



Oregon

Tina Kotek, Governor

State Board of Towing
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OREGON STATE BOARD OF TOWING Board Work Session Notes January 11, 2024

Work Session Location:

Oregon DMV HQ
1905 Lana Avenue
Salem, OR 97314

Attending Board Member:

Chuck Riley, Chair
Bruce Anderson
Kevin Baker
Chris Coughlin
Trent Hanson, Vice Chair
Lt. Jason Lindland
Gary McClellan

Board and DMV Staff:

Torey McCullough, Board Administrator
Linda Beukens, DMV Program Services Mgr

Absent:

Chief Mike Iwai, Jason Shaner

Guests and members of the public:

Also attending the public work session were DMV Staff from Business Services and Vehicle Services, Tow Industry Members, Road Service Associates, and Members of the General Public. A full list of attendees is available upon request.

Purpose of the Work Session:

Define the Board's complaint criteria and processes in compliance with:

ORS 183.333 (7) The Legislative Assembly finds and declares that it is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible

ORS 192.620 Policy. The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.

Historical Reference:

- The Board was established under Senate Bill 300 by the 2021 State Legislature to implement, administer, and enforce some of the Oregon laws regulating the towing industry.

- The Board's first administrative rules outlining processes became effective January 1, 2024.
- The Board is in the initial phase of identifying and creating policies, procedures, identifying its role in the protection of the public, including review of complaints and current laws to establish Board complaint criteria and identify need for clarification and administrative rules.

The work session was called to order, Agenda approved, and introductions made by the Board, Staff, and Public Attendees.

The Board reviewed complaint information provided by the Dept. of Justice; due to privacy and confidentiality concerns, only the redacted narrative statements were reviewed during the public work session.

Observations:

- There is limited data and information available regarding complaints filed against tow companies and tow operators to date.
- Initial numbers indicate the majority of complaints are filed against a small number of towing companies.
- A large percentage of the remaining complaints may not be under the Board's authority
 - Not be a violation of Oregon's laws or rules
 - May be under another agency's authority (law enforcement, ODOT)
 - May not be a substantiated complaint against a tower's actions (complaint based on circumstances, not the responsibility of the tower)
- There are several options available to consumers for resolution of towing issues depending on the nature and requirements of the tow, including local tow courts for police or ODOT authorized tows and impounds (does not apply to criminal impounds).

Board Authority:

- The Board's authority is limited to the laws assigned under ORS 822.250 through 822.995, and its own Administrative Rules.
- The Board does not have authority over all of the ORSs regulating the towing industry and does not have authority over the OARs adopted by other state agencies.
- Oregon State Police, and many cities and counties in Oregon, have their own non-preference tow program, or other regulations and requirements for towers.
- Towing regulations vary across the state; what might be required in one community may not be required statewide.
- The Board has the authority to investigate and discipline a tow company for violations of Oregon's laws and rules. The Board does not have the authority to adjudicate disputes between a consumer and a tow company. This will require a statutory change.
- One of the visions for the creation of the Board is to have staff mediate or resolve disputes between consumers and the tow industry in lieu of a disciplinary process.
- Oregon's ORSs are intentionally broad and vague. One of the roles of the Board is to interpret, clarify, and define processes or compliance of the ORS.

Board Processes:

- The Board will follow a transparent and public process before implementing policies and rules to comply with both the legislative intent and the Board's intent.
- It may take several board meetings to fully define the compliance processes, roles, and responsibilities.
- While time consuming, the process allows time for full consideration of processes, public input, and thorough consideration of unintended consequences before policies and rules are adopted or implemented.

Possessory Liens

Mike Porter provided a brief overview of possessory liens. Possessory lien laws are not assigned to the Board under its statutes. The Board's interest in liens, and other legal documents, are that they are correctly used, and the required processes are followed.

If legal documents, including possessory liens and other DMV documents, are not correctly used, the Board has jurisdiction and authority under ORS 822.995 to issue civil penalties.

Board Disciplinary Process and Actions

The Board's focus is to first educate; however, if the Board finds that a tower's actions are historically repetitive, egregious, or have harmed the wellbeing of consumers or the public (either willfully or recklessly) the Board has the authority to assess civil penalties in an amount up to \$25,000 per violation or to order DMV to suspend or revoke a tower's DMV tow or recovery certificate.

Next Steps

1. The Board will continue to review ORSs, and identify needs for clarity, definition, or processes. Examples include:
 - a. ORS 98.853 (1) (d) (C) - and other statutes - requires signs to be posted before a vehicle can be towed. The Board may consider adopting rules defining "clearly visible" or "clearly readable" to address some of the concerns raised in the complaints.
 - b. Given the number of complaints, there may be some confusion in the towing industry between the requirements of ORS 98.853 and ORS 98.854 regarding towing from apartment complexes. The Board may consider adopting rules to ensure that the intent of the legislation is documented and communicated.
2. The Board will encourage Consumers to go through the proper channels/authority to resolve issues prior to Board review of the complaint.
Board staff will prepare a flyer/information of available options for consumers (including contacting a city's tow or code enforcement, and when claims can be adjudicated through local tow courts).

3. Board staff will review and prepare complaints received by the Board beginning January 1, 2024, including requesting documentation from Complainants substantiating allegations in the complaints. Staff analysis will include potential violations and options for Board action.

Due to confidential and private information contained in the complaints, the Board will review the complaints in Executive Session at the next Board meeting and provide a summary of the discussion during Public Session of the same Board meeting. The Board will not vote on any matter during Executive Session.

Next Meeting:

The next Board meeting will be hosted at DMV HQ on February 13, 2024.

Adjourned:

The work session was adjourned at 3:00 p.m.

Documents Considered by the Board

- Agenda
- ORS assigned to the Board and OAR Chapter 750
- Sample Complaints
- Other work materials provided prior to the meeting, but not referred to:
 - Process
 - Objectives
 - Complaint Forms
 - Correspondence Templates

Minutes prepared by Torey McCullough

Minutes APPROVED by Board vote: 02/13/2024