

# ARKANSAS REGISTER

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## Proposed Rule Cover Sheet

Secretary of State

John Thurston

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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_



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**How does the Rule deviate from the Act:** The rule gives specifics about posting notices on the website and the process or requirements for consent towing registration.

**Rule Based on a Rule From Different Jurisdictions:** ☐ Yes ☒ No **Jurisdictions:** \_\_\_\_\_

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**Short Summary of New Rule or Rule Changes:** (explain in greater detail in your executive summary)

- Amend the board's Rule 1, concerning definitions to add a definition for "repossession," "commercial purpose," and "personal use." The definition of "consent towing is amended to conform to Act 789 of 2021;
- Amend the board's Rule 2 to provide that the burden is on the owner of the tow vehicle to prove personal ownership of the vehicle being towed;
- Amend the board's Rule 6, concerning licenses and safety permits to establish the process and requirements for consent towing registration;
- Amend Rule 8 of the board, concerning fees, to provide the registration fee for consent-only tow service businesses is \$25 per Act 789 of 2021; and
- Creates a new rule, Rule 15, establishing the procedures and requirements for posting notices on the board's website pursuant to Act 794 of 2021.

**Applicable Federal Regulations:** ☐ Yes ☒ No **C.F.R. No:** \_\_\_\_\_

**Proposed Rule the Least Restrictive Alternative:** ☒ Yes ☐ No. **If not, why?** \_\_\_\_\_

**Does it Mirror Federal Regulations or Impose Additional Requirements:** Yes ☐ XNo

**Explain:** \_\_\_\_\_

**Note: In addition to these explanations, the Department/Agency seeking to promulgate this rule shall submit the attached executive summary. Failure to include the summary will result in the rule being denied.**

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### **CONTROVERSY**

**Rule Controversial:** ☐ Yes ☒ No **Act Controversial in Legislative Session:** ☐ Yes ☒ No

**Known Interested Parties:** Professional Towing Assoc & Responsible Tow Foundation

**Comments Made at Legislative Session:** Only the explanation of the bill by the sponsor

**Public Hearing** ☒ Yes ☐ No **Expect public comment from:** \_\_\_\_\_

**FINANCIAL IMPACT**

**Financial Impact:** ☐ Yes ☒ No **Total Impact: FY2020:** \_\_\_\_\_ **FY2021:** \_\_\_\_\_

**Impact Mitigated by Federal Funding:** ☐ Yes ☒ No **FY2020:** \_\_\_\_\_ **FY2021:** \_\_\_\_\_

**Reasons for Financial Impact:** Revenue Neutral

**FINAL CHECKLIST**

**Please note that the Governor's office will not begin the approval process of the foregoing rule if any of the following applicable documents are not enclosed in the order listed in a single PDF file.**

- ☐ Rule Request Form
- ☐ Executive Summary
- ☐ Mark-Up Version of the Proposed Rule
- ☐ Clean Version of the Proposed Rule
- ☐ BLR Questionnaire
- ☐ BLR Financial Impact Statement
- ☐ Copy of Act or Regulation



**Arkansas Department of Labor and Licensing**  
**Arkansas Towing & Recovery Board**  
7418 North Hills Blvd.  
North Little Rock, Arkansas 72116  
(501) 682-3801

**Asa Hutchinson**  
Governor

**Daryl Bassett**  
Secretary

**Steven Rogers**  
Director

**Proposed Rules of the Arkansas Towing and Recovery Board**  
January 21, 2022

**Purpose**

The Arkansas Towing and Recovery Board is seeking Governor Hutchinson's review and approval of proposed amendments to the board's rules. These proposals constitute amendments, as well as one new rule. The proposals are necessary due to enactments of the 93<sup>rd</sup> General Assembly.

**Background**

The Arkansas Towing and Recovery Board has rule-making authority pursuant to Arkansas Code §27-50-1203(e). This authority includes the adoption of rules for the registration of a person engaged in a consent-only towing business. Arkansas Code §27-50-1203(e)(1)(K). It also includes rules regarding the establishment of a website sponsored and managed by the board for posting certain required notices. Arkansas Code §27-50-1203(e)(1)(L).

The 2021 acts on which this rulemaking by the board is based are Act 789 and Act 794 of 2021.

**Key Points**

The proposed rules:

- Amend the board's Rule 1, concerning definitions to add a definition for "repossession," "commercial purpose," and "personal use." The definition of "consent towing" is amended to conform to Act 789 of 2021;
- Amend the board's Rule 2 to provide that the burden is on the owner of the tow vehicle to prove personal ownership of the vehicle being towed;
- Amend the board's Rule 6, concerning licenses and safety permits to establish the process and requirements for consent towing registration;
- Amend Rule 8 of the board, concerning fees, to provide the registration fee for consent-only tow service businesses is \$25 per Act 789 of 2021; and
- Creates a new rule, Rule 15, establishing the procedures and requirements for posting notices on the board's website pursuant to Act 794 of 2021.

**Discussion**

The rule changes are the result of legislative changes in 2021.

There are no anticipated costs to licensees or registrants, consumers, or the board with respect to these proposed amendments. Act 789 of 2021 reduced the cost to consent-only tow businesses by changing from a license to a registration with the corresponding fee reduction from \$150 to

\$25. Act 794 of 2021 will have some minor costs (usage fee) due to the requirement of having to post certain notices on the board's website.

**Recommendation**

The Arkansas Towing and Recovery Board and the Secretary of the Department of Labor and Licensing recommend approval of these proposed rules.

