as a person in lawful possession and directs the tower to release the motor vehicle to a person designated by the insurance company.

(2) A tower who, in good faith, releases a motor vehicle under subsection (1) of this section is not liable for damages for releasing the motor vehicle to a person designated by the insurance company or for damages that arise after release of the motor vehicle.

(3) This section does not prohibit a tower from releasing a motor vehicle to an insurance company in a manner other than that provided for in subsection (1) of this section. [2007 c.538 §6]

98.862 Exceptions to requirements of ORS 98.856. A tower need not provide the written information required under ORS 98.856 if:

(1) The motor vehicle is towed from a parking facility where the tower has provided the

information on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.

(2) The tower is hired or otherwise engaged by an agency taking custody of a vehicle under ORS 819.140.

(3) The tower tows the motor vehicle under a prenegotiated payment agreement between the tower and a motor vehicle road service company or an insurance company.

(4) The tower is hired or otherwise engaged by a business entity at the request of the owner or operator of the motor vehicle to tow the motor vehicle. [2007 c.538 §7]

98.864 Rules. The Attorney General may adopt rules to implement ORS 98.854 to 98.862. [2007 c.538 §8]

PENALTIES

98.991 Penalties relating to unclaimed property. (1) Any person who willfully fails to render any report or perform other duties required under this Act is guilty of a misdemeanor.

(2) Any person who willfully refuses to pay or deliver unclaimed property to the Department of State Lands as required under this Act is guilty of a misdemeanor. [1957 c.670 §36; 1993 c.694 §22]

Note: See note under 98.432.

98.992 Penalty for failure to report, pay or deliver property under ORS 98.302 to 98.436. A person who willfully fails to render any report, to pay or deliver property or to perform other duties required by ORS 98.302 to 98.436 and 98.992 may be required to forfeit and pay to the State Treasurer to be deposited in the Common School Fund Account, an amount determined by the Department of State Lands pursuant to ORS 183.745 of not more than \$1,000 for individuals and \$50,000 for corporations. This penalty shall be assessed only after at least one reporting cycle, and only after the department has provided the person with written instructions, including copies of applicable laws and policies. The department may waive any penalty due under this section with appropriate justification. [1993 c.694 §25]