

ARKANSAS TOWING & RECOVERY BOARD

RULES AND REGULATIONS

PURSUANT TO ARKANSAS CODE ANNOTATED 27-50-1201 et seq.

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APPLICABILITY

These Regulations promulgated by the Arkansas Towing & Recovery Board, pursuant to Act 1061 of 2011 and Arkansas Code Annotated § 27-50-1201 et seq., shall apply to a person

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

(2) Performs vehicle immobilization services.

A person is “hired to store” if that person secures a vehicle(s) subject to registration for compensation, consideration, or commercial purposes.

A person is “hired to tow” if that person operates a tow vehicle(s) for compensation, consideration or commercial purposes, but does not include operation of a tow vehicle(s) to transport or otherwise facilitate the movement of a vehicle(s) that is owned by the operator or the operator's employer.

RULE 1: DEFINITIONS

For purposes of these Regulations promulgated by the Arkansas Towing & Recovery Board pursuant to Arkansas Code Annotated 27-50-1201 et seq. , as now or hereafter amended, the following definitions, unless the text otherwise requires, shall apply:

1.1 “**THE BOARD**” hereinafter referred to shall mean the ARKANSAS TOWING AND RECOVERY BOARD.

1.2 “**THE DIRECTOR**” hereinafter referred to shall mean the Director for the Board, or any other person authorized by the Board to administer its Rules and Regulations.

1.3 “**TOWING INDUSTRY**” hereinafter referred to shall mean the use of tow vehicle(s) by any person, individual, partnership, corporation, association, or other entity, to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on Arkansas’s public roadways, and/or storage of vehicles.

1.4 “**VEHICLE**” hereinafter referred to shall mean any device by which persons or

things may be transported upon a public roadway and is of the type subject to registration in Arkansas.

1.5 “**TOW VEHICLE**” hereinafter referred to shall mean any motor vehicle and/or related equipment subject to registration in the State of Arkansas which is used to tow, recover, upright, transport or otherwise facilitate the movement of vehicles on public roadways.

1.6 “**LICENSE**” hereinafter referred to shall mean a certificate issued by the Board entitling a member of the towing industry to engage in the towing business.

1.7 “**LICENSEE**” hereinafter referred to shall mean a member of the towing industry holding a valid License issued by the Board.

1.8 “**EQUIPMENT**” hereinafter referred to shall mean any vehicle and/or related equipment used by a member of the towing industry to recover, upright, transport, or to otherwise facilitate movement of vehicles on public roadways.

1.9 “**NON-CONSENT**” hereinafter referred to shall mean the towing, storage, or recovery of any unattended or abandoned vehicle, or any disabled or inoperative vehicle for which the owner preference is waived by the owner or person in charge thereof.

1.10 “**CONSENT**” means towing, storage, or recovery of any vehicle, which towing, storage or recovery is done with the permission of the owner or other person in charge of the vehicle.

1.11 “**TOW VEHICLE SAFETY PERMIT**” hereinafter referred to shall mean a decal issued by the Board to be affixed to the windshield of any tow vehicle operated by a member of the towing industry.

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

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..

1.16 **“PERSON”** means any individual, partnership, corporation, association, or other entity.

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 A.C.A 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 10.3.1.21

"VEHICLE IMMOBILIZATION SERVICE" means a person operating or directing others to operate a wheel clamp.

1.22 "WHEEL CLAMP" means a device attached to a wheel of a vehicle that renders the vehicle immobile.

RULE 2: EXEMPTIONS

The Rules and Regulations promulgated pursuant to Arkansas Code Annotated 27-50-1201 et seq., as now or hereafter amended, shall not apply to the following:

- A. Car carriers capable of carrying five (5) or more vehicles and that have Federal Motor Carrier Safety Administration authority.
- B. Tow vehicles owned by a governmental entity and not used for commercial purposes.
- C. If in compliance with § 27-35-112 tow vehicles that are:
 - 1. Registered in another state;
 - 2. Operating under Federal Motor Carrier Safety Administration authority;and
 - 3. Not regularly doing business or soliciting business in the State of Arkansas.

D. A tow vehicle which is used by its owner in his private affairs, provided such tow vehicle shall not be used as an instrument to facilitate the movement of vehicles not owned by the operator or the operator's employer. The burden shall be upon the operator of the tow vehicle to prove ownership as required herein of the vehicle being towed.

RULE 3: GENERAL ORGANIZATION OF THE BOARD

3.1 The Arkansas Towing and Recovery Board shall meet at least once in each

quarter at the call of the chairperson, and shall continue in session until business is completed insofar as possible. Five (5) members of the board shall constitute a quorum.

3.2 Meetings of the Board shall be held on dates and at times and locations selected by the chairperson of the Board.

3.3 Special meetings of the Board may be called at any time by the chairperson, the vice chairperson or the acting chairperson.

3.4 The board shall elect a chairperson annually from the membership of the board.

3.5 Any person desiring to appear before the Board at any meeting on any matter within the jurisdiction of the Board shall, at least ten (10) business days prior to such meeting, file with the chairperson or the Director a written request in which the nature and purpose of the appearance shall be clearly and precisely stated in sufficient detail to fully apprise the Board of the basis and extent of the business. This requirement may be waived at any meeting only by majority consent of the Board members present and voting on the matter, provided, when such a request is in the nature of a complaint against a member of the towing industry under the provisions of Arkansas Code Annotated 27-50-1201 et. seq., as now or hereafter amended, the provisions of Rule 5 shall apply.

