

**A Training Program for Tow
Operators Licensed in
Arkansas**
The Laws, Rules and Regulations



Arkansas Towing & Recovery Board

7418 North Hills Boulevard • North Little Rock, Arkansas 72116
501.682.3801 • artowing@arkansas.gov • www.artowing.org

A Training Program for Tow Operators Licensed in Arkansas
Prepared by the Arkansas Towing and Recovery Board

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Being a Bully is Not a Best Business Practice •1

Don't take this personally but I have yet to meet a tow owner that was not a bit of a 'bully'. The attitude is understandable. You deal with people that are not having a good day; they do not want to follow any sort of reasonable process much less the law for getting their vehicle returned. It can make for some wild moments.

An unfortunate part of your clientele are people who inexplicably abandon their car for several days, parked in NO PARKING zones, drive on suspended license or with fictitious tags, The always popular DUI's and my favorite, that whole community of entitled folks that borrow cars without permission, get into trouble and need to get it back before Maw Maw arrives from Tunica and of course they have no proof of ownership or power of attorney. And then they do not want to pay you for your services.

There is a basis for the attitude you carry around, on the surface it makes sense. I get it. You have to be tough minded to get your money sometimes.

However in this very mobile world we operate in not everyone you deal with falls into one of those 'crazy' categories and people expect to be treated professionally and fairly, too no matter who you might be dealing with they deserve some level of respect, after all, you do have their personal property.

And there is another side, did you know legislation has been discussed that would severely impact your tow and storage fees because a legislators father was grossly overcharged following a minor traffic accident? Frankly some attitudes do not play well in the political arena or the law enforcement community. I recently heard a speaker say "How you do anything is how you will do everything." In other words what we do in one area of our lives will carry over into all areas of our life. That includes how we treat people and how we manage problems. Bully tactics may not always be the best choice for 'problem solving.'

This training module was created to help you better understand the laws of the State of Arkansas and the Rules and Regulations of the Arkansas Towing & Recovery Board, to gain some perspective and hopefully appreciate the licensing and vehicle owner complaint processes. And maybe while we are doing it have a good time.

There is no written exam, but there is an attendance policy. You must sit for the entire training session before you receive your certificate. Thanks for being here.

Steven Rogers
Director

A Training Program for Tow Operators Licensed in Arkansas

Section I

Customer Service

- 2 Your obligation to the vehicle Owner
- 2 Avoiding Consumer Complaints

There is nothing in the law that says you must be nice.

... however, there is an expectation.

From Law Enforcement

"If you are going to serve on my rotation list you represent me. Your attitude and your work ethic should reflect my department."

From the Legislature

"State law gives you a lot of latitude to set fair prices and manage the possessory lien law. We expect you to take that responsibility seriously and to execute your business professionally"

From the Tow Board

"Some complaints may be inevitable but many could be resolved or minimized by extending simple courtesies."

From Your Peers

"Believe it or not ... we are all in this together."

Your Obligation to the Vehicle Owner(s)

- 1 To provide tow, recovery and storage at a reasonable rate.
- 2 To protect the property of an individual while in your care.
- 3 To timely notify the owner when you have their property.
- 4 To return certain personal property items on request.
- 5 To operate at all times in a safe manner.
- 6 To know the law and how to apply it to your business.

Avoiding Consumer Complaints

- 1 Your invoice should tell a complete story
- 2 Avoid invoice 'add on' items and frivolous fees
- 3 Make sure the right person is hearing any complaint/concern
- 4 Listen
- 5 Respond • Do Something • What are they looking for?

A Training Program for Tow Operators Licensed in Arkansas

Section II

Licensing Your Business

- 3 Who Must License as a Tow Operator
- 3 The Application Process
- 5 Minimum Qualifications for a tow Facility
- 9 Checklist
- 10 Application for Business License
- 11 Tow Vehicle Safety Inspection Form
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Who must license as a tow operator in the State of Arkansas?

ACA §27-50-1201. Applicability.

(a) This subchapter applies to a person that either:

(1) Engages in the towing or storage of vehicles in the State of Arkansas and is hired to tow or store the vehicle; or

(2) Performs vehicle immobilization service.

(b) This subchapter does not apply to the following tow vehicles and related equipment:

(1) Car carriers capable of carrying five (5) or more vehicles and that have authority from the Federal Motor Carrier Safety Administration;

(2) Tow vehicles owned by a governmental entity and not used for commercial purposes; and

(3) If in compliance with § 27-35-112, tow vehicles that are:

(A) Registered in another state;

(B) Operating under authority from the administration; and

(C) Not regularly doing business or soliciting business in the State of Arkansas.

If you tow vehicles for hire in the State of Arkansas engaging in intrastate commerce you must be licensed with the Arkansas Towing and Recovery Board, which includes tow vehicles and trailers.

In addition Vehicle Immobilization Devices are under the authority of the tow board. **ACA §27-50-1103 Wheel Clamps.**

Because tow and recovery is the most common this section will focus heavily on licensing a place of business for your tow company and permitting a tow vehicle.

The Application Process

The application process is simple and straightforward, simply follow the checklist. It seems people make it much harder than it really is. If you make sure you have all of the forms you need printed, fill them out completely and legibly, take a couple of photos it's a one-day process. Taking short cuts and sending incomplete information can delay your license and permits for weeks resulting in late fees and perhaps interrupting your business.

- You **MUST** fill out a Business Application completely. If you leave any item blank on the application it could be returned to you. It will slow down the approval process.
- Each tow vehicle **MUST** be inspected by a certified law enforcement officer or an ATRB investigator. The key word here is 'inspected'; having a buddy fill it out over a cup of coffee almost always results in an error leading to questions. Falsifying safety permit applications is serious business and could lead to the suspension of your safety permits until the tow vehicle is properly inspected.

Operating safely is a serious matter. An ATRB investigator can inspect your tow vehicle at any time assuring compliance. Don't take short cuts, make sure your tow vehicles are well maintained and your drivers know how to properly operate the equipment they are entrusted with.

The items on the inspection form are there for a reason. Compliance ensures a safe and well-equipped tow vehicle that is ready for any situation.

The Vehicle Safety Inspection form must be signed by both the inspecting officer and the tow company owner or designated representative.

Did you know ... ALL commercial vehicles are required to undergo an annual inspection performed by the Arkansas Highway Police or an approved garage?

- You **MUST** submit three (3) photographs with Vehicle Safety Inspection Form. A side view of the driver and passenger side and one of the license plate mounted on the tow vehicle.

If it is a new truck and you've not yet been issued a license plate by the Arkansas DFA-Office of Motor Vehicles you will have 30 days from the day your permit is issued to submit a photograph. Not doing so may result in your permit or license being suspended.

The two (2) side view photographs are proof that you have properly added signage required by Rule. The name of your tow company and a phone number must be prominently displayed on each side.

ALL lettering must be readable from a distance of **50'** and must use a letter that is a **2" minimum** in height. The signage must be permanently attached before a tow vehicle safety permit is issued. Magnetic or temporary signs are not permissible.



Taking photos is not hard in today's world. Every cell phone is equipped with a camera. The ATRB staff is accommodating. You can mail, text to our cell phones or E.Mail your photos.

- You **MUST** show proof of insurance. This will require you to obtain from your insurance agent a Certificate of Liability Insurance; this is a standard insurance form that your agent should be familiar with. No other form or documentation will suffice. In addition to minimum coverages (or the coverage you are carrying) make sure your agent posts the trucks that are covered and that the proper business name and address is used.

Did You Know ... Insurance verification is the primary reason most applications are delayed. Remember, you must work with your insurance agent, ATRB staff cannot call your agent for you.

NEW Since 2015 ... Your primary business location and storage facility(s) **MUST** meet certain criteria. Although the Board does not currently require photographic evidence of your facilities You are certifying compliance when you apply for your business license, if your facility does not meet the minimum standards an investigator can issue citation(s) for noncompliance.

Minimum Qualifications For a Tow Facility

- You must maintain a place to conduct business that is easily accessible to the public. If you are going to be open to the public, your customers must be able to find you.

Licensing Your Business •6

- You must provide a secure place for your files. Remember, you are required to keep all of your paper work and business files for three (3) years. These files should be available at a moment's notice.
- You will need to maintain a telephone number that is displayed on your signage and your tow vehicles.
- There are signage requirements you must meet inside your customer area and outside identifying you as a tow facility.
 - **POSTED** tow and storage **RATES. ACA §27-50-1203(e)(1)(G)**
 - A 16"x20" sign posted in a conspicuous place letting customers know **where to file an unresolved consumer complaint** that includes contact information for the Arkansas Towing & Recovery Board. **ACA §27-50-1203(e)(1)(I).**

Nothing in the statute or the rule says that your signage cannot first encourage a complainant to contact the owner or a designated manager to resolve a complaint *before* contacting the state agency.

■ If you are still concerned about complying or confused about what this sign should look like here is just one example of what your sign might look like.

We Take Complaints Seriously at Best Practices Tow Company.

If you have a complaint about our service I encourage you to call me, Honest Joe directly at 501/555-1234.

If we can't resolve the complaint you may contact the Arkansas Towing & Recovery Board by calling 501/682-3801 or by E.Mail at artowing@arkansas.gov.

This sign complies with ACA §27-50-1203(1)I)

- You must have signage outside that identifies your business; displaying your physical address, a telephone number and your hours of operation. **ACA §27-50-1203(e)(1)(J)(iii).** Your primary sign must be a minimum of 4'x6'. The agency does not require you to have all of the information required by the

Licensing Your Business •7

statute on one sign; you have a great deal of latitude in how you identify your company and what it looks like.

The intent is that your non-consent tow business is easy to find and accessible to anyone who may be looking for their vehicle. When you engage in a non-consent tow you are charged with holding a person's personal property, keeping it intact and returning it once the invoice is paid in full. You can't do that if you are operating out of a back room in a health food store and there are no signs.

There is no provision currently that requires you to provide photographic evidence of your tow facility but the expectation is that you are meeting the conditions of this section when you apply for and sign your Business License Application. Falsifying the application may result in fines, the suspension of your license or both.

- A storage area should be well lit and secure protecting the vehicles you receive as a part of your business and any personal property that may be in the vehicle or attached to the vehicle.

Fencing requirements are not covered in the statutes or the rule. The agency defers to local city ordinances that may be in effect and/or insurance requirements that may be a condition of your liability policy.

Your responsibility does not end when you license your business or permit your trucks. As an owner operator you are expected to maintain your facility and tow vehicles ensuring compliance with state law and board rules. Not doing so could result in a citation for noncompliance or the suspension of your license.

If you sell your business, retire, go out-of-business, purchase or sell your permitted tow vehicles, change your physical address or your phone number(s) or open a new storage facility you are required to notify the board immediately. Notification of any changes to your business is important. The board needs a correct address when license renewals are mailed, notifying you of important changes or managing any consumer complaints or inquires by law enforcement.

Licensing Your Business ••

Using the proper forms are necessary when licensing your business or permitting your tow vehicles. As the tow industry grows and changes so do the laws and the forms used to license your tow business. Make sure you get the most recent forms by logging on to the agency website, www.artowing.org, you should find everything you need.

