

AGENCY #157.00

**MARKUP**

**ADMINISTRATIVE RULES OF THE ARKANSAS TOWING AND  
RECOVERY BOARD**

Rules effective as of

~~October 1, 2022~~ **Upon approval by Legislative Counsel**

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BLR

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

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**Commented [DP(1)]:** The unnumbered "Applicability" section and former Rule 2 concerning the same provisions under the heading "Exemptions" are combined as new Rule 1 to avoid duplication per AG recommendation.

**RULE 1: APPLICABILITY AND EXEMPTIONS**

~~(a) These Rules promulgated by the Arkansas Towing & Recovery Board, pursuant to Act 1061 of 2011 and Ark. Code Ann. § 27-50-1201 et seq.,~~

~~shall apply to a person that either:~~

~~(1) Engaged Engages 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~~

~~(b) This subchapter does. These Rules do not apply to the following tow vehicles and related equipment:~~

~~(1) Car carriers capable of carrying five (5) or more vehicles and that have authority from the Federal Motor Carrier Safety Administration;~~

~~(2) Tow vehicles owned by a governmental entity and not used for commercial purposes;~~

~~(3) If in compliance with Arkansas Code § 27-35-112, tow vehicles that are:~~

- ~~\_\_\_\_\_ (A) Registered in another state;~~
- ~~\_\_\_\_\_ (B) Operating under authority from the Federal Motor Carrier Safety Administration;~~
- ~~and~~
- ~~\_\_\_\_\_ (C) Not regularly doing business or soliciting business in the State of Arkansas; and~~
- ~~\_\_\_\_\_ (5)(4) 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.

**(c) These Rules do not apply to the storage of vehicles by a salvage vehicle pool or salvage vehicle auction that does not otherwise perform towing services.**

**Commented [DP2]:** The highlighted language was added to clarify the ATRB does not regulate salvage vehicle pools or salvage vehicle auctions that do not otherwise perform towing services in response to the comments submitted by IAA, Inc.

**RULE 12: DEFINITIONS**

For purposes of these Rules ~~promulgated by the Arkansas Towing & Recovery Board pursuant to Ark. Code Ann. §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~~

**Commented [DP3]:** The definitions are now alphabetized to be more user-friendly, with minor wording changes for clarity and to add EV definitions.

~~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, 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. Consent does not include the repossession of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lienholder.~~

~~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 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 Ark. Code Ann. §27-50-1208(e)(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;~~

~~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 owners 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 tow facility to take charge and care of the vehicle.~~

~~1.26~~ — ~~“OWNER PREFERENCE COMPLAINT” a complaint concerning a violation of subchapter Ark. Code Ann. §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 (Ark. Code Ann. §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. See Ark. Code Ann. §27-50-1202(12).~~

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

1.1 “Abandoned vehicle” means a vehicle deemed to be an unattended vehicle:

(1) As to which the owner has overtly manifested some intention not to retake possession; or

(2) That remains unattended, whether in its first-found location or in another location to which it has been removed under Arkansas Code § 27-50-1201 et seq. for a period of thirty (30) days during which period the owner gives no evidence of an intent to retake possession;

1.2 “Administrative fee” means a fee charged for the 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;

1.3 “After hours release” means a fee charged by a towing/storage firm to arrange for the release of a vehicle or personal property after normal/reasonable business hours at the request of the owner or other person authorized to retrieve the vehicle;

1.4 “Board” means the Arkansas Towing and Recovery Board;

1.5 “Business license number” means a five-digit number assigned to each tow business which shall be permanently affixed to any permitted tow vehicle in the following manner:

(1) The Business License Number shall be preceded by the letters ATRB;

(2) The following letter or letters shall follow the five-digit number:

(A) “NC” if the tow vehicle is permitted for non-consent towing;

(B) "C" if the tow vehicle is permitted only for consent towing; or

(C) "R" if the tow vehicle is permitted only for repossession and consent towing;

(3) The business license number along with the letters shall be placed in a conspicuous place near the business name on each side of the tow vehicle; and

(4) The numbers and letters shall be at least two inches (2") in height and easily visible from a distance of fifty feet (50');

1.6 "Commercial purposes" includes any towing, storing, recovery, or transporting a vehicle that is associated with a business regardless of the current vehicle's ownership status or whether charges were paid by a third party for services;

1.7 "Consent" means towing, storage, or recovery of a vehicle, which towing, storage, or recovery is done with the permission of the owner or other person in charge of the vehicle.

(1) "Consent" does not include the repossession of a vehicle by the vehicle lienholder, agent, or other person working on behalf of the lienholder;

1.8 "Consumer complaint" means a complaint filed by a person with a vested interest as determined by the Board in the ~~vehicle or related-towed~~ property including without limitation and in accordance with the Arkansas Administrative Procedures Act the:

(1) Owner of the towed vehicle or his or her agent;

(2) Lienholder of the vehicle;

(3) Company that insured the towed vehicle or is liable for the damages; or

(4) Law enforcement agency;

1.9 "Director" means the Director of the Board;

1.10 "Electric vehicle" or "EV" means any motorized vehicle that can be powered by one (1) or more electric motors drawing its source of power from a battery and is capable of being charged from an external source or an onboarded system, including a hybrid electric vehicle but not including:

**Commented [DP4]:** Per AG recommendation for clarity.

**Commented [DP5]:** The words "and its staff" were removed per AG recommendation for clarity.

(1) A golf cart;

(2) A low-speed vehicle as defined by Arkansas Code § 27-14-614; or

(3) An electric or hybrid motorcycle.

1.11 “Equipment” means:

(1) Any vehicle or related equipment used by a tow business or tow vehicle to perform towing or storage services; or

(2) Personal property commonly used to facilitate a business or farming operation for which a possessory lien is granted to a tow business under Arkansