

House Bill 2269

Sponsored by Representative DEMBROW (at the request of former Representative Chuck Riley) (Pre-session 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 **as introduced**.

Establishes towing and storage rates for vehicles towed at request of person other than owner or operator of vehicle.

Prohibits tower from charging fee for storage of vehicle if vehicle is not in physical possession of tower.

Prohibits towers from charging gate fee after releasing vehicle during normal business hours. Restricts amount tower may charge for gate fee after normal business hours.

A BILL FOR AN ACT

1
2 Relating to towing; creating new provisions; and amending ORS 98.854, 98.856 and 98.858.

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

4 **SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS 98.854**
5 **to 98.862.**

6 **SECTION 2. When a tower tows a motor vehicle without the prior consent or authori-**
7 **zation of the owner or operator of the motor vehicle, the tower may charge only the fol-**
8 **lowing maximum rates for towing the following vehicles:**

9 (1) For a motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, \$145.

10 (2) For a motor vehicle with a gross vehicle weight rating of more than 10,000 pounds and
11 less than 26,001 pounds, \$240.

12 (3) For a motor vehicle with a gross vehicle weight rating of 26,001 pounds or more, \$300.

13 **SECTION 3. (1) When a tower tows a motor vehicle without the prior consent or au-**
14 **thorization of the owner or operator of the motor vehicle, the tower may charge only the**
15 **following maximum rates per day for storing the motor vehicle:**

16 (a) For a motor vehicle stored outside with a gross vehicle weight rating of 10,000 pounds
17 or less, \$25.

18 (b) For a motor vehicle stored inside with a gross vehicle weight rating of 10,000 pounds
19 or less, \$30.

20 (c) For a motor vehicle stored outside with a gross vehicle weight rating of more than
21 10,000 pounds, \$45.

22 (d) For a motor vehicle stored inside with a gross vehicle weight rating of more than
23 10,000 pounds, \$70.

24 (e) For a motor vehicle stored outside with a gross vehicle weight rating of more than
25 10,000 pounds that is carrying hazardous materials and that is subject to the rules adopted
26 under ORS 825.258, \$100.

27 (f) For a motor vehicle stored inside with a gross vehicle weight rating of more than
28 10,000 pounds that is carrying hazardous materials and that is subject to the rules adopted
29 under ORS 825.258, \$150.

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 **(2) A tower may not charge for inside storage under this section unless the owner or**
 2 **operator of the motor vehicle requests inside storage.**

3 **(3) For the purpose of calculating storage rates, if the first six hours a motor vehicle is**
 4 **stored span more than one day, the authorized storage fee is the charge for only one day.**

5 **SECTION 4.** ORS 98.854 is amended to read:

6 98.854. (1) A tower may not:

7 (a) Except as provided in subsection (3) of this section, tow a motor vehicle from a parking fa-
 8 cility without first contacting the owner of the facility or the owner's agent at the time of the tow.

9 (b) Tow a motor vehicle from a parking facility if the parking facility owner or owner's agent
 10 is an employee of a tower.

11 (c) Tow a motor vehicle without providing to the owner or operator of the motor vehicle the
 12 information required under ORS 98.856 in the manner required under ORS 98.856.

13 (d) Charge more than a price disclosed under ORS 98.856.

14 **(e) Charge for storage of a vehicle if the vehicle is not in the physical possession of the**
 15 **tower.**

16 [(e)] **(f)** Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident,
 17 unless the tower tows the motor vehicle pursuant to a prenegotiated payment agreement between
 18 the tower and a motor vehicle road service company.

19 [(f)] **(g)** Except as provided in subsection (2) of this section, park a tow vehicle within 1,000 feet
 20 of a parking facility for the purpose of monitoring the parking facility for towing business.

21 [(g)] **(h)** Provide consideration to obtain the privilege of towing motor vehicles from a parking
 22 facility. For the purposes of this paragraph, the provision of:

23 (A) Signs by a tower under ORS 98.862 does not constitute consideration.

24 (B) Goods or services by a tower below fair market value constitutes consideration.

25 [(h)] **(i)** Require, as a condition of towing a motor vehicle or releasing a motor vehicle or per-
 26 sonal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to
 27 dispute:

28 (A) The reason for the tow;

29 (B) The validity or amount of charges; or

30 (C) The responsibility of the tower for the condition of the motor vehicle or personal property
 31 in the motor vehicle.

32 [(i)] **(j)** Hold a towed motor vehicle for more than 24 hours without:

33 (A) Taking an inventory of all personal property in the motor vehicle that is visible from the
 34 exterior of the motor vehicle; and

35 (B) Holding the personal property in the motor vehicle in a secure manner.

36 [(j)] **(k)** Accept cash as a method of payment for towing services unless the tower provides exact
 37 change not later than the end of the business day following receipt of payment.

38 (2) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose of
 39 monitoring the parking facility for towing business if the tower provides notice of the hours during
 40 which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in
 41 each parking stall or at each entrance to the parking facility.

