



# Oregon

Tina Kotek, Governor

State Board of Towing  
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## OREGON STATE BOARD OF TOWING Board Meeting Minutes June 11, 2024

### *Work Session Location:*

Oregon DMV HQ  
1905 Lana Avenue  
Salem, OR 97314

### *Attending Board Member:*

Chuck Riley, Chair  
Bruce Anderson  
Kevin Baker  
Chris Coughlin  
Trent Hanson, Vice Chair  
Chief Michael Iwai  
Lt. Jason Lindland  
Gary McClellan  
Jason Shaner

### *Board and DMV Staff:*

Torey McCullough, Board Administrator

### *Guests:*

Dave Adams, DMV Vehicle Services; Michelle Druce/ OR Consumer League; Dick's Wrecker Service; Steven Hallock; Chelsie Kemp; Dawn Callahan; Donny Callahan; Mike

### *Meeting Called to Order:*

Chair Riley called the meeting to order at 1:00 p.m.  
Self-introductions were made. All members attended the meeting.

### *Meeting Agenda:*

Agenda approved by consensus.

### *Previous Meeting Minutes and Work Session Notes:*

The following were approved by consensus:

- June 11, 2024 meeting minutes
- March 19, 2024 work session notes
- April 23, 2024 work session notes
- May 14, 2024 work session notes

## ***Reports:***

### **Administrator Report**

McCullough provided a summary of the attached Administrator and Compliance Reports.

### **Board vote:**

#### *Case Management System:*

Lindland moved to approve the Board's purchase of the FileVine Case Management System. Anderson seconded the motion. Ayes: Towers Anderson and McClellan, Coughlin, Iwai, Lindland, Hanson and Riley. Absent: Shaner. Motion approved.

#### *Bylaws:*

Anderson moved to approve and adopt the Bylaws. Ayes: Towers Baker and McClellan, Coughlin, Iwai, Lindland, Hanson and Riley. Absent: Shaner. Motion approved.

## ***Work Session:***

### **PPI Objectives and Policy Expectations**

The Board reviewed updated objectives and expectations.

The Board confirmed:

1. "Operator" is defined as a person with the capability to move the vehicle.  
To allow compliance with the intent of ORS 98.853 (3) (a), and to protect the public:
  - A. Towers cannot require a person to provide a form of identification or contact information for the purposes of releasing the vehicle prior to the tow under ORS 98.853 (3) (a).
  - B. The Board discussed indemnification of the towers in these scenarios.
  - C. It was determined to table discussion; the legal requirement remains the release of the vehicle prior to the towing of the vehicle. The Board will monitor complaints to determine if more requirements may be necessary.
2. **Third-party contractors and surveillance options.**
  - A. Parking facility owners may contract with security companies, security personnel or other contractors to serve as the owner's agent as long as:
    - a. The contracted party is an agent of the property owner, not the tower.
    - b. The tower has no ownership or financial interest in the contracted party.
    - c. Signs are posted on the parking facility as required.
    - d. All other PPI requirements are met.
  - B. Video surveillance of the property is permitted, so long as the person(s) monitoring the property is not the tower, its employee(s), or is not otherwise affiliated with the towing company.
3. There are two legal definitions for towing across all types of tows (law and code enforcement, PPIs, repossessions, salvage, etc.)

- A. Lawful or valid tow, when all legal requirements of the tow are met, and
  - B. Unlawful or invalid tow, when not all legal requirements are met.
4. The following are examples of unlawful/invalid tows:
- A. No authorized signature from the owner or owner's agent at the time of tow
  - B. Tow operator, dispatch, or tower's agent acts as the parking facility owner's agent to identify or authorize a vehicle to be towed.
  - C. Signed authorization does not include all required information.
  - D. There is no photograph taken by the tower that clearly shows the towed vehicle parked in violation of the parking facility rules prior to hook up.
  - E. Failure to stop or cease hook up procedures when the vehicle owner or operator is present at the time of the tow.
  - F. Signage remains a requirement of a lawful tow; the Board will discuss the intent and requirement for signage at a different work session.

5. The Board is aware that a tow may be unlawful due to the actions of the authorization of the tow, and not the actions of the tower.

