



# Oregon

Tina Kotek, Governor

State Board of Towing  
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## OREGON STATE BOARD OF TOWING DRAFT Board Work Session Notes July 23, 2024

### *Work Session Location:*

Oregon DMV HQ  
1905 Lana Avenue  
Salem, OR 97314

### *Attending Board Member:*

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

### *Board Staff:*

Torey McCullough, Board Administrator

### *Absent:*

Jason Shaner

### *Guests:*

Dave Adams, DMV Vehicle Services; Michelle Druce, Oregon Consumer League, Rich Sprute, Jean Underwood, Dawn Callahan, Donny Callahan, Max Kenworthy, Clint Walker, Sara Mangan, Mike, Shannon.

### *Meeting Called to Order:*

Mr. Riley called the meeting to order at 1:01 p.m.  
Self-introductions were made.

### *Agenda*

Agenda approved by consensus.

### *Work Session*

The goal for the work session was for the Board to review each of the proposed Private Property Impound (PPI) public policies one at a time to discuss and make any changes, accept public comment, and then vote to adopt public policies.

### **Initial Concept Summary:**

The Chair opened the floor for public comment. There were no public comments.

The Chair called for a roll call vote:

Approved: Anderson, Baker, Coughlin, Iwai, Lindland, Hanson, Riley. Abstained: McClellan (tow vote).

### **Public Policy: Private Property Impounds (PPIs):**

PPIs, like any other towing service, is a necessary professional towing service.

There is an expectation that all PPI's are completed in 100% compliance with Oregon's laws. Complaints received by the Board are demonstrating that there are PPIs being conducted in violation of the plain language of the laws. The proposed public policies address identify violations of the plain language of the law, and clarifies the intent of some of the laws that may not be as clear.

Mr. Riley reiterated that the prime reason the Board exists is to make sure that both the public and the towers are treated fairly, and that everyone follows the law.

Board members clarified:

1. In the event of an unlawful tow, the expectation is that the vehicle is to be returned to the vehicle owner at the owner's discretion (returned to the place of the tow, retrieval at the tow yard, etc.)
2. Documents and photos should be provided at the time of the request, but no later than the next business day.

#### Public comment:

- Why can't the documents and photos be provided by the end of the week? By the end of the week gives the tower some time to pull together the documents.
- What if the person who processes the requests is not in the office the day when the request comes in.

#### Board response:

- The law states "upon request." The Board believes the next business day is a reasonable expectation.

#### Public comment:

- There are concerns that some vehicle owners ask for the documents sometimes months after they picked up the vehicle, and it takes time for the tower to retrieve the information.
- Some tow companies have secure systems with limited access to the information and data by only one staff or the owner, who may have consecutive days off during the week. The concern is: the person who has the secure access to the information may not be in the office on the day the request is made.
- It was proposed that if a vehicle owner wanted to see the documentation and photos before paying the bill, and the tower was not able to provide the documents, the tower should forgo storage for those days.

Board response:

- Mr. Anderson noted if you sign on to be a tow contractor for a county city state, there's got to be somebody at the tow yard available. There has to be someone available to conduct business.
- Ms. Coughlin commented that towing is so stressful from a consumer perspective. If someone wanting the information because of questions regarding the validity of the tow, it is the responsibility of the business to get that to them.

With no further public comments, the Chair called for a roll call vote:

Approved: Baker, Coughlin, Iwai, Lindland, McClellan, Hanson, Riley. Abstained: Anderson (tow vote).

**Public Policy A: Signature Authority ORS 98.854 (2) - (4)**

- If a vehicle is involuntarily towed, there must be an authorized person that has the accountability and the responsibility to make things right and to be responsible in case something goes wrong. For PPIs, this means there has to be an authorized signature from the parking facility owner or the owner's agent in the request or at the time of the tow.
- Tow contracts and agreements do not replace the requirement of the signed authorization. The signed authorization is not a blanket authorization; towers must know which vehicles a manager or parking lot owner is authorizing to be towed.
- While a parking facility owner has a right to have their parking lots monitored and vehicles towed, towers cannot sign authorizations as an agent or on behalf of the parking facility owner, forge a signature on the tow authorization, or date a tow authorization before or after the tow. Printing a pre-signed authorization, with staff filling in the information of the vehicle to be towed, does not meet the legal requirements under ORS 98.854.

Public comment:

What about the small business offices that don't want someone parked in their parking spaces overnight. They don't have a private security company that goes out, and they don't want to be woken up in the night. How can the tower help them out.

Board response:

It is up to the business owner to have someone who can sign an authorization for a tow. If the business owner doesn't want the vehicle there, they need to be willing to sign the authorization for it to be towed.

The tower is, by law, not allowed to monitor a parking lot for the purposes of identifying tow business.

Public comment:

Is the Board's policy is based on the small business owner issues?

Board response:

The majority of the PPI complaints are for apartments but the Board receives frequent complaints for vehicles towed from small business parking lots.

Right now, in compliance with the laws and to make the process fair to everyone, the Board's public policies follow Oregon law, which uses specific language that the tower cannot act as the agent of a parking facility owner in authorizing the tow.

