



State Board of Towing Definitions Drafting OARs

This document does not represent formal Board decisions or policy; the document facilitates board discussion to better define and clarify ambiguity in Oregon law and to ensure ownership of vehicles is consistent in application amongst partner agencies.

ORS 98.850 Legislative findings and declaration

(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.

Definition of terms:

Vehicle ownership:

- Lawful owner of the vehicle:
- Operator of the vehicle:
- Person in lawful possession:
- A person with right to possession of the vehicle:
- The owner:
- A person entitled to possession:

Government agency (*federal, state, local or tribal agency*)

ORS 98.853 (2) and 98.854 (2)

Upon Request

ORS 98.853 (3) (b)

Complete hook up

ORS 98.854 (2)

Signed authorization

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Public policies clarify the intent and meaning of Oregon's statutes and administrative rules AND identify best practices, professional standards, and expectations for members of the industry, the public, property owners and managers, stakeholders, and government entities.

Adoption of public policy does not change or rewrite the laws. Changes to the law are made by the legislature. If a public policy contradicts a relevant statute or rule, the statute or rule will prevail.

The Board's authority to investigate complaints and vote for disciplinary actions is established in Oregon's law, and is not restricted by the date of adoption of public policy.

While the Board has adopted a progressive discipline model for compliance actions the Board may, at its discretion, assess sanctions and civil penalties against a tower when the Board finds a tower's actions were reasonably deliberate, intentional and willful violations of the plain language of the law, or expressly egregious and unethical which resulted in unacceptable risk or harm to a member of the public.

 <p>State Board of Towing Public Policy</p>	Policy No.: PP-24-001-A –Amended
	Supersedes:
	Reference: ORS 98.854 (2), (3) and (4)
Subject: Private Property Impounds, Authorization to Tow	Effective Date:

Authority/Applicable Statute(s) or Administrative Rule(s):

ORS 98.850 Legislative findings and declaration

(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.

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

(a) Necessary for the administration of the laws that the board is charged with administering.

(b) To implement ORS 98.853 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

ORS 822.995 Civil penalties for violations related to towing

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle), 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature), 181A.350 (Eligibility of towing business to be placed on department list), 822.200 (Operating illegal towing business), 822.215 (Grounds for denial, suspension, revocation or refusal of certificate), 822.225 (Failure to remove injurious substance), 822.230 (City or county regulation of towing businesses), 822.235 (Recovery after theft) or 822.605 (False swearing relating to regulation of vehicle related businesses) or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.

(2) The board may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$25,000 for each violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745 (Civil penalty procedures).

(4) In imposing a penalty pursuant to the schedule adopted under subsection (2) of this section, the board shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations by the person incurring the penalty of statutes, rules or orders pertaining to facilities.

(c) The economic and financial conditions of the person incurring the penalty.

(d) The immediacy and extent to which a violation threatens the public health or safety. [2021 c.578 §11]

ORS 98.854 Prohibitions placed on tower.

A tower may not:

- (2) Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.
- (3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.
- (4) Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.

Purpose:

The purpose of this Public Policy is to:

- (1) Provide interpretation and definition of the plain language of ORS 98.854 (2), (3) and (4) for the public, towing industry, board and industry partners, property owners, and other interested parties.
- (2) Provide transparency in the guidelines used by the Board for reviewing complaints, identifying possible violations and compliance issues, and to determine appropriate board action.
- (3) Identify best practices and standards for the towing industry.
- (4) Board policy will be monitored and may be modified during the proposed administrative rules process.

Law enforcement and state and local governments may enact and enforce additional laws, rules, ordinances, or other regulations in compliance with the laws of the State of Oregon.

Board Interpretation:

ORS 98.854 Prohibitions placed on tower.

A tower may not:

- (2) *Except as provided in ORS 98.853 (Conditions allowing towing) ...*

The Board finds the intent of this statute to be in plain language, and notes that the exceptions provided under ORS 98.854 (2) are described under ORS 98.853 (1) (a) - (d).

