

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 186

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO TOWED VEHICLES; PROVIDING LEGISLATIVE INTENT; AMENDING
2 CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW
3 SECTION 49-1807B, IDAHO CODE, TO PROVIDE FOR REQUIRED RECORDS
4 AND DEFINITIONS; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY
5 THE ADDITION OF A NEW SECTION 49-1807C, IDAHO CODE, TO PROVIDE
6 FOR REQUESTS FOR TOW AND NOTIFICATION; AMENDING CHAPTER 18,
7 TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807D,
8 IDAHO CODE, TO PROHIBIT CERTAIN REQUESTS FOR TOW, TO PROVIDE
9 FOR STORAGE AND TO PROVIDE FOR RELEASE OF VEHICLE; AMENDING
10 CHAPTER 18, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
11 49-1807E, IDAHO CODE, TO PROVIDE FOR TOW WHEN VEHICLE OPERATOR
12 IS ARRESTED OR OTHERWISE TAKEN INTO CUSTODY AND TO PROVIDE FOR
13 OTHER TOWS; AMENDING CHAPTER 18, TITLE 49, IDAHO CODE, BY THE
14 ADDITION OF A NEW SECTION 49-1807F, IDAHO CODE, TO PROVIDE FOR
15 STORAGE RATES, TO PROVIDE FOR POSTING OF RATES AND TO PROVIDE
16 FOR RELINQUISHMENT OF VEHICLE; AND AMENDING CHAPTER 18, TITLE 49,
17 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-1807G, IDAHO CODE,
18 TO PROVIDE FOR PENALTIES.
19

20 Be It Enacted by the Legislature of the State of Idaho:

21 SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to provide for
22 the protection of the public interest as it relates to the towing of vehicles from public or private
23 property without the consent of the vehicle’s owner or operator. To that end, this act provides
24 for safeguards for the public health, safety and welfare, and promotes the best interests of
25 residents of this state, including provisions to prevent tow activities that are arbitrary, unfair,
26 discriminatory or unequally applied.

27 SECTION 2. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended
28 by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1807B,
29 Idaho Code, and to read as follows:

30 49-1807B. REQUIRED RECORDS – DEFINITIONS. (1) Any person who performs a
31 non-consent tow shall maintain a record of the tow, for a period of six (6) months following the
32 date of the non-consent tow, to include the following information:

- 33 (a) The person or business authorizing the tow;
- 34 (b) The location of the tow;
- 35 (c) The date and time of the tow;
- 36 (d) The color, make, model and year of the vehicle towed;
- 37 (e) A description of any personal property located within the towed vehicle if known to
38 the tow operator;

1 (f) An itemized statement of services provided and fees owed; and

2 (g) The final disposition of the vehicle, after the tow, to include whether it was claimed
3 by the owner or agent of the owner, disposed as low value or auctioned. If auctioned
4 or disposed as low value, a detailed statement of the revenue received for the vehicle,
5 including any parts of the vehicle sold or auctioned as separate parts.

6 (h) If the owner of the vehicle has notified the tow operator or owner that such owner
7 disputes the fees or rates charged by the tow operator or owner, such operator or owner
8 shall retain the records provided for in this section for not less than six (6) months after
9 the dispute has concluded, unless otherwise ordered by a court.

10 (2) Upon request by any peace officer, the registered owner of a towed vehicle or the
11 owner's lawful representative, the person who conducts the tow shall provide a copy of the
12 record of the tow, as provided in subsection (1) of this section, at no cost.

13 (3) For purposes of this act, the term "peace officer" has the same meaning as that term
14 is defined in section 19-5101, Idaho Code.

15 (4) For purposes of this act, the term "non-consent tow" means the removal of a vehicle
16 from public or private property by the use of a tow truck where the towing vendor was not
17 selected by the vehicle's owner, driver or agent of the vehicle's owner.