6. It is the intent of the Board that there be indemnification of a tower who, in good faith, tows a vehicle authorized signature, similar to:

ORS 98.830 (2)

*A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. 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.*

7. The indemnification is not extended when:

- A. There is a reasonable relationship between the tower and the parking facility owner (or their agent).
- B. When the tower acts as the owner's agent in identifying vehicles to be towed.
- C. When other legal requirements of a tow are not met.
- D. Other evidence of unethical or unlawful conduct by the tower related to the tow.

8. Board expectation when a tower becomes aware of an invalid tow: pre-Board complaint.

- A. Indemnification of the tower is only when the tower complies with all laws and requirements of a tow, and it is the parking facility owner or their agent who authorizes an unlawful tow.
- B. If the tow is unlawful or invalid because of the tower's action (no picture, no signature authority at time of tow, refusal to discontinue or unhook vehicle, etc.) the expectation is that the tower will make the consumer whole;
- C. If the vehicle was towed, the vehicle is returned in the same condition.

- D. If costs or fees were paid for the unlawful tow, those costs and fees are reimbursed.
- E. Continued, repeated conduct and behavior resulting in unlawful tows will result in increased civil penalties and other disciplinary actions.
- F. Towers are responsible for the actions of their tow operators; if an employee unlawfully tows a vehicle (willfully, intentionally, recklessly, or negligently) then the tower remains responsible for actions of their employee in compensating a consumer for an unlawful tow.

9. **Once Board public policy is established: staff will begin processing and responding to complaints directly.**

- A. Complaints requiring Board action will be forwarded to the Board for resolution.
- B. With the new case management system, Board members will be able to review submitted complaints (at a high level) during public session, reserving Executive Session for discussion of complex complaints and disciplinary actions.

10. **Photos taken under ORS 98.853 (2):**

- A. Must show the vehicle parked and in clear violation of the private parking facility rules prior to hook up.
- B. The intent of the photo is to clearly demonstrate the violation to (1) the vehicle owner or the vehicle owner's representative and (2) the Board.
- C. PPI tows that do not have photos adequately showing the vehicle prior to the tow are unlawful/invalid tows.

11. **Gate Fees.**

It is a violation, subject to disciplinary action by the Board, to charge a consumer a gate fee between the hours of 8 a.m. and 6 p.m., Monday through Friday (excluding holidays) to retrieve their vehicle or emergency personal property.

12. **Appointments.**

The Board discussed at length if towers can require appointments during hours of operation.

- A. The Board recognized the benefit of reasonable appointments, scheduled at mutually available time, and the responsibility of both the towers and the public to be available at agreed appointment times, and will develop best practices in addition to the Board's public policy.
- B. It is the expectation of the Board that if a tower is unable to accommodate a consumer's request to schedule a same-day appointment, the tower will not charge storage fees for that day, regardless of the reason the appointment cannot be scheduled.

*12A: Additional notes and discussions*

- A. If a tower cannot accommodate a consumer's reasonable request to schedule an on-site appointment by 6:00 p.m. on a weekday, including a Friday, through no fault of the consumer, the expectation is that the tower will not charge storage or gate fees if the first available appointment for the tower is after hours or on non-business days.
- B. Towers not able to meet with a vehicle owner at the agreed appointment time should make other arrangements and accommodations at the vehicle owners convenience and make all effort to ensure that the vehicle owner does not incur additional financial loss.
- C. Vehicle owners should be informed of the daily storage fees, after hour gate fees, the calendar date lien fees will be assessed, and the amount of the lien fee when the vehicle owner requests an appointment for a day other than "same day" appointments so that the vehicle owner can make a fully informed decision.
- D. It is the expectation that vehicle owners provide flexibility when required to schedule an appointment
- E. Vehicle owners should not expect:
  - a. To be able to show up at the gate to retrieve their vehicle or possessions without first contacting the tow company
  - b. Have the tow company hold a vehicle for several days without incurring storage fees and other costs
  - c. Be a no-show for scheduled appointments.
- F. "Lawful owner" is defined by DMV records. Only the vehicle owner can expect to be able to retrieve the personal, emergency possessions from the vehicle.

*13. "Appointment fees"*

Gate or appointment fees may be charged between the hours of 8 am - 6 pm, Monday - Friday (excluding holidays) ONLY when appointments scheduled are for the purpose of removing possessions and items not considered "emergency personal items" in Oregon laws. The Board tabled discussion for time limits of how long a vehicle owner had to retrieve non-emergency personal items (see below).

