

# House Bill 2578

Sponsored by Representatives RILEY, DEMBROW; Representatives BARNHART, KAHL, MATTHEWS, STIEGLER

## 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 **as introduced**.

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

Requires tower to contact owner of parking facility before towing motor vehicle from facility.

Requires tower to release motor vehicle free of charge 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.

## A BILL FOR AN ACT

1  
2 Relating to towers; amending ORS 98.812, 98.854, 98.856 and 822.215.

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 **on proscribed property** in violation of ORS  
6 98.810, [*the owner of the parking facility or*] the owner of the proscribed property may have a tower  
7 tow the vehicle from [*the parking facility or*] the proscribed property and place the vehicle in storage  
8 at a secure location under the control of the tower.

9 **(2) If a vehicle has been left or parked in a parking facility in violation of ORS 98.810, the**  
10 **owner of the parking facility shall affix a notice of the violation to the vehicle stating that**  
11 **the vehicle will be towed if it is not removed. No sooner than two hours after placing the**  
12 **notice on the vehicle, the owner may have a tower tow the vehicle from the parking facility**  
13 **and place the vehicle in storage at a secure location under the control of the tower.**

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

23 (b) If the towed vehicle is registered in Oregon, the tower shall give notice, within 15 days after  
24 the towed vehicle is placed in storage, to the owner of the towed vehicle or any other person with  
25 an interest in the towed vehicle, as indicated by the certificate of title. If notice under this para-  
26 graph is given by mail, it must be transmitted within the 15-day period, but need not be received  
27 within that period, but within a reasonable time. If the tower fails to comply with the notice re-  
28 quirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable

**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 expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

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

14 [(4)] (5) The lien created by subsection [(3)] (4) of this section may be foreclosed only in the  
 15 manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed  
 16 under ORS 87.152.

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

18 98.854. (1) A tower may not:

19 (a) **Tow a motor vehicle from a parking facility without first contacting the owner of the**  
 20 **facility.**

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

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

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

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

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

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

36 [(b) Provision of:]

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

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

39 [(6)] (g) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or per-  
 40 sonal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to  
 41 dispute:

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

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

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

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

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

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

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

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

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

12 98.856. (1) **If the owner or operator of the motor vehicle is present at the time of the tow,**  
13 **the tower shall release the motor vehicle at no charge.**

14 [(1)] (2) [A tower shall disclose to the owner or operator of a motor vehicle] **If the owner or**  
15 **operator of the motor vehicle is not present at the time of the tow, the tower shall provide**  
16 **to the owner or person in lawful possession of the motor vehicle, prior to the time the owner**  
17 **or person in lawful possession of the motor vehicle redeems the motor vehicle, the following**  
18 **information** in a conspicuous written statement of at least 10-point boldfaced type:

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

20 (b) The location where the tower will:

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

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

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

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

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

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

33 [(3) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower  
34 shall provide the information required under subsection (1) of this section to the owner or person in  
35 lawful possession of the motor vehicle prior to the time the owner or person in lawful possession of the  
36 motor vehicle redeems the motor vehicle.]

37 [(4)(a)] (3)(a) As used in this subsection, "business day" means Monday through Friday, exclud-  
38 ing legal holidays.

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

40 [(A)] (b) Within five business days from the date of the tow, the tower shall request the name  
41 and address of the owner of the motor vehicle from the state motor vehicle agency for the state in  
42 which the motor vehicle is registered.

43 [(B)] (c) The tower shall provide the information required under subsection [(1)] (2) of this sec-  
44 tion to the owner of the motor vehicle by mail by the end of the first business day following receipt  
45 of the information from the state motor vehicle agency.

1        [(C)] (d) If the owner of the motor vehicle or a person in lawful possession of the motor vehicle  
2 redeems the motor vehicle or contacts the tower prior to five business days after the tow, the tower  
3 is not required to contact the state motor vehicle agency.

4        [(5)] (4) If the owner or operator of the motor vehicle is not present at the time of the tow but  
5 the owner or operator of the motor vehicle requested the tow and arranged to pay the tower di-  
6 rectly, the tower may obtain the name and address of the owner of the motor vehicle from the owner  
7 or operator of the motor vehicle and may provide the information required under subsection [(1)]  
8 (2) of this section:

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

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

11       **SECTION 4.** ORS 822.215 is amended to read:

12       822.215. The Department of Transportation may deny or refuse to issue any towing business  
13 certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business cer-  
14 tificate issued upon proof that the applicant for or holder of the certificate has done any of the  
15 following:

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

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

21       (3) Used vehicles for the purposes of towing or recovering services that did not meet the mini-  
22 mum safety standards established by the department.

23       (4) Failed to display special towing business registration plates, stickers or indicia or identifi-  
24 cation devices for proportionally registered tow vehicles authorized under ORS 805.200 on each ve-  
25 hicle used to tow or recover vehicles.

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

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

30       (7) Violated any provision of ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.

31       (8) **Accepted or provided compensation based on the number of vehicles towed.**

32