House Bill 3031

Sponsored by Representative SMITH G

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.

Establishes limits for charges for motor vehicle towing and storage not requested by vehicle owner or operator.

A BILL FOR AN ACT

Relating to vehicle towing; creating new provisions; and amending ORS 98.812, 98.820, 98.859, 98.861, 98.864 and 819.160.

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

SECTION 1. ORS 98.859 is amended to read:

98.859. (1) [Each city or county may establish] The maximum rates that a tower may charge for towing a motor vehicle, and for all related services for towing a motor vehicle, but not including storage, in response to a request for towing of a vehicle [parked within the city or county] that is made by a person other than the owner or operator of the motor vehicle may not exceed $250. The rates for related services include charges for hookup, storage, gas mileage, pictures, unlocking the motor vehicle and any other services reasonably related to towing [as determined by the city or county].

(2) The maximum rate that a tower may charge per each day the storage is open to the public for storage of a motor vehicle that was towed in response to a request for towing from a person other than the owner or operator of a motor vehicle is:

(a) $25; or

(b) $35 for a heavy-duty truck as defined in ORS 468A.795.

(3) The rates in subsections (1) and (2) of this section apply to calendar years beginning January 1, 2022, and are annually increased as calculated by the Department of Administrative Services under ORS 98.864 (2).

(4) Any person that bills or charges for towing or storage under subsections (1) or (2) of this section must accept all commonly used and acceptable methods of payment, including major credit cards and cash, at no additional charge to the payor.

(5) A city or county may establish lower maximum rates than the rates specified in subsections (1) and (2) of this section. Rates established by a city or county under this subsection apply in all portions of the city or county.

[(2)] When establishing the maximum rates [under this section], the city or county [shall] may take into consideration the size of the motor vehicle towed and the distance traveled by the tower from the location of the motor vehicle to a storage facility.

[(3)] (6) Each city or county that establishes maximum rates under subsection (5) of this section shall also establish a process by which the city or county will receive and respond to com-

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.

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plaints relating to violations of this section.

[(4)] (7) If a city establishes the maximum rates under subsection (5) of this section, the county rates do not apply to towing a vehicle that is parked within the boundaries of that city and the tower is required to comply with only the city's established maximum rates.

SECTION 2. ORS 98.864 is amended to read:

98.864. (1) Except as provided in subsection (2) of this section, the Attorney General may adopt rules to implement ORS 98.853 to 98.862.

(2) No later than October 15 of each year, the Oregon Department of Administrative Services shall calculate and publish the maximum towing and storage rates allowed under ORS 98.859 (1) or (2) for the following calendar year as the current maximum price plus the percentage change in the Consumer Price Index for All Urban Consumers, West Region (All Items), as most recently published by the Bureau of Labor Statistics of the United States Department of Labor between September of the current year and September of the preceding year. Rates calculated under this section may not be decreased from the preceding year.

SECTION 3. The calculations required by the amendments to ORS 98.864 by section 2 of this 2021 Act apply to calculations published by the Oregon Department of Administrative Services by October 15, 2023, and apply to calendar years beginning January 1, 2024.

SECTION 4. ORS 98.812 is amended to read:

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) Subject to ORS 98.859, a tower is entitled to a lien on a towed vehicle and its contents for the tower's just and reasonable charges and may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towage, care and storage, subject to subsection (3) of this section, of the towed vehicle have been paid if the tower notifies the local law enforcement agency of the location of the towed vehicle within one hour after the towed vehicle is placed in storage.

(3) A tower may not assess any storage charge against the towed vehicle under subsection (2) of this section that is incurred after:

(a) If the towed vehicle is registered in Oregon, three business days after the vehicle is placed in storage unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the certificate of title.

(b) If the towed vehicle is not registered in Oregon:

(A) Three business days after the vehicle is placed in storage unless, within that time, the tower notifies and requests the title information from the records of the motor vehicle agency for the state in which the towed vehicle is registered.

(B) Three business days from the date of receipt of the records requested under subparagraph (A) of this paragraph unless, within that time, the tower delivers notice by mail or gives actual notice to the owner of the towed vehicle and to each person with an interest in the vehicle as indicated by the requested records.

(4) The lien created by subsection (2) of this section may be foreclosed only in the manner provided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS 87.152.
SECTION 5. ORS 98.820 is amended to read:

98.820. (1) As used in this section:

(a) “Class 1 flammable liquids” has the meaning given that term in ORS 480.310.

