

A-Engrossed House Bill 3186

Ordered by the House May 27
Including House Amendments dated May 27

Sponsored by Representative SOSA (at the request of State Board of Towing) (Presession filed.)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes the name of the State Board of Towing to the Oregon State Board of Towing. The Act says that the OSBT is an independent agency. (Flesch Readability Score: 77.8).

[Digest: The Act says that the State Board of Towing is an independent agency. (Flesch Readability Score: 69.9).]

Changes the name of the State Board of Towing to the Oregon State Board of Towing. Establishes the Oregon State Board of Towing as an independent board.

A BILL FOR AN ACT

Relating to the State Board of Towing; creating new provisions; and amending ORS 822.215, 822.250, 822.255, 822.260, 822.265, 822.270, 822.275, 822.280, 822.285, 822.290 and 822.995.

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

SECTION 1. ORS 822.215 is amended to read:

822.215. (1) The Department of Transportation may deny or refuse to issue any towing business certificate under ORS 822.205 or may suspend, revoke or refuse to renew any towing business certificate issued upon proof that the applicant for or holder of the certificate has done any of the following:

(a) Used fraud or deception in securing the certificate.

(b) Received in any manner or by any device any rebate or other additional fee for towing or recovery from a person who performs repairs on a vehicle who does not also own the vehicle. This paragraph does not prohibit the payment of the towing fee by a person who performs repairs on a vehicle if the fee is included in the charges by that person for repairs on the vehicle.

(c) Used vehicles for the purposes of towing or recovering services that did not meet the minimum safety standards established by the department.

(d) Failed to display special towing business registration plates, stickers or indicia or identification devices for proportionally registered tow vehicles authorized under ORS 805.200 on each vehicle used to tow or recover vehicles.

(e) Failed to maintain the amounts and types of insurance required to qualify for issuance of a towing business certificate under ORS 822.205.

(f) Failed to obtain any permits or authority required under any provision of ORS chapter 825 or rules adopted thereunder.

(g) Violated any provision of ORS 98.853, 98.854, 98.856 or 98.858 or a rule adopted under ORS 822.265.

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.

(2) After receiving an order from the **Oregon** State Board of Towing under ORS 822.280, the department shall impose the disciplinary action requested by the board.

SECTION 2. ORS 822.250 is amended to read:

822.250. [(1) *The State Board of Towing is established within the Department of Transportation.*]

[(2)] (1) The **Oregon** State Board of Towing [*consists*] **is established, consisting** of nine members appointed by the Governor as follows:

(a) One tower who holds a towing business certificate issued under ORS 822.205 and who represents a city in Oregon with a population of 100,000 or more;

(b) One tower who holds a towing business certificate issued under ORS 822.205 and who represents a city in Oregon with a population of less than 100,000;

(c) One tower who holds a towing business certificate issued under ORS 822.205 and who has specialized knowledge in towing equipment and vehicles with a gross vehicle weight rating of more than 44,000 pounds;

(d) One tower who holds a towing business certificate issued under ORS 822.205 and who has specialized knowledge in towing vehicles with a gross vehicle weight rating of 26,000 pounds or less;

(e) One member who represents the insurance industry **with specialized knowledge of property and casualty insurance as it affects the towing industry**;

(f) One member from a tow program within the Department of State Police;

(g) One member who is a [*chief of police or a county sheriff*] **sworn law enforcement officer of a city, county, tribal or other local law enforcement agency with knowledge and experience in local law enforcement towing programs**;

(h) One member who is a member of the public; and

(i) One member who is a consumer advocate.

[(3)] (2) All members of the board must be residents of Oregon.

[(4)] (3) The term of office of each member of the board is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

[(5)] (4) A member of the board is entitled to compensation and expenses as provided in ORS 292.495.

SECTION 3. ORS 822.255 is amended to read:

822.255. (1) The **Oregon** State Board of Towing shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the offices as the board determines.

(2) Except as provided in subsection (3) of this section, a majority of the members of the board constitutes a quorum for the transaction of business.

(3) When the board is deliberating or voting on a matter before it, four members of the board constitute a quorum.

(4) No more than two members who are towers may vote on any matter. The chairperson shall assign a rotation of voting members who are towers. If an assigned member who is a tower has an actual or potential conflict of interest in a matter before the board, the chairperson shall designate a different member who is a tower and who does not have an actual or potential conflict of interest in the matter before the board to deliberate and vote on that matter.

(5) The board shall meet at least once a quarter at a time and place determined by the board.

The board shall also meet at such other times and places as are specified by the call of the chairperson, vice chairperson or administrative officer.

SECTION 4. ORS 822.260 is amended to read:

822.260. (1) The **Oregon** State Board of Towing shall appoint an administrative officer to serve at the pleasure of the Governor. The determination of qualifications of the administrative officer and appointment of the administrative officer shall be made by the board after consulting with the Governor.

