



July 23, 2024 Board Meeting  
Work Session Materials  
PPI Public Policy

# OREGON STATE BOARD OF TOWING

## Initial Concept Summary Private Property Impounds *Signed Authorization, Photos, and Complete Hook Up Requirements*

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# OREGON STATE BOARD OF TOWING

## Initial Concept Summary *Signed Authorization, Photos, and Complete Hook Up Requirements*

### Definitions:

*The Board encompasses the following definitions from ORS 98.805*

(1) "Owner of a parking facility" means:

- (a) The owner, lessee or person in lawful possession of a private parking facility; or
- (b) Any officer or agency of this state with authority to control or operate a parking facility.

(2) "Owner of proscribed property" means the owner, lessee or person in lawful possession of proscribed property.

(3) "Parking facility" means any property used for vehicle parking.

(4) "Proscribed property" means any part of private property:

- (a) Where a reasonable person would conclude that parking is not normally permitted at all or where a land use regulation prohibits parking; or
- (b) That is used primarily for parking at a dwelling unit. As used in this paragraph, "dwelling unit" means a single-family residential dwelling or a duplex.

(5) "Tower" means a person issued a towing business certificate under ORS 822.205 (Certificate).

(6) "Vehicle" has the meaning given that term in ORS 801.590 ("Vehicle").

[1979 c.100 §2; 1981 c.861 §23; 1983 c.436 §2; 2007 c.538 §9; 2017 c.480 §1]

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"Lawful tow" or "valid tow" means:

A tow completed in compliance with Oregon's statutory or legal requirements.

"Operator" means:

A person who has reasonable physical possession and the capability to move the vehicle.

"Owner's agent" means:

1. A person or company employed by the parking facility owner to conduct business on behalf of the parking facility owner, including property management company or apartment managers.
2. Tenants operating a commercial business under a lease agreement between the tenant and the parking facility owner and
  - a. The lease agreement designates areas within the parking facility for use by the tenant's customers AND
  - b. Designates the terms and conditions when the tenant is authorized to act as the parking facility owner's agent for towing purposes.
3. A security firm or other third-party hired by the parking facility owner to monitor the parking facility and surrounding private property to identify trespassing or criminal activity in addition to violations of the parking policy violations.
4. For the purposes of authorizing PPIs, the following cannot act as the owner's agent:
  - a. May not be a manager or employee of the tow company,
  - b. An affiliated company or business under the same management, ownership, or operating at the same location of the tow company,
  - c. A third-party financially affiliated, employed or contracted by the tower or their employees,
  - d. Any person or business associated with the tower when there exists an actual or potential financial benefit to the tower, its employees, or family members as a result of the tow.

"Patrolling" means:

Patrolling, monitoring, or otherwise keeping a privately owned parking facility under surveillance by a tower or a tower's employee or agent for the purposes of identifying improperly or unauthorized parked vehicles to be towed by the tower, its employee, or its agent.

"Private property impound" or "PPI" means:

The towing of a vehicle from a private parking facility at the request of the property owner, operator, lessee, manager of the private property facility, or their authorized agent or representative, without the prior consent of the vehicle's registered owner or current operator.

“Signed authorization” means:

Documentation authorizing a vehicle be towed showing:

1. The date and time of the authorization to tow.
2. The signature, printed name, and title of the person authorizing the tow.
3. The location, make, model, color, and plate number of the vehicle to be towed.
4. The reason for the tow.
5. If required, affirms the tow authorization is in compliance with ORS 90.485.
6. Signed by the owner of the parking facility, the owner’s agent or representation, or other person with the legal authority to authorize the tow.
7. The authorized signature is invalid if signed by:
  - A. The owner, manager, employee or contractor of the tow company completing the tow.
  - B. An owner, manager, or employee of an affiliated company under the same management, ownership, or financial interest as the tow company.
  - C. A third-party employed or contracted by the tower or their employees for the purpose of monitoring the parking facility for towing business.
  - D. Any person or business associated with the tower when there exists an actual or potential financial benefit to the tower, its employees, or family members as a result of the tow.

“Towing Services Agreement” means:

1. An agreement between a tower and a private parking facility owner allowing a tower to post signs and tow vehicles from the parking facility when authorized at the time of tow.
2. Such agreement may not name or otherwise delegate the tower as the parking facility owner’s agent for the purpose of authorizing private property impounds from the parking facility.

“Unlawful tow” or “invalid tow” means:

A tow completed in violation of Oregon’s legal requirements.

“Upon Request” means:

Immediately and at the time of the request, but no later than the next calendar day or at time of retrieval of vehicle, whichever comes first.

## Board authority:

The State Board of Towing was established by the 2021 Oregon legislature:

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

## Legislative findings and history:

SB117, sponsored by Senators Riley and Manning, was introduced during the 2017 Legislative Session to protect the safety and wellbeing of the public and rental tenants from unnecessary and avoidable harm caused by unprofessional towing practices used by a small number of Oregon towing companies.

SB 117 (with amendments) was unanimously passed by both House and Senate members present for the vote, signed by the Governor on June 27, 2017, and became effective January 1, 2018 as ORS 98.853 and amended ORS 98.854.

ORS 98.812 Towing of unlawfully parked vehicle

(1) If a vehicle has been left or parked in violation of ORS 98.810 (Unauthorized parking of vehicle on proscribed property prohibited), 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.

ORS 98.850 Legislative findings and declaration

(2) The Legislative Assembly declares that:

(a) Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public.

## Oregon's Towing Industry:

Vehicles offering commercial towing services in Oregon must be issued a DMV tow business certificate to conduct towing businesses.

As of July 1, 2024, DMV data indicates:

- 2124 active tow business certificates are issued to:
- Approximately 775 – 850 individual towing companies

It is unknown how many of Oregon's towing companies participate in PPIs.

## Identifying compliance issues:

The State Tow Board started accepting consumer complaints January 1, 2024.

Preliminary data, encompassing five months and over 100 written complaints, phone inquiries, and email correspondence show the majority of the complaints allege violations of the following statutes:

### ORS 98.853 Conditions allowing towing

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

- (a) Blocks or prevents access by emergency vehicles;
- (b) Blocks or prevents entry to the premises;
- (c) Blocks a parked motor vehicle; or
- (d) Parks without permission in a parking facility used for residents of an apartment **and:**

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

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

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

(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.

(3)

(a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

(b) For purposes of this subsection, a hookup is complete if the motor vehicle to be towed has been loaded onto a tow vehicle, or if any part of the motor vehicle has been placed on or connected to an assembly that is part of a tow vehicle, such that the tow vehicle is capable of being in motion with the motor vehicle in tow.

### ORS 98.854 Prohibitions placed on tower.

A tower may not:

(1)

(a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.

(2) Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.

(3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.

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

(5) Charge more than a price disclosed under ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle) when towing a motor vehicle without the prior consent or authorization of the owner or operator of the motor vehicle.

- (8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.  
 (14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).

Upon review, most PPI complaints are either (1) lawful tows or (2) tows conducted under good faith interpretation of the ORS's, and do not represent a tower knowing or willful violation of the law.

Most of the PPI complaints received by the Board and other agencies may be resolved by:

1. Clarification and definition of ORS 98.853 and 98.854 in industry best practices, Board policy, and OARs.
2. Education of the towing industry, parking facility owners, and the public of the intent and expectations under the ORSs regulating PPIs, and
3. Regulation and enforcement of the statutory requirements and Administrative Rules adopted by the Board.

The PPI complaints consistent with illegal towing practices indicate less than 1% of the Oregon tow companies are, or instructing or allowing employees to, willfully and knowingly violate the laws enacted under ORS 98.853 and 98.854 meant to protect the public from unlawful and unethical towing practices.

## Possible reasons for noncompliance – reckless or negligent

1. Lack of education or business standards: there has been no authoritative interpretation or definition of the intent or requirements of ORS 98.853 and 98.854 available to the towing industry, the public, or state and local government agencies.
2. "Signed authorization" has been interpreted to mean texts, phone calls, tow services contracts, and pre-signed authorization forms may be used in lieu of the authorized signature required at the time of the tow under ORS 98.854.
3. Towing industry practices adopted to comply with the Governor's COVID-19 Pandemic Emergency Orders have not been reviewed or modified
4. Plausible Deniability: Both property owners and towers are using Plausible Deniability to absolve themselves, or to hold themselves harmless, from legal responsibility or obligations under a Tow Services Agreement and placing the responsibility of illegal tows on the other party under the terms of the Tow Services Agreement.
5. There is no verification process or authority review to ensure a Tow Services Agreement meet the legal requirements and exceptions of ORS 90.485, 98.853, 98.854, or provides adequate protection or recourse for tenants and the public.
6. Private property owned for commercial or public purposes (i.e., malls, business complexes, restaurants, medical centers, churches, organizations, etc.) are also entering into Tow Services Agreements delegating the Towing Company as the property owner's agent under a contract, with no property owner contact or authorization required at the time of tow.
7. Lack of consumer resources, including lack of education and information related to consumer and tenant rights related to the parking and towing of vehicles, has enabled unethical PPI practices to continue by a small number of towing companies.

