

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

LCB File No. R075-08

May 6, 2008

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

AUTHORITY: §§1-5, NRS 706.171 and 706.4477; §§6-9 and 11, NRS 706.171; §10, NRS 706.171 and 706.4479.

A REGULATION relating to tow cars; requiring a specific request or a general authorization for a nonconsensual tow; establishing the requirements for specific requests and general 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 to 5, inclusive, of this regulation.

Sec. 2. *The operator of a tow car shall not commence the towing of a vehicle from private 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 general 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) If the vehicle was towed from a residential property, 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 private property pursuant to a general 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 general authorization to tow vehicles from the private 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 private property only those vehicles that are parked:

(1) Within 15 feet of a fire hydrant;

(2) In a fire lane; or

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

2. If an operator of a tow car tows a vehicle pursuant to a general 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. *If a vehicle has been parked for less than 1 hour on private property that is held open to the public for the parking of vehicles at no cost, an operator of a tow car shall not commence the towing of the vehicle without the consent of the owner of the vehicle, an authorized agent of the owner or a law enforcement officer unless the vehicle is parked:*

- 1. Within 15 feet of a fire hydrant;*
- 2. In a fire lane; or*
- 3. In a manner that interferes with an entrance to or exit from the private property.*

Sec. 6. 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 to 5, inclusive, 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. 7. 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. 8. 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 ~~H~~, *unless the operator of a tow car towed the vehicle pursuant to a general 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. 9. 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 ~~to~~ *and the reading on the odometer of the towed vehicle upon departure.*

(k) The time of the arrival of the tow car at the location to which the vehicle was towed and the reading ~~to~~ *on* the odometer 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) If an extra person was required, the time he was sent to the site and the time he returned.

(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.

(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.

(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. 10. 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 *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.*~~

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. 11. 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.