



Oregon

Tina Kotek, Governor

State Board of Towing

1905 Lana Ave, NE

Salem, OR 97314

Email Address: info@towboard.oregon.gov

Web Site: www.oregon.gov/sbot

BOARD MEETING NOTICE
OREGON STATE BOARD OF TOWING
Via Remote Attendance Only

Date & Time:
June 25, 2024
1:00 – 2:00 p.m.

Board Members:	Chuck Riley (Chair)	Trent Hanson (Vice Chair)	Bruce Anderson
	Kevin Baker	Chris Coughlin	Chief Mike Iwai
	Lt. Jason Lindland	Gary McClellan	Jason Shaner

Microsoft Teams

[Join the meeting now](#)

Meeting Link: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

Meeting ID: **214 985 313 73**

Passcode: **NiAPuE**

Dial in by phone

Call in Number: **+1 971-277-1965**

Phone conference ID: **560 884 549#**

PURPOSE: Review and discussion of proposed ORS 98.853 and 98.854 public policy.

CONTACT: Torey McCullough, State Board of Towing
info@towboard.oregon.gov

TIMES AND ORDER: The Public Board Meeting will commence at 1:00 p.m. on June 25, 2024 and end at approximately 2:00 p.m., or upon completion of agenda items.

Refer to the Board Meeting Agenda for topics.

ACCESSIBILITY: Any interested person may attend the public meeting. The Board meeting will be accessible to persons with disabilities. *Please Contact Oregon Relay at 1-800-735-2900 for TTY Services.*

This meeting will be hosted online, only.

The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.

COPIES: Copies of the board meeting materials will be available on the Board's website (www.oregon.gov/sbot) by close of business on Monday, June 11, 2024.

PUBLIC COMMENT: Members of the public are invited and encouraged to attend all public Board meetings. Public comment will be taken before a Board vote.

Written statements or correspondence received by the Board by 3:00 p.m. on June 24, 2024, will be presented to the Board and the public during the public comment session for review.



Oregon

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State Board of Towing
DMV HQ - 1905 Lana Ave, NE
Salem, OR 97314

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OREGON STATE BOARD OF TOWING Board Special Meeting Agenda June 25, 2024 Remote Attendance Only

Submit written public comments or testimony at any time to:
Email: info@towboard.oregon.gov
Subject: PUBLIC COMMENT – *Your Specific Topic*
Mail: State Board of Towing, ICO DMV HQ – Program Services,
1905 Lana Avenue, NE, Salem, OR 97314
Comments received by 3:00 p.m. June 10, 2024 will be reviewed by the Board during the Board Meeting.

AGENDA ITEM	PRESENTER
1. Call Meeting to Order	Chair
2. Welcome & Introductions <i>(Board Member, Staff, and the Public)</i>	All
3. Approve Agenda	Board
<i>Board Vote*:</i> ___ Anderson ___ Baker ___ Coughlin ___ Iwai ___ Lindland ___ McClellan ___ Shaner ___ Hanson ___ Riley	
4. Work Session: Public Policy Review and Discussion	
5. Public Comments <i>(Comments related to proposed public policy; comments may be limited to 2 minutes to accommodate testimony)</i>	Public
6. Board Final Comments: PPI Policy and Next Steps	
<i>Board Vote* on Initial Concept Summary</i> ___ Anderson ___ Baker ___ Coughlin ___ Iwai ___ Lindland ___ McClellan ___ Shaner ___ Hanson ___ Riley	
<i>Board Vote* on Board Public Policy</i> ___ Anderson ___ Baker ___ Coughlin ___ Iwai ___ Lindland ___ McClellan ___ Shaner ___ Hanson ___ Riley	
7. Next Steps	Board
a. Review Work Assignments and Direction to Staff	
b. Next Board Meeting: July 23, 2024 Complaint Review	
8. Adjourn Board Meeting***	Chair
<i>Board Vote*:</i> ___ Anderson ___ Baker ___ Coughlin ___ Iwai ___ Lindland ___ McClellan ___ Shaner ___ Hanson ___ Riley	

*Board vote during the meeting may be either consensus or roll call vote, at the discretion of the Chair.
ORS 822.255 (4) voting protocol: Shaner/Anderson, McClellan/Baker

The Oregon State Board of Towing is responsible for protection of the safety and well-being of the public through the regulation of the towing industry by administering and enforcing the laws and rules of the State of Oregon, setting professional standards and expectations of the towing industry, and ensuring fairness and continuity of towing services provided by Oregon's towing industry.

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 Private Property Impounds - *Signed Authorization*

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]

"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 impoundment 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:

A document signed in person, by electronic signature, or via email 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 or the owner’s agent.
7. The authorized signature is invalid if signed by:
 - A. The owner, manager, or employee of the tow company
 - B. An owner, manager, or employee of an affiliated tow company under the same management or ownership
 - C. A third-party 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.

“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:

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 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.

Oregon’s Towing Industry:

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

As of June 1, 2024, DMV data indicates:

- 2150 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 PPI tows.

Identifying compliance issues:

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

Preliminary data, encompassing three months and approximately 70 complaints, 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).

Most of the PPI complaints are lawful tows and do not represent knowing or willful violation of the law.

The majority of PPI complaints received by the Board 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 their agents, and the public of the intent and expectations under the ORSs, and
3. Regulation and enforcement of the statutory requirements and Administrative Rules adopted by the Board.

A small percentage of the PPI complaints indicate less than 1% of the Oregon tow companies are willfully and knowingly violating, or instructing or allowing employees to violate, Oregon's laws under ORS 98.854, laws enacted 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.
2. "Signed authorization" has been interpreted to include texts, phone calls, other methods of communications, delegated authority under contract, and pre-signed authorization forms in lieu of an authorized signature at the time of the tow.
3. Industry practices adopted to comply with the Governor's COVID-19 Pandemic Emergency Orders have not been reviewed or rescinded.
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 Contract but placing the responsibility on the other party.
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 the contacting the parking facility owner to circumvent the signed authorization requirements in violation of ORS 98.854 (2).
3. Apartment parking lots are being trolled and vehicles towed under a Towing Services Agreement for reasons other than the conditions allowed under ORS 98.853 (1), without property owner consent, and without a signed authorization.
4. Towers using the terms under a "Towing Services Agreement" to continue hooking up of the vehicle, in the presence of the Tenant or Consumer, to continue incurring charges or to ensure payment in violation of ORS 98.853 (3).
5. Copies of signed authorizations are being 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 the signed authorization required under ORS 98.854 in a timely manner.

Harm and damages caused by violation of ORS 98.853 and 98.854

1. The majority of the PPI tow complaints are from tenants and members of the public living in low income or government-assisted apartment complexes. These individuals do not have the disposable income and have limited resources to pay fees incurred by an unlawful tow.

2. Known issues with “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. Loss or missed work due to time spent locating and retrieving vehicles.
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 due to a continuing to hook up a vehicle in the presence of the vehicle’s owner.
6. Loss of use of a motor vehicle through no fault of the owner.
7. Loss of access to medications, documents, childcare items, and personal possessions contained within the vehicle at the time of the unlawful tow.
8. The ability for the vehicle owner to retain possession of the vehicle due to the fees and costs incurred by the tow.
9. 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), PPI issues are not a statewide or industry problem.

The Board has identified PPIs as a priority in consideration:

1. The large percentage of complaints substantiating unethical PPI towing practices and violations of ORS 98.854.
2. The significant and identifiable 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 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 of 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 PPI tows.
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

Tow companies and their employees provide necessary and essential services for the public, including:

- Roadside assistance services
- Assistance to law enforcement, code enforcement, and local governments
- Assistance to law enforcement and other incident team members in clearing wrecks and hazards
- Personal assistance
- Salvage
- Vehicle recovery efforts
- Repossessions

- Private Property Impounds

Tow companies provide these towing services at the request or direction of an authorized person or agency.

At no time is a vehicle to be towed unless the tow is authorized by a person who has the legal authority to request the tow.

Towers, their employees, including dispatch and tow operators, are prohibited from acting as the parking facility owner's agent under ORS 98.854 (3) and (4).

Towers do not have the legal authority to initiate the process for authorization of a tow; vehicles to be towed from private parking facilities must be identified to be in violation by the parking facility owner, their legal agent or representative, or other person with legal authority to authorize the tow.

The practice of having a tower act as the parking facility owner's agent violates the legal requirements of ORS 90.485, 98.853 and 98.854 and is creating an unnecessary and avoidable risk and harm to public safety and well-being.

Towers are not legally authorized to patrol parking lots for the purpose of identifying vehicles to be towed. The practice of "trolling" or "patrolling" parking facilities by towers for the purpose of monitoring the parking facility for towing business is in violation of the intent of ORS 98.854 (8) and is used by a small number of towers and property owners to circumvent the legal requirements of ORS 90.485, 98.853 and 98.854.

Each PPI tow must be conducted under a separate, signed and dated signed authorization clearly identifying the vehicle to be towed.

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

Compliance with ORS 90.485, 98.853 and 98.854:

1. Protects the public from unlawful tows.
2. Protects towers and their employees from civil liability and actions.
3. Allows parking facility owners to protect their tenants, guests, and facilities from unlawful tows or towing errors.
4. Protects parking facility owners from civil risk and liability.
5. Provides clear accountability and recourse for tenants and members of the public when a vehicle has been unlawfully towed.
6. Reduces the workload required of the Board, its staff, and partners 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 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 PPI tow if a person or animal is in the PPI 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.
3. Signed authorizations are valid for the time of the tow only; PPI tows 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 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., any part of private property:
 - 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 PPI tows.
 - 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 PPI tows 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. Vehicle towing for landlords are defined in ORS Chapter 90; both the requirements of ORS Chapter 90 and the requirements of ORS 98.853 and 98.854 need to be complied with. One ORS Chapter does not provide an exception to the requirements of the other ORS sections.
2. Prohibition of unauthorized parking under ORS 98.810.
3. 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.
4. 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.
5. Identify questions or clarify and educate the public:
6. Personal responsibility of tenants and the public when parking in privately owned parking facilities.

7. The PPI laws and requirements do not include 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 standards across the state in PPI tows, help remove perception of unlawful tow practices.
7. Provide better recourse and resolution for consumers harmed by unlawful PPI towing.

Identified partners and persons of interest

The Board is the recognized state authority to interpret and define the intent and meaning of the ORS, and the responsibility of defining the requirements of the ORS remains with the Board

Legislative 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. This includes inviting 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 25th.

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 2024:

Public policy adopted.

July - September

Board begins drafting 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

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).

Purpose:

The purpose of this Public Policy is to 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.
2. An authoritative definition of the meaning and requirements under ORS 98.853 and 98.854.
3. Establishing statewide practice standards and expectations within the towing industry.
4. Ensure compliance of the laws and accountability by all parties involved with PPI tows.

Policy Series:

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

Intent of the Board:

1. All private property impounds are to be completed in a lawful manner.
2. All PPIs require an individual signed authorization, dated and time stamped at the time of tow.
3. There are no statutes allowing towers to act as a parking facility owner's agent for the purposes of identifying or authorizing PPIs.
4. Towers, their employees, representation, or designated agents cannot initiate contact for authorizations to tow; only an authorized owner, agent, or other person with the authority may initiate contact for the tow.

Enforcement:

1. The Board will review submitted complaints for compliance.
2. If a tower's action and conduct is in compliance with Oregon's laws 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 the tow 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. Reckless or negligent
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. 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 including:
 - a. Letter of education or concern;
 - b. Formal letter of corrective action;
 - c. Civil penalties;
 - d. Denial, suspension, revocation or refusal to renew a tower's towing business certificate(s).
5. The Board will consider many mitigating circumstances as provided in 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.

Exclusions:

Tows excluded from this policy:

- Tows authorized by law enforcement, code enforcement, or other state or local agency in the conducting of government business.
- Private properties not designated as a private parking facility.
- Nothing in the Board's policy restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.

Indemnification:

1. It is the intent of the Board that a tower who lawfully tows a vehicle under the Board's private property impound (PPI) policy is immune from board disciplinary action.
2. This includes the towers availability to provide:

- A. An authorization to tow, signed at the time of the tow by the private parking facility owner or their legal agent.
- B. Photos clearly demonstrating the towed vehicle parked in violation of the parking facility requirements prior to the tow.
- C. Release of the vehicle to the reasonable owner or operator prior to completion of the tow.
3. The Board's intent of immunity does not extend for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

Reference:

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

INITIAL 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 affirm and define:

1. The requirements of a signed authorization to tow a vehicle from a private parking facility.
2. The signature authorization of the owner of a private parking facility or their lawful agent prior to the towing of a vehicle from a private parking facility.
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:

- 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:
 - The date and time of the tow
 - The location of the vehicle to be towed.
 - The color, make, model, and license plate number of the vehicle to be towed.
 - The reason for the tow.
 - The signature and printed name and title of the person authorizing the tow.
 - Contact information for the authorization of the tow.
 - Signed authorizations for PPIs must be time and date stamped.
 - The following methods of signed authorizations are acceptable:
 - A paper form with wet signature signed by the parking facility owner or their agent at the time of tow.
 - An email showing the sender and recipient of the email, time and date stamped, with the information required under (1).
 - A text photo of a signed authorization form.
 - An emailed or texted photo of the vehicle showing the make, model, color, and license plate number may be used in lieu of writing the information required under (1) (c).

Signature Authority Requirements:

- Except for the conditions under ORS 98.853 (1), a private parking facility owner or their lawful agent must sign an authorization at the time of the request or authorization of a tow.
- The tower must have in their possession an authorization, signed and dated by the private parking facility owner or their agent, prior to initiating hook up and towing of a vehicle.
- Copies of pre-signed authorizations to tow are not acceptable.
- Each PPI must be conducted under a separate signed authorization.
- 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.
- Signed authorizations are valid for the time of the tow only; PPI tows must be conducted within a reasonable period of time after the authorization.

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

- A tower cannot independently authorize a commercial tow under any Oregon statute.
- Tow companies provide a service upon the request, authorization, or direction of a person authorized by law to tow or impound a vehicle.
- 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 authorize the tow or to tow a motor vehicle from a private parking facility.
- A tower cannot contract with a third-party to act as the owner's agent for the purpose of authorizing towing of vehicles from private parking facilities. An owner's agent must be the parking facility owner's legal or contracted agent.

- A parking facility owner cannot designate a tower, its employees or agents, as the owner's agent under a Towing Services Agreement.

Retention requirements:

1. Both the tower and the private parking facility owner (or their agent) should retain a copy of the signed authorization of a tow for at least two years.
2. Upon request, a tower is to provide copies of the signed authorization to the owner or operator of the motor vehicle and any agency with proper jurisdiction 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.

Violation and Remedy:

1. The Board finds no ambiguity in the signature authorization requirements of ORS 98.854 (2), (3), and (4).
2. PPIs completed without a signed authorization at the time of the impound are in violation of Oregon's statutes, rendering the tow both unlawful and invalid.
3. Towers who find that a tow was completed without a proper signed authorization is expected to reimburse the vehicle owner of all costs and fees paid and return the vehicle in the same condition as towed.
4. Failure to provide copies of the Signed Authorization within the time defined under the Board's public policy is grounds for disciplinary action and may cause the tow to be found unlawful and invalid.
5. Towers are responsible for the actions and conduct of their employees; failure to properly train tower on the signed authorization requirement or failure.
6. The Board finds the conduct and deliberate decision to tow a vehicle without the required authority at the time of tow to be especially egregious due to:
 - A. The clarity of the language under ORS 98.854 (2) - (4) requiring a signed authorization and prohibiting a tower or its employees to act as the parking facility owner's agent;
 - B. The large number of complaints submitted to the Board substantiating allegations of tower's unlawfully removing vehicles from private parking facilities.
 - C. The small number of towers, less than 1%, willfully and knowingly violating the signed authorization requirements vs. the number of complaints clearly demonstrating that the majority of Oregon's towers are complying with the intent and language of ORS 98.854 (2) - (4).
 - D. The documented number of unlawful PPIs completed when the vehicle was lawfully parked and towed under the authority of the tower or its employees.
 - E. The documented financial harm inflicted on Oregon consumers by unlawful PPIs.
 - F. The disproportionate harm against Oregon's vulnerable populations by unethical PPI practices.
 - G. The refusal of a small number of tow companies to return vehicles to their owners, or reimburse the cost of towing and storage of a vehicle, when the vehicle was legally parked but unlawfully towed by the decision of the tower.

7. The Board may, at its discretion, assess a civil penalty in an amount greater than the Schedule of Civil Penalties, or move for immediate suspension, revocation, or denial of a tow certificate issued by DMV, when it is determined by the Board that a tower's conduct, decisions and business practices:
- A. Is especially egregious.
 - B. Causes demonstrable and unnecessary risk or harm to the public and others.
 - C. Is below the minimum expectations of professional and ethical standards of the towing industry profession.