Or you may call the ATRB office Monday thru Friday at 501.682.3801, our office hours are from 8:00a to 4:30p. One of the staff will be glad to assist you.

Samples of the forms posted on the website can be found in this section.

Pay particular attention to the **CHECK LIST** that is posted on the website. Following the simple step-by-step list will insure trouble free licensing and permitting.

Following the simple step-by-step **CHECK LIST** will insure trouble free licensing and permitting.

CHECK LIST

For Licensing and Permitting a Tow Business and Tow Vehicles in the State of Arkansas

Using this checklist will help you manage the licensing and permitting process with ease. Use the forms posted on the website whether you are opening a new tow business or renewing your license and permitted tow vehicles. If you have any questions please do not hesitate to call the Arkansas Towing & Recovery Board office and talk to one of our staff.

Here is a list of items that you **MUST** submit before a license and/or permit can be issued.

- A completed **Application for a Business License**. Make sure you print legibly. An application must be completed for each location. Be sure and sign the application.
- You will need a **Tow Vehicle Safety Inspection Form** for each vehicle you intend to use in your business. Each vehicle must be inspected by a certified law enforcement officer. A separate form must be used for each tow vehicle permitted. Be sure and sign the Inspection Form.
- Your application must have a **Certificate of Liability Insurance**. No other insurance document can be substituted. Your agent can provide the necessary form. The certificate must identify each tow vehicle you intend to permit.
- Your tow vehicle must have the **required signage** on it before a permit can be issued. The **Tow Business Name and Phone Number**, not less than **2" in size and permanently affixed** [paint or decal] on each side of the tow vehicle and visible from a distance of fifty (50) feet and displayed in a legible manner. There is no grace period and no exemption.
- Include **Three (3) Photographs** • Commercial license tag for renewals. • Entire driver's side of the tow vehicle. [For verification of tow vehicle type, take from a distance] • Passenger side of the tow vehicle. On a new truck you have 30 days to submit a photograph of the commercial license tag affixed on the tow vehicle. On renewals you must submit **new** photographs. We cannot use last years.
- Payment** must be received at the time the application or permit is submitted. The tow board accepts check, money order or cash for payment. Checks returned for Insufficient Funds will result in the immediate suspension of your license and/or permits.
- At the time application is made for a new license or renewal you must submit a rate sheet indicating the **fees you intend to charge for towing, recovery and storage**. This should be the same rate sheet you submit to law enforcement on an annual basis. **Non Consent Only.**

Walk-In Applications can be Processed from 8:30 A.M. to 3:30 P.M. most days. A Call to the Office is Suggested.

Although it is not a part of the application process every tow company licensed and permitted is required to • Maintain a location easily accessible to the public and in compliance with all local, state and federal regulations and ordinances .
• Capable of securing property stored safely. • An appropriate and secure filing system for business records. • Outdoor signage that is clear and visible, a minimum of 4'x6' displaying your company name, physical address, telephone number and hours of operation. • Additionally a sign placed in a conspicuous and central location visible to any customer that is visiting your place of business, that an unresolved complaint may be filed with the Arkansas Towing & Recovery Board. The sign must be at least 16"x20" in size, the type must be clear and legible and of a point size that accommodates the size of the sign. Noncompliance may be subject to fines.



State of Arkansas Towing & Recovery Board

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Note • Every line must be filled out and the form must be signed. Not doing so will result in your application **RETURN**.

Application for a Business License

and Information Sheet with the

State of Arkansas Towing & Recovery Board

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PLEASE FILL OUT THIS FORM COMPLETELY AND PRINT LEGIBLY

Check One: CONSENT NON-CONSENT VEHICLE IMMOBILIZATION Date _____

County Location _____ Arkansas State Police Troop _____

Company Name _____
Please Indicate Dba or Incorporated

Physical Address _____

City _____ Zip _____

Mailing Address _____

If Different from the Physical Address

Telephone • Day [] _____ Night [] _____

• FAX [] _____ • Cell [] _____

Optional

E.Mail Address _____

The Tow Board will periodically send important information and updates electronically

Owner(s) _____

Signed by Owner _____

INSURANCE INFORMATION

Carrier _____

Agent _____

Mailing Address _____

City _____ State _____ Zip _____

Telephone • Agent [] _____ • FAX [] _____

Each Application must be accompanied by a copy of your Certificate of Liability Insurance. Other documents will not be accepted. For additional information please refer to Rule 9 of the Tow Board regulations.

This completed form must accompany any new application for permitting a tow vehicle or location.

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Office Use Only
NO: _____
Exp _____



TOW VEHICLE SAFETY EQUIPMENT INSPECTION FORM

[Any Arkansas certified law enforcement officer is authorized to examine the vehicle noted below and sign the inspection form. A separate form must be used for each tow vehicle.]

CONSENT TOW VEHICLE **NON CONSENT TOW VEHICLE**

Firm _____ City _____

Vehicle Year _____ Make _____ Model _____

VIN Number _____ Commercial Tag Number _____

Type : Wrecker Hauler Rollback Gross Vehicle Weight Rating : Light ↓ Medium ↓ Heavy ↓
9,000-15,000 lbs. 15,001-33,000 lbs. 33,001 + lbs.

Please write **Y**- Yes or **N** -No or **N/A** -Not Applicable for each safety item listed below.

- Fire Extinguisher, ABC Type** of at least a nine (9) pound capacity. [Two 4.5 pound extinguishers are acceptable]
- Amber Flashing Lights** which are visible on a 360° rotation around the tow vehicle. Lights must be visible in bright daylight for highway and/or right-of-way use when engaged in hooking, unhooking or winching vehicles.
- Ability to attach **Tail, Turn and Stop Lights** to the rear of the towed vehicle for visibility when towing.
- Safety Chains or Straps** to secure a vehicle to the tow vehicle.
- Flares, Reflective Cones or Triangle Safety Signals** or other similar safety devices.
- Shovel and Broom** for tow vehicles used in accident recovery.
- Tow Business Name and Phone Number**, not less than 1" in size, permanently affixed (paint or decal) on each side of the tow vehicle and visible from a distance of fifty (50) feet and displayed in a legible manner.
- Light and Air Brake Hook-Ups** required on equipment capable of towing semi-trucks and/or trailers.
- Safety Straps** for wheel lift equipment as required by the equipment manufacturer.
- Winch(s) on Tow Vehicles** used for recovery and/or hoisting and carrying a vehicle during transport shall have a minimum capacity of (L) 8,000 pounds and minimum cable size of 3/8" in diameter. Winch capacity and cable size shall increase proportionally with Gross Vehicle Weight Ratings.
- Dual Rear Wheels** and rated at a minimum of 9,000 GVWR.¹
- Trailer, Dolly or Other** separately hitched towing device to transport or facilitate the movement of vehicles on vehicles on public roadways.
- Medium Duty Tow Vehicle** (excluding rollbacks) equipped with an under-lift device rated at no less than 6,500 pounds at full extension.²
- Heavy Duty Tow Vehicle** with tandem rear axles equipped with an under-lift device rated at no less than 12,000 pounds at full extension.²
- Three (3) Photographs** • Commercial license tag. • Entire driver's side of the tow vehicle. [For verification of tow vehicle type, take from a distance] • Passenger side of the tow vehicle

INSPECTION Date : _____ Time : _____ AM/PM Location : _____

Inspecting Officer : _____ Badge Number : _____

Officer Signature : _____ Agency _____

Owner Signature : _____ Date _____

¹ Requirement waived for any truck where the safety permit application was filed 90 days after July 1, 1994.

² Requirement waived for any truck where the safety permit application was filed 90 days after June 27, 2006.

Minimum Requirements: Refer to Rule 7 of Rules & Regulations; ACA §27-50-1201 et seq.

Note • Trailers used in transporting vehicles for hire must be permitted. The truck(s) pulling the trailer do not have to be inspected unless of course they are a tow vehicle. The Trailer Inspection Form is filed as CONSENT ONLY. A trailer may not be used as a primary tow vehicle at the scene of an accident.

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NO: _____
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TRAILER INSPECTION FORM

[Any Arkansas certified law enforcement officer is authorized to examine the vehicle noted below and sign the inspection form. A separate form must be used for each tow vehicle.]

CONSENT ONLY

Firm _____ City _____
 Make _____ Model _____
 VIN Number _____ Tag Number _____

Please write **Y**-Yes or **N**-No or **N/A**-Not Applicable for each safety item listed below.

- Fire Extinguisher, ABC Type of at least a nine (9) pound capacity. [Two 4.5 pound extinguishers are acceptable]
- Ability to attach Tail, Turn and Stop Lights to the rear of the towed vehicle for visibility when towing.
- Safety Chains or Straps to secure a vehicle to the tow vehicle.
- Flares, Reflective Cones or Triangles, Safety Signals or other similar safety devices.
- Tow Business Name and Phone Number, permanently affixed [paint or decal] on each side of the trailer.
- Winch(s) on Tow Vehicles used for recovery and/or hoisting and carrying a vehicle during transport shall have a minimum capacity of (L) 8,000 pounds and minimum cable size of 3/8" in diameter. Winch capacity and cable size shall increase proportionally with Gross Vehicle Weight Ratings.

INSPECTION Date : _____ Time : _____ AM/PM Location : _____
 Inspecting Officer : _____ Badge Number : _____
 Officer Signature : _____ Agency _____

Owner Signature : _____ **Date** _____
 By signing this form as owner and/or operator of the equipment described above I certify that the trailer, dolly or other separately hitched equipment will be used in a safe and competent manner at all times.

Minimum Requirements: Refer to Rule 7 of Rules & Regulations; ACA §27-50-1201 et seq.

Note • Currently there is no permit fee for registering immobilization devices. A business license application and the appropriate fee must accompany the inspection form.

A licensed tow company is not required to duplicate the licensing process. See the RULE for requirements relating to Vehicle Immobilization Device use.

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Office Use Only
NO: _____
Exp. _____



VEHICLE IMMOBILIZATION DEVICE INSPECTION FORM

[Any Arkansas certified law enforcement officer is authorized to examine the wheel clamps noted below and sign the inspection form. This form may be used for up to nine (9) devices.]

NON CONSENT ONLY

Firm _____ City _____

Wheel Clamp Year _____ Make _____ Model _____

Serial Numbers

_____	_____	_____
_____	_____	_____
_____	_____	_____

Please write **Y**-Yes or **N**-No or **N/A** Not Applicable for each safety item listed below.

- Highly Reflective Color
- Company name, phone number and the registered serial number of the Vehicle Immobilization and/or Non Consent towing / storage business prominently displayed and in a legible manner.
- Photographs of the Immobilization Device(s).

INSPECTION Date : _____ Time : _____ AM/PM Location : _____

Inspecting Officer : _____ Badge Number : _____

Officer Signature : _____ Agency _____

Owner Signature : _____ Date _____

By signing this form as owner and/or operator of the equipment described above I certify that the Vehicle Immobilization Device will be used in a safe and competent manner at all times.

Minimum Requirements: Refer to Rule 7 of Rules & Regulations; ACA §27-50-1201 et seq.

Note • This is a standard insurance industry form. Your agent should know what you need. Work with your agent making certain coverages are posted and the form is filled out completely. No other document can be substituted. This form is the primary reason most applications are denied or delayed.

ACORD **CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER NAME: PHONE (A/C, No, EXT): E-MAIL: ADDRESS:	CONTACT NAME: PHONE (A/C, No, EXT): FAX (A/C, No): E-MAIL: ADDRESS: INSURER(S) AFFORDING COVERAGE: NAIC #: INSURER A: INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
--	--

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSUR LTR	TYPE OF INSURANCE	ADOL SUBR: RSR, WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-PORT <input type="checkbox"/> LOC					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPOP AGG \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED: <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> Y <input type="checkbox"/> N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below					WC STATU- / OTH- TORY LIMITS / ER. E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)						

CERTIFICATE HOLDER	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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A final thought. As important as licensing your tow business and permitting your tow vehicles are, it is just as important to understand **WHAT LICENSING IS NOT.**

- Any tow vehicle used in towing and recovery must be permitted however not all tow vehicles are created equally. Some older model trucks are not equipped with an under-lift device significantly restricting their use as a 'recovery only' tow vehicle. Tow trucks equipped with a Detachable Tow Unit (DTU) are not manufactured or intended for recovery purposes and should never be used as such. As a tow owner/operator it is your responsibility to know how to correctly and safely apply and use your equipment.
- Licensing a tow business does not guarantee you participation in a non-consent rotation program. Non-consent rotation policy and who participates is up to the local jurisdiction and law enforcement agency. Participation is a privilege, not a right.
- A tow license does not lessen your obligation or responsibilities to other state agencies nor compliance with all local, state or federal laws pertaining to operating a business, traffic laws, business licensing, sales tax, etc. It is your responsibility to check with the jurisdictions under which you operate and comply.
- Contrary to what some tow operators may think, licensing and operating a tow company does not give you the right to charge any price you like for your services, towing, recovery or storage. The State of Arkansas asks that the fees charged by a tow company are 'reasonable'. The Arkansas Towing & Recovery Board has a lot of latitude in determining whether a fee is reasonable. The local market and your business model should drive your price structure.

If you have questions or need help when licensing or renewing your business or permitting your tow vehicles a call to the ATRB office could save you a lot of time and trouble. **501.682.3801** or E.Mail your questions to artowing@arkansas.gov.

A Training Program for Tow Operators Licensed in Arkansas

Section III

Operating on the Highways

- 16 Display of Vehicle Permits & License Plates
- 17 Identifying Your Tow Vehicle / Signage
- 18 Flashing, Rotating Emergency or Warning Lights
- 19 Who is TIM?

Display of Vehicle Permits and License Plates

The Arkansas Towing & Recovery Board is working closely with law enforcement around the state to ensure compliance with all permitting and licensing laws administered by the agency including the proper display of permit decals and license plates.

Noncompliance is an offense for which you could receive a ticket and a civil penalty.

When you receive your permit decals for your tow vehicle they should be permanently attached as soon as possible. Tossing your decals in the glovebox "for safe keeping" means your truck is not properly permitted. The decals are to be placed on the windshield, driver's side in the lower corner. No other location is permissible.



Proper Location for Decals

If your windshield is damaged along with the decals take a photo or scrape the old decal off and notify ATRB. The decals will be replaced for a nominal fee. Waiting until your renewal period is not an acceptable practice.

Once you've licensed your tow vehicle with the Arkansas Towing & Recovery Board you can acquire your license plate for your tow vehicle



from the Arkansas DFA Office of Motor vehicles. In addition to the commercial tag, you will receive the **TOW VEHICLE** decal that is to be displayed on the plate.

Your tow vehicle must display an Arkansas commercial vehicle license plate with the **TOW VEHICLE** decal to be properly licensed. Any other commercial tag or a 'dealer' tag is against the law and should not be used.

Identifying Your Tow Vehicle / Signage

While the State of Arkansas does not concern themselves with your color scheme or graphic design on your tow vehicle, the Rule does require that the name of your company be prominently displayed on both sides of your truck, that your signage be clear and legible from a distance of 50' and that you use letters that are a minimum of 2" in height.

That means that when you submit your photographs along with your Tow Vehicle Safety Equipment Inspection Form the agency takes into consideration several factors. The test is simple, *"is the name of your company and telephone number readable from a reasonable distance?"*



With that in mind, from a practical matter there are several things you should avoid when designing your graphics.

Lettering should be in a contrasting color to your trucks paint or background of any graphic, using dark grey lettering as an example on a black paint job would not meet the test of 'reasonable'.

Attempting to meet the 2" minimum letter requirement by capitalizing the first letter in the name of your company with a tall font then spelling out the remainder in tiny print will not be approved.

Using a thin outline letter with the fill being the same color as the background or a lettering style that is hard to read will be looked at closely. Attempting to hide the name in a complex design is equally troublesome. The intent of the law is simple, don't let clever attempts to circumvent the purpose of the Rule slow your application or jeopardize its approval. Or cost you money to re-letter your truck.

Signage must be permanently placed on your tow vehicle before your application is processed. There are no provisions in the law for temporary signs or a grace period following the permit process. Make certain your lettering/signage complies, changes can be expensive.

Flashing, Rotating Emergency or Warning Lights

Everyone agrees amber flashing lights are over used, highway department maintenance trucks to the meter reader run them constantly. Unfortunately the end result is a desensitized motorist, little attention is paid to a vehicle using a flashing amber light. However, it is still your best bet when operating on the side of the highway at being noticed and hopefully adds to your personal safety. And ... it is the law.

This is NOT a statute or Rule promulgated by the Board, the Board cannot change or modify the current law.

ACA §27-36-305. Other emergency vehicles.

(a) All state, county, and municipal agencies and private persons and businesses that operate any other type of vehicle in this state that is required or permitted to be equipped with flashing or rotating emergency or warning lights shall equip the vehicles with white or amber flashing or rotating emergency or warning lights only.

(b)(1) In addition to amber flashing or rotating emergency or warning lights, wreckers or tow vehicles permitted or licensed under § 27-50-1203 that respond to traffic incidents may, but are not required to, be equipped with red flashing or rotating emergency or warning lights in addition to amber warning lights.

(2) Red flashing or rotating emergency or warning lights on a wrecker or tow vehicle shall be operated only at times the wrecker or tow vehicle is stopped on or within ten feet (10') of a public way and engaged in recovery or loading and hooking up an abandoned, an unattended, a disabled, or a wrecked vehicle. A wrecker or tow vehicle shall not operate forward-facing red flashing or rotating

In an attempt to make the public more aware many law enforcement agencies around the state are renewing their effort to enforce the 'Move Over Law'. Many believe that a vital part of that effort is limiting the use of flashing amber lights including tow trucks traveling to and from a destination.

Simply put, it is against the law for a tow vehicle to use their forward flashing lights when traveling, loaded or unloaded, regardless of traffic conditions. It is an offence for which you could receive a citation and fine from law enforcement. You've been warned.



Who is TIM?

TIM (Traffic Incident Management) is a coordinated multi-disciplinary process to detect, respond to, and clear traffic incidents so that traffic flow may be restored as safely and quickly as possible. Properly implemented TIM reduces the duration and impacts of traffic incidents and improves the safety of motorists, crash victims and emergency responders. The TIM Program was created and promoted by the Federal Highway Administration (FHWA).

The Role of Towing and Recovery

Towing and recovery service providers are responsible for the safe and efficient removal of wrecked or disabled vehicles, and debris from the incident scene. Their typical responsibilities include:

- Recover and remove vehicles from incident scene
- Protect vehicle owner's personal property and vehicles
- Remove debris from the roadway
- Provide other services, such as traffic control.

Towing and recovery companies that respond to highway incidents are indispensable components of any incident management program. The TIM program recognizes the challenges facing this industry, some unique as you are not a public agencies. As such, you must remain profitable to retain a skilled work force, purchase and maintain expensive equipment needed to stay competitive and in business.

Why is TIM Important to the Community?

Federal and state governments realized building new roads in many areas was not an option. With increased traffic came greater pressure to keep existing corridors moving and safe. Traffic accidents in busy transportation corridors were a serious problem. Not only are drive times seriously hampered which impacts commerce the threat of secondary accidents increases significantly. Statistics show secondary accidents are often worse than the primary incident that slowed or halted traffic initially.

Why is TIM Important to the Tow Industry?

Safety. A strong emphasis of the TIM training program is on-scene safety. History tells us that no other first responder is more vulnerable to being injured or killed than the tow operator. Statistics bear that out, on

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average a tow operator is killed every week in this country.

Communication. TIM teaches interagency communication and coordination of effort, this is an area where often time tow companies are left out. The program recognizes a tow company as a genuine first responder and gives credit to the role the tow industry plays in traffic incident management

Where is Arkansas in the Implementation of the Program?

The Arkansas State Police, the Arkansas Highway Police and many local law enforcement agencies along with EMS and fire departments are training their personnel and implementing the program. Several local agencies are taking steps to require TIM training before a tow company can participate in their non-consent rotation program.

The Arkansas Towing & Recovery Board has played a key role in making certain trainers for the TIM program were certified. In addition to trained tow operators, the Arkansas Highway Police has agreed to help train tow owners and operators. The training program is a four (4) hour session and can also be accessed on-line. There is no cost for participants.

The Board encourages you to participate in the program, make certain your staff is well-trained. What they learn in the classroom may keep them healthy and alive in the field.

A Training Program for Tow Operators Licensed in Arkansas

Section IV

Law Enforcement and Non Consent Rotation

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- 21 Suspension from Rotation
- 22 Owner's Request and Consent Towing
- 23 Long Term Storage & Police Holds

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Playing by the Rules

One of the primary reasons a lot of people have gotten into the tow business is the opportunity to participate in non-consent towing for law enforcement. It is a valued service to the community and makes a tow company an integral part of a 'first response' team.

Some tow companies think that participation on a non-consent rotation list is automatic, a given, a right. It is not. It is a privilege. Here are three very important things to remember about non-consent rotation:

- Law enforcement or the city or county through either an ordinance or contract establishes the rules by which you must operate. You must follow the rules.
- A city or county may use a single vendor for all their tow needs, they may choose to open up the list to all tow companies or establish criteria for participation in the program. As long as they do not violate or conflict with state law, it's their choice!
- When you are on scene, law enforcement sees you as a representative of their agency and expects you to follow their policies. You should make every effort to do so.

Suspension from Rotation

Legislation passed in 2015 protects a tow company to some degree if they are participating in a non-consent rotation list from being permanently suspended without cause.

Here are the highlights of the provisions found in **ACA §27-50-1219**
Suspension from law enforcement rotation list.

- A law enforcement agency may petition the Board to hear a complaint for removal or suspension from their rotation list for violating established policy. In a sense as the licensing agency the Board is acting as an arbitrator.
- The law enforcement agency must have a written rotation policy in place and a tow company must be aware of the policy.
- If a complaint is filed the Board has the statutory authority to determine if the rotation policy is reasonable.

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- A first time violation may result in a suspension of up to 15 days.
- A second violation may result in a suspension of up to 30 days.
- Third time violations can result in one year's suspension and fines.
- Following any suspension of six months or longer a tow company must reapply for a position on the rotation list.
- If in its investigation the Board discovers other violations have occurred additional civil penalties (fines) may be levied.

A law enforcement agency that has a non-consent rotation policy in place may choose not to participate in the hearing process and is exempted from any of the provisions in this section. This exemption applies to the Arkansas State Police who have the authority to establish a non-consent rotation list under **ACA §12-8-106(a)(1)(B)**.

Nothing in this section prohibits a law enforcement agency from adopting policies, rules or provisions and implementing a contract for participation in their rotation program. In part, this section was adopted and supported by the tow industry to handle difficult complaints or disputes between a law enforcement agency and a tow company,

Owner's Preference/Request and Consent Towing

Owner preference is a right.

ACA §27-50-1207. Removal of vehicles. (2) (A) *Any vehicle removal policy shall provide that owner preference as defined by this subchapter shall be offered to the owner, to his or her agent, or to any competent occupant of any disabled or inoperative vehicle except in those instances of exigent circumstances or where the immediate clearing of a public thoroughfare mandates an expedited towing service.*

(B) *In those instances where exigent circumstances or where the immediate clearing of a public thoroughfare mandates an expedited towing service, owner preference shall be honored when the owner has requested a towing service that is located in the particular towing zone where services are to be rendered and is ready to promptly respond to the request for services.*

Law Enforcement and Non Consent Rotation •23

Remember these points •

While this may protect your customer base, keep in mind an on-scene law enforcement officer has a tremendous amount of latitude when determining whether owner preference is applicable.

It is against the law for a law enforcement officer to recommend any tow company to a vehicle owner.

It is against the law for you to pay any type of incentive, commission or fee to a law enforcement officer in exchange for services.

An Owner Request may **not** be considered a Consent Tow in every case •

When an owner's request is the result of a vehicle having been damaged, disabled or abandoned and the call was **initiated by law enforcement** treating that tow as 'consent tow' may not be permissible.

Consider these questions.

- Did you charge a fee(s) that is posted on your non-consent rate sheet rather than negotiating a fee with the vehicle owner? Typically tow fees are higher for a non-consent tow than consent.
- Did you impound the vehicle instead of delivering it to a location of the owners choosing such as a body shop, garage or their home?
- Did you respond immediately? Consent tows usually offer some flexibility as to when a tow company can respond.
- Assuming you impounded the vehicle did you send out your notice(s) as required by law?

If you answered **YES** to any or all of these questions the tow board does not consider that a 'consent only' tow and any consumer complaint will result in an investigation by the Board staff.

Long Term Storage and Police Holds

Storage issues often come up when a police department places a hold on a vehicle for any number of reasons or the vehicle is on-site for an extended period of time due to some issue with the insurance carrier. Regardless of the issue, there are a couple of things you can do to protect yourself.

Law Enforcement and Non Consent Rotation •24

■ When a Vehicle is On Hold by Law Enforcement, there are several things you need to keep in mind.

It does not alleviate your responsibility to notify. 1st notice or the 2nd notice .. you should be prepared to stick to your calendar.

It is strongly suggested that you add some language in the notice letter letting the vehicle owner know that you cannot release the vehicle without permission from the law enforcement agency. If they wish to redeem their vehicle, they need to call the police first..

Any release should be in writing.

ACA §27-50-1206. Notice to storage firm. (3)(A) *If a law enforcement officer or other official issues a hold against the release of the vehicle, the law enforcement officer's order to remove and store the vehicle shall include a written explanation for the issuance of the hold.*

(B) *When the hold on the vehicle is released, the law enforcement officer or other official who issued the hold shall provide written notice of the release to the towing and storage firm.*

Of course the first objection we hear is, "... law enforcement says they are not giving me anything in writing."

Okay, so what will you do if the patrolman tells you to release the vehicle, you do so and the next day the Captain calls looking for the vehicle? Is the patrolman going to 'back you up'?

A lot of tow companies keep good records and they will note in their file the date, the time and who they spoke with when a vehicle on hold is released. That is commendable, but will it help you if there is a complaint? Will it help you in a court of law if you are sued?

If you want to comply with the law '**Get a Hold Release in Writing**'.

NOTE: When you have issues such as a written hold release policy it is always better to work with the sheriff, chief of police or troop commander **before** there is a problem, not after the fact.

Law Enforcement and Non Consent Rotation •25

█ Long Term Storage problems almost always involve an insurance company. It usually goes something like this:

- *The insurance company has been in touch since the vehicle was towed.*
- *All of the notifications were mailed on time.*
- *Paperwork is in order.*
- *The insurance company asked that the vehicle be stored until the claim is completed and any pending litigation was resolved or requests to pay for and claim the vehicle is ignored.*

Six months later they've closed the file and are ready to move the vehicle but they are complaining about the storage portion of the bill which is well over \$6,000.00. The insurance company is threatening to file a complaint.

What next.

- Make sure any agreements, promises or commitments are in writing.
- If on the phone keep a log.
- Invoice and settle the tow and recovery costs along with any initial storage fees as quickly as possible. Don't let the insurance company set the time schedule.
- Contractually change your relationship with the insurance company from towing to a storage facility. Contract for the storage of the vehicle through a written agreement.
- Time is important, you have deadlines that must be met in order to comply with the law.

ACA §27-50-1209 (b) (2) *The sale shall not occur later than ninety (90) days after perfection of the lien or forty-five (45) days after the release of any law enforcement hold or other official hold, whichever is later.*

- Don't get stuck with the vehicle in lieu of getting paid. Remember, Arkansas has a 'no dump law'.

ACA §23-101-110 (e) (1) *A creditor or insurer may not abandon salvage to a towing or storage facility in lieu of payment of storage fees without the consent of the facility and the claimant.*

- If at any time the storage contract is broken, as a storage facility you can initiate an abandoned vehicle lien process outlined in state law.

ACA §27-50-1101.

A Training Program for Tow Operators Licensed in Arkansas

Section V

The Possessory Lien Law in Arkansas

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- 33 Time Line for In-State Possessory Lien

The Possessory Lien Law in Arkansas •26

The possessory lien process is the best way to protect your right to payment when you perform a service, towing or recovering a vehicle. Arkansas has one of the best laws in the country.

The intent of this section is to help tow owners better understand the key components in the process and implement a company policy that will insure compliance with the law and the rules. Frankly, the lien process is the most important administrative function a tow company performs. It is imperative that all tow owners and their administrative staff have a good working knowledge of the process.

Personal Property Items

ACA §27-50-1208. Possessory lien and notice to owners and lienholders. *(a) (1) The towing and storage firm shall have a first priority possessory lien on the vehicle and its contents for all reasonable charges for towing, recovery, and storage for which the owner is liable.*

(2) (A) A possessory lien under this section attaches to not only the vehicle and its contents but also any trailer attached to the vehicle at the time it is towed and any contents of such trailer including, but not limited to, other vehicles or boats.

(B) A lien under this section shall not extend to the following items, without limitation:

- (i) Personal or legal documents;*
- (ii) Medications;*
- (iii) Child-restraint seating;*
- (iv) Wallets or purses and the contents of such;*
- (v) Prescription eyeglasses;*
- (vi) Prosthetics;*
- (vii) Cell phones;*
- (viii) Photographs; and*
- (ix) Books.*

(C) The items described in subdivision (a)(2)(B) of this section shall be released without charge by the towing and storage firm to the owner or operator of the motor vehicle or his or her duly authorized representative.

These items must be released without charge. This does not preclude a tow company from releasing additional items or "all" for no charge. The circumstance for each customer is different.

The Possessory Lien Law in Arkansas •27

Except for the items that are specifically exempted from the lien there is a reason 'personal property' attached to the vehicle becomes a part of the lien. Sometimes the personal property may have a greater value than the vehicle. Liquidating personal property items may become necessary when an owner was uninsured and chooses to abandon the vehicle without payment.

This is where your business sense comes into play. Consider the golden rule, "*Do unto others as you would have them do unto you*".

As an example clothing is a common item left in abandoned vehicles. More often than not, the tow owner holds onto any item not listed including clothing. Is that legal? Yes. Is it a good business practice? In most cases probably not, chances are the clothes will be thrown away or donated to a charity. So why not return them? Don't miss an opportunity to build good will and a reputation in your community. How you treat all customers makes a difference.

First Notification

The first notification can best be described as the, "**we have your car**", letter. The process protects the consumer and the tow company. Remember, the process must be followed exactly, no changing the order or skipping steps along the way.

Tow companies must "maintain possession", once a vehicle has been released the lien process no longer applies.

The notification process applies to "**every**" vehicle you impound. Do not fall into a comfort zone thinking "*they know the car is here...*" Tow owners have been surprised by friends and relatives alike. Many complaints are filed by people that knew where their car was.

Don't wait until the last day to send your first notification letter. It is highly recommended that companies establish a routine, putting a reasonable notification process in play that allows for the unexpected. There is no provision in the law that allows for an extension to notification.

The Possessory Lien Law in Arkansas •28

ACA §27-50-1208. Possessory lien and notice to owners and lienholders. *(b) The lien shall be perfected by:*

- (1) Maintaining possession;*
 - (2) Mailing notice to the owner or owners and lienholders as shown on the data provided by the law enforcement agency involved as prescribed by this subchapter; or*
 - (3) In the case of a vehicle removed pursuant to § 27-50-1101, giving notice to the last known registered owner or owners and lienholders as provided from the records of the:
 - (A) Office of Motor Vehicle of the Department and Finance and Administration;*
 - (B) Arkansas Crime Information Center; or*
 - (C) If known, motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner and the name and address of the holder of any recorded lien, if any, on the vehicle.**
- (c) (1) The notice shall be mandatory and by certified mail, return receipt requested.*
 - (2) The notice shall be posted not sooner than two (2) business days but within eight (8) business days after the date that the towing and storage firm receives the vehicle.*

Vehicle Owner and Lien Holder Information

ACA §27-50-1208. Possessory lien and notice to owners and lienholders. *(d) (1) If within forty-eight (48) hours the ownership and lienholder information has not been received from the law enforcement agency requesting the removal of a vehicle pursuant to this subchapter, the towing and storage firm shall obtain information concerning the last known registered owner or owners and lienholder or lienholders as provided from the records of the:*

- (A) Office of Motor Vehicle;*
- (B) Arkansas Crime Information Center; or*
- (C) If known, motor vehicle records of any other state where the vehicle's registration indicates the name and address of the last registered owner and the name and address of the holder of any recorded lien, if any, on the vehicle.*

If the law enforcement agency does not respond in 48 hours with owner and lien holder information a tow company must contact the states vehicle registration authority. (See Chart) The request to other states must be mailed within the two (2) to eight (8) day period. Responses from other states are typically slow. Document your request and response as evidence the delay.