## Possible reasons for current noncompliance – willful or intentional

**Note: the following violations were found to be substantiated in complaints against less than 1% of all Oregon Tow companies with tow business certificates issued by DMV.**

1. Lack of authoritative interpretation of the definition and intent of the statutes allows towers, parking facility owners, and their representatives to define the statutes in a way that benefits the towers and parking facility owners while taking financial advantage and causing public risk and harm to the public without recourse.
2. Towing Service Agreements are used in lieu of contacting the parking facility owner to circumvent the signed authorization requirements in violation of ORS 98.854 (2).
3. Private parking lots are being patrolled and vehicles towed under a Towing Services Agreement for reasons other than the conditions allowed under ORS Chapter 90 and ORS 98.853 (1) without required notice and without a signed authorization.
4. Towers continue hooking up of the vehicle, in the presence of the Tenant or Consumer, continuing to incur charges which the vehicle owner or operator must pay for release of the vehicle in direct violation of ORS 98.853 (3).
5. Copies of pre-signed authorizations are used at time of the tow without any contact with the property owner.
6. Current "signed authority" does not generally include the name and title of the person who requested the tow, the date and time the tow was requested, how the person authorizing the tow is authorized to do so, and other information required to determine compliance of the signed authorization.
7. Plausible Deniability: Both property owners and towers are using Plausible Deniability to absolve themselves, or to hold themselves harmless, from legal responsibility or obligations under a Tow Services Agreement.



8. Towers, or their employees, are serving as agents of parking facility owners in violation of ORS 98.854 (2) – (4).
9. Towers are not requiring employees to take adequate photos as required by ORS 98.853 (2) and not releasing the photos in a timely manner.
10. Towers are not releasing copies of the photos required under ORS 98.853 or the signed authorization under ORS 98.854 upon request, or in a timely manner.

## Harm and damages caused by violation of ORS 98.853 and 98.854

1. The majority of the PPI complaints are from tenants and members of the public living in low income or government-assisted apartment complexes and other vulnerable populations. These individuals do not have the disposable income and have limited resources to pay the hundreds of dollars in fees and charges incurred by an unlawful tow.
2. Known issues with the legal requirements to demonstrate “lawful ownership” of a vehicle and vulnerable populations creates unnecessary barriers and hardships for tenants and members of the public who are unlawfully towed.
3. Through no action of their own, vehicle owners and operators suffer avoidable risk and harm when a vehicle has been illegally towed, including, but not limited to, loss of use of the vehicle, financial losses, missed work and appointments, childcare issues, loss of personal property contained within the vehicle
4. Physical damage to the vehicles caused by an unlawful tow; damages include damage to drive trains, wheels, and other components of the vehicle due to towing with insufficient or incomplete hook up, unsafe driving practices, and other factors.
5. Elevated risk of physical injury and confrontation when a tower continues to hook up a vehicle in the presence of the vehicle’s owner.
6. Loss of access to medications, documents, childcare items, and personal possessions contained within the vehicle at the time of the unlawful tow.
7. The ability for the vehicle owner to retain possession of the vehicle due to the hundreds of dollars incurred in fees and costs as a result of the tow.
8. Most tow companies will release a vehicle at no cost if a mistake was made by a parking facility owner or the tower; unfortunately, there are handful of tow companies requiring tenants and the public to pay all or a portion of the towing fees, holding possessions and vehicles hostage until payment is received, even if the tow was unlawful or in violation of current statutes.

## Board’s role

ORS 98.850 Legislative findings and declaration

(2) The Legislative Assembly declares that:

(a) Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public. [2007 c.538 §1]

With the small number of towing companies named in complaints in general, and the even smaller number of towers involved in substantiated complaints (less than 1% of the tow truck companies legally operating in Oregon), the Board finds PPI issues are not a statewide or towing industry problem.

The Board has identified PPIs as a priority in consideration:

1. The large percentage of complaints substantiating unethical PPI practices and violations of ORS Chapter 90, ORS 98.853, and ORS 98.854.
2. The significant, identifiable, and avoidable damage and harm these practices and violations are causing the public.
3. The actions of less than 1% of the industry creating a significant negative image of the reputation of the industry.
4. The request by the towing industry and private parking facility owners for clarity in determine intent and compliance with the statute.
5. The request by Board partners for assistance in enforcement and regulation of ORS 98.853 and 98.854.
6. A recognized need of the Board to educate the public, tenants, and their guests of their rights, responsibilities, and recourse under ORS 98.853 and 98.854.

Oregon Statutes are written to be broad and encompassing; the Board’s role is to adopt policies and OARs to:

1. Clarity the intent of the ORSs as determined by the Board.
2. Provide an authoritative definition of the meaning and requirements under ORS 98.853 and 98.854.
3. Protect the safety and well-being of the public.
4. Establish statewide practice standards to protect the integrity of the towing industry.
5. Ensure compliance of the laws and accountability by all parties involved with PPIs.

6. Develop a compliance process and civil penalty schedule for violations of ORS 98.853 and 98.854.
7. Identify and provide options for recourse and resolution for tenants and members of the public whose vehicles have been unlawfully towed.

## Board findings

The Board finds:

1. Tow companies and their employees provide necessary and essential services for the public upon request, including:
  - Roadside assistance services
  - Assistance to law enforcement, code enforcement, and local governments
  - Assistance as incident team members in clearing wrecks and hazards
  - Personal assistance
  - Salvage
  - Vehicle recovery efforts
  - Repossessions
  - Private Property Impounds
2. At no time is a vehicle to be towed or impounded unless authorized by a person who has the legal authority to request the tow.
3. Towers, including their employees and contracted parties, are prohibited from acting as a private parking facility owner's agent under ORS 98.854 (4).
4. Statutes do not grant tower's the authority to independently authorize an involuntary tow; vehicles impounded from private parking facilities must be identified to be in violation of the parking facility regulations or creating a public safety concern by the parking facility owner, their legal agent or representative, or other person with legal authority to authorize the tow.
5. The practice of having a tower act as the parking facility owner's agent in identifying a vehicle to be towed and impounded violates the legal intent of ORS 90.485, 98.853 and 98.854, creating an unnecessary and avoidable risk of harm to public safety and well-being.
6. Oregon statutes do not authorize towers to act as a property owner's agent to monitor or patrol parking lots for the purpose of identifying vehicles to be towed. The practice of "surveying", "trolling", or "patrolling" parking facilities by towers for the purpose of monitoring the parking facility for identifying vehicles to be impounded for towing business is a violation of the intent of ORS 98.854 (2), (8) and the Board's interpretation of ORS Chapter 90.
7. Each PPI must be conducted under a separate, signed and dated authorization clearly identifying the vehicle to be towed, the reason for the tow, and who authorized the tow.

If an identified vehicle is moved from the location identified in the

Compliance with ORS 90.485, 98.853 and 98.854:

1. Ensures equitable and fair treatment of vehicle owners and operators.
2. Protects the public from unethical towing practices.
3. Protects towers and their employees from civil liability and actions.
4. Allows parking facility owners to protect their tenants, guests, and facilities from unlawful tows or towing errors.
5. Protects parking facility owners from civil risk and liability.
6. Provides clear accountability and recourse for tenants and members of the public when a vehicle has been unlawful towed.
7. Reduces the workload required of the Board, its staff, Board partners, and the courts in determining the validity of a complaint and the options for resolution.

## Board definition and interpretation of ORS 98.853 and 98.854



**ORS 98.853 Conditions allowing towing**

*(1) A tower may tow a motor vehicle if the motor vehicle:*

- (a) Blocks or prevents access by emergency vehicles;*
- (b) Blocks or prevents entry to the premises;*
- (c) Blocks a parked motor vehicle;*

1. The conditions allowing towing under ORS 98.853 (1) provides the conditions which a vehicle may be towed without the authorization of the parking facility owner or its agent.
2. The conditions **do not allow the tower to act as a parking facility owner's agent or to independently authorize a tow.**
3. Vehicles meeting the definition under ORS 98.853 (1) (a) – (c) are exempt from the requirement under ORS 98.854 (2) only that a tower **is not required** to contact the owner of the parking facility or their agent; the authorization for tows under ORS 98.853 (1) (a) – (c) can be made by a tenant, an employee, or other persons if the vehicle to be towed is parked in clear violation of ORS 98.853 (1) (a) – (c), and the name, contact information, and vehicle information is recorded on the authorization to tow document.
4. The request for a tow under ORS 98.853 (1) (a) – (c) may be made by email, phone, or text as long as the tower has possession of a required signed and dated authorization prior to hook up.
5. The tow request must include the date, time, location of vehicle, the reason for the tow, the make, model, and plate of the vehicle to be towed.
6. Towers, their employees, or their agents cannot serve as an agent of the parking facility owner for the purpose of authorizing towing a vehicle from the parking facility under ORS 98.853 (1) (a) – (c).
7. Both the parking facility owner and the tower will maintain for at least two years, in electronic or printed form, a record of the tow request documenting the date, time, location of vehicle, the reason for the tow, the make, model, and plate of the vehicle to be towed.
8. Upon request, the copy of the tow documentation will be provided to the owner or operator of the motor vehicle and any agency with proper jurisdiction at no additional charge.

**ORS 98.853 Conditions allowing towing**

*(1) (d) Parks without permission in a parking facility used for residents of an apartment and:*

- (A) There are more residential units than there are parking spaces;*
- (B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and*
- (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.*

As only the landlord, manager, or property management company can verify compliance with the requirements of ORS 98.853 (d), a vehicle can be towed under ORS 98.853 (1) (d) only at the request of the parking facility owner or their agent after the parking facility owner or their agent:

1. Verifies and documents there are more residential units assigned than there are parking spaces.
2. Records the date, time, location, of where the vehicle was parked.
3. Records the make, model, and plate number of the parked vehicle.
4. Verifies that the vehicle is parked in violation of the parking facility's parking policy and in violation of the terms of a tenant or rental agreement.
5. For parking spaces assigned to tenants: make reasonable attempts to contact the tenant to confirm that the vehicle is parked without the tenant's permission. The attempts and result of the contact with the tenant is to be documented.
6. Verifies, if required under the rental agreement and assigned to a tenant, that an assigned parking tag or sticker is not visible in or on the vehicle.

