

# House Bill 2738

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

## 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**.

Provides that disabled or abandoned vehicle taken into custody by public body be sold or disposed of by person engaged to tow vehicle.

## A BILL FOR AN ACT

1  
2 Relating to vehicles taken into custody by public bodies; creating new provisions; amending ORS  
3 801.040, 809.700, 819.016, 819.040, 819.100, 819.110, 819.120, 819.140, 819.150, 819.160, 819.170,  
4 819.180, 819.185, 819.190, 819.210, 819.215, 819.270 and 819.480; and repealing ORS 819.220,  
5 819.240, 819.250 and 819.260.

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

7 **SECTION 1.** ORS 801.040 is amended to read:

8 801.040. This section describes circumstances where special provisions are made concerning the  
9 authority of cities, counties or other political subdivisions in relation to some portion of the vehicle  
10 code. This section is not the only section of the vehicle code that applies to such authority and shall  
11 not be interpreted to affect the vehicle code except as specifically provided in this section. The  
12 following limits are partial or complete as described:

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

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

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

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

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

31 (3) No city, county or other political subdivision of this state, nor any state agency, may adopt

**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 a regulation or ordinance that imposes a special fee for the use of public lands or waters by  
 2 snowmobiles or Class I all-terrain vehicles, or for the use of any access thereto that is owned by  
 3 or under the jurisdiction of either the United States, this state or any such city, county or other  
 4 political subdivision. The registration fees provided by ORS 821.320 are in lieu of any personal  
 5 property or excise tax imposed on snowmobiles by this state or any political subdivision. No city,  
 6 county or other municipality, and no state agency shall impose any other registration or license fee  
 7 on any snowmobile in this state. This subsection does not prohibit any city, county or other political  
 8 subdivision, or any state agency from regulating the operation of snowmobiles or Class I all-terrain  
 9 vehicles on public lands, waters and other properties under its jurisdiction and on streets or high-  
 10 ways within its boundaries by adopting regulations or ordinances of its governing body if such reg-  
 11 ulations are not inconsistent with ORS 821.150 to 821.292.

12 (4) The provisions of ORS [819.100, 819.120, 819.150, 819.160, 819.210 to 819.260 and 819.480]  
 13 **819.110 to 819.215** relating to [removal] **towing** of vehicles that are abandoned establish minimum  
 14 requirements subject to the following:

15 (a) Notwithstanding paragraph (b) of this subsection, a county or incorporated city may super-  
 16 sede such provisions by ordinance or charter provision.

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

21 (5) Any incorporated city may by ordinance require that the driver of a vehicle involved in an  
 22 accident file with a designated city department a copy of any report required to be filed under ORS  
 23 811.725. All such reports shall be for the confidential use of the city department but subject to the  
 24 same requirements for release of such reports as provided for the release of such reports by the  
 25 department under ORS 802.220 and 802.240.

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

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

32 **SECTION 2.** ORS 809.700 is amended to read:

33 809.700. A court may order a motor vehicle impounded or immobilized upon conviction for the  
 34 traffic offenses described in this section. The authority to impound or immobilize a vehicle under  
 35 this section is subject to all of the following:

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

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

40 (b) On a second or subsequent charge of driving while under the influence of intoxicants in vi-  
 41 olation of ORS 813.010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (c) If the registration of the vehicle has been suspended under ORS 809.010, the security interest

1 holder takes possession of the vehicle subject to the suspension of the registration remaining in ef-  
2 fect against the registered owner.

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

10 **SECTION 3.** ORS 819.016 is amended to read:

11 819.016. (1) Except as provided in subsection (2) of this section, when the provisions of ORS  
12 819.010, 819.012 or 819.014 require a person to surrender to the Department of Transportation a  
13 certificate of title for a vehicle, or when a person [*buys*] **acquires** a vehicle under the provisions  
14 of ORS [*819.220*] **819.215**, the person shall apply to the department for a salvage title for the vehicle.  
15 The application shall comply with the requirements of ORS 803.140.

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

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

22 **SECTION 4.** ORS 819.040 is amended to read:

23 819.040. (1) A person commits the offense of illegal salvage procedures if the person engages in  
24 crushing, compacting or shredding of vehicles and the person violates any requirements under the  
25 following:

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

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

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

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

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

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

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

45 (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

1 a clear danger.

