

Enrolled
House Bill 2738

Sponsored by Representative COWAN (at the request of Oregon State Sheriffs Association)

CHAPTER

AN ACT

Relating to vehicles taken into custody by public bodies; creating new provisions; amending ORS 801.040, 809.700, 819.016, 819.040, 819.100, 819.110, 819.120, 819.140, 819.150, 819.160, 819.170, 819.180, 819.185, 819.190, 819.210, 819.215 and 819.480; and repealing ORS 819.220, 819.240, 819.250, 819.260 and 819.270.

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

SECTION 1. ORS 801.040 is amended to read:

801.040. This section describes circumstances where special provisions are made concerning the authority of cities, counties or other political subdivisions in relation to some portion of the vehicle code. This section is not the only section of the vehicle code that applies to such authority and shall not be interpreted to affect the vehicle code except as specifically provided in this section. The following limits are partial or complete as described:

(1) No county, municipal or other local body with authority to adopt and administer local police regulations under the Constitution and laws of this state shall enact or enforce any rule or regulation in conflict with the provisions of the vehicle code described in this subsection except as specifically authorized in the vehicle code. This subsection applies to the provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation of vehicle size, weight and load, the manner of operation of vehicles and use of roads by persons, animals and vehicles.

(2) Except as provided in ORS 822.230 and this subsection, no city, county or other political subdivisions shall regulate or require or issue any registration, licenses, permits or surety bonds or charge any fee for the regulatory or surety registration of any person required to obtain a certificate from the Department of Transportation under ORS 822.205. This subsection does not:

(a) Limit any authority of a city or county to license and collect a general and nondiscriminatory license fee levied upon all businesses or to levy a tax based upon business conducted by any person within the city or county.

(b) Limit the authority of any city or county to impose any requirements or conditions as part of any contract to perform towing or recovering services for the city or county.

(c) Limit the authority of any city or county to impose requirements and conditions that govern the towing of a vehicle by a towing business under ORS 98.812 so long as those requirements and conditions are consistent with the provisions of ORS 822.230.

(3) No city, county or other political subdivision of this state, nor any state agency, may adopt a regulation or ordinance that imposes a special fee for the use of public lands or waters by snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by or under the jurisdiction of either the United States, this state or any such city, county or other political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal

property or excise tax imposed on snowmobiles by this state or any political subdivision. No city, county or other municipality, and no state agency shall impose any other registration or license fee on any snowmobile in this state. This subsection does not prohibit any city, county or other political subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain vehicles on public lands, waters and other properties under its jurisdiction and on streets or highways within its boundaries by adopting regulations or ordinances of its governing body if such regulations are not inconsistent with ORS 821.150 to 821.292.

(4) The provisions of ORS [819.100, 819.120, 819.150, 819.160, 819.210 to 819.260 and 819.480] **819.110 to 819.215** relating to [removal] **towing** of vehicles that are abandoned establish minimum requirements subject to the following:

(a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may supersede such provisions by ordinance or charter provision.

(b) Any road authority described under ORS 810.010 may adopt rules or procedures that do not conflict with such provisions to provide for additional protection for the owner or person with an interest in a vehicle subject to such provisions or that more quickly accomplish the procedures established under such provisions.

(5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an accident file with a designated city department a copy of any report required to be filed under ORS 811.725. All such reports shall be for the confidential use of the city department but subject to the same requirements for release of such reports as provided for the release of such reports by the department under ORS 802.220 and 802.240.

(6) Except as otherwise specifically provided in this section, in accordance with the provisions of ORS 801.041, the governing body of a county may establish by ordinance registration fees for vehicles registered at a residence or business address within the county.

(7) Except as otherwise specifically provided in this section, in accordance with the provisions of ORS 801.042, the governing body of a district may establish by ordinance registration fees for vehicles registered at a residence or business address within the district.

SECTION 2. ORS 809.700 is amended to read:

809.700. A court may order a motor vehicle impounded or immobilized upon conviction for the traffic offenses described in this section. The authority to impound or immobilize a vehicle under this section is subject to all of the following:

(1) The court may order a vehicle impounded or immobilized under this section when a person is convicted:

(a) For driving a motor vehicle while the person's license is suspended or revoked in violation of ORS 811.175 or 811.182; or

(b) On a second or subsequent charge of driving while under the influence of intoxicants in violation of ORS 813.010.

