

**PROPOSED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY**

LCB File No. R042-23

October 16, 2023

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 706.171 and 706.321.

A REGULATION relating to tow cars; revising provisions relating to permissible rates, charges and discounts for towing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires every operator of a tow car to file with the Nevada Transportation Authority schedules and tariffs that include all rates and charges established by the operator for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle. (NRS 706.321) This regulation authorizes an operator to charge a fuel surcharge when the retail price per gallon of regular fuel is \$3.25 or more, according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade - West Coast (PADD 5) and requires such a fuel surcharge to be listed separately on the bill for towing. This regulation requires an operator who charges such a surcharge to decrease any such surcharge if the retail price per gallon of regular fuel decreases.

Existing regulations require rates and charges for towing services requested by a person other than a law enforcement agency, the owner of the vehicle, his or her agent or the driver of the vehicle, to be based upon a flat rate, except that an additional rate for mileage may be charged for a tow of more than 10 miles. (NAC 706.406, 706.408) This regulation additionally authorizes an operator who provides such towing services to impose a charge for the cost of recovering the vehicle and any damage caused to the property of the operator and a fuel surcharge under circumstances where such a surcharge is authorized.

Existing regulations authorize an operator to discount the rates specified in its tariff for a single towed vehicle if the operator submits certain information to the Authority and the Chair of the Authority or his or her designee provides written authorization for the discount. (NAC 706.408) This regulation eliminates these requirements and instead authorizes an operator to discount such rates if, in the opinion of the operator, good cause exists therefor.

This regulation authorizes an operator to increase his or her tariff rate, on an annual basis, by a percentage equal to the percentage increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the immediately preceding calendar year.

Section 1. NAC 706.408 is hereby amended to read as follows:

706.408 1. The operator of a tow car shall include on a bill for a nonconsensual tow only those rates and charges approved by the Authority in the operator's tariff ~~{}~~ *or which are otherwise authorized by law.*

2. The rates and charges for Category C must be based upon a flat rate. The flat rate may vary for the time of day at which the vehicle is towed, but may not vary according to the time required to tow the vehicle, the distance or the equipment used, except that ~~{a}~~ :

(a) *An additional* rate for mileage ~~{similar to the rate for mileage for Category A or B}~~ may be charged for a tow of more than 10 miles ~~{}~~ ;

(b) *An operator may impose a charge to reflect the cost of recovering the vehicle and any damage caused to the property of the operator; and*

(c) *A fuel surcharge may be imposed pursuant to subsection 8.*

3. An operator of a tow car that is operating under tariffs that are Category A or B may file a separate schedule of rates and charges for Category C for each type of tow car operated.

~~{3}~~ 4. An operator of a tow car shall include in his or her tariff a specific reduction in the flat rate charged for releases of a vehicle if the owner of the vehicle or his or her agent arrives at the scene of the tow before the vehicle is towed.

~~{4}~~ 5. The distance for which a rate is charged must be determined by the shortest practical route. A fraction of a mile must be rounded to the nearest mile. The operator of a tow car may use another route only at the request of the owner of the vehicle, his or her agent or the driver of the vehicle.

~~{5}~~ 6. The rates and charges in a tariff for Categories A and B may differ from the rates and charges in a tariff for Category C.

~~{6.}~~ 7. An operator of a tow car may discount the rates with respect to a single towed vehicle which are specified in the operator's tariff if ~~{:~~

~~—(a) The}, *in the opinion of the* operator ~~{submits to the Authority in the form required by the Authority all information related to the tow for which the operator is requesting such a discount;~~~~

~~—(b) The operator shows that such a discount is based on compelling public policy grounds and will not operate to defeat the legislative policies set forth in NRS 706.151; and~~

~~—(c) The Chair or the designee of the Chair provides written authorization for the discount.~~

~~—7. If, pursuant to subsection 6, the Chair or the designee of the Chair provides written authorization for a discount in the rates specified in the tariff of an} , *good cause exists therefor.*~~

8. An operator of a tow car ~~{, the operator shall keep a copy of the written authorization with the operator's copy of the bill for the tow to which the discount applies.}~~ *may charge a fuel surcharge if the retail price per gallon of regular fuel is \$3.25 or more, according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade - West Coast (PADD 5). The fuel surcharge shall be equal to 3 percent of the base tow rate for each 25 cent increment by which the retail price per gallon of regular fuel exceeds \$3.24 according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade - West Coast (PADD 5), such that the fuel surcharge shall be equal to 3 percent of the base tow rate if the retail price per gallon of regular fuel is \$3.25 or more but less than \$3.50, 6 percent of the base tow rate if the retail price per gallon of regular fuel is \$3.50 or more but less than \$3.75, and so on. If the retail price per gallon of regular fuel decreases according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade - West*

Coast (PADD 5), any fuel surcharge imposed by an operator must be decreased in accordance with this subsection.

9. Any fuel surcharge imposed pursuant to subsection 8 must be listed as a separate fee on the bill for towing. Any such fuel surcharge may be imposed only when the tow car is functioning as a tow car, including, without limitation, while traveling to and from the site of the vehicle to be towed and during the operation of equipment for the tow of the vehicle.

10. The operator of a tow car may increase, on an annual basis, his or her tariff rate by a percentage equal to the percentage increase in the Consumer Price Index (All Items) published by the United States Department of Labor for the immediately preceding calendar year.