(b) “Fuel dispensary” means a filling station, service station, garage or other dispensary where Class 1 flammable liquids or diesel fuel is dispensed at retail for use in vehicles.

(c) “Towing company” means a company holding a towing business certificate issued under ORS 822.205.

(d) “Vehicle” has the meaning given that term in ORS 801.590.

(2) An owner, operator or employee of a fuel dispensary may have a vehicle towed from the fuel dispensary premises if:

(a) The vehicle is preventing or hindering access to a pump, hose, nozzle or other parts of a fuel dispensing device;

(b) The prevention or hindering of access to the fuel dispensing device is interfering with the business activities of the fuel dispensary;

(c) An owner, operator or employee of the fuel dispensary affixes a notice to the windshield of the vehicle or, if the vehicle lacks a windshield, in another prominent location on the vehicle, stating the date and time the notice was affixed and that the vehicle may be towed if it is not removed within two hours after the date and time stated on the notice;

(d) The notice described in paragraph (c) of this subsection remains on the vehicle for at least two hours before the vehicle is towed; and

(e) The owner, operator or employee provides the towing company with a signed statement that:

(A) Describes the vehicle to be towed;

(B) Identifies the property from which the vehicle is to be towed; and

(C) States that the vehicle is preventing or hindering access to a fuel dispensing device in a manner that is interfering with business activity at the fuel dispensary.

(3) A towing company that tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the towing company possesses a signed statement described in subsection (2)(e) of this section. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

(4) A towing company is entitled to a lien on a vehicle towed under this section and its contents for the just and reasonable charges of the towing company. The towing company may retain possession of the towed vehicle and its contents until the just and reasonable charges for the towing, care and storage of the towed vehicle have been paid if the towing company provides timely notice in the manner described under ORS 98.812 (2) to local law enforcement, the owner of the vehicle and any person shown on a certificate of title to have an interest in the vehicle.

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

4 A vehicle towed under this section is subject to liens, possession and foreclosure by a tower under ORS 98.812 (2) to (4).

(6) The procedure established in this section is an alternative to any other lawful procedure available for obtaining the removal from private property of a vehicle that is abandoned or parked without authorization.

SECTION 6. ORS 819.160 is amended to read:
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819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its contents if the person, at the request of an authority described under ORS 819.140, tows any of the following vehicles:

(a) An abandoned vehicle appraised at a value of more than $500 by a person who holds a certificate issued under ORS 819.480.

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

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

(2) A lien established under this section shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. However, the storage charge is limited subject to ORS 98.812 (3) and 98.859. A lien described under this section does not attach:

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

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

(3) A person that tows any vehicle at the request of an authority under ORS 819.110 or 819.120 shall transmit by first class mail with a certificate of mailing, no later than the third business day after the vehicle and its contents are placed in storage, written notice, approved by the authority, containing information on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided to the owner, a person entitled to possession or any person with an interest recorded on the title to the vehicle. This subsection does not apply to a person that tows an abandoned vehicle that is appraised at a value of $500 or less by a person who holds a certificate issued under ORS 819.480.

SECTION 7. ORS 98.861 is amended to read:

98.861. (1) Subject to subsection (5) of this section:

(a) A tower may not tow vehicles parked within the boundaries of a city without a license issued by the city, if the city has established the maximum rates that a tower may charge under ORS 98.859 (5).

(b) A tower may not tow vehicles parked within the boundaries of a county without a license issued by the county, if the county has established the maximum rates that a tower may charge under ORS 98.859 (5). The tower is not required to obtain a license from a county when the tower tows a vehicle that is parked within the boundaries of a city located within the county and the tower is licensed by that city.

(2) Application for a license under this section must be made in writing in the form prescribed by the city or county[,] and must contain the name and address of the applicant and any other information that the city or county may require.

(3) The fee for issuing a license under this section shall be established by the city or county[,] but may not exceed the cost of administering the licensing program and administering ORS 98.859 (5) to (7).

(4) A license issued under this section expires annually on December 31 or on a date that may be specified by the city or county by ordinance.

(5) The requirement to get a license under this section applies only to towers that tow a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

(6) A city or county may suspend or revoke a license issued under this section for violation of
ORS 98.853, 98.854, 98.856 or 98.859.