

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

1
2 Relating to vehicle towing; creating new provisions; and amending ORS 98.812, 98.820, 98.859, 98.861,
3 98.864 and 819.160.

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

5 **SECTION 1.** ORS 98.859 is amended to read:

6 98.859. (1) [*Each city or county may establish*] The maximum rates that a tower may charge for
7 towing a motor vehicle, and for all related services for towing a motor vehicle, **but not including**
8 **storage**, in response to a request for towing of a vehicle [*parked within the city or county*] that is
9 made by a person other than the owner or operator of the motor vehicle **may not exceed \$250**. The
10 rates for related services include charges for hookup, [*storage,*] gas mileage, pictures, unlocking the
11 motor vehicle and any other services reasonably related to towing [*as determined by the city or*
12 *county*].

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

16 **(a) \$25; or**

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

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

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

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

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

30 [(3)] **(6) Each city or county that establishes maximum rates under subsection (5) of this sec-**
31 **tion 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.

1 plaints relating to violations of this section.

2 [(4)] (7) If a city establishes the maximum rates under **subsection (5) of this section**, the county
 3 rates do not apply to towing a vehicle that is parked within the boundaries of that city and the
 4 tower is required to comply with only the city’s established maximum rates.

5 **SECTION 2.** ORS 98.864 is amended to read:

6 98.864. (1) **Except as provided in subsection (2) of this section**, the Attorney General may
 7 adopt rules to implement ORS 98.853 to 98.862.

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

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

18 **SECTION 4.** ORS 98.812 is amended to read:

19 98.812. (1) If a vehicle has been left or parked in violation of ORS 98.810, the owner of the
 20 parking facility or the owner of the proscribed property may have a tower tow the vehicle from the
 21 parking facility or the proscribed property and place the vehicle in storage at a secure location
 22 under the control of the tower.

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

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

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

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

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

39 (B) Three business days from the date of receipt of the records requested under subparagraph
 40 (A) of this paragraph unless, within that time, the tower delivers notice by mail or gives actual no-
 41 tice to the owner of the towed vehicle and to each person with an interest in the vehicle as indi-
 42 cated by the requested records.

43 (4) The lien created by subsection (2) of this section may be foreclosed only in the manner pro-
 44 vided by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS
 45 87.152.

1 **SECTION 5.** ORS 98.820 is amended to read:

2 98.820. (1) As used in this section:

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

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

6 (c) “Towing company” means a company holding a towing business certificate issued under ORS
7 822.205.

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

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

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

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

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

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

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

22 (A) Describes the vehicle to be towed;

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

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

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

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

37 *[(5) The lien created by subsection (4) of this section may be foreclosed only in the manner provided*
38 *by ORS 87.172 (3) and 87.176 to 87.206 for foreclosure of liens arising or claimed under ORS*
39 *87.152.]*

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

42 *[(6)]* (5) The procedure established in this section is an alternative to any other lawful procedure
43 available for obtaining the removal from private property of a vehicle that is abandoned or parked
44 without authorization.

45 **SECTION 6.** ORS 819.160 is amended to read:

1 819.160. (1) Except as otherwise provided by this section, a person shall have a lien on the ve-
 2 hicle and its contents if the person, at the request of an authority described under ORS 819.140, tows
 3 any of the following vehicles:

4 (a) An abandoned vehicle appraised at a value of more than \$500 by a person who holds a cer-
 5 tificate issued under ORS 819.480.

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

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

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

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

15 (b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or
 16 811.570.

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

25 **SECTION 7.** ORS 98.861 is amended to read:

26 98.861. (1) Subject to subsection (5) of this section:

27 (a) A tower may not tow vehicles parked within the boundaries of a city without a license issued
 28 by the city, if the city has established the maximum rates that a tower may charge under ORS 98.859
 29 **(5)**.

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

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

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

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

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

45 (6) A city or county may suspend or revoke a license issued under this section for violation of

1 ORS 98.853, 98.854, 98.856 or 98.859.

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