3.6 The Director shall arrange the order of business of all meetings of the Board and shall, at least ten (10) business days prior thereto, notify all persons who are to appear before the Board at such meeting of the place, the date and the time of the meeting.

3.7 The Director shall keep and maintain on file in the Board's office a record of all proceedings of the Board. The Director shall also keep on file in the Board's office copies of all orders issued by the Board, for a period not less than three (3) years.

3.8 The Board shall be governed by the Arkansas Administrative Procedures Act, the same being A.C.A. 15-15-201 et seq., as amended from time to time, and the Arkansas

Freedom of Information Act, the same being A.C.A. 25-19-101 et seq., as amended from time to time.

3.9 All legal process and all documents required by law to be served upon or filed with the Board shall be served or filed with the Director at the official address of the Board.

RULE 4: POWERS OF THE BOARD

4.1 The Board shall have the power to promulgate such Rules and Regulations, in the manner provided by the Arkansas Administrative Procedures Act, same being A.C.A. 23-25-201 et seq., as amended from time to time, necessary to carry out the intent of Arkansas Code Annotated 27-50-1201 et seq., as amended from time to time, and to regulate the vehicle immobilization, non-consent towing/storage and/or consent towing industry, including but not limited to:

- A. Establishing reasonable licensing, insurance and safety equipment requirements for any person, individual, firm, association, company, partnership, corporation, non-profit organization, institution, or other similar legal entity engaging in vehicle immobilization, non-consent towing/storage and/or consent towing and/or related services, for safety purposes and,
- B. Establishing reasonable safety equipment requirements for any tow vehicle as defined in Rule 1.3 of these Regulations.
- C. Establishing a procedure to accept and investigate complaints for a consumer who claims he /she has been overcharged for non-consent towing, recovery, storage and/or vehicle immobilization services.
- D. Determining and sanctioning excessive or unnecessary non-consensual towing, recovery, storage fees and vehicle immobilization services charged to consumers.
- E. Requiring all entities permitted, licensed, or regulated under A.C.A. 27-50-1201 et seq, to provide to the Board all documents in response to information requests by the

Board to the investigation of consumer complaints or board complaints against the permittee or licensee.

F. Requiring all entities permitted, licensed, or regulated under A.C.A 27-50-1201 et seq, to provide an itemized billing that explains how the charges were calculated for towing or storage fees, vehicle immobilization and all related fees.

G. Requiring all entities permitted, licensed, or regulated by A.C.A 27-50-1201 et seq, to maintain a copy of their current maximum rate schedule with the Arkansas Towing and Recovery Board and posted in a conspicuous place and readily accessible to the public.

4.2 The Board shall have the authority to set fees for towing business licenses, vehicle immobilization business license, and for tow vehicle safety permits issued to members of the towing industry; except as provided in Rule 4.14

4.3 The Board shall have authority to impose penalties for late license and/or permit renewal application filings in an amount not to exceed the amount of fee(s) due for the license and/or permit(s) renewal(s).

A. Penalty for late License renewal application filings shall be at rate of \$5.00 per day, not to exceed amount of fee due for the license renewal.

B. Penalty for late Permit renewal application filings shall be at rate of \$1.00 per day, per Permit, not to exceed amount of fee due for the permit renewal.

4.4 The Board shall have authority to establish requirements and qualifications for issuance of licenses and tow vehicle safety permits to vehicle immobilization, non-consent towing/storage and/or consent towing companies as defined in these Regulations.

4.5 The Board shall have authority to investigate consumer complaints related to overcharging for non-consensual towing, storage, recovery and/or vehicle immobilization service fees, alleged violations of the provisions of Arkansas Code Annotated 27-50-1101 and

27-50-1201 et seq., as now or hereafter amended, and Board Rules and Regulations

promulgated pursuant thereto, and the authority to pursue any remedies pursuant thereto.

4.6 The Board shall have authority to design application forms pursuant to these Regulations, as now or hereafter amended, for licenses and for tow vehicle safety permits, and to require the filing of same with the Board. The Director shall keep on file a copy of each application form adopted by the Board, referencing Minutes of meeting(s) during which such form is approved.

4.7 The Board shall have the authority to issue and renew licenses and tow vehicle safety permits pursuant to A.C.A. 27-50-1201 et seq. and these Rules and Regulations, as now or hereafter amended.

4.8 The Board shall have the authority to refuse to renew, to suspend and to revoke any license or tow vehicle safety permit for any violation of A.C.A. 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or any Rule and Regulation promulgated pursuant thereto.

4.9 Any vehicle immobilization, non-consent towing/storage and/or consent towing company determined by the Board, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedures Act of Arkansas as amended from time to time, to have committed an act that is in violation of Arkansas Code Annotated 27-50- 1201 et seq., as now or hereafter amended, or any Rule and Regulation promulgated pursuant thereto, is subject to civil penalties, including monetary penalties, not to exceed five thousand (5000) dollars per offense, each act of violation constituting a distinct and separate offense, and/or suspension or revocation of any towing business license, vehicle immobilization business license and/or any tow vehicle safety permit, or both. Nothing in this section shall be construed to limit the right to seek judicial review of any determination of the Arkansas Towing and Recovery Board pursuant to the provisions of the Arkansas Administrative

4.10 In the conduct of any investigation, or hearing pursuant to any investigation, the officer conducting the hearing may administer oaths and may require testimony or evidence to be given under oath.

4.11 The Board shall have the authority to direct the execution of a summons, citation, or subpoena.

4.12 The Board shall have the authority to require, and to set minimum amounts of coverage for, liability, on-hook, drive-away, and premises insurance on the part of each Licensee.

4.13 The Board shall have the authority to establish minimum safety equipment requirements for any tow vehicle as defined in Rule 1.5 of these Regulations.

4.14 The Board shall have the authority to establish maximum amount charged for notification required by A.C.A. 27-50-1208, as now or hereafter amended, to be sent to a vehicle owner(s) and/or lien holder(s).

RULE 5: HEARING PROVISIONS

5.1 Any hearing to be conducted by the Board may be held during a regular Board meeting, or a special Board meeting may be convened for that purpose.

5.2 The Director shall have authority to delay or to deny approval of any application for a license or tow vehicle safety permit if the applicant fails to meet the minimum requirements and the qualifications set by the Board. Said delay or denial shall be in writing to the applicant, stating the reason for the delay or the denial. Any applicant whose application is denied shall also be advised of his right to appeal the denial to the Board.

5.3 An applicant who has been denied a license or tow vehicle safety permit by the Director may appeal said denial by notifying the Director in writing within fifteen (15) days of date of Notice of Denial.

5.4 In the event it is determined by the Director that a license or permit has been issued in error, or that accounting records and/or bank statement reflects proper amount of license and/or permit fees was not received, the Director shall have authority to summarily suspend or revoke said license and/or permit. In such circumstance, or in the event of suspension of any licensee or permit pursuant to Rule 9.4 of these regulations, as now or hereafter amended, the licensee or tow vehicle safety permit holder shall be notified in writing via certified mail of his right to a hearing before the Board. If the licensee or permit holder fails to submit a request in writing for a hearing before the Board within the fifteen (15) days prescribed in Rule 5.3, said suspension or revocation shall become final. Upon decision to hold formal hearing to consider suspension or revocation of any license or tow vehicle safety permit issued by the Board pursuant to A.C.A. 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or the Rules and Regulations promulgated pursuant thereto, the Board shall notify the licensee or tow vehicle safety permit holder of his right to such hearing before the Board.

5.5 If, as the result of its own investigation, or as result of any complaint filed against a licensee or tow vehicle safety permit holder, it is determined by the Board there exists sufficient evidence that a licensee's or tow vehicle safety permit holder's conduct constitutes a violation of Arkansas Code Annotated 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or the Rules and Regulations promulgated pursuant thereto, the Board may fine respondent as set forth in Rule 4.9, and/or reprimand respondent, and/or suspend or revoke any license or permit issued to respondent. The Board shall provide no less than fifteen (15) days advance written notice to the licensee or tow vehicle safety permit holder of said hearing.

A. Said notice shall inform respondent of alleged facts or conduct warranting a hearing and shall contain information of the right to claim, within ten (10) business days of date of notification, a hearing to appeal intended action of the Board; provided,.

B. If the Board finds the public health, safety, or welfare imperatively

requires emergency action and incorporates a finding to that effect in its order, summary

suspension of a license and/or permit may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

5.6 All evidence, including records and documents in the possession of the Board of which it desires to consider, shall be offered and made a part of the record in the hearing. Any respondent whose rights may be affected by said hearing shall have the right to appear personally and by counsel to introduce evidence in his or its own behalf, to cross-examine witnesses, and to examine any document or other evidence submitted.

5.7 The Board shall not be bound by the technical rules of evidence and it may admit and give probative value to any evidence which possesses such probative value as would entitle it to be accepted by reasonable and prudent men in the conduct of their affairs, provided however, that the Board shall give effect to the rules of privilege recognized by the law and may exclude incompetent, irrelevant, immaterial, or repetitious evidence and may make rulings to protect witnesses from undue harassment or oppression.

5.8 The Director shall maintain documents and files relative to Board business. All pleadings and motions to be filed relative to any hearing before the Board shall be in duplicate, signed, verified, dated and filed with the Director and held for a period not less than three (3) years.

5.9 In any hearing held for the purpose of affording any applicant the opportunity to show his qualifications to hold a license or tow vehicle safety permit, burden of going forward with the evidence shall be on the applicant. In hearings held for the purpose of reprimanding, suspending, revoking or fining any respondent, burden of going forward shall be on the Board, the Director or the Board's legal counsel.

5.10 All decisions by the Board shall be in writing and signed by the chairperson of the Board, and shall include Findings of Fact and Conclusions of Law separately stated in an

appropriate order entered in accordance therewith. A copy of the Findings of Fact and

Conclusions of Law and the Order shall be sent to each party of the hearing.

5.11 A penalty assessed by the Board shall be paid no later than fifteen (15) days after the conclusion of the appeals process under the Arkansas Administrative Procedures Act, § 25-15-201 et seq.

5.12 If a towing company fails to pay a fine or installment payment as provided under Rule 5.11, the Board may cause the suspension of the tow vehicle license plate and registration of the owner of the entity or individual by providing written notice to the Office of Motor Vehicles of the Revenue Division of the Department of Finance and Administration of failure to pay.

A. The notice of the failure to pay the fine ordered by the Board shall contain the following information:

1. The name of the entity or individual that is subject to the fine;
2. The vehicle identification number or other identifying information for the vehicle owned by the entity or individual that is the subject of the fine;
3. The date the board imposed the fine;
4. The amount of the fine;
5. The date the fine or installment payment became delinquent;
6. The amount of the fine or installment payments that remain delinquent.