(2) A vehicle may be impounded or immobilized under this section for not more than one year from judgment.

(3) The following vehicles may be impounded under this section:

(a) Any motor vehicle of which the convicted person is the owner.

(b) Any motor vehicle which the convicted person is operating at the time of arrest.

(4) A vehicle may be immobilized under this section if the vehicle is registered in this state and is a vehicle that may be impounded under subsection (3) of this section.

(5)(a) If a vehicle is ordered to be immobilized under this section and if the convicted person resides in the jurisdiction of the law enforcement agency that arrested the person for the offense described in subsection (1) of this section, the arresting law enforcement agency shall install a vehicle immobilization device on the vehicle. If the convicted person does not reside in the jurisdiction of the law enforcement agency that arrested the person, the sheriff of the county in which the person resides shall install the device.

(b) A vehicle ordered immobilized under this section shall be immobilized at the residence of the owner of the vehicle or at the location where the owner regularly parks the vehicle.

(c) A vehicle ordered immobilized under this section may be immobilized only in a location at which the vehicle may be legally stored for the period of the immobilization order. If no location is available at which the vehicle may be legally stored, the vehicle may be impounded for the period of the immobilization order.

(d) A vehicle owner who fails to allow installation of a vehicle immobilization device ordered under this section shall be subject to contempt of court proceedings under ORS 33.015 to 33.155.

(6)(a) If a vehicle is impounded under this section, the person convicted shall be liable for the expenses incurred in the [removal] **towing** and storage of the vehicle under this section, whether or not the vehicle is returned to the person convicted.

(b) If a vehicle is immobilized under this section, the person convicted shall be liable for the expenses incurred in installation and removal of the vehicle immobilization device and for rental of the device during the period the device is installed on the vehicle, whether or not the vehicle is released to the person convicted.

(7) A vehicle shall be released or returned to the person convicted or the owner only upon payment of the expenses incurred in the immobilization or [removal] **towing** and storage of the vehicle under this section.

(8) If a vehicle is not reclaimed within 30 days after the time set for the return of the vehicle in an impounding order or release of the vehicle in an immobilization order, the vehicle may be disposed of in accordance with procedures under ORS [819.180, 819.190, 819.210, 819.220 and 819.240 to 819.260] **819.110 to 819.215**.

(9) The court may order that a motor vehicle of which the convicted person is not the owner be impounded or immobilized under this section only if the court is satisfied by a preponderance of the evidence that the owner knew or had good reason to know that the convicted person:

(a) Did not have a valid license and knowingly consented to the operation of the vehicle by the convicted person; or

(b) Was operating the vehicle while under the influence of intoxicants.

(10) The authority to impound or immobilize a vehicle under this section is subject to the rights of a security interest holder under a security agreement executed before an arrest for violation of an offense for which the vehicle may be impounded or immobilized under this section. A vehicle shall be released for the purpose of satisfying a security interest if:

(a) Request in writing is made to the court;

(b) If the vehicle has been impounded or immobilized, the security interest holder pays the expenses in [removal] **towing** and storage or in immobilization of the vehicle; and

(c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest holder takes possession of the vehicle subject to the suspension of the registration remaining in effect against the registered owner.

(11) A security interest holder's obligation to pay and right to recover [removal] **towing** and storage or immobilization expenses under subsection (10) of this section are limited to the recovery of those [removal] **towing** and storage or immobilization expenses incurred during the initial 20-day period when the vehicle was in public storage or immobilized, unless the authority taking the vehicle into custody or immobilizing the vehicle under this section has transmitted by certified mail a written notice to the holder concerning the accrual of storage or immobilization expenses. If the vehicle is in private storage, the lien claimant shall transmit the written notice.

SECTION 3. ORS 819.016 is amended to read:

819.016. (1) Except as provided in subsection (2) of this section, when the provisions of ORS 819.010, 819.012 or 819.014 require a person to surrender to the Department of Transportation a certificate of title for a vehicle, or when a person [buys] **acquires** a vehicle under the provisions of ORS [819.220] **819.215**, the person shall apply to the department for a salvage title for the vehicle. The application shall comply with the requirements of ORS 803.140.

(2) When the person is not required to surrender a certificate of title because title for the vehicle was issued in some other form, the person shall follow procedures adopted by the department by rule.

(3) Subsections (1) and (2) of this section do not apply if the person does not intend to rebuild or repair the vehicle, to transfer the vehicle or to use the frame or unibody of the vehicle for repairing or constructing another vehicle.

SECTION 4. ORS 819.040 is amended to read:

819.040. (1) A person commits the offense of illegal salvage procedures if the person engages in crushing, compacting or shredding of vehicles and the person violates any requirements under the following:

(a) The person may accept vehicles as salvage material from other persons who hold a dismantler certificate issued under ORS 822.110.

(b) Except as otherwise provided in this subsection, the person may not accept vehicles from another person who does not hold a dismantler certificate issued under ORS 822.110, unless the other person:

(A) Complies with the requirements of ORS 819.010, or is in possession of [*a certificate of sale issued under ORS 819.240 or of*] a salvage title certificate; and

(B) Displays a salvage title certificate, a compliance form issued under ORS 819.030, or a certificate of sale to the person engaged in salvage.

(c) The person engaged in salvage may accept a copy of the Department of Transportation form issued under ORS 819.030 as proof of compliance under ORS 819.010 or may accept a certificate of sale or a salvage title certificate, as applicable, and surrender such copy or certificate to the department.

(d) The person may accept vehicles as salvage material from [*authorities or*] tow businesses disposing of vehicles as authorized under ORS 819.215 or 819.280 if the [*authority or*] tow business gives the person a copy of notification made to the department under ORS 819.215 or 819.280.

(2) If a salvage title has been issued in a form other than a certificate, the person engaged in salvage may accept documents or information in a manner or form determined by the department by rule.

(3) The offense described in this section, illegal salvage procedures, is a Class A misdemeanor.

SECTION 5. ORS 819.100 is amended to read:

819.100. (1) A person commits the offense of abandoning a vehicle if the person abandons a vehicle upon a highway or upon any public or private property.

(2) The owner of the vehicle as shown by the records of the Department of Transportation shall be considered responsible for the abandonment of a vehicle in the manner prohibited by this section and shall be liable for the cost of [*removal*] **towing** and disposition of the abandoned vehicle.

(3) A vehicle abandoned in violation of this section is subject to the provisions for [*removal*] **towing and sale** of abandoned vehicles under ORS [*819.110 and 819.120 and to being sold as provided under ORS 819.210 or 819.220*] **819.110 to 819.215**.

(4) The offense described in this section, abandoning a vehicle, is a Class B traffic violation.

SECTION 6. ORS 819.110 is amended to read:

819.110. (1) After providing notice required under ORS 819.170 and, if requested, a hearing under ORS 819.190, an authority described under ORS 819.140 may take a vehicle into custody and [*remove*] **tow** the vehicle if:

(a) The authority has reason to believe the vehicle is disabled or abandoned; and

(b) The vehicle has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.

(2) The [*authority in this section to remove and*] **power to** take vehicles into custody **under this section** is in addition to any [*authority*] **power to** [*remove and*] take vehicles into custody under ORS 819.120.

(3) Subject to ORS 819.150, vehicles and the contents of vehicles [*removed and*] taken into custody under this section are subject to a lien as provided under ORS 819.160.

(4) [*An authority removing*] **The person that tows** a vehicle under this section shall [*cause*] **have** the vehicle [*to be*] appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480.

(5) Vehicles [*removed and*] taken into custody under this section are subject to sale **or disposal** under ORS 819.210 or [819.220] **819.215** if the vehicles are not reclaimed as provided under ORS 819.150 or returned to the owner or person entitled to possession under ORS 819.190.

SECTION 7. ORS 819.120 is amended to read:

819.120. (1) An authority described under ORS 819.140 may immediately take custody of **and tow** a vehicle that is disabled, abandoned, parked or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway.

(2) As used in this section, a “hazard or obstruction” includes, but is not necessarily limited to:

(a) Any vehicle that is parked so that any part of the vehicle extends within the paved portion of the travel lane.

(b) Any vehicle that is parked so that any part of the vehicle extends within the highway shoulder or bicycle lane:

(A) Of any freeway within the city limits of any city in this state at any time if the vehicle has a gross vehicle weight of 26,000 pounds or less;

(B) Of any freeway within the city limits of any city in this state during the hours of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m. if the vehicle has a gross vehicle weight of more than 26,000 pounds;

(C) Of any freeway within 1,000 feet of the area where a freeway exit or entrance ramp meets the freeway; or

(D) Of any highway during or into the period between sunset and sunrise if the vehicle presents a clear danger.

(3) As used in this section, “hazard or obstruction” does not include parking in a designated parking area along any highway or, except as described in subsection (2) of this section, parking temporarily on the shoulder of the highway as indicated by a short passage of time and by the operation of the hazard lights of the vehicle, the raised hood of the vehicle, or advance warning with emergency flares or emergency signs.

(4) [*After taking a vehicle into custody under this section*] An authority taking custody of a vehicle [*is required to*] **under this section must** give the notice described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.

(5) The [*authority in this section to remove and*] **power to** take vehicles into custody **under this section** is in addition to any [*authority*] **power to** [*remove and*] take vehicles into custody under ORS 819.110.

(6) Subject to ORS 819.150, vehicles and the contents of vehicles [*removed and*] taken into custody under this section are subject to a lien as provided under ORS 819.160.

(7) [*An authority removing*] **The person that tows** a vehicle under this section shall [*cause*] **have** the vehicle [*to be*] appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.480.

(8) Vehicles [*removed and*] taken into custody under this section are subject to sale or [*disposition*] **disposal** under ORS 819.210 or [819.220] **819.215** if the vehicles are not reclaimed under ORS 819.150 or returned to the owner or person entitled thereto under ORS 819.190.

(9) The Oregon Transportation Commission, by rule, shall establish additional criteria for determining when vehicles on state highways, interstate highways and state property are subject to being taken into immediate custody under this section.

SECTION 8. ORS 819.140 is amended to read:

819.140. (1) This section establishes which agency has the authority to [*remove and*] take vehicles into custody under ORS 819.110 and 819.120. The agency with authority [*for removal*] **to take a vehicle into custody** is responsible for notice and hearings under ORS [819.170 to 819.190 and for the sale or disposal of the vehicle under ORS 819.210 or 819.220] **819.110 to 819.215**. Authority [*for removal of a vehicle*] **to take a vehicle into custody** depends on the location of the vehicle as described under the following:

(a) If a vehicle is upon the right of way of a state highway, on an interstate highway that is part of the National System of Interstate and Defense Highways established under section 103(e), title

23, United States Code or on state property, the Department of State Police or the Department of Transportation [may provide for a vehicle to be taken into custody] **may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.** [When the Department of State Police or the Department of Transportation exercises powers described in this section, the Department of State Police or the Department of Transportation shall notify either the sheriff or an appropriate authority of the county in which the vehicle is located. The authority notified by the Department of State Police or the Department of Transportation shall exercise the powers described in this section in lieu of the Department of State Police or the Department of Transportation and shall exercise authority over the vehicle.] Action taken by the Department of State Police or the Department of Transportation under this subsection is not subject to ORS chapter 183. [The authority actually providing for the removal of the vehicle is subject to the appropriate procedures upon removal and sale or disposal of the vehicle.]

(b) If the vehicle is upon the right of way of a county road or any other highway or property within the boundaries of a county, the sheriff of the county or a county agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(c) If the vehicle is on a city street or alley, on an interstate highway or other highway within the boundaries of the city or on any other property within the boundaries of a city, the city police or a city agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(2) Except as otherwise provided by this section, an agency taking custody of a vehicle under ORS 819.110 or 819.120 may:

(a) Use its own personnel, equipment and facilities for the [removal] **towing** and preservation of such vehicles; or

(b) Hire or otherwise engage other personnel, equipment and facilities for that purpose.

SECTION 9. ORS 819.150 is amended to read:

819.150. The owner, a person entitled to possession or any person with an interest recorded on the title of a vehicle taken into custody under ORS 819.110 or 819.120:

(1) Is liable for all costs and expenses incurred in the [removal] **towing**, preservation and custody of the vehicle and its contents except that:

(a) The owner, a person entitled to the vehicle or any person with an interest recorded on the title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days unless the person has received a written notice under ORS 819.160. In no case shall a person be required to pay storage charges for a storage period in excess of 60 days.

(b) A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under ORS 819.210 or [819.220] **819.215** upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

(3) If the vehicle is taken into custody under ORS 819.110 or 819.120, has a right to request and have a hearing under ORS 819.190 or under procedures established under ORS 801.040, as appropriate.

(4) If the vehicle is sold or disposed of under ORS 819.210[,] **or** 819.215[, 819.220 or 819.280], has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

(5) If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS [819.260] **87.206**.

(6) Has no right to a hearing if the vehicle is disposed of under ORS 819.215 [or 819.280].

SECTION 10. ORS 819.160 is amended to read:

819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its contents if the person, at the request of an authority described under ORS 819.140, tows any of the following vehicles:

(a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a certificate issued under ORS 819.480.

(b) A vehicle taken into custody under ORS 819.110 or 819.120, unless it is an abandoned vehicle appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480.

(c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

(2) A lien established under this section shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. However, if the person *[who]* **that** tows the vehicle fails to comply with the notice requirements of subsection (3) of this section, the amount of any lien claimed under this *[paragraph shall be]* **section is** limited to an amount equal to the just and reasonable charges for the towing service performed and storage provided for a period not exceeding 20 days from the date the vehicle and its contents were placed in storage. The lien shall be subject to the provisions for liens under ORS 98.812. The person holding the lien may retain possession of the vehicle and contents until the charges on which the lien is based are paid. A lien described under this section does not attach:

(a) To the contents of any vehicle taken from public property until 15 days after taking the vehicle into custody.

(b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or 811.570.

(3) A person *[who]* **that** tows any vehicle at the request of an authority under ORS 819.110 or 819.120 shall transmit by first class mail with a certificate of mailing, within 20 days after the vehicle and its contents are placed in storage, written notice, approved by the authority, containing information on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided to the owner, a person entitled to possession or any person with an interest recorded on the title to the vehicle. This subsection does not apply to a person *[who]* **that** tows an abandoned vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480.

SECTION 11. ORS 819.170 is amended to read:

819.170. If an authority proposes to take custody of a vehicle under ORS 819.110, the authority shall provide notice and shall provide an explanation of procedures available for obtaining a hearing under ORS 819.190. Except as otherwise provided under ORS 801.040, notice required under this section shall comply with all of the following:

(1) Notice shall be given by affixing a notice to the vehicle with the required information. The notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The 24-hour period under this subsection includes holidays, Saturdays and Sundays.

(2) Notice shall state all of the following:

(a) That the vehicle will be subject to being taken into custody and *[removed]* **towed** by the appropriate authority if the vehicle is not removed before the time set by the appropriate authority.

(b) The statute, ordinance or rule violated by the vehicle and under which the vehicle will be *[removed]* **towed**.

(c) The place where the vehicle will be held in custody or the telephone number and address of the appropriate authority that will provide the information.

(d) That the vehicle, if taken into custody and *[removed]* **towed** by the appropriate authority, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.

(e) That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.

(f) That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and *[removal]* **towing** if a hearing is timely requested.

(g) That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.

(h) The time within which a hearing must be requested and the method for requesting a hearing.

SECTION 12. ORS 819.180 is amended to read:

819.180. (1) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by certified mail within 48 hours of the [removal] **towing**, written notice with an explanation of procedures available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

(2) Any notice given under this section after a vehicle is taken into custody and [removed] **towed** shall state all of the following:

(a) That the vehicle has been taken into custody and [removed] **towed**, the identity of the appropriate authority that took the vehicle into custody and [removed] **towed** the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and [removed] **towed**.

(b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.

(c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

(d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.

(e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and [removing] **towing** it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(f) The time within which a hearing must be requested and the method for requesting a hearing.

(g) That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority.

SECTION 13. ORS 819.185 is amended to read:

819.185. If there is no vehicle identification number on a vehicle and there are no registration plates and no other markings through which the Department of Transportation could identify the owner of the vehicle, then an authority otherwise required to provide notice under ORS 819.170 or 819.180 is not required to provide such notice and the vehicle may be [removed] **towed** and disposed of as though notice and an opportunity for a hearing had been given.

SECTION 14. ORS 819.190 is amended to read:

819.190. A person provided notice under ORS 819.170 or 819.180 or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the [removal] **towing** and custody under ORS 819.120 or proposed [removal] **towing** and custody of a vehicle under ORS 819.110 by submitting a request for hearing with the appropriate authority not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. Except as otherwise provided under ORS 801.040, a hearing under this section shall comply with all of the following:

(1) If the authority proposing to [remove] **tow** a vehicle under ORS 819.110 receives a request for hearing before the vehicle is taken into custody and [removed] **towed**, the vehicle [shall] **may** not be [removed] **towed** unless the vehicle constitutes a hazard.

(2) A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and [removal] **towing** of the vehicle is not justified.

(3) Upon receipt of a request for a hearing under this section, the appropriate authority shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of

the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the Department of Transportation, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.

(4) If the appropriate authority finds, after hearing and by substantial evidence on the record, that the custody and [removal] **towing** of a vehicle was:

(a) Invalid, the appropriate authority shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released under this paragraph, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the authority responsible for taking the vehicle into custody and [removing] **towing** the vehicle shall reimburse the person for the charges. New storage costs on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the person under this paragraph.

(b) Valid, the appropriate authority shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not yet been [removed] **towed**, the appropriate authority shall order [its removal] **that the vehicle be towed**.

(5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the appropriate authority for the person's failure to appear.

(6) An appropriate authority is only required to provide one hearing under this section for each time the appropriate authority takes a vehicle into custody and [removes] **tows** the vehicle or proposes to do so.

(7) A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle. Towing and storage charges set by law, ordinance or rule or that comply with law, ordinance or rule are reasonable for purposes of this subsection.

(8) An authority shall provide a written statement of the results of a hearing held under this section to the person requesting the hearing.

(9) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases under ORS 183.450.

(10) The hearings officer at a hearing under this section may be an officer, official or employee of the appropriate authority but shall not have participated in any determination or investigation related to taking into custody and [removing] **towing** the vehicle that is the subject of the hearing.

(11) The determination of a hearings officer at a hearing under this section is final and is not subject to appeal.

SECTION 15. ORS 819.210 is amended to read:

819.210. (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is not reclaimed within 30 days after it is taken into custody, the [authority with custody of] **person that towed** the vehicle shall either:

(a) Sell the vehicle and its contents at public auction in the manner provided in ORS 87.192 and 87.196; or

(b) Dispose of the vehicle in a manner provided by local ordinance.

(2) The contents of any vehicle sold under this section are subject to the same conditions of sale as the vehicle in which they are found.

[3] *The authority to dispose of a vehicle under this section is in addition to any authority under ORS 819.220.*

[4] *Funds received from the sale of a vehicle or its contents under this section shall be disposed of as provided in ORS 819.250.*

[5] *Upon sale of a vehicle under this section, an authority shall issue a certificate of sale as described in ORS 819.240.*

SECTION 16. ORS 819.215 is amended to read:

819.215. (1) If an abandoned vehicle is appraised at a value of \$500 or less by a person who holds a certificate issued under ORS 819.480, the person *[who]* **that** towed the vehicle *[or the authority that requested the tow, if the authority chooses to dispose of the vehicle,]* shall:

(a) Notify the registered owner and secured parties as provided in subsection (3) of this section;

(b) Photograph the vehicle;

(c) Notify the Department of Transportation that the vehicle will be disposed of; and

(d) Unless the vehicle is claimed by a person entitled to possession of it within 15 days of the date of notice under subsection (3) of this section, dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110.

[(2) The authority that requests towing of an abandoned vehicle shall provide the tow company, at the time of the tow, the name and address of the registered owner of the vehicle, as shown by records of the department, and the names and addresses of any persons claiming interests in the vehicle, as shown by records of the department.]

[(3) The person who tows the vehicle, or the authority that requested the tow if the authority chooses to dispose of the vehicle, shall give written notice, within 48 hours of the day the vehicle was towed, to the persons whose names are furnished under subsection (2) of this section. The 48 hours shall not include Saturdays, Sundays or holidays. The notice shall state that a person entitled to possession of the vehicle has 15 days from the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be disposed of as provided in this section.]

(2) The authority that requests towing of an abandoned vehicle shall provide to the person that tows the vehicle, at the time of the tow or as soon as possible thereafter, a written statement that contains the name and address of the registered owner of the vehicle, as shown by records of the department, and the names and addresses of any persons claiming interests in the vehicle, as shown by records of the department.

(3) Within 48 hours after the written statement is provided under subsection (2) of this section to a person that tows a vehicle, the person must give written notice to the persons whose names are furnished in the statement. The 48-hour period does not include Saturdays, Sundays or holidays. The notice shall state that a person that is entitled to possession of the vehicle has 15 days from the date the notice was mailed to claim the vehicle and that if the vehicle is not claimed, it will be disposed of as provided in this section.

(4) If the authority that requests towing of an abandoned vehicle does not provide to the person that tows the vehicle the written statement within 48 hours after the vehicle is towed, the person may dispose of the vehicle as provided in ORS 819.210.

[(4)] **(5) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.**

[(5)] **(6) The department shall adopt rules specifying the form in which notification to the department required by subsection (1) of this section shall be submitted and what information shall be conveyed to the department. The person *[disposing of]* **that tows** the vehicle may submit to the dismantler a copy of any notification submitted to the department under this section instead of submitting to the dismantler ownership or other title documents for the vehicle.**

SECTION 17. ORS 819.480 is amended to read:

819.480. (1) A person who is issued a vehicle appraiser certificate by the Department of Transportation under this section is qualified to appraise any vehicle, including vehicles for sale under ORS 819.210 and *[819.220]* **819.215.**

(2) The department shall establish rules to provide for issuance of vehicle appraiser certificates under this section. Rules adopted by the department under this section shall provide for all of the following:

(a) A method of ascertaining the qualifications and competence of individuals to conduct vehicle appraisals in accordance with the rules of the department and generally accepted methods of appraisal.

(b) A system for issuance of vehicle appraiser certificates to persons who qualify under the rules of the department.

(c) Procedures and grounds for revocation or suspension of vehicle appraiser certificates issued under this section if the department determines the person holding the certificate has violated the rules adopted by the department.

(d) A procedure for renewal of vehicle appraiser certificates issued under this section.

(3) The department may establish rules to adopt educational requirements for issuance or renewal of vehicle appraiser certificates.

(4) Vehicle appraiser certificates issued under this section are subject to the following:

(a) A certificate shall expire three years from the date of issuance unless renewed according to the rules of the department.

(b) The department shall not issue a vehicle appraiser certificate to a person until the person has paid the fee for issuance of a vehicle appraiser certificate under ORS 822.700.

(c) The department shall not renew a vehicle appraiser certificate issued under this section until the holder has paid the fee for renewal of a vehicle appraiser certificate under ORS 822.700.

SECTION 18. ORS 819.220, 819.240, 819.250, 819.260 and 819.270 are repealed.

SECTION 19. The amendments to ORS 801.040, 809.700, 819.016, 819.040, 819.100, 819.110, 819.120, 819.140, 819.150, 819.160, 819.170, 819.180, 819.185, 819.190, 819.210, 819.215 and 819.480 by sections 1 to 17 of this 2009 Act and the repeal of ORS 819.220, 819.240, 819.250, 819.260 and 819.270 by section 18 of this 2009 Act apply only to vehicles taken into custody under ORS 819.110 to 819.215 on or after the effective date of this 2009 Act. Any vehicle taken into custody under ORS 819.110 to 819.215 before the effective date of this 2009 Act shall continue to be governed by the law in effect immediately before the effective date of this 2009 Act.

Passed by House May 1, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 21, 2009

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President of Senate

Received by Governor:

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

Approved:

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

.....
Governor

Filed in Office of Secretary of State:

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

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Secretary of State