



Oregon

Tina Kotek, Governor

State Board of Towing

1905 Lana Ave, NE

Salem, OR 97314

Email Address: info@towboard.oregon.gov

Web Site: www.oregon.gov/sbot

BOARD MEETING NOTICE OREGON STATE BOARD OF TOWING

Date & Time:

May 14, 2024

1:00 – 3:00 p.m.

MEETING LOCATION:

DMV Headquarters
1905 Lana Ave., NE
Conference Room 122
Salem, OR 97314

Board Members:

Chuck Riley (Chair)
Trent Hanson (Vice Chair)
Bruce Anderson
Kevin Baker
Chris Coughlin
Chief Mike Iwai
Lt. Jason Lindland
Gary McClellan
Jason Shaner

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CONTACT:

Torey McCullough, State Board of Towing
info@towboard.oregon.gov

The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.

TIMES AND ORDER: The Public Board Meeting will commence at 1:00 p.m. on May 14, 2024 and end at approximately 3:00 p.m., or upon completion of agenda items.

Refer to the Board Meeting Agenda for topics.

ACCESSIBILITY: Any interested person may attend the public meeting. The Board meeting will be accessible to persons with disabilities. *Please Contact Oregon Relay at 1-800-735-2900 for TTY Services.*

Meeting Space is limited – please RSVP in-person attendance to info@towboard.oregon.gov by Friday, May 3, 2024.

COPIES: Copies of the board meeting materials will be available on the Board’s website (www.oregon.gov/sbot) by 3:00 p.m. on Monday, May 13, 2024.

EXECUTIVE SESSION: The Board may enter Executive Session to discuss certain matters on the agenda pursuant to ORS 192.660 during the Board Meeting. The nature of and authority for holding the Executive Session will be announced by the Board Chair prior to entering Executive Session.

PUBLIC COMMENT: Members of the public are invited and encouraged to attend all public Board meetings.

The Agenda provides for public comments during the Public Meeting.

Written statements or correspondence *related to Agenda Topics* received by the Board by 5:00 p.m. on May 13, 2024, will be presented to the Board during the public comment session for review.

Agenda request, written statements, correspondence, or requests for meeting materials may be submitted by email, mailed, or delivered to the addresses above.



OREGON STATE BOARD OF TOWING Board Work Session Agenda May 14, 2024

AGENDA	PRESENTER
1. Call Work Session to Order	Chair
2. Welcome & Introductions <i>(Board Member, Staff, and Partners)</i>	All
3. Approve Agenda	Board
4. Work Session	
• Concept Discussion – OAR 98.853 and 98.854	Board & Partners
Public Comments <i>(2 minute comment or testimony related to the Board's discussion)</i>	All
Break	
• ORS 98.853 and 98.854 – Board Policy	
Time Permitting:	
• ORS 98.858 – after hours storage	
• EV Storage	
5. Next Steps	Board
a. Rules Advisory and Public Input Options	
b. Review Work Assignments and Direction to Staff	
c. Next Board Meeting	
6. Other Business Items	
a. Announcements	
b. OTTA Quarterly Meeting	
c. October 29 th Annual Meeting	
d. Final Comments or Questions <i>(time dependent)</i>	Public
7. Adjourn Board Meeting***	Chair

*Board vote during the meeting may be either consensus or roll call vote, depending on the Agenda item for decision. ORS 822.255 (4) voting protocol: [Anderson, Shaner/Baker, McClellan](#)

**Public Session will resume upon completion of Executive Session (if Board recesses to Executive Session)

***The Board meeting will be adjourned at the conclusion of Board business.

The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.

OREGON STATE BOARD OF TOWING

Initial Concept Summary Private Property Impounds - *Signed Authorization*

Definition:

The Board encompasses the following definitions from ORS 98.805

- (1) "Owner of a parking facility" means:
- The owner, lessee or person in lawful possession of a private parking facility; or
 - 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:
- Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or
 - 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 (Certificate).
- (6) "Vehicle" has the meaning given that term in ORS 801.590 ("Vehicle.").
[1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2; 2007 c.538 §9; 2017 c.480 §1]

As used in this Concept Summary:

"Lawful tow" means:

A tow completed in compliance with Oregon's legal requirements, including violation of a requirement of ORS 90.485, 98.853, and 98.854 or a rule of the Board.

"Owner's agent" means:

- A person or company employed by the parking facility owner to conduct business on behalf of the parking facility owner, including property management company or apartment managers.
- Tenants operating a commercial business under a lease agreement between the tenant and the parking facility owner and
 - The lease agreement designates areas within the parking facility for use by the tenant's customers AND
 - Designates the terms and conditions when the tenant is authorized to act as the parking facility owner's agent for towing purposes.
- A security firm or other third-party hired by the parking facility owner to monitor the parking facility and surrounding private property to identify trespassing or criminal activity in addition to violations of the parking policy violations.
- For the purposes of PPI, an owner, manager, or employee of the tow company, an affiliated tow company under the same management, ownership, or operating at the same location of the tow company, a third-party employed or contracted by the tower or their employees, or any person or business associated with the tower when there exists an actual or potential financial benefit to the tower, its employees, or family members as a result of the tow cannot act as the owner's agent.

"Private property impound(s)" or "PPI" means:

The impoundment of a vehicle from a private parking facility at the request of the property owner, operator, lessee, manager of the private property facility, or their authorized agent or representative, without the prior consent of the vehicle's registered owner.

"Signed authorization" means:

A document signed in person, by electronic signature, or via email showing:

- The date and time of the authorization.
- The signature, printed name, and title of the person authorizing the tow.
- The location, make, model, color, and plate number of the vehicle to be towed.
- The reason for the tow.
- If required, affirms the tow authorization is in compliance with ORS 90.485
- Signed by the owner of the parking facility or the owner's agent or agent.
- The authorization may not be signed by the owner, manager, or employee of the tow company, an affiliated tow company under the same management, ownership, or operating at the same location of the tow company, a third-party employed or contracted by the tower or their

employees, or any person or business associated with the tower when there exists an actual or potential financial benefit to the tower, its employees, or family members as a result of the tow.

“Unlawful tow” means:

A tow completed in violation of Oregon’s legal requirements, including violation of a requirement of ORS 90.485, 98.853, and 98.854 or a rule of the Board.

To be defined or clarified:

Intent or requirements for photographs

“Upon Request”

Authority

The State Board of Towing was established by the 2021 Oregon legislature:

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).

Legislative Findings and History

SB117, sponsored by Senators Riley and Manning, was introduced during the 2017 Legislative Session to protect the safety and wellbeing of the public and rental tenants from unnecessary harm caused by unprofessional towing practices used by a small number of Oregon towing companies.

SB 117 (with amendments) was unanimously passed by both House and Senate members present for the vote, signed by the Governor on June 27, 2017, and became effective January 1, 2018 as ORS 98.853 and amended ORS 98.854.

Oregon’s Towing Industry

Vehicles offering commercial towing services in Oregon must be issued a DMV tow business certificate.

Tow business certificates are issued to a tower after an application, payment, and proof of information has been received and processed by DMV staff.

As of May 1, 2024, DMV data indicates:

- 2168 active tow business certificates are issued to:
- Approximately 775 – 850 individual towing companies

It is unknown how many of the towing companies participate in PPI tows in their area.

Identifying Compliance Issues

The State Tow Board began accepting consumer complaints January 1, 2024.

Preliminary data, encompassing three months and approximately 70 complaints, show the majority of the complaints allege violations of the following statutes:

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.

(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.

(3)

(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

(b) For purposes of this subsection, a hookup is complete if the motor vehicle to be towed has been loaded onto a tow vehicle, or if any part of the motor vehicle has been placed on or connected to an assembly that is part of a tow vehicle, such that the tow vehicle is capable of being in motion with the motor vehicle in tow.

ORS 98.854 Prohibitions placed on tower.

A tower may not:

(1)

(a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.

(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.

(5) Charge more than a price disclosed under ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

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

(14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).

Most of the PPI complaints are lawful tows and do not represent knowing or willful violation of the law

Most of the violations in PPI complaints may be resolved by:

1. Clarification and definition of ORS 98.853 and 98.854 in industry best practices, Board policy, and OARs.
2. Education of the towing industry, parking facility owners and their agents, and the public of the intent and expectations under the ORSs, and
3. Regulation and enforcement of the statutory requirements and Administrative Rules adopted by the Board

A small percentage of the PPI complaints show less than 1% of the Oregon tow companies are willfully and knowingly violating, or instructing or allowing employees to violate, Oregon's laws under ORS 98.854, laws enacted to protect the public from unlawful and unethical towing practices.

Possible Reasons for Current Noncompliance – Reckless or Negligent

1. Lack of education or business standards: there has been no authoritative interpretation or definition of the intent or requirements of ORS 98.853 and 98.854.
2. "Signed authorization" has been interpreted to include texts, phone calls, and other communications between a tow company and the owner of the parking facility.
3. Industry practices adopted to comply with the Governor's COVID-19 Pandemic Emergency Orders have not been reviewed or rescinded.
4. Plausible Deniability: Both property owners and towers are using Plausible Deniability to absolve themselves, or to hold themselves harmless, from legal responsibility or obligations under a Tow Services Contract.

5. There is no verification process or authority review to ensure a Tow Services Agreement meet the legal requirements and exceptions of ORS 90.485, 98.853, 98.854, or provides adequate protection or recourse for tenants and the public.
6. Private property owned for commercial or public purposes (i.e., malls, business complexes, restaurants, medical centers, churches, organizations, etc.) are also entering into Tow Services Contract delegating the Towing Company as the property owner's agent under a contract, with no property owner contact or authorization required at the time of tow.
7. Lack of consumer resources, including lack of education and information related to consumer and tenant rights related to the parking and towing of vehicles, has enabled unethical PPI practices to continue in a small number of towing companies.

Possible Reasons for Current Noncompliance – Willful and Intentional

Note: the following violations were found to be substantiated in complaints against less than 1% of all Oregon Tow companies with tow business certificates issued by DMV.

1. Lack of authoritative interpretation of the definition and intent of the statutes allows towers, parking facility owners, and their representatives to define the statutes in a way that benefits the towers/and parking facility owners while taking financial advantage and causing public risk and harm to the public without recourse.
2. Towing Service Contracts are used in lieu of the contacting the parking facility owner to circumvent the signed authorization requirements in violation of ORS 98.854 (2).
3. Apartment parking lots are being trolled and vehicles towed under a Towing Services Agreement for reasons other than the conditions allowed under ORS 98.853 (1), without property owner consent, and without a signed authorization.
4. Towers using the terms under a "Towing Services Agreement" to continue hooking up of the vehicle, in the presence of the Tenant or Consumer, to continue incurring charges or to ensure payment in violation of ORS 98.853 (3).
5. Copies of signed authorizations are being used at time of the tow without any contact with the property owner.
6. Current "signed authority" does not generally include the name and title of the person who requested the tow, the date and time the tow was requested, how the person authorizing the tow is authorized to do so, and other information required to determine compliance of the signed authorization.
7. Plausible Deniability: Both property owners and towers are using Plausible Deniability to absolve themselves, or to hold themselves harmless, from legal responsibility or obligations under a Tow Services Agreement.
8. Towers, or their employees, are serving as agents of parking facility owners in violation of ORS 98.854 (2) – (4).
9. Towers are not requiring employees to take adequate photos as required by ORS 98.853 (2) and not releasing the photos in a timely manner.
10. Towers are not releasing the signed authorization required under ORS 98.854 in a timely manner.

Harm and Damages Caused by violation of ORS 98.853 and 98.854

1. The majority of the PPI tow complaints are from tenants and members of the public living in low income or government-assisted apartment complexes. These individuals do not have the disposable income and have limited resources to pay fees incurred by an unlawful tow.
2. Known issues with "lawful ownership" of a vehicle and vulnerable populations creates unnecessary barriers and hardships for tenants and members of the public who are unlawfully towed.
3. Loss or missed work due to time spent locating and retrieving vehicles.
4. Physical damage to the vehicles caused by an unlawful tow; damages include damage to drive trains, wheels, and other components of the vehicle due to towing with insufficient or incomplete hook up, unsafe driving practices, and other factors.
5. Elevated risk of physical injury due to a continuing to hook up a vehicle in the presence of the vehicle's owner.
6. Loss of use of a motor vehicle through no fault of the owner.
7. Loss of access to medications, documents, childcare items, and personal possessions contained within the vehicle at the time of the unlawful tow.
8. The ability for the vehicle owner to retain possession of the vehicle due to the fees and costs incurred by the tow.
9. Most tow companies will release a vehicle at no cost if a mistake was made by a parking facility owner or the tower; unfortunately, there are handful of tow companies requiring tenants and the public to pay all or a portion of the towing fees, holding possessions and vehicles hostage until payment is received, even if the tow was unlawful or in violation of current statutes.