18 SECTION 3. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended
19 by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1807C,
20 Idaho Code, and to read as follows:

21 49-1807C. REQUEST FOR TOW – NOTIFICATION. (1) It shall be unlawful
22 to conduct a non-consent tow except under the specific request of a peace officer, other
23 government officials, or the owner or authorized representative of the private property from
24 which a tow will be made. General authorization for non-consent tows from private property
25 is prohibited. Specific requests for non-consent tows from private property, other than requests
26 from peace officers or other government officials, must include written authorization from the
27 owner of the property or the authorized representative, who shall be present at the time of the
28 removal of the vehicle. Such presence shall not be required when the vehicle to be removed is
29 parked in a manner which interferes with entrance to or exit from the private property.

30 (2) It shall be unlawful to tow a vehicle from private property unless the name and phone
31 number of the person or entity conducting the tow, is clearly posted in a conspicuous area near
32 the location of the tow, or unless the tow is directed by peace officers or other government
33 officials. The person or entity conducting the tow shall notify the appropriate law enforcement
34 agency by the next business day after any private property tow, of the make, model and license
35 number of the vehicle removed, as well as the location from which it was towed.

36 SECTION 4. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended
37 by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1807D,
38 Idaho Code, and to read as follows:

39 49-1807D. UNLAWFUL REQUEST FOR TOW – PLACEMENT OF TOWED
40 VEHICLE – RELEASE OF VEHICLE. (1) It shall be unlawful to knowingly request a tow of
41 a vehicle or to conduct a tow of a vehicle that is lawfully parked or otherwise lawfully upon
42 private property, unless at the direction of a peace officer or other government official. It is

1 unlawful to receive any payment, including tow fees, storage fees or any other fee for a tow
2 initiated in violation of this act.

3 (2) All vehicles towed without the consent of the owner or operator shall be delivered in
4 a safe manner to an impound lot that is locked, lighted and secure. If the tow was directed by a
5 peace officer, that person may also direct the location of the vehicle storage.

6 (3) A tow truck operator shall release a vehicle upon request of the owner or driver
7 if the vehicle has not yet been removed from the tow location and the owner or driver can
8 lawfully remove the vehicle from the location at that time. The tow truck operator shall not
9 be permitted to require payment of the tow fee unless the vehicle has been attached to the tow
10 truck and is in a position ready to be towed prior to the request for release. If the vehicle is not
11 attached to the tow truck at the time of request for release, the tow truck operator may require
12 a payment not to exceed fifty dollars (\$50.00) plus mileage one (1) way from the storage
13 lot prior to releasing the vehicle; however the tow truck operator shall allow for reasonable
14 accommodations for the owner or driver to obtain the required fee before removing the vehicle
15 from the location.

16 SECTION 5. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended
17 by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1807E,
18 Idaho Code, and to read as follows:

19 49-1807E. VEHICLE OPERATOR ARRESTED – OTHER
20 TOWS. (1) Notwithstanding any other provision of law, any peace officer shall be authorized
21 to direct the removal of a vehicle from which the operator has been arrested or otherwise taken
22 into lawful custody. Exceptions to this authorization are vehicles parked on private property
23 with the express permission of the property owner or owner representative, and vehicles which
24 are owned by a person other than the arrested operator, and the owner is available to remove
25 the vehicle upon direction by a peace officer in a reasonable and timely manner. Removal of
26 vehicles under this section shall be considered lawful law enforcement impounds.

27 (2) Any peace officer shall be authorized to direct the removal of vehicles that are
28 abandoned, unlicensed, wrecked, junked, or hazardedly parked at or upon any street, roadway
29 or public place. In addition, any peace officer shall be authorized to direct the removal of
30 vehicles, from any place public or private, which are parked in a designated fire lane or for
31 which there is probable cause to believe are stolen, constitute evidence of a crime or contain
32 evidence of a crime.

