

**ADOPTED REGULATION OF THE
TRANSPORTATION SERVICES AUTHORITY OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R080-00

Effective July 26, 2000

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

AUTHORITY: §§1-15 and 17-21, NRS 706.166 and 706.171; §16, NRS 706.167 and 706.171.

Section 1. Chapter 706 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *“Nonconsensual tow” means the towing of a vehicle by a tow car without the prior consent of the owner or operator of that vehicle.*

Sec. 3. *“Operator of a tow car” means the owner, manager, employee or agent of a company operating a tow car that holds a certificate of public convenience and necessity issued by the transportation services authority.*

Sec. 4. *“Tow at the request of a law enforcement agency” means the towing of a vehicle that is:*

- 1. Impounded after an arrest;*
- 2. Impounded after a traffic accident;*
- 3. Impounded because the vehicle has been abandoned; or*
- 4. A nonconsensual tow requested by a law enforcement agency to clear a roadway.*

Sec. 5. *“Transportation services authority” means the transportation services authority created pursuant to NRS 706.1511.*

Sec. 6. *In accordance with 49 U.S.C. § 14501 and NRS 706.011 to 706.791, inclusive, the transportation services authority will regulate the operation of tow cars in this state with regard to:*

- 1. The safety and welfare of the public;*
- 2. Insurance; and*
- 3. The price of for-hire transportation of a motor vehicle by a tow car, if that*

transportation is:

(a) Performed at the request of a law enforcement agency; or

(b) A nonconsensual tow.

Sec. 7. NAC 706.402 is hereby amended to read as follows:

706.402 As used in NAC 706.402 to 706.448, inclusive, ~~“operator of a tow car” means the owner, manager, employee or agent of a company operating a tow car which holds a certificate of public convenience and necessity issued by the transportation services authority.~~ *and sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 2 to 5, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 8. NAC 706.406 is hereby amended to read as follows:

706.406 Tariffs for tow cars filed with the transportation services authority will be divided into the following categories:

1. CATEGORY A: Towing or removing a vehicle at the request of a law enforcement agency ~~[, the owner of the vehicle, his agent or the driver of the vehicle]~~ which requires the use of a tow car with an unladen weight of ~~[9,000]~~ **15,000** pounds or ~~[more.]~~ **less.**

2. CATEGORY B: Towing or removing a vehicle at the request of a law enforcement agency ~~[, the owner of the vehicle, his agent or the driver of the vehicle which does not require]~~ **which requires** the use of a tow car with an unladen weight of ~~[9,000 pounds or more.]~~ **more than 15,000 pounds.**

3. CATEGORY C: Towing or removing a vehicle at the request of a person other than a law enforcement agency, the owner of the vehicle, his agent or the driver of the vehicle.

4. Storage of a vehicle **that was towed without the prior consent of the owner of the vehicle, his agent or the driver of the vehicle, or at the request of a law enforcement agency** inside a secure building, in a secure exterior area enclosed by a fence with a locked gate or in an unsecured , open area under the control of the ~~[tow car operator.]~~ **operator of the tow car.**

Sec. 9. 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 ~~[towing]~~ **a nonconsensual tow** only those rates and charges approved by the transportation services authority in the operator's tariff.

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 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. An operator ~~[authorized to operate]~~ **of** a tow car ~~[with an unladen weight of 9,000 pounds or more and to operate a tow car with an unladen weight of less than 9,000 pounds]~~ **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 ~~[of the two certificates.]~~ *type of tow car operated.*

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

4. 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 agent or the driver of the vehicle.

5. 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.

Sec. 10. NAC 706.412 is hereby amended to read as follows:

706.412 1. The operator of a tow car shall maintain at all times a copy of the tariff approved by the transportation services authority and a copy of NAC 706.402 to 706.448, inclusive, *and sections 2 to 6, inclusive, of this regulation* in each location where requests for towing are received and in each tow car ~~[]~~ *used for nonconsensual tows.*

2. A notice stating that a copy of the tariff is available in the tow car for inspection by the public must be placed on each side of the tow car. The notice must be at least 24 inches wide and 4 inches in height, and the lettering must have a stroke of at least one-quarter of an inch. The text of the notice must be:

Notice: A copy of the applicable charges is available for public inspection within this vehicle.

3. A notice must be prominently posted at a facility where vehicles are stored after *nonconsensual* towing which states that stored vehicles will be released only after arrangements for payment of all charges have been made between the operator of the tow car and the owner, driver or authorized representative of the owner or driver of the vehicle. The notice must contain the telephone number of the operator of the tow car or a person authorized to make the arrangements for payment.