Board's Role

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. [2007 c.538 §1]

With the small number of towing companies named in complaints in general, and the even smaller number of towers involved in substantiated complaints (less than 1% of the tow truck companies legally operating in Oregon), PPI issues are not a statewide or industry problem.

However, the Board has identified PPIs as a priority in consideration:

1. The large percentage of complaints substantiating unethical PPI towing practices and violations of ORS 98.854.
2. The significant and identifiable damage and harm these practices and violations are causing the public.
3. The actions of less than 1% of the industry creating a significant negative image of the reputation of the industry.
4. The request by the towing industry for clarity in determine intent and compliance with the statute.
5. The request by Board partners for assistance in enforcement and regulation of ORS 98.853 and 98.854.
6. A recognized need of the Board to educate the public, tenants, and their guests of their rights, responsibilities, and recourse under ORS 98.853 and 98.854.

Oregon Statutes are written to be broad and encompassing; the Board's role is to adopt policies and OARs to:

1. Clarity of the intent of the ORSs as determined by the Board.
2. Provide an authoritative definition of the meaning and requirements under ORS 98.853 and 98.854.
3. Protect the safety and well-being of the public.
4. Establish statewide practice standards to protect the integrity of the towing industry.
5. Ensure compliance of the laws and accountability by all parties involved with PPI tows.
6. Develop a compliance process and civil penalty schedule for violations of ORS 98.853 and 98.854.
7. Identify and provide options for recourse and resolution for tenants and members of the public whose vehicles have been unlawfully towed.

Board's Findings

Tow companies and their employees provide necessary and essential services for the public, including:

- Roadside assistance services
- Assistance to law enforcement, code enforcement, and local governments
- Assistance to law enforcement and other incident team members in clearing wrecks and hazards
- Personal assistance
- Salvage
- Vehicle recovery efforts
- Repossessions
- Private Property Impounds

Tow companies provide these services at the request or direction of an authorized person or agency.

At no time is a vehicle to be towed unless the tow is requested to do so by a person who is authorized to request the tow.

Towers, their employees, including dispatch and tow operators, are prohibited from acting as the parking facility owner's agent under ORS 98.854 (3) and (4).

The practice of having a tower act as the parking facility owner's agent violates the legal requirements of ORS 90.485, 98.853 and 98.854 and is creating an unnecessary and avoidable risk and harm to public safety and well-being.

The practice of "trolling" or "patrolling" parking facilities by towers for the purpose of monitoring the parking facility for towing business is in violation of the intent of ORS 98.854 (8) and is used by a small number of towers and property owners to circumvent the legal requirements of ORS 90.485, 98.853 and 98.854.

Compliance with ORS 90.485, 98.853 and 98.854:

1. Protects the public from unlawful tows.
2. Protects towers and their employees from civil liability and actions.

3. Allows parking facility owners to protect their tenants, guests, and facilities from unlawful tows or towing errors.
4. Protects parking facility owners from civil risk and liability.
5. Provides clear accountability and recourse for tenants and members of the public when a vehicle has been unlawfully towed.
6. Reduces the work load required of the Board, its staff, and partners in determining the validity of a complaint and the options for resolution.

DRAFT – Board Definition and Interpretation of ORS 98.853 and 98.854

DISCLAIMER:

The following information is based on review of current ORS, adjudicated cases, and Board work session and meeting notes for discussion purposes only.

- The Board has not voted on any of the following at this time.
- Board review and discussion of the Initial Concept will be conducted during public work sessions and meetings.
- Comments and testimony from both the public and the industry will be accepted prior to Board vote on any policy or rule.
- Questions and comments on any of the findings, proposed definitions, may be submitted to info@towboard.oregon.gov

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;

1. The conditions allowing towing provides the conditions which a vehicle may be towed without notice to the vehicle owner or its driver.
2. The conditions do not allow the tower to act as a parking facility owner's agent or to independently authorize a tow.
3. Vehicles meeting the definition under ORS 98.853 (1) (a) – (c) are exempt from the requirement under ORS 98.854 (2) that a tower contact the owner of the parking facility and receive a signed authorization at the time of tow, only.
4. A parking facility owner, or their agent, must request a tow for vehicles meeting the definition of ORS 98.853 (1) (a) – (c) before the vehicle can be lawfully towed.
5. The request may be made by email, phone, or text.
6. The tow request must include the date, time, location of vehicle, the reason for the tow, the make, model, and plate of the vehicle to be towed.
7. Only the parking facility owner, or their agent, may authorize an involuntary tow of a vehicle from a parking facility under ORS 98.853 (1) (a) – (c).
8. Towers and their employees cannot serve as an agent of the parking facility owner for the purpose of towing a vehicle from the parking facility under ORS 98.853 (1) (a) – (c).
9. Both the parking facility owner and the tower will maintain for at least two years, in electronic or printed form, a record of the tow request documenting the date, time, location of vehicle, the reason for the tow, the make, model, and plate of the vehicle to be towed.
10. Upon request, the copy of the tow documentation will be provided to the owner or operator of the motor vehicle and any agency with proper jurisdiction at no additional charge.

ORS 98.853 Conditions allowing towing

(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.

As a tower is unable to verify compliance with the requirements of ORS 98.853 (d), a vehicle can be towed under ORS 98.853 (1) (d) only at the request of the parking facility owner or their agent after the parking facility owner or their agent:

1. Verifies and documents there are more residential units assigned than there are parking spaces.
2. Records the date, time, location, of where the vehicle was parked.
3. Records the make, model, and plate number of the parked vehicle.
4. Verifies that the vehicle is parked in violation of the parking facility's parking policy and in violation of the terms of a tenant or rental agreement.
5. For parking spaces assigned to tenants: make reasonable attempts to contact the tenant to confirm that the vehicle is parked without the tenant's permission. The attempts and result of the contact with the tenant is to be documented.

6. Verifies, if required under the rental agreement and assigned to a tenant, that an assigned parking tag or sticker is not visible in or on the vehicle.

All other vehicles towed from a parking facility must meet the legal requirements of ORS 90.485, 98.853, 98.854, and the rules of the Board.

ORS 98.853 Conditions allowing towing.

(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.

The photographs under ORS 98.853 (2) must:

1. Show the vehicle as it was left or parked at the time the tower arrived to conduct the tow.
2. Sufficiently show the parking violation, including the vehicle's location and the nearest signage
3. Have the time and date time stamped on the photograph or documented as attachments to the signed authorization.
4. If a parking tag or other device is required to park in the parking facility, the photos must clearly show:
 - a. A parking tag is not visible from the exterior of the car or
 - b. Stickers are not affixed to the vehicle or the vehicle's window.

ORS 98.853 Conditions allowing towing:

(3)

(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

1. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.
2. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely, and without risk of physical damage to the vehicle, towed, the vehicle is to be released at no charge.
3. At no time is a tower to begin or complete a hookup of a PPI tow if a person or animal is in the PPI vehicle without authorization from a law enforcement or other government agency.

(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.

No vehicle may be involuntarily towed from a parking facility without a request or authorization signed at the time of the tow showing:

1. The date and time of the tow
2. The color, make, model, and license plate number of the vehicle to be towed.
3. The signature and printed name of the person authorizing the tow and their contact information.

ORS 98.854 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.
- (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 interprets and defines ORS 98.854 (3) and (4) as follows:

A tower or any employee of tower, including dispatch, office staff, tow operator, or independent contractor of any company or business owned by the tower, cannot act as the agent of a parking facility to authorize the tow or to tow a motor vehicle from a parking facility.

ORS 98.854 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.

1. A tower, their employee or agent may not park within 1000 feet of a parking facility, within a parking facility, or patrol a parking facility for the purpose of monitoring the parking facility for towing business.
2. Tower may not tow a vehicle found to be in violation until the parking facility owner or their agency provides a signed authorization for the tow.

ORS 98.854 A tower may not:

- (14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).
1. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.
 2. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely, and without risk of physical damage to the vehicle, towed, the vehicle is to be immediately released at no charge to the vehicle owner or operator.
 3. If hook up is complete but the vehicle not yet towed to the tower's tow facility, the tower may only charge the owner or operator of the vehicle tower's standard rate for the cost of a hook up.
 4. The tower may not exceed its rates and costs as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

Remaining Provisions of ORS 98.853 and 98.854**The Board has tabled the remaining provisions under ORS 98.853 and 98.854 for future discussions including:**

1. Signage requirements under
ORS 98.853 (d) (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.

And

ORS 98.854 (1) (a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.

2. Definition of complete hookup under ORS 98.853 (3) (b)
3. Consideration of the time and expense required for complete hook up of big rigs, including motor homes and recreational vehicles, commercial trucks and trailers, box vans, etc.
4. Rate and fees, disclosures, and other requirements under ORS 98.856.

Exemptions

PPI administrative rules and the Board's policy exempts:

1. Vehicles towed under the authorization of a law enforcement agency or officer.
2. Vehicles towed by agency authority as defined in ORS 819.120.
3. Vehicles towed at the request of the vehicle owner.
4. Exemption to ORS 98.854 (8): Commercial properties when:
 - a. Commercial tenants in the property have posted regular business hours.
 - b. There are signs posted that are clearly readable by an operator of a motor vehicle in each entrance to the parking facility, and each area within a parking facility, which reasonable informs the public of prohibited or restricted public parking on the parking facility.
 - c. A notice is predominantly posted 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 with additional signs posted as needed to inform members of the public of the monitoring requirement.
 - d. No vehicle is towed from the parking facility without authorization from the parking facility owner or their agent.
5. Vehicles parked on empty lots, vacant premises, or other "Proscribed property" as defined in ORS 98.805 (4) e.g., 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.
6. Lawful PPI tows.

Enforcement and Regulation

1. The Board will consult with the public, partners, and industries to ensure the proposed and adopted policies and rules:
 - a. Provide adequate protection of the public.
 - b. Identify the appropriate responsibility and accountability for PPI tows.
 - c. Ensure consistency with industry and partner standards and expectations.
 - d. Identify unintended consequences or loopholes.

- e. Maintain the rights and safety of the public, tenants, and parking facility owners, their tenants and customers.
- f. Maintain the right of the towing industry to conduct PPI tows in a lawful and safe manner.
2. Provide the towing industry with education of the Board's policy and proposed administrative rules regarding administration and enforcement of ORS 98.853 and 98.854 prior to the adoption and effective date of the administrative rules.
3. Review consumer complaints

Other Considerations of the Board

1. Defining the Board's authority under ORS 822.265 to adopt OARs adopting requirements of ORS Chapter 90.
2. Prohibition of unauthorized parking under ORS 98.810.
3. Protection of private property owner rights to include the protection of the physical property, public safety concerns, and the responsibilities/obligations to tenants and customers.
4. Public and property safety and protection balanced with known issues faced in Oregon: homelessness/houselessness, public camping, drug use, increase of criminal behavior including theft, harassment and theft, etc.
5. Identify questions or clarify and educate the public:
6. Personal responsibility of tenants and the public when parking in privately owned parking facilities.
7. The PPI laws and requirements do not include law enforcement or other municipal tows.

Benefits of Better Regulation and Enforcement

1. Remove ambiguity of laws
2. Provide better structure for decision making for parking facility owners, their agents, and towers to remain in compliance with ORS 90.485, 98.853 and 98.854:
3. Accountability and responsibility of towers and parking facility owners to ensure protection of the public and recourse.
4. Provide better protection of the public and tenants most commonly subjected to unlawful tows and minimize the harm and loss sustained by the public due to vehicles being towed without authorization and without contacting the owner.
5. Resolution of one of the most common complaints submitted to the Board and its partners.
6. Ensure minimum practice standards across the state in PPI tows, help remove perception of unlawful tow practices.
7. Provide better recourse and resolution for consumers harmed by unlawful PPI towing.

Identified Partners and Persons of Interest

The Board is the recognized state authority to interpret and define the intent and meaning of the ORS, and the responsibility of defining and the requirements of the ORS remains with the Board

Legislative intent is for all public bodies to illicit, engage, and consider industry, partner and public insight and opinions prior to the adoption of public policies and OARs.

The Board's intent is to ensure transparency and active engagement in its work. This includes inviting a diverse range of individuals, organizations, and partners to identify issues and offer insights, public comments, and testimony in the development of Board policy and administrative rules.

The Board has identified the following partners and individuals in its outreach efforts:

1. Use of the Board's public email subscription list for updates and announcements.
2. Outreach to the following agencies, organizations and advocacy groups:
 - a. Parking facility owners: Oregon Rental Housing Association and Rental Housing Alliance.
 - b. Tenants: Community Alliance of Tenants and Portland Tenants United
 - c. Oregon Housing and Community Services (state agency, low income housing assistance)
 - d. Oregon Tow Truck Association
 - e. Portland Dept. of Transportation Regulation Division and Towing Administration Advisory Committee
3. Coordination with advocacy groups and partners to host public review and comments of the Board's proposed policies and rules and ensure distribution of proposed policies and rules during the comment period.
4. Individuals who filed complaints with the State Board of Towing regarding PPIs.

Timeline and Next Steps

April 23, 2024: Board reviews first quarter complaints, identifies unlawful PPIs as a serious risk to public safety and a priority of the Board.

May:

May 14, 2024: Board review of initial concept, begin developing Board policy.

Board identifies potential partners and individuals most likely impacted under anticipated regulations.

June 2024:

Board reviews draft board policy at a public meeting, accepts public comment.

Board solicits additional public comments and testimony.

The following is a TENTATIVE timeline, pending determination by the Board:

July 2024:

Board votes on the final policy, accepts comments.

Process begins to draft administrative rules, accepting public comment.

Public hearings scheduled through September.

October-November

Final proposed rules drafted and posted for comments.

Public proposed rules hearing held.

January 1, 2025: Adoption of Administrative Rules

Resources:

1. Portions of SB117 relating to ORS 98.853 and 98.854
2. ORS 90.485 Restrictions on landlord removal of vehicles
3. Submitted complaints

PPI Complaints - Complaints Not Fully Investigated by the Board
May 14, 2024 Board Work Session

Case No.	Description	Review
2024-01-003	Valid PPI Tow (no parking sticker, vehicle not registered with apartment as required, driver may not have been a tenant)	No Violation by Tower
2024-01-007	Vehicle towed from tenant's assigned spot in apartment complex without authorization.	Possible PPI Violation
2024-01-012	Vehicle towed from tenant's assigned spot in apartment complex without authorization.	Possible PPI Violation
2024-01-014	PPI from commercial lot; signs not posted in parked area, signed authorization was for different address and in a different area of town, authorization not signed, picture showed an empty lot, did not show the	Possible PPI Violation
2024-01-015	PPI from apartment during ice storm; 72 hours notice not given, tenant parked in compliance with apartment lease agreement	Incomplete Complaint
2024-01-021	PPI tow - unauthorized tow, photo and authorization not provided, tenant legally parked per rental agreement.,	Possible PPI Violation
2024-01-022	PPI commercial tow during business hours; tow not authorized, tower continued to hook up vehicle after owner arrived to "ensure payment" of the hook up fee.	Possible PPI Violation
2024-01-023	PPI commercial tow after hours; signed authorization does not show the owner was contacted or who authorized the time of tow; tow company representative misrepresented the requirements of ORS 98.853, conditions allowing towing.	Possible PPI Violation
2024-02-001	Vehicle towed from apartment after 72 hour notice posted; tenant not the registered owner of the vehicle.	No Violation by Tower
2024-02-002	PPI tow - unauthorized tow of a vehicle with permit, parked in appropriate parking spot.	Possible PPI Violation
2024-02-004	PPI tow - vehicle towed with parking pass displayed in windshield; tow company conceded mistake, required payment prior to release of vehicle.	Possible PPI Violation
2024-02-005	PPI commercial tow during commercial hours, no sign posted, tow not authorized.	Possible PPI Violation
2024-02-007	PPI commercial property; car was parked in loading zone with pavement marked, no signs posted. Vehicle left overnight, blocked deliveries and loading zone. City confirmed tow complied with city requirements.	Board Discussion Required
2024-02-009	Vehicle towed vehicle based on landlord representation of 72 hour notice to tenant to move vehicle.	No Violation by Tower
2024-02-011	PPI - tenant's vehicle was parked in appropriate space; car alarm activated, did not auto shut off, manager and police were unable to shut off alarm; tenant was away out of town, could not be reached. Police authorized tow per statute.	No Violation by Tower
2024-03-006	Vehicle tow requested and authorized by management. Vehicle parked in fire lane in a way that was blocking garage and sidewalk access; car unregistered and unplatd. Vehicle owner aware of parking registration requirements, had approximately 6 months to resolve parking registration prior to tow; elapsed time between the request for tow and completion of tow was over 1 hour.	No Violation by Tower
2024-03-009	PPI tow - tower refused to provide signed authorization or photo.	Possible PPI Violation
2024-03-015	PPI - vehicle towed from outside tenant's complex; more information required.	Incomplete Complaint

2024-03-016	Visitor parked in another tenant's assigned spot. Vehicle towed. Tow authorized by management.	No Violation by Tower
2024-03-017	New landlords/property owners are threatening to have tenant cars towed if the vehicles are not in the assigned spots. Tenants are sharing parking spots with neighbors, with permission, for many years. Landlord posted notices on the apartment doors informing tenants that if they park in unassigned spots, they will be towed.	Board Discussion Required
2024-03-019	Consumer/Tenant parked in an area of the parking lot designated "car wash area" at 10 p.m. due to lack of parking available in lot (holiday weekend). Tow company refuses to provide proof of authorization of the tow due to "private contract"; dispatch authorized the tow. Tow company refuses to provide photographs signed authorization.	Possible PPI Violations
2024-04-001	PPI - vehicle towed from home owner's driveway without notice or authorization and in violation of HOA rules.	Possible PPI Violations
2024-04-003	PPI - vehicle with parking pass displayed towed from tenants parking spot without notice or authorization from landlord. Tower demanded payment to release vehicle.	Possible PPI Violation
2024-04-005	PPI - attempted tow of vehicle parked in parking spot and with attached parking tag; owner arrived as the tower began hooking up vehicle; tower refused to stop hook up; landlord told tenant they had to negotiate with tow truck driver re: fees; neighbors collected \$200 demanded by tower prior to full hook up, vehicle released. Authorization and photos requested but not received.	Possible PPI Violations
2024-04-006	PPI - towed from apartment complex for no handicap placard; placard on dash of the vehicle. Authorization and photos requested but not received.	Possible PPI Violations
2024-04-011	PPI Tow from apartment complex. Visitor parked in parking area reserved for tenants, but did not display the placard. Tower did not provide signed authorization or reason for tow.	Possible PPI Violations
2024-04-012	PPI Tow – tenant parked in front of a dumpster and another vehicle, not in designated parking area. Authorization and photos requested but not received.	Incomplete
2024-04-013	PPI Tow - questions regarding ownership	No violation - DMV title issue.
2024-04-014	PPI Tow - No signs posted; consumer was touring a vacant townhouse with manager. Vehicle towed without authorization 7 minutes after the manager and potential tenants entered the townhouse. \$500 to retrieve the vehicle.	Possible PPI Violations
2024-04-016	Tenant observed tow truck parked illegally while taking her dog for a walk. Tenant went into apartment, and then noticed tow truck driver was beginning to back up to her vehicle. Tenant arrived prior to tower initiating hook up; tower continued to hook up vehicle demanding \$200 before releasing vehicle. Apt manager acknowledged at the time that they did not authorize the tow, but they could not prevent the tower from towing the vehicle.	Possible PPI Violations
2024-04-017	Vehicle towed from a commercial parking facility after hours; signed authorization dated 2022; required picture is taken from the interior of the tow truck; tow company refused to provide photos and signed authorization for a month. Required appointment to pick up vehicle during business hours; charged a gate fee for a 11 a.m. Monday, non-holiday, retrieval.	Possible PPI Violations

2024-05-002	Visitor parked with visible temporary visitor pass. Tower refuses to provide photos or authorization statement. Manager is referring tenant and guest to tower for resolution.	Possible PPI Violations
2024-05-003	Health care provider vehicle towed from client's parking lot. Tow company told consumer that the vehicle was towed under a contract allowing the tow company to patrol the parking lot; no authorization. There are more parking spots than assigned units within parking facility, there's no conditions in the tenant contract prohibiting guest parking. Tower refused to provide authorization or photos.	Possible PPI Violations
2024-05-005	Consumer parked in a commercial business parking lot overnight near a sign warning that vehicles would be towed. Complaint was not about the tow, but about the requirement to provide a title to retrieve the vehicle.	No violation - DMV title issue.
2024-05-006	Tenant's vehicle towed from apartment complex; assigned parking sticker was displayed in window as required. \$800 to retrieve the vehicle.	Possible PPI Violations

ORS 90.485 Restrictions on landlord removal of vehicle; exceptions.

(1) A landlord may have a motor vehicle removed from the premises only in compliance with this section and either ORS 98.810 to 98.818 or ORS 98.830 and 98.840.

(2) Except as provided in ORS 90.425 regarding abandoned vehicles, a landlord may have a motor vehicle removed from the premises without notice to the owner or operator of the vehicle only if the vehicle:

- (a) Blocks or prevents access by emergency vehicles;
- (b) Blocks or prevents entry to the premises;
- (c) Violates a prominently posted parking prohibition;
- (d) Blocks or is unlawfully parked in a space reserved for persons with disabilities;
- (e) Is parked in an area not intended for motor vehicles including, but not limited to, sidewalks, lawns and landscaping;
- (f) Is parked in a space reserved for tenants but is not assigned to a tenant and does not display a parking tag or other device, as provided by subsection (3) of this section; or
- (g) Is parked in a specific space assigned to a tenant, as provided by subsection (4) of this section.

(3) A landlord may have a motor vehicle removed from the premises under subsection (2)(f) of this section only if the landlord:

- (a) Provides parking tags or other devices that identify vehicles that are authorized to be parked on the premises;
- (b) Provides a tenant with parking tags or other devices to be used on a vehicle other than the tenant's primary vehicle if the tenant wants to park a vehicle on the premises in lieu of the tenant's primary vehicle; and
- (c) Enters into written agreements with the owners or operators of vehicles authorized to park on the premises that:
 - (A) Authorize the landlord to have a vehicle removed from the premises without notice for failing to display the parking tag, sticker or other device;
 - (B) Unless the information is disclosed on prominent signs posted on the premises, disclose to the owners or operators of authorized vehicles the name, address and contact information of the tow company that is authorized to remove vehicles from the premises; and
 - (C) Specify whether guest parking is allowed and, if guest parking is allowed, describe methods for identifying guest parking spaces or identifying authorized guest vehicles.

(4) If a landlord assigns a specific parking space to a tenant, the landlord may have a vehicle towed under subsection (2)(g) of this section from the assigned parking space only with the agreement of the tenant at the time of the tow. The landlord may not require the tenant to agree to towing.

(5) If guest parking is allowed, the landlord shall post a sign in each designated guest parking space that is clearly readable by an operator of motor vehicle and that specifies any rules, restrictions or limitations on parking in the designated guest parking space.

(6) A landlord may have a motor vehicle that is inoperable, but otherwise parked in compliance with an agreement between the landlord and the owner or operator of the vehicle, removed from the premises if the landlord affixes a prominent notice to the vehicle stating that the vehicle will be towed if the vehicle is not removed or otherwise brought into compliance with the agreement. The landlord must affix the notice required by this subsection at least 72 hours before the vehicle may be removed.

(7) A landlord may not have a motor vehicle removed under this section because the vehicle's registration has expired or is otherwise invalid.

(8) This section does not:

(a) Apply to a landlord of a facility.