All other vehicles towed from a parking facility must meet the legal requirements of ORS 90.485, 98.853, 98.854, and the rules of the Board.

**ORS 98.853 Conditions allowing towing.**

*(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.*

The intent of the photograph is to demonstrate to the vehicle owner, the Board, and other authorities that the vehicle was parked in violation of the private parking facility requirements.

The photographs under ORS 98.853 (2) must:

1. Show the vehicle as it was left or parked at the time the tower arrived to conduct the tow.
2. Sufficiently show the parking violation.
3. Have the time and date time stamped on the photograph or documented as attachments to the signed authorization.

**ORS 98.853 Conditions allowing towing:**

(3) (a) *If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).*

1. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.
2. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely towed **without risk of physical damage to the vehicle**, the vehicle is to be released at no charge.
3. At no time is a tower to begin or complete a hookup of a vehicle for a PPI if a person or animal is in the vehicle without express authorization from law enforcement or other government agency.
4. The Board has tabled discussion of the expectations for large commercial rigs or recreational vehicles partial hook ups.

**ORS 98.854 A tower may not:**

(2) *Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.*

1. No vehicle may be involuntarily towed from a parking facility without a request or authorization signed at the time of the tow showing:
  - A. The date and time of the tow
  - B. The color, make, model, and license plate number of the vehicle to be towed.
  - C. The reason for the tow.
  - D. The location of where the vehicle is parked within the parking facility.
  - E. The signature and printed name of the person authorizing the tow and their contact information.
2. A vehicle may not be towed under the signed authorization if the vehicle was moved from the location that initiated the request for a tow unless the signed authorization has been modified and updated by the signatory authority to include the new location.
3. Signed authorizations are valid for the time of the tow only; PPIs must be conducted within a reasonable period of time after the authorization.

**ORS 98.854 A tower may not:**

- (3) *Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.*
- (4) *Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.*

A tower or any employee of tower, including dispatch, office staff, tow operator, independent contractor, or agent of any company or business owned or contracted by the tower, cannot act as the agent of a parking facility to identify a vehicle to be towed, or authorize a tow from a private parking facility.

**ORS 98.854 A tower may not:**

- (8) *Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.*

A tower, their employee or the tower's agent may not park within 1000 feet of a parking facility, within a parking facility, patrol a private parking facility, or otherwise monitor or conduct surveillance of a private parking facility for the purpose of identifying vehicles to be towed by the tower, its employees, or its agents.

**ORS 98.854 A tower may not:**

- (14) *Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).*

For the purpose of PPIs:

1. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.
2. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely, and without risk of physical damage to the vehicle, towed, the vehicle is to be immediately released at no charge to the vehicle owner or operator.
3. If hook up is complete but the vehicle not yet towed to the tower's tow facility, the tower may only charge the owner or operator of the vehicle tower's standard rate for the cost of a hook up.

4. The tower may not exceed its rates and costs as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).
5. A receipt showing the date, time, method and amount payment is to be provided to the owner or operator of the vehicle at time of any payment to release the vehicle.
6. If the vehicle is disabled or unable to move under its own power, the tow may be completed at the discretion of the private parking facility owner or its agent.
7. A private parking facility owner or its agent, at their discretion, may allow the vehicle owner or operator to arrange for towing of a disabled vehicle if the tow can be completed in a timely manner.

## Remaining provisions of ORS 98.853 and 98.854

**The Board has tabled the remaining provisions under ORS 98.853 and 98.854 for future discussions including:**

1. Signage requirements under

*ORS 98.853 (d) (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.*

And

*ORS 98.854 (1) (a) Tow a motor vehicle from a parking facility unless there is a sign displayed in plain view at the parking facility that, using clear and conspicuous language, prohibits or restricts public parking at the parking facility.*

2. Definition of complete hookup under ORS 98.853 (3) (b)
3. Consideration of the time and expense required for complete hook up of big rigs, including motor homes and recreational vehicles, commercial trucks and trailers, box vans, etc.
4. Rate and fees, disclosures, and other requirements under ORS 98.854 (5) and ORS 98.856.
5. Prohibition of requiring a vehicle owner to not dispute under the provisions of ORS 98.854 (10).
6. Defining the requirements of personal property inventory and protection under ORS 98.854 (11).

## Exemptions

Nothing within this Initial Concept Summary is to be interpreted as a restriction of the ability of a private property owner from instituting and enforcing regulations for parking at the private facility as allowed by law.

The Board's public policy exempts:

1. Vehicles impounded by law enforcement for criminal or legal offenses.
2. Vehicles impounded by state and local authorities as defined in ORS 819.120.
3. Vehicles towed at the request of the vehicle owner.
4. Vehicles parked on "proscribed property" as defined in ORS 98.805 (4) e.g.,
  - a. Vacant commercial premises;
  - b. Vacant lots previously used as a parking facility designated with signage as a "no parking" area.
  - c. Where a reasonable person would conclude that parking is not normally permitted or where a land use regulation prohibits parking; or
  - d. That is used primarily for parking at a single-family residential dwelling or a duplex.
5. Vehicles lawfully parked but required to be towed from a parking due to unforeseen emergency situations, including fire, structural damage, flooding, or when emergency access is required by maintenance, electrical, city crews, or other professionals to address the emergency do not require the parking facility owner's authorization if the tow is:
  - A. The tow is required for protection of public safety.
  - B. The vehicle is not removed from the reasonable geographic area of where the vehicle was legally parked, and
  - C. The vehicle owner is not assessed fees or costs for the tow.

## Enforcement and regulation

1. The Board will consult with the public, partners, and industries to ensure the proposed and adopted policies and rules:
  - a. Provide adequate protection of the public.
  - b. Identify the appropriate responsibility and accountability for PPIs.
  - c. Ensure consistency with industry and partner standards and expectations.
  - d. Identify unintended consequences or loopholes.
  - e. Maintain the rights and safety of the public, tenants, and parking facility owners, their tenants and customers.
  - f. Maintain the right of the towing industry to conduct PPs in a lawful and safe manner.
2. Provide the towing industry with education of the Board's policy and proposed administrative rules regarding administration and enforcement of ORS 98.853 and 98.854 prior to the adoption and effective date of the administrative rules.
3. Review consumer complaints.

## Other considerations of the Board

1. ORS Chapter 90 defines the notices requirements and other obligations of a landlord before a vehicle can be towed from apartment complexes and other residential premises.
2. The expectation that PPIs comply with the requirements of ORS Chapter 90, 98.853 and 98.854. One ORS Chapter does not provide an exception to notice or obligations of the other ORS sections.
3. Prohibition of unauthorized parking as defined under ORS 98.810.
4. Protection of private property owner rights to include the protection of the physical property, public safety concerns, and the responsibilities/obligations to tenants and customers.
5. Public and property safety and protection balanced with known issues faced in Oregon: homelessness/houselessness, public camping, drug use, increase of criminal behavior including theft, harassment and theft, etc.
6. Identify questions or clarify and educate the public:
7. Personal responsibility of tenants and the public when parking in privately owned parking facilities.
8. The PPI laws and requirements do not extend to law enforcement or other municipal tows.

## Benefits of better regulation and enforcement

1. Remove ambiguity of laws
2. Provide better structure for decision making for parking facility owners, their agents, and towers to remain in compliance with ORS 90.485, 98.853 and 98.854.
3. Accountability and responsibility of towers and parking facility owners to ensure protection of the public and recourse.
4. Provide better protection of the public and tenants most commonly subjected to unlawful tows and minimize the harm and loss sustained by the public due to vehicles being towed without authorization and without contacting the owner.
5. Resolution of one of the most common complaints submitted to the Board and its partners.
6. Ensure minimum practice and standards in PPIs across the state to remove perception of unlawful tow practices.
7. Provide better recourse and resolution for consumers harmed by unlawful PPIs.

## Identified partners and persons of interest

The Board has the authority to interpret, define, and administer ORS 98.853 and 98.854. The responsibility of defining the requirements for compliance and identifying violations of the ORSs remains with the Board.

One of the legislature's intent is for all public bodies to illicit, engage, and consider industry, partner and public insight and opinions prior to the adoption of public policies and OARs.

The Board's intent is to ensure transparency and active engagement in its work. The Board invites a diverse range of individuals, organizations, and partners to identify issues and offer insights, public comments, and testimony in the development of Board policy and administrative rules.

The Board has identified the following partners and individuals in its outreach efforts:

1. Use of the Board's public email subscription list for updates and announcements.
2. Outreach to the following agencies, organizations and advocacy groups:
  - a. Parking facility owners: 18 different rental owner and property management associations and advocacy groups.
  - b. Tenants: Four different associations and tenant advocacy groups.
  - c. Oregon Housing and Community Services (state agency, low income housing assistance)

- d. Oregon Tow Truck Association
- e. Portland Dept. of Transportation Regulation Division and Towing Administration Advisory Committee.
- f. Local Governments: 36 counties and approximately 200 incorporated cities.
- 3. Coordination with advocacy groups and partners to host public review and comments of the Board's proposed policies and rules and ensure distribution of proposed policies and rules during the comment period.
- 4. Individuals who filed complaints with the State Board of Towing regarding PPIs.