Sec. 11. NAC 706.416 is hereby amended to read as follows:

706.416 1. The operator of a tow car shall specifically itemize on the bill for *nonconsensual* towing *services* any fee charged by the department of motor vehicles and public safety for processing a lien on a towed vehicle . ~~{and identify it as a charge not subject to regulation by the transportation services authority.}~~

2. In addition to the charges included in the tariff approved by the transportation services authority, an operator of a tow car may charge for any administrative costs associated with the sale of a vehicle or the processing of any lien on a towed vehicle.

Sec. 12. NAC 706.418 is hereby amended to read as follows:

706.418 For *nonconsensual* tows under Category C, no charges may be assessed against the owner of the vehicle or his agent under the following circumstances, and any charges so paid must be returned by the operator:

1. The person who requested the tow was not the owner of the real property from which the vehicle was towed or his authorized agent. For the purposes of this section, the operator of a tow car is not an authorized agent of the owner of the real property.

2. The property from which the tow was made was required by statute, ordinance or NAC 706.427 to have particular signs displayed and there were no such signs on the property.

3. In the case of a parking facility that charges a fee, the operator of the facility did not comply with the provisions of NRS 487.037.

4. Notification of the appropriate law enforcement agency pursuant to subsection 1 of NAC 706.432 was not made.

5. The operator of the tow car was directed to terminate the tow by *an officer of* a law enforcement ~~officer.~~ *agency.*

Sec. 13. NAC 706.420 is hereby amended to read as follows:

706.420 1. The operator of a tow car shall itemize on the bill for ~~towing~~ *a nonconsensual tow* each rate used or fee charged to compute the total bill. All charges must be substantiated in writing and attached to the bill. In addition to the rates and fees, each bill must contain, except as otherwise provided in subsection 2:

(a) The name, address, telephone number and number of the certificate of the operator of the tow car.

(b) The address of the facility where the towed vehicle is stored if it is different from the address of the operator of the tow car.

(c) The date and time of the request for ~~towing,~~ *the nonconsensual tow*, including a designation of “a.m.” or “p.m.” *or other comparable designation of time.*

~~(d) The name, address and, if available, signature of the person requesting that the vehicle be towed, except that for a tow under Category C, the signature of the person requesting the tow must be affixed to the bill.~~

~~(e)~~ The name and address of the registered owner of the towed vehicle, if available.

~~(f) The name and address of the person responsible for paying the charges incurred in towing the vehicle.~~

~~(g)~~ (e) The model, make, identification number, number of the license plate, state of registration and year of manufacture of the towed vehicle, if available.

~~(h)~~ (f) The exact location from which the vehicle was towed.

~~(i)~~ (g) The exact location to which the vehicle was initially towed, if different from the address of the facility where the vehicle is stored.

~~(j)~~ (h) The time when the tow car was sent to the vehicle and the reading of the odometer at the beginning of the trip.

~~(k)~~ (i) The time of the arrival of the tow car at the site of the car to be towed and the reading on the odometer upon its arrival.

~~(l)~~ (j) The time of the departure of the tow car from the site of the vehicle to be towed.

~~(m)~~ (k) The time of the arrival of the tow car at the location to which the vehicle was towed and the reading of the odometer upon its arrival.

~~(n)~~ (l) The total time which passes while at the site of the towing in hours and minutes.

~~(o)~~ (m) The exact mileage and hourly charges.

~~(p)~~ (n) If an extra person was required, the time he was sent to the site and the time he returned.

~~(q)~~ (o) A detailed listing of all charges and, if charges are based on time, the starting and ending times. If more space is needed for the listing, a separate sheet of paper must be attached to the bill and a notation made on the bill that an additional sheet is attached.

~~(r)~~ (p) The date and the time the storage of the vehicle started and ended and a notation of whether the vehicle was stored inside a locked building or in a secured, fenced area.

~~(s)~~ (q) A statement of the total charges.

2. Any name or address which is the same as another on the bill may be so indicated.

Odometer readings need not be listed for *nonconsensual* tows not involving charges for mileage.

3. If a bill is prepared incorrectly or is incomplete, only the substantiated charges may be collected.

4. An operator of a tow car may keep forms for bills for nonconsensual tows in an electronic storage device, including, without limitation, on a computer.