(b) Affect the obligations imposed on a landlord under ORS 98.810 to 98.818 or under ORS 98.830 and 98.840. [2007 c.565 §2; 2009 c.622 §4; 2017 c.480 §18]

ORS 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]

ORS 98.811 Notice of parking violation; certificate of nonliability; dismissal of notice. (1) If the owner of a parking facility or the owner of proscribed property has issued a citation or other notice of a parking violation alleging that a vehicle owned by a person engaged in the business of selling, renting, leasing or repairing motor vehicles has been left or parked in violation of ORS 98.810 and mailed a copy of the citation or notice to the person, the person is relieved of liability for the violation if, within 30 days from the mailing of the citation or notice, the person:

(a) Submits a certificate of nonliability stating that the vehicle was not in the custody and control of the person, under the terms of an agreement permitting an individual to use a motor vehicle owned by the person, when the alleged violation occurred; and

(b) Provides the name and address of the individual who was in control of the vehicle at the time of the alleged violation.

(2) Upon receipt of the certificate of nonliability and information described in subsection (1) of this section, the owner of the parking facility or the owner of the proscribed property must dismiss the citation or notice with respect to the person and may reissue the citation or notice in the name of the individual in control of the vehicle when the alleged violation occurred. [2009 c.90 §2]

ORS 98.812 Towing 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 is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges and may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage, subject to subsection (3) of this section, of the towed vehicle have been paid if the tower notifies the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage.

(3) A tower may not assess any storage charge against the towed vehicle under subsection (2) of this section that is incurred after:

(a) If the towed vehicle is registered in Oregon, three business days after the vehicle is placed in storage unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the certificate of title.

(b) If the towed vehicle is not registered in Oregon:

(A) Three business days after the vehicle is placed in storage unless, within that time, the tower notifies and requests the title information from the records of the motor vehicle agency for the state in which the towed vehicle is registered.

(B) Three business days from the date of receipt of the records requested under subparagraph (A) of this paragraph unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the requested records.

(4) 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. [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; 2009 c.622 §1; 2017 c.480 §2; 2019 c.547 §1]

ORS 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]

ORS 98.830 Towing abandoned vehicle from private property; civil immunity; lien.

(1) 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:

(a) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed;

(b) The notice required by paragraph (a) of this subsection remains on the vehicle for at least 72 hours before the vehicle is towed; and

(c) 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 paragraphs (a) and (b) of this subsection.

(2) A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, 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.

(3) A vehicle towed under this section is subject to liens, possession and foreclosure by a tower under ORS 98.812 (2) to (4). [1995 c.758 §1; 2007 c.538 §12; 2017 c.480 §4; 2019 c.547 §2]

ORS 98.840 Towing vehicle alternative to procedure in ORS 98.810 to 98.818. The procedure authorized by ORS 98.830 for removal of abandoned vehicles from private property may be used by an owner of a parking facility or an owner of proscribed property as an alternative to the procedures described in ORS 98.810 to 98.818. [1995 c.758 §4; 2007 c.538 §13a; 2017 c.480 §5]

CHAPTER 480

AN ACT

SB 117

Relating to towing; creating new provisions; amending ORS 90.425, 90.485, 98.805, 98.812, 98.830, 98.840, 98.852, 98.854, 98.856, 98.858, 98.861, 646.608 and 822.215; and repealing ORS 98.835.

Be It Enacted by the People of the State of Oregon:

DISPOSITION OF UNLAWFULLY PARKED VEHICLES AND ABANDONED VEHICLES

SECTION 1. ORS 98.805 is amended to read:

98.805. 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.

SECTION 2. ORS 98.812 is amended to read:

98.812. (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) Prior to towing a vehicle under this section, a tower who tows a vehicle at the request of an owner of a parking facility shall take at least one photograph of the vehicle and record the time and date of the photograph. A photograph must show the vehicle left or parked in violation of ORS 98.810. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph.]

[(3) 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.]

[(4)] (2) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges. **The tower [and] may retain possession [thereof] of the towed vehicle and its contents** 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 **records of 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] **contained in the records of 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 information contained in the records of 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 information contained in the records of the** state motor vehicle agency for towage, care and storage of the towed vehicle.

[(5)] (3) The lien created by subsection [(4)] (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.

SECTION 3. ORS 98.835 is repealed.

SECTION 4. ORS 98.830 is amended to read:

98.830. (1) 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)] (a) The person affixes a notice to the vehicle stating that the vehicle will be towed if it is not removed[.];

(b) The notice required by **paragraph (a)** of this subsection *[must remain]* **remains** on the vehicle for **at least 72 hours** before the vehicle *[may be removed.]* **is removed; and**

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

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

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

[(c)] (C) A statement that the person has complied with *[subsection (1) of this section]* **paragraphs (a) and (b) of this subsection.**

(2) A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, 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.

(3) A tower is entitled to a lien on a vehicle towed under this section and its contents for the tower's just and reasonable charges. The tower may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage have been paid if the tower complies with the requirements of ORS 98.812 (2).

(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.

SECTION 5. ORS 98.840 is amended to read:

98.840. 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]* **an owner of a parking facility or an owner of proscribed property** as an alternative to the procedures described in ORS 98.810 to 98.818.

INVOLUNTARY LOSS OF USE OF MOTOR VEHICLES

SECTION 6. ORS 98.852 is amended to read:

98.852. As used in ORS 98.854 to 98.862:

(1) **"Business day" means Mondays through Friday, excluding legal holidays.**

[(I)] (2) "Consideration" has the meaning given that term in ORS 171.725.

[(2)] (3) "Motor vehicle" has the meaning given that term in ORS 801.360.

[(3)] (4) "Parking facility" has the meaning given that term in ORS 98.805.

(5) **"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.**

[(4)] (6) "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)] (7) "Tow vehicle" has the meaning given that term in ORS 801.530.

SECTION 7. ORS 98.854 is amended to read:

98.854. [(I)] A tower may not:

(1)(a) **Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.**

(b) **Notwithstanding paragraph (a) of this subsection, a tower may tow a motor vehicle from a parking facility with the prior consent of the owner or operator of the motor vehicle.**

[(a)] (2) Except as provided in *[subsection (3) of this section]* **section 9 of this 2017 Act**, 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.**

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

[(c)] *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.]*

[(d)] (5) Charge more than a price disclosed under ORS 98.856 when towing a motor vehicle *[with]* **without** the prior consent or authorization of the owner or operator of the motor vehicle.

[(e)] (6) Charge more than an amount set under ORS 98.859 when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

[(f)] (7) 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.

[(g)] **(8)** *[Except as provided in subsection (2) of this section,]* Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

[(h)] **(9)** Provide consideration to obtain the privilege of towing motor vehicles from a parking facility. For the purposes of this paragraph, the provision of:

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

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

[(i)] **(10)** 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)] **(a)** The reason for the tow;

[(B)] **(b)** The validity or amount of charges; or

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

[(j)] **(11)** Hold a towed motor vehicle for more than 24 hours without:

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

[(B)] **(b)** Holding the personal property in the motor vehicle in a secure manner.

[(k)] **(12)** 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.

[(L)] **(13)** Operate in a city or county without a license issued by the city or county if required by ORS 98.861.

[(m)] **(14)** Charge for the hookup and release of a motor vehicle except as provided in **ORS 98.856 section 9 of this 2017 Act.**

[(2) 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.]

[(3) 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;]

[(d) Violates a prominently posted no parking sign that warns that parking is prohibited 24 hours a day; or]

[(e) 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.]

SECTION 8. Section 9 of this 2017 Act is added to and made a part of ORS 98.854 to 98.862.

SECTION 9. (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.

(2) Prior to towing a motor vehicle pursuant to ORS 98.812, a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.

(3)(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856.

(b) For purposes of this subsection, a hookup is complete if the motor vehicle to be towed has been loaded onto a tow vehicle, or if any part of the motor vehicle has been placed on or connected to an assembly that is part of a tow vehicle, such that the tow vehicle is capable of being in motion with the motor vehicle in tow.

(4) A tower who controls or has access to multiple storage facilities must tow a motor vehicle to the tower's storage facility with available space that is located in the same county as

and is closest to where the motor vehicle was hooked up to the tow vehicle.

SECTION 10. ORS 98.856 is amended to read:

98.856. *[(1) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in subsection (2)(a) of this section.]*

[(2)] (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 **all the goods and services that the tower offers;**

(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.

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

[(4)] (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 (2) 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.

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

[(b)] (4) If the owner or operator of the motor vehicle is not present at the time of the tow:

[(A)] (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 **records of the state motor vehicle agency** for the state in which the motor vehicle is registered.

[(B)] (b) The tower shall provide the information required under *[subsection (2) 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]* **contained in the records of the state motor vehicle agency.**

[(C)] (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.

[(6)] (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 (2) 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.

SECTION 11. ORS 98.858 is amended to read:

98.858. (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]* **on business days;**

(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]* **on business days**, 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.]

SECTION 12. ORS 98.861 is amended to read:

98.861. (1) Subject to subsection (5) of this section:

(a) A tower may not tow vehicles parked within the boundaries of a city without a license issued by the city, if the city has established the maximum rates that a tower may charge under ORS 98.859.

(b) A tower may not tow vehicles parked within the boundaries of a county without a license issued by the county, if the county has established the maximum rates that a tower may charge under ORS 98.859. The tower is not required to obtain a license from a county when the tower tows a vehicle that

is parked within the boundaries of a city located within the county and the tower is licensed by that city.

(2) Application for a license under this section must be made in writing in the form prescribed by the city or county, and must contain the name and address of the applicant and any other information that the city or county may require.

(3) The fee for issuing a license under this section shall be established by the city or county, but may not exceed the cost of administering the licensing program and administering ORS 98.859.

(4) A license issued under this section expires annually on December 31 or on a date that may be specified by the city or county by ordinance.

(5) The requirement to get a license under this section applies only to towers that tow a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(6) A city or county may suspend or revoke a license issued under this section for violation of ORS 98.854, **98.856** or 98.859 or **section 9 of this 2017 Act**.

NOTE: Sections 13 and 14 were deleted by amendment. Subsequent sections were not renumbered.

UNLAWFUL TRADE PRACTICES ACT

SECTION 15. ORS 646.608 is amended to read: 646.608. (1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:

(a) Passes off real estate, goods or services as the real estate, goods or services of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.

(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if the real estate, goods or services are of another.

(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.

(i) Advertises real estate, goods or services with intent not to provide the real estate, goods or services as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.

(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.

(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.

(m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.

(r) Organizes or induces or attempts to induce membership in a pyramid club.

(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any known material defect or material nonconformity.

(u) Engages in any other unfair or deceptive conduct in trade or commerce.

(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:

(A) Prescribed by a person licensed under ORS chapter 677; and

(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and on the proper cleanup of mercury should breakage occur.

(y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.

(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

(bb) Violates ORS 646A.070 (1).

(cc) Violates any requirement of ORS 646A.030 to 646A.040.

(dd) Violates the provisions of ORS 128.801 to 128.898.

(ee) Violates ORS 646.883 or 646.885.

(ff) Violates ORS 646.569.

(gg) Violates the provisions of ORS 646A.142.

(hh) Violates ORS 646A.360.

(ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

(jj) Violates ORS 646.563.

(kk) Violates ORS 759.690 or any rule adopted pursuant thereto.

(LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.

(mm) Violates ORS 646A.210 or 646A.214.

(nn) Violates any provision of ORS 646A.124 to 646A.134.

(oo) Violates ORS 646A.095.

(pp) Violates ORS 822.046.

(qq) Violates ORS 128.001.

(rr) Violates ORS 646A.800 (2) to (4).

(ss) Violates ORS 646A.090 (2) to (4).

(tt) Violates ORS 87.686.

(uu) Violates ORS 646A.803.

(vv) Violates ORS 646A.362.

(ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.

(xx) Violates ORS 180.440 (1) or 180.486 (1).

(yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.

(zz) Violates ORS 87.007 (2) or (3).

(aaa) Violates ORS 92.405 (1), (2) or (3).

(bbb) Engages in an unlawful practice under ORS 646.648.

(ccc) Violates ORS 646A.365.

(ddd) Violates ORS 98.854, **98.856** or 98.858 or **section 9 of this 2017 Act** or a rule adopted under ORS 98.864.

(eee) Sells a gift card in violation of ORS 646A.276.

(fff) Violates ORS 646A.102, 646A.106 or 646A.108.

(ggg) Violates ORS 646A.430 to 646A.450.

(hhh) Violates a provision of ORS 744.318 to 744.384.