## Timeline and Next Steps

April 23, 2024: Board reviews first quarter complaints, identifies unlawful PPIs as a serious risk to public safety and a priority of the Board.

May:

May 14, 2024: Board review of initial concept

Board identifies potential partners and individuals most likely impacted under anticipated regulations.

June 2024:

June 11: Board reviews updated Initial Concept Summary, begin developing board policy at a public meeting

Accepts public comments through June 25<sup>th</sup>.

June 25: Board meets to review draft proposed public policy, takes additional public comments and testimony.

The following is a TENTATIVE timeline, pending determination by the Board:

July 23, 2024:

Public policy adopted.

July - September

Board drafts proposed administrative rules, accepting public comment.

Public comment meetings scheduled through September.

October-November

Final proposed rules drafted and posted for comments.

Public proposed rules hearing held.

January 1, 2025: Adoption of Administrative Rules

## Resources:

- 1. SB117
- 2. ORS 90.485 and 98.110-98.840
- 3. 2024 PPI complaints
- 4. Laws and Rules from other States





# State Board of Towing Public Policy

*Policy No.:*  
**PP-24-001**

*Supersedes:*  
**NA**

*Reference:*  
ORS 98-853  
98.854

*Subject:*  
Private Property Impounds – General Provisions

*Effective Date:*

**Authority/Applicable Statute(s) or Administrative Rule(s):**

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

ORS 98.812 Towing of unlawfully parked vehicle

(1) If a vehicle has been left or parked in violation of ORS 98.810 (Unauthorized parking of vehicle on proscribed property prohibited), 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.

ORS 98.850 Legislative findings and declaration

(2) The Legislative Assembly declares that:

(a) Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public.

**Purpose:**

The purpose of the Board's Private Property (PPI) Public Policy is to ensure fair and equitable towing practices and protect the safety and well-being of the public, parking facility owners, and the towing industry by providing:

1. Clarity of the intent of the ORSs assigned to the Board to administer.
2. Authoritative definitions of the requirements under ORS 98.853 and 98.854.
3. Establish statewide practice standards and expectations within the towing industry.
4. Ensure compliance of the laws through education, outreach, and defining authority and responsibility of all parties involved with PPIs.
5. The Board's policies are not intended to circumvent or replace the legal requirements, obligations, or restrictions of a tenant, landlord, or property manager under ORS Chapter 90.

**Policy Series:**

The Board's PPI Public Policies incorporate the following attachments:



PP-24-001-A: Private Property Impounds (PPI) Signed Authorization Requirements  
PP-24-001-B: Private Property Impounds (PPI) Authorization under ORS 98.853 (1)  
PP-24-001-C: Private Property Impounds (PPI) Required Photographs  
PP-24-001-D: Private Property Impounds (PPI) Release of Vehicle  
PP-24-001-E: Private Property Impounds (PPI) Monitoring and Patrolling Parking Facilities

**Private Property Impound (PPIs) Purpose:**

1. PPIs are a professional towing service meeting the needs of private parking facility owners and their tenants.
2. PPIs are to be completed in compliance with Oregon's laws and administrative rules and the professional and ethical standards of the towing industry.
3. Each PPI requires an individual signed authorization, signed and dated at the time of the tow by the parking facility owner, their legal agent, or another person authorized to authorize the towing of a vehicle.
4. By statute, towers and their employees are prohibited from acting as a parking facility owner's agent for the purposes of authorizing vehicles for the purpose of PPIs or from towing a vehicle from a parking facility.

**Board Investigation and Action:**

1. The Board reviews submitted complaints for compliance or violation of Oregon's laws.
2. When a tower's actions and records comply with Oregon's laws, administrative rules, and the Board's public policy, the complaint will be closed with no formal action against the tower.
3. If review of the allegations or circumstances of a PPI indicate possible violations of Oregon's laws or the Board's administrative rules or public policy:
  - A. The Board will investigate the allegations of the complaint.
  - B. The Board, at its own discretion, may determine if the violations were reasonably:
    - a. Willful or intentional.
    - b. Negligent or reckless.
    - c. Inadvertent or in good faith.
4. The Board, at its discretion, will determine the appropriate course of corrective action and progressive discipline by:
  - A. Focusing, when reasonable, on the education of the tower and the towing community.
  - B. Progressive discipline: increasing the severity of the steps or measures against a person, persons, or entity when there is a failure to correct behavior or

conduct, or when subsequent instances of inappropriate behavior and conduct occur.

- C. To protect the safety and well-being of the public and the towing industry, the Board may determine, at its sole discretion, that the harm to the public or the egregiousness of the violations is cause for immediate escalation of the progressive disciplinary action by the Board without notice to the offending party.

5. The Board will consider mitigating circumstances as required under OAR 750-080-0020, including:

- A. The tower's history of compliance with Oregon's laws and rules;
- B. The effect of the violation on public safety and welfare;
- C. Whether the conduct or action(s) was inadvertent or intentional;
- D. The degree to which the action subject to sanction violates professional ethics and standards of the profession;
- E. Any mitigating or aggravating factors the Board may choose to consider.

#### **Compliance and Violations**

1. PPIs completed in violation of one or more of Oregon's statutes or the Board's administrative rules render the tow both unlawful and invalid.
2. Towers will adopt and publicly post its policies and process for:
  - A. How consumers may contest the legality of a tow.
  - B. How consumers can request the signed authorization and photographs from the tow.
  - C. How and when the requested documents will be made available or delivered to the requestor.
3. Requests for signed authorizations and photographs should be reviewed and responded to by the tower or tower's staff no later than the end of the next business day after receipt of the request, or as soon thereafter as reasonable.
4. Failure to provide either the copies of the appropriate signed authorization or the required photograph(s) to the requester within the reasonable time defined under the Board's public policy is may be grounds for the tow to be found unlawful and invalid and grounds for Board disciplinary actions.
5. Copies of all correspondence and documentation regarding the towing of a vehicle should be kept on file for a minimum of two years, and made available to Board staff and other state and local authorities upon request.
6. Towers who find that a tow was completed without the required signed authorization, photos, or failure to release a vehicle prior to, or upon

completion of the hook up when required by law, is expected to reimburse the vehicle owner any costs of fees paid as a result of the unlawful tow, and return the vehicle to the location from where the vehicle was towed from and in the same condition as when towed.

7. Towers are responsible for the actions and conduct of their employees; lack of training or education of tow operators on PPI requirements and regulations is not recognized by the Board as an affirmative defense.
8. The Board may, at its discretion, assess a civil penalty in an amount greater than the Schedule of Civil Penalties, or may suspend, revoke, or deny a tow certificate issued by DMV, when it is determined by the Board that a tower's violations of Oregon's laws:
  - A. Is especially egregious.
  - B. Causes demonstratable, unnecessary and avoidable risk or harm to the public and others.
  - C. Is below the minimum professional and ethical standards of the towing industry.

**Exclusions**

Tows excluded from the Board's PPI Public Policy:

- Tows requested by the owner or operator of the vehicle.
- Tows authorized by law enforcement, code enforcement, or other state or local agency conducting government business.
- Tows from property not designated as a private parking facility.
- Nothing in the Board's policy restricts the ability of a private property owner from instituting and enforcing regulations and conditions for towing vehicles from a private parking facility.

**Tower to be Held Harmless**

1. It is the intent of the Board that a tower who lawfully tows a vehicle under the Board's PPI public policy is held harmless from disciplinary action or sanction when the tower provides:
  - A. A signed authorization, meeting the requirements under the Board's public policy, signed and dated at the time of the tow by the private parking facility owner, their legal, authorized agent, or other individual with the authority to authorize the tow.
  - B. Photos clearly demonstrating the towed vehicle parked in violation of the parking facility regulations prior to the tow.
  - C. When applicable: Release of the vehicle to the reasonable owner or operator of the vehicle prior to completion of hook up (at no charge) or prior to commencement of the tow.
2. Nothing within the Board's public policies is meant to grant immunity for
  - A. Failure to conduct a PPI in full compliance with Oregon's laws, rules, and regulations;

B. 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.

Reference:

- Initial Concept Summary Document and attachments
- Board Meeting Minutes and Work Session Notes, March 2024 - June 2024

UPDATED DRAFT FOR DISCUSSION ONLY



# State Board of Towing Public Policy

*Policy No.:*  
**PP-24-001-A**

*Supersedes:*  
**NA**

*Reference:*  
ORS 98.854 (2), (3) and (4)

*Subject:*  
Private Property Impounds, Authorization to Tow

*Effective Date:*

**Authority/Applicable Statute(s) or Administrative Rule(s):**

**ORS 822.265 Rulemaking authority**

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

**ORS 98.854 Prohibitions placed on tower.**

A tower may not:

- (2) Except as provided in ORS 98.853 (Conditions allowing towing), tow a motor vehicle from a parking facility without first contacting the owner of the parking facility or the owner's agent at the time of the tow and receiving signed authorization from the owner of the parking facility or the owner's agent that the tower should tow the motor vehicle. The tower shall maintain for at least two years, in electronic or printed form, each signed authorization received under this subsection. Upon request, the tower shall provide a copy of the signed authorization to the owner or operator of the motor vehicle at no additional charge.
- (3) Serve as an agent of an owner of a parking facility for the purpose of signing an authorization required by subsection (2) of this section.
- (4) Tow a motor vehicle from a parking facility if the owner of the parking facility or the owner's agent is an employee of a tower.