(2) The administrative officer may not be a member of the board.

(3) The designation of the administrative officer must be by written order, filed with the Secretary of State.

(4) The administrative officer is in the unclassified service under ORS chapter 240, and the board shall fix the salary of the administrative officer in accordance with the applicable provisions of ORS chapter 240.

(5) Subject to any applicable provisions of ORS chapter 240, the administrative officer shall appoint all subordinate officers and employees of the board, prescribe their duties and fix their compensation.

SECTION 5. ORS 822.265 is amended to read:

822.265. (1) In accordance with applicable provisions of ORS chapter 183, the **Oregon** State Board of Towing may adopt rules:

(a) Necessary for the administration of the laws that the board is charged with administering.

(b) To implement ORS 98.853 to 98.862.

(2) The board may adopt a seal.

SECTION 6. ORS 822.270 is amended to read:

822.270. (1) The **Oregon** State Board of Towing Account is established in the State Treasury, separate and distinct from the General Fund.

(2) The account consists of the following:

(a) Moneys collected from fees imposed under ORS 822.285.

(b) Moneys appropriated to the account by the Legislative Assembly.

(c) Moneys from any other source.

(3) Moneys in the account are continuously appropriated to the *[Department of Transportation]* **Oregon State Board of Towing** to carry out the provisions of ORS 822.250 to 822.290 and 822.995.

SECTION 7. ORS 822.275 is amended to read:

822.275. The **Oregon** State Board of Towing, acting through its chairperson or vice chairperson, may administer oaths, take depositions and issue subpoenas to compel the attendance of witnesses and the production of documents or other written information necessary to carry out the provisions of ORS 822.250 to 822.290 and 822.995. If any person fails to comply with a subpoena issued under this section or refuses to testify on matters on which the person lawfully may be interrogated, the procedure set out in ORS 183.440 shall be followed to compel obedience.

SECTION 8. ORS 822.280 is amended to read:

822.280. (1) As used in this section:

(a) "Person" includes individuals, public bodies as defined in ORS 174.109, corporations, firms, associations, partnerships, limited liability companies, joint stock companies or any other business entity created under law.

(b) "Relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the com-

mon law or an individual in an adoptive relationship within the third degree as determined by the common law.

(2) In addition to any other penalty provided under ORS 822.215 and subject to ORS chapter 183, the **Oregon** State Board of Towing may order the Department of Transportation to deny, suspend, revoke or refuse to renew a towing business certificate issued under ORS 822.205, if the person holding or applying for the certificate:

(a) Fails to comply with any rule adopted by the board;

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605;

(c) Fails to comply with an order of the board, including but not limited to the failure to pay a civil penalty as ordered by the board;

(d) Has performed work as a tower without the appropriate certification or letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350, or has employed individuals to perform work as towers without appropriate certification or letter of appointment;

(e) Has advertised or otherwise held themselves out as being a certified towing business without holding the appropriate certification;

(f) As a, or as a relative of a, partner, officer, member or employee of a towing business, advertises or holds themselves out as a towing business that is certified if the towing business does not possess the appropriate certification;

(g) Has engaged in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles;

(h) Fails to meet any condition or requirement to obtain a certificate or letter of appointment;

(i) Acts or has acted in a manner creating a serious danger to the public health or safety; or

(j) Has been subject to a revocation, cancellation or suspension order or to other disciplinary action related to towing or the towing industry by any other public body, as defined in ORS 174.109, or has failed to pay a civil penalty imposed by the public body.

(3) A violation described in subsection (2) of this section for which the board orders that the department deny, suspend, revoke or refuse to renew a certificate to perform work or conduct business may be treated as a failure to be in conformance with ORS 822.250 to 822.290 and 822.995.

(4) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.

(5) The board is the agency responsible for providing notice and contested case hearing rights under ORS chapter 183 to a person subject to discipline under this section.

SECTION 9. ORS 822.285 is amended to read:

822.285. (1) In carrying out its investigative and enforcement duties, functions and powers, and notwithstanding any other provision of law, the **Oregon** State Board of Towing may procure services and award a contract for the personal services of a subject matter expert, on a case-by-case basis, in any manner deemed practical or convenient. The price of such contracts, including any amendments, may not exceed \$25,000.

(2) If the board has reason to believe that any person has been engaged or is engaging in any violation of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235, 822.250 to 822.290, 822.605 or 822.995 or any rule adopted under those statutes, or any order issued by the board, the board may, without bond, bring suit in the name and on behalf of the State of Oregon in the circuit court of any county of this state to enjoin the acts or practices and to enforce

compliance with ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235, 822.250 to 822.290, 822.605 or 822.995 or any rule adopted under those statutes, or any order issued by the board. Upon a proper showing, a permanent or temporary injunction, restraining order or writ of mandamus shall be granted.