Sec. 14. NAC 706.422 is hereby amended to read as follows:

706.422 1. ~~[The]~~ *Except as otherwise provided in this subsection, the* forms to be used for billing *of nonconsensual tows* must be preprinted and numbered. The operator shall account for each such numbered form. *An operator may use forms for the billing of nonconsensual tows which are generated by an electronic tracking system, if that electronic tracking system gives each bill generated its own unique reference number.*

2. A copy of the bill for ~~[towing]~~ *a nonconsensual tow* must be given to the person paying the rates and charges. The operator of the tow car shall retain a *hard or an electronic* copy of each bill for 3 years. The operator shall, upon request, open his files *relating to nonconsensual tows* for inspection and audit by the transportation services authority during normal business hours.

Sec. 15. NAC 706.426 is hereby amended to read as follows:

706.426 The operator of a tow car shall give the person paying a bill for ~~[towing]~~ *a nonconsensual tow* information on procedures for filing complaints, including, without limitation, the name and address of the transportation services authority. This information may be printed on:

1. The bill for ~~[towing if it]~~ *a nonconsensual tow if the information* is in a prominent place on the bill in 12-point or larger type; or
2. An informational card of a design and wording established by the transportation services authority.

Sec. 16. NAC 706.430 is hereby amended to read as follows:

706.430 An operator of a tow car shall maintain a log for ~~[dispatch]~~ *dispatches for nonconsensual tows* which contains the following information for each request for ~~[towing:]~~ *a nonconsensual tow:*

1. The date and time of the request for ~~[towing,]~~ *the nonconsensual tow*, including a designation of “a.m.” or “p.m.” *or other comparable designation of time.*
2. The name ~~[and address]~~ of the person requesting that a vehicle be towed ~~[:]~~ *without the prior consent of the owner or operator of the vehicle.*
3. The model, make, identification number, number of the license plate, state of registration and year of manufacture of the towed vehicle, if available.
4. The exact location from which the vehicle was towed.
5. The exact location to which the vehicle was initially towed, if different from the address of the facility where the vehicle is stored.
6. *The date and time when:*
 - (a) *The tow car was dispatched;*
 - (b) *The tow car arrived at the location of the vehicle to be towed; and*
 - (c) *The nonconsensual tow of the vehicle was completed.*
7. The preprinted number on the bill for towing.
- ~~[7.]~~ 8. The total charges for towing, not including any charges for storage.

~~[8. For tows under Category C, the]~~

9. The time of notification of the appropriate law enforcement agency.

Sec. 17. NAC 706.432 is hereby amended to read as follows:

706.432 1. The operator of a tow car shall notify the law enforcement agency having jurisdiction over the site from which the vehicle was towed of the make, model and license number of each vehicle towed under Category C within 1 hour after the vehicle is towed.

2. The operator of a tow car shall notify by certified mail, within 15 days after placing a vehicle *which was the subject of a nonconsensual tow* in storage, the registered and legal owner of ~~[the]~~ *that* vehicle, if known. The notice must include:

(a) The location of the storage;

(b) A statement of whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(c) The charge for storage; and

(d) The date and time the vehicle was placed in storage.

3. If the identity of the registered and legal owner is not known, the operator of a tow car shall *make a reasonable attempt, as evidenced by documentation, to* obtain the necessary information from the state agency charged with the registration of the particular vehicle within 15 days after the vehicle is placed in storage and attempt to notify the owner of the vehicle within 10 days after identification of the owner is obtained.

Sec. 18. NAC 706.436 is hereby amended to read as follows:

706.436 1. The weight of the vehicle to be towed includes, without limitation, the weight of any load the vehicle is carrying. To determine the weight, ~~[the]~~ *an operator of a* tow car ~~[operator]~~ may consider any manifest of the contents of the load.

2. An operator of a tow car who has been granted authority by the transportation services authority to operate a tow car ~~[of less than 9,000 pounds may use the tow car to tow or transport a vehicle with a gross weight of up to 14,000 pounds, except that:~~

~~—(a) A tow car which is rated by the manufacturer to carry a load of 1,500 pounds or less may not be used to tow or transport a vehicle weighing more than the gross weight of the tow car; or~~

~~—(b) A tow car which is rated by the manufacturer to carry a load of 1 ton may not be used to tow or transport a vehicle weighing more than the gross weight of the tow car plus 2,000~~

~~pounds.] shall use a tow car of sufficient size and weight that is appropriately equipped and rated to transport the towed vehicle safely.~~

Sec. 19. NAC 706.442 is hereby amended to read as follows:

706.442 1. The operator of a tow car shall not drive upon the streets or highways or drive through parking lots searching for the opportunity to tow a vehicle. ~~[The]~~ *Except as otherwise provided in this subsection,* service *provided by an operator of a tow car* must be specifically requested, and a tow car *must be* properly dispatched on each occasion. *An operator of a tow car may stop to provide towing service to a motorist in distress if the operator is physically hailed by the motorist. Before an operator of a tow car may tow the vehicle of a motorist who has physically hailed the operator, the operator must obtain a written waiver signed by the motorist acknowledging that the motorist has not already arranged or called for tow service.*

2. The operator of a tow car shall not give any remuneration or other consideration to any person who requests, authorizes or in any way notifies the operator of a potential tow. Providing signs to a property owner which display the name, address and telephone number of the operator of a tow car is not remuneration for the purposes of this section.

Sec. 20. NAC 706.446 is hereby repealed.

Sec. 21. Notwithstanding any provision in section 8 of this regulation to the contrary, tariffs filed by an operator of a tow car with the transportation services authority of the department of business and industry which are in effect on the effective date of this regulation remain in effect until the operator of the tow car files a new tariff that meets the requirements of section 8 of this regulation.

TEXT OF REPEALED SECTION

706.446 Agreements for periodic use of services. (NRS 706.171) A copy of any written agreement between an operator of a tow car and any person that the person will periodically use the services of the operator must be filed with the transportation services authority within 7 days after the agreement is signed. A copy of the agreement must be on file in the operator's office.

LCB File No. R080-00

NOTICE OF ADOPTION OF REGULATIONS

On June 5, 2000 the Nevada Transportation Services Authority adopted regulations assigned LCB file number R080-00P which pertains to chapter 706.402 to 706.448 of the Nevada Administrative Code. A copy of the regulations as adopted is attached hereto.

INFORMATIONAL STATEMENT

June 21, 2000

ADOPTION OF (LCB File No. R080-00P) AMENDMENTS TO NAC 706 PERTAINING TO THE TOW CAR INDUSTRY.

The following is the informational statement to NAC 706.402 to 706.448.

Solicitation of Comments from General Public and the Industry.

Two Notice of Request for Comments were issued to the public on the following dates:

November 23, 1999, and

January 6, 2000

Each Notice of Request for Comments sought comments in written form from the public and those in the tow car industry with respect to the following topics:

- A. What changes, if any, have occurred in the industry that require regulatory attention or the modification of existing regulations?
- B. What regulations, if any, can be amended or eliminated to make regulatory compliance more efficient and less cumbersome?

- C. What regulations, if any, are inconsistent or in conflict with the Nevada Revised Statutes concerning the tow car industry?

- D. What regulations, if any, are inconsistent or in conflict with any federal statutes concerning the tow car industry?

- E. What changes, if any, to Nevada law should the Authority advocate to the 2000 Nevada Legislature concerning the tow car industry?

Each notice was published in the following publications:

- The Elko Daily Free Press,
- The Las Vegas Review Journal,
- The Nevada Appeal, and
- The Reno Gazette Journal.

Each Notice was posted in both Offices of the Transportation Services Authority located at 2290 South Jones Blvd., Suite 110, Las Vegas, Nevada, 89146, and 75 Bank St. #3, Sparks, Nevada, 89431. The notices were also posted in the Nevada State Library in Carson City, and all Nevada County Libraries as well as the following locations:

Clark County Court House
200 South Third ST.
Las Vegas NV 89155

Carson City Court Clerk
198 N Carson Street
Carson City, NV 89701

Washoe County Court House
75 Court Street
Reno, NV 89501

Additionally, the Transportation Services Authority mailed each Notice of Request for Comments to each tow car operator in the State of Nevada licensed by the agency.

In response to the two Notice of Request for Comments issued by the Transportation Services Authority, no submissions were received from the General Public, and only one submission was received from those in the tow car industry. Subsequent to the lone industry submission, six (6) letters were received by other carriers in the tow car industry stating that they had read the lone industry submission and were in general agreement with the contents therein.

Workshops

Public workshops were held on April 11, 2000 in Sparks, Nevada at the Council Chambers of the Legislative Building, 745 Fourth Street, Sparks, Nevada, 89431, and on April 14, at the Grant Sawyer State Office Building, 555 E. Washington Avenue, Rm. 4412, Las Vegas, Nevada, 89101.