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

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

10 (5) The *[authority in this section to remove and]* **power to** take vehicles into custody **under this**  
 11 **section** is in addition to any *[authority]* **power to** *[remove and]* take vehicles into custody under ORS  
 12 819.110.

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

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

18 (8) Vehicles *[removed and]* taken into custody under this section are subject to sale or *[disposi-*  
 19 *tion]* **disposal** under ORS 819.210 or *[819.220]* **819.215** if the vehicles are not reclaimed under ORS  
 20 819.150 or returned to the owner or person entitled thereto under ORS 819.190.

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

24 **SECTION 8.** ORS 819.140 is amended to read:

25 819.140. (1) This section establishes which agency has the authority to *[remove and]* take vehi-  
 26 cles into custody under ORS 819.110 and 819.120. The agency with authority *[for removal]* **to take**  
 27 **a vehicle into custody** is responsible for notice and hearings under ORS *[819.170 to 819.190 and for*  
 28 *the sale or disposal of the vehicle under ORS 819.210 or 819.220]* **819.110 to 819.215.** Authority *[for*  
 29 *removal of a vehicle]* **to take a vehicle into custody** depends on the location of the vehicle as de-  
 30 scribed under the following:

31 (a) If a vehicle is upon the right of way of a state highway, on an interstate highway that is part  
 32 of the National System of Interstate and Defense Highways established under section 103(e), title  
 33 23, United States Code or on state property, the Department of State Police or the Department of  
 34 Transportation *[may provide for a vehicle to be taken into custody]* **may take the vehicle into cus-**  
 35 **tody and exercise the powers relating to authority over the vehicle described in this**  
 36 **section.** *[When the Department of State Police or the Department of Transportation exercises powers*  
 37 *described in this section, the Department of State Police or the Department of Transportation shall*  
 38 *notify either the sheriff or an appropriate authority of the county in which the vehicle is located. The*  
 39 *authority notified by the Department of State Police or the Department of Transportation shall exercise*  
 40 *the powers described in this section in lieu of the Department of State Police or the Department of*  
 41 *Transportation and shall exercise authority over the vehicle.]* Action taken by the Department of State  
 42 Police or the Department of Transportation under this subsection is not subject to ORS chapter 183.  
 43 *[The authority actually providing for the removal of the vehicle is subject to the appropriate procedures*  
 44 *upon removal and sale or disposal of the vehicle.]*

45 (b) If the vehicle is upon the right of way of a county road or any other highway or property

1 within the boundaries of a county, the sheriff of the county or a county agency with appropriate  
 2 authority may take the vehicle into custody and exercise the powers relating to authority over the  
 3 vehicle described in this section.

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

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

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

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

13 **SECTION 9.** ORS 819.150 is amended to read:

14 819.150. The owner, a person entitled to possession or any person with an interest recorded on  
 15 the title of a vehicle taken into custody under ORS 819.110 or 819.120:

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

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

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

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

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

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

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

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

36 **SECTION 10.** ORS 819.160 is amended to read:

37 819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the ve-  
 38 hicle and its contents if the person, at the request of an authority described under ORS 819.140, tows  
 39 any of the following vehicles:

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

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

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

45 (2) A lien established under this section shall be on the vehicle and its contents for the just and

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

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

11 (b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or  
 12 811.570.

13 (3) A person *[who]* **that** tows any vehicle at the request of an authority under ORS 819.110 or  
 14 819.120 shall transmit by first class mail with a certificate of mailing, within 20 days after the ve-  
 15 hicle and its contents are placed in storage, written notice, approved by the authority, containing  
 16 information on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall  
 17 be provided to the owner, a person entitled to possession or any person with an interest recorded  
 18 on the title to the vehicle. This subsection does not apply to a person *[who]* **that** tows an abandoned  
 19 vehicle that is appraised at a value of \$500 or less by a person who holds a certificate issued under  
 20 ORS 819.480.

21 **SECTION 11.** ORS 819.170 is amended to read:

22 819.170. If an authority proposes to take custody of a vehicle under ORS 819.110, the authority  
 23 shall provide notice and shall provide an explanation of procedures available for obtaining a hearing  
 24 under ORS 819.190. Except as otherwise provided under ORS 801.040, notice required under this  
 25 section shall comply with all of the following:

26 (1) Notice shall be given by affixing a notice to the vehicle with the required information. The  
 27 notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The  
 28 24-hour period under this subsection includes holidays, Saturdays and Sundays.