ORS 98.854 Prohibitions placed on tower.

A tower may not:

- (2) *... tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle.*

The Board finds that the plain language of the intent of the law is clear and will review complaints against the plain language of the law to determine compliance or board action.

(2) ... receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle.

- The Board finds that the plain language of the intent of the law is clear and will review complaints against the plain language of the law to determine compliance or board action.
- As the law does not specify requirements of a signed authorization under ORS 98.854 (2), the Board will define the requirements of the signed authorization in administrative rule.
- The intent of the signed authorization for any vehicle towed is to identify that every tow is authorized by a person or entity with the lawful authority to authorize the tow.
- The purpose of the signature authorization is not to limit or prohibit a parking facility owner from implementing or enforcing parking facility rules or regulation, nor is the intent to allow unauthorized or unlawful parking of a vehicle in a private parking facility or parking in a private parking facility in violation of the facility's rules, regulations, or landlord-tenant agreements.
- It is not the intent of the statutes that a tower dispute or defend the validity of a tow conducted in good faith under a signed authorization clearly identifying (a) the vehicle to be towed (b) the date of the authorization (c) reason for the tow and (d) the authority of the person authorizing the tow.
- In review of complaints submitted to the Board, the Board will consider a communication from the property owner (or their lawful agent) to the tower, or a document or a form signed by the property owner (or their lawful agent), to be in compliance with ORS 98.854 (2) for the purposes of holding a tower harmless for the validity of the tow similar to ORS 98.820 and 98.830 if the communication, document or form include:
 - A description of the vehicle to be towed,
 - The location of the vehicle to be towed, and
 - The correspondence, form or document legibly identifies the person authorizing the tow and their authority to authorize the tow.
 - Is signed and dated by the property owner or the owner's agent at the time of the tow.
- Due to the nature of the towing industry, for the purposes of Board review of complaints, the Board will consider a signed authorization described above valid for 24 hours after the signed authorization is received by the tower.
- A wet signature is preferred, but not required, on the signed authorization.

(2) ... or the owner's agent ...

- The property owner may appoint any person or entity to act as the property owner's agent the property owner so chooses, providing the appointment complies with applicable laws and regulations.
- It is not the intent of ORS 98.854 or of the Board that authorization of a tow is restricted to only the property owner, and it is not the intent of this statute that tows only be authorized during business hours of the business office.

- It is not the intent of the law or the Board to dictate who a property owner can appoint to act as their agent; however, the property owner is responsible for ensuring that the person identified to act as the owner's agent to authorize a tow can lawfully authorize the tow.
- Best practices: The tower should confirm and document who may act as a property owner's agent for individual properties to ensure compliance with the statute and provide proof of authorization in the event of a towing dispute.

(2) ... The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection.

DMV requires lien documents to be maintained for five years. While not required, it is recommended that documentation related to towing events involving possessory liens be maintained for five years.

(2) ... Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.

- "Upon request" is deliberate, specific and plain language; however, the Board finds that providing a copy of a signed authorization "upon request" is not always feasible or possible for the tower.
- If a tower is unable to provide a copy of the signed authorization "upon request," the Board will find a tower in compliance with the intent of the statute when a tower provides a copy of the signed authorization to the requester no later than the next business day or at time of release of vehicle, whichever comes first.
- The requirement to provide a signed authorization applies to vehicles (a) towed or impounded by the tower and (b) under the control and custody of the tower in their tow yard.

ORS 98.854 Prohibitions placed on tower.

A tower may not:

(3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.

The Board finds that the plain language of the intent of the law is clear and will review complaints against the plain language of the law to determine compliance or board action.

ORS 98.854 Prohibitions placed on tower.

A tower may not:

(4) Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.

The Board finds that the plain language of the intent of the law is clear and will review complaints against the plain language of the law to determine compliance or board action.