The Notice of Workshop was posted in both Offices of the Transportation Services Authority, and in the following locations:

Carson City Library
900 North Roop Street
Carson City, NV 89701

Las Vegas City Hall
400 E Stewart Avenue
Las Vegas, NV 89104

Clark County Courthouse
200 South Third Street
Las Vegas, NV 89155

Bureau of Services to the
Blind
1325 Corporate Blvd
Reno, NV 89502

Washoe County
Courthouse
75 Court Street
Reno, NV 89501

Center for Independent
Living
999 Pyramid Way
Sparks, NV 89431

Ron Malcom
2625 East ST. Louis
Las Vegas, NV 89155

Catherine Law
1001 North Bruce Street
Las Vegas, NV 89101

Copies could be requested by contacting the Offices of the Transportation Services Authority located at 2290 South Jones Blvd., Suite 110, Las Vegas, Nevada, 89146, and 75 Bank St. #3, Sparks, Nevada, 89431. All tow car operators in the State of Nevada licensed by the Transportation Services Authority were notified by mail.

Workshop held on April 11, 2000 in Sparks, Nevada at the Council Chambers of the Legislative Building located at 745 Fourth Street, Sparks, Nevada, 89431.

Nine (9) people attended.

No written statements were submitted at the workshop.

Workshop held April 14, 2000 in Las Vegas, Nevada at the Grant Sawyer State Office Building Located at 555 E. Washington Avenue, Rm. 4412, Las Vegas, Nevada, 89101

Four (4) people attended.

No written statements were submitted at the workshop

Verbal comment summary from both workshops: Those in attendance generally agreed with the lone submission received as a result of the Request for Comments issued November 23, 1999. There was general consensus that Nevada Administrative Code section 706.402 to 706.448 should be amended to pertain only to the following:

Public safety and general welfare,

Insurance requirements, and

Tows performed without the prior consent of the owner of the vehicle or at the request of a law enforcement officer.

Also discussed was an amendment to allow tow car operators to stop and assist a motorist in distress if they were physically hailed by the motorist and signed a statement saying that they had not already called another tow car operator.

Hearing

Notice of a hearing to be held on June 8, 2000 in Las Vegas, Nevada at the Offices of the Transportation Services Authority, 2290 South Jones Blvd. Suite 110, Las Vegas, Nevada, 89146 along with a copy of R080-00I was posted in all public county Libraries in the State of Nevada, the State Library, 100 Stewart Street, Carson City, Nevada, and both Offices of the Transportation Services Authority in Las Vegas, Nevada and Sparks, Nevada. All tow car operators in the State of Nevada licensed by the Transportation Services Authority were notified by mail.

Hearing held June 8, 2000 in Las Vegas, Nevada at the Offices of the Transportation Services Authority, 2290 South Jones Blvd. Suite 110, Las Vegas, Nevada, 89146.

Eight (8) persons attended.

One written statement was submitted expressing concern over requiring tow car operators to have stranded motorists sign a statement saying they had not already called another tow truck for service.

Summary of verbal comments: Clark Whitney from Quality Towing stated that he was in favor of the revised draft known as R080-00R and commended the Transportation Services Authority

for working with the industry on such changes. Similar comments to those made by Mr. Whitney were made by representatives from the Nevada Highway Patrol.

Adoption of Regulation by the Transportation Services Authority

The regulations were adopted without changing any part of the regulation, which was proposed at the hearing held on June 8, 2000. The reason for this is that all comments at the hearing were in support of the proposed regulation with the lone exception being the statement received expressing concern regarding a provision requiring a tow car operator who assists a stranded motorist to have that motorist sign a statement indicating that they had not already called another tow truck for that service. It is felt that this provision is necessary to protect tow car operators from losing business by responding to calls only to learn that the motorist has been towed by another carrier.

Effects of Amendments

1. The estimated economic effect of the regulation on carriers in the Tow Car business and on the general public:

It is estimated that there will be no change in the current or long-term economic effect either beneficial or adverse to either members of the industry or the general public as a result of the proposed changes.

2. The estimated cost to the agency for enforcement of the proposed regulation:

There will be no change to the current cost to the agency for enforcement of regulations with respect to the Tow Car industry

3. Description of regulations of other state of government agencies which the proposed regulation overlaps or duplicates:

There are no provisions of the proposed regulation, which overlap or duplicate that of another state of government agency.

4. Provisions more stringent than a federal regulation:

The provisions of the proposed regulation are not more stringent than federal regulations.

5. Whether the proposed regulation establishes a new fee or increases an existing fee:

The proposed regulation established no new fees, nor does it increase existing fees.

Sincerely,

Bruce H. Breslow

Commissioner, Transportation Services Authority