Reference:

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

Approved Signature:

Approved by Board vote this _____ day of _____, 2024.

INITIAL DRAFT - for discussion only



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 affirm and define:

1. The requirements for an authorization to tow under ORS 98.853 (1).
2. The requirements of the tow, and the person authorizing the 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 a person authorized to request the tow showing:
 - a. The date and time of the tow

- b. The location of the vehicle to be towed.
- c. The color, make, model, and license plate number of the vehicle to be towed.
- d. The reason for the tow.
- e. The signature and printed name and title of the person authorizing the tow.
- f. Contact information for the authorization of the tow.
2. The tower must have possession of a signed authorization prior to hook up of a vehicle.
3. Signed authorizations must be time and date stamped.
4. The following methods of signed authorizations are acceptable:
 - a. A paper form with wet signature signed by the parking facility owner or their agent at the time of tow.
 - b. An email showing the sender and recipient of the email, time and date stamped, with the information required under (1).
 - c. A text photo of a signed authorization form.
 - d. An emailed or texted photo of the vehicle showing the make, model, color, and license plate number may be used in lieu of writing the information required under (1) (c).

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) provides the conditions allowing towing under ORS 98.853 (1) when a vehicle may be towed without the authorization of the parking facility owner or its 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. ORS 98.853 (1) (a) - (c) **does not allow the tower to act as a parking facility owner's agent, allow the tower to independently authorize a tow, or allow the tower to initiate contact with the parking facility owner or their agent for the purposes of identifying a vehicle to be towed by the tower.**
4. The authorization for tows under ORS 98.853 (1) (a) - (c) can be made by a tenant, an employee, or other individuals if the vehicle is parked in clear violation of ORS 98.853 (1) (a) - (c).
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, and the name and contact information of the person requesting or authorizing the tow.
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).

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

Whereas:

- Only the landlord, manager, or property management company can verify compliance with the requirements of ORS 98.853 (1) (d) (A) - (C), and
- 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;

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.

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

1. A tower cannot independently authorize a commercial tow under any Oregon statute.
2. Tow companies provide a service upon the request, authorization, or direction of a person authorized by law to tow or impound a vehicle.
3. 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 authorize the tow or to tow a motor vehicle from a private parking facility.
4. A tower cannot contract with a third-party to act as the owner's agent for the purpose of authorizing towing of vehicles from private parking facilities. An owner's agent must be the parking facility owner's legal or contracted agent.
5. A parking facility owner cannot designate a tower, its employees or agents, as the owner's agent under a Towing Services Agreement.

Retention requirements:

1. Both the tower and the private parking facility owner (or their agent) should retain a copy of the signed authorization of a tow for at least two years.
2. Upon request, a tower is to provide copies of the signed authorization to the owner or operator of the motor vehicle and any agency with proper jurisdiction 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.

Violation and Remedy:

1. While the Board finds that the language between ORS 98.854 (3) and the conditions allowing tows under ORS 98.853 (1) may have some ambiguity; the Board also finds:
 - A. Towers are not authorized under any statute to tow vehicles without appropriate authorization.

- B. There is no provision under ORS 98.853 or 98.854 which would allow a tower to act as a private parking facility's agent for the purposes of vehicles parked in violation of ORS 98.853 (1).
2. PPIs completed under ORS 98.853 (1) without a signed authorization are in violation of Oregon's statutes, and the tow is both unlawful and invalid.
3. Towers who discovery a tow was completed without a proper signed authorization is expected to reimburse the vehicle owner of all costs and fees paid and return the vehicle in the same condition as towed.
4. Towers are responsible for the actions and conduct of their employees; failure to properly train tower on the signed authorization requirement or failure.
5. The Board will review all complaints and determine Board action as defined in Board public policy #PP-24-001.

Reference:

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

Approved Signature:

Approved by Board vote this _____ day of _____, 2024.



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 affirm and define:

1. The intent of ORS 98.853 (2).
2. The requirements of the photo under ORS 98.853 (2).

Policy:

The Board finds:

1. The intent of the photograph required under ORS 98.853 (2) is to demonstrate to the 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 left or parked at the time the tower arrived to conduct the tow.
 - A. 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 should 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 and any agency with proper jurisdiction at no additional charge.
 - A. Copies of the photographs are to be provided to the requester at the time of the request.
 - 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.

Violation and Remedy:

The following are grounds for Board investigation or disciplinary action:

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

Reference:

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

Approved Signature:

Approved by Board vote this _____ day of _____, 2024.



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:

1. Define when the release of a motor vehicle at the time of hookup to the owner or operator of the motor vehicle.
2. Definition of “vehicle operator” for the purposes of a 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 PPI towing:
 - 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 potential 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 tow if a person or animal is in the PPI vehicle, except with express authorization from law enforcement or other government agency.
5. 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.
6. 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).
7. A receipt showing the name of the tow company, the tow operator, the date and time of payment, the method of payment, amount of payment, and the signature of the owner or operator of the vehicle is to be provided to the owner or operator of the vehicle at time payment is made to release the vehicle.
8. A copy of the receipt is to be retained by the tower for a minimum of two years.
9. If the tower requires a cash payment of the hook-up fee, exact change is required at the time of release of the vehicle.
10. 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 authorizing the tow.
11. 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.