(iii) Violates a provision of ORS 646A.702 to 646A.720.

(jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.

(kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.

(LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as in effect on January 1, 2010.

(mmm) Violates a provision of ORS 646A.480 to 646A.495.

(nnn) Violates ORS 646A.082.

(ooo) Violates ORS 646.647.

(ppp) Violates ORS 646A.115.

(qqq) Violates a provision of ORS 646A.405.

(rrr) Violates ORS 646A.092.

(sss) Violates a provision of ORS 646.644.

(ttt) Violates a provision of ORS 646A.295.

(uuu) Violates ORS 646A.564.

(vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.

(www) Violates ORS 702.012, 702.029, 702.032 or 702.054.

(xxx) Violates ORS 646A.806.

(yyy) Violates ORS 646A.810 (2).

(zzz) Violates a provision of sections 1 to 7, chapter 523, Oregon Laws 2015.

(2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

(3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.

(4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.

(5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a

person other than a prosecuting attorney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

SECTION 16. ORS 646.608, as amended by section 10, chapter 523, Oregon Laws 2015, is amended to read:

646.608. (1) A person engages in an unlawful practice if in the course of the person's business, vocation or occupation the person does any of the following:

(a) Passes off real estate, goods or services as the real estate, goods or services of another.

(b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of real estate, goods or services.

(c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another.

(d) Uses deceptive representations or designations of geographic origin in connection with real estate, goods or services.

(e) Represents that real estate, goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, quantities or qualities that the real estate, goods or services do not have or that a person has a sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

(f) Represents that real estate or goods are original or new if the real estate or goods are deteriorated, altered, reconditioned, reclaimed, used or secondhand.

(g) Represents that real estate, goods or services are of a particular standard, quality, or grade, or that real estate or goods are of a particular style or model, if the real estate, goods or services are of another.

(h) Disparages the real estate, goods, services, property or business of a customer or another by false or misleading representations of fact.

(i) Advertises real estate, goods or services with intent not to provide the real estate, goods or services as advertised, or with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity.

(j) Makes false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions.

(k) Makes false or misleading representations concerning credit availability or the nature of the transaction or obligation incurred.

(L) Makes false or misleading representations relating to commissions or other compensation to be paid in exchange for permitting real estate, goods or services to be used for model or demonstration purposes or in exchange for submitting names of potential customers.

(m) Performs service on or dismantles any goods or real estate if the owner or apparent owner of the goods or real estate does not authorize the service or dismantling.

(n) Solicits potential customers by telephone or door to door as a seller unless the person provides the information required under ORS 646.611.

(o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate, discount or other value is contingent upon an event occurring after the time the customer enters into the transaction.

(p) Makes any false or misleading statement about a prize, contest or promotion used to publicize a product, business or service.

(q) Promises to deliver real estate, goods or services within a certain period of time with intent not to deliver the real estate, goods or services as promised.

(r) Organizes or induces or attempts to induce membership in a pyramid club.

(s) Makes false or misleading representations of fact concerning the offering price of, or the person's cost for real estate, goods or services.

(t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any known material defect or material nonconformity.

(u) Engages in any other unfair or deceptive conduct in trade or commerce.

(v) Violates any of the provisions relating to auction sales, consignment sales, auctioneers, consignees or auction marts under ORS 698.640, whether in a commercial or noncommercial situation.

(w) Manufactures mercury fever thermometers.

(x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal law, or is:

(A) Prescribed by a person licensed under ORS chapter 677; and

(B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and on the proper cleanup of mercury should breakage occur.

(y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to inform the purchaser that mercury is present in the thermostat and that the thermostat may not be disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the mercury does not become part of the solid waste stream or wastewater. For purposes of this paragraph, "thermostat" means a device commonly used to sense and, through electrical communication with heating, cooling or ventilation equipment, control room temperature.

(z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains mercury light switches.

(aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

(bb) Violates ORS 646A.070 (1).
 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
 (dd) Violates the provisions of ORS 128.801 to 128.898.
 (ee) Violates ORS 646.883 or 646.885.
 (ff) Violates ORS 646.569.
 (gg) Violates the provisions of ORS 646A.142.
 (hh) Violates ORS 646A.360.
 (ii) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
 (jj) Violates ORS 646.563.
 (kk) Violates ORS 759.690 or any rule adopted pursuant thereto.
 (LL) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant thereto.
 (mm) Violates ORS 646A.210 or 646A.214.
 (nn) Violates any provision of ORS 646A.124 to 646A.134.
 (oo) Violates ORS 646A.095.
 (pp) Violates ORS 822.046.
 (qq) Violates ORS 128.001.
 (rr) Violates ORS 646A.800 (2) to (4).
 (ss) Violates ORS 646A.090 (2) to (4).
 (tt) Violates ORS 87.686.
 (uu) Violates ORS 646A.803.
 (vv) Violates ORS 646A.362.
 (ww) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
 (xx) Violates ORS 180.440 (1) or 180.486 (1).
 (yy) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
 (zz) Violates ORS 87.007 (2) or (3).
 (aaa) Violates ORS 92.405 (1), (2) or (3).
 (bbb) Engages in an unlawful practice under ORS 646.648.
 (ccc) Violates ORS 646A.365.
 (ddd) Violates ORS 98.854, **98.856** or 98.858 or **section 9 of this 2017 Act** or a rule adopted under ORS 98.864.
 (eee) Sells a gift card in violation of ORS 646A.276.
 (fff) Violates ORS 646A.102, 646A.106 or 646A.108.
 (ggg) Violates ORS 646A.430 to 646A.450.
 (hhh) Violates a provision of ORS 744.318 to 744.384.
 (iii) Violates a provision of ORS 646A.702 to 646A.720.
 (jjj) Violates ORS 646A.530 30 or more days after a recall notice, warning or declaration described in ORS 646A.530 is issued for the children's product, as defined in ORS 646A.525, that is the subject of the violation.
 (kkk) Violates a provision of ORS 697.612, 697.642, 697.652, 697.662, 697.682, 697.692 or 697.707.
 (LLL) Violates the consumer protection provisions of the Servicemembers Civil Relief Act, 50 U.S.C. App. 501 et seq., as in effect on January 1, 2010.
 (mmm) Violates a provision of ORS 646A.480 to 646A.495.

(nnn) Violates ORS 646A.082.
 (ooo) Violates ORS 646.647.
 (ppp) Violates ORS 646A.115.
 (qqq) Violates a provision of ORS 646A.405.
 (rrr) Violates ORS 646A.092.
 (sss) Violates a provision of ORS 646.644.
 (ttt) Violates a provision of ORS 646A.295.
 (uuu) Violates ORS 646A.564.
 (vvv) Engages in the business of, or acts in the capacity of, an immigration consultant, as defined in ORS 9.280, in this state and for compensation, unless federal law authorizes the person to do so or unless the person is an active member of the Oregon State Bar.
 (www) Violates ORS 702.012, 702.029, 702.032 or 702.054.
 (xxx) Violates ORS 646A.806.
 (yyy) Violates ORS 646A.810 (2).
 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
 (3) In order to prevail in an action or suit under ORS 336.184 and 646.605 to 646.652, a prosecuting attorney need not prove competition between the parties or actual confusion or misunderstanding.
 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the Attorney General has first established a rule in accordance with the provisions of ORS chapter 183 declaring the conduct to be unfair or deceptive in trade or commerce.
 (5) Notwithstanding any other provision of ORS 336.184 and 646.605 to 646.652, if an action or suit is brought under subsection (1)(xx) of this section by a person other than a prosecuting attorney, relief is limited to an injunction and the prevailing party may be awarded reasonable attorney fees.

CONFORMING AMENDMENTS

SECTION 17. ORS 90.425 is amended to read:
 90.425. (1) As used in this section:

(a) "Current market value" means the amount in cash, as determined by the county assessor, that could reasonably be expected to be paid for a manufactured dwelling or floating home by an informed buyer to an informed seller, each acting without compulsion in an arm's-length transaction occurring on the assessment date for the tax year or on the date of a subsequent reappraisal by the county assessor.

(b) "Dispose of the personal property" means that, if reasonably appropriate, the landlord may throw away the property or may give it without consideration to a nonprofit organization or to a person unrelated to the landlord. The landlord may not retain the property for personal use or benefit.

(c) "Goods" includes those goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rental space outside a recreational vehicle, manufactured dwelling or float-

ing home, whether the recreational vehicle, dwelling or home is located inside or outside of a facility.

(d) "Lienholder" means any lienholder of an abandoned recreational vehicle, manufactured dwelling or floating home, if the lien is of record or the lienholder is actually known to the landlord.

(e) "Of record" means:

(A) For a recreational vehicle that is not a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded with the Department of Transportation pursuant to ORS 802.200 (1)(a)(A) and 803.097.

(B) For a manufactured dwelling or recreational vehicle that is a manufactured structure as defined in ORS 446.561, that a security interest has been properly recorded for the manufactured dwelling or recreational vehicle in the records of the Department of Consumer and Business Services pursuant to ORS 446.611 or on a certificate of title issued by the Department of Transportation prior to May 1, 2005.

(C) For a floating home, that a security interest has been properly recorded with the State Marine Board pursuant to ORS 830.740 to 830.755 for a home registered and titled with the board pursuant to ORS 830.715.

(f) "Owner" means any owner of an abandoned recreational vehicle, manufactured dwelling or floating home, if different from the tenant and either of record or actually known to the landlord.

(g) "Personal property" means goods, vehicles and recreational vehicles and includes manufactured dwellings and floating homes not located in a facility. "Personal property" does not include manufactured dwellings and floating homes located in a facility and therefore subject to being stored, sold or disposed of as provided under ORS 90.675.

(2) A landlord is responsible for abandoned personal property and shall store, sell or dispose of abandoned personal property as provided by this section. This section governs the rights and obligations of landlords, tenants and any lienholders or owners in any personal property abandoned or left upon the premises by the tenant or any lienholder or owner in the following circumstances:

(a) The tenancy has ended by termination or expiration of a rental agreement or by relinquishment or abandonment of the premises and the landlord reasonably believes under all the circumstances that the tenant has left the personal property upon the premises with no intention of asserting any further claim to the premises or to the personal property;

(b) The tenant has been absent from the premises continuously for seven days after termination of a tenancy by a court order that has not been executed; or

(c) The landlord receives possession of the premises from the sheriff following restitution pursuant to ORS 105.161.

(3) Prior to storing, selling or disposing of the tenant's personal property under this section, the landlord must give a written notice to the tenant that must be:

(a) Personally delivered to the tenant; or
(b) Sent by first class mail addressed and mailed to the tenant at:

(A) The premises;

(B) Any post-office box held by the tenant and actually known to the landlord; and

(C) The most recent forwarding address if provided by the tenant or actually known to the landlord.

(4)(a) In addition to the notice required by subsection (3) of this section, in the case of an abandoned recreational vehicle, manufactured dwelling or floating home, a landlord shall also give a copy of the notice described in subsection (3) of this section to:

(A) Any lienholder of the recreational vehicle, manufactured dwelling or floating home;

(B) Any owner of the recreational vehicle, manufactured dwelling or floating home;

(C) The tax collector of the county where the manufactured dwelling or floating home is located; and

(D) The assessor of the county where the manufactured dwelling or floating home is located.

(b) The landlord shall give the notice copy required by this subsection by personal delivery or first class mail, except that for any lienholder, mail service must be both by first class mail and by certified mail with return receipt requested.

(c) A notice to lienholders under paragraph (a)(A) of this subsection must be sent to each lienholder at each address:

(A) Actually known to the landlord;

(B) Of record; and

(C) Provided to the landlord by the lienholder in a written notice that identifies the personal property subject to the lien and that was sent to the landlord by certified mail with return receipt requested within the preceding five years. The notice must identify the personal property by describing the physical address of the property.