The Board will track and monitor complaints and circumstances regarding business parking lots for future consideration.

There being no further public comment, the Chair called for a roll call vote:

Approved: Anderson, Baker, Coughlin, Iwai, Lindland, Hanson, Riley. Abstained: McClellan (tow vote).

### **Public Policy B: Signature Authority**

- The Board finds that the conditions under ORS 98.853 (1) (a) - (c) allow that a vehicle can be towed under the signed authorization of someone other than the parking facility owner, however, ORS 98.853 (1) does not provide that the tower may act as the parking facility owner's agent for the purpose of identifying vehicles to be towed. This would create a conflict of interest, where the tower has a financial interest in towing the vehicle.
- The only person that's going to know if a PPI complies with ORS 98.853 (1) (d) is the landlord or the manager who has access to those records and who can verify that:
  - A. There are more residents than there are parking spaces.
  - B. The complex issues parking tags, and that vehicle has not been issued a parking tag.
- The Board tabled discussions of what should happen if the parking facility owner authorizes a tow when the tenant is legally parked.

The Chair opened the floor for public comment. There were no public comments.

The Chair called for a roll call vote:

Approved: Baker, Coughlin, Iwai, Lindland, McClellan, Hanson, Riley. Abstained: Anderson (tow vote).

### **Public Policy C: Pre-tow Photographs**

The purpose of the photograph is so it can be presented as proof and to demonstrate to the vehicle owner, the tow operator's employer, the Board, and other agencies that the vehicle was parked in violation.

The law requires one photo, but more photos are better. For one, it is easier for Board staff when there's they are talking to a vehicle owner to have photos showing the tow sign, the car plate, how it is parked, the different windows demonstrating that the parking tag or sticker, and any notice or notes left for the vehicle owner. The same will be true for the vehicle owner, or if another agency requests the photos for an investigation.

The Chair opened the floor for public comment. There were no public comments.

The Chair called for a roll call vote:

Approved: Anderson, Baker, Coughlin, Iwai, Lindland, Hanson, Riley. Abstained: McClellan (tow vote).

### **Public Policy D: Release of Tow ORS 98.853 (3)**

The Board previously tabled for discussion reasonable fees if a vehicle operator arrives during hook up of a commercial or other large vehicle.

Mr. Baker shared reservations and concerns that, with enforcement of current laws preventing monitoring of parking lots, the Board might consider the time between when a property owner requests a tow and when the tower arrives at the parking facility, and what options should be considered to compensate the tower for their time when they are in the middle of a hook up of a passenger vehicle when the vehicle operator shows up.

The Board tabled discussion of the hookup fee policy until the Board could consider options that are fair to all parties.

As the statute is clear of when a vehicle must be released without a charge, and when a hookup fee may be charged to release the vehicle, the Board will continue to investigate complaints alleging violations of ORS 98.853 (3) (a) and ORS 98.854 (14), will consider the mitigating circumstances, and will vote on appropriate Board action for violations of either law.

### **Public Policy E: Monitoring a parking facility for towing business ORS 98.853 (8)**

After consideration of definitions, intent, and different statutes, the Board finds that monitoring a parking facility for the purposes of identifying towing business includes:

- Parking within the 1000 feet parking on the property,
- Patrolling private parking facility for the purposes of identifying vehicles to be towed and
- Otherwise conducting surveillance of a private parking facility to identify towing business.

The property owner can have cameras monitoring the property, can have a contractor or employee patrol the property, but there needs to be a separation between the authorization for the tow and the tower to avoid a conflict of financial interest. A tower cannot patrol or monitor parking facilities to find their own towing business.

The Chair opened the floor for public comment.

#### Public comment:

The question was asked if the towers would still be able to conduct patrols.

#### Board response:

Mr. Riley noted:

- The law is clear that towers cannot monitor parking facilities for towing business within 1000 feet.
- Parking in or patrolling a parking facility has the tower monitoring the facility within 1000 feet.
- The intent of the law, enacted in 2007, is that the parking facility was not to be monitored by a tower for protection against unlawful tows.
- There are people who may patrol parking facilities in a kind and gentler way, but laws are written that need to be followed by everyone.
- The Board will revisit the concerns of small business owners and if and when a parking facility may be monitored, but for now, the law says no monitoring of a parking facility within 1000 feet by the tower.

#### Public comment:

A concern that the term “predatory” is being misused, and not being used in the correct context, and that the Board should redefine it.

Board response:

The Board had a long conversation in one of its first board meetings about the word “predatory”. The term is not referred to in the Board’s policy or in administrative rules.

Board members and staff try to stay vigilant in use of the word due to the word being misconstrued by the public.

With no further public comments made, the Chair called for a roll call vote:

Approved: Anderson, Baker, Coughlin, Iwai, Lindland, Hanson, Riley. Abstained: McClellan (tow vote).

Next Steps:

Public policies are not changes to the law; the policies are meant to define the current laws, demonstrate what compliance looks like, and to outline best practices.