(3) The board, by rule, may impose a fee on any person holding or applying for a towing business certificate. The amount of the fee shall be established to recover expenses incurred by the board in carrying out ORS 822.250 to 822.290 and 822.995. Any fees collected under this subsection shall be deposited into the **Oregon** State Board of Towing Account established under ORS 822.270.

SECTION 10. ORS 822.290 is amended to read:

822.290. (1) As used in this section:

(a) "Person" includes individuals, public bodies as defined in ORS 174.109, corporations, firms, associations, partnerships, limited liability companies, joint stock companies or any other business entity created under law.

(b) "Relative" means an individual related within the third degree as determined by the common law, a spouse, an individual related to a spouse within the third degree as determined by the common law or an individual in an adoptive relationship within the third degree as determined by the common law.

(2) Subject to ORS chapter 183, the **Oregon** State Board of Towing may order the Department of State Police to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing businesses established under ORS 181A.350, if the person holding or applying for the letter of appointment:

(a) Fails to comply with any rule adopted by the board;

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605;

(c) Fails to comply with an order of the board, including but not limited to the failure to pay a civil penalty as ordered by the board;

(d) Has performed work as a tower without the appropriate certification or letter of appointment or has employed individuals to perform work as towers without appropriate certification or letter of appointment;

(e) Has advertised or otherwise held themselves out as being a certified tower without holding the appropriate certification;

(f) As a, or as a relative of a, partner, officer, member or employee of a towing business, advertises or holds themselves out as a towing business that is certified if the towing business does not possess the appropriate certification;

(g) Has engaged in towing or recovering by any means, as part of any business operation of the person, vehicles that are wrecked, damaged, disabled or abandoned or replacement vehicles;

(h) Fails to meet any condition or requirement to obtain a certificate or letter of appointment;

(i) Acts or has acted in a manner creating a serious danger to the public health or safety; or

(j) Has been subject to a revocation, cancellation or suspension order or to other disciplinary action related to towing or the towing industry by any other public body, as defined in ORS 174.109, or has failed to pay a civil penalty imposed by the public body.

(3) A violation described in subsection (2) of this section for which the board orders the department to deny, suspend, condition or revoke a letter of appointment to participate on the rotational list of towing business established under ORS 181A.350 may be treated as a failure to be in conformance with ORS 822.250 to 822.290 and 822.995.

(4) A person subject to discipline under this section is entitled to a contested case hearing in accordance with ORS chapter 183.

(5) The board is the agency responsible for providing notice and contested case hearing rights under ORS chapter 183 to a person subject to discipline under this section.

SECTION 11. ORS 822.995 is amended to read:

822.995. (1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853, 98.854, 98.856, 98.858, 181A.350, 822.200, 822.215, 822.225, 822.230, 822.235 or 822.605 or any rule adopted by the **Oregon** State Board of Towing is subject to payment of a civil penalty to the board.

(2) The board may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed \$25,000 for each violation.

(3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

(4) In imposing a penalty pursuant to the schedule adopted under subsection (2) of this section, the board shall consider the following factors:

(a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations by the person incurring the penalty of statutes, rules or orders pertaining to facilities.

(c) The economic and financial conditions of the person incurring the penalty.

(d) The immediacy and extent to which a violation threatens the public health or safety.

SECTION 12. Section 13 of this 2025 Act is added to and made a part of ORS 822.250 to 822.290.

SECTION 13. (1) At the request of the Oregon State Board of Towing, the Department of Transportation and the board shall enter into an interagency agreement under which the department may provide central business operating services for the board including, but not limited to:

(a) Budget preparation services;

(b) Daily processing for accounts payable, accounts receivable, payroll, receipts and disbursements;

(c) Records and inventory maintenance accounting services;

(d) Financial management reports and revenue and expenditure projections;

(e) Purchasing, leasing and contracting services;

(f) Internal audit services;

(g) Computer and information system services;

(h) Dedicated office space and access to regular mail service;

(i) Human resource services; and

(j) Other services and resources associated with general business operations as needed.

(2) The board shall comply with applicable administrative rules adopted by the department related to the services provided by the department under subsection (1) of this section.

(3) The department may charge the board a fee for the services the department provides under this section. The department shall calculate the rate of the fee using the same methodology the department uses to calculate the central services assessment imposed within the department for similar services.

(4) At the request of the board, the department shall collect fees authorized under ORS

1 **822.285 (3) and distribute the funds to the Oregon State Board of Towing Account established**
2 **under ORS 822.270. The department may deduct direct merchant fee costs and an adminis-**
3 **trative fee for the collection service prior to fund distribution.**

4 **SECTION 14. The Oregon State Board of Towing Account is a continuation of the State**
5 **Board of Towing Account established by ORS 822.270. Moneys contained in the State Board**
6 **of Towing Account on the effective date of this 2025 Act are considered to be moneys in the**
7 **Oregon State Board of Towing Account.**