**Purpose:**

The purpose of this Public Policy is to interpret and define:

- 1. The requirements of a signed authorization prior to towing a vehicle from a private parking facility.
- 2. The prohibition of a tower, the tower's employees, or a tower's representative to act as an agent or representative of the private parking facility owner for the purpose of identifying or authorizing a vehicle to be towed.

**Policy:**

**Signed Authorization Requirements:**

- 1. No vehicle may be involuntarily towed from a parking facility without an authorization signed by the private parking facility owner or owner's lawful agent at the time of the tow showing:
  - A. The location of where the vehicle to be towed is parked.
  - B. The color, make, model, and license plate number of the vehicle to be towed.
  - C. The reason for the tow.

- D. The signature, printed name and title of the person authorizing the tow.
- E. Contact information for questions regarding the authorization of the tow.

- 2. Signed authorizations for PPIs will include the date and time of the:
  - A. Request and authorization of the tow (if different).
  - B. Arrival of the tow operator at the vehicle to be towed (if different).
  - C. Completion of the hook up for the tow.
  - D. Completion of the tow.

3. The following forms of signature are acceptable:

- A. Wet signature on a paper from signed by the parking facility owner or their agent at the time of tow.
- B. A fax, email, or an electronic document showing the sender and recipient, time and date stamped, with the information required under paragraph (1) and (2) of this section.

**Signature Authority Requirements:**

- 1. Except for the provisions under ORS 98.853 (1), a private parking facility owner or their lawful agent must sign each authorization for the tow of a vehicle from a private parking facility either:
  - A. At the time of the request and authorization of a tow OR
  - B. At the time of tow.
- 2. Towing service agreements do not meet the requirements of an authorization signed at the time of the tow and are in violation of the intent of ORS 98.854 (2), (3) and (4).
- 3. The tower will have in their possession the signed authorization prior to initiating hook up and towing of a vehicle.
- 4. Use of pre-signed or pre- or post-dated authorizations to tow are not acceptable.
- 5. Each PPI must be conducted under a separate tow authorization, signed at the time of tow prior to hook up.
- 6. Signed authorizations are valid for the time of the tow only; PPIs must be conducted within a reasonable period of time, within 24 hours, after the authorization is signed.
- 7. An updated or new signed authorization must be obtained from the parking facility's owner or the owner's agent if the vehicle has moved from where it was parked at the time of the original authorization to tow.

**Prohibition of a tower, their employees or designees acting as a parking facility owner's agent:**

- 1. A tower or an employee of tower, including dispatch, office staff, tow operator, independent contractor, or agent of any company or business owned or contracted by the tower, cannot act as the agent of a parking facility owner for the purposes of authorizing a tow from a private parking facility.
- 2. A tower cannot contract with a third-party to act as the owner's agent for the purpose of authorizing PPIs.
- 3. A parking facility owner cannot designate a tower, or the towers employees or agents, to act as the owner's agent under a Towing Services Agreement.



**Retention requirements:**

1. Both the tower and the private parking facility owner should retain a copy of the signed authorization for a minimum of two years.
2. Upon request, a tower will provide a copy of the signed authorization to the owner or operator of the motor vehicle, the Board, and any agency with proper jurisdiction at no additional charge.
  - A. The signed authorization is to be provided at the time of the request.
  - B. If unable to provide a copy of the signed authorization at the time of the request, the tower will provide a copy of the signed authorization no later than the next calendar day or at time of release of vehicle, whichever comes first.

**Violations:**

The following are grounds for Board investigation or disciplinary action:

1. Towing or impounding a vehicle without an authorization signed by the parking facility owner or owner's agent at the time of the tow.
2. A tower, their employee, agent, or representative acting as the parking facility owner or owner's agent in authorizing the tow.
3. Falsifying information contained in a signed authorization, including signing the parking facility owner or owner's agent's name on the signed authorization.
4. Failure to provide a copy of the signed authorization to the vehicle owner, operator, the Board, or an agency of proper jurisdiction within the time defined in Board policy.

**Reference:**

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.



## State Board of Towing Public Policy

*Policy No.:*  
**PP-24-001-B**

*Supersedes:*  
**NA**

*Reference:*  
ORS 98.854 (4)  
ORS 98.853 (1)

*Subject:*  
Private Property Impounds, ORS 98.853 (1)

*Effective Date:*

**Authority/Applicable Statute(s) or Administrative Rule(s):**

**ORS 822.265 Rulemaking authority**

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

**ORS 98.853 Conditions allowing towing**

- (1) A tower may tow a motor vehicle if the motor vehicle:
  - (a) Blocks or prevents access by emergency vehicles;
  - (b) Blocks or prevents entry to the premises;
  - (c) Blocks a parked motor vehicle; or
  - (d) Parks without permission in a parking facility used for residents of an apartment and:
    - (A) There are more residential units than there are parking spaces;
    - (B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; and
    - (C) There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility.

**Purpose:**

The purpose of this Public Policy is to interpret and define:

1. The requirements for an authorization to tow under ORS 98.853 (1).
2. The restrictions and requirements for authorizing a tow under ORS 98.853 (1) (d).
3. The prohibition of a tower, the tower's employees, or a tower's representative to act as an agent or representative of the private parking facility owner for the purpose of identifying or authorizing a vehicle to be towed.

**Policy:**

**Signed Authorization Requirements:**

1. No vehicle may be involuntarily towed from a parking facility without an authorization signed by the private parking facility owner or owner's lawful agent at the time of the tow showing:
  - A. The location of where the vehicle to be towed is parked.
  - B. The color, make, model, and license plate number of the vehicle to be towed.
  - C. The reason for the tow.
  - D. The signature, printed name and title of the person authorizing the tow.
  - E. Contact information for questions regarding the authorization of the tow:
    - a. For use by the parking facility owner, the tower, the Board, and other persons authorized to confirm the tow.
    - b. The contact information of the authorization signatory is not required to be provided to the vehicle owner or operator unless the signatory is the parking facility owner.
1. Signed authorizations for PPIs must include the date and time of the:
  - A. Request and authorization of the tow (if different).
  - B. Arrival of the tow operator at the vehicle to be towed (if different).
  - C. Completion of the hook up for the tow.
  - D. Completion of the tow.
2. The following forms of signature are acceptable:
  - A. Wet signature on a paper from signed by the parking facility owner or their agent at the time of tow.
  - B. A fax, email, or an electronic document showing the sender and recipient, time and date stamped, with the information required under paragraph (1) and (2) of this section.

**Signature Authority Requirements - ORS 98.853 (1) (a) - (c):**

For the purposes of ORS 98.853 (1) (a) - (c):

1. ORS 98.853 (1) (a) - (c) allows towing of a vehicle without first contacting the owner of the parking facility or the owner's agent.
2. The Board finds the exceptions for the parking facility owner authorization under ORS 998.853 (1) (a) - (c) is reasonable to ensure the safety and well being of the public.
3. The Board finds ORS 98.853 (1) (a) - (c) is not meant to allow the tower to act as a parking facility owner's agent or allow the tower to independently authorize a tow.
4. The authorization for tows under ORS 98.853 (1) (a) - (c) can be made by a tenant, a facility employee, or other individuals when a vehicle is parked in clear violation of ORS 98.853 (1) (a) - (c).
5. Towers, their employees, or their agents cannot serve as an agent of the parking facility owner for the purpose of authorizing towing a vehicle from the parking facility under ORS 98.853 (1) (a) - (c).

**Signature Authority Requirements - ORS 98.853 (1) (d):**

Whereas:

1. Only the landlord, complex manager, or property management company can verify compliance with the specific requirements of ORS 98.853 (1) (d) (A) - (C), specifically:

- A. At the time of the authorization of tow, there are more residential units assigned than there are designated parking spaces available for tenant use.
  - B. That the vehicle is parked in violation of the parking facility's parking policy and in violation of the terms of a tenant or rental agreement.
  - C. That when parking spaces are assigned to tenants, reasonable attempts are made to contact the tenant to confirm that the vehicle is parked without the tenant's permission.
  - D. That a parking sticker, placard, or indicator was assigned to the vehicle.
  - E. That a vehicle has not been given authorization to park in the parking facility.
2. The Board has received information and documentation demonstrating unlawful towing of vehicles from private parking facilities under ORS 98.853 (1) (d) when the requirements of ORS 98.853 (1) (d) (A) – (C) are not met.

The Board finds:

A vehicle towed for violation of ORS 98.853 (1) (d) requires a signed authorization from the private parking facility owner or their legal agent who can verify and confirm the conditions of ORS 98.853 (1) (d) are applicable to the vehicle identified to be towed.

**Prohibition of a tower, their employees or designees acting as a parking facility owner's agent:**

1. A tower or any employee of tower, including dispatch, office staff, tow operator, independent contractor, or agent of any company or business owned or contracted by the tower, cannot act as the agent of a parking facility owner for the purposes of authorizing a tow from a private parking facility.
2. An owner's agent must be the parking facility owner's legal or contracted agent. A tower cannot contract with a third-party to act as the owner's agent for the purpose of authorizing PPIs.
3. A parking facility owner cannot designate a tower, or the towers employees or agents, to act as the owner's agent under a Towing Services Agreement.

