

OREGON STATE BOARD OF TOWING

Initial Concept Summary Topic

Authority

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

ORS 822.265 Rulemaking authority

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

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

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

ORS 822.280 Denial, suspension, revocation or refusal of towing business certificate

(2) In addition to any other penalty provided under ORS 822.215 (Grounds for denial, suspension, revocation or refusal of certificate) and subject to ORS chapter 183, the State Board of Towing may order the Department of Transportation to deny, suspend, revoke or refuse to renew a towing business certificate issued under ORS 822.205 (Certificate), if the person holding or applying for the certificate:

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), Exceptions to requirements of ORS 98.856).

ORS 822.290 Denial of participation on Department of State Police tow rotation

(2) Subject to ORS chapter 183, the State Board of Towing may order the Department of State Police to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350 (Eligibility of towing business to be placed on department list), if the person holding or applying for the letter of appointment:

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower),

ORS 822.995 Civil penalties for violations related to towing

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower) ... or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.

Legislative Findings and History

To Be researched by Board Staff.

Compliance Issues

Compliance issues observed by Board.

Documented Public Risk and Harm

Harm or risk concerns observed by the Board.

Benefits of Better Regulation and Enforcement Under ORS 98.854 (2) – (4)

Benefits expected by the Board.

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]

Board's role

Other Considerations, Potential Issues

What roadblocks and conflicts can the Board expect?

Identified Partners and Persons of Interest

Who are the partners and others identified by the Boars with an interest, knowledge or experience with the issue/

Board Determination

Identify and define any factors, circumstances, boundaries, consideration or other information the Board should consider:

Timeline and Next Steps

TBD by Board.

Resources:

What information does the Board need to make informed decisions?

FOR BOARD CLARIFICATION AND DEFINITION:

- What does the statute mean? What is the definition and intent?
- Why are there compliance issues? How can those be clarified?
- Who is responsible for determination?
- What are the accountability checks and balances?
- What are the consequences of violation?
- Is this a criminal act?
- What is the protection for the public?

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

Where is it required that the parking pass be displayed?

(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.

How are (A) and (B) confirmed and validated?

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.

Should pictures show how the motor vehicle was in violation, posted sign, and provide a clear enough picture to fully demonstrate that a parking pass was not affixed to the window, mirror, dash, etc?

The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow.

What is if doesn't?

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.

How soon are they to be provided after the request?

(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.

Any exceptions?

What happens if this is violated?

Can the tower continue to finish the hook up in the presence of the owner?

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.

ALSO:

ORS 98.854 (14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).

FOR BOARD CLARIFICATION AND DEFINITION:

- What does the statute mean? What is the definition and intent?
- Why are there compliance issues? How can those be clarified?
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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.

What are the sign requirements? Placement?

(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.

(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

What does this look like? Text, email?

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

What does this look like?

What is the information required on the signed authorization?

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.

How soon after the request is this to be provided?

(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.

Does this mean tow companies and employees (dispatch, tower, others) cannot sign an authorization on behalf of the property owner?

(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.

Does this mean the owner/owner agent acting as the contact person and signed authorization cannot be the tow company or its employee?

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]