## ARKANSAS TOWING & RECOVERY BOARD RULES

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

### APPLICABILITY

- RULE 1: DEFINITIONS
- RULE 2 EXEMPTIONS AND OUT-OF-STATE TOW VEHICLES
- RULE 3: GENERAL ORGANIZATION OF THE BOARD
- RULE 4: POWERS OF THE BOARD
- RULE 5: HEARING PROVISIONS
- RULE 6: LICENSE AND TOW VEHICLE SAFETY PERMIT REQUIREMENTS
- RULE 7: EQUIPMENT REQUIREMENTS
- RULE 8: FEES
- RULE 9: INSURANCE REQUIREMENTS
- RULE 10: CHARGES FOR NOTIFICATION
- RULE 11: EXCESSIVE PRICE FACTORS
- RULE 12: AUTHORITY TO ISSUE CITATIONS
- RULE 13: SUSPENSION FROM LAW ENFORCEMENT NON-CONSENT  
ROTATION LIST
- RULE 14 ENHANCED TOW VEHICLE LICENSE FOR HEAVY DUTY NON-  
CONSENT ROTATION
- RULE 15 POSTING VEHICLES ON WEBSITE

## **APPLICABILITY**

These Rules promulgated by the Arkansas Towing & Recovery Board, pursuant to Act ~~1061 of 2014~~ 789 of 2021 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.

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

(4) 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.~~

(5) Tow vehicles used for noncommercial purposes; including without limitation tow vehicles used ;

(A) For personal use,

(B) For transporting historic, special interests or antique vehicles: or

(C) As a parade tow vehicle.



## **RULE 1: DEFINITIONS**

For purposes of these Rules 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.

**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 including the solicitation of tow vehicle services.

**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 or any other form of transportation which may not be titled or subject to registration.

**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**            **“TOW BUSINESS LICENSE”** hereinafter referred to shall mean a certificate issued annually by the Board entitling any person, individual, partnership, corporation, association, or other entity to engage in the towing business.

**1.7**            **“LICENSEE”** hereinafter referred to shall mean any person, individual, partnership, corporation, association, or other entity 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 licensee or their employee to recover, clean-up, 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 or a vehicle subject to impound or removal by law enforcement without the expressed or implied permission of the vehicle owner, operator, agent or person in charge of the vehicle.

**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.

A. Does not include repossession of a vehicle by the vehicle's lien holder, agent or other person working on behalf of the lien holder.

B. Does not allow the use of consent permitted tow vehicles to participate in law enforcement non-consent rotation or the towing and/or recovery of a vehicle at an accident.

**1.11**            **“TOW VEHICLE SAFETY PERMIT”** hereinafter referred to shall mean a decal issued annually by the Board to be affixed to the windshield of any tow vehicle operated by a licensed tow business displaying the year in which the permit is valid.

**1.12**            **“RECOVER/RECOVERY”** anything outside of the normal scope of a standard tow, to include the following: (each to be itemized on an invoice)

A. **“WINCHING”** additional use of cable and winch needed to recover or reposition a vehicle and for the purpose of invoicing, not to include cable and winch used to pull a vehicle up on rollback or trailer in a 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, unloading of freight, tarping, ~~or~~ securing vehicle parts and contents or other recovery related services.

**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**            **“ADMINISTRATIVE FEE** a fee charged for the ~~labor~~ time, clerical services and use of an office for the itemized invoicing of a recovery, tow, or storage bill and related processing. An administrative fee should reflect the effort needed to process a vehicle as required by law.

**1.15**            **“STANDARD TOW”** any tow of a vehicle subject to registration, removed from private property, accident scene, side of the roadway towed in a fashion regularly accepted as routine, to include a tow vehicle operator, preparation for the

tow, response time, 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 attach a wheel clamp or other industry recognized device used to temporarily render a vehicle immobile.

**1.22 "WHEEL CLAMP"** means a device attached to a wheel of a vehicle that is intended to render the vehicle immobile.

**1.23 "TOW BUSINESS" OR "TOWING BUSINESS"** a corporation or a business entity with an alternate DBA name, filed with the Secretary of State or a DBA (Doing Business As) properly filed with the county clerk (A.C.A. §4-70-203) and regulated by the Board to be used exclusively for the operation of a tow facility, vehicle immobilization company, or a storage facility which:

(A) Dispatches tow vehicles for non-consent or consent towing and repossession;

(B) Stores vehicles; and

(C) Conducts business with the general public;

(D) Located in the State of Arkansas and meeting the following criteria:

1.. A location easily accessible to the public and in compliance with all local state and federal regulations and ordinances: and

2. An appropriate and secure filing system for records: and

3. Clear and visible signage displaying the name on the business license issued by the Board:

(a) A minimum of four (4) feet by six (6) feet in size or meets the criteria established by a municipal zoning ordinance, subdivision regulation or building code: and

(b) Displays the name, physical address, a published telephone number of the towing company and hours of operation: and

4. Sufficient space to safely secure the vehicles and any personal property stored within.

**1.24**            **“CONSUMER COMPLAINT”** a complaint filed by a person with a vested interest as determined by the Board in the vehicle including without limitation and in accordance with the Arkansas Administrative Procedures Act the:

A. Owner of the towed vehicle or his or her agent

B. Lien holder of the vehicle

C. Company that insured the towed vehicle or is liable for the damages: or

D. Law enforcement agency.

**1.25**            **“OWNER PREFERENCE”** means the right of the owner, the owner’s agent or a competent occupant of a disabled or inoperable vehicle subject to non-consent towing, storage or recovery to request some responsible and reasonable person, gratuitous bailee, bailee for hire or properly licensed or permitted non-consent tow facility to take charge and care of the vehicle.

**1.26**            **“OWNER PREFERENCE COMPLAINT”** a complaint concerning a violation of subchapter ACA §27-50-1201 et seq. and the circumstances associated with owner preference and consent towing verses a non-consent tow may be reviewed by the board and subsequently filed with the Board (ACA §27-50-1221) by:

A. Vehicle owner

B. Lien holder

C. Insurance provider: or

D. Law enforcement officer.

**1.27** “**BUSINESS LICENSE NUMBER**” a five (5) digit number which will be assigned to each tow business which must be permanently affixed to any permitted tow vehicle in the following manner:

A. the Business License Number must be preceded by the letters ATRB;  
and

B. the letters NC must follow the five (5) digit number if the tow vehicle is permitted as non-consent or the letter C if the tow vehicle is permitted as consent; and

C. the business license number along with the letters must be placed in a conspicuous place near the business name on each side of the tow vehicle; and

D. the numbers and letters must be two inches (2”) in height and easily visible from a distance of fifty (50”) feet.

**1.28** “**UNATTENDED**” means any vehicle which is subject to non-consent towing and all of the rules and requirements to a non-consent tow shall apply.

