

A-Engrossed
House Bill 2578

Ordered by the House April 16
Including House Amendments dated April 16

Sponsored by Representatives RILEY, DEMBROW; Representatives BAILEY, BARKER, BARNHART, BARTON, BOONE, BUCKLEY, CANNON, CLEM, D EDWARDS, GARRETT, GREENLICK, HARKER, KAHL, KOMP, MATTHEWS, ROBLAN, SCHAUFLE, SHIELDS, J SMITH, STIEGLER, TOMEI, WHISNANT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires owner of parking facility to affix notice on vehicle prior to contacting tower to remove vehicle.]

Requires tower who tows vehicle at request of owner of parking facility to take and maintain photograph of vehicle.

Requires tower to contact owner of parking facility **or owner's agent** before towing motor vehicle from facility. **Creates exceptions.**

Requires tower to release motor vehicle free of charge **or, if hookup is complete, for cost of hookup** if owner or operator of vehicle is present at time of tow.

[Provides sanctions for applicant for or holder of towing business certificate who has accepted or provided compensation based on number of vehicles towed.]

Restricts landlord's ability to remove vehicles from parking spaces reserved for tenants. Requires landlord to post sign designating guest parking space.

A BILL FOR AN ACT

1
2 Relating to towers; amending ORS 90.485, 98.812, 98.854 and 98.856.

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

4 **SECTION 1.** ORS 98.812 is amended to read:

5 98.812. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the
6 parking facility or the owner of the proscribed property may have a tower tow the vehicle from the
7 parking facility or the proscribed property and place the vehicle in storage at a secure location
8 under the control of the tower.

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

14 *[(2)]* **(3)** A tower who tows a vehicle at the request of an owner of a parking facility or the
15 owner of proscribed property under this section shall provide to the owner or operator of the vehicle
16 the information required in ORS 98.856 in the manner provided in ORS 98.856.

17 *[(3)]* **(4)** A tower is entitled to a lien on a towed vehicle and its contents for the tower's just
18 and reasonable charges and may retain possession thereof until the just and reasonable charges for
19 the towage, care and storage of the towed vehicle have been paid if the tower complies with the
20 following requirements:

21 (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 within one hour after the towed vehicle is placed in storage;

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

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

21 [(4)] (5) The lien created by subsection [(3)] (4) of this section may be foreclosed only in the
22 manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed
23 under ORS 87.152.

24 **SECTION 2.** ORS 98.854 is amended to read:

25 98.854. (1) A tower may not:

26 (a) **Except as provided in subsection (3) of this section, tow a motor vehicle from a**
27 **parking facility without first contacting the owner of the facility or the owner's agent.**

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

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

32 [(2)] (d) Charge more than a price disclosed under ORS 98.856.

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

36 [(4)(a)] (f) Except as provided in [paragraph (b) of this] subsection (2) of this section, park a
37 tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility
38 for towing business.

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

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

45 [(b) Provision of:]

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

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

3 [(6)] (h) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or per-
4 sonal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to
5 dispute:

6 [(a)] (A) The reason for the tow;

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

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

10 [(7)] (i) Hold a towed motor vehicle for more than 24 hours without:

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

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

14 [(8)] (j) Accept cash as a method of payment for towing services unless the tower provides exact
15 change not later than the end of the business day following receipt of payment.

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

20 **(3) A tower may tow a motor vehicle if the motor vehicle:**

21 **(a) Blocks or prevents access by emergency vehicles;**

22 **(b) Blocks or prevents entry to the premises;**

23 **(c) Blocks a parked motor vehicle; or**

24 **(d) Parks without permission in a parking facility used for residents of an apartment and:**

25 **(A) There are more residential units than there are parking spaces;**

26 **(B) The landlord has issued parking tags or other devices that identify vehicles that are**
27 **authorized to be parked on the premises; and**

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

31 **SECTION 3.** ORS 98.856 is amended to read:

32 **98.856. (1) If the owner or operator of the motor vehicle is present at the time of the tow,**
33 **the tower shall release the motor vehicle at no charge unless the hookup is complete. If the**
34 **hookup is complete, the tower shall release the motor vehicle and may charge the owner or**
35 **operator of the motor vehicle a fee that does not exceed the charge to hook up for that type**
36 **of tow as listed in a written statement described in subsection (2)(a) of this section.**

37 [(1)] **(2) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous**
38 **written statement of at least 10-point boldfaced type:**

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

40 **(b) The location where the tower will:**

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

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

44 **(c) The telephone number and any other means of contacting the tower, and the hours of avail-**
45 **ability at that telephone number and at the other means of contacting the tower;**

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

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

5 [(2)] (3) If the owner or operator is present at the time of the tow, the tower shall provide the
6 information required under subsection [(1)] (2) of this section to the owner or operator of the motor
7 vehicle before towing the motor vehicle.

8 [(3)] (4) If the owner or operator of the motor vehicle is not present at the time of the tow, the
9 tower shall provide the information required under subsection [(1)] (2) of this section to the owner
10 or person in lawful possession of the motor vehicle prior to the time the owner or person in lawful
11 possession of the motor vehicle redeems the motor vehicle.

12 [(4)(a)] (5)(a) As used in this subsection, "business day" means Monday through Friday, exclud-
13 ing legal holidays.

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

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

18 (B) The tower shall provide the information required under subsection [(1)] (2) of this section
19 to the owner of the motor vehicle by mail by the end of the first business day following receipt of
20 the information from the state motor vehicle agency.

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

24 [(5)] (6) If the owner or operator of the motor vehicle is not present at the time of the tow but
25 the owner or operator of the motor vehicle requested the tow and arranged to pay the tower di-
26 rectly, the tower may obtain the name and address of the owner of the motor vehicle from the owner
27 or operator of the motor vehicle and may provide the information required under subsection [(1)]
28 (2) of this section:

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

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

31 **SECTION 4.** ORS 90.485 is amended to read:

32 90.485. (1) A landlord may have a motor vehicle removed from the premises only in compliance
33 with this section and either ORS 98.810 to 98.818 or ORS 98.830, 98.835 and 98.840.

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

37 (a) Blocks or prevents access by emergency vehicles;

38 (b) Blocks or prevents entry to the premises;

39 (c) Violates a prominently posted parking prohibition;

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

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

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

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

1 tion.

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

4 (a) Provides parking tags[, *stickers*] or other devices that identify vehicles that are authorized
5 to be parked on the premises; [*and*]

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

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

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

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

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

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

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

25 [(5)] (6) A landlord may have a motor vehicle that is inoperable, but otherwise parked in com-
26 pliance with an agreement between the landlord and the owner or operator of the vehicle, removed
27 from the premises if the landlord affixes a prominent notice to the vehicle stating that the vehicle
28 will be towed if the vehicle is not removed or otherwise brought into compliance with the agree-
29 ment. The landlord must affix the notice required by this subsection at least 72 hours before the
30 vehicle may be removed.

31 [(6)] (7) A landlord may not have a motor vehicle removed under this section because the vehi-
32 cle's registration has expired or is otherwise invalid.

33 [(7)] (8) This section does not:

34 (a) Apply to a landlord of a facility.

35 (b) Affect the obligations imposed on a landlord under ORS 98.810 to 98.818 or under ORS 98.830,
36 98.835 and 98.840.

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