

Senate Bill 949

Sponsored by Senator STEINER HAYWARD; Senator RILEY, Representatives BUEHLER, GREENLICK

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**.

Exempts from property subject to tower's lien contents of towed motor vehicle for which owner or other person with interest in towed vehicle submits to tower affidavit stating that motor vehicle is being used as primary nighttime residence.

Prohibits tower from charging owner or person in lawful possession of motor vehicle fee for obtaining personal property from motor vehicle if motor vehicle serves as person's primary nighttime residence.

Expands qualifications for hardship driver permits to include those who need to operate motor vehicle because motor vehicle serves as person's primary nighttime residence.

A BILL FOR AN ACT

1
2 Relating to motor vehicles as primary nighttime residences; creating new provisions; and amending
3 ORS 98.812, 98.835, 98.858 and 807.240.

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

5 **SECTION 1.** ORS 98.812 is amended to read:

6 98.812. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the
7 parking facility or the owner of the proscribed property may have a tower tow the vehicle from the
8 parking facility or the proscribed property and place the vehicle in storage at a secure location
9 under the control of the tower.

10 (2) Prior to towing a vehicle under this section, a tower who tows a vehicle at the request of
11 an owner of a parking facility shall take at least one photograph of the vehicle and record the time
12 and date of the photograph. A photograph must show the vehicle left or parked in violation of ORS
13 98.810. The tower shall maintain for at least two years, in electronic or printed form, each photo-
14 graph taken along with the date and time of the photograph.

15 (3) A tower who tows a vehicle at the request of an owner of a parking facility or the owner
16 of proscribed property under this section shall provide to the owner or operator of the vehicle the
17 information required in ORS 98.856 in the manner provided in ORS 98.856.

18 (4) A tower is entitled to a lien on a towed vehicle and its contents for the tower's just and
19 reasonable charges and may retain possession thereof until the just and reasonable charges for the
20 towage, care and storage of the towed vehicle have been paid if the tower complies with the fol-
21 lowing requirements:

22 (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle
23 within one hour after the towed vehicle is placed in storage;

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

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 requirements of this paragraph, the amount of the lien is limited to a sum equal to the reasonable
2 expenses incurred within the 15-day period for towage, care and storage of the towed vehicle; and

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

15 **(5) Notwithstanding subsection (4) of this section, a tower is not entitled to a lien on the**
16 **contents of a towed vehicle for which the owner or any other person with an interest in the**
17 **towed vehicle, as indicated by the certificate of title, submits to the tower an affidavit stat-**
18 **ing that the motor vehicle is being used as a primary nighttime residence and that the motor**
19 **vehicle is not designed for use as, and ordinarily would not be used as, a regular sleeping**
20 **accommodation by human beings.**

21 [(5)] (6) The lien created by subsection (4) of this section may be foreclosed only in the manner
22 provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS
23 87.152.

24 **SECTION 2.** ORS 98.835 is amended to read:

25 98.835. (1) A tower who tows a vehicle pursuant to ORS 98.830 is immune from civil liability for
26 towing the vehicle if the tower has a form described in ORS 98.830 (2), filled out by a person pur-
27 porting to be the owner or a person in lawful possession of the private property from which the
28 vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out
29 of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course
30 of the towing.

31 (2) The tower who tows a vehicle pursuant to ORS 98.830 is entitled to a lien on the towed ve-
32 hicle and its contents for the tower's just and reasonable charges. The tower may retain possession
33 of the towed vehicle until the just and reasonable charges for the towage, care and storage of the
34 towed vehicle have been paid if the tower complies with the following requirements:

35 (a) The tower shall notify the local law enforcement agency of the location of the towed vehicle
36 within one hour after the towed vehicle is placed in storage;