B. When the fine or installment payment(s) paid or brought current, the Board will notify the Office of Motor Vehicle within two(2) business days by written notice including the information provided for in Rule 5.12 (A).

RULE 6: LICENSE AND TOW VEHICLE SAFETY PERMIT REQUIREMENTS

6.1 Subsequent to July 1, 1994, a towing, storage, vehicle immobilization company providing vehicle immobilization, non-consent towing/storage and/or consent towing services is required to obtain from the Board, and renew annually, a Tow Safety License authorizing the

business to engage in vehicle immobilization, non-consent towing/storage and/or consent

towing and related services. Note: A vehicle immobilization company does not have to obtain a separate license if the company already has a non-consent towing/storage safety license.

6.2 Subsequent to July 1, 1994, any tow vehicle as defined in A.C.A. 27-50-1201 et seq. and these Rules and Regulations which is not exempt under provisions of Rule 2 of these regulations and is being operated on Arkansas's public roadways, is required to have a valid Tow Vehicle Safety Permit issued by the Board for that vehicle displayed on its windshield.

A. Any tow vehicle used to provide non-consent towing and related services is to display a valid non-consent Tow Vehicle Safety Permit issued by the Board for that vehicle. Such tow vehicle may also be used to provide consent towing and related services.

B. Any tow vehicle used to provide only consent towing and related services is to display a valid consent Tow Vehicle Safety Permit issued by the Board for that vehicle. Such vehicle shall not be used to provide non-consent towing and related services, except if utilized in conjunction with a current certificate of insurance on file with the Board for other services rendered as part of non-consent towing, provided, however any usage of the tow vehicle in conjunction with non-consent towing shall have coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and Regulations.

6.3 The Director shall issue license and/or tow vehicle/wheel clamp safety permit(s) to any towing, storage, vehicle immobilization company providing vehicle immobilization, non-consent towing/storage and/or consent towing company , which makes proper application reflecting the qualifications required by the Board in these Rules and Regulations are met.

A. No License authorizing a business to engage, or to continue to engage, in vehicle immobilization, non-consent towing/storage, and/or consent towing and related services shall be issued until a sufficient application is filed with the Board. For purposes of these

Regulations, a sufficient application for a towing business/vehicle immobilization safety License

shall include:

(1) Information Sheet provided by the Board as part of the application completed in its entirety.

(2) Current Certificate(s) of Insurance reflecting minimum insurance coverage as prescribed by the Board in Rule 9.2 of these Regulations, and

(3) Fee as prescribed by the Board for a vehicle immobilization, non-consent towing/storage, and/or consent towing business safety license.

B. No tow vehicle safety permits authorizing operation of a tow vehicle on public roadways in the State of Arkansas shall be issued until a sufficient Tow Vehicle Safety Permit application is filed with the Board. For purposes of these Regulations, a sufficient Tow Vehicle Safety Permit application shall include:

(1) Information Sheet provided by the Board as part of the application completed in its entirety. (Separate Information Sheets are not required when application is for license AND permit(s).)

(2) Inspection Form provided by the Board as part of the application reflecting Rule 7 equipment requirements are met, and that the tow vehicle was examined by a certified law enforcement officer (municipal, county, or state) who so verifies by his/her signature on the Inspection Form, along with Badge # and Agency.

(3) Pictures showing the following views

(a) The Tow Vehicle registration tag on the tow vehicle for which the permit is being requested,

(b) Driver side view of the towing vehicle showing both the name and phone number of the business;

(c) Passenger side view of the towing vehicle showing both name and phone number of the business.

(4) Tow Vehicle Safety Permit fee prescribed by the Board.

(5) Current Certificate(s) of Insurance reflecting minimum insurance coverage as prescribed by the Board in Rule 9.2 of these Regulations.

C. No tow vehicle wheel clamp safety permit authorizing the operation of vehicle immobilization in the State of Arkansas shall be issued until a sufficient tow vehicle wheel clamp safety permit application is filed with the Board. For purposes of these Regulations, a sufficient wheel clamp safety permit application shall include:

(1) Information Sheet provided by the Board as part of the application completed in its entirety. (Separate Information Sheets are not required when application is for license AND permit(s).)

(2) Pictures showing the following views

(a) The vehicle immobilization device for which the permit is being requested,

(b) A view of the vehicle immobilization device showing the serial number, name, and phone number of the business;

(3) Tow vehicle wheel clamp safety permit fee prescribed by the Board.

D. No showing of public convenience or necessity need be made in support of an application for a vehicle immobilization, non-consent towing/storage, and/or consent towing business safety license, a tow vehicle, safety permit, and/or a tow vehicle wheel clamp safety permit.

E. It shall be the responsibility of the Licensee to post Certificate of License in a prominent location, viewable by the public, in the Licensee's place of business.

F. It shall be the responsibility of the tow vehicle safety permit holder to affix the tow

vehicle safety permit to the lower portion, driver's side, of the windshield in the vehicle for which the Board issued the Permit.

G. It shall be the responsibility of the safety permit holder to affix the tow vehicle wheel clamp safety permit to the vehicle immobilization device, clearly visible to the public.

6.4 Licenses, tow vehicle safety permits and tow vehicle wheel clamp safety permits are nontransferable, from one owner to another, from one tow vehicle to another or from vehicle immobilization device to another .