The Possessory Lien Law in Arkansas •29

DMV Contact Information by State

STATE	MAILING ADDRESS	TELEPHONE	FAX	FEE
ALABAMA	Motor Vehicle Division, P.O. Box 327630, Montgomery, AL 36132-7640	334-242-9000	FAX: 334-353-8038	\$15.00
ALASKA	Division of Motor Vehicles, 5700 E. Tudor Rd., Anchorage, AK 99507	907-269-5551	FAX: 907-333-8615	\$ 5.00
ARIZONA	Motor Vehicle Division, 1801 W. Jefferson St., Phoenix, AZ 85007	602-255-0072	FAX: 602-712-3071	\$ 3.00
ARKANSAS	Motor Vehicle Division, Joel Y. Ledbetter Bldg., Little Rock, AR 72203	501-682-4692	FAX: 501-682-4756	\$ 1.00
CALIFORNIA	Dept. of Motor Vehicles, P.O. Box 942869, Sacramento, CA 94259-0001	916-229-0370	FAX: 916-657-8743	\$ 5.00
COLORADO	Department of Revenue - Motor Vehicle Division, 1881 Pierce St., Lakewood, CO 80215	303-205-5608	FAX: 303-205-5765	\$ 2.20
CONNECTICUT	Dept. of Motor Vehicles, Room 305, 60 State St., Weathersfield, CT 06161	860-263-5700	FAX: None	\$ 5.50
D.C.	Dept. Motor Vehicles, 301 C Street NW, Washington, D.C. 20001	202-727-5000	FAX: None	\$ 2.00
DELAWARE	Motor Vehicle Division, P.O. Box 698, Dover, DE 19903	302-744-2502	FAX: 302-739-2042	\$ 4.00
FLORIDA	Dept. of Motor Vehicles, Neil Kirkman Bldg., Tallahassee, FL 32399	850-922-9000	FAX: 850-921-6887	\$.50
GEORGIA	Dept. of Motor Vehicle Safety, Motor Vehicle Serv. Div., P.O. Box 740381, Atlanta, GA 30374-0381	404-362-6500	FAX: 404-756-4648	\$.50
HAWAII	Div. of Motor Vehicles, P.O. Box 30330, Honolulu, HI 96820-0330	808-532-7700	FAX: None	\$ 5.00
IDAHO	Idaho Transportation Dept., P.O. Box 7129, Boise, ID 83707-1129	208-334-8663	FAX: 208-334-8668	\$ 4.00
ILLINOIS	Sec. of State, Vehicle Serv. Dept., 501 S. 2nd St., Howlett Bldg., Room 312, Springfield, IL, 62756	217-785-3000	FAX: 217-785-4727	\$ 4.00
INDIANA	Bur. of Motor Vehicles, Vehicle Serv., Ign. Room N440, 100 N. Senate Ave., Indianapolis, IN 46204	317-233-6000	FAX: 317-232-0236	\$ 4.00
IOWA	DOT, MVD, Office of Vehicle Services, 100 Euclid Ave., P.O. Box 9278, Des Moines, IA 50306	515-237-3110	FAX: 515-237-3056	\$ 1.00
KANSAS	Division of Motor Vehicles, State Office Bldg., Topeka, KS 66626	785-296-3621	FAX: 785-296-3852	\$ 3.50
KENTUCKY	Div. of Motor Vehicles, State Office Bldg., Frankfort, KY 40622	502-564-2737	FAX: 502-564-2950	\$ 2.00
LOUISIANA	Office of Motor Vehicles, P.O. Box 64886, Baton Rouge, LA 70821	504-925-6146	FAX: 225-925-3665	\$ 7.50
MAINE	Motor Vehicle Division, State House - Station #29, Augusta, ME 04333	207-624-9000	FAX: 207-624-9204	\$ 4.00
MARYLAND	Motor Vehicle Administration, 6601 Ritchie Highway NE, Glen Burnie, MD 21062	301-729-4350	FAX: None	\$ 5.00
MASSACHUSETTS	Registry of Motor Vehicles, P.O. Box 199100, Boston, MA 02119	617-351-4500	FAX: 617-351-9069	\$ 2.00
MICHIGAN	Dept. of State, Bureau Of Vehicle Records, Lansing, MI 48918	517-322-1460	FAX: 517-322-1968	\$ 5.00
MINNESOTA	DPS, Driver/Vehicle Services, Motor Vehicle Office, 445 Minnesota St., Ste 185, St. Paul, MN 55101	651-296-6911	FAX: 651-296-2224	\$ 6.55
MISSISSIPPI	Bureau of Revenue, P.O. Box 1140, Jackson, MS 39205	601-923-7000	FAX: 601-923-7224	\$ 4.00
MISSOURI	Motor Vehicle Registration Div., P. O. Box 100, Jefferson City, MO 65105	314-751-4509	FAX: 314-751-7060	\$ 4.00
MONTANA	Dept. of Justice, MVD, Title & Regis. Bur., 1032 Buckskin Dr., Deer Lodge, MT 59722	406-846-6000	FAX: 406-846-6039	\$ 4.00
NEBRASKA	Dept. of Motor Vehicles, 301 Centennial Mall So., Lincoln, NE 68509	402-471-3918	FAX: 402-471-9694	\$ 1.00
NEVADA	Dept. of Motor Vehicles, 555 Wright Way, Carson City, NV 89711	775-684-4368	FAX: 775-684-4389	\$ 5.00
NEW HAMPSHIRE	Division of Motor Vehicles, James H. Hayes Safety Bldg., 10 Hazen Dr., Concord, NH 03305	603-271-3111	FAX: 603-271-6758	\$ 2.00
NEW JERSEY	Motor Vehicle Services, 225 East State Street, Trenton, NJ 08666	609-292-6500	FAX: None	\$10.00
NEW MEXICO	Motor Vehicle Division, P.O. Box 1028, Santa Fe, NM 87504-1028	505-827-4636	FAX: None	No Charge
NEW YORK	Dept. of Motor Vehicles, Empire State Plaza, Albany, NY 12228	518-486-4714	FAX: None	\$ 1.00
NO. CAROLINA	Division of Motor Vehicles, 1100 New Bern Ave., Raleigh, NC 27697	919-715-7000	FAX: 919-733-6951	\$ 5.00
NO. DAKOTA	Motor Vehicle Division, 600 E. Blvd. Ave., Bismark, ND 58505-0780	701-328-2725	FAX: 701-328-1487	\$ 3.00
OHIO	Bureau of Motor Vehicles, P. O. Box 16520, Columbus, OH 43266-0020	614-752-7671	FAX: 614-752-8929	\$ 2.00
OKLAHOMA	Motor Vehicle Division, 2501 N. Lincoln Blvd., Oklahoma City, OK 73194	405-521-3221	FAX: 405-522-0891	\$ 1.00
OREGON	Dept. of Transportation, 1905 Lana Ave. NE, Salem, OR 97314	503-945-5000	FAX: 503-945-7924	\$ 4.00
PENNSYLVANIA	Dept. of Transportation, Bureau of Motor Vehicles, 1101 St. Front St., Harrisburg, PA 17104-2516	717-991-6190	FAX: 717-783-7974	\$ 5.00
RHODE ISLAND	Division of Motor Vehicles, 286 Main St., Pawtucket, RI 02860	401-588-3020	FAX: 401-728-3810	\$ 5.00
SO. CAROLINA	Dept. of Motor Vehicles, P.O. Box 1498, Columbia, SC 29216	803-737-4000	FAX: 803-737-1112	\$ 5.00
SO. DAKOTA	Dept. of Revenue & Regulation, 445 E. Capital Ave., Pierre, SD 57501	605-773-3541	FAX: 605-773-2550	\$ 5.00
TENNESSEE	DPS Title & Registration Div., 44 Vantage Way, Suite 160, Nashville, TN 37243-8050	615-741-3101	FAX: None	\$ 1.00
TEXAS	Dept. of Transportation, Vehicle Titles & Reg., Austin, TX 78779-0001	512-465-7611	FAX: 888-232-7033	\$ 2.00
UTAH	Utah State Tax Commission, MVD, 210 North 1950 West, Salt Lake City, UT 84116	800-368-8624	FAX: 801-297-3578	\$ 2.00
VIRMONT	Dept. of Motor Vehicles, 120 State St., Montpelier, VT 05603	802-828-2000	FAX: 802-828-2170	\$ 4.00
VIRGINIA	Dept. of Motor Vehicles, 2300 West Broad Street, Richmond, VA 23269	804-367-0538	FAX: 804-367-6631	\$ 5.00
WASHINGTON	Dept. of Licensing, Licensing Bldg., Olympia, WA 98504	360-902-3770	FAX: 360-664-0831	\$ 2.25
W. VIRGINIA	Dept. of Motor Vehicles, 1800 Kanawha Blvd. - Bldg. 3, Charleston, WV 25317	304-558-0734	FAX: 304-558-0037	\$ 1.00
WISCONSIN	Motor Vehicle Division, 4802 Sheboygan Ave., Madison, WI 53702	608-266-1466	FAX: 608-267-1871	\$ 3.00
WYOMING	Dept. of Trans., Mot. Vehicle Ser., Licensing & Titling Sec., 5300 Bishop Blvd., Cheyenne, WY 82009	307-777-7961	FAX: 307-777-4772	\$ 5.00

This Vehicle is NOT Registered

There are circumstances where a vehicle has not been registered in years; a good faith search revealed no evidence of an owner or a lien holder and the vehicle is wearing fictitious license plates. A notice in a newspaper is your only option. The one (1) time publication satisfies the first and second notice requirement.

ACA §27-50-1208. Possessory lien and notice to owners and

lienholders. (2) (A) *For the purpose of notices required by this section, if the data records of the Office of Motor Vehicle or the office of motor vehicles for the state where the vehicle is registered, if known, do not contain any information as to the last known registered owner or owners and lienholder or lienholders, notice by publication one (1) time in one (1) newspaper of general circulation in the county where the vehicle was found unattended, abandoned, or improperly parked is sufficient notice under this section.*

(B) The notice by publication may contain multiple listings of vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(e) (1) The notice shall contain the following information:

(A) The year, make, model, and vehicle identification number of the vehicle towed;

(B) The name, address, and telephone number of the storage facility;

(C) That the vehicle is in the possession of that towing and storage firm under police order, describing the general circumstances of any law enforcement or other official hold on the vehicle;

(D) That towing, storage, and administrative costs are accruing as a legal liability of the owner;

(E) That the towing and storage firm claims a first priority possessory lien on the vehicle and its contents for all such charges;

(F) That unless claimed within forty-five (45) days, the vehicle and its contents will be dismantled, destroyed, or sold at public sale to the highest bidder;

(G) That the failure to exercise the right to reclaim the vehicle and its contents within the time prescribed by this section constitutes a waiver by the owner and lienholder of all right, title, and interest in the vehicle and its contents and constitutes consent to the sale, dismantling, or destruction of the vehicle and its contents;

Remember, this is a public sale, not an auction. If you conduct an auction however you must use a licensed auctioneer.

Returning a Vehicle to an Owner or Representative

It is the tow company's responsibility to insure proof of ownership prior to releasing a vehicle or personal property to an individual or their agent. A valid title or registration is by far the best option, but unfortunately these documents are not always possible or readily available. A bill of sale or a contract to purchase the vehicle should in most instances provide proof of ownership.

Please note, the statute does not require a valid driver's license. This does not mean you cannot ask for a photo ID for proof that the person is who they say they are. The statute does not require insurance. It does prohibit you from requiring proof of insurance to drive on your property.

Tow companies must assess the potential liability when considering proof of ownership while accommodating the vehicle owner in a reasonable manner.