(5) The notice required under subsection (3) of this section must state that:

(a) The personal property left upon the premises is considered abandoned;

(b) The tenant or any lienholder or owner must contact the landlord by a specified date, as provided in subsection (6) of this section, to arrange for the removal of the abandoned personal property;

(c) The personal property is stored at a place of safekeeping, except that if the property includes a manufactured dwelling or floating home, the dwelling or home must be stored on the rented space;

(d) The tenant or any lienholder or owner, except as provided by subsection (18) of this section, may arrange for removal of the personal property by contacting the landlord at a described telephone number or address on or before the specified date;

(e) The landlord shall make the personal property available for removal by the tenant or any lienholder or owner, except as provided by subsection (18) of this section, by appointment at reasonable times;

(f) If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, the landlord may require payment of removal and storage charges, as provided by subsection (7)(d) of this section, prior to releasing the personal property to the tenant or any lienholder or owner;

(g) If the personal property is considered to be abandoned pursuant to subsection (2)(c) of this section, the landlord may not require payment of storage charges prior to releasing the personal property;

(h) If the tenant or any lienholder or owner fails to contact the landlord by the specified date, or after that contact, fails to remove the personal property within 30 days for recreational vehicles, manufactured dwellings and floating homes or 15 days for all other personal property, the landlord may sell or dispose of the personal property. If the landlord reasonably believes that the personal property will be eligible for disposal pursuant to subsection (10)(b) of this section and the landlord intends to dispose of the property if the property is not claimed, the notice shall state that belief and intent; and

(i) If the personal property includes a recreational vehicle, manufactured dwelling or floating home and if applicable, there is a lienholder or owner that has a right to claim the recreational vehicle, dwelling or home, except as provided by subsection (18) of this section.

(6) For purposes of subsection (5) of this section, the specified date by which a tenant, lienholder or owner must contact a landlord to arrange for the disposition of abandoned personal property is:

(a) For abandoned recreational vehicles, manufactured dwellings or floating homes, not less than 45 days after personal delivery or mailing of the notice; or

(b) For all other abandoned personal property, not less than five days after personal delivery or eight days after mailing of the notice.

(7) After notifying the tenant as required by subsection (3) of this section, the landlord:

(a) Shall store any abandoned manufactured dwelling or floating home on the rented space and shall exercise reasonable care for the dwelling or home;

(b) Shall store all other abandoned personal property of the tenant, including goods left inside a recreational vehicle, manufactured dwelling or floating home or left upon the rented space outside a recreational vehicle, dwelling or home, in a place of safekeeping and shall exercise reasonable care for the personal property, except that the landlord may:

(A) Promptly dispose of rotting food; and

(B) Allow an animal control agency to remove any abandoned pets or livestock. If an animal control agency will not remove the abandoned pets or livestock, the landlord shall exercise reasonable care for the animals given all the circumstances, including the type and condition of the animals, and may give the animals to an agency that is willing and able to care for the animals, such as a humane society or similar organization;

(c) Except for manufactured dwellings and floating homes, may store the abandoned personal property at the dwelling unit, move and store it elsewhere on the premises or move and store it at a commercial storage company or other place of safekeeping; and

(d) Is entitled to reasonable or actual storage charges and costs incidental to storage or disposal, including any cost of removal to a place of storage. In the case of an abandoned manufactured dwelling or floating home, the storage charge may be no greater than the monthly space rent last payable by the tenant.

(8) If a tenant, lienholder or owner, upon the receipt of the notice provided by subsection (3) or (4) of this section or otherwise, responds by actual notice to the landlord on or before the specified date in the landlord's notice that the tenant, lienholder or owner intends to remove the personal property from the premises or from the place of safekeeping, the landlord must make that personal property available for removal by the tenant, lienholder or owner by appointment at reasonable times during the 15 days or, in the case of a recreational vehicle, manufactured dwelling or floating home, 30 days following the date of the response, subject to subsection (18) of this section. If the personal property is considered to be abandoned pursuant to subsection (2)(a) or (b) of this section, but not pursuant to subsection (2)(c) of this section, the landlord may require payment of removal and storage charges, as provided in subsection (7)(d) of this section, prior to allowing the tenant, lienholder or owner to remove the personal property. Acceptance by a landlord of such payment does not operate to create or reinstate a tenancy or create a waiver pursuant to ORS 90.412 or 90.417.

(9) Except as provided in subsections (18) to (20) of this section, if the tenant, lienholder or owner of a recreational vehicle, manufactured dwelling or floating home does not respond within the time provided by the landlord's notice, or the tenant, lienholder or owner does not remove the personal property within the time required by subsection (8) of this section or by any date agreed to with the landlord, whichever is later, the tenant's, lienholder's or owner's personal property is conclusively presumed to be abandoned. The tenant and any lienholder or owner that have been given notice pursuant to subsection (3) or (4) of this section shall, except with regard to the distribution of sale proceeds pursuant to subsection (13) of this section, have no further right, title or interest to the personal property and may not claim or sell the property.

(10) If the personal property is presumed to be abandoned under subsection (9) of this section, the landlord then may:

(a) Sell the personal property at a public or private sale, provided that prior to the sale of a recreational vehicle, manufactured dwelling or floating home:

(A) The landlord may seek to transfer ownership of record of the personal property by complying with the requirements of the appropriate state agency; and

(B) The landlord shall:

(i) Place a notice in a newspaper of general circulation in the county in which the recreational vehicle, manufactured dwelling or floating home is located. The notice shall state:

(I) That the recreational vehicle, manufactured dwelling or floating home is abandoned;

(II) The tenant's and owner's name, if of record or actually known to the landlord;

(III) The address and any space number where the recreational vehicle, manufactured dwelling or floating home is located, and any plate, registration or other identification number for a recreational vehicle or floating home noted on the certificate of title, if actually known to the landlord;

(IV) Whether the sale is by private bidding or public auction;

(V) Whether the landlord is accepting sealed bids and, if so, the last date on which bids will be accepted; and

(VI) The name and telephone number of the person to contact to inspect the recreational vehicle, manufactured dwelling or floating home;

(ii) At a reasonable time prior to the sale, give a copy of the notice required by sub-subparagraph (i) of this subparagraph to the tenant and to any lienholder and owner, by personal delivery or first class mail, except that for any lienholder, mail service must be by first class mail with certificate of mailing;

(iii) Obtain an affidavit of publication from the newspaper to show that the notice required under sub-subparagraph (i) of this subparagraph ran in the newspaper at least one day in each of two consecutive weeks prior to the date scheduled for the sale or the last date bids will be accepted; and

(iv) Obtain written proof from the county that all property taxes and assessments on the manufactured dwelling or floating home have been paid or, if not paid, that the county has authorized the sale, with the sale proceeds to be distributed pursuant to subsection (13) of this section;

(b) Destroy or otherwise dispose of the personal property if the landlord determines that:

(A) For a manufactured dwelling or floating home, the current market value of the property is \$8,000 or less as determined by the county assessor; or

(B) For all other personal property, the reasonable current fair market value is \$1,000 or less or so low that the cost of storage and conducting a public sale probably exceeds the amount that would be realized from the sale; or

(c) Consistent with paragraphs (a) and (b) of this subsection, sell certain items and destroy or otherwise dispose of the remaining personal property.

(11)(a) A public or private sale authorized by this section must:

(A) For a recreational vehicle, manufactured dwelling or floating home, be conducted consistent with the terms listed in subsection (10)(a)(B)(i) of this section. Every aspect of the sale including the method, manner, time, place and terms must be commercially reasonable; or

(B) For all other personal property, be conducted under the provisions of ORS 79.0610.

(b) If there is no buyer at a sale of a manufactured dwelling or floating home, the personal property is considered to be worth \$8,000 or less, regardless of current market value, and the landlord shall destroy or otherwise dispose of the personal property.

(12) Notwithstanding ORS 446.155 (1) and (2), unless a landlord intentionally misrepresents the condition of a manufactured dwelling or floating home, the landlord is not liable for the condition of the dwelling or home to:

(a) A buyer of the dwelling or home at a sale pursuant to subsection (10)(a) of this section, with or without consideration; or

(b) A person or nonprofit organization to whom the landlord gives the dwelling or home pursuant to subsection (1)(b), (10)(b) or (11)(b) of this section.

(13)(a) The landlord may deduct from the proceeds of the sale:

(A) The reasonable or actual cost of notice, storage and sale; and

(B) Unpaid rent.

(b) If the sale was of a manufactured dwelling or floating home, after deducting the amounts listed in paragraph (a) of this subsection, the landlord shall remit the remaining proceeds, if any, to the county tax collector to the extent of any unpaid property taxes and assessments owed on the dwelling or home.

(c) If the sale was of a recreational vehicle, manufactured dwelling or floating home, after deducting the amounts listed in paragraphs (a) and (b) of this subsection, if applicable, the landlord shall remit the remaining proceeds, if any, to any lienholder to the extent of any unpaid balance owed on the lien on the recreational vehicle, dwelling or home.

(d) After deducting the amounts listed in paragraphs (a), (b) and (c) of this subsection, if applicable, the landlord shall remit to the tenant or owner the remaining proceeds, if any, together with an itemized accounting.

(e) If the tenant or owner cannot after due diligence be found, the landlord shall deposit the remaining proceeds with the county treasurer of the county in which the sale occurred. If not claimed within three years, the deposited proceeds revert to the general fund of the county and are available for general purposes.

(14) The county tax collector shall cancel all unpaid property taxes and assessments owed on a manufactured dwelling or floating home, as provided under ORS 311.790, only under one of the following circumstances:

(a) The landlord disposes of the manufactured dwelling or floating home after a determination described in subsection (10)(b) of this section.

(b) There is no buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section.

(c)(A) There is a buyer of the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is \$8,000 or less; and

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the dwelling or home after distribution of the proceeds pursuant to subsection (13) of this section.

(d)(A) The landlord buys the manufactured dwelling or floating home at a sale described under subsection (11) of this section;

(B) The current market value of the manufactured dwelling or floating home is more than \$8,000;

(C) The proceeds of the sale are insufficient to satisfy the unpaid property taxes and assessments owed on the manufactured dwelling or floating home after distribution of the proceeds pursuant to subsection (13) of this section; and

(D) The landlord disposes of the manufactured dwelling or floating home.

(15) The landlord is not responsible for any loss to the tenant, lienholder or owner resulting from storage of personal property in compliance with this section unless the loss was caused by the landlord's deliberate or negligent act. In the event of a deliberate and malicious violation, the landlord is liable for twice the actual damages sustained by the tenant, lienholder or owner.

(16) Complete compliance in good faith with this section shall constitute a complete defense in any action brought by a tenant, lienholder or owner against a landlord for loss or damage to such personal property disposed of pursuant to this section.

(17) If a landlord does not comply with this section:

(a) The tenant is relieved of any liability for damage to the premises caused by conduct that was not deliberate, intentional or grossly negligent and for unpaid rent and may recover from the landlord up to twice the actual damages sustained by the tenant;

(b) A lienholder or owner aggrieved by the non-compliance may recover from the landlord the actual damages sustained by the lienholder or owner. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph; and

(c) A county tax collector aggrieved by the non-compliance may recover from the landlord the actual damages sustained by the tax collector, if the non-compliance is part of an effort by the landlord to defraud the tax collector. ORS 90.255 does not authorize an award of attorney fees to the prevailing party in any action arising under this paragraph.

(18) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to any lienholder except that the lienholder may not sell or remove the vehicle, dwelling or home unless:

(a) The lienholder has foreclosed its lien on the recreational vehicle, manufactured dwelling or floating home;

(b) The tenant or a personal representative or designated person described in subsection (20) of this section has waived all rights under this section pursuant to subsection (26) of this section; or

(c) The notice and response periods provided by subsections (6) and (8) of this section have expired.

(19)(a) In the case of an abandoned manufactured dwelling or floating home but not including a dwelling or home abandoned following a termination pursuant to ORS 90.429 and except as provided by subsection (20)(d) and (e) of this section, if a lienholder makes a timely response to a notice of abandoned personal property pursuant to subsections (6) and (8) of this section and so requests, a landlord shall enter into a written storage agreement with the lienholder providing that the dwelling or home may not be sold or disposed of by the landlord for up to 12 months. A storage agreement entitles the lienholder to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property.

(b) The lienholder's right to a storage agreement arises upon the failure of the tenant, owner or, in the case of a deceased tenant, the personal representative, designated person, heir or devisee to remove or sell the dwelling or home within the allotted time.

