

# A-Engrossed Senate Bill 488

Ordered by the Senate April 24  
Including Senate Amendments dated April 24

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

## 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.

*[Requires office of Attorney General to conduct study on fees and costs associated with recovering from towers vehicles that have been stolen and subsequently recovered and towed. Requires office to report results of study to interim committees of Legislative Assembly related to judiciary no later than September 15, 2018.]*

*[Sunsets December 31, 2018.]*

*[Declares emergency, effective on passage.]*

**Requires law enforcement agency that recovers vehicle reported as stolen to share owner's contact information with tower that assumes control of vehicle. Requires tower to attempt to provide certain notice to owner of stolen vehicle as soon as is practicable.**

**Allows person who owns stolen, totaled vehicle recovered by tower to transfer person's interest in vehicle to tower in payment or partial payment of tower's fees. Prohibits tower from assessing additional fees after person transfers interest in vehicle to tower. Prohibits tower from engaging in certain collections activities against person who transfers interest in vehicle within 14 days of date person receives notice that stolen, totaled vehicle was recovered by tower.**

**Requires tower in physical possession of vehicle to permit owner or person in lawful possession of vehicle to inspect vehicle during certain hours.**

## A BILL FOR AN ACT

1  
2 Relating to towing; creating new provisions; and amending ORS 98.852, 98.858, 819.012 and 822.015.

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

### 4 5 **STOLEN VEHICLES AND SHARING VEHICLE OWNER'S** 6 **CONTACT INFORMATION WITH TOWERS**

7  
8 **SECTION 1.** ORS 98.852 is amended to read:

9 98.852. As used in ORS 98.854 to 98.862:

10 (1) "Consideration" has the meaning given that term in ORS 171.725.

11 **(2) "Law enforcement agency" has the meaning given that term in ORS 131.915.**

12 [(2)] **(3)** "Motor vehicle" has the meaning given that term in ORS 801.360.

13 [(3)] **(4)** "Parking facility" has the meaning given that term in ORS 98.805.

14 [(4)] **(5)** "Tower" means a person that:

15 (a) Owns or operates a tow vehicle for profit; or

16 (b) Is employed by a person that owns or operates a tow vehicle for profit.

17 [(5)] **(6)** "Tow vehicle" has the meaning given that term in ORS 801.530.

18 **SECTION 2. Section 3 of this 2017 Act is added to and made a part of ORS 98.854 to 98.862.**

**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       **SECTION 3.** (1) After a motor vehicle reported as stolen is recovered by a law enforce-  
2 ment agency, the agency shall share the owner's contact information, including home ad-  
3 dress and telephone number, from either the Law Enforcement Data System or the stolen  
4 vehicle police report, with any tower that assumes control of the vehicle. The contact in-  
5 formation may be used only for the purposes described in subsection (2) of this section.

6       (2) As soon as is practicable after recovering the motor vehicle, the tower shall attempt  
7 to provide notice to the owner of the stolen motor vehicle:

8       (a) That the motor vehicle has been recovered; and

9       (b) Of the current location of the vehicle.

10       (3) Fees charged by the tower for storage of a stolen motor vehicle may not begin to  
11 accrue until the date that the tower first attempts to notify the owner of the stolen motor  
12 vehicle under subsection (2) of this section.

13  
14                                   **STOLEN VEHICLES AND TRANSFER OF TITLE TO TOWER**

15  
16       **SECTION 4.** Section 5 of this 2017 Act is added to and made a part of the Oregon Vehicle  
17 Code.

18       **SECTION 5.** (1) If a tower recovers a vehicle after a theft and the vehicle is totaled, the  
19 person who is the owner of the vehicle may transfer the person's interest in the vehicle to  
20 the tower in payment or partial payment of the tower's fees for recovery and storage of the  
21 vehicle.

22       (2) A tower that accepts a transfer of interest in a vehicle from a person under this  
23 section may not assess fees against the person for storage of the totaled vehicle that occurs  
24 on and after the date of the transfer of interest.

25       (3) Notwithstanding the provisions for liens under ORS 98.812 and 98.835, if a person  
26 transfers their interest in a vehicle under this section to a tower within 14 days of the date  
27 the person receives notice under section 3 of this 2017 Act, the tower may not bring an  
28 action against the person for, or otherwise take any affirmative steps to collect or permit  
29 an agency or assignee to collect, any amount as compensation for towing, caring for or  
30 storing the totaled vehicle.

31       (4) A tower that receives title under this section is responsible for any fees imposed by  
32 the Department of Transportation for transferring title.

33       **SECTION 6.** ORS 819.012 is amended to read:

34       819.012. (1) A person other than an insurer commits the offense of failure to follow procedures  
35 for a totaled vehicle if the person:

36       (a) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (1)  
37 and does not surrender the certificate of title for the vehicle either to the Department of Trans-  
38 portation or to the insurer within 30 days of the declaration or other relevant act by the insurer.

39       (b) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (2)  
40 and does not notify the department of the status of the vehicle within 30 days of the day that the  
41 vehicle became a totaled vehicle.

42       (c) Is the registered owner of a vehicle that is a totaled vehicle as defined in ORS 801.527 (3)  
43 and does not surrender the certificate of title for the vehicle to the department within 30 days of  
44 the date the vehicle became a totaled vehicle.

45       (d) Receives or purchases a totaled vehicle and does not surrender the certificate of title for the

1 vehicle to the department within 30 days of purchase or receipt of the vehicle.

2 (2) A person is not required to surrender the certificate of title if the person is unable to obtain  
3 the certificate for the vehicle. If the person is unable to obtain the certificate, the person shall no-  
4 tify the department that the vehicle is a totaled vehicle and shall notify the department of the rea-  
5 son that the person is unable to surrender the certificate.