ACA §27-50-1208. Possessory lien and notice to owners and lienholders. *(H) That the owner or lienholder may retake possession at any time during business hours by appearing, proving ownership, and releasing the law enforcement or other official hold, if any, and by paying all charges or by other written arrangement between the owner or lienholder and the towing and storage firm;*

An Exception to the Rule

Any number of 'alternative arrangements' can be made when two people are conducting business. The owner, lienholder, or agent may make arrangements with a tow company to retrieve a vehicle between the 2-8 day period after the tow, which would do away with the notice requirement - in effect, the notice requirement is waived by the owner, lienholder, or agent due to retrieving the vehicle prior to the notice requirement. This could also apply should you accept the salvage in lieu of payment or you purchased the vehicle. A point to remember, make certain everything you do or agree to do is in writing. It is the best way, really the only way to adequately protect you if a complaint arises.

ACA §27-50-1208. Possessory lien and notice to owners and lienholders. *(f) Nothing in this section is to preclude the owner, lienholder, or agent from making alternative arrangements within the two-day to eight-day period with the towing and storage firm, waiving his or her rights to the notice requirement.*

How Was I Supposed to Know?

It is more than a little frustrating to go through the possessory lien process and have someone show up the day before your public sale and proclaim, "That's my car and why didn't you notify me?"

The question then becomes, "**Did you perform a good faith search as prescribed in the statute?**"

ACA §27-50-1101(a)(2)(E) (i) *In the event that readily available records fail to disclose the name of the owner of the vehicle, implement, or piece of machinery or any lienholder of record, the towing and storage firm shall perform a good faith search to locate documents or other evidence of ownership and lienholder information on or within the unattended or abandoned vehicle, implement, or piece of machinery.*

(ii) *For purposes of this subdivision (a)(2)(E), a "good faith search" means that the towing and storage firm checks the unattended or abandoned vehicle, implement, or piece of machinery for any type of license plate, license plate record, temporary permit, inspection sticker, decal, or other evidence that indicates a possible state of registration and title or other information related to the owner.*

It is not uncommon to tow abandoned vehicles that have no license plate or a fictitious tag. Worse the report on the Vehicle Identification Number reveals a car that has never been registered in Arkansas. At that point it is incumbent on the tow owner to look for any evidence in or on the vehicle that may point toward an owner or a lienholder.

As an example, if an abandoned vehicle is missing its license plate and there is a Texas Vehicle Inspection Sticker on the windshield that is strong evidence that the vehicle may have last been registered in Texas.

TimeLine for In-State Possessory Lien

1 First Notice: Letter sent by registered mail, return receipt requested. Must be mailed no sooner than 2 business days or later than 8 business days or taking possession of a vehicle. (10 calendar days). Must be mailed to all registered owners and all lien holders/legal owners.

This letter is commonly referred to as the letter of possession. We have your vehicle, tow fees are due and storage fees are accruing. Include a vehicle description, date when towed, fees due at time of letter, process to recover vehicle. Name, address, telephone number of your tow company.

2 Second Notice: Letter sent same as the first, should be mailed 30 days of the first notice being mailed. Must be mailed 15 days prior to planned public sale date.

This letter is your intent to sell notice. We still have your vehicle, tow and recovery fees are due and storage fees are accruing daily. If you fail to redeem this vehicle and pay all fees due by some date (15 days +) your vehicle will be sold, dismantled or destroyed

3 Notice of public sale: Newspaper entry of public sale. Must list vehicle descriptions and date the vehicles will be sold. Run in general circulation, classified section. It must run 10 days prior to the sale date.

This article can have as many vehicles listed as the tow company intends to offer for sale.

Notes

- The entire lien process must be completed within 90 days of taking possession, unless there is a law enforcement hold.
- If the vehicle sells for less than what is due the registered owner could still be responsible for balance. If vehicle sells for more a tow company must keep the overage for one year for reimbursement to the owner, if known. If the owner is not known, tow company must deposit overage in the local court lost fund account.

A Training Program for Tow Operators Licensed in Arkansas

Section VI

Invoicing

- 34 The Basics .What the Law Requires
- 35 What Should Be On Your Invoice
- 37 What Should Not Be On Your Invoice

Invoicing issues is at the heart of a lot of complaints received by the tow board. It really doesn't have to be that hard. An invoice should tell a story, an itemized invoice will demonstrate to your customer exactly what you did when recovering or towing their vehicle. The more complete the invoice the fewer problems you will have when returning a vehicle to the owner or processing a claim with an insurance company.

The Basics :: What the Law Requires

ACA §27-50-1203(a)(3)(F) *Requiring all entities permitted, licensed, or regulated under this subchapter to provide itemized billing for fees related to towing, storage, or vehicle immobilization services that explains how the charges were calculated;*

Scratching the total cost of the tow at the bottom of a receipt book you bought at WalMart is not what the statute intended nor is it a business practice recognized by the Arkansas Towing & Recovery Board.

As an example. Let's say you traveled 30 miles outside your immediate area. When arriving on scene you are asked to wait one (1) hour while the officer completes his accident report. You recover a car from a shallow ditch 65' off the road. The vehicle owner was not on scene having been transferred to the hospital. The first notice is mailed on the 3rd day. On the 5th day the owner arrives to retrieve the vehicle.

Your invoice should tell the story with an itemized description:

INVOICE

STANDARD TOW	\$165.00
WINCH FEE (Under 100")	50.000
MILEAGE (\$2.00 per mile)	120.00
STAND BY (On-Scene \$50/hour)	50.00
STORAGE (\$45/day @4 Days)	180.00
NOTICE FEE	\$25.00
ADMINISTRATIVE FEE	35.00
SALES TAX	48.02
TOTAL	\$673.02

This very simple example reflects the work performed and justifies the charges. What questions could anyone ask? An itemized invoice is far better than a bill showing one lump sum.

What Should Be On Your Invoice

There is a lot to like about the sample invoice below. The company name and contact information is easy to find and the invoice is numbered making it easier to track. There is a clear description of the vehicle, time out and time in, lots of room to describe the work performed and the reason for and type of tow as well as the payment information.

BUSINESS NAME
 ADDRESS
 PHONE

DATE _____ TIME _____ REQUESTED BY _____ PHONE _____

NAME _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

MILEAGE FINISH _____ START _____ TOTAL _____	SERVICE TIME FINISH _____ START _____ TOTAL _____	EXTRA PERSON FINISH _____ START _____ TOTAL _____	LOCATION OF VEHICLE _____
YEAR, MAKE, MODEL _____	COLOR _____	DRIVER _____	
STATE LIC. PLACE NO. _____	VIN _____		

DESCRIPTION OF WORK	AMOUNT

TYPE OF TOW <input type="checkbox"/> SLING/HOIST TOW <input type="checkbox"/> FLAT BED/RAMP <input type="checkbox"/> WHEEL LIFT <input type="checkbox"/> _____ <input type="checkbox"/> _____	TOWED PER ORDER <input type="checkbox"/> STATE POLICE <input type="checkbox"/> LOCAL POLICE <input type="checkbox"/> OWNER <input type="checkbox"/> _____	REASON FOR TOW <input type="checkbox"/> ACCIDENT <input type="checkbox"/> ABANDONED <input type="checkbox"/> NO START <input type="checkbox"/> FLAT TIRE	<input type="checkbox"/> LOCK OUT <input type="checkbox"/> TOW ZONE <input type="checkbox"/> _____ <input type="checkbox"/> SNOW REMOVAL	<input type="checkbox"/> BREAKDOWN <input type="checkbox"/> UNREGISTERED <input type="checkbox"/> OUT OF GAS <input type="checkbox"/> FIRE LANE	<input type="checkbox"/> NO TRESPASS <input type="checkbox"/> ARREST <input type="checkbox"/> IMPOUNDED <input type="checkbox"/> _____
STORAGE FROM _____ TO _____ DAYS @ \$_____			REMARKS _____		
VEHICLE TOWED TO FIRST TOW _____ SECOND TOW _____					
RELEASE TO SALVAGE _____					
CONDITION OF VEHICLE					
KEYS LEFT Y N RADIO Y N			DAMAGE RELEASE Customers own risk for valance and fiberglass - shmering damage caused by faulty tires - personal property left in vehicle. Towing company will not be held responsible after vehicle has been dropped.		METHOD OF PAYMENT <input type="checkbox"/> CASH <input type="checkbox"/> CHECK <input type="checkbox"/> DRIVER'S LIC. # _____ VISA MC AMX EXP DATE _____ CREDIT CARD# _____

TOWING CHARGE	
MILEAGE	
SERVICE TIME	
EXTRA PERSON	
SPECIAL EQUIPMENT	
STORAGE	
SECOND TOW	

SUB-TOTAL	
TAX	
TOTAL	

1001

The Tow board understands that your business is unique. Your business model may differ from other tow companies. Some tow companies charge by the mile, some by the hour and others by the pound. A nonconsent rotation policy may dictate certain recovery items that must be included in the basic tow fee while others are less restrictive. Just like there is no such thing as an “average tow” there is no such thing as a standardized invoice. There are key elements however that should be on every invoice. The sample on the preceding page contains those elements that should be built into your invoice and will help you when you prepare your invoice.

An accident involving a heavy duty vehicle with cargo or a particularly difficult recovery may require more than just an invoice. Many tow companies prepare a narrative including photographs to aid in documenting all of the work performed on scene. This additional information is submitted with the invoice and can be particularly helpful when working with an insurance company.

When invoicing for “other services” there are some defined terms in the Rule you should be familiar with and use where appropriate.

Arkansas Towing & Recovery Board Rule Definitions

1.12 “RECOVER/RECOVERY” *anything outside of the normal scope of a standard tow, to include the following: (each to be itemized individually)*

A. “WINCHING” *additional use of cable and winch, not to include cable and winch used to pull a vehicle up on rollback or trailer in standard tow.*

B. “LABOR” *additional manpower or time required to prepare a vehicle beyond the normal scope of a standard tow, may include but is not limited to site clean-up, tarping, or securing vehicle parts and contents.*

1.13 “STORAGE” *a daily fee required by a towing company to secure and safely store a vehicle, to include release of vehicle during normal/reasonable business hours.*

1.14 “ADMINISTRATION FEE” *a fee charged for the labor and use of office infrastructure for the itemization of a recovery, tow, or storage bill and related processing.*

1.15 “STANDARD TOW” *any tow of a vehicle subject to registration in the State of Arkansas, removed from private property, accident scene, side of the roadway, etc., towed in a fashion regularly accepted as routine, to include regular preparation for the tow, response, hook- up, loading, unloading, and transportation back to facility within a reasonable operating perimeter.*

Arkansas Towing & Recovery Board Rule Definitions (continued)

1.17 “FUEL SURCHARGE” *a surcharge determined by calculating a cents per mile rate utilizing the current weekly average for fuel as determined by the US Department of Energy for the Gulf Coast Region PADD3 which rises above the prior year’s annual average to offset the fluctuating cost of fuel. Beginning and ending mileage shall be documented on tow receipt.*

1.18 “AFTER HOURS RELEASE” *a fee charged by a towing/storage firm to arrange for the release of a vehicle and/or personal property at the request of the owner or other person authorized to retrieve the vehicle, after normal/reasonable business hours.*

1.19 “SET OUT FEE” *a fee charged by a towing/storage firm related to extraordinary or extenuating circumstances above and beyond the standard practice of releasing a vehicle.*

1.20 “NOTIFICATION FEE” *a fee charged by a towing/storage firm for the actual expenses incurred with meeting the notification requirements set forth in ACA 27-50-1208(c)(1), however, it is not to be charged prior to two (2) business day after the date the towing/storage firm receives the vehicle, and not to exceed amount set forth in Rule 10.3.*

What Should NOT Be On Your Invoice

There are also items or terms you should avoid when preparing your invoice.

