

At the request of Attorney General Ellen Rosenblum

**PROPOSED AMENDMENTS TO
SENATE BILL 488**

1 In line 2 of the printed bill, delete “and declaring an emergency” and in-
2 sert “creating new provisions; and amending ORS 98.812, 98.835, 98.852,
3 819.012 and 822.015”.

4 Delete lines 4 through 15 and insert:
5

6 **“STOLEN VEHICLES AND SHARING VEHICLE OWNER’S**
7 **CONTACT INFORMATION WITH TOWERS**
8

9 **“SECTION 1.** ORS 98.852 is amended to read:

10 “98.852. As used in ORS 98.854 to 98.862:

11 “(1) ‘Consideration’ has the meaning given that term in ORS 171.725.

12 **“(2) ‘Law enforcement agency’ has the meaning given that term in**
13 **ORS 131.915.**

14 “[2] (3) ‘Motor vehicle’ has the meaning given that term in ORS 801.360.

15 “[3] (4) ‘Parking facility’ has the meaning given that term in ORS 98.805.

16 “[4] (5) ‘Tower’ means a person that:

17 “(a) Owns or operates a tow vehicle for profit; or

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

20 “[5] (6) ‘Tow vehicle’ has the meaning given that term in ORS 801.530.

21 **“SECTION 2. Section 3 of this 2017 Act is added to and made a part**

1 of ORS 98.854 to 98.862.

2 **“SECTION 3. (1) After a motor vehicle reported as stolen is recov-**
3 **ered by a law enforcement agency, the agency shall share the owner’s**
4 **contact information, including home address and telephone number,**
5 **from either Law Enforcement Data System or the stolen vehicle police**
6 **report, with any tower who assumes control of the vehicle.**

7 **“(2) The contact information may be used only for the purposes of**
8 **allowing the tower to contact the owner to notify the person that the**
9 **motor vehicle has been recovered and the current location of the ve-**
10 **hicle.**

11 **“(3) The tower shall notify the owner no later than 24 hours after**
12 **recovering the motor vehicle.**

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

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

18 **“SECTION 5. (1) If a tower recovers a vehicle after a theft and the**
19 **vehicle is totaled, the registered owner may transfer title to the tower**
20 **instead of paying any amount of the tower’s fees for recovery and**
21 **storage of the stolen vehicle.**

22 **“(2) The tower is responsible for any fees imposed by the Depart-**
23 **ment of Transportation for transferring title.**

24 **“SECTION 6. ORS 819.012 is amended to read:**

25 **“819.012. (1) A person other than an insurer commits the offense of failure**
26 **to follow procedures for a totaled vehicle if the person:**

27 **“(a) Is the registered owner of a vehicle that is a totaled vehicle as de-**
28 **defined in ORS 801.527 (1) and does not surrender the certificate of title for the**
29 **vehicle either to the Department of Transportation or to the insurer within**
30 **30 days of the declaration or other relevant act by the insurer.**

1 “(b) Is the registered owner of a vehicle that is a totaled vehicle as de-
2 fined in ORS 801.527 (2) and does not notify the department of the status of
3 the vehicle within 30 days of the day that the vehicle became a totaled ve-
4 hicle.

5 “(c) Is the registered owner of a vehicle that is a totaled vehicle as de-
6 fined in ORS 801.527 (3) and does not surrender the certificate of title for the
7 vehicle to the department within 30 days of the date the vehicle became a
8 totaled vehicle.

9 “(d) Receives or purchases a totaled vehicle and does not surrender the
10 certificate of title for the vehicle to the department within 30 days of pur-
11 chase or receipt of the vehicle.

12 “(2) A person is not required to surrender the certificate of title if the
13 person is unable to obtain the certificate for the vehicle. If the person is
14 unable to obtain the certificate, the person shall notify the department that
15 the vehicle is a totaled vehicle and shall notify the department of the reason
16 that the person is unable to surrender the certificate.

17 “**(3) An owner of a vehicle is not required to surrender the certif-**
18 **icate of title to the department or the person’s insurer if the registered**
19 **owner’s vehicle is recovered after a theft and the owner is authorized**
20 **under section 5 of this 2017 Act to transfer title to the tower that re-**
21 **covered the vehicle.**

22 “[3] (4) If the vehicle is one for which title was issued in a form other
23 than a certificate, the person shall notify the department that the vehicle is
24 a totaled vehicle and shall follow procedures adopted by the department by
25 rule.

26 “[4] (5) The offense described in this section, failure to follow proce-
27 dures for a totaled vehicle, is a Class A misdemeanor.

28 “**SECTION 7.** ORS 822.015 is amended to read:

29 “822.015. (1) In addition to any exemptions from the vehicle code under
30 ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

1 “(a) Road rollers, farm tractors, farm trailers, trolleys, implements of
2 husbandry, emergency vehicles, well-drilling machinery and boat or utility
3 trailers with a gross weight of 1,800 pounds or less.