**Retention requirements:**

1. The tower will retain a copy of the signed authorization for a minimum of two years.
2. Upon request, a tower will provide copies of the signed authorization to the owner or operator of the motor vehicle and to any agency with proper jurisdiction to request the document at no additional charge.
  - A. The signed authorization is to be provided to the requester at the time of the request.
  - B. If unable to provide a copy of the signed authorization at the time of the request, the signed authorization is to be provided to the requestor no later than the next calendar day or at time of release of vehicle, whichever comes first.

**Violations:**

The following are grounds for Board investigation or disciplinary action:

1. Towing or impounding a vehicle without an authorization signed at the time of the tow.

2. A tower, their employees, or other agent or representative of the tower acting as the parking facility owner or owner's agent in authorizing the tow.
3. Falsifying any information contained in a signed authorization, including signing the signed authorization using a fictitious name or the name of another.
4. Failure to provide a copy of the signed authorization to the vehicle owner, operator, the Board, or an agency of proper jurisdiction within the time defined in Board policy.

Reference:

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

UPDATED DRAFT - for discussion purposes only



## State Board of Towing Public Policy

*Policy No.:*  
**PP-24-001-C**

*Supersedes:*  
**NA**

*Reference:*  
ORS 98.853 (2)

*Subject:*  
Pre-Tow Photographs, ORS 98.853 (2)

*Effective Date:*

**Authority/Applicable Statute(s) or Administrative Rule(s):**

**ORS 822.265 Rulemaking authority**

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

**ORS 98.853 Conditions allowing towing.**

(2) Prior to towing a motor vehicle pursuant to ORS 98.812 (Towing of unlawfully parked vehicle), a tower shall take at least one photograph of the motor vehicle and record the time and date of the photograph. The photograph must show the motor vehicle as it was left or parked at the time the tower arrived to conduct the tow. The tower shall maintain for at least two years, in electronic or printed form, each photograph taken along with the date and time of the photograph. Upon request, the tower shall provide a copy of any photographs to the owner or operator of the motor vehicle at no additional charge.

**Purpose:**

The purpose of this Public Policy is to interpret and define the intent and requirements of the photographs required under ORS 98.853 (2).

**Policy:**

The Board finds:

1. The purpose and intent of the photograph required under ORS 98.853 (2) is to demonstrate to the vehicle owner, the Board, and other authorities that the vehicle was parked in violation of the private parking facility requirements.
2. The photo must show the vehicle as it was parked at the time the tower arrived to conduct the tow.
  - A. While not required, towers should be aware that more than one photo may be required to sufficiently show the parking violation.
  - B. The photo is to be either date time stamped on the photograph or documented as attachments to the signed authorization.

**Retention requirements:**

1. The tower will retain copies of the photographs associated with the tow for at least two years.
2. Upon request, a tower is to provide copies of the photographs to the owner or operator of the motor vehicle, the Board, and any agency with proper jurisdiction at no additional charge.



- |   |
|---|
| <p>A. Copies of the photographs are to be provided to the requester at the time of the request.</p> <p>B. If unable to provide copies of the photographs at the time of the request, the photographs are to be provided to the requestor no later than the next calendar day or at time of release of vehicle, whichever comes first.</p> |
|---|

**Violations:**

The following are grounds for Board investigation or disciplinary action:

1. Failure to produce photographs showing the vehicle parked prior to the tow within the time defined in Board policy.
2. Provided photographs do not show the vehicle prior to the tow.
3. Provided photographs do not demonstrate violation of the parking facility regulations.

**Reference:**

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

UPDATE DRAFT - for discussion purposes only



## State Board of Towing Public Policy

*Policy No.:*  
**PP-24-001-D**

*Supersedes:*  
**NA**

*Reference:*  
ORS 98.853 (3)  
ORS 98.854 (14)

*Subject:*  
Private Property Impounds – Release of Tow  
ORS 98.853 (3), ORS 98.854 (14)

*Effective Date:*

### Authority/Applicable Statute(s) or Administrative Rule(s):

#### **ORS 822.265 Rulemaking authority**

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

#### **ORS 98.853 Conditions allowing towing:**

(3) (a) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in ORS 98.856 (Tower responsibility of disclosure to owner or operator of vehicle).

#### **ORS 98.854 A tower may not:**

(14) Charge for the hookup and release of a motor vehicle except as provided in ORS 98.853 (Conditions allowing towing).

### Purpose:

The purpose of this Public Policy is to interpret and define:

1. The release of a motor vehicle at the time of hookup to the owner or operator of the motor vehicle.
2. "Vehicle operator" for the purposes of a private property impound (PPI).
3. Clarification of fees that may be assessed to the owner or operator to release the vehicle prior to the completion of the tow.

### Policy:

1. The following definitions apply to PPIs
  - A. Owner: registered owner, or a person who can reasonably demonstrate ownership of a vehicle (registration, insurance, bill of sale, etc.) at the time of hook up.
  - B. Operator: A person who has reasonable physical possession and the capability to move the vehicle.
2. Upon arrival of the owner or operator of the motor vehicle, the tow operator must immediately cease hookup of the vehicle.

3. For passenger vehicles: if the vehicle is not loaded or connected in such a way that the vehicle can be safely towed *without risk of physical damage to the vehicle*, the vehicle is to be released at no charge.
4. At no time is a tower to begin or complete a hookup of a PPI if a person or animal is in the parked vehicle, except with express authorization from law enforcement or other government official.
5. If hook up of the vehicle is complete but the vehicle not yet towed from the private parking facility, the tower may only charge the owner or operator of the vehicle the tower's standard rate for the cost of a hook up.
6. The tower may not charge more than the rate disclosed under ORS 98.856 (1) (a) (*Tower responsibility of disclosure to owner or operator of vehicle*).
7. At the time of payment for release of the vehicle, the tower is to provide the vehicle owner or operator a receipt showing:
  - A. The name of the tow company, address, and contact information of the tow company;
  - B. The operator's employee ID or
  - C. If no employee ID is used by the company, the TW Plate No.
  - D. The date and time of payment
  - E. The method of payment
  - F. Amount of payment
  - G. Signature of the owner or operator of the vehicle.
8. A copy of the receipt is to be retained by the tower for a minimum of two years.
9. For the purposes of payment of release of the vehicle after complete hook up but prior to the vehicle being towed from the private parking facility:
  - A. If a cash payment is made, exact change is required to be issued by the tower no later than the end of the next business day following receipt of payment.
  - B. The intent of the Board is that the tower accepts payment by debit and other methods to allow release of a vehicle prior to towing.
    - A. Accepting payment by debit card or other methods is intended to avoid additional expenses assessed to the vehicle owner or operator.
    - B. Acceptance of payment by debit card or others methods to release a PPI prior to the vehicle being towed from the private parking facility is not meant to require a tower accept debit or credit card payments after the completion of the tow.
    - C. If the vehicle owner or operator arrives prior to completion of the hook up or prior to the vehicle being towed from the parking facility, but the vehicle is disabled or otherwise unable to move under its own power, the tow may be completed at the discretion of the person authorizing the tow.

**Violation:**

The following are grounds for Board investigation or disciplinary action:

- A. Failure to stop hook up of a vehicle upon arrival of the owner or operator of the vehicle (except if the vehicle is disabled and unable to be moved by the owner or operator).
- B. Failure to allow an owner or operator to pay for the hook up charge when hook up is complete, but the vehicle has not been towed from the parking facility.
- C. Requirement of payment to release the vehicle in an amount greater than the hook up fee listed on the tower's rate sheet.
- D. Failure to provide a receipt at the time of payment for the vehicle's release.

- E. Failure to provide exact change by close of business the next business day if tower accepts cash payment for release of a vehicle.
- F. Attempt to hook up or tow a vehicle when there is a person or animal in the vehicle, unless expressly directed to do so by law enforcement or another government authority.
- G. Towing a vehicle away from the private parking facility in an unsafe manner in an attempt to avoid releasing the vehicle.

Reference:

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

PRELIMINARY DRAFT - for discussion purposes only



# State Board of Towing Public Policy

*Policy No.:*  
**PP-24-001-E**

*Supersedes:*  
**NA**

*Reference:*  
**ORS 98.854 (8)**

*Subject:*  
Private Property Impounds - Monitoring and  
Patrolling Parking Facilities  
ORS 98.854 (8)

*Effective Date:*

**Authority/Applicable Statute(s) or Administrative Rule(s):**

**ORS 822.265 Rulemaking authority**

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

**ORS 98.854**

A tower may not:

(8) Park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

**Purpose:**

The purpose of this Public Policy is to define the intent of ORS 98.854 (8) to include patrolling, observing, surveillance, and other methods of monitoring a parking facility for towing business.

**Policy:**

A tower may not:

1. Monitor a parking facility for towing business, including:
  - A. Park within 1000 feet of a parking facility.
  - B. Park within a private parking facility.
  - C. Patrol by vehicle or on foot a private parking facility, or
  - D. Otherwise conduct surveillance of a private parking facility.
2. It is not the intent of this public policy to prevent or interfere with a private parking facility owner, or their agent, contracting with security firms, security personnel, and other third-party contractors to monitor and patrol their parking facility.
3. Towers, their employees, or contractors, or affiliates with whom the tower has a financial interest, may not act as the parking facility owner's agent or contractor for the purposes of monitoring, patrolling, or conducting surveillance of a parking facility for towing business to:
  - A. Preserve the professional standards and integrity of the towing industry
  - B. Avoid any real or potential conflict of interest of a tower monitoring a parking facility for the purpose of soliciting towing business.