**1.29** “**COMMERCIAL PURPOSES**” means towing, recovery or transporting of a vehicle that is associated with a business regardless of the current vehicles ownership status or whether charges were paid by a third party for services.

**1.30** “**PERSONAL USE**” means towing, recovery transporting of a vehicle that is not associated with a business and is not used for commercial purposes as defined in this section.

**1.31** “REPOSSESSION” means towing, storage, or recovery of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lien holder.



## **RULE 2: EXEMPTIONS AND OUT-OF-STATE TOW VEHICLES**

The Rules 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 obtained Federal Motor Carrier Safety Administration operating authority: and
- 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 only if;
    - (a) The wrecker or similar vehicle is requested by the owner or the operator of the vehicle to be towed.
    - (b) The vehicle is not being towed as a result of a collision that occurred within this state: and
    - (c) The vehicle is being towed in either direction across the border between Arkansas and a neighboring state or through Arkansas in transit to 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 their private affairs, a tow vehicle shall not be used to facilitate the movement of vehicles not owned by the owner of the vehicle or by an employee of the owner as defined in Applicability and Rule 1 of these rules. The burden shall be upon the owner of the tow vehicle to prove personal ownership of the vehicle being towed.

E. A wrecker or tow vehicle if the vehicle is licensed in an incorporated city or town in a state adjoining an Arkansas city or incorporated town that is divided by a state line and the city or town in the adjoining state is of greater population than the Arkansas city or town.

**RULE 6: LICENSE AND TOW VEHICLE SAFETY PERMIT REQUIREMENTS**

6.1 A tow business, storage facility, 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 Business License authorizing the business to engage in vehicle immobilization, non-consent towing/storage ~~and/or consent towing~~ and related services.

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

B. A consent tow service is required to obtain a consent registration and permit each tow vehicle through the board.

6.2 Any tow vehicle as defined in A.C.A. 27-50-1201 et seq. and these Rules which is not exempt under provisions of Rule 2, used for commercial purposes and is being operated on Arkansas's public roadways, is required to have a valid Tow Vehicle Safety Permit displayed in the lower left corner of the windshield and a business license or registration number permanently placed on both sides the tow vehicle under the business name issued by the Board.

A. Any tow vehicle used to provide non-consent towing and related services

is to display a non-consent Tow Business License Number and an annual Tow Vehicle Safety Permit issued by the Board. 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 consent ~~Tow Business License~~ Registration Number and an

annual Tow Vehicle Safety Permit issued by the Board. 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.~~

C. The Tow vehicle Safety Permit must be placed on the tow vehicle for which it is intended immediately upon receipt. Failure to comply with this rule could result in a civil penalty of up to \$5,000.00 and/or the suspension of revocation of tow vehicle permit.

6.3           The Director shall issue a tow business license, a consent registration, a permanent business license number and/or an annual tow vehicle 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 are met.

A. No License authorizing a business to engage, or to continue to engage, in 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 Rules, a sufficient application for a towing business safety License shall include:

(1) Business License Application provided by the Board 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 Rules ~~and~~ which must include:

- a. the physical address for which the tow business is licensed;
- b. the name or names of the owner;
- c. all tow vehicles used at that location; and,

(3) Fee as prescribed by the Board for a non-consent towing/storage, and/or consent Towing Business License.

(4) A copy of the current maximum rate schedule; (Note: acceptance of a copy of the rate sheet does not constitute or imply approval of fees or rates)

(5) Proof of compliance with all signage requirements:

- (a) Complaint notification process;
- (b) Exterior business location signage.
- (c) Tow rate schedule

(6) Other documents needed to comply with an Enhanced Non-Consent Heavy Duty Tow License found in Rule 14.

B.. No registration authorizing a business to engage, or to continue to engage, in

consent towing and related services shall be issued until a sufficient application is filed with the Board. For purposes of these Rules, a sufficient application for a towing business safety License shall include:

(1) Registration Form provided by the Board 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 Rules which must include:

a. the physical address for which the tow business is registered;

b. the name or names of the owner;

c. all tow vehicles used at that location; and,

(3) Fee as prescribed by the Board for a consent registration.

B.C. No tow vehicle safety permit authorizing operation of a tow vehicle on

public roadways in the State of Arkansas shall be issued until a complete Tow Vehicle Safety Permit application is filed with the Board. For purposes of these Rules a complete Tow Vehicle Safety Permit application shall include:

(1) An updated business license application if needed

(2) Completed Inspection Form approved by the Board as part of the application process, including Rule 7 equipment standards, and that the tow vehicle was examined by a certified law enforcement officer, municipal, county, or state or Board investigator who so verifies by his/her signature on the Tow Vehicle Safety Inspection Form, along with badge number and agency that the tow vehicle meets all of the requirements noted on the form.

(a) If the tow vehicle fails any part of the inspection deficient items must be noted on the Tow Vehicle Safety Inspection Form and forwarded to the Arkansas Towing and Recovery Board:

(b) All items noted as deficient must be corrected and re-inspected by the same law enforcement agency or a Board investigator before a permit can be issued for that tow vehicle.

(3) Pictures, clearly 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.

€. D. No vehicle immobilization business license authorizing the use of vehicle immobilization in the State of Arkansas shall be issued until a sufficient application is filed with the Board. For purposes of these Rules a sufficient shall include:

(1) Tow Business License Application provided by the Board as part of the application completed in its entirety and vehicle immobilization

devise inspection form(s) (Up to 10 immobilization devices can be used on one (1) inspection form for license.)