A. If a Licensee ceases to be involved in the towing business or vehicle immobilization business, the License issued to that business shall be returned to the Board within ten (10) days of ceasing business. (Any change in ownership of a towing business or vehicle immobilization business nullifies the License issued to the previous owner.)

B. Any tow vehicle safety permit holder who takes a tow vehicle out of service shall remove and destroy the Permit, and shall notify the Board the tow vehicle is removed from his fleet within ten (10) days of the removal.

(1) A tow vehicle safety permit can only be displayed on a tow vehicle owned by the towing business to which the Board issued the Permit.

C. Any tow vehicle wheel clamp safety permit holder who takes a vehicle immobilization device out of service shall remove and destroy the Permit and shall notify the Board the device has been removed from their inventory within ten (10) days of the removal.

6.5 A vehicle immobilization, non-consent towing/storage, and/or consent towing business license, a tow vehicle safety permit, or a tow vehicle wheel clamp safety permit shall be issued only to a legal entity, and shall not be issued to a fictitious name. E.g., Bob Smith owns a wrecker service. Bob Smith's Wrecker Service does not constitute a legal entity. Bob Smith, or Bob Smith dba Bob Smith's Wrecker Service, or Bob Smith's Wrecker Service, Inc. does constitute a legal entity in that Bob Smith is identified as legal owner of the wrecker

A. Each separate location of a vehicle immobilization, non-consent towing/storage, and/or consent towing business shall require a separate License.

B. The name in which a vehicle immobilization, non-consent towing/storage, and/or consent towing business is registered with the Board must correspond with name of the insured as identified on the Certificate(s) of Insurance issued to the Board for that vehicle immobilization, non-consent towing/storage, and/or consent towing business.

6.6 It is the responsibility of every licensee, every tow vehicle safety permit and every tow vehicle wheel clamp safety permit holder to notify the Board staff in writing immediately upon any change in name of business, mailing address and/or physical location of his place of business.

6.7 Any final judgment rendered by a court of competent jurisdiction against a vehicle immobilization, non-consent towing/storage, and/or consent towing business or an owner or employee thereof, arising from ownership or operation of the vehicle immobilization, non-consent towing/storage, and/or consent towing business, including but not limited to towing, up righting, recovery, transporting, immobilizing, and storage of vehicles, must be satisfied within thirty (30) calendar days. If such judgment is not timely satisfied, the vehicle immobilization, non-consent towing/storage, and/or consent towing business's license and/or tow vehicle safety permit(s), and or tow vehicle wheel clamp safety permit(s) may be suspended until the judgment is satisfied; provided,

A. A release or written agreement signed by the judgment creditor and approved by the Board shall reinstate eligibility; and,

B. If judgment is covered by insurance up to the amount and to the extent required by the Board, this subparagraph shall not apply.

6.8 No application for vehicle immobilization, non-consent towing/storage, and/or

consent towing business license and/or safety permit shall be approved by the Arkansas Towing & Recovery Board if the applicant has any overdue unpaid civil penalty(s) due and payable to the Board.

RULE 7: TOWING AND VEHICLE IMMOBILIZATION EQUIPMENT REQUIREMENTS

7.1 All tow vehicles, which are in use by vehicle immobilization, non-consent towing/storage, and/or consent towing business , shall meet the following requirements:

A. Hold a current Motor Vehicle Registration Certificate and have evidence of such properly displayed on the tow vehicle. (E.g., state license plate.)

B. Be in compliance with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas State Highway Commission and Arkansas Department of Revenue Regulations applicable thereto.

C. Have a valid tow vehicle safety permit issued by the Board for that tow vehicle displayed on the lower portion, driver's side, of the tow vehicle's windshield.

7.2 All tow vehicles as defined in these regulations which operate on Arkansas's public roadways shall have the following minimum equipment installed, or on board:

A. Fire Extinguisher(s), ABC Type, total capacity of not less than nine (9) pounds.

B. Amber flashing light(s) visible within 360 degree rotation around the tow vehicle, and visible in bright sunlight.

(C) Tail, turn and stop lights attached, or to be attached, to the towed or towing vehicle so as to be visible from the rear.

(D) Safety chains and/or straps to secure the towed vehicle to the towing vehicle when towing and/or otherwise transporting vehicles on public roadways.

(E) Flares, reflective cones, reflective triangle safety signals, or other similar safety devices.

(F) Shovel and broom for removing debris from the roadway. (Mandatory only for tow vehicles used in accident recovery; provided however, no tow vehicle shall respond to an accident scene along a public roadway without a broom and shovel on board.)

(G) The name and telephone number of the towing business shall be displayed and permanently affixed on each side of the tow vehicle, not less than two inches (2") so that it is visible and legible from a distance of fifty (50) feet; (i.e. painted or by decal). (Magnetic signs not permanently affixed are not allowed).

(H) Light and air brake hookups (required only on tow vehicles being designated "Heavy Duty" for the purpose of these regulations and capable of towing semi truck and trailer vehicles.)

(I) Safety straps for wheel lift equipment as required by the equipment manufacturer for securing the towed vehicle to the towing vehicle.

(J) Tow vehicles equipped with winches and used for recovery and/or hoisting, and for towing a vehicle during transport, shall have a winch with an 8,000 pound minimum capacity and a minimum 3/8 inch diameter cable size, provided,

(1) Winch capacity and cable size shall increase proportionately with Gross Vehicle Weight Rating increase,

(2) Come-A-Long, chain, or other similar device, shall not be used as substitute for winch and cable.