4. Avoid a tower, or the towers employees, staff, or designee, acting as a parking facility owner's agent in violation of ORS 98.854 (2) - (4).

**Violations:**

It is a violation of Oregon's laws and rules, subject to investigation and disciplinary action by the Board, for a tower, their employee, or affiliate with whom the tower has a financial interest to patrol, monitor, or survey private parking facilities for the purpose of identifying vehicles to be towed by the tower, their employee, of other affiliate with whom the tower has a financial interest.

**Reference:**

- Initial Concept Summary Document and attachments.
- Board Meeting Minutes and Work Session Notes.

Updated Draft - For Discussion Purposes Only



# OREGON STATE BOARD OF TOWING

## Initial Concept Summary Facility Registration/Permit/Certification/License

*Regulation of tow business locations and tow yards, including primary place of business, satellite locations, and other lots and locations used by a tow company operating commercial tow or vehicle recovery services in Oregon.*

### Authority

The State Board of Towing was established by the 2021 Oregon legislature with the authority to:

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

ORS 822.280 Denial, suspension, revocation or refusal of towing business certificate

(2) In addition to any other penalty provided under ORS 822.215 (Grounds for denial, suspension, revocation or refusal of certificate) and subject to ORS chapter 183, the 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 (Certificate), if the person holding or applying for the certificate:

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower), Exceptions to requirements of ORS 98.856).

ORS 822.290 Denial of participation on Department of State Police tow rotation

(2) Subject to ORS chapter 183, the 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 (Eligibility of towing business to be placed on department list), if the person holding or applying for the letter of appointment:

(b) Violates any provision of, or rules or ordinances adopted under, ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower),

ORS 822.995 Civil penalties for violations related to towing

(1) In addition to any other penalty provided by law, any person who violates any provision of ORS 98.853 (Conditions allowing towing), 98.854 (Prohibitions placed on tower) ... or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.

### Identified Issues or Concerns

1. With few exceptions, tow business properties and storage facilities are not consistently regulated in Oregon.
2. There are few statewide regulations and requirements specific to towing yards or locations protecting the owners of the vehicles from damage to, or theft from, vehicles towed to tow yards.
3. There is relatively little oversight of tow business operations; businesses are not verified to be properly registered Secretary of State, Business Registration and there are complaints and information that some tow businesses are taking advantage of the lack of oversight.
4. To date, there is no data collected or available to the public specific to tow business operations. The number of businesses operating as a tow or recovery business is unknown, the number of tow lots or yards is unknown, the number of tow operators is unknown.
5. The Board's ability to meet the legislative mandate in administering the statutes assigned to the Board is hampered by the inability to track tow company business locations and identify ownership. This allows for a tow company to operate under a different name at the same or different locations, or change the company name to avoid disciplinary actions or sanctions.

6. It is known that there are tow companies operating without DMV tow certificates, there are some companies where sharing a TW plate amongst tow trucks is a common practice, and there are companies sharing or leasing the company's registered tow trucks with individuals or other companies not registered with DMV or operating in compliance with Oregon's laws and rules.

## Current Regulation

1. ODOT and DMV regulate tow vehicle registration through an application, proof of insurance, and payment of a fee.
2. ODOT and DMV jurisdiction is generally limited to the registered vehicles, only.
3. Secretary of State Corporation Division accepts business registration applications and fees, but provides no significant oversight or regulation over business operations or practices.
4. State Board of Towing may adopt rules defining and implementing the statutes assigned to the Board.
5. State Board of Towing is the state authority identified to administer the laws and rules regulating towing and recovery services; however, there are no current business regulations or requirements providing oversight of tow business operations and practices.

Adding the authority to regulate tow businesses and locations under the State Board of Towing:

1. Allows the Board to administer the laws and rules regulating the towing industry.
2. Is the most effective and cost-efficient way to provide adequate oversight and monitoring of the towing industry.
3. Is the most expedient answer to regulating the towing companies by a state agency:
  - A. The Board has the authority to regulate the towing industry;
  - B. The Board has established direct process for public, partner, and towing industry input.
  - C. The Board has the infrastructure in place to issue permits without requiring programming or changes to existing IT options.

## Benefits

Public:

1. Ability to confirm if a tow company is "licensed" – or operating with some assurance of protection - with the state.
2. Ability to confirm public contact and other information through the Board's website.
3. Once enacted by the Legislature: Ensure that a towing company and tow yard meets the minimum requirements to protect public safety.
4. Ability to confirm public contact and other information through the Board's website.

Towing Industry:

1. Levels the playing field so all tow companies and tow yards meet minimum standards for business and employment practices, and meets and maintains minimum safety requirements for tow yards.
2. Allows for oversight of employment practices and safety requirements.
3. Resource for best practices, guidelines.

Partners:

1. Ensure towing companies and tow yards meet the minimum requirements to protect public safety.

2. Collaborative partnerships for inspections.
3. Use of the Tow Board as the authoritative agency to implement standards and requirements and reach resolution of violations.
4. Identify safety concerns and training needs.

#### State Board of Towing:

1. Ability to accurately define the owners of a tow company for efficient investigation or disciplinary purposes.
2. Ability to track compliance issues by county or area to determine training needs.
3. Ability to identify and track best practice standards and needs of companies.
4. Ability to regulate business practices and standards, ensure compliance with other business requirements (SOS, DOR, Employment, insurance, etc.) by specifying in OAR the operational requirements necessary for a permit.
5. Identify training needs – work with OTTA, other state agencies, and other partners to ensure tow companies have necessary business and regulation resources.
6. Permits are issued for the location and owner. Once enacted by the legislation: the authority for the Board to revoke, deny, or suspend a facility permit based on company ownership or location – no whack-a-mole (owners reopening a business by changing a name).

#### Other advantages and benefits:

1. Ability to provide data not yet collected by any state agency: the number of tow companies within the state, where tow lots are located, etc.
2. Definitive registration list of a regulated industry.
3. Assurance that the tow companies are operating with minimum standards, and that the towing industry has sufficient oversight and regulation to protect the public.

## Examples

### Facility license/permit/registration requirements in statute

- (1) All permanent structures, lots, or other properties used in providing commercial towing services or storage of towed vehicles in Oregon must obtain a facility permit/license/registration issued by the State Board of Towing to operate.
- (2) To be issued a license/permit/registration to operate a tow facility, storage lot, or other property in connection with providing commercial towing services, each applicant shall:
  - (a) Submit an application in a form approved by the State Board of Towing and pay the applicable fees established under OAR Chapter 750.
  - (b) Be established and comply with local, state, and federal laws, rules and regulations.
  - (c) If the applicant is an entity other than a natural person, be formed and operated in accordance with Oregon law.
- (3) The State Board of Towing may adopt rules for the administration of this section.
- (4) A license issued under this section shall confer on a facility owner the right to operate the facility and to advertise the services for which the facility is licensed.

#### Amendment of ORS 822.200 to read:

#### ORS 822.200 Operating illegal towing business

- (1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate **issued by DMV** under ORS 822.205 (Certificate) **and a facility permit issued by the Board under ORS ###.###** and the person does any of the following:
  - (a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.
  - (b) Engages 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.

- (c) Purports in any way to be engaged in the business of performing activities described in this subsection.
- (2) This section does not apply to any of the following:
- (a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310 (Privileges granted by certificate).
  - (b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.
  - (c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.
  - (d) An employee of a person issued a towing business certificate under ORS 822.205 (Certificate) while that employee is performing official duties as an employee.
  - (e) A person who holds a valid dismantler certificate under ORS 822.110 (Dismantler certificate) who tows a vehicle described under ORS 819.280 (Disposal of vehicle at request of person in lawful possession).
- (3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor. [1983 c.338 §811; 1985 c.16 §410; 2005 c.738 §§6,6a]

### Possible Conflicts or Obstacles

1. The Board can create a registry and ask for volunteer registration, but cannot require registration.
2. Statutory authority required to require registration.
3. Financing and infrastructure required for a registration process.
4. Some tow yards may be operating under a dismantler permit issued by DMV.
5. DMV currently has the authority to issue tow business certificates based on a truck's VIN. Collaboration between the Board and DMV required to identify the authority of scope of each entity.

### Proposed Process/Resolution

1. Determine business need for registry, information and data to be collected.
2. Note: an initial registry for all tow businesses can be completed in a case management system.
3. Identify:
  - A. What does the permitting process look like – different levels depending on yard usage?
  - B. Cost: flat fee per lot, discounts depending on size of lot, number of trucks, main/corporate lot vs. storage?
4. Work with partners and legislature to create statute requiring permit and timeline
5. Determine parameters as compliance standards for towing facilities
6. Determine permit requirements and form
7. Determine implementation dates and fee schedule
8. Identify partners to ensure registration and permit has value and meets the needs of the board, industry and partners.

### Next Steps

# OREGON STATE BOARD OF TOWING

## Initial Concept Summary

### ORS 822.200 Operating illegal towing business

#### Authority

The State Board of Towing was established by the 2021 Oregon legislature with the authority to:

ORS 822.265 Rulemaking authority

(1) In accordance with applicable provisions of ORS chapter 183, the 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 (Conditions allowing towing) to 98.862 (Exceptions to requirements of ORS 98.856).

ORS 822.995 Civil penalties for violations related to towing

(1) In addition to any other penalty provided by law, any person who violates any provision of ... [822.200 \(Operating illegal towing business\)](#) ... or any rule adopted by the State Board of Towing is subject to payment of a civil penalty to the board.