Violation and Remedy:

1. The Board finds no ambiguity in the requirement to release a vehicle at no charge in the presence of the owner or operator if the hook up is not complete.
2. The Board finds there may be some ambiguity in the definitions of "complete hook up".
 - A. For the purposes of the Board's policy: a hookup is complete if the motor vehicle to be towed has been loaded onto a tow vehicle or properly connected to a tow vehicle so that the tow vehicle is capable of being in motion with the motor vehicle in tow without risk of damage to the towed vehicle.
 - B. The Board recognizes reasonable charges for partial hook up of commercial vehicles, larger RVs, and similar vehicles may be appropriate, and will be discussing the requirements at a future date.
3. The Board finds it is a violation of Oregon law, subject to disciplinary action, to:
 - A. Hook up, or continue to hook up, 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. Charge more than the hook up rate listed on the tower's rate sheet to release the vehicle.
 - C. Fail to provide a receipt at the time of release.
 - D. Fail to provide exact change at the time of release of the vehicle if tower requires cash payment for release of a vehicle.

- E. 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 agency.
4. The Board finds the deliberate decision to continue to hook up a vehicle, refusal to release a vehicle, and charging more than the allowed fee for the hook up of a vehicle is especially egregious, unethical, and unprofessional given:
- A. The clarity of the language under ORS 98.853 (3) and 98.854 (14);
 - B. The deliberate decision of a tower or tow operator to begin or continue to hook up a PPI vehicle when an owner is present.
 - C. Indications that there are a small number of tow operators may be charging consumers and members of the public an invalid hook up fee, or inflated fees, without providing an invoice, and possibly not reporting the full amount of fees collected to their employers.
 - D. An increased number of public safety complaints, including:
 - a. Tow operators attempting to hook up vehicles when a person is in the vehicle.
 - b. Using physical intimidation tactics to continue hooking up and towing vehicles.
 - c. Refusal of a tow operator to release a vehicle or towing a vehicle away from the private parking facility in an unsafe manner.

Reference:

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

Approved Signature:

Approved by Board vote this _____ day of _____, 2024.



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, 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. Initiate communication or contact with the parking facility owner or its agent for the purposes of identifying vehicles to be towed from the parking facility.

Violation and Remedy:

3. The Board defines ORS 98.854 (8) to include surveillance, or observations, or other monitoring of a parking facility for towing business.
4. Private parking facility owners, and their agents, may contract with security firms, security personnel, and other third-party contractors to monitor and patrol their parking facility.

5. Oregon has no statute allowing a tower independent authority to tow a vehicle; all commercial towing services are to be conducted under the authorization of a person granted the authority in Oregon statutes.
6. Patrolling, monitoring, or surveying private parking facilities for the purpose of identifying vehicles to be towed as determined by the tower, their employee, or their representatives, is a violation of Oregon's laws and rules, subject to investigation and disciplinary action by the Board.

Reference:

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

Approved Signature:

Approved by Board vote this _____ day of _____, 2024.

Initial Draft - For Discussion Purposes Only



Oregon

Tina Kotek, Governor

State Board of Towing
DMV HQ - 1905 Lana Ave, NE
Salem, OR 97314

Email Address: info@towboard.oregon.gov
Web Site: www.oregon.gov/sbot

OREGON STATE BOARD OF TOWING Board Meeting Minutes June 11, 2024

Work Session Location:

Oregon DMV HQ
1905 Lana Avenue
Salem, OR 97314

Attending Board Member:

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

Board and DMV Staff:

Torey McCullough, Board Administrator

Meeting Called to Order:

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

Agenda approved by consensus.

The following were approved by consensus:

- February 13, 2024 meeting minutes
- March 19, 2024 work session notes
- April 23, 2024 work session notes
- May 14, 2024 work session notes

Reports:

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

- The Board has conducted a series of work sessions defining the requirements and expectations of ORS 98.853 and 98.854.
- Two board member positions are set to expire June 30, 2024.
 - Both current members applied for reappointment.
 - The Governor's office will review applications and should have appointments made by the end of the month.
- The Board's Bylaws were verbally approved at the April work session. Formal board vote required to adopt the bylaws.
- McCullough has been working with ODOT IT and Dept. of Administrative Services in approving a case management system. Both ODOT and DAS have given verbal approval. More information is available in the attached report.
- Public and Community Outreach:
 - Four tenant advisory groups and 20 property management/owner associations have been contacted regarding the Board's work with the PPI requirements.
 - The 36 county and 211 city government officials have also been contacted regarding the PPI work, and a general introduction of the Board.
 - The local governments have been asked to confirm the website or contact information for consumers whose vehicles were towed by law enforcement or code enforcement. The information will be added to the Board's website in a publicly available directory.
 - Law Enforcement offices had been contacted last year, and given the option to join the Board's distribution list. The other local government offices were contacted with the PPI work to ensure full communication on upcoming policy and rule changes and requirements.
 - Public Policy and Rules Advisory Group: The Board is offering complainants an opportunity to join a distribution list specific to providing information and opportunities for public comment as the Board develops its public policy and proposed administrative rules. Currently there are 23 members in the group. This number should increase significantly as the 2024 complaints are entered into the new database. Individuals can opt out of the email list at any time.
 - The Tower Focus Group continues to offer input and feedback on questions from board staff.
- Website has been updated to include board member positions, requirements, and how a person can apply to become a board member.
- Case and complaint tracking information will be available once the new data system is operational.
- McCullough shared the complaint, investigation, and disciplinary action data points to be tracked in the new database.

Board vote:

Case Management System:

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

Bylaws:

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

Work Session:

PPI Objectives and Policy Expectations

The Board reviewed updated objectives and expectations.

The Board confirmed:

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

- Lawful or valid tow, when all legal requirements of the tow are met, and
- Unlawful or invalid tow, when not all legal requirements are met.

The following are examples of unlawful/invalid tows:

- No authorized signature from the owner or owner's agent at the time of tow
- Tow operator, dispatch, or tower's agent acts as the parking facility owner's agent to identify or authorize a vehicle to be towed.
- Signed authorization does not include all required information.
- There is no photograph taken by the tower that clearly shows the towed vehicle parked in violation of the parking facility rules prior to hook up.
- Failure to stop or cease hook up procedures when the vehicle owner or operator is present at the time of the tow.
- Signage remains a requirement of a lawful tow; the Board will discuss the intent and requirement for signage at a different work session.