- The Board will review complaints and continue to monitor the effectiveness of the public policy.
- The Board considers extenuating circumstances, and considers if the tower was trying to do the right thing when reviewing the complaints.
- The Board will go back and monitor the effectiveness of the policies, and revisit those that need to be improved to be effective.

### **Initial Concept Summary: Facility Permit**

Staff presented an initial concept summary for the establishment of a facility permit or business certificate/license so that Oregon’s tow businesses are certified by the state, not just the tow vehicles.

*Note: This concept is in the earliest draft stages. For the purpose of discussion, “facility permit” is the term used to differentiate between the concept of a business permit issued by the Board and a tow business certificate issued by DMV.*

The Board discussed the merits, concerns and purposes of a facility permit. The predominant issue is that the tow companies and tow yard are not consistently monitored or regulated across the state. There are approximately 730 – 850 tow companies with active tow certificates. OSP has 241 towers in the OSP non-preference tow program. The exact number of tow companies enrolled in law enforcement non-preference tow programs. There is no consistent requirements across the local jurisdiction, and there is gaps in statutes that are not being addressed.

The Chair opened the floor to public comments.

Public comment:

Some repossession clients require inspections and some of the repo towers are already regulated at a high standard.

Board response:

It was noted that not all towers have the same level of expectations from clients; it was also noted that there are repo towers acting without tow plates and are repo'ing vehicles without the same high standard for tow yards and facilities.

The purpose of the facility permit is to ensure that all tow yards meet minimum standards standard; law enforcement and repo companies will have higher standards, but for public protection and safety, all tow yards should be required to meet what the law has as minimum requirements.

The Board will consider the different types of regulations, requirements, and fees for the trucks and tow services as it develops a policy. The purpose is to bring everyone to the same level of operation and make the laws and requirements fair to everyone.

With no further public comments made, the Chair called for a roll call vote:

The motion: moving forward with preliminary exploration of a facility permit as a possible placeholder bill, with staff keeping the Board updated on the progress.

Approved: Anderson, Coughlin, Iwai, Lindland, Hanson, Riley. No: Baker. Abstained: McClellan (tow vote). Staff will conduct initial research and provide the Board with additional documentation demonstrating the gaps seen in current statutes.

The Chair opened the floor to additional public comments.

**Final public comments:**

Public comment:

Will the Board's new complaint system give people access to the complaints?

Board response:

The Board is working on a case management system that will allow reports with a description of the complaint, a case number, and other basic information.

Reports will be available to the public on the Board's website, and will show the status of the complaint, if the complaint was valid, etc. The complaint summaries will not include the names of either the towers or the complainants.

Disciplinary actions are public, so once final, the disciplinary actions will be posted on the website as well.

Public comment:

- Are the policies discuss today current or are they something that's going to happen in the future?
- It seems enforcement is lacking. Who is enforcing the laws?
- The Board didn't mention anything about regulating any of these fees. Is that something that's going to come up?

Board response:

- The PPI public policies will go into effect after the Board vote today.
- The signature authority and the patrolling laws have been in state law for a long time.
- No one has been here to enforce those laws, which is one of the reasons why the Board was created.
- The Board does not have authority over fees and rates, but will be discussing the subject later this fall.

Public comment:

What about the apartment managers that are allowing the tow trucks to go through the parking lots?

Board response:

- The Board does not have authority over apartment managers and the persons authorized to request the tows, but will be monitoring the complaints, especially as the Board's policies are applied to the PPIs to see what its role might be.
- Filing complaints with the Board will allow the Board to investigate the complaints and take appropriate action.

There were no further public comments for the Board.

## **ORS Review**

Board staff will prepare a document with additional ORSs to review and discuss at the August meeting.

## **Adoption of Public Policies**

It was moved and seconded to adopt the PPI Public Policy, with policies effective July 23, 2024.

The Chair called for a roll call vote:

Approved: Baker, Coughlin, Iwai, Lindland, McClellan, Hanson, Riley. Abstained: Anderson (tow vote).

## **Next steps:**

- The Board's authority to assess civil penalties was effective January 1, 2024. The Board's policies define the laws for clarity. The policies do not change the laws.
- Staff will process complaints and initiate investigations based on the Board's policies.
- Board will review of the complaints and vote on appropriate actions based on the violations and circumstances of each complaint.

## **Board Administrator Annual Review**

Mr. Baker volunteered to be the Board point person for the annual review and other personnel policies that might need the Board's attention.

## **Upcoming Events**

08/20/2024: Board of Towing Work Session

09/24-25/2024: Oregon Traffic Incident Management (TIM) Conference (Albany)

09/28/2024: OTTA Quarterly Meeting (Eugene)

10/29/2024; Towing Board Annual Board Meeting with possible proposed rules hearing:



**Adjourned:**

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 3:15 p.m.

*Documents Considered by the Board*

- Agenda
- PPI Initial Concept and Policies
- Facility Permit Initial Concept

*Minutes prepared by Torey McCullough*

*Minutes APPROVED by Board vote: 10/01/2024*