█ Gate Fee. What is that? The Board has taken a strong exception to companies who attempt to add a gate fee to an invoice for nothing more than opening a gate.

█ However .. many companies use the term “gate fee” as a catch all for other reasonable and billable services. Look at terms that fit the services you've provided: “set out fee” and “after hours release” are both good examples.

█ Avoid charging a mileage fee and an hourly rate for travel time to and from the scene, chose one or the other. This is not to be confused with stand by time at the scene of an accident.

█ A tow truck comes with a driver. (Unless you are leasing your tow trucks to individuals to tow and recover their own vehicles) Billing for a driver’s time is frowned on. Additional on scene labor is a different matter.

Administrative fees were created to help offset the cost of notification. It's not a blank check to pad a bill. An administrative fee should reflect the effort that went along with working the account. Consider a sliding scale, the more work you perform after receiving the vehicle the higher the administrative fee should be.

Automatically adding a fuel surcharge to each ticket when fuel prices are stable is not permissible. Make sure you understand what a fuel surcharge is and how to calculate the fees if you intend to add it to an invoice (see Rule Definition 1.17)

A final note, always make sure your invoice reflects the work performed in the field and at your place of business. Log in and out times accurately, particularly if you are billing by the hour, remember, there is a police report generated that will verify the times.

A properly prepared itemized bill is your best defense should a complaint be filed against you or your company. Remember state law requires you to maintain tow and storage fees for a period of three (3) years. An accurate invoice will serve as a recorded history, a memory for what you did on that day.

Don't let this important business function get by you. Get it right. If you have concerns or questions call the office or one of the investigators.

A Training Program for Tow Operators Licensed in Arkansas

Section VII

Private Property Towing

- 39 The Right to Tow Abandoned Vehicles
- 39 Local Government Can Dictate a Removal Policy
- 40 Towing from a Parking Lot
- 42 Private Property removal Form

Removing abandoned vehicles from private property is a valued service provided by most non-consent tow companies. Although it is a simple process a lot of complaints arise from private property towing simply because the steps described in the statute **ACA §27-50-1101** are not followed.

The Right to Tow Abandoned Vehicles

Despite what some people think you cannot park anywhere you like. Businesses, apartment complexes and property owners have the right to remove improperly parked, abandoned or inoperable vehicles from their property by a licensed tow company.

§27-50-1101. Nonconsensual towing of a vehicle, implement, or piece of machinery. *(a) (1) (A) When a vehicle of a type subject to registration under the laws of this state, an implement, or a piece of machinery is found abandoned on private or public property within this state or is parked on private or public property within this state without the authorization of the property owners or other persons controlling the property, the property owner or his or her agent may have the vehicle, implement, or piece of machinery removed from the property by a towing and storage firm licensed by and subject to the rules of the Arkansas Towing and Recovery Board.*

Local Government Can Dictate a Removal Policy

Although it is uncommon, cities and counties can through an ordinance enact a private property removal policy.

§27-50-1101. (B) (i) *A county, city of the first class, city of the second class, or incorporated town by ordinance may regulate the manner that a property owner or other person controlling the property removes a vehicle, implement, or piece of machinery:*

(a) By limiting:

- (1) The distance from the location of removal to the destination of storage;*
- (2) The amount of towing and storage charges, including the towing charge, the storage charge, the administrative fee, and any other fee that may be charged, to be assessed against the owner or operator of the vehicle, implement, or piece of machinery removed from the property, with the difference between the charges allowed by the county, city, or incorporated town and the actual towing and storage charges to be*

assessed to the property owner or other person controlling the property that requested the removal of the vehicle; and

(3) The request for removal of a vehicle, implement, or piece of machinery from the property to a towing and storage firm that accepts payment methods of cash, credit cards, or debit cards;

If you are operating in a city or county that has adopted a private property tow policy, it is incumbent on you to know what those rules are and to follow them when removing a vehicle, implement or piece of machinery from someone's property.

Otherwise, you will need to follow the rules, regulations and statutes of the Arkansas Towing & Recovery Board.

Towing From a Parking Lot

Businesses and apartment complexes can limit who parks in their parking lots and impose rules for their customers or residents. A sign outlining the consequences of violating their parking policy must be displayed prominently.

§27-51-1305. Removal of motor vehicles parked without authority in parking lots.

(a) Consistent with the procedures of § 27-50-1101, the owner of a parking lot, his or her agent, or the lessee of a space in a parking lot may cause any motor vehicle which is parked on the lot without the consent of the owner of the lot or of his or her agent or which is parked in the space of the lessee without the consent of the lessee to be removed and stored at the expense of the owner or operator of the vehicle if a readable sign is prominently placed at each entrance to the lot specifying those persons who may park in the lot and prohibiting parking therein by all others.

(b) The owner of a lot or the lessee of a space in a lot who has an unauthorized vehicle removed and stored under the provisions of subsection (a) of this section shall not be liable for damages incurred by the owner or operator of an unauthorized vehicle as a result of removal or storage if the vehicle is removed by an insured vehicle wrecker service and stored by an insured storage company.

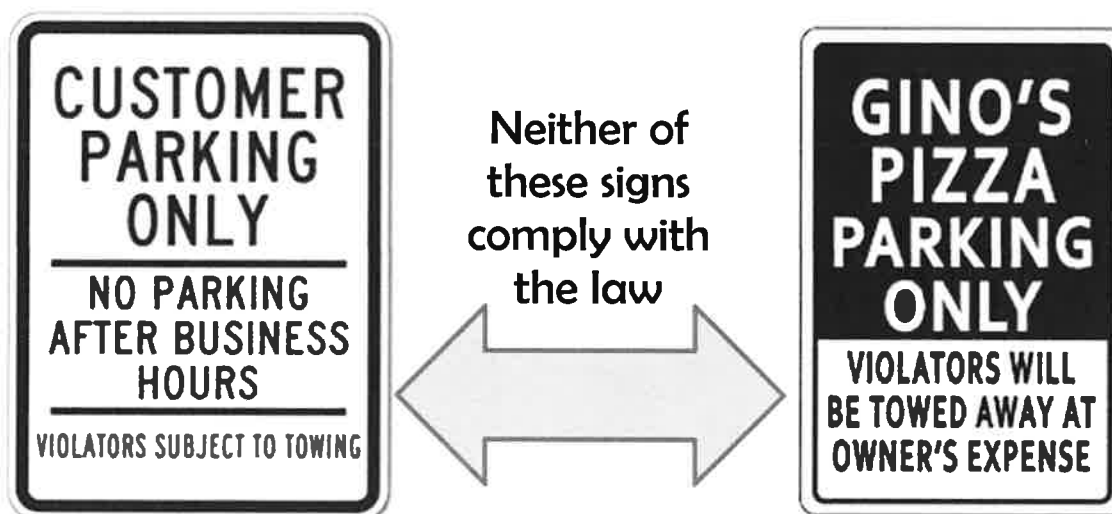
It is imperative for your protection that the signage is in place and clearly visible to anyone entering the parking lot.

The sign must include:

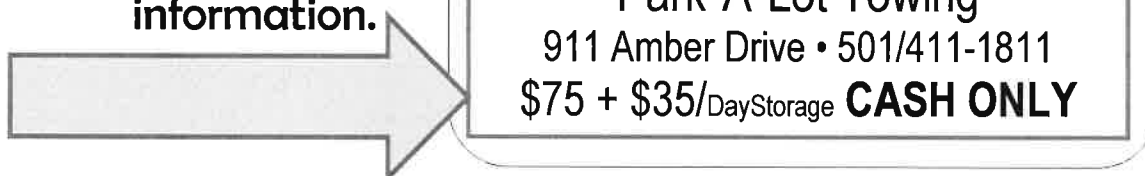
The name, address and telephone number of the tow company.

The dollar amount that may be assessed.

Acceptable payment methods. (Example: Cash Only)



Example of a sign with the correct information.



There is nothing in the statute or the rules that specifies what size the sign should be. You should make certain the sign is prominent and readable. Small hard to read signs with illegible lettering hidden behind a shrub would raise suspicions by the courts or the board should you be sued or a complaint filed against your tow company.

Tow drivers should not tow a vehicle from a parking lot if signs have not been installed or they've been removed or damaged.

Private Property Removal Form

Before a vehicle, implement or piece of machinery is removed from private property a Private Property Removal Form must be signed by the property owner or their agent. The statute is very clear as to what information must be on the form. **ACA §27-50-1101(a)(1)(C)**

- Identification of the property owner.
Name, address and telephone number
- Verification of ownership
- Statement of abandonment
- The make, Model and VIN Number or serial number of the item to be removed.
- Location to which the item will be moved.
Name of the tow company, address and telephone number.
- Signature of the property owner or agent.

An example of a property removal form is on the next page. The agency does not approve a form and the board is not suggesting a company use the attached example; this is included to give you a better idea as to what can be used.

IMPORTANT: A 'tow ticket' is not a Personal Property Removal Form and should not be substituted for the form required in the statute.

The form **MUST** be signed **BEFORE** the vehicle, implement or piece of equipment is removed.

You **CANNOT** have the owner or agent sign blank forms to be used at a later date. An owner or agent **MUST** sign the original form.

A tow owner/driver **CANNOT** serve as an agent for a business or an apartment complex. This is considered 'predatory towing' in Arkansas.

Compensation, referral fees, bonuses or payments of any kind **CANNOT** be paid to the owner or agent for requesting the removal of the vehicle, implement or piece of machinery.

All of the criteria noted above are covered in **ACA §27-50-1101. Read this section carefully.**

Private Property Towing • 43

COMPANY NAME

Private Property Removal Form

Time

Date

I _____ as Owner Manager Renter or Lessor
 Other have the authority to request the removal of the vehicle, implement or piece of machinery described below from the property for which I am responsible. Further, I understand that by requesting removal of the vehicle I accept all legal responsibilities for this action.

Signed By: _____

Property Removed From _____
Physical Address _____
City / State / Zip Code _____

DESCRIPTION of PROPERTY REMOVED <input type="checkbox"/> Vehicle <input type="checkbox"/> Implement <input type="checkbox"/> Piece of Machinery
Year _____ Make _____ Model _____
Color _____ License Plate Number _____ State _____
VIN or Serial Number <input type="text"/>

Where applicable 'NO PARKING' signage is permanently installed with notice.
Arkansas Motor Vehicle and Traffic Laws and State Highway Commission Regulations § 27-51-1305

LAW ENFORCEMENT NOTIFICATION

Note: The proper law enforcement agency must be notified within 2 hours of hook-up.