*14. Time limits to retrieve personal items.*

The Board discussed reasonable time limits and the number of times the lawful owner can retrieve personal property of both "emergency" and non-emergency personal items.

- A. The Board recognizes the encumbrance on the towing industry, especially sole proprietors, providing vehicle owners access to vehicles and personal items, the financial burden to the towing industry of abandoned vehicles, and the risk and safety concerns of the towers and their employees in general when allowing vehicle owners unlimited access to vehicles.

- B. The Board will monitor complaints and develop best practices and guidelines to assist towers and the public.
- C. The Board recognizes that there is not a one-size-fits-all solution, and asks the tow industry to provide reasonable and responsive accommodations to the vehicle owners without compromising the physical safety of the towers and their employees.

#### 15. Inventory.

The Board recognized that inventory and a tower's access to the vehicle contents has been an issue in both Board and law enforcement complaints.

The Board tabled the discussion topic for future review.

#### 16. Definition of ORS 98.852 (6) – personal property, emergency in nature.

The Board will consider the items to include and consider under this statute at a later date.

#### 17. Hook up to an occupied vehicle.

No tower is to attempt to hook up a vehicle with an animal or person in it, unless directed to do so by law enforcement or an appropriate government agency with legal authority.

#### 18. Towing Service Agreements

The Board has no current interest in overseeing Towing Service Agreements, excepting:

1. The Towing Service Agreement complies with Oregon's laws and requirements, and
2. The Towing Service Agreement cannot designate or appoint a tower (or a tower employee, agent, or a business that the tower has a financial interest in) as the parking facility owner's agent or representative for the purposes of authorizing tows.

#### 19. Commercial property exceptions

The board will provide FAQ's for the public differentiating between PPIs on commercial properties, and parking on empty commercial properties not reasonably used as a parking facility.

### ***Public Comments***

The Board reviewed written comments from the Building Owners & Managers Association – Oregon (BOMA Oregon) regarding notice requirements under ORS 98.853 to add exemptions for when a vehicle is legally parked, but must be moved due to an unforeseen emergency (i.e., an actual emergency including fire, flooding, structural

damage) or if it is blocking access to a an area where emergency access is required (electrical, mechanical, etc.).

The Board concurred that this access is reasonable and will look at adding the exception to either rule or as a public policy.

### ***PPI Public Policy - Next Steps:***

- The initial concept summary will be updated to include the clarifications and discussions from the May 14 and June 11 meeting.
- The Board will meet for a one hour, remote only, board meeting on June 25, 2024 to review the draft proposed public policy.

### ***Board Officer Elections:***

Board elections for the Chair and Vice Chair positions are held at the last regular meeting of each fiscal year.

#### ***Chair:***

Lindland nominated Riley for the Chair position.

No other nominations were made.

Vote held: Riley was unanimously elected as the Board Chair.

#### ***Vice-Chair:***

Baker nominated Hanson for the Vice-Chair position.

No other nominations were made.

Vote held: Hanson was unanimously elected as the Board Vice-Chair.

### ***Next Steps, Announcements, and Future Meetings***

- OTTA Quarterly meeting in Bend, Oregon  
Date: June 22, 2024  
Of interest to the Board:
  - Updates on OTTA's legislation and the RV Bill
  - Public Comment Session for the Board's PPI proposed public policy
  - Considerations when towing electric vehicles
- Special Board Meeting – Remote Only  
Date: June 25, 2024  
Board review of proposed public policy on PPI statutes
- Special Board Meeting – Complaint review  
The Board will review 2024 complaints in Executive Session using the new case management system.

- First Annual Business Meeting of the Board.  
Date: October 29, 2024. Location TBD  
Meeting topics will include:
  1. Review of proposed administrative rules, rules hearing
  2. Goals and Objectives for 2025, and 2-5 year and long-term planning
  3. Board budget and finances

***Adjourned:***

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 2:30 p.m.

***Documents Considered by the Board***

- Agenda
- Previous Meeting Minutes
- Administrator Report and attachments
- Compliance Report and attachments
- Case Management System
- Bylaws
- Work Session Materials

*Minutes prepared by Torey McCullough*  
*Minutes APPROVED by Board vote: 10/01/2024*