(K) Any tow vehicle used for hoisting and/or for towing a vehicle during recovery and/or transport shall be equipped with dual rear wheels and shall be rated at a minimum of 9,000 pounds GVWR. provided; however, the owner of a tow vehicle for which the Board issued a tow vehicle safety permit under the Grandfather Provision on or before January 1, 1995, and renewal permits have been issued regularly thereafter, is exempt from the dual wheel and 9,000 GVWR requirements as long as ownership of the tow vehicle does not change

and regular renewals continue to be issued by the Board.

(L) (1) Any tow vehicle used as a Heavy Duty Tow Vehicle as defined by Rule 7.4 shall be equipped with tandem rear axles and equipped with an under-lift device rated at no less than 12,000 lbs. at full extension. Provided; however that the owner of a Heavy Duty Tow Vehicle for which the Board issued a tow vehicle safety permit on or before the date of the enactment of this section shall be grand-fathered and shall be exempt from this requirement as long as ownership of the tow vehicle does not change and regular renewals continue to be issued by the Board.

(2) Any tow vehicle used as a Heavy Duty Vehicle without and under-lift shall not be utilized as a primary tow vehicle for non-consent towing, but may be utilized by a non-consent towing business in conjunction with other services rendered as part of non-consent towing, provided, however, any usage in conjunction with non-consent towing shall have coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and Regulations and must display a current consent Tow Vehicle Safety Permit issued by the Board.

(3) Any tow vehicle used as a Medium Duty Tow Vehicle as defined by Rule 7.4 excluding rollback tow vehicles, shall be equipped with an under-lift device rated at no less than 6500 lbs. at full extension. Provided; however that the owner of a Medium Duty Tow Vehicle for which the Board issued a tow vehicle safety permit on or before the date of the enactment of this section shall be grand-fathered and shall be exempt from this requirement as long as ownership of the tow vehicle does not change and regular renewals continue to be issued by the Board.

(4) Any tow vehicle used as a Medium Duty Vehicle without and under-lift shall not be utilized as a primary tow vehicle for non-consent towing, but may be utilized by a non-consent towing business in conjunction with other services rendered as part of non-consent towing, provided, however, any usage in conjunction with non-consent towing shall have

coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and

Regulations and must display a current consent tow vehicle safety permit issued by the Board.

7.3 It shall be the responsibility of any vehicle immobilization, non-consent towing/storage, and/or consent towing business and his operators to use all of that business's towing-related equipment and/or vehicle immobilization related equipment knowledgeably and safely.

7.4 For purposes of these Regulations, tow vehicles as defined in these regulations shall be classified as follows:

(A) Gross Vehicle Weight Ratings:

Light Duty: 9,000 - 15,000 pounds GVWR.

Medium Duty: 15,001 - 33,000 pounds GVWR.

Heavy Duty: 33,001 pounds and over GVWR.

Provided, it is recommended that the owner or operator of any Light Duty, Medium Duty, or Heavy Duty tow vehicle, observe applicable gross vehicle weight ratings (GVWR) when transporting or attempting to transport, vehicles on public roadways of the State of Arkansas.

(B) Any vehicle used in conjunction with a trailer, dolly, or other separately hitched towing-related device to transport or otherwise facilitate the movement of vehicles on public roadways is not a "tow vehicle" as defined in A.C.A. 27-50-1202(10).

(1) Provided, a trailer, shall not be used to transport or otherwise facilitate the movement of vehicles on public roadways, except when in compliance of the following: Both the vehicle towing such trailer, and the trailer must be in compliance with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas State Highway Commission and Arkansas Department of Revenue Regulations applicable thereto, including but not limited to registration, lighting, and braking.

(2) The vehicle towing such trailer, shall have liability insurance covering injury

and/or damage meeting minimum financial responsibility laws of the State of Arkansas;

(3) The weight distribution on the vehicle towing a trailer,

and on the trailer shall be coordinated so that the combination is stable during transport. In the absence of evidence to the contrary, a combination of a vehicle towing a trailer, shall be considered stable when observing the following weight specifications:

- a. The laden weight of the vehicle towing a trailer shall not exceed the Gross Vehicle Weight Rating (GVWR) of that vehicle;
- b. The laden weight of the trailer shall not exceed the Gross Trailer Weight Rating (GTWR) of the trailer; and
- c. No axle of the vehicle towing such trailer, shall have weight in excess of the Gross Axle Weight Rating (GAWR) of that axle.

(4) A trailer, dolly, or other separately hitched towing-related device shall not be utilized as a primary tow vehicle for non-consent towing, but may be utilized by a non-consent towing business in conjunction with other services rendered as part of non-consent towing, provided, however, any usage in conjunction with non-consent towing shall have coverage in compliance with the insurance requirements of Rule 9.2 of these Rules and Regulations.

7.5 Any vehicle immobilization, non-consent towing/storage, and/or consent towing business that adds a tow vehicle and/or vehicle immobilization device into service shall, within ten (10) business days:

- (A) Notify the Board staff of the year, make and type (E.g., wrecker, rollback, hauler, etc.)
- (B) Send to the Board Staff from the licensee's insurance carrier an amended Certificate of Insurance reflecting the tow vehicle has been added to present coverage.
- (C) Have the vehicle inspected pursuant to Rule 6.3(b) of these Regulations.

(D) Submit to the Board staff a timely application for tow vehicle safety permit

and/or

(E) Submit to the Board staff a timely application for a tow vehicle wheel clamp safety permit.