- The Board is aware that a tow maybe unlawful due to the actions of the authorization of the tow, and not the actions of the tower. It is the intent of the Board that there be indemnification of a tower who, in good faith, tows a vehicle authorized signature, similar to:

ORS 98.830 (2)

A tower who tows a vehicle pursuant to this section is immune from civil liability for towing the vehicle if the tower has a form described in subsection (1) of this section, filled out by a person purporting to be the owner or a person in lawful possession of the private property from which the vehicle is towed. This subsection does not grant immunity for any loss, damage or injury arising out of any negligent or willful damage to, or destruction of, the vehicle that occurs during the course of the towing.

- Note: The indemnification is not extended if there is a reasonable relationship between the tower and the parking facility owner or its agent where the tower acts as the owner's agent in identifying vehicles to be towed, when the legal requirements for a tow are not met, or other evidence of unethical or in violation of the laws and rules.
- Board expectation when a tower becomes aware of an invalid tow: pre-Board complaint.
 - Indemnification of the tower is only when the tower complies with all laws and requirements of a tow, and it is the parking facility owner or their agent who authorizes an unlawful tow.
 - If the tow is unlawful or invalid because of the tower's action (no picture, no signature authority at time of tow, refusal to discontinue or unhook vehicle, etc.) the expectation is that the tower will make the consumer whole;

- If the vehicle was towed, the vehicle is returned in the same condition.
- If costs or fees were paid, those costs and fees are reimbursed.
- Continued, repeated conduct and behavior resulting in unlawful tows will result in increased civil penalties and other disciplinary actions.

Note: Towers are responsible for the actions of their tow operators; if an employee unlawfully tows a vehicle (willfully, intentionally, recklessly, or negligently) then the tower remains responsible for actions of their employee in compensating a consumer for an unlawful tow.

- Once Board public policy is established: staff will begin processing and responding to complaints directly.
- Complaints requiring Board action will be forwarded to the Board for resolution.
- With the new case management system, Board members will be able to review submitted complaints (at a high level) during public session, reserving Executive Session for discussion of complex complaints and disciplinary actions.
- Photos taken under ORS 98.853 (2):
 - Must show the vehicle parked and in clear violation of the private parking facility rules prior to hook up.
 - The intent of the photo is to clearly demonstrate the violation to (1) the vehicle owner or the vehicle owner's representative and (2) the Board.
 - PPI tows that do not have photos adequately showing the vehicle prior to the tow are unlawful/invalid tows.

- Gate Fees.

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

- Appointments.

The Board discussed at length requiring appointments during hours of operation.

The Board recognized the requirement for all parties to be reasonable and responsible, and will develop best practices in addition to the Board's public policy.

- It is the expectation of the Board that if a tower is unable to accommodate a consumer's request to schedule a same-day appointment, the tower will not charge storage fees for that day, regardless of the reason the appointment cannot be scheduled.

Note:

- *If a tower cannot accommodate a consumer's reasonable request to schedule an on-site appointment by 6:00 p.m. on Friday, through no fault of the consumer, the expectation is that the tower will not charge storage or gate fees if the first available appointment **for the tower** is after hours or on non-business days.*
- *It is the expectation that consumers provide flexibility when required to schedule an appointment, should not expect to be able to show up at the gate and expect to be able to retrieve their vehicle, have the tow company hold a vehicle for several days without incurring storage fees and other costs, or no-show for scheduled appointments.*
- ***"Appointment fees" for appointments scheduled between the hours of 8 am – 6 pm, Monday – Friday (excluding holidays) for purposes of removing items not considered emergency personal items:*

Note: If a consumer requests an appointment for a future day, and not the same day, the tower is expected to inform the consumer of the daily storage charges and the expected lien fee, as appropriate.

- Time limits and the number of times a consumer can retrieve items from the vehicle.
- The Board recognizes the encumbrance this expectation may make on sole proprietors.
- The Board will develop best practices and guidelines to assist towers and the public.
- The Board will further review the issue as it monitors and processes complaints.
- Inventory.
The Board recognized that inventory and a tower's access to the vehicle contents has been an issue in both board and law enforcement complaints. The Board tabled the discussion topic for future review.
- Definition of ORS 98.852 (6) – personal property, emergency in nature.
The Board will consider the items to include and consider under this statute at a later date.
- No tower is to attempt to hook up a vehicle with an animal or person in it, unless directed to do so by law enforcement or an appropriate government agency with legal authority.

- **Towing Service Agreements**
The Board has no current interest in overseeing Towing Service Agreements, excepting:
 1. The Towing Service Agreement complies with Oregon's laws and requirements, and
 2. The Towing Service Agreement cannot designate or appoint a tower (or a tower employee, agent, or a business that the tower has a financial interest in) as the parking facility owner's agent or representative for the purposes of authorizing tows.
- **Commercial property exceptions**
The board will provide FAQ's for the public differentiating between PPIs on commercial properties, and parking on empty commercial properties not reasonably used as a parking facility.

Public Comments

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

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

PPI Public Policy - Next Steps:

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

Board Officer Elections:

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

Chair:

Lindland nominated Riley for the Chair position.

No other nominations were made.

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

Vice-Chair:

Baker nominated Hanson for the Vice-Chair position.

No other nominations were made.