(2) Pictures showing the following views

(a) The vehicle immobilization devices 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;

~~D.E.~~ 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.

~~E. F.~~ It shall be the responsibility of the Licensee to post ~~Certificate of License~~ the non-consent Tow Business License at the place of business and in a prominent location, viewable by the public.

~~F.G.~~ It shall be the responsibility of the Licensee to affix the tow vehicle safety permit to the lower portion, driver's side, of the windshield in the tow vehicle for which the Board issued the Permit immediately upon receipt.

~~G. H.~~ It shall be the responsibility of the non-consent Licensee to post a sign notifying customers of the consumer complaint process as required by A.C.A. 27-50-1217.

6.4 Business licenses, business license numbers, consent only registrations and tow vehicle safety permits are nontransferable, from one owner to another, from one tow vehicle to another.



A. If a Licensee ceases to be involved in the towing business or vehicle immobilization business, the business 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 sells, disposes of or 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 non-consent towing business/vehicle immobilization service safety licensee who takes a vehicle immobilization device out of service 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~~ registration, business license number and/or a tow vehicle 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 service.

A. Each separate business location of a vehicle

immobilization, non-consent towing/storage, and/or consent only towing business shall require a separate license or consent only registration.

B. The name in which a vehicle immobilization, non-consent towing/storage, and/or consent only 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, and every tow vehicle safety permit holder to notify the Board staff in writing immediately upon any change in name of business, mailing address telephone number 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) 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 ~~only towing business license~~ registration and/or tow vehicle 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 8: FEES**

8.1 All fees collected under Arkansas Code Annotated 27-50-1201 et seq., as now or hereafter amended, and the Rules 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 tow ~~and/or consent towing business license~~ shall be accompanied by a license fee of one hundred fifty dollars (\$150).

8.3 Each application for a consent only registration shall be accompanied by a registration fee of twenty-five (\$25.00) dollars.

~~8.3~~ 8.4 Each application for a tow vehicle safety permit shall be accompanied by a fee of:  
seventy-two (\$72.00) dollars for each light duty tow vehicle or each medium duty rollback or medium duty tow vehicle or heavy-duty tow vehicle.

Tow vehicle safety permit fees may be prorated to correspond with the expiration date of a current tow business license.

~~8.4~~ 8.5 Lost or destroyed tow vehicle safety permits will require the purchase of replacement permits at a permit fee set by the tow Board. Once a towing business safety license, and/or tow vehicle safety permit has been issued fees are non-refundable.

~~8.5~~ 8.6 The initial Towing Business License issued to a towing/storage/vehicle immobilization company shall expire one year from the month 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.

~~8.6~~ 8.7 A. The initial tow vehicle safety permit issued to a non-consent towing/storage or consent towing business for a designated tow vehicle shall expire one year from the month in which it was issued. Tow vehicle safety permits are not transferable from one tow vehicle to another or from one owner of the tow vehicle to another.

~~8.7~~ 8.8 The Director shall send renewal notice to each licensee, holder of a consent only registration and tow vehicle safety permit holder at least thirty (30) calendar days prior to expiration. Any license or tow vehicle 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 Rules complete applications for license, registration and tow vehicle safety permit are defined in Rule 6.3.) When a timely application for renewal of a license or tow vehicle 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, registration 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 complete application is received by the Board.

~~8.8~~ 8.9 Any licensee or tow vehicle 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 promulgated by the Board pursuant thereto.

## **RULE 15 . POSTING VEHICLES ON WEBSITE**

15.1 All vehicles, trailers and equipment towed, recovered or stored that have not been claimed;

A. By the owner within forty-five (45) days must be offered for sale through a non-judicial public sale. (ACA §27-50-1210); or

B. A vehicle that is impounded, towed, recovered or stored which has not been properly registered with a state and/or no ownership information may be found must be advertised in accordance with this rule.

15.2 In addition to the advertising requirements requiring publication of vehicles, trailers and equipment in a newspaper of general circulation the same must simultaneously be posted on the tow board website, including;

A. Vehicles, trailers and equipment which have been impounded and no owner or registration information can be found either through a thorough search of the vehicle, law enforcement, vehicle identification number or the Arkansas Office of Motor Vehicle licensing database.

1. This post must occur on or before the 10<sup>th</sup> business day after the vehicle, trailer or equipment was towed;

2. All posts on the tow board website shall follow the template prescribed and must be filled out completely;

3. Usage fees must be paid at the time the items are posted in accordance with Rule 8 of these rules;

4. Failure to post items meeting the conditions noted above may result in civil penalties of up to five-thousand (5,000) dollars, suspension or revocation of tow business license or both.

B. Any and all vehicles scheduled for a non-judicial public sale must be posted on the tow board website in addition to the required newspaper posting at least fifteen (15) days before the sale.

1. All posts on the tow board website shall follow the template prescribed and must be filled out completely;

2. Usage fees must be paid at the time the items are posted in accordance with Rule 8 of these rules;

3. Failure to post items meeting the conditions noted above may result in civil penalties of up to five-thousand (5,000) dollars, suspension or revocation of tow business license or both.

15.3 The online template must include the following items;

A. Date and time of sale

B. Company name and tow business license number

C. The address of the facility where the non-judicial public sale will occur including the city and county

D. Type of sale (Auction, written bids, online, etc.)

E. Type and description of item to be offered for sale. (Vehicle, motorcycle, trailer, equipment, etc.)



F. A thorough description including, if applicable year, make, model, vehicle identification or serial number, license plate number, color, reason for impounding, where the impound occurred, length of trailer, type of equipment, type of equipment, other items which may be included on the template or in the description which may help identify ownership.

G. Any special or unusual identifying marks or characteristics which may be helpful in determining ownership.

15.4 The search engine for a user or a vehicle, trailer or equipment owner will include:

A. The last eight (8) digits of the vehicle identification or serial number;

B. Make

C. Model

D. Year, and

E. the county where the item was impounded.

15.5 Any person claiming ownership of a vehicle, trailer or piece of equipment must provide proof of ownership and pay all applicable tow, recovery and storage fees before taking possession of the item.