#### Current Statutes

##### ORS 822.200 Operating illegal towing business

(1) A person commits the offense of operating an illegal towing business if the person does not hold a certificate issued under ORS 822.205 (Certificate) and the person does any of the following:

(a) Engages in the towing or recovering of vehicles by any means for any direct or indirect compensation when the vehicle being towed or recovered is owned by a person other than the person performing the towing or recovery activity.

(b) Engages 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.

(c) Purports in any way to be engaged in the business of performing activities described in this subsection.

(2) This section does not apply to any of the following:

(a) Persons operating under and within the scope of a vehicle transporter certificate issued under ORS 822.310 (Privileges granted by certificate).

(b) A person who provides assistance to another motorist, whether or not compensation is received, if the assistance is not provided as part of the business operation of the person providing the assistance.

(c) A person engaging in any activity relating to a vehicle in which that person holds a security interest.

(d) An employee of a person issued a towing business certificate under ORS 822.205 (Certificate) while that employee is performing official duties as an employee.

(e) A person who holds a valid dismantler certificate under ORS 822.110 (Dismantler certificate) who tows a vehicle described under ORS 819.280 (Disposal of vehicle at request of person in lawful possession).

(3) The offense described in this section, operating an illegal towing business, is a Class A misdemeanor. [1983 c.338 §811; 1985 c.16 §410; 2005 c.738 §§6,6a]

##### ORS 822.205 Certificate

The Department of Transportation shall issue a towing business certificate to any person if the person meets all of the following requirements to the satisfaction of the department:

(1) The person must complete an application in a form and in the manner established by the department by rule.

(2) The person must maintain insurance in amounts and providing coverage of the type required for motor carriers under ORS chapter 825 and deliver a certificate of insurance to the department.

(3) The certificate of insurance required under subsection (2) of this section must:

(a) Be issued by an insurance company licensed to do business in this state;



- (b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;
  - (c) Contain the policy number; and
  - (d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.
- (4) The person must maintain insurance providing \$50,000 coverage for cargo transported by the person and deliver a certificate of insurance to the department. An applicant is not required to comply with this subsection if the applicant tows or recovers only vehicles that are owned by the applicant.
- (5) The person must maintain vehicles used by the person for the purposes of towing or recovering services so that they meet minimum safety standards established by the department by rule. The department may accept the certification of the person as evidence of compliance with this subsection or may require other evidence, as the department determines appropriate.
- (6) The certificate of insurance required under subsection (4) of this section must:
- (a) Be issued by an insurance company licensed to do business in this state;
  - (b) Show that the person is insured by a policy that provides the minimum amount and limits of coverage required under ORS chapter 825;
  - (c) Contain the policy number; and
  - (d) Require the insurance company to give the department written notice of cancellation of the policy and to continue to be liable under the policy until the department receives the written notice or until the cancellation date specified in the written notice, whichever is later.
- (7) The person must pay the fee required under ORS 822.700 (Certification fees) for issuance of a towing business certificate. [1983 c.338 §813; 1985 c.16 §412; 1985 c.400 §7; 1993 c.751 §86; 2007 c.538 §16]

#### **ORS 822.210 Privileges granted by certificate**

- (1) The holder of a current, valid towing business certificate issued under ORS 822.205 (Certificate) may exercise the following privileges under the certificate:
- (a) The person and any employee of the person who is performing official duties are not subject to the prohibitions and penalties under ORS 822.200 (Operating illegal towing business).
  - (b) The person is entitled to receive special indicia of towing business registration. The following apply to indicia described in this paragraph:
    - (A) The holder of the certificate or a person in the performance of the person's official duties as an employee of the certificate holder may use the indicia:
      - (i) For towing and recovering vehicles; and
      - (ii) For towing unregistered vehicles over the highways of this state without first obtaining registration for the vehicles or trip permits required under ORS 803.600 (Trip permits).
    - (B) The indicia shall be of the design provided under ORS 805.200 (Plates and other devices with special designs) and are subject to payment of fees for issuance as provided under ORS 805.250 (Fees for special plates).
- (2) A towing business certificate expires one year from the date of issuance unless renewed. A certificate holder may renew the certificate by payment of the fee for renewal of a towing business certificate under ORS 822.700 (Certification fees). A person whose certificate expires must qualify for a certificate in the same manner as a person who has not previously held a certificate.
- (3) The holder of a towing business certificate is subject to regulation by political subdivisions as provided in ORS 801.040 (Authority to adopt special provisions) and 822.230 (City or county regulation of towing businesses), and to regulation under ORS chapter 825. [1983 c.338 §812; 1985 c.16 §411; 1987 c.765 §4; 1993 c.741 §144; 1995 c.733 §78]

#### **ORS 822.110 Dismantler certificate**

- (1) Except as provided in subsection (2) of this section, the Department of Transportation shall issue a dismantler certificate to any person if the person meets all of the following requirements:



- (a) The person establishes that the area in which the business is located and the place of business to be approved under the dismantler certificate for use in the motor vehicle dismantling business are zoned for industrial use or subject to another zoning classification that permits the type of business conducted by the dismantler.
  - (b) The person pays the fee required under ORS 822.700 (Certification fees) for issuance of a dismantler certificate.
  - (c) The person completes the application for a dismantler certificate described under ORS 822.115 (Application contents).
  - (d) The person delivers to the department any approvals by local governments required under ORS 822.140 (Local government approval requirements).
  - (e) The person delivers to the department a bond or letter of credit that meets the requirements of ORS 822.120 (Bond or letter of credit requirements).
- (2) The department may refuse to issue a dismantler certificate to a person if:
- (a) The person has previously had a dismantler certificate or identification card revoked, canceled or suspended under ORS 822.145 (Imposition of sanctions); or
  - (b) The department determines that the application contains false or misleading information.
- (3) The department may issue a duplicate dismantler certificate to a person who has lost or destroyed an original dismantler certificate if the person:
- (a) Has complied with the requirements of this section for issuance of a certificate; and
  - (b) Is within the renewal period of the original dismantler certificate. [1983 c.338 §802; 1985 c.16 §401; 1991 c.331 §139; 1993 c.741 §88; 2005 c.654 §8]

#### **ORS 819.280 Disposal of vehicle at request of person in lawful possession**

- (1) A person may make a request to an authority described in ORS 819.140 (Agencies having authority to take vehicle into custody) (1)(b) or (c) to dispose of a vehicle that is on the private property of the person and that is appraised at a value of \$500 or less, as determined by a holder of a certificate issued under ORS 819.480 (Vehicle appraiser certificate), if the person is in lawful possession of the vehicle. For the purposes of this subsection, a person need not have the certificate of title to be in lawful possession of the vehicle.
- (2) If the authority requested to dispose of a vehicle under subsection (1) of this section chooses to dispose of the vehicle, the authority shall do all of the following:
- (a) Photograph the vehicle.
  - (b) Verify that the person is in lawful possession of the vehicle.
  - (c) Provide notification to the person requesting the disposal and the Department of Transportation of all of the following:
    - (A) The name and address of the person requesting the disposal;
    - (B) The vehicle identification number;
    - (C) The appraised value of the vehicle;
    - (D) The appraiser's certificate number and signature; and
    - (E) The name and address of the authority disposing of the vehicle.
  - (d) Dispose of the vehicle and its contents to a person who holds a valid dismantler certificate issued under ORS 822.110 (Dismantler certificate).
- (3) The authority disposing of the vehicle may charge the person requesting the disposal a fee to dispose of the vehicle.
- (4) Disposal of a vehicle to a dismantler as provided in this section extinguishes all prior ownership and possessory rights.
- (5) The department shall adopt rules specifying the form in which notification required by subsection (2) of this section shall be submitted and what additional information shall be conveyed to the department.
- (6) In lieu of submitting ownership or other title documents for the vehicle, the authority disposing of the vehicle may submit to the dismantler a copy of the notification provided to the department under subsection (2) of this section. [2005 c.738 §2; 2005 c.738 §2a]

## Compliance Issues

1. Towers running trucks and offering towing services (including recovery, salvage, and repossession) without a towing business certificate or an expired certificate.
2. Tow companies with multiple trucks certifying some trucks, but not all, used in towing and recovery services.
3. Companies selling, leasing or loaning tow trucks with the appropriate certificate, without the owner or operating company qualifying or maintaining the requirements of the business certificate.
4. Companies operating under a dismantler certificate in lieu of a tow business certificate without meeting the requirements of *ORS 822.200 Operating illegal towing business (2) (e) A person who holds a valid dismantler certificate under ORS 822.110 (Dismantler certificate) who tows a vehicle described under ORS 819.280 (Disposal of vehicle at request of person in lawful possession).*

## Potential Public Risk and Harm

Tow services conducted without legal and insurance requirement.

## Benefits of Better Regulation and Enforcement

- Protection of the public by ensuring vehicles are towed in compliance with Oregon's laws and rules.
- Fair and equitable registration of persons within the towing industry.

## Other Considerations

- Coordination with DMV Dismantler program

## Identified Partners and Persons of Interest

- DMV Dismantler Program
- DMV Vehicle services/vehicle registration

## Board Determination

TBD by the Board

## Timeline and Next Steps

TBD by Board.

## Resources:

What information does the Board need to make informed decisions?

INITIAL DRAFT FOR DISCUSSION PURPOSES