

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

LCB File No. R075-08

Effective September 18, 2008

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

AUTHORITY: §§1-4, NRS 706.171 and 706.4477; §§5-8 and 10, NRS 706.171; §9, NRS 706.171 and 706.4479.

A REGULATION relating to tow cars; requiring a specific request or a written authorization for a nonconsensual tow; establishing the requirements for specific requests and written authorizations to tow a vehicle; revising the information to be included on bills for towing; revising the notice requirements for tows; revising certain restrictions on solicitation of business by an operator of a tow car; and providing other matters properly relating thereto.

Section 1. Chapter 706 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *The operator of a tow car shall not commence the towing of a vehicle from real property without the consent of the owner of the vehicle, an authorized agent of the owner or a law enforcement officer unless the operator of a tow car has first obtained:*

1. A specific request for towing which complies with the requirements of section 3 of this regulation; or

2. A written authorization which complies with the requirements of section 4 of this regulation.

Sec. 3. 1. *If the owner of real property or his authorized agent makes a specific request pursuant to subsection 1 of NRS 706.4477 for the towing of a vehicle from the real property, the specific request must:*

(a) Be in writing;

(b) Be signed, within 24 hours before the removal of the vehicle, by the owner of the real property or his authorized agent; and

(c) Include, without limitation:

(1) The name, address and telephone number of the residence or business where the vehicle to be towed is located;

(2) The type of ownership interest or other relationship of the person making the specific request to the real property from which the vehicle will be towed;

(3) The make, model, license plate number, and, if possible, vehicle identification number of the vehicle to be towed from the property;

(4) The reason for the removal of the vehicle from the real property; and

(5) The date and time that the specific request for towing was made.

2. *If the operator of a tow car tows a vehicle pursuant to a specific request described in subsection 1, the operator of a tow car shall:*

(a) Upon request of the owner of the vehicle or his authorized agent, provide a photocopy of the specific request for towing; and

(b) Delete from the photocopy of the specific request the information required pursuant to subparagraphs (1) and (2) of paragraph (c) of subsection 1.

Sec. 4. 1. *An operator of a tow car may tow a vehicle from real property pursuant to a written authorization from the owner of the property or his authorized agent if:*

(a) The owner of the property or his authorized agent has entered into a written agreement with the operator of a tow car in which the owner or his authorized agent grants to the operator of a tow car the authorization to tow vehicles from the real property at the discretion of the operator of a tow car; and

(b) The written agreement provides that the operator of a tow car may tow from the real property only those vehicles that are parked:

(1) Within 15 feet of a fire hydrant;

(2) In a fire lane;

(3) In a manner that interferes with an entrance to or exit from the real property; or

(4) In any parking space designated for persons who are handicapped in violation of

NRS 484.408.

2. If an operator of a tow car tows a vehicle pursuant to a written authorization described in subsection 1, the operator of a tow car shall:

(a) Before commencing the tow of the vehicle, take a photograph of the vehicle that clearly indicates the parking violation;

(b) At the time the vehicle is claimed, allow the owner or his authorized agent to view the photograph; and

(c) Upon request of the owner of the vehicle or his authorized agent, provide a copy of the photograph to the owner or his authorized agent.

Sec. 5. NAC 706.402 is hereby amended to read as follows:

706.402 As used in NAC 706.402 to 706.442, inclusive, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 706.4022 to 706.4028, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NAC 706.410 is hereby amended to read as follows:

706.410 1. If an operator of a tow car includes in his tariff a fee to be charged the owner of a towed vehicle for the storage of the vehicle, the fee may not be charged:

(a) For more than 15 days, unless the operator complies with the requirements set forth in ~~[NAC 706.432;]~~ **NRS 706.4479;**

(b) If the owner of the vehicle, his agent or the driver of the vehicle arrives at the place of storage to secure its release before the towed vehicle is placed in storage; or

(c) If the tow was under Category C and is released to the owner or his agent within 24 hours after the vehicle is towed. The charge for the first 24 hours of storage of a vehicle towed under Category C must be included as part of the flat rate charged for the tow.

2. If an operator of a tow car includes in his tariff a fee for allowing the owner of a towed vehicle or his agent to have access to a vehicle held in storage, that fee may not be charged the first time the owner or his agent visits the stored vehicle or when the vehicle is being claimed by the owner or his agent. The operator of a tow car shall not deny the owner of the stored vehicle or his agent reasonable access to the vehicle unless required to do so by a law enforcement agency. The operator of a tow car may require the fee charged for visiting a stored vehicle to be paid in advance of the visit.