4 “(b) The owner of a vehicle as shown by the vehicle title issued by any
5 jurisdiction if the person owned the vehicle primarily for personal, family
6 or household purposes. If the person has sold, traded, displayed or offered for
7 sale, trade or exchange more than five vehicles in one calendar year, the
8 person shall have the burden of proving that the person owned the vehicles
9 primarily for personal, family or household purposes or for other purposes
10 that the Department of Transportation, by rule, defines as constituting an
11 exemption under this section.

12 “(c) A receiver, trustee, personal representative or public officer while
13 performing any official duties.

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

16 “(e) Except as otherwise provided in this paragraph, a manufacturer who
17 sells vehicles the manufacturer has manufactured in Oregon. Nothing in this
18 paragraph prevents any manufacturer from obtaining a vehicle dealer certifi-
19 cate under ORS 822.020. This paragraph does not exempt a manufacturer
20 who sells or trades campers or travel trailers.

21 “(f) An insurance adjuster authorized to do business under ORS 744.505
22 or 744.515 who is disposing of vehicles for salvage.

23 “(g) Except as otherwise provided in this paragraph, a person who sells
24 or trades or offers to sell or trade a vehicle that has been used in the oper-
25 ation of the person’s business. This paragraph does not exempt a person who
26 is in the business of selling, trading, displaying, rebuilding, renting or leas-
27 ing vehicles from any requirement to obtain a certificate for dealing in those
28 vehicles.

29 “(h) A person who receives no money, goods or services, either directly
30 or indirectly, for displaying a vehicle or acting as an agent in the buying

1 or selling of a vehicle.

2 “(i) A person who collects, purchases, acquires, trades or disposes of ve-
3 hicles and vehicle parts for the person’s own use in order to preserve, restore
4 and maintain vehicles for the person’s own use or for hobby or historical
5 purposes.

6 “(j) A manufactured structure dealer subject to the licensing requirement
7 of ORS 446.671 or a person exempt from licensing under ORS 446.676 when
8 selling a vehicle, trailer or semitrailer accepted in trade as part of a manu-
9 factured structure transaction. A manufactured structure dealership or ex-
10 empt person may not directly sell more than three vehicles per calendar year
11 under authority of this paragraph, but by consignment with a dealer certified
12 under ORS 822.020 or 822.040 may sell an unlimited number of vehicles ac-
13 quired as described in this paragraph.

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

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

19 “(m) Electric personal assistive mobility devices.

20 “(n) **A tower who received title for vehicle under section 5 of this**
21 **2017 Act.**

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

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

28 “(b) Any employee of a person who is licensed as a vehicle dealer in an-
29 other jurisdiction.

30 “(3) Notwithstanding ORS 822.005, a person who is licensed as a vehicle

1 dealer in another jurisdiction or an employee of a person who is certified
2 or licensed as a vehicle dealer may participate in a vehicle auction if the
3 vehicle auction is:

4 “(a) Conducted by a vehicle dealer who holds a vehicle dealer certificate
5 issued or renewed under ORS 822.020 or 822.040; and

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

7 “(4) The department shall adopt rules to carry out the provisions of this
8 section, including but not limited to specifying which dealers may take ve-
9 hicles on consignment from other jurisdictions.

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“STOLEN VEHICLES AND TOWER’S LIENS

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“**SECTION 8.** ORS 98.812 is amended to read:

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

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

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

“(4) A tower is entitled to a lien on a towed vehicle and its contents for

1 the tower's just and reasonable charges and may retain possession thereof
2 until the just and reasonable charges for the towage, care and storage of the
3 towed vehicle have been paid if the tower complies with the following re-
4 quirements:

5 “(a) The tower shall notify the local law enforcement agency of the lo-
6 cation of the towed vehicle within one hour after the towed vehicle is placed
7 in storage;

8 “(b) If the towed vehicle is registered in Oregon, the tower shall give
9 notice, within 15 days after the towed vehicle is placed in storage, to the
10 owner of the towed vehicle or any other person with an interest in the towed
11 vehicle, as indicated by the certificate of title. If notice under this paragraph
12 is given by mail, it must be transmitted within the 15-day period, but need
13 not be received within that period, but within a reasonable time. If the
14 tower fails to comply with the notice requirements of this paragraph, the
15 amount of the lien is limited to a sum equal to the reasonable expenses in-
16 curred within the 15-day period for towage, care and storage of the towed
17 vehicle; and