15.6 A tow company must be licensed through the Arkansas Towing & Recovery Board operating with a current, active tow business license and all civil penalties must be paid before posting a vehicle, trailer or piece of equipment on the website.

15.7 Consumes and law enforcement officers may use the website without limitation and at no cost.

15.8 A company (such as a finance institution) may contract with the tow board to develop a program that would allow the use of the database to automatically identify specific vehicles for a monthly fee with the use

# ARKANSAS TOWING & RECOVERY BOARD RULES

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

## APPLICABILITY

- RULE 1: DEFINITIONS
- RULE 2 EXEMPTIONS AND OUT-OF-STATE TOW VEHICLES
- RULE 3: GENERAL ORGANIZATION OF THE BOARD
- RULE 4: POWERS OF THE BOARD
- RULE 5: HEARING PROVISIONS
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- RULE 8: FEES
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- RULE 12: AUTHORITY TO ISSUE CITATIONS
- RULE 13: SUSPENSION FROM LAW ENFORCEMENT NON-CONSENT  
ROTATION LIST
- RULE 14 ENHANCED TOW VEHICLE LICENSE FOR HEAVY DUTY NON-  
CONSENT ROTATION
- RULE 15 POSTING VEHICLES ON WEBSITE

## **APPLICABILITY**

These Rules promulgated by the Arkansas Towing & Recovery Board, pursuant to Act 789 of 2021 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.

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

(4) A person is “hired to tow” if that person operates a tow vehicle(s) for compensation, consideration or commercial purposes,

(5) Tow vehicles used for noncommercial purposes; including without limitation tow vehicles used;

(A) For personal use,

(B) For transporting historic, special interests or antique vehicles: or

(C) As a parade tow vehicle.

## **RULE 1: DEFINITIONS**

For purposes of these Rules 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.

**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 including the solicitation of tow vehicle services.

**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 or any other form of transportation which may not be titled or subject to registration.

**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**                **“TOW BUSINESS LICENSE”** hereinafter referred to shall mean a certificate issued annually by the Board entitling any person, individual, partnership, corporation, association, or other entity to engage in the towing business.

**1.7**                **“LICENSEE”** hereinafter referred to shall mean any person, individual, partnership, corporation, association, or other entity 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 licensee or their employee to recover, clean-up, 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 or a vehicle subject to impound or removal by law enforcement without the expressed or implied permission of the vehicle owner, operator, agent or person in charge of the vehicle.

**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.

A. Does not include repossession of a vehicle by the vehicle's lien holder, agent or other person working on behalf of the lien holder.

B. Does not allow the use of consent permitted tow vehicles to participate in law enforcement non-consent rotation or the towing and/or recovery of a vehicle at an accident.

**1.11**            **“TOW VEHICLE SAFETY PERMIT”** hereinafter referred to shall mean a decal issued annually by the Board to be affixed to the windshield of any tow vehicle operated by a licensed tow business displaying the year in which the permit is valid.

**1.12**            **“RECOVER/RECOVERY”** anything outside of the normal scope of a standard tow, to include the following: (each to be itemized on an invoice)

A. **“WINCHING”** additional use of cable and winch needed to recover or reposition a vehicle and for the purpose of invoicing, not to include cable and winch used to pull a vehicle up on rollback or trailer in a 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, unloading of freight, tarping, securing vehicle parts and contents or other recovery related services.

**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**            **“ADMINISTRATIVE FEE** a fee charged for the ~~labor~~ time, clerical services and use of an office for the itemized invoicing of a recovery, tow, or storage bill and related processing. An administrative fee should reflect the effort needed to process a vehicle as required by law.

**1.15**            **“STANDARD TOW”** any tow of a vehicle subject to registration, removed from private property, accident scene, side of the roadway towed in a fashion regularly accepted as routine, to include a tow vehicle operator, preparation for the

tow, response time, 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 attach a wheel clamp or other industry recognized device used to temporarily render a vehicle immobile.

**1.22 "WHEEL CLAMP"** means a device attached to a wheel of a vehicle that is intended to render the vehicle immobile.

**1.23 "TOW BUSINESS" OR "TOWING BUSINESS"** a corporation or a business entity with an alternate DBA name, filed with the Secretary of State or a DBA (Doing Business As) properly filed with the county clerk (A.C.A. §4-70-203) and regulated by the Board to be used exclusively for the operation of a tow facility, vehicle immobilization company, or a storage facility which:

(A) Dispatches tow vehicles for non-consent or consent towing and repossession;

(B) Stores vehicles; and

(C) Conducts business with the general public;

(D) Located in the State of Arkansas and meeting the following criteria:

1.. A location easily accessible to the public and in compliance with all local state and federal regulations and ordinances: and

2. An appropriate and secure filing system for records: and

3. Clear and visible signage displaying the name on the business license issued by the Board:

(a) A minimum of four (4) feet by six (6) feet in size or meets the criteria established by a municipal zoning ordinance, subdivision regulation or building code: and

(b) Displays the name, physical address, a published telephone number of the towing company and hours of operation: and

4. Sufficient space to safely secure the vehicles and any personal property stored within.

**1.24**            **“CONSUMER COMPLAINT”** a complaint filed by a person with a vested interest as determined by the Board in the vehicle including without limitation and in accordance with the Arkansas Administrative Procedures Act the:

A. Owner of the towed vehicle or his or her agent

B. Lien holder of the vehicle

C. Company that insured the towed vehicle or is liable for the damages: or

D. Law enforcement agency.

**1.25**            **“OWNER PREFERENCE”** means the right of the owner, the owner’s agent or a competent occupant of a disabled or inoperable vehicle subject to non-consent towing, storage or recovery to request some responsible and reasonable person, gratuitous bailee, bailee for hire or properly licensed or permitted non-consent tow facility to take charge and care of the vehicle.