3. The operator of a tow car may include in his tariff a charge for opening a secured facility for storage after normal business hours to release or allow access to a towed vehicle. Normal business hours shall be deemed to be between 8 a.m. and 5 p.m. on Monday through Friday, excluding legal holidays. Such a charge is in addition to any other charge for storage or access to the vehicle. The operator of a tow car may require that the charge for opening a secured facility for storage be paid in advance of opening the facility.

Sec. 7. 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 ~~§~~, *unless the operator of a tow car towed the vehicle pursuant to a written authorization agreement described in section 4 of this regulation.*

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 agency.

Sec. 8. 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 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 the nonconsensual tow, including a designation of “a.m.” or “p.m.” or other comparable designation of time.

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

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

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

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

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

(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.]~~

(j) The time of the departure of the tow car from the site of the vehicle to be towed ~~[.]~~ *and the reading on the odometer of the tow car upon departure.*

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

(l) ~~[The total time which passes while at the site of the towing in hours and minutes. —(m)]~~ The exact mileage and hourly charges.

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

~~[(o)]~~ (n) 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.

~~[(p)]~~ (o) 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.

~~[(q)]~~ (p) 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. 9. 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)]~~ *either 90 minutes* after *the towing of* the vehicle ~~[(is towed)]~~.

~~—2. If the identity of the registered and legal owner, or, if not the same person, the registered owner and legal owner, is known, the operator of a tow car shall notify the owner or owners of the vehicle by certified mail, within 15 days after placing a vehicle which was the subject of a nonconsensual tow in storage. 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 15 days after identification of the owner is obtained.~~
- ~~—4.] *commences or 30 minutes after the vehicles arrives at the storage facility, whichever occurs first.*~~

2. The operator of a tow car that tows a vehicle, upon which a law enforcement agency places a “Hold” designation so that the law enforcement agency may conduct further investigations, shall:

(a) Send a certified letter to the owner of the vehicle that contains the information set forth in *paragraph (a) of* subsection ~~[2:] 1 of NRS 706.4479;~~ and

(b) Release the vehicle as instructed by the law enforcement agency that placed the “Hold” designation on the vehicle,

↪ within 24 hours after receiving notice from the law enforcement agency to change the “Hold” designation to a “Released” designation.

Sec. 10. 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. 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.

NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R075-08

The Nevada Transportation Authority adopted regulations assigned LCB File No. R075-08 which pertain to chapter 706 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the notices of workshops and notices of intent to act upon the regulations were sent by U.S. mail to all persons on the Authority's mailing list for administrative regulations and to all tow carriers licensed by the Authority. Copies of all materials relating to the proposal were made available at the workshops, at the offices of the Authority, on the Authority's website at www.nta.nv.gov, and were posted at all county libraries.

Workshops were held on October 4, 2007 and June 10, 2008. On or about May 23, 2008, the Authority issued a Notice of Intent to Act Upon a Regulation. A public hearing was held on July 9, 2008. The minutes of the two workshops and the public hearing, attached hereto, contain summaries of the discussion held regarding the proposed amendments.

A copy of this summary of the public response to the proposed regulation may be obtained from the Authority , 2290 South Jones Blvd. Suite 110, Las Vegas, Nevada 89146, (702)486-3303, or e-mail to jday@nta.nv.gov.

- 2. The number of persons who:**

Attended each hearing: October 4, 2007—23; June 10, 2008—42; July 9, 2008—17.
Testified at each hearing: October 4, 2007—8; June 10, 2008—16; July 9, 2008—6.
Submitted to the agency written comments: 1.

- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reason for adopting the regulation without change.**

Not applicable. The permanent regulation was adopted on July 9, 2008 and included changes suggested at the workshops and the adoption hearing.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately and each case must include:**

- a. **Both adverse and beneficial effects; and**
- b. **Both immediate and long-term effects**

(a) Both adverse and beneficial effects

The proposed revisions will have no significant adverse or beneficial economic impact upon the regulated industry or the public, either immediately or long-term. Tow car operators may realize negligible economic benefit related to the extended time period for validity of requests to tow from private property owners; new provisions allowing general authorization to tow in certain circumstances; streamlined notice and invoice requirements for nonconsensual tows, and the lifting of the prohibition of driving in search of the opportunity to tow a vehicle. These nominal economic effects on carriers are unlikely to have an economic effect on customers or the general public.

(b) Both immediate and long-term effects

The effects described in Item #5(a) are immediate and long-term.

6. **The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the Authority for enforcement of this regulation.

7. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

8. **If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

N/A

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

N/A

- 10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The Authority has determined that the proposed regulation does not impose a direct and significant economic burden upon small business or restrict the formation, operation or expansion of a small business. In making this determination the Authority considered that numerous representatives of affected small businesses were present at the two workshops and the hearing; that at the workshops and the hearing Chairman Andrew J. MacKay asked the participants to address any impact on small business; and that no impacts on small business were identified.