18 “(c) If the towed vehicle is not registered in Oregon, the tower shall,
19 within 15 days after the towed vehicle is placed in storage, notify and re-
20 quest the title information and the name and address of the owner of the
21 towed vehicle from the motor vehicle agency for the state in which the towed
22 vehicle is registered. The tower shall have 15 days from the date of receipt
23 of the information from the state motor vehicle agency to notify the owner
24 of the towed vehicle or any other person with an interest in the towed ve-
25 hicle, as indicated by the certificate of title. If notice under this paragraph
26 is given by mail, it must be transmitted within 15 days from the receipt of
27 information from the state motor vehicle agency, but need not be received
28 within that period, but within a reasonable time. If the tower fails to comply
29 with the notice requirements of this paragraph, the amount of the lien is
30 limited to a sum equal to the reasonable expenses incurred within the period

1 between storage of the towed vehicle and receipt of information from the
2 state motor vehicle agency for towage, care and storage of the towed vehicle.

3 “(5)(a) The lien created by subsection (4) of this section may be foreclosed
4 only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for fore-
5 closure of liens arising or claimed under ORS 87.152.

6 “(b) **A tower may not bring an action against the owner of a towed**
7 **vehicle for, or otherwise take any affirmative steps to collect or permit**
8 **an agency or assignee to collect, any amount as compensation for**
9 **towing, caring for or storing the towed vehicle if a police report shows**
10 **that the vehicle was stolen and the tower:**

11 “(A) **Recovered the vehicle after the theft; and**

12 “(B) **Foreclosed a lien on, sold and recovered proceeds from selling**
13 **the vehicle as provided in paragraph (a) of this subsection.**

14 “**SECTION 9.** ORS 98.835 is amended to read:

15 “98.835. (1) A tower who tows a vehicle pursuant to ORS 98.830 is immune
16 from civil liability for towing the vehicle if the tower has a form described
17 in ORS 98.830 (2), filled out by a person purporting to be the owner or a
18 person in lawful possession of the private property from which the vehicle
19 is towed. This subsection does not grant immunity for any loss, damage or
20 injury arising out of any negligent or willful damage to, or destruction of,
21 the vehicle that occurs during the course of the towing.

22 “(2) The tower who tows a vehicle pursuant to ORS 98.830 is entitled to
23 a lien on the towed vehicle and its contents for the tower’s just and rea-
24 sonable charges. The tower may retain possession of the towed vehicle until
25 the just and reasonable charges for the towage, care and storage of the towed
26 vehicle have been paid if the tower complies with the following requirements:

27 “(a) The tower shall notify the local law enforcement agency of the lo-
28 cation of the towed vehicle within one hour after the towed vehicle is placed
29 in storage;

30 “(b) If the towed vehicle is registered in Oregon, the tower shall give

1 notice by first class mail with a certificate of mailing, within 15 days after
2 the towed vehicle is placed in storage, to the owner of the towed vehicle and
3 any other person with an interest in the towed vehicle, as indicated by the
4 certificate of title. If notice under this paragraph is given by mail, it must
5 be transmitted within the 15-day period, but need not be received within that
6 period, but within a reasonable time. If the tower fails to comply with the
7 notice requirements of this paragraph, the amount of the lien is limited to
8 a sum equal to the reasonable expenses incurred within the 15-day period for
9 towage, care and storage of the towed vehicle; and

10 “(c) If the towed vehicle is not registered in Oregon, the tower shall,
11 within 15 days after the towed vehicle is placed in storage, notify and re-
12 quest the title information and the name and address of the owner of the
13 towed vehicle from the motor vehicle agency for the state in which the towed
14 vehicle is registered. The tower shall have 15 days from the date of receipt
15 of the information from the state motor vehicle agency to notify the owner
16 of the towed vehicle or any other person with an interest in the towed ve-
17 hicle, as indicated by the certificate of title. If notice under this paragraph
18 is given by mail, it must be transmitted within 15 days from the receipt of
19 information from the state motor vehicle agency, but need not be received
20 within that period, but within a reasonable time. If the tower fails to comply
21 with the notice requirements of this paragraph, the amount of the lien is
22 limited to a sum equal to the reasonable expenses incurred within the period
23 between storage of the towed vehicle and receipt of information from the
24 state motor vehicle agency for towage, care and storage of the towed vehicle.

25 “(3)(a) The lien created by subsection (2) of this section may be foreclosed
26 only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for fore-
27 closure of liens arising or claimed under ORS 87.152.

28 “(b) **A tower may not bring an action against the owner of a towed**
29 **vehicle for, or otherwise take any affirmative steps to collect or permit**
30 **an agency or assignee to collect, any amount as compensation for**

1 towing, caring for or storing the towed vehicle if a police report shows
2 that the vehicle was stolen and the tower:

3 “(A) Recovered the vehicle after the theft; and

4 “(B) Foreclosed a lien on, sold and recovered proceeds from selling
5 the vehicle as provided in paragraph (a) of this subsection.

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“CAPTIONS

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

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