7.6 All vehicle immobilization and non-consent towing/storage businesses shall use an invoice for each vehicle towed and/or immobilized, each invoice shall explain how all charges were calculated, separately itemizing all fees and charges to owner(s) and lien holders pursuant to A.C.A. 27-50-1208(b)(2), as now or hereafter amended, and shall furnish, upon request, the owner of the towed or immobilized vehicle, lien-holder, and/or their agent(s) with a duplicate of the said itemized statement, bill or invoice of all charges incurred.

7.7 Each vehicle immobilization device, used by vehicle immobilization and/or non-consent towing/storage business shall meet the following requirements:

A. Be in compliance with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas State Highway Commission and Arkansas Department of Revenue Regulations applicable thereto.

B. Have a valid tow vehicle wheel clamp safety permit issued by the Board for that vehicle immobilization device, to be displayed on said device.

7.8 Each vehicle immobilization device, as defined in these regulations, shall have the following:

A. The company name, phone numbers, and serial number of the vehicle immobilization and/or, non-consent towing/storage business displayed in a legible manner.

B. Be a high visibility color.

RULE 8: FEES

8.1 All fees collected under Arkansas Code Annotated 27-50-1201 et seq., as now or hereafter amended, and the Rules and Regulations promulgated there to shall be made payable

to the Arkansas Towing and Recovery Board. Said fees shall be deposited in the General Operating Fund of the Arkansas Towing and Recovery Board.

8.2 Each application for a vehicle immobilization, non-consent towing/storage, and/or consent towing business safety license shall be accompanied by a license fee of one hundred fifty dollars (\$150). Each application for a tow vehicle safety permit shall be accompanied by a fee of seventy-two (72) or six dollars (\$6.00) per permit, per month for remaining months to allow the renewal of a permit to expire at time of towing business safety license resulting in one annual renewal for each operator. Each application for a tow vehicle wheel clamp safety permit shall be accompanied by a fee of twenty-four dollars (\$24) or two (\$2) per permit, per month for the remaining months to allow the renewal of permit to expire at the time of the towing business safety license, resulting in one annual renewal for each operator. Lost or destroyed safety permits will require the purchase of replacement permits at the current permit fee. Once a towing business safety license, tow vehicle safety permit, and/or tow vehicle wheel clamp safety permit has been issued, fees are non-refundable.

8.3 The initial Towing Business Safety/Vehicle Immobilization Safety License issued to a towing/storage/vehicle immobilization company shall expire one year from the date of issuance, and annually thereafter, until such time the business ceases to operate or changes ownership. Licenses are not transferable from one business to another or from one owner to another.

8.4 A. The initial tow vehicle safety permit issued to a vehicle immobilization, non-consent towing/storage, and/or consent towing business for a designated tow vehicle shall expire one year from the month in which it was issued, or shall expire in the same month as the initial Towing Business Safety License issued, if applicable, and annually thereafter, until such time the tow vehicle for which the Permit was issued changes ownership or is otherwise removed from service by the business. Tow vehicle safety permits are not transferable from

one tow vehicle to another or from one owner of the tow vehicle to another.

8.5 A. The initial Tow vehicle wheel clamp safety permit issued to a vehicle immobilization and/or non-consent towing/storage business for a vehicle immobilization device shall expire one year from the month in which it was issued, or shall expire in the same month as the initial towing business safety license issued, if applicable, and annually thereafter, until such time the vehicle immobilization device for which the permit was issued changes ownership or is otherwise removed from service by the business. Tow vehicle wheel clamp safety permits are not transferable from one vehicle immobilization device to another or from one owner of the vehicle immobilization device to another.

8.6 The Director shall send renewal application(s) to each licensee and safety permit holder at least thirty (30) calendar days prior to expiration. Any license or safety permit for which a sufficient renewal application is received later than 4:30 p.m. on date of expiration is subject to fee for late filing in addition to the original filing fee. (For purposes of these Regulations, "sufficient applications" for license and safety permit are defined in Rule 6.3.) When a timely application for renewal of a license or safety permit is received by the Board, the existing license and permit subject to renewal shall not expire prior to review of the application by Board staff, provided,

A. Such application reviewed after expiration of a license or permit and found to be sufficient is not subject to fee for late renewal application filing.

B. Such application reviewed after expiration of a license or permit and found to be insufficient is subject to fee for late renewal application filing, effective upon review.

(1) The business will be notified in writing of any insufficiency(s).

(2) Penalty as provided in Rule 4.3(A)(B) will be assessed from date of notice of insufficiency(s) to the date a sufficient application is received by the Board.

8.76 Any licensee or safety permit holder who fails to submit to the Board a timely and

sufficient application for renewal of license and/or permit(s), and continues to work in the vehicle immobilization, non-consent towing/storage, and/or consent towing industry, shall be held liable as outlined in A.C.A. 27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, and Rules and Regulations promulgated by the Board pursuant thereto.

RULE 9: INSURANCE REQUIREMENTS

9.1 The provisions of Rule 9 shall apply to those businesses licensed by the Board to engage in vehicle immobilization, non-consent towing/storage, and/or consent towing and related services. All businesses licensed under this Act shall obtain, and keep in continuous effect, all insurance coverage required in Rule 9.2, as it applies. Evidence of said insurance shall be filed with the Board in the form of a valid Certificate of Insurance.