(c) To exercise the right to a storage agreement under this subsection, in addition to contacting the landlord with a timely response as described in paragraph (a) of this subsection, the lienholder must enter into the proposed storage agreement within 60 days after the landlord gives a copy of the agreement to the lienholder. The landlord shall give a copy of the proposed storage agreement to the lienholder in the same manner as provided by subsection (4)(b) of this section. The landlord may include a copy of the proposed storage agreement with the notice of abandoned property required by subsection (4) of this section. A lienholder enters into a storage agreement by signing a copy of the agreement provided by the landlord and personally delivering or mailing the signed copy to the landlord within the 60-day period.

(d) The storage agreement may require, in addition to other provisions agreed to by the landlord and the lienholder, that:

(A) The lienholder make timely periodic payment of all storage charges, as described in subsection (7)(d) of this section, accruing from the commencement of the 45-day period described in subsection (6) of this section. A storage charge may include a util-

ity or service charge, as described in ORS 90.532, if limited to charges for electricity, water, sewer service and natural gas and if incidental to the storage of personal property. A storage charge may not be due more frequently than monthly;

(B) The lienholder pay a late charge or fee for failure to pay a storage charge by the date required in the agreement, if the amount of the late charge is no greater than for late charges described in the rental agreement between the landlord and the tenant; and

(C) The lienholder maintain the personal property and the space on which the personal property is stored in a manner consistent with the rights and obligations described in the rental agreement between the landlord and the tenant.

(e) During the term of an agreement described under this subsection, the lienholder has the right to remove or sell the property, subject to the provisions of the lien. Selling the property includes a sale to a purchaser who wishes to leave the dwelling or home on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval of a purchaser or, if there was no such agreement, any reasonable conditions by the landlord regarding approval of any purchaser who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser of the property upon payment of all unpaid storage charges and maintenance costs.

(f)(A) If the lienholder violates the storage agreement, the landlord may terminate the agreement by giving at least 90 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for the termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the lienholder.

(B) After a landlord gives a termination notice pursuant to subparagraph (A) of this paragraph for failure of the lienholder to pay a storage charge and the lienholder corrects the violation, if the lienholder again violates the storage agreement by failing to pay a subsequent storage charge, the landlord may terminate the agreement by giving at least 30 days' written notice to the lienholder stating facts sufficient to notify the lienholder of the reason for termination. Unless the lienholder corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the property without further notice to the lienholder.

(C) A lienholder may terminate a storage agreement at any time upon at least 14 days' written notice to the landlord and may remove the property from the rented space if the lienholder has paid all storage charges and other charges as provided in the agreement.

(g) Upon the failure of a lienholder to enter into a storage agreement as provided by this subsection

or upon termination of an agreement, unless the parties otherwise agree or the lienholder has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the lienholder.

(20) If the personal property is a manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the dwelling or home, this section applies, except as follows:

(a) The following persons have the same rights and responsibilities regarding the abandoned dwelling or home as a tenant:

(A) Any personal representative named in a will or appointed by a court to act for the deceased tenant.

(B) Any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises; and

(B) Personally delivered or sent by first class mail to any personal representative or designated person, if actually known to the landlord.

(c) The notice described in subsection (5) of this section must refer to any personal representative or designated person, instead of the deceased tenant, and must incorporate the provisions of this subsection.

(d) If a personal representative, designated person or other person entitled to possession of the property, such as an heir or devisee, responds by actual notice to a landlord within the 45-day period provided by subsection (6) of this section and so requests, the landlord shall enter into a written storage agreement with the representative or person providing that the dwelling or home may not be sold or disposed of by the landlord for up to 90 days or until conclusion of any probate proceedings, whichever is later. A storage agreement entitles the representative or person to store the personal property on the previously rented space during the term of the agreement, but does not entitle anyone to occupy the personal property. If such an agreement is entered, the landlord may not enter a similar agreement with a lienholder pursuant to subsection (19) of this section until the agreement with the personal representative or designated person ends.

(e) If a personal representative or other person requests that a landlord enter into a storage agreement, subsection (19)(c), (d) and (f)(C) of this section applies, with the representative or person having the rights and responsibilities of a lienholder with regard to the storage agreement.

(f) During the term of an agreement described under paragraph (d) of this subsection, the representative or person has the right to remove or sell the dwelling or home, including a sale to a purchaser or a transfer to an heir or devisee where the purchaser, heir or devisee wishes to leave the dwelling or home

on the rented space and become a tenant, subject to any conditions previously agreed to by the landlord and tenant regarding the landlord's approval for occupancy of a purchaser, heir or devisee or, if there was no such agreement, any reasonable conditions by the landlord regarding approval for occupancy of any purchaser, heir or devisee who wishes to leave the dwelling or home on the rented space and become a tenant. The landlord also may condition approval for occupancy of any purchaser, heir or devisee of the dwelling or home upon payment of all unpaid storage charges and maintenance costs.

(g) If the representative or person violates the storage agreement, the landlord may terminate the agreement by giving at least 30 days' written notice to the representative or person stating facts sufficient to notify the representative or person of the reason for the termination. Unless the representative or person corrects the violation within the notice period, the agreement terminates as provided and the landlord may sell or dispose of the dwelling or home without further notice to the representative or person.

(h) Upon the failure of a representative or person to enter into a storage agreement as provided by this subsection or upon termination of an agreement, unless the parties otherwise agree or the representative or person has sold or removed the manufactured dwelling or floating home, the landlord may sell or dispose of the property pursuant to this section without further notice to the representative or person.

(21) If the personal property is other than a manufactured dwelling or floating home and is considered abandoned as a result of the death of a tenant who was the only tenant and who owned the personal property, this section applies except as follows:

(a) The following persons have the same rights and responsibilities regarding the abandoned personal property as a tenant:

(A) An heir or devisee.

(B) Any personal representative named in a will or appointed by a court to act for the deceased tenant.

(C) Any person designated in writing by the tenant to be contacted by the landlord in the event of the tenant's death.

(b) The notice required by subsection (3) of this section must be:

(A) Sent by first class mail to the deceased tenant at the premises;

(B) Personally delivered or sent by first class mail to any heir, devisee, personal representative or designated person, if actually known to the landlord; and

(C) Sent by first class mail to the attention of an estate administrator of the Department of State Lands.

(c) The notice described in subsection (5) of this section must refer to the heir, devisee, personal representative, designated person or estate administrator of the department, instead of the deceased

tenant, and must incorporate the provisions of this subsection.

(d) The landlord shall allow a person that is an heir, devisee or personal representative of the tenant, or an estate administrator of the department, to remove the personal property if the person contacts the landlord within the period provided by subsection (6) of this section, complies with the requirements of this section and provides the landlord with reasonable evidence that the person is an heir, devisee or personal representative, or an estate administrator of the department.

(e) If neither an heir, devisee nor personal representative of the tenant, nor an estate administrator of the department, contacts the landlord within the time period provided by subsection (6) of this section, the landlord shall allow removal of the personal property by the designated person of the tenant, if the designated person contacts the landlord within that period and complies with the requirements of this section and provides the landlord with reasonable evidence that the person is the designated person.

(f) A landlord who allows removal of personal property under this subsection is not liable to another person that has a claim or interest in the personal property.

(22) If a governmental agency determines that the condition of a manufactured dwelling, floating home or recreational vehicle abandoned under this section constitutes an extreme health or safety hazard under state or local law and the agency determines that the hazard endangers others in the immediate vicinity and requires quick removal of the property, the landlord may sell or dispose of the property pursuant to this subsection. The landlord shall comply with all provisions of this section, except as follows:

(a) The date provided in subsection (6) of this section by which a tenant, lienholder, owner, personal representative or designated person must contact a landlord to arrange for the disposition of the property must be not less than 15 days after personal delivery or mailing of the notice required by subsection (3) of this section.

(b) The date provided in subsections (8) and (9) of this section by which a tenant, lienholder, owner, personal representative or designated person must remove the property must be not less than seven days after the tenant, lienholder, owner, personal representative or designated person contacts the landlord.

(c) The notice required by subsection (3) of this section must be as provided in subsection (5) of this section, except that:

(A) The dates and deadlines in the notice for contacting the landlord and removing the property must be consistent with this subsection;

(B) The notice must state that a governmental agency has determined that the property constitutes an extreme health or safety hazard and must be removed quickly; and

(C) The landlord shall attach a copy of the agency's determination to the notice.

(d) If the tenant, a lienholder, owner, personal representative or designated person does not remove the property within the time allowed, the landlord or a buyer at a sale by the landlord under subsection (11) of this section shall promptly remove the property from the facility.

(e) A landlord is not required to enter into a storage agreement with a lienholder, owner, personal representative or designated person pursuant to subsection (19) of this section.

(23)(a) If an official or agency referred to in ORS 453.876 notifies the landlord that the official or agency has determined that all or part of the premises is unfit for use as a result of the presence of an illegal drug manufacturing site involving methamphetamine, and the landlord complies with this subsection, the landlord is not required to comply with subsections (1) to (22) and (24) to (27) of this section with regard to personal property left on the portion of the premises that the official or agency has determined to be unfit for use.

(b) Upon receiving notice from an official or agency determining the premises to be unfit for use, the landlord shall promptly give written notice to the tenant as provided in subsection (3) of this section. The landlord shall also attach a copy of the notice in a secure manner to the main entrance of the dwelling unit. The notice to the tenant shall include a copy of the official's or agency's notice and state:

(A) That the premises, or a portion of the premises, has been determined by an official or agency to be unfit for use due to contamination from the manufacture of methamphetamine and that as a result subsections (1) to (22) and (24) to (27) of this section do not apply to personal property left on any portion of the premises determined to be unfit for use;

(B) That the landlord has hired, or will hire, a contractor to assess the level of contamination of the site and to decontaminate the site;

(C) That upon hiring the contractor, the landlord will provide to the tenant the name, address and telephone number of the contractor; and

(D) That the tenant may contact the contractor to determine whether any of the tenant's personal property may be removed from the premises or may be decontaminated at the tenant's expense and then removed.

(c) To the extent consistent with rules of the Department of Human Services, the contractor may release personal property to the tenant.

(d) If the contractor and the department determine that the premises or the tenant's personal property is not unfit for use, upon notification by the department of the determination, the landlord shall comply with subsections (1) to (22) and (24) to (27) of this section for any personal property left on the premises.

(e) Except as provided in paragraph (d) of this subsection, the landlord is not responsible for stor-

ing or returning any personal property left on the portion of the premises that is unfit for use.

(24) In the case of an abandoned recreational vehicle, manufactured dwelling or floating home that is owned by someone other than the tenant, the provisions of this section regarding the rights and responsibilities of a tenant to the abandoned vehicle, dwelling or home also apply to that owner, with regard only to the vehicle, dwelling or home, and not to any goods left inside or outside the vehicle, dwelling or home.

(25) In the case of an abandoned motor vehicle, the procedure authorized by ORS 98.830 [and 98.835] for removal of abandoned motor vehicles from private property may be used by a landlord as an alternative to the procedures required in this section.

(26)(a) A landlord may sell or dispose of a tenant's abandoned personal property without complying with subsections (1) to (25) and (27) of this section if, after termination of the tenancy or no more than seven days prior to the termination of the tenancy, the following parties so agree in a writing entered into in good faith:

(A) The landlord;

(B) The tenant, or for an abandonment as the result of the death of a tenant who was the only tenant, the personal representative, designated person or other person entitled to possession of the personal property, such as an heir or devisee, as described in subsection (20) or (21) of this section; and

(C) In the case of a manufactured dwelling, floating home or recreational vehicle, any owner and any lienholder.

(b) A landlord may not, as part of a rental agreement, require a tenant, a personal representative, a designated person or any lienholder or owner to waive any right provided by this section.

(27) Until personal property is conclusively presumed to be abandoned under subsection (9) of this section, a landlord does not have a lien pursuant to ORS 87.152 for storing the personal property.

SECTION 18. ORS 90.485 is amended to read:

90.485. (1) A landlord may have a motor vehicle removed from the premises only in compliance with this section and either ORS 98.810 to 98.818 or ORS 98.830[98.835] and 98.840.

(2) Except as provided in ORS 90.425 regarding abandoned vehicles, a landlord may have a motor vehicle removed from the premises without notice to the owner or operator of the vehicle only if the vehicle:

(a) Blocks or prevents access by emergency vehicles;

(b) Blocks or prevents entry to the premises;

(c) Violates a prominently posted parking prohibition;

(d) Blocks or is unlawfully parked in a space reserved for persons with disabilities;

(e) Is parked in an area not intended for motor vehicles including, but not limited to, sidewalks, lawns and landscaping;

(f) Is parked in a space reserved for tenants but is not assigned to a tenant and does not display a parking tag or other device, as provided by subsection (3) of this section; or

(g) Is parked in a specific space assigned to a tenant, as provided by subsection (4) of this section.