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

Next Steps, Announcements, and Future Meetings

- OTTA Quarterly meeting in Bend, Oregon
Date: June 22, 2024
Of interest to the Board:
 - Updates on OTTA's legislation and the RV Bill
 - Public Comment Session for the Board's PPI proposed public policy
 - Considerations when towing electric vehicles
- Special Board Meeting – Remote Only
Date: June 25, 2024
Board review of proposed public policy on PPI statutes
- Special Board Meeting – Complaint review
The Board will review 2024 complaints in Executive Session using the new case management system.
- First Annual Business Meeting of the Board.
Date: October 29, 2024. Location TBD
Meeting topics will include:
 1. Review of proposed administrative rules, rules hearing
 2. Goals and Objectives for 2025, and 2-5 year and long-term planning
 3. Board budget and finances

Adjourned:

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

Documents Considered by the Board

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

Minutes prepared by Torey McCullough
Minutes APPROVED by Board vote:

DRAFT



Oregon

Tina Kotek, Governor

State Board of Towing
DMV HQ - 1905 Lana Ave, NE
Salem, OR 97314

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OREGON STATE BOARD OF TOWING
Board Work Session Notes
May 14, 2024

Work Session Location:

Oregon DMV HQ
1905 Lana Avenue
Salem, OR 97314

Attending Board Member:

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

Board Staff:

Torey McCullough, Board Administrator

Absent:

Trent Hanson, Vice Chair

Meeting Called to Order:

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

Agenda approved by consensus.

Concept Discussion - OAR 98.853 and 98.854:

The Board discussed the provisions of the first draft of the Initial Concept Summary related to ORS 98.853 and 98.854 as it specifically relates to the requirement of a property owner's authorization prior to the tow from private parking lot facilities.

The Board discussed:

1. Some of the possible private property impound (PPI) compliance issues demonstrated in complaints submitted to the Board:

- No authorized signature from the owner or owner's agent prior to PPI tow.
 - Tow operator, dispatch, or another employee of the tower acting as the owner's agent in identifying or authorizing a vehicle to be towed.
 - No photograph clearly showing the towed vehicle parked in violation of the parking facility rules prior to hook up.
 - Failure to stop or cease hook up procedures when the vehicle owner or operator is present at the time of the tow.
2. Per statute:
- Towers are prohibited from acting as an owner's agent in PPI tows.
 - Towers do not have the legal authority to authorize tows under any statute.
 - Towers can only tow vehicles when the tow is requested or authorized from a person granted the legal authority to do so in statute.
3. For the purposes of ORS 98.854 (2) - (4)
- The tower must obtain an authorized signature from the parking facility owner, or owner's agent, affirming and verifying that the authorization to tow the vehicle is in compliance with the parking facility rules and Oregon's laws and regulations.
 - The parking facility owner, or its agent, has the responsibility and accountability to confirm authorized tows are conducted in compliance with the parking facility rules and Oregon's laws and regulations.
 - A tow company, its employees, affiliates, or any person or business associated with the tower cannot act as an owner's agent to authorize a tow when there exists an actual or potential financial benefit to the tower, its principals, affiliate, its employees, or family members when the authorization creates an actual or potential conflict of interest for the tower.
4. The Board's different roles in:
- Adopting public policy and rules to define the requirements of the laws the Board is charged with administering.
 - Adopting recommended best practices as options, tools, and resources for towers to address and mitigate potential complaints not under the jurisdiction of the Board.
 - Educating the general public on the responsibilities, expectations, and recourse of parking in a private parking facility.
5. Public outreach and opportunities for public and industry comments.
- Coughlin and McCullough will coordinate outreach to additional advocates.
 - McCullough will contact rental owner and property management advocates across the state.

- McCullough will work with the tow truck association (on 06/22/2024 in Bend) and the Portland Tow Advisory Committee and the possibility of having a public comment and input session on the Initial Concept Summary and public policy, during upcoming regular meetings for both organizations.
- The Board is creating a separate email distribution list for complainants and other individuals interested in the Board's public policy and administrative rules process.

The email distribution list will be used to update subscribers on current drafts of the Board's proposed policies and provide information on public comment opportunities.

Anyone interested in

Adjourned:

Chair Riley adjourned the meeting at 2:30 p.m.

Documents Considered by the Board

- Agenda
- First Draft: Initial Concept Summary
- First Quarter PPI Complaints
- ORS 90.485
- ORS SB 117 (2017)
- April 23, 2024 Work Session Notes
- Work Session Objectives

Minutes prepared by Torey McCullough

Minutes APPROVED by Board vote:



Oregon

Tina Kotek, Governor

State Board of Towing
DMV HQ - 1905 Lana Ave, NE
Salem, OR 97314

Email Address: info@towboard.oregon.gov
Web Site: www.oregon.gov/sbot

OREGON STATE BOARD OF TOWING
Board Work Session Notes
April 23, 2024

Work Session Location:

Oregon DMV HQ
1905 Lana Avenue
Salem, OR 97314

Attending Board Member:

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

Board Staff:

Torey McCullough, Board Administrator

Absent:

Trent Hanson, Vice Chair

Meeting Called to Order:

Chair Riley called the meeting to order at 1:07 p.m.
Self-introductions were made.

Agenda approved by consensus.

Business Updates:

Bylaws

The Board reviewed Bylaws incorporating the comments and amendments from the March work session. Jason Shaner moved to accept the Bylaws; Bylaws adopted by consensus of the Board members.

Case Management System

McCullough is working with the Dept. of Administrative Services and ODOT/DMV IT to approve a case management system through IT. McCullough is

working with a software vendor to get DAS and ODOT the information they need. Cost per year is \$1188. McCullough will update the Board as the request moves forward.

Complaint Review:

The Board reviewed approximately 70 complaints from the first quarter with the following trends:

- Approximately 20% of complaints were incomplete.
- Approximately 20% of complaints were not under the jurisdiction of the Board.
- Approximately 30% of complaints were Private Property Impounds with reasonable grounds for investigation for violation of ORS 98.853 and 98.854.
- Common themes in the complaints were:
 1. Towing rates, fees, and billing practices and
 2. Lawful ownership and general access to personal belongings in a towed vehicle.