**1.26**            **“OWNER PREFERENCE COMPLAINT”** a complaint concerning a violation of subchapter ACA §27-50-1201 et seq. and the circumstances associated with owner preference and consent towing verses a non-consent tow may be reviewed by the board and subsequently filed with the Board (ACA §27-50-1221) by:

A. Vehicle owner

B. Lien holder

C. Insurance provider: or

D. Law enforcement officer.

**1.27** “**BUSINESS LICENSE NUMBER**” a five (5) digit number which will be assigned to each tow business which must be permanently affixed to any permitted tow vehicle in the following manner:

A. the Business License Number must be preceded by the letters ATRB;  
and

B. the letters NC must follow the five (5) digit number if the tow vehicle is permitted as non-consent or the letter C if the tow vehicle is permitted as consent; and

C. the business license number along with the letters must be placed in a conspicuous place near the business name on each side of the tow vehicle; and

D. the numbers and letters must be two inches (2”) in height and easily visible from a distance of fifty (50”) feet.

**1.28** “**UNATTENDED**” means any vehicle which is subject to non-consent towing and all of the rules and requirements to a non-consent tow shall apply.

**1.29** “**COMMERCIAL PURPOSES**” means towing, recovery or transporting of a vehicle that is associated with a business regardless of the current vehicles ownership status or whether charges were paid by a third party for services.

**1.30** “**PERSONAL USE**” means towing, recovery transporting of a vehicle that is not associated with a business and is not used for commercial purposes as defined in this section.

**1.31   “REPOSSESSION”** means towing, storage, or recovery of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lien holder.

## **RULE 2: EXEMPTIONS AND OUT-OF-STATE TOW VEHICLES**

The Rules 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 obtained Federal Motor Carrier Safety Administration operating authority: and

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 only if;

(a) The wrecker or similar vehicle is requested by the owner or the operator of the vehicle to be towed.

(b) The vehicle is not being towed as a result of a collision that occurred within this state: and

(c) The vehicle is being towed in either direction across the border between Arkansas and a neighboring state or through Arkansas in transit to 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 their private affairs, a tow vehicle shall not be used to facilitate the movement of vehicles not owned by the owner of the vehicle or by an employee of the owner as defined in Applicability and Rule 1 of these rules. The burden shall be upon the owner of the tow vehicle to prove personal ownership of the vehicle being towed.

E. A wrecker or tow vehicle if the vehicle is licensed in an incorporated city or town in a state adjoining an Arkansas city or incorporated town that is divided by a state line and the city or town in the adjoining state is of greater population than the Arkansas city or town.

**RULE 6: LICENSE AND TOW VEHICLE SAFETY PERMIT REQUIREMENTS**

6.1 A tow business, storage facility, vehicle immobilization company providing vehicle immobilization, non-consent towing/storage is required to obtain from the Board, and renew annually, a Tow Business License authorizing the business to engage in vehicle immobilization, non-consent towing/storage and related services.

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

B. A consent tow service is required to obtain a consent registration and permit each tow vehicle through the board.

6.2 Any tow vehicle as defined in A.C.A. 27-50-1201 et seq. and these Rules which is not exempt under provisions of Rule 2, used for commercial purposes and is being operated on Arkansas's public roadways, is required to have a valid Tow Vehicle Safety Permit displayed in the lower left corner of the windshield and a business license or registration number permanently placed on both sides the tow vehicle under the business name issued by the Board.

A. Any tow vehicle used to provide non-consent towing and related services

is to display a non-consent Tow Business License Number and an annual Tow Vehicle Safety Permit issued by the Board. 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 consent Registration Number and an annual Tow Vehicle

Safety Permit issued by the Board. Such vehicle shall not be used to provide non-consent towing and related services

C. The Tow vehicle Safety Permit must be placed on the tow vehicle for which it is intended immediately upon receipt. Failure to comply with this rule could result in a civil penalty of up to \$5,000.00 and/or the suspension of revocation of tow vehicle permit.

6.3           The Director shall issue a tow business license, a consent registration, a permanent business license number and/or an annual tow vehicle 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 are met.

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

(1) Business License Application provided by the Board 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 Rules ~~and~~ which must include:

a. the physical address for which the tow business is licensed;



b. the name or names of the owner;

c. all tow vehicles used at that location; and,

(3) Fee as prescribed by the Board for a non-consent towing/storage, and/or consent Towing Business License.

(4) A copy of the current maximum rate schedule; (Note: acceptance of a copy of the rate sheet does not constitute or imply approval of fees or rates)

(5) Proof of compliance with all signage requirements:

(a) Complaint notification process;

(b) Exterior business location signage.

(c) Tow rate schedule

(6) Other documents needed to comply with an Enhanced Non-Consent Heavy Duty Tow License found in Rule 14.

B. No registration authorizing a business to engage, or to continue to engage, in

consent towing and related services shall be issued until a sufficient application is filed with the Board. For purposes of these Rules, a sufficient application for a towing business safety License shall include:

(1) Registration Form provided by the Board 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 Rules which must include:

a. the physical address for which the tow  
business is registered;

b. the name or names of the owner;

c. all tow vehicles used at that location; and,

(3) Fee as prescribed by the Board for a consent  
registration.

C. No tow vehicle safety permit authorizing operation of a tow vehicle on  
public roadways in the State of Arkansas shall be issued until a complete Tow  
Vehicle Safety Permit application is filed with the Board. For purposes of these  
Rules a complete Tow Vehicle Safety Permit application shall include:

(1) An updated business license application if needed

(2) Completed Inspection Form approved by the Board as part of  
the application process, including Rule 7 equipment standards, and that the tow  
vehicle was examined by a certified law enforcement officer, municipal, county, or  
state or Board investigator who so verifies by his/her signature on the Tow Vehicle  
Safety Inspection Form, along with badge number and agency that the tow vehicle  
meets all of the requirements noted on the form.