A. Said Certificate of Insurance shall be issued to the Arkansas Towing & Recovery Board at its current mailing address.

B. Said Certificate of Insurance shall have provisions for notice of cancellation or material change, as according to insurance policy.

C. Said Certificate of Insurance shall display the physical location of each non-consensual towing impound lot for which coverage is extended.

9.2 The minimum coverage provisions insuring the public from loss or damage that may arise to any person or property by reason of the operation of a vehicle immobilization, non-consent towing and/or storage business are as follows:

(A) Each tow vehicle shall have liability insurance covering injury and/or damage, except that to the towed vehicle, for which the tow truck owner is liable. Said coverage shall meet state and federal minimum financial responsibility laws for motor carriers (45CRF387.9).

(B) Each non-consent tow vehicle or consent tow vehicle, used in conjunction with non-consent towing, shall have cargo, on-hook, or similar type insurance in an amount not less

than Fifty Thousand Dollars (\$50,000). For purposes of this Rule, on-hook, cargo, or any similar term, is construed to include coverage for losses (property damage) to the vehicle(s) being towed, recovered, up-righted, or transported by the insured, or his agent, where the insured is liable, whether or not such loss is due to the negligence of the insured or his agent.

(C) Each non-consent towing business shall maintain liability insurance in an amount not less than Fifty Thousand Dollars (\$50,000) to cover losses from personal injury and/or property damage incurred in the area in which vehicles impounded by the business are stored. (Ex. Garagekeepers Legal Liability)

9.3 Each Licensee shall be responsible for maintaining on file with the Board a valid Certificate of Insurance reflecting current coverage as outlined in Rule 9.2.

9.4 Any Licensee who fails to meet the requirements of Rules 9.1, 9.2 or 9.3 shall have his license and/or permit(s) immediately suspended by the Board. The Director shall notify the Licensee by mail of the suspension, and shall immediately initiate formal hearing procedures.

9.5 A vehicle immobilization company will be responsible for any damage/liability incurred during the immobilization and subsequent tow and storage of immobilizes vehicle by a duly licensed and permitted nonconsent towing company.

9.6 A vehicle immobilization company shall be responsible to maintain a minimum of \$50,000 bond for any liable damage.

RULE 10: CHARGES FOR NOTIFICATIONS

10.1 All Licensees shall comply with the requirements for notification to owners and lien holders as provided by A.C.A. §27-50-1101(a)(3), § 27-50-1208 and §27-50-1209, as amended from time to time. Unless otherwise prescribed by law, any notice required to be given by a Licensee to the registered owner(s) and/or lienholder(s) shall be given to those persons or entities listed as owner(s) and /or lienholder(s) on the records of the Office of Motor

Vehicles, Arkansas Crime Information Center records, or the motor vehicle records of any other state if there is reasons to believe the vehicle may be registered in a state other than Arkansas.

10.1a Vehicle immobilization companies shall place a notification on the vehicle in a conspicuous area stating the following:

A. The vehicle has been immobilized;

B. The name, location, and local phone number of the company immobilizing vehicle;

C. A time limit of 48 hours before vehicle will be towed;

D. The name, location, and phone number of tow company removing the vehicle after the 48 hours has expired.

10.2 For purposes of the second notice to be given pursuant to Ark. Code Ann. §27-50-1209 not less than thirty (30) days from impoundment but at least fifteen (15) days prior to sale of an unclaimed vehicle, a License shall separately obtain the information as set for in Rule 10.1.

10.3 The charges for sending the notice(s), if any, shall not exceed twenty-five dollars (\$25) per notification. For the purposes of these regulations, the total number of notices required to be sent to the last registered owner(s) and any lien holder(s) of record pursuant to § 27-50-1208(b)(2) and §27-50-1209(d) after taking possession of a vehicle shall constitute a single notification.

10.4 For purposes of these regulations, the notification required to be made pursuant to Ark. Code Ann. §27-50-1208(b)(2) and §27-50-1209(d) each shall constitute a single notification.

Rule 11: Excessive Pricing Regulatory Factors

The Arkansas Towing and Recovery Board may consider the following factors in determining if the pricing is excessive or unnecessary under A.C.A § 27-50-1203(e)(1)(C), and (D).

1. Tow vehicle(s) required and size of tow vehicle(s);
2. Total time to accomplish recovery/tow;
3. Number of regular employees required to safely complete recovery/tow;
4. Number of extra people needed/used to effectively complete recovery/tow;
5. Special equipment required to recover or tow;
6. Location of vehicle recovered/towed;
7. Hazardous materials or cargo recovery involved in recovery/tow;
8. Comparison with reasonable prices in region;
9. Weather conditions;
10. Computation of days of storage: midnight to midnight is presumed to be a reasonable period;
11. Any other relevant information having a direct affect on the pricing of the recovery, towing, storage, and/or vehicle immobilization..

WHEREAS, it is recognized by the Arkansas Towing & Recovery Board the need for clarification of the definitions on the applicability for the towing industry regarding tow vehicle equipment, Consent and Non-consent license and permits, and

WHEREAS, it is recognized by the Arkansas Towing & Recovery Board the need for regulations for the vehicle immobilization services based on changes required by Acts of the 2013 Legislative Session,

NOW THEREFORE, it is hereby found by the Arkansas Towing & Recovery Board that these amendments to the Rules and Regulations of the Arkansas Towing & Recovery Board shall be effective the first day of the July, immediately following the adoption to prevent imminent peril to the public health, safety or welfare.