29 (2) Notice shall state all of the following:

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

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

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

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

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

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

44 (g) That the owner, possessor or person having an interest in the vehicle may also challenge the  
 45 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

1 under ORS 801.040, a hearing under this section shall comply with all of the following:

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

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

7 (3) Upon receipt of a request for a hearing under this section, the appropriate authority shall  
 8 set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of  
 9 the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors  
 10 or security interest holders shown in the records of the Department of Transportation, if not the  
 11 same as the person requesting the hearing. The 72-hour period in this subsection does not include  
 12 holidays, Saturdays or Sundays.

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

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

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

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

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

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

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

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

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

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

45 **SECTION 15.** ORS 819.210 is amended to read:

1 819.210. (1) If a vehicle taken into custody under ORS 819.110 or 819.120 is not reclaimed within  
 2 30 days after it is taken into custody, the *[authority with custody of]* **person that towed** the vehicle  
 3 shall either:

4 (a) Sell the vehicle and its contents at public auction in the manner provided in ORS 87.192 and  
 5 87.196; or

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

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

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

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

13 *[(5) Upon sale of a vehicle under this section, an authority shall issue a certificate of sale as de-*  
 14 *scribed in ORS 819.240.]*

15 **SECTION 16.** ORS 819.215 is amended to read:

16 819.215. (1) If an abandoned vehicle is appraised at a value of \$500 or less by a person who holds  
 17 a certificate issued under ORS 819.480, the person *[who]* **that** towed the vehicle *[or the authority that*  
 18 *requested the tow, if the authority chooses to dispose of the vehicle,]* shall:

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

20 (b) Photograph the vehicle;

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

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

25 (2) The authority that requests towing of an abandoned vehicle shall provide the *[tow*  
 26 *company]* **person that tows the vehicle**, at the time of the tow, the name and address of the reg-  
 27 istered owner of the vehicle, as shown by records of the department, and the names and addresses  
 28 of any persons claiming interests in the vehicle, as shown by records of the department.

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

35 (4) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior own-  
 36 ership and possessory rights.

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

42 **SECTION 17.** ORS 819.270 is amended to read:

43 819.270. (1) A person commits the offense of illegal operation of a junk vehicle sold by a public  
 44 body if the person operates a vehicle *[previously sold]* **disposed of** under ORS *[819.220]* **819.215** and  
 45 the vehicle is not registered as a reconstructed vehicle, an assembled vehicle or a replica.

1 (2) The offense described in this section, illegal operation of a junk vehicle sold by a public  
2 body, is a Class C misdemeanor.

3 **SECTION 18.** ORS 819.480 is amended to read:

4 819.480. (1) A person who is issued a vehicle appraiser certificate by the Department of Trans-  
5 portation under this section is qualified to appraise any vehicle, including vehicles for sale under  
6 ORS 819.210 and [819.220] **819.215.**

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

10 (a) A method of ascertaining the qualifications and competence of individuals to conduct vehicle  
11 appraisals in accordance with the rules of the department and generally accepted methods of ap-  
12 praisal.

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

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

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

19 (3) The department may establish rules to adopt educational requirements for issuance or re-  
20 newal of vehicle appraiser certificates.

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

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

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

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

28 **SECTION 19. ORS 819.220, 819.240, 819.250 and 819.260 are repealed.**

29 **SECTION 20. The amendments to ORS 801.040, 809.700, 819.016, 819.040, 819.100, 819.110,**  
30 **819.120, 819.140, 819.150, 819.160, 819.170, 819.180, 819.185, 819.190, 819.210, 819.215, 819.270 and**  
31 **819.480 by sections 1 to 18 of this 2009 Act and the repeal of ORS 819.220, 819.240, 819.250 and**  
32 **819.260 by section 19 of this 2009 Act apply only to vehicles taken into custody under ORS**  
33 **819.110 to 819.215 on or after the effective date of this 2009 Act. Any vehicle taken into cus-**  
34 **tody under ORS 819.110 to 819.215 before the effective date of this 2009 Act shall continue to**  
35 **be governed by the law in effect immediately before the effective date of this 2009 Act.**

36