33 SECTION 6. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended
34 by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1807F,
35 Idaho Code, and to read as follows:

36 49-1807F. MAXIMUM STORAGE RATES – POSTING OF RATES –
37 RELINQUISHMENT OF VEHICLE. (1) For the storage of vehicles hereinafter described as
38 "non-consent tows," the following maximum storage rates shall apply:

39 (a) For light-duty vehicles a maximum fee of twenty-five dollars (\$25.00) per day, per
40 unit, for outside storage; and a maximum fee of thirty dollars (\$30.00) per day, per unit,
41 may be charged for inside storage. For purposes of this act, "light-duty vehicles" means
42 passenger cars and trucks with a three-quarter (3/4) ton chassis or less.

1 (b) For medium and heavy-duty vehicles a maximum fee of thirty-five dollars (\$35.00)
 2 per day, per unit, for outside storage; and a maximum fee of seventy dollars (\$70.00)
 3 per day, per unit, may be charged for inside storage. For purposes of this act, "medium
 4 and heavy-duty vehicles" means a vehicle with a one (1) ton chassis or larger, including
 5 semi-tractor trailers, buses, or similar type vehicles.

6 (c) For vehicles used in the transportation of materials found to be hazardous under 49
 7 U.S.C. section 5103, and required to be placarded under subpart F of 49 CFR part 172, a
 8 maximum fee of seventy-five dollars (\$75.00) per day, per unit, for outside storage; and a
 9 maximum fee of one hundred dollars (\$100) per day, per unit, may be charged for inside
 10 storage. Inside storage shall be only at the owner's request, or at the order of a law
 11 enforcement agency or highway authority.

12 (2) (a) It is illegal for a tow truck operator or owner to require the owner of an
 13 impounded vehicle to pay any money other than the appropriate amount provided for
 14 in this section. Any tow truck operator or owner charging more than the maximum
 15 approved rates provided herein may be assessed civil penalties.

16 (b) For the purpose of calculating storage rates pursuant to this section, if the first six (6)
 17 hours of storage for a vehicle includes more than one (1) day, the authorized storage fee
 18 shall be only the charge for one (1) day.

19 (3) (a) Any tow truck operator or impound yard shall clearly and conspicuously post and
 20 disclose all current non-consent fees and rates for towing and storage of a vehicle.

21 (b) It is illegal for a tow truck operator or owner to charge the owner of any vehicle
 22 ancillary fees or costs not provided for in this section, including, but not limited to, gate
 23 or access fees.

24 (c) Any tow truck operator or owner shall be responsible for damages to a vehicle, and
 25 its contents, in the care, custody and control of the tow truck operator or owner, and shall
 26 take reasonable measures to protect the vehicle and its parts and contents.

27 (d) (i) The owner of a vehicle shall not be responsible for any storage costs after
 28 a period of seven (7) days from the initial non-consent tow, unless notified in
 29 writing, by the tow truck operator or owner, of the costs of storage. In addition
 30 to costs of storage, such notification shall also provide the owner of the stored
 31 vehicle written opportunity to move his or her vehicle to another location.

32 (ii) A vehicle in the possession of a tow truck operator or owner shall be
 33 relinquished to such vehicle's owner or such owner's legal representative, family
 34 member or insurer upon request and authorization for payment of the legally
 35 incurred fees provided for in this section.

36 SECTION 7. That Chapter 18, Title 49, Idaho Code, be, and the same is hereby amended
 37 by the addition thereto of a NEW SECTION, to be known and designated as Section 49-1807G,
 38 Idaho Code, and to read as follows:

39 49-1807G. PENALTIES. Any person violating the provisions of this act shall be
 40 deemed guilty of a misdemeanor and shall be subject to a minimum fine of one hundred fifty
 41 dollars (\$150) up to five hundred dollars (\$500). A second violation of this act shall be subject
 42 to a minimum fine of three hundred dollars (\$300) up to one thousand dollars (\$1,000). Any
 43 third or subsequent violation shall be subject to a minimum fine of five hundred dollars (\$500)
 44 up to one thousand dollars (\$1,000) or imprisonment in the county jail not to exceed six (6)

1 months, or both. Each day such violation is committed or permitted to continue shall constitute
2 a separate offense and be punishable as such hereunder.