(a) If the tow vehicle fails any part of the inspection deficient  
items must be noted on the Tow Vehicle Safety Inspection Form and forwarded to the  
Arkansas Towing and Recovery Board:

(b) All items noted as deficient must be corrected and re-  
inspected by the same law enforcement agency or a Board investigator before a  
permit can be issued for that tow vehicle.

(3) Pictures clearly 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.

D. No vehicle immobilization business license authorizing the use of vehicle immobilization in the State of Arkansas shall be issued until a sufficient application is filed with the Board. For purposes of these Rules a sufficient shall include:

(1) Tow Business License Application provided by the Board as part of the application completed in its entirety and vehicle immobilization device inspection form(s) (Up to 10 immobilization devices can be used on one (1) inspection form for license.)

(2) Pictures showing the following views

(a) The vehicle immobilization devices 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;

E. 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.

F. It shall be the responsibility of the Licensee to post the non-consent Tow Business License at the place of business and in a prominent location, viewable by the public.

G. It shall be the responsibility of the Licensee to affix the tow vehicle safety permit to the lower portion, driver's side, of the windshield in the tow vehicle for which the Board issued the Permit immediately upon receipt.

H. It shall be the responsibility of the non-consent Licensee to post a sign notifying customers of the consumer complaint process as required by A.C.A. 27-50-1217.

6.4 Business licenses, business license numbers, consent only registrations and tow vehicle safety permits are nontransferable, from one owner to another, from one tow vehicle to another.

A. If a Licensee ceases to be involved in the towing business or vehicle immobilization business, the business 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 sells, disposes of or 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 non-consent towing business/vehicle immobilization service safety licensee who takes a vehicle immobilization device out of service 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 registration, business license number and/or a tow vehicle 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 service.

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

B. The name in which a vehicle immobilization, non-consent towing/storage, and/or consent only 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, and every tow vehicle safety permit holder to notify the Board staff in writing immediately upon any change in name of business, mailing address telephone number 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) 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, or consent only registration and/or tow vehicle 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 8: FEES**

8.1 All fees collected under Arkansas Code Annotated 27-50-1201 et seq., as now or hereafter amended, and the Rules 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 tow shall be accompanied by a license fee of one hundred fifty dollars (\$150).

8.3 Each application for a consent only registration shall be accompanied by a registration fee of twenty-five (\$25.00) dollars.

8.4 Each application for a tow vehicle safety permit shall be accompanied by a fee of seventy-two (\$72.00) dollars for each light duty tow vehicle or each medium duty rollback or medium duty tow vehicle or heavy-duty tow vehicle.

Tow vehicle safety permit fees may be prorated to correspond with the expiration date of a current tow business license.

8.5 Lost or destroyed tow vehicle safety permits will require the purchase of replacement permits at a permit fee set by the tow Board. Once a towing business safety license, and/or tow vehicle safety permit has been issued fees are non-refundable.

8.6 The initial Towing Business License issued to a towing/storage/vehicle immobilization company shall expire one year from the month 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.

8.7           A. The initial tow vehicle safety permit issued to a non-consent towing/storage or consent towing business for a designated tow vehicle shall expire one year from the month in which it was issued. Tow vehicle safety permits are not transferable from one tow vehicle to another or from one owner of the tow vehicle to another.

8.8           The Director shall send renewal notice to each licensee, holder of a consent only registration and tow vehicle safety permit holder at least thirty (30) calendar days prior to expiration. Any license or tow vehicle 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 Rules complete applications for license, registration and tow vehicle safety permit are defined in Rule 6.3.) When a timely application for renewal of a license or tow vehicle 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, registration 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 complete application is received by the Board.

8.9 Any licensee or tow vehicle 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 promulgated by the Board pursuant thereto.

## **RULE 15 . POSTING VEHICLES ON WEBSITE**

15.1 All vehicles, trailers and equipment towed, recovered or stored that have not been claimed;

A, By the owner within forty-five (45) days must be offered for sale through a non-judicial public sale. (ACA §27-50-1210); or

B. A vehicle that is impounded, towed, recovered or stored which has not been properly registered with a state and/or no ownership information may be found must be advertised in accordance with this rule.

15.2 In addition to the advertising requirements requiring publication of vehicles, trailers and equipment in a newspaper of general circulation the same must simultaneously be posted on the tow board website, including;

A, Vehicles, trailers and equipment which have been impounded and no owner or registration information can be found either through a thorough search of the vehicle, law enforcement, vehicle identification number or the Arkansas Office of Motor Vehicle licensing database.

1. This post must occur on or before the 10<sup>th</sup> business day after the vehicle, trailer or equipment was towed;

2. All posts on the tow board website shall follow the template prescribed and must be filled out completely;

3. Usage fees must be paid at the time the items are posted in accordance with Rule 8 of these rules;

4. Failure to post items meeting the conditions noted above may result in civil penalties of up to five-thousand (5,000) dollars, suspension or revocation of tow business license or both.

B. Any and all vehicles scheduled for a non-judicial public sale must be posted on the tow board website in addition to the required newspaper posting at least fifteen (15) days before the sale.

1. All posts on the tow board website shall follow the template prescribed and must be filled out completely;

2. Usage fees must be paid at the time the items are posted in accordance with Rule 8 of these rules;

3. Failure to post items meeting the conditions noted above may result in civil penalties of up to five-thousand (5,000) dollars, suspension or revocation of tow business license or both.

15.3 The online template must include the following items;

A. Date and time of sale

B. Company name and tow business license number

C. The address of the facility where the non-judicial public sale will occur including the city and county

D. Type of sale (Auction, written bids, online, etc.)

E. Type and description of item to be offered for sale. (Vehicle, motorcycle, trailer, equipment, etc.)

F. A thorough description including, if applicable year, make, model, vehicle identification or serial number, license plate number, color, reason for impounding, where the impound occurred, length of trailer, type of equipment, type of equipment, other items which may be included on the template or in the description which may help identify ownership.