Time

Date

Law Enforcement Agency Notified _____

Tow Operator Signature

Office Use Only:

This form complies with the provisions in the Arkansas Motor Vehicle and Traffic Laws and State Highway Commission Regulations § 27-50-1101 Nonconsensual towing of a vehicle, implement or piece of machinery.

Notice Applies to Private Property Towing

The possessory lien notice process covered in the earlier sections of this training manual apply to private property tows as well. Both the vehicle or equipment owner and lien holder, if applicable must be noticed.

What if There is No Title?

While you do not usually find a piece of equipment or piece of machinery abandoned on the side of the road it is not uncommon for these types of items to be left on construction sites or private property. The fact that a backhoe or a bulldozer does not have a VIN number or title can make finding the rightful owner more difficult.

If following a 'good faith' search you find no documents that points to ownership and law enforcement cannot help before you rely on the newspaper notice there is one other place you should look. The Arkansas Secretary of States office. They may be able to help, particularly if the piece of equipment or machinery has a lien against it.

Act 138 of 2013 recognizes the Uniform Commercial Code allowing a lien holder to file a UCC filing with the Secretary of State.

You must be an INA (Information Network of Arkansas) to access the information on line, this is the same subscription you maintain with the state that allows you to see title information through the DFA-Office of Motor Vehicle.

You can also contact the Secretary of State's office that maintains the UCC filings by E.Mai at corporations@sos.arkansas.gov or call from anywhere in Arkansas, 888.233.0325.

A Training Program for Tow Operators Licensed in Arkansas

Section VIII

Navigating the Complaint Process

- 45 It Goes with the Territory
- 45 It Almost Always Starts with a Phone Call
- 46 What Happens at Your Place of Business
When a Customer is Unhappy
- 46 After the Telephone Call
- 48 A Written Complaint is a Game Changer
- 49 It's FORMAL . The Real Work Begins
- 49 An Investigator Takes the Reins
- 50 The Evidence is Weighed
- 51 The Final Steps
- 51 An Important Note

It Goes with the Territory

Let's face it, if you are in the tow business you are dealing with people that are having a bad day. No one jumps for joy at having had their car towed. As a tow business owner you deal with consumers, they generate complaints, it is an unfortunate part of the industry we work in ... and if you chose not to deal with a complaint it is likely to end up at the Arkansas Towing & Recovery Board office.

First, it is not the intent of the tow board or the staff to fine or penalize a licensee for making an honest simple mistake. This section of the training module is included to help you better manage a complaint before it gets out of hand and to understand the process, what is required by law and to know what your options are should you face a formal complaint.

The complaint process is in place to handle disputes that cannot be resolved through a normal course of business. Once a formal complaint is filed the process is intended to gather all of the facts, review the circumstances leading up to the complaint, determine whether any statute or rule has been violated then if so take action which may result in a consent agreement or a disciplinary hearing. A finding of fault may include a civil penalty, financial restitution to the complainant and/or suspension or revocation of your business license for offenses that may be of a more serious nature or repeat offenders.

If a complaint is filed against your tow company there are things you can do to mitigate your exposure to severe civil penalties or board action.

It Almost Always Starts with a Phone

A vast majority of the complaints begin with phone call to the office or one of the investigators.



The first thing you need to decide is whether you want the tow board, one of your employees or **you** working with a customer when a complaint comes up?

What Happens at Your Place of Business When a Customer is Unhappy?

Who hears your complaints or customers concerns? If it is not you as the owner or a designated employee that has the authority to resolve an issue you need to strongly consider adjusting your customer relations process. It is not unusual to see an employee (driver or office staff) attempt to cover up an error or complaint rather than provide good customer service.

Do you and your key employees know the rules and regulations that impact your daily business operation? Ignorance of the law is no excuse. It is your responsibility to know what the rules are and to train your staff.

Don't forget-laws change, how long has it been since you reviewed the forms you used?

When was the last time you looked at your pricing structure?

Have you done a 'walk around' of your business identifying issues where you may not be in compliance-required signage as an example?

It's not a problem or an over charge until a complaint is filed.
After that we are destined to be partners to reconcile a problem.

AFTER THE TELEPHONE CALL.

At this level the complaint is considered **INFORMAL**.

The investigator / staff conducts an **interview** with complainant. There are two primary issues or questions.

- ▶ Has a violation of State Law or Board Rules and Regulations occurred?
- ▶ Has the complainant attempted to reach out to the licensee?

If **NO VIOLATION** is immediately apparent,
The investigator will share with the complainant their assessment usually by phone. Often a call to the tow company is needed to get the 'rest of the story.'

A response to the complainant could include:

- ▶ The tow board has no authority (Example: Theft of property or damage to the vehicle towed.)
- ▶ Prices are within the perimeter of reasonable.
- ▶ The complaint is based on something that is not tangible, "*The driver was rude to me.*"
- ▶ Complainants may be directed to other agencies, authorities, or services.

When dealing with a complaint where no violation has occurred contact with licensee may not be necessary. We will always call if the issue has not been resolved to the satisfaction of the complainant and some other action or complaint may be filed with a different organization or state agency. Too, some calls made by an investigator are simply informational, courtesy calls.

If a **VIOLATION** appears to have occurred the investigator will take the next steps in formalizing the complaint:

- ▶ Advise complainant of the law or rule that applies.
- ▶ Determine the seriousness of the violation, possible intent and
The investigator will work with timeframe
When did the tow, impound or service take place?
Is the Complainants vehicle impounded?
If the violation is occurring in real time and a potential for
remedy exists, immediate contact is made with the licensee.

The intent of the contact is to confirm circumstances, advise the licensee of any law or rule that applies, review the violation and attempt to negotiate an immediate remedy is made.

The **GOAL** at this point is to resolve the complaint & mitigate your exposure.

If the violation occurred sometime in the past and an immediate need does not exist contact may not be necessary with the licensee.

- ▶ The complaint process is reviewed with the complainant. They are told how to file a complaint at this point and time frames are discussed.

A Few Fair Questions

Managing complaints is not always easy. The agency is charged by the state legislature to do a job and at the same time the agency is compelled to treat tow companies, licensees fairly. We make every attempt to be transparent in our actions, thorough in our review and clear with our communication to all parties. In that context here are some pertinent, honest answers to questions we often here.

Q • Are licensees notified every time a complaint call comes in ?

A • The easiest answer is no, Staff already spends an extraordinary amount of time on the phone; we try not to add to it. However, if we think there is a storm on the horizon, we may make a courtesy call.

Q • Is a caller encouraged to file a complaint ?

A • No, we try not to do that. However, in sharing with a complainant their options it could appear that way. Or, if a caller is unsure and an investigator needs to take the '**next step**' to move the process forward we may insist that the complainant put their grievance in writing.

Q • Can an investigator demand a tow company take some action, in other words, "*Tell me what to do...*" ?

A • An investigator or staff will never tell you what to do. Keep in mind the tow board can. While it is not our intent to dictate how you run your business we may strongly suggest an appropriate direction. Investigators and staff need you to obey the law. We always have your best interest in mind.

A Written Complaint is a Game Changer

The process becomes more **FORMAL** and requires a written response to all parties.

Even though a complaint is considered formal a licensee can still influence the direction the complaint travels and probably mitigate the severity of the penalties.

It's FORMAL . The Real Work Begins

To become a **FORMAL** complaint a form must be submitted by the complainant. The complainant must have a vested interest in the vehicle, the owner, the lien holder or an insurance company. Law enforcement can file complaints as well.

The complaint is logged in, assigned a number and given to an investigator based on its geographic location, work load or past experience with the licensee. The case file (complaint) is now considered **OPEN**.

An Investigator Takes the Reins

The complaint is again reviewed in more detail to insure Board jurisdiction and standing. If there is any question legal counsel in the Attorney General's office is consulted.

The tow company is mailed a request for information. The request is time sensitive and licensees are expected to respond within the time frame noted. **Not responding can result in immediate fines and additional charges.**

Do not miss the opportunity to tell your side of the story. This is where all of your diligence and good record keeping pays dividends. Communication with the investigator is key. Tell the truth.

Other potential sources who may have evidence or a vested interest in the case are sent a request for information including law enforcement or other first responders that were on-scene, insurance adjusters, witnesses and other tow companies.

An investigative report or file is built (usually within 45 days) documenting details of the incident, testimony and evidence which can include photograph's, dash cams and accident reports.

Once all the evidence has been organized, a draft report, including evidence of violations are reviewed by the chief investigator and / or director.

The Evidence is Weighed

If concluded that no violation has occurred, the Board has no jurisdiction or the complainant has no vested interest in the vehicle a closure letter is drafted and mailed to all parties. The case file is **CLOSED**.

If the grievance has been resolved the complainant may withdraw their complaint in writing. The case file is **CLOSED**.

The complaint is **VALID**. The agency has a number of tools it may use to correct the violation and resolve the complaint. Resolution may include civil penalties and/or financial restitution to the complainant. In addition, the board may ask that a tow company adjust their business model to avoid problems in the future.

The final staff recommendation and investigative report are forwarded to the Boards legal counsel in the Attorney General's office for review and approval of request. If a Disciplinary Hearing is scheduled a hearing notice is prepared thoroughly outlining the complaint. The Hearing Notice is delivered through certified mail or may be served personally to the licensee.

The Disciplinary Toolbox

Offer of Settlement. The complaint is managed at the staff level. The licensee agrees with the findings and the conditions of the settlement. This remedy is used when a minor violation of the statute or rule has occurred and there has been no financial harm to any party in the complaint, its use is very narrow.

Consent Agreement. The licensee agrees with the findings and the conditions of the settlement that may include a civil penalty and restitution to the complainant. A consent agreement may be offered for minor violations on a **first offense** and when the licensee is cooperative and willing to work with the other parties involved in the case. The board must approve the conditions of a consent agreement. The board may modify or reject any provision in the consent agreement.

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Disciplinary Hearing. A hearing is reserved for the most egregious or complex cases including serious violations of the statute or rule and repeat offenders. Too, a licensee has the right to defend themselves and their actions. The hearing process allows them to do so. A licensee can employ legal counsel to represent them at a disciplinary hearing.

The Final Steps

Once the Board has approved the Consent Agreement or reached a conclusion as a part of the hearing process, final documents are prepared by the attorney general's office for signature and execution and the case is officially **CLOSED**.

You may owe civil penalties or restitution to the complainant. Civil penalties and restitution must be paid in full by the times noted in the **Final Order**.

You also have the right to **APPEAL** any finding by the board in a court of law. At this point your best option is to contact an attorney.

An Important Note

You can be confident; the complaint process is there as much for your benefit as the consumer. In **2017** the ATRB office received **650** complaint based phone calls. Of those calls received, only **17%** of those calls turned into a written formal complaint. An even smaller number resulted in a consent agreement or disciplinary hearing.

Your best opportunity to resolve a complaint (other than actively doing so yourself) is through the tow board. The make-up of the tow board is peer based. The staff keeps up with tow industry issues, more importantly the process is fair and transparent. In addition, it keeps you and your company out of the court system where traditionally judges and especially juries have not been kind to the tow industry.