42 (3) A tower may tow a motor vehicle if the motor vehicle:

43 (a) Blocks or prevents access by emergency vehicles;

44 (b) Blocks or prevents entry to the premises;

45 (c) Blocks a parked motor vehicle;

1 (d) Violates a prominently posted parking prohibition; or

2 (e) Parks without permission in a parking facility used for residents of an apartment and:

3 (A) There are more residential units than there are parking spaces;

4 (B) The landlord has issued parking tags or other devices that identify vehicles that are au-
5 thorized to be parked on the premises; and

6 (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each
7 parking stall or at each entrance to the parking facility prohibiting or restricting public parking on
8 the parking facility.

9 **SECTION 5.** ORS 98.856 is amended to read:

10 98.856. (1) If the owner or operator of the motor vehicle is present at the time of the tow, the
11 tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is
12 complete, the tower shall release the motor vehicle and may charge the owner or operator of the
13 motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a
14 written statement described in subsection (2)(a) of this section.

15 (2) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written
16 statement of at least 10-point boldfaced type:

17 (a) The prices the tower charges for goods and services **including, if applicable, the rates**
18 **described in sections 2 and 3 of this 2011 Act;**

19 (b) The location where the tower will:

20 (A) Store the motor vehicle and personal property in the motor vehicle; or

21 (B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a
22 location under the control of the tower;

23 (c) The telephone number and any other means of contacting the tower, and the hours of avail-
24 ability at that telephone number and at the other means of contacting the tower;

25 (d) The methods of payment that the tower accepts; and

26 (e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower
27 will provide, in person or by mail, exact change not later than the end of the business day following
28 receipt of payment.

29 (3) If the owner or operator is present at the time of the tow, the tower shall provide the in-
30 formation required under subsection (2) of this section to the owner or operator of the motor vehicle
31 before towing the motor vehicle.

32 (4) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower
33 shall provide the information required under subsection (2) of this section to the owner or person
34 in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession
35 of the motor vehicle redeems the motor vehicle.

36 (5)(a) As used in this subsection, "business day" means Monday through Friday, excluding legal
37 holidays.

38 (b) If the owner or operator of the motor vehicle is not present at the time of the tow:

39 (A) Within five business days from the date of the tow, the tower shall request the name and
40 address of the owner of the motor vehicle from the state motor vehicle agency for the state in which
41 the motor vehicle is registered.

42 (B) The tower shall provide the information required under subsection (2) of this section to the
43 owner of the motor vehicle by mail by the end of the first business day following receipt of the in-
44 formation from the state motor vehicle agency.

45 (C) If the owner of the motor vehicle or a person in lawful possession of the motor vehicle re-

1 deems the motor vehicle or contacts the tower prior to five business days after the tow, the tower
 2 is not required to contact the state motor vehicle agency.

3 (6) If the owner or operator of the motor vehicle is not present at the time of the tow but the
 4 owner or operator of the motor vehicle requested the tow and arranged to pay the tower directly,
 5 the tower may obtain the name and address of the owner of the motor vehicle from the owner or
 6 operator of the motor vehicle and may provide the information required under subsection (2) of this
 7 section:

8 (a) Within five business days after the tow; or

9 (b) With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs.

10 **SECTION 6.** ORS 98.858 is amended to read:

11 98.858. (1) A tower in physical possession of a motor vehicle shall permit the owner or person
 12 in lawful possession of a motor vehicle the tower has towed to:

13 (a) Redeem the motor vehicle:

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

15 (B) At all other hours, within 60 minutes after asking the tower to release the motor vehicle;
 16 and

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

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

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

23 (2) A tower may not charge the owner or person in lawful possession of the motor vehicle a fee
 24 in any amount to obtain personal property of an emergency nature except for a gate fee between
 25 the hours of 6 p.m. and 8 a.m. Monday through Friday, or on a Saturday, a Sunday or a legal holi-
 26 day.

27 **(3) A tower may not charge the owner or person in lawful possession of the motor vehicle**
 28 **a gate fee to release the motor vehicle between the hours of 8 a.m. and 6 p.m. Monday**
 29 **through Friday, excluding legal holidays.**

30 **(4) A tower who charges a gate fee to release a motor vehicle between the hours of 6 p.m.**
 31 **and 8 a.m. Monday through Friday, or on a Saturday, a Sunday or a legal holiday, may not**
 32 **charge a gate fee that exceeds the fee established under section 3 of this 2011 Act as the**
 33 **storage rate for the type of vehicle stored and the manner in which the tower stored the**
 34 **vehicle.**

35 [(3)] (5) As used in this section, "personal property of an emergency nature" includes but is not
 36 limited to prescription medication, eyeglasses, clothing, identification, a wallet, a purse, a credit
 37 card, a checkbook, cash and child safety car and booster seats.

38 **SECTION 7. Sections 2 and 3 of this 2011 Act and the amendments to ORS 98.854, 98.856**
 39 **and 98.858 by sections 4 to 6 of this 2011 Act apply to motor vehicles towed on or after the**
 40 **effective date of this 2011 Act.**