



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Director's Office  
355 Capitol St. NE  
Salem, OR 97301

**DATE:** March 14, 2013

**TO:** House Committee on Consumer Protection and Government Efficiency

**FROM:** Dale Hormann, ODOT Chief of Staff

**SUBJECT:** HB 3159 – Oregon Transportation Commission to set tower rates

## INTRODUCTION

HB 3159 would require the Oregon Transportation Commission to set rates for towers in certain situations. This would be uncharted and complex territory for the Commission. The work described in the bill may not be paid for with Highway Trust Fund dollars.

## DISCUSSION

The bill would require the Commission to set rates for towers when they tow a vehicle without prior authorization of the owner. The rate-setting is to be based on a complex set of factors. The factors include not only the actual towing of the vehicle, but also the “related services,” which according to the bill are hooking up, storing the vehicle, gas mileage, pictures, and unlocking the vehicle to be towed. The bill also states that these factors also include any other services reasonably related to towing, as determined by the Commission. In addition to the actions that account for the rate, the Commission also must consider the size of the vehicle towed and the distance traveled by the tower from the motor vehicle to a storage facility. The bill sets a maximum rate for the first 24 hours and a maximum rate for every day after the first day. However, under the bill these maximums do not apply to a tower that travels more than 20 miles from the motor vehicle to a storage facility. Therefore the Commission would need to establish two different sets of rates depending on whether the tow is subject to the statutory maximum.

The Commission and its ODOT staff have no experience in setting rates for consumer protection or for any private business. The limited fees the Commission and ODOT set involve cost recovery to run certain regulatory programs required by law, frequently because they cannot be paid for with Highway Funds. Setting private industry rates would be a significant departure from the agency's mission.

Finally, the bill has the Commission setting rates but provides no mechanism for anyone to enforce against those who charge more than the rate. There is no provision for investigations, auditing, oversight, or even to respond to complaints. The Department is not aware of other provisions in law that would place jurisdiction for enforcement of the regulations. DMV is responsible for titling and registering tow vehicles. DMV requires cargo insurance information along with the applications and fees, upon which DMV issues the tow (TW) plates and a tow certificate. DMV's Business Regulation section can inspect a tower's lien records to determine if they are selling vehicles in a manner that would require a dealer license. DMV has no other regulatory authority over towers. When DMV receives a customer complaint about a tower, unless the complaint is regarding registration, insurance, lien paperwork, or selling vehicles without a dealer license, the customer is referred to law enforcement or Department of Justice.

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## **CONCLUSION**

The bill would require the Oregon Transportation Commission to create two sets of complex rates for towers to charge in particular circumstances. The agency has no experience in setting private industry rates. There is no provision in the bill for enforcement so it is unknown what entity would field complaints, investigate allegations, or pursue sanctions. The costs for such rate-setting is not Highway Fund eligible, so another funding source would need to be identified for the Department to fill this role.