6 **(3) A person is not required to surrender the certificate of title if:**

7 **(a) The person transferred their interest in the totaled vehicle to a tower pursuant to**  
8 **section 5 of this 2017 Act; or**

9 **(b) The person is a tower that received interest in the totaled vehicle pursuant to section**  
10 **5 of this 2017 Act and the tower subsequently transfers interest in the totaled vehicle to a**  
11 **dismantler within 30 days of the date the tower received interest in the totaled vehicle.**

12 [(3)] (4) If the vehicle is one for which title was issued in a form other than a certificate, the  
13 person shall notify the department that the vehicle is a totaled vehicle and shall follow procedures  
14 adopted by the department by rule.

15 [(4)] (5) The offense described in this section, failure to follow procedures for a totaled vehicle,  
16 is a Class A misdemeanor.

17 **SECTION 7.** ORS 822.015 is amended to read:

18 822.015. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005  
19 does not apply to the following vehicles or persons:

20 (a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency ve-  
21 hicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or  
22 less.

23 (b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person  
24 owned the vehicle primarily for personal, family or household purposes. If the person has sold,  
25 traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year,  
26 the person shall have the burden of proving that the person owned the vehicles primarily for per-  
27 sonal, family or household purposes or for other purposes that the Department of Transportation,  
28 by rule, defines as constituting an exemption under this section.

29 (c) A receiver, trustee, personal representative or public officer while performing any official  
30 duties.

31 (d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by  
32 any jurisdiction.

33 (e) Except as otherwise provided in this paragraph, a manufacturer who sells vehicles the man-  
34 ufacturer has manufactured in Oregon. Nothing in this paragraph prevents any manufacturer from  
35 obtaining a vehicle dealer certificate under ORS 822.020. This paragraph does not exempt a man-  
36 ufacturer who sells or trades campers or travel trailers.

37 (f) An insurance adjuster authorized to do business under ORS 744.505 or 744.515 who is dis-  
38 posing of vehicles for salvage.

39 (g) Except as otherwise provided in this paragraph, a person who sells or trades or offers to sell  
40 or trade a vehicle that has been used in the operation of the person's business. This paragraph does  
41 not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or  
42 leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles.

43 (h) A person who receives no money, goods or services, either directly or indirectly, for dis-  
44 playing a vehicle or acting as an agent in the buying or selling of a vehicle.

45 (i) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle parts

1 for the person's own use in order to preserve, restore and maintain vehicles for the person's own  
2 use or for hobby or historical purposes.

3 (j) A manufactured structure dealer subject to the licensing requirement of ORS 446.671 or a  
4 person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer ac-  
5 cepted in trade as part of a manufactured structure transaction. A manufactured structure dealer-  
6 ship or exempt person may not directly sell more than three vehicles per calendar year under  
7 authority of this paragraph, but by consignment with a dealer certified under ORS 822.020 or 822.040  
8 may sell an unlimited number of vehicles acquired as described in this paragraph.

9 (k) A lien claimant who sells vehicles in order to foreclose possessory liens.

10 (L) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien claimant  
11 acquired through possessory liens if the vehicles are sold at the business location of the lien  
12 claimant.

13 (m) Electric personal assistive mobility devices.

14 **(n) A tower that received title for a vehicle under section 5 of this 2017 Act.**

15 (2) Notwithstanding ORS 822.005, the following may participate with other dealers in a display  
16 of vehicles, including but not limited to an auto show, if the display is an event that lasts for 10 days  
17 or less and is an event for which the public is charged admission:

18 (a) A person who is licensed as a vehicle dealer in another jurisdiction; or

19 (b) Any employee of a person who is licensed as a vehicle dealer in another jurisdiction.

20 (3) Notwithstanding ORS 822.005, a person who is licensed as a vehicle dealer in another juris-  
21 diction or an employee of a person who is certified or licensed as a vehicle dealer may participate  
22 in a vehicle auction if the vehicle auction is:

23 (a) Conducted by a vehicle dealer who holds a vehicle dealer certificate issued or renewed under  
24 ORS 822.020 or 822.040; and

25 (b) Open only to certified or licensed vehicle dealers or their employees.

26 (4) The department shall adopt rules to carry out the provisions of this section, including but  
27 not limited to specifying which dealers may take vehicles on consignment from other jurisdictions.

28  
29 **RIGHT TO INSPECT VEHICLE**

30  
31 **SECTION 8.** ORS 98.858 is amended to read:

32 98.858. (1) A tower in physical possession of a motor vehicle shall permit the owner or person  
33 in lawful possession of a motor vehicle the tower has towed to:

34 (a) Redeem **or inspect** the motor vehicle:

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

36 (B) At all other hours, within 60 minutes after asking the tower to release **or allow for the**  
37 **inspection of** the motor vehicle; and

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

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

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

44 (2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee  
45 in any amount to obtain personal property of an emergency nature except for a gate fee between

1 the hours of 6 p.m. and 8 a.m. Monday through Friday, or on a Saturday, a Sunday or a legal holi-  
2 day.

3 (3) As used in this section, “personal property of an emergency nature” includes but is not  
4 limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit  
5 card, a checkbook, cash and child safety car and booster seats.

6

7

### CAPTIONS

8

9 **SECTION 9. The unit captions used in this 2017 Act are provided only for the convenience**  
10 **of the reader and do not become part of the statutory law of this state or express any leg-**  
11 **islative intent in the enactment of this 2017 Act.**

12