Reference:

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

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State Board of Towing Public Policy

Policy No.:
PP-24-001-B - Amended

Supersedes:
NA

Reference:
ORS 98.854 (4)
ORS 98.853 (1)

Subject:
Private Property Impounds, ORS 98.853 (1)

Effective Date:

Authority/Applicable Statute(s) or Administrative Rule(s):

ORS 98.850 Legislative findings and declaration

(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.

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

(a) Necessary for the administration of the laws that the board is charged with administering.

(b) To implement ORS 98.853 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

ORS 822.995 Civil penalties for violations related to towing

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), 98.856 (Tower responsibility of disclosure to owner or operator of vehicle), 98.858 (Right of owner or person in lawful possession of vehicle to redeem or inspect vehicle, contact tower and obtain property of emergency nature), 181A.350 (Eligibility of towing business to be placed on department list), 822.200 (Operating illegal towing business), 822.215 (Grounds for denial, suspension, revocation or refusal of certificate), 822.225 (Failure to remove injurious substance), 822.230 (City or county regulation of towing businesses), 822.235 (Recovery after theft) or 822.605 (False swearing relating to regulation of vehicle related businesses) or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.

(2) The board may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$25,000 for each violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745 (Civil penalty procedures).

(4) In imposing a penalty pursuant to the schedule adopted under subsection (2) of this section, the board shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations by the person incurring the penalty of statutes, rules or orders pertaining to facilities.

(c) The economic and financial conditions of the person incurring the penalty.

(d) The immediacy and extent to which a violation threatens the public health or safety. [2021 c.578 §11]

ORS 98.853 Conditions allowing towing

- (1) A tower may tow a motor vehicle if the motor vehicle:
- (a) Blocks or prevents access by emergency vehicles;
 - (b) Blocks or prevents entry to the premises;
 - (c) Blocks a parked motor vehicle; or
 - (d) Parks without permission in a parking facility used for residents of an apartment and:
 - (A) There are more residential units than there are parking spaces;
 - (B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and
 - (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.

Purpose:

The purpose of this Public Policy is to:

- (1) Provide interpretation and definition of the plain language of ORS 98.853 (1), for the public, towing industry, board and industry partners, property owners, and other interested parties.
- (2) Provide transparency in the guidelines used by the Board for reviewing complaints, identify possible violations and compliance issues, and to take appropriate board action.
- (3) Identify best practices and standards for the towing industry.
- (4) Board policy will be monitored and may be modified during the proposed administrative rules process.

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 - (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.

The Board finds that the exceptions described under ORS 98.853 (1) are exceptions referenced under ORS 98.854 (2), and the text of the exceptions are clear.

A tower is not prohibited from requiring a signed authorization from the property owner or their agent to tow a vehicle parked as described in ORS 98.853 (1) (a) - (d).

Reference:

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

	Policy No.: PP-24-001-E - Amended
	Supersedes: NA
	Reference: ORS 98.854 (8)
Subject: Private Property Impounds – Monitoring Parking Facilities ORS 98.854 (8)	Effective Date:

Authority/Applicable Statute(s) or Administrative Rule(s):

ORS 98.850 Legislative findings and declaration

(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.

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the State Board of Towing may adopt rules:

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ORS 822.995 Civil penalties for violations related to towing

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(4) In imposing a penalty pursuant to the schedule adopted under subsection (2) of this section, the board shall consider the following factors:

- (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
- (b) Any prior violations by the person incurring the penalty of statutes, rules or orders pertaining to facilities.
- (c) The economic and financial conditions of the person incurring the penalty.
- (d) The immediacy and extent to which a violation threatens the public health or safety. [2021 c.578 §11]

ORS 98.854 Prohibitions placed on tower

A tower may not:

(8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

Purpose:

The purpose of this Public Policy is to define the intent of ORS 98.854 (8).

ORS 98.854 Prohibitions placed on tower

A tower may not:

(8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

The Board finds that the plain language of the intent of the law is clear and will review complaints against the plain language of the law to determine compliance or board action.

Reference:

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

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