

HOUSE BILL NO. HB0284

Impoundment of DUI vehicles.

Sponsored by: Representative(s) Hallinan

A BILL

for

1 AN ACT relating to driving while under the influence;
2 providing for impoundment of a motor vehicle; providing for
3 costs of impoundment and procedures to recover costs;
4 specifying liability; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 31-5-233 by creating new subsections
9 (n) through (z) is amended to read:

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11 **31-5-233. Driving or having control of vehicle while**
12 **under influence of intoxicating liquor or controlled**
13 **substances; penalties.**

14

15 (n) If a peace officer arrests any person for a
16 violation of this section, or other law prohibiting driving
17 while under the influence, the peace officer shall seize

1 and impound the vehicle being driven by the arrested
2 person, except as provided in subsection (o) of this
3 section.

4
5 (o) If a registered owner of a vehicle subject to
6 impoundment under subsection (n) of this section, other
7 than the operator of the vehicle, is present at the time of
8 arrest, the peace officer may release the vehicle to that
9 registered owner, but only if the vehicle is legally
10 operable and the registered owner:

11
12 (i) Requests to remove the vehicle from the
13 scene;

14
15 (ii) Presents to the peace officer sufficient
16 identification to prove ownership of the vehicle; and

17
18 (iii) Is compliant with all restrictions on his
19 drivers license and, in the judgment of the peace officer,
20 can operate the vehicle without violating any law.

21
22 (p) A vehicle seized under subsection (n) of this
23 section shall be moved to a place designated by the county
24 commissioners of the county in which the arrest was made.

1 The removal, preservation, custody, storage and sale of
2 vehicles impounded under this section are the
3 responsibility of the county in which the vehicle is
4 impounded but the county shall not be liable for acts of
5 nature or God which damage a vehicle while impounded nor
6 shall this section extend the provisions of the Wyoming
7 Governmental Claims Act, W.S. 1-39-101 through 1-39-121. A
8 county may use a commercial towing company for the removal,
9 preservation, custody and storage of impounded vehicles if
10 the company charges a reasonable and fair fee for all
11 services provided.

12

13 (g) Immediately after the seizure and impoundment of
14 any vehicle under subsection (n) of this section, a report
15 of the seizure and impoundment shall be sent to the Wyoming
16 department of transportation. The report shall be in a
17 form specified by the department and shall include:

18

19 (i) The name of the operator of the vehicle
20 seized and impounded;

21

22 (ii) A description of the vehicle, including the
23 vehicle's identification number and license plate number;

24

1 (iii) The date, time and place where the vehicle
2 was seized for impoundment;

3
4 (iv) The date, time and place of impoundment;

5
6 (v) The reason for impoundment;

7
8 (vi) The name of any tow company or other person
9 who has moved or possessed the vehicle; and

10
11 (vii) The place where the vehicle is stored.

12
13 (r) Upon receipt of the report required by subsection
14 (q) of this section, the Wyoming department of
15 transportation shall give notice to the registered owner of
16 the vehicle and any lien holder of record, which notice
17 shall provide:

18
19 (i) The information required by subsection (q)
20 of this section;

21
22 (ii) Notice that the registered owner is
23 responsible for payment of towing, impound and storage fees
24 charged against the vehicle;

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2

(iii) Notice of the conditions that must be satisfied before the vehicle will be released; and

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(iv) Notice of the department's intent to sell the vehicle if within sixty (60) days after the vehicle is seized and impounded the owner, the lien holder or the owner's agent fails to make a claim for release of the vehicle.

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(s) If the vehicle is not registered in this state, the Wyoming department of transportation shall make a reasonable effort to notify the registered owner and any lien holder of the information contained in subsection (r) of this section.

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(t) The Wyoming department of transportation shall forward a copy of the notice required by subsection (r) of this section to the place where the vehicle is stored and the receiver of such notice may release the vehicle on the date indicated in the notice.

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23

(u) A vehicle impounded under subsection (n) of this section shall be released thirty (30) days after the date

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1 on which the vehicle was impounded, but only after the
2 registered owner of the vehicle, lien holder or the owner's
3 agent:

4
5 (i) Makes a claim for release of the vehicle on
6 a form adopted for such purposes by the department;

7
8 (ii) Presents identification sufficient to prove
9 ownership of the impounded vehicle or status as a lien
10 holder;

11
12 (iii) Pays all storage and towing fees;

13
14 (iv) Pays to the county where the vehicle is
15 impounded an administrative impound fee of three hundred
16 dollars (\$300.00) which shall be refunded if:

17
18 (A) The owner provides proof that the
19 vehicle was stolen at the time of the violation which
20 caused the impoundment;

21
22 (B) The owner provides proof that the
23 arrest upon which the impoundment was based did not lead to

1 any conviction for a violation of this section or other law
2 prohibiting driving while under the influence; or

3
4 (C) The owner is indigent and provides
5 proof of qualification for the federal supplemental
6 nutrition assistance program, formerly known as the federal
7 food stamp program, in which event the fee shall be excused
8 and not collected if proof is made at the time payment
9 would be due.

10
11 (w) A vehicle not claimed within sixty (60) days
12 after the date the vehicle is first seized and impounded
13 may be sold by the sheriff of the county in which the
14 vehicle is impounded in accordance with W.S. 31-13-108.
15 For purposes of any sale conducted under W.S. 31-13-108,
16 all towing, impound and storage fees shall be considered an
17 expense of the sale.

18
19 (y) The registered owner who pays all fees and
20 charges incurred in the impoundment of the owner's vehicle
21 has a cause of action for all such fees and charges
22 together with damages, court costs and attorney fees
23 against any vehicle operator whose actions caused the
24 impoundment.

1

2 (z) The Wyoming department of transportation shall
3 adopt such rules and regulations as are necessary to carry
4 out the purposes of subsections (n) through (w) of this
5 section.

6

7 **Section 2.** This act is effective July 1, 2009.

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9

(END)