37 (b) If the towed vehicle is registered in Oregon, the tower shall give notice by first class mail
38 with a certificate of mailing, within 15 days after the towed vehicle is placed in storage, to the
39 owner of the towed vehicle and any other person with an interest in the towed vehicle, as indicated
40 by the certificate of title. If notice under this paragraph is given by mail, it must be transmitted
41 within the 15-day period, but need not be received within that period, but within a reasonable time.
42 If the tower fails to comply with the notice requirements of this paragraph, the amount of the lien
43 is limited to a sum equal to the reasonable expenses incurred within the 15-day period for towage,
44 care and storage of the towed vehicle; and

45 (c) If the towed vehicle is not registered in Oregon, the tower shall, within 15 days after the

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

12 **(3) Notwithstanding subsection (2) of this section, a tower is not entitled to a lien on the**
 13 **contents of a towed vehicle for which the owner or any other person with an interest in the**
 14 **towed vehicle, as indicated by the certificate of title, submits to the tower an affidavit stat-**
 15 **ing that the motor vehicle is being used as a primary nighttime residence and that the motor**
 16 **vehicle is not designed for use as, and ordinarily would not be used as, a regular sleeping**
 17 **accommodation by human beings.**

18 [(3)] (4) The lien created by subsection (2) of this section may be foreclosed only in the manner
 19 provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS
 20 87.152.

21 **SECTION 3.** ORS 98.858 is amended to read:

22 98.858. (1) A tower in physical possession of a motor vehicle shall permit the owner or person
 23 in lawful possession of a motor vehicle the tower has towed to:

24 (a) Redeem the motor vehicle:

25 (A) Between 8 a.m. and 6 p.m. Monday through Friday, excluding legal holidays;

26 (B) At all other hours, within 60 minutes after asking the tower to release the motor vehicle;
 27 and

28 (C) Within 30 minutes of a time mutually agreed upon between the tower and the owner or
 29 person in lawful possession of the motor vehicle;

30 (b) Contact the tower at any time to receive information about the location of the motor vehicle
 31 and instructions for obtaining release of the motor vehicle; and

32 (c) Obtain all personal property of an emergency nature in the motor vehicle within the time
 33 allowed under paragraph (a) of this subsection.

34 (2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee
 35 in any amount to obtain personal property of an emergency nature except for a gate fee between
 36 the hours of 6 p.m. and 8 a.m. Monday through Friday, or on a Saturday, a Sunday or a legal holi-
 37 day.

38 **(3) A tower may not charge the owner or person in lawful possession of the motor vehicle**
 39 **a fee in any amount to obtain personal property if the owner or person in lawful possession**
 40 **of the motor vehicle provides the tower with an affidavit stating that the person is using the**
 41 **motor vehicle as a primary nighttime residence and that the motor vehicle is not designed**
 42 **for use as, and ordinarily would not be used as, a regular sleeping accommodation by human**
 43 **beings.**

44 [(3)] (4) As used in this section, "personal property of an emergency nature" includes but is not
 45 limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit

1 card, a checkbook, cash and child safety car and booster seats.

2 **SECTION 4.** ORS 807.240 is amended to read:

3 807.240. The Department of Transportation shall provide for issuance of hardship driver permits
4 in a manner consistent with this section. A hardship driver permit grants the driving privileges
5 provided in this section or under the permit. Except as otherwise provided in this section, a hardship
6 driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to
7 a license. The following apply to a hardship driver permit:

8 (1) The department may only issue a permit to a person whose driving privileges under the ve-
9 hicle code have been suspended.

10 (2) Except as provided in ORS 813.520, the department may reinstate the privilege to operate a
11 motor vehicle of any person whose license to operate a motor vehicle has been suspended by issuing
12 the person a hardship permit described under this section if such person qualifies under this section,
13 ORS 807.250, 807.252 and 813.500. However, the department may not issue a hardship permit au-
14 thORIZING a person to drive a commercial motor vehicle.