(3) A landlord may have a motor vehicle removed from the premises under subsection (2)(f) of this section only if the landlord:

(a) Provides parking tags or other devices that identify vehicles that are authorized to be parked on the premises;

(b) Provides a tenant with parking tags or other devices to be used on a vehicle other than the tenant's primary vehicle if the tenant wants to park a vehicle on the premises in lieu of the tenant's primary vehicle; and

(c) Enters into written agreements with the owners or operators of vehicles authorized to park on the premises that:

(A) Authorize the landlord to have a vehicle removed from the premises without notice for failing to display the parking tag, sticker or other device;

(B) Unless the information is disclosed on prominent signs posted on the premises, disclose to the owners or operators of authorized vehicles the name, address and contact information of the tow company that is authorized to remove vehicles from the premises; and

(C) Specify whether guest parking is allowed and, if guest parking is allowed, describe methods for identifying guest parking spaces or identifying authorized guest vehicles.

(4) If a landlord assigns a specific parking space to a tenant, the landlord may have a vehicle towed under subsection (2)(g) of this section from the assigned parking space only with the agreement of the tenant at the time of the tow. The landlord may not require the tenant to agree to towing.

(5) If guest parking is allowed, the landlord shall post a sign in each designated guest parking space that is clearly readable by an operator of motor vehicle and that specifies any rules, restrictions or limitations on parking in the designated guest parking space.

(6) A landlord may have a motor vehicle that is inoperable, but otherwise parked in compliance with an agreement between the landlord and the owner or operator of the vehicle, removed from the premises if the landlord affixes a prominent notice to the vehicle stating that the vehicle will be towed if the vehicle is not removed or otherwise brought into compliance with the agreement. The landlord must affix the notice required by this subsection at least 72 hours before the vehicle may be removed.

(7) A landlord may not have a motor vehicle removed under this section because the vehicle's registration has expired or is otherwise invalid.

(8) This section does not:

(a) Apply to a landlord of a facility.

(b) Affect the obligations imposed on a landlord under ORS 98.810 to 98.818 or under ORS 98.830[, 98.835] and 98.840.

SECTION 19. ORS 822.215 is amended to read:

822.215. The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

(1) Used fraud or deception in securing the certificate.

(2) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This subsection does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

(3) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.

(4) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on each vehicle used to tow or recover vehicles.

(5) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205.

(6) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.

(7) Violated any provision of ORS 98.854, **98.856** or 98.858 or **section 9 of this 2017 Act** or a rule adopted under ORS 98.864.

CAPTIONS

SECTION 20. The unit captions used in this 2017 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2017 Act.

Approved by the Governor June 27, 2017
Filed in the office of Secretary of State June 27, 2017
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Oregon

Tina Kotek, Governor

State Board of Towing
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OREGON STATE BOARD OF TOWING
Board Work Session Notes
April 23, 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
Chief Michael Iwai
Lt. Jason Lindland
Gary McClellan
Jason Shaner

Board Staff:

Torey McCullough, Board Administrator

Absent:

Trent Hanson, Vice Chair

Meeting Called to Order:

Chair Riley called the meeting to order at 1:07 p.m.
Self-introductions were made.

Agenda approved by consensus.

Business Updates:

Bylaws

The Board reviewed Bylaws incorporating the comments and amendments from the March work session. Jason Shaner moved to accept the Bylaws; Bylaws adopted by consensus of the Board members.

Case Management System

McCullough is working with the Dept. of Administrative Services and ODOT/DMV IT to approve a case management system through IT. McCullough is

working with a software vendor to get DAS and ODOT the information they need. Cost per year is \$1188. McCullough will update the Board as the request moves forward.

Complaint Review:

The Board reviewed approximately 70 complaints from the first quarter with the following trends:

- Approximately 20% of complaints were incomplete.
- Approximately 20% of complaints were not under the jurisdiction of the Board.
- Approximately 30% of complaints were Private Property Impounds with reasonable grounds for investigation for violation of ORS 98.853 and 98.854.
- Common themes in the complaints were:
 1. Towing rates, fees, and billing practices and
 2. Lawful ownership and general access to personal belongings in a towed vehicle.

The Board found:

1. The substantiated Private Property Impound (PPI) complaints were against a small number of towers, less than 1% of the known tow companies.
2. Current law requires a signature authorization for each tow, obtained at the time of tow.
3. Towers are not to tow vehicles without authorization; there is no intent or provision in the law allowing towers to determine if a vehicle should be towed or not.
4. Towers cannot confirm if either a tenant or parking facility owner has violated or complied with the requirements of ORS 90.485 and cannot tow a vehicle without confirmation from the parking facility owner or their agent.
5. A parking facility owner or their agent (i.e., employees, managers, or a hired third-party) must verify the vehicle is to be towed; as towers are prohibited from acting as the owner's agent when authorizing or towing a vehicle, the tower or its employees cannot independently authorize a tow.
6. The signed PPI authorization must include the name, legible printed name, time, date, reason for tow and vehicle description. The photographs must show where the vehicle was parked prior to the tow, and how the vehicle violated the parking facility rules.
7. As the towers do not know the number of rented units and parking spaces in a residential unit, do not have access to tenant lease or rental agreements, and cannot independently verify if a vehicle is in violation of a lease, rental, or parking agreement, no vehicle can be towed from a residential parking facility without authorization from the property owner or their agent with personal

knowledge of if the vehicle is in violation of the parking facility rules at the time of tow.

8. Removing towers as the decision makers authorizing a tow protects the tower from risk and liability of towing a vehicle that is not in violation of the parking facility rules, and provides the public with clearer options for resolution and recourse.
9. The Board discussed creating templates and forms for towers to use; these forms and templates may be adapted by a tower for use, but must contain the required information on a signed authorization as defined in the Board's policy.
10. Signed authorizations can be signed in person, electronically, or within an email as long as the email includes the required authorization information, identifies the sender and receiver, and has a date and time stamp.
11. Due to the lack of a date and time stamp, authorizations by phone or text cannot be used for the purpose of authorizing a PPI tow.
12. Copies of pre-signed authorizations are not acceptable.
13. Towers may not rely on Tow Contract Agreements for authorization; each tow must be authorized at the time of tow.
14. Initials are not acceptable as a signed authorization for a PPI tow.
15. Illegible names, or missing, incomplete or ineligible information will result in the authorization being invalid for the purposes of PPIs.
16. The parking facility owner is responsible for designating who may act as their agent for the purpose of authorizing PPIs and ensuring that the tower has the information on file.
17. The authorized signature and tow request may be collected by dispatch or by the tow operator; however, a tow operator may not hook up to a vehicle for a PPI tow until the signed authorization is received.
18. For the purposes of PPI tows: a tow operator may not hook up a vehicle if a person is in the vehicle.
19. Hook ups and PPIs:
 - a. For passenger vehicles, a tower must stop hook up and release the vehicle if the driver owner or operator are present and can move the vehicle so it is in compliance with the parking facility requirements.
 - b. A tower cannot begin to hook up a vehicle for a PPI tow if the vehicle owner or driver arrives at the vehicle and can move the vehicle so it is in compliance with the parking facility requirements.
 - c. The Board will hold discussions and further define "complete hook up" in the upcoming months.
 - d. Discussions defining when a big rig, rv, or other large vehicle should be released without charge, and when a tower may be able to charge for time and effort prior to full hook up of a big rig is tabled as a separate discussion.

20. Discussions related to rates, fees, and billing practices is tabled while the Board continues to collect complaints, invoices, and billing statements over the next few months to provide more data and documentation for the Board to consider.

Public Comments

Ash Le' Penn introduced herself to the Board, asking questions regarding:

Suggestion: The Board should consider increasing tow requirements.

Answer: While the Board continues to discuss possible requirements for tow companies and tow lots, legislative changes to statutes is required before the Board has the authority to pursue additional requirements.

Question: What is the jurisdiction when a vehicle is towed from a city address but outside the city limits.

Jurisdiction for the tow requirements is determined on if the vehicle is within the city limits or outside the city limits; if within the city limits, the city has jurisdiction. If outside the city limits, the county has jurisdiction.

Suggestion: the Board awarding damages and costs to Complainants.

The Board's authority is limited to what is in statute. The Board has the authority to assess civil penalties under ORS 822.995; the Board does not represent individual consumers and does not have the authority to require towers to reimburse or pay damages to consumers in a disciplinary action.

Question: Why is complaint and investigation information not available to the public.

Complaint and investigation information is kept confidential until the Board reviews and votes to pursue a disciplinary action. When a Board votes for disciplinary actions, the information relevant to the complaint and investigation is included in the disciplinary documents and is made available to the public.

The Board is working with DOJ to ensure compliance of all parties, and to protect towers from false allegations made by disgruntled consumers or from a complainant's misunderstanding of the laws and rules.

May Work Session

The Board will meet May 14, 2024

To review and discuss an Initial Concept Summary draft identifying the topics discussed at the April work session

Accept public comments

Begin drafting the official Board policy related to PPI authorizations.

Adjourned:

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 2:55 p.m.

Documents Considered by the Board

- Agenda
- Complaint Summary

Minutes prepared by Torey McCullough
Minutes APPROVED by Board vote:

DRAFT



State Board of Towing
Work Session Objectives
May 14, 2024

Review and Discuss Initial Concept Summary.

Section by Section for clarification or corrections, general discussion.

Reaffirmation for staff to create a sample/example authorization form to be attached to the Board policy, incorporated into OAR.

Define:

“Upon request”:

How soon are the signed authorization or photos (or both) to be provided to the vehicle owner?

“Lawful Tow” tow and “Unlawful Tow”:

Question: Does failure to provide a signed authorization (signed at time of tow) and photos showing the parked vehicle invalidate the tow? Is it now an unlawful tow?

“Photographs”

Verify:

- (1) *Photo must show the vehicle parked and in clear violation prior to hook up.*
- (2) *If there are posted signs, a photo, or series of photos, showing where the vehicle is parked in relation to the sign.*
- (3) *If parking tags or placards are issued to tenants, photos clearly showing all windows, the dash of the vehicle, or any area of the vehicle where the parking sticker is to be placed are to be taken prior to the hook up of the vehicle.*
- (4) *If damage is observed by the tow operator, pre-tow pictures are required clearly showing the damage.*

Board Expectations:

Appointments and Gate Fee during regular business hours for PPIs?

Role of the tow company in resolving an unlawful tow when notified or upon review of information by tower demonstrating that the tow is unlawful or not valid (*prior to Board intervention*).

Authorization and request for tow received from parking facility owner or agent; vehicle owner shows up, vehicle cannot be moved under its own power (*i.e., dead battery, no motor, on jacks, etc.*).

Should be Tow Agreements be renewed annually to incorporate changes to laws and rules?

Guidelines from the Board for Tow Service Agreements (*TSA*s do not replace the signed authorization requirement).

Staff process when an unlawful PPI tow complaint is received (*e.g., what is staff authorized action*).

Best practices and expectations when a manager of a business with access to a parking facility (not the parking facility owner) gives permission to a tenant, guest, or member of the public to park at the facility in violation of signs or the parking facility rules (*e.g., bar patron leaving vehicle overnight, visitor to apartment complex, overcrowding of parking lot, mechanical failure of vehicle, etc.*)

Scheduling and content for upcoming meetings:

June:

Regular Business Meeting (regular business, elections and policy)

July:

Possible: Executive session for Board to formally review complaints for Board action (dependent on board database).

Only if Time permits- Additional Board Discussion:

Brainstorming: Agencies, groups, committees or organizations who might be willing to hold public advisory meetings in lieu of the Board creating a formal advisory committee.

- Oregon Rental Housing Association
- Community Alliance of Tenants
- Portland Tenants United
- Rental Housing Alliance
- Oregon Housing and Community Services
- OTTA
- Portland Towing Advisory Committee

Resolving current complaints (*e.g., education vs. progressing towards disciplinary actions*.)

Strategic road map of implementing Board policy, moving towards OARs, enforcement guidelines (*when is a complaint actionable prior to the adoption of OARs?*)