

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/19/15
A Bill

SENATE BILL 893

5 By: Senator Files
6

7 **For An Act To Be Entitled**

8 AN ACT TO ESTABLISH A PROCEDURE FOR REMOVING A TOW
9 COMPANY FROM THE NON-CONSENT ROTATION LIST; TO
10 AUTHORIZE CERTAIN PERSONS TO ISSUE CITATIONS FOR
11 VIOLATIONS OF THE TOWING LAWS; AND FOR OTHER
12 PURPOSES.
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15 **Subtitle**

16 TO ESTABLISH A PROCEDURE FOR REMOVING A
17 TOW COMPANY FROM THE NON-CONSENT ROTATION
18 LIST; AND TO AUTHORIZE CERTAIN PERSONS TO
19 ISSUE CITATIONS FOR VIOLATIONS OF THE
20 TOWING LAWS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code Title 27, Chapter 50, Subchapter 12, is
26 amended to add a new section to read as follows:

27 27-50-1217. Suspension from Law Enforcement Non-Consent Rotation List.

28 (a)(1) The Arkansas Towing and Recovery Board shall promulgate rules
29 to establish a complaint process for the removal or suspension of a tow
30 company from the non-consent rotation list or imposition of fines for
31 violation of a recognized non-consent rotation policy upon receiving a
32 request from a law enforcement agency.

33 (2) The board shall consider the following in making the
34 determination to remove or suspend a tow company from the non-consent
35 rotation list;

36 (A) Whether the law enforcement agency's non-consent



1 rotation policy is reasonable; and

2 (B) The severity of the violation.

3 (3) The board may issues fines in addition to removal or
4 suspension of a tow company from the non-consent rotation list.

5 (4)(A) A tow company may be suspended from the non-consent
6 rotation list for a first time violation of the law enforcement agency's
7 policy for up to fifteen (15) days.

8 (B)(i) A second offense may result in a suspension of up
9 to thirty (30) days by the law enforcement agency.

10 (ii) The law enforcement agency may request a
11 hearing before the board for additional sanctions which may include a longer
12 period of suspension from the non-consent rotation list and a fine.

13 (C) A third offense may result in a suspension of a tow
14 company from the non-consent rotation list for up to one (1) year and a fine.

15 (b)(1) Except as provided under subdivision (b)(3) of this section,
16 law enforcement shall establish a non-consent rotation policy.

17 (2) An adopted non-consent rotation policy shall be reasonable
18 and reflect the day-to-day operations of a tow company in the immediate area.

19 (3) A law enforcement agency is not required to establish a non-
20 consent rotation policy required by subdivision (b)(1) of this section if:

21 (A) The law enforcement agency has an existing non-consent
22 rotation policy or non-consent towing service contract in place; and

23 (B) The provisions of this section would have a negative
24 impact on the law enforcement agency or non-consent towing service contract.

25 (4) A law enforcement agency shall provide each tow company that
26 participates in the non-consent rotation with a copy of the policy and each
27 tow company operator shall acknowledge in writing that he or she has received
28 a copy of the policy.

29 (c)(1) A tow company participating in a non-consent rotation policy
30 administered by law enforcement shall be licensed and permitted by the board.

31 (2) Failure to properly license or renew with the board shall
32 result in an immediate suspension until all permits are obtained.

33 (3) In addition to any law enforcement non-consent rotation
34 policy a tow operator shall comply with all of the statutes and rules
35 administered by the board.

36 (d) Following a suspension period of six (6) months or longer a tow

1 company must reapply for a position on the non-consent rotation list.

2 (e) Nothing in this act or rule adopted by the board shall be
3 construed to prohibit a law enforcement agency, city, or county from:

4 (1) Enforcing any local non-consent towing policies, rules,
5 ordinances, or contracts;

6 (2) Removing a tow company from the local towing rotation list;

7 or

8 (3) Assessing a fine, penalty, or other remedy available by law
9 or under its contracts or policies.

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11 SECTION 2. Arkansas Code Title 27, Chapter 50, Subchapter 12, is
12 amended to add a new section to read as follows:

13 27-50-1218. Authority to issue citations.

14 (a)(1) An investigator employed by the Arkansas Towing and Recovery
15 Board and the director of the Arkansas Towing and Recovery Board may issue
16 citations to a tow company, owner operator, or tow vehicle driver for certain
17 violations found in this subchapter.

18 (2) Citations may be issued for the following offenses:

19 (A) Operating a tow vehicle without a proper permit or
20 license;

21 (B) Operating a tow vehicle which has not been permitted
22 or licensed as a tow vehicle by the State of Arkansas;

23 (C) Operating a tow vehicle which is out of compliance
24 with the safety and operating regulations prescribed by the board;

25 (D) Not responding within a prescribed time frame to a
26 request for information related to a consumer complaint;

27 (E) Failure to properly post any required notifications in
28 a conspicuous place as required by the board; or

29 (F) Failure to meet the basic criteria for an adequate
30 place of business.

31 (b)(1) The fines accessed for a violation of this section shall be set
32 by the board.

33 (2) Each fine for an individual violation should reflect the
34 severity of the penalty and may be increased for multiple offenses or
35 repeated violations of the same offense.

36 (3) Each fine for an individual violation set by the board shall

1 not exceed two hundred dollars (\$200).

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/s/Files

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