G. Any special or unusual identifying marks or characteristics which may be helpful in determining ownership.

15.4 The search engine for a user or a vehicle, trailer or equipment owner will include;

A. The last eight (8) digits of the vehicle identification or serial number;

B. Make

C. Model

D. Year, and

E. the county where the item was impounded.

15.5 Any person claiming ownership of a vehicle, trailer or piece of equipment must provide proof of ownership and pay all applicable tow, recovery and storage fees before taking possession of the item.

15.6 A tow company must be licensed through the Arkansas Towing & Recovery Board operating with a current, active tow business license and all civil penalties must be paid before posting a vehicle, trailer or piece of equipment on the website.

15.7 Consumers and law enforcement officers may use the website without limitation and at no cost.

15.8 A company (such as a finance institution) may contract with the tow board to develop a program that would allow the use of the database to automatically identify specific vehicles for a monthly fee with the use

**QUESTIONNAIRE**  
**FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY \_\_\_\_\_  
DIVISION \_\_\_\_\_  
DIVISION DIRECTOR \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
PHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ E-MAIL \_\_\_\_\_  
NAME OF PRESENTER AT COMMITTEE MEETING \_\_\_\_\_  
PRESENTER E-MAIL \_\_\_\_\_

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5th Floor  
Little Rock, AR 72201

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1. What is the short title of this rule?

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

**5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.**

**Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.**

**Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”**

**6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.**

**7. What is the purpose of this proposed rule? Why is it necessary?**

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

\_\_\_\_\_

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

\_\_\_\_\_

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. \_\_\_\_\_

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). \_\_\_\_\_

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.



## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
PERSON COMPLETING THIS STATEMENT \_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ EMAIL: \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

### **SHORT TITLE OF THIS RULE**

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes      No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

# **SUMMARY OF PROPOSED AMENDMENTS TO THE ADMINISTRATIVE RULES REGARDING THE ARKANSAS TOWING & RECOVERY BOARD**

June 9, 2022

The purpose and necessity of the proposed amendment is to: 1) comply with changes from the 2021 legislative session; 2) create a new rule; and 3) make grammatical and stylistic changes.

The proposed amendments would accomplish the following:

- 1.) Amend the board's Rule 1, concerning definitions to add a definition for "repossession," "commercial purpose," and "personal use." The definition of "consent towing" is amended to conform to Act 789 of 2021;
- 2.) Amend the board's Rule 2 to provide that the burden is on the owner of the tow vehicle to prove personal ownership of the vehicle being towed;
- 3.) Amend the board's Rule 6, concerning licenses and safety permits to establish the process and requirements for consent towing registration;
- 4.) Amend Rule 8 of the board, concerning fees, to provide the registration fee for consent-only tow service businesses is \$25 per Act 789 of 2021; and
- 5.) Creates a new rule, Rule 15, establishing the procedures and requirements for posting notices on the board's website pursuant to Act 794 of 2021.

## Steven Rogers

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**From:** legalads@arkansasonline.com  
**Sent:** Friday, June 10, 2022 12:32 PM  
**To:** Steven Rogers  
**Subject:** Re: Legal Ads

Thanks, Both will run Sun 6/12, Mon 6/13, and Tues 6/14.

Gregg Sterne, Legal Advertising  
Arkansas Democrat-Gazette  
legalads@arkansasonline.com

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**From:** "Steven Rogers" <Steven.Rogers@arkansas.gov>  
**To:** legalads@arkansasonline.com  
**Sent:** Friday, June 10, 2022 11:05:13 AM  
**Subject:** Legal Ads

Please find two (2) legal ads to run in the newspaper for the three (3) consecutive days. It is my understanding you will notify me on the days the ads will run.

Thank you for your assistance.

Steven Rogers  
Director  
Arkansas Towing & Recovery Board  
7418 North Hills Boulevard  
North Little Rock, Arkansas 72116  
Direct Line . 501.682.3604  
Cell Number . 501827.4212  
Steven.Rogers@arkansas.gov

## LEGAL NOTICE

The Arkansas Towing and Recovery Board of the Arkansas Department of Labor and Licensing will be accepting public comment on proposed amendments to the administrative rules of the Arkansas Towing and Recovery Board through Monday, July 11, 2022 at 1:00 P.M. the rules would be amended as follows: 1) Amend the board's Rule 1, concerning definitions to add a definition for "repossession," "commercial purpose," and "personal use." The definition of "consent towing" is amended to conform to Act 789 of 2021; 2) Amend the board's Rule 2 to provide that the burden is on the owner of the tow vehicle to prove personal ownership of the vehicle being towed; 3) Amend the board's Rule 6, concerning licenses and safety permits to establish the process and requirements for consent towing registration; 4) Amend Rule 8 of the board, concerning fees, to provide the registration fee for consent-only tow service businesses is \$25 per Act 789 of 2021; and 5) Creates a new rule, Rule 15, establishing the procedures and requirements for posting notices on the board's website pursuant to Act 794 of 2021.

Written comments will be accepted through Monday, July 11, 2022 at 1:00 P.M. by Arkansas Towing and Recovery board at 7418 North Hills Boulevard, North Little Rock, Arkansas 72116. A copy of the proposed amendments may be obtained by calling the Arkansas Towing and Recovery board at 501/682-3801. A copy of proposed amendments can also be accessed on the Arkansas Towing & Recovery Board website at:

<http://www.artowing.arkansas.gov>

Or the Secretary of States website at:

[http://www.sos.arkansas.gov/rules\\_and\\_regs/index.php/rules/search/new](http://www.sos.arkansas.gov/rules_and_regs/index.php/rules/search/new)

Steven Rogers, Director  
Arkansas Towing and Recovery Board  
Department of Labor and Licensing

**This Legal Notice will be published in the Arkansas Democrat-Gazette from Sunday, June 12, 2022 through Tuesday, June 14, 2022.**