The Board found:

1. The substantiated Private Property Impound (PPI) complaints were against a small number of towers, less than 1% of the known tow companies.
2. Current law requires a signature authorization for each tow, obtained at the time of tow.
3. Towers are not to tow vehicles without authorization; there is no intent or provision in the law allowing towers to determine if a vehicle should be towed or not.
4. Towers cannot confirm if either a tenant or parking facility owner has violated or complied with the requirements of ORS 90.485 and cannot tow a vehicle without confirmation from the parking facility owner or their agent.
5. A parking facility owner or their agent (i.e., employees, managers, or a hired third-party) must verify the vehicle is to be towed; as towers are prohibited from acting as the owner's agent when authorizing or towing a vehicle, the tower or its employees cannot independently authorize a tow.
6. The signed PPI authorization must include the name, legible printed name, time, date, reason for tow and vehicle description. The photographs must show where the vehicle was parked prior to the tow, and how the vehicle violated the parking facility rules.
7. As the towers do not know the number of rented units and parking spaces in a residential unit, do not have access to tenant lease or rental agreements, and cannot independently verify if a vehicle is in violation of a lease, rental, or parking agreement, no vehicle can be towed from a residential parking facility without authorization from the property owner or their agent with personal

knowledge of if the vehicle is in violation of the parking facility rules at the time of tow.

8. Removing towers as the decision makers authorizing a tow protects the tower from risk and liability of towing a vehicle that is not in violation of the parking facility rules, and provides the public with clearer options for resolution and recourse.
9. The Board discussed creating templates and forms for towers to use; these forms and templates may be adapted by a tower for use, but must contain the required information on a signed authorization as defined in the Board's policy.
10. Signed authorizations can be signed in person, electronically, or within an email as long as the email includes the required authorization information, identifies the sender and receiver, and has a date and time stamp.
11. Due to the lack of a date and time stamp, authorizations by phone or text cannot be used for the purpose of authorizing a PPI tow.
12. Copies of pre-signed authorizations are not acceptable.
13. Towers may not rely on Tow Contract Agreements for authorization; each tow must be authorized at the time of tow.
14. Initials are not acceptable as a signed authorization for a PPI tow.
15. Illegible names, or missing, incomplete or ineligible information will result in the authorization being invalid for the purposes of PPIs.
16. The parking facility owner is responsible for designating who may act as their agent for the purpose of authorizing PPIs and ensuring that the tower has the information on file.
17. The authorized signature and tow request may be collected by dispatch or by the tow operator; however, a tow operator may not hook up to a vehicle for a PPI tow until the signed authorization is received.
18. For the purposes of PPI tows: a tow operator may not hook up a vehicle if a person is in the vehicle.
19. Hook ups and PPIs:
 - a. For passenger vehicles, a tower must stop hook up and release the vehicle if the driver owner or operator are present and can move the vehicle so it is in compliance with the parking facility requirements.
 - b. A tower cannot begin to hook up a vehicle for a PPI tow if the vehicle owner or driver arrives at the vehicle and can move the vehicle so it is in compliance with the parking facility requirements.
 - c. The Board will hold discussions and further define "complete hook up" in the upcoming months.
 - d. Discussions defining when a big rig, rv, or other large vehicle should be released without charge, and when a tower may be able to charge for time and effort prior to full hook up of a big rig is tabled as a separate discussion.

20. Discussions related to rates, fees, and billing practices is tabled while the Board continues to collect complaints, invoices, and billing statements over the next few months to provide more data and documentation for the Board to consider.

Public Comments

Ash Le' Penn introduced herself to the Board, asking questions regarding:

Suggestion: The Board should consider increasing tow requirements.

Response: While the Board continues to discuss possible requirements for tow companies and tow lots, legislative changes to statutes is required before the Board has the authority to pursue additional requirements.

Question: What is the jurisdiction when a vehicle is towed from a city address but outside the city limits.

Response: Jurisdiction for the tow requirements is determined on if the vehicle is within the city limits or outside the city limits; if within the city limits, the city has jurisdiction. If outside the city limits, the county has jurisdiction.

Suggestion: the Board awarding damages and costs to Complainants.

Response: The Board's authority is limited to what is authorized to do in statute. The Board has the authority to assess civil penalties under ORS 822.995; the Board does not have the authority to represent individual consumers in complaints or actions against a tower, and does not have the authority to require towers to reimburse or pay damages to consumers in a disciplinary action.

Question: Why is complaint and investigation information not available to the public.

Response: Complaint and investigation information is kept confidential until the Board reviews and votes to pursue a disciplinary action. When a Board votes for disciplinary actions, the information relevant to the complaint and investigation is included in the disciplinary documents and is made available to the public.

The Board is working with DOJ to ensure the personal and confidential information of all parties are kept appropriately confidential, as well as to protect towers from false allegations made by disgruntled consumers or from a complainant's misunderstanding or misapplication of Oregon's laws, rules, and requirements.

May Work Session

The Board will meet May 14, 2024

- To review and discuss an Initial Concept Summary draft identifying the topics discussed at the April work session.

- Accept public comments.
- Begin drafting the official Board policy related to PPI authorizations.

Adjourned:

There being no further business before the Board, and no public comments, Chair Riley adjourned the meeting at 2:55 p.m.

Documents Considered by the Board

- Agenda
- Memo re: Case Management System
- Bylaws: Final Draft
- Tow Certificate Registration Information
- First Quarter Complaint Summary
- Initial Concept Summary Template
- Work Session Worksheet (discussion of intent of ORS 98.853 and 98.854)
- ORS 90.485

Minutes prepared by Torey McCullough

Minutes APPROVED by Board vote: