

Enrolled House Bill 2578

Sponsored by Representatives RILEY, DEMBROW; Representatives BAILEY, BARKER, BARNHART, BARTON, BOONE, BUCKLEY, CANNON, CLEM, D EDWARDS, GARRETT, GREENLICK, HARKER, KAHL, KOMP, MATTHEWS, ROBLAN, SCHAUFLEER, SHIELDS, J SMITH, STIEGLER, TOMEI, WHISNANT, Senators BONAMICI, HASS, MONNES ANDERSON, MONROE, MORRISSETTE, ROSENBAUM, SCHRADER, WALKER

CHAPTER

AN ACT

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

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

SECTION 1. 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.

[2] (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.

[3] (4) 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 thereof 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 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 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 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 state motor vehicle agency for towage, care and storage of the towed vehicle.

[(4)] (5) The lien created by subsection [(3)] (4) 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 2. ORS 98.854 is amended to read:

98.854. (1) A tower may not:

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

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

[(1)] (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.

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

[(3)] (e) 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.

[(4)(a)] (f) **Except as provided in [paragraph (b) of this] 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.**

[(b) *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.*]

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

[(b) *Provision of:*]

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

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

[(6)] (h) 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.

[(7)] (i) 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.

[(8)] (j) 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.

(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 parking prohibition; 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 3. 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.

[(1)] (2) 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 goods and services;

(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.

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

[(3)] (4) 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 [(1)] (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.

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

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

(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 state motor vehicle agency for the state in which the motor vehicle is registered.

(B) The tower shall provide the information required under subsection [(1)] (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 the state motor vehicle agency.

(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.

[(5)] (6) 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 [(1)] (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 4. 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[, *sticker*] 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[, *stickers*] or other devices that identify vehicles that are authorized to be parked on the premises; [and]

(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

[(b)] (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.

[(5)] (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.

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

[(7)] (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.

Passed by House April 22, 2009

Received by Governor:

Repassed by House June 4, 2009

.....M,....., 2009

Approved:

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Chief Clerk of House

.....M,....., 2009

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Speaker of House

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Governor

Passed by Senate June 3, 2009

Filed in Office of Secretary of State:

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