15 (3) To qualify for a hardship permit, a person must do all of the following in addition to any
16 applicable provisions under ORS 807.250, 807.252 and 813.500:

17 (a) The person must submit to the department an application for the permit that demonstrates
18 the person's need for the permit.

19 (b) The person must present satisfactory evidence, as determined by the department by rule:

20 (A) That the person must operate a motor vehicle as a requisite of the person's occupation or
21 employment;

22 (B) That the person must operate a motor vehicle to seek employment or to get to or from a
23 place of employment;

24 (C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment
25 or rehabilitation program;

26 (D) That the person or a member of the person's immediate family requires medical treatment
27 on a regular basis and that the person must operate a motor vehicle in order that the treatment
28 may be obtained; [*or*]

29 (E) That the person's driving privileges are suspended for driving uninsured in violation of ORS
30 806.010 or for violation of ORS 165.805 or 471.430 and are not suspended for any other reason and
31 that the person must operate a motor vehicle in order to provide necessary services to the person
32 or to a member of the person's family. The department shall determine by rule what constitutes
33 necessary services for purposes of this subparagraph. The rule shall include as necessary services,
34 but need not be limited to, grocery shopping, driving the person or the person's children to school,
35 driving to medical appointments and caring for elderly family members[.]; **or**

36 **(F) That the person is using the motor vehicle as a primary nighttime residence and that**
37 **the motor vehicle is not designed for use as, and ordinarily would not be used as, a regular**
38 **sleeping accommodation by human beings.**

39 (c) If the person is applying for a permit because the person or a member of the person's im-
40 mediate family requires medical treatment on a regular basis, the person must present, in addition
41 to any evidence required by the department under paragraph (b) of this subsection, a statement
42 signed by a licensed physician or certified nurse practitioner that indicates that the person or a
43 member of the person's immediate family requires medical treatment on a regular basis.

44 (d) The person must show that the person is not incompetent to drive nor a habitual incompe-
45 tent, reckless or criminally negligent driver as established by the person's driving record in this or

1 any other jurisdiction.

2 (e) The person must make a future responsibility filing.

3 (f) The person must submit any other information the department may require for purposes of
4 determining whether the person qualifies under this section, ORS 807.250, 807.252, 813.500 and
5 813.520.

6 (4) If the department finds that the person meets the requirements of this section and any ap-
7 plicable requirements under ORS 807.250, 807.252, 813.500 and 813.520, the department may issue the
8 person a hardship permit, valid for the duration of the suspension or for a shorter period of time
9 established by the department unless sooner suspended or revoked under this section. If the de-
10 partment issues the permit for a period shorter than the suspension period, renewal of the permit
11 shall be on such terms and conditions as the department may require. The permit:

12 (a) Shall limit the holder to operation of a motor vehicle only during specified times.

13 (b) May bear other reasonable limitations relating to the hardship permit or the operation of a
14 motor vehicle that the department deems proper or necessary. The limitations may include any
15 limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS
16 811.175 or 811.182.

17 (5) The department, upon receiving satisfactory evidence of any violation of the limitations of
18 a permit issued under this section or limitations placed on a hardship permit under ORS 807.252 or
19 813.510, may suspend or revoke the hardship permit.

20 (6) The fee charged for application or issuance of a hardship driver permit is the hardship driver
21 permit application fee under ORS 807.370. The department may not refund the fee if the application
22 is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit
23 is the same fee as that charged for renewal of a license. The application fee charged under this
24 subsection is in addition to any fee charged for reinstatement of driving privileges under ORS
25 807.370.

26 (7) The department may issue a permit granting the same driving privileges as those suspended
27 or may issue a permit granting fewer driving privileges, as the department determines necessary to
28 assure safe operation of motor vehicles by the permit holder.

29 **SECTION 5. The amendments to ORS 98.812, 98.835 and 98.858 by sections 1 to 3 of this**
30 **2015 Act apply to vehicles towed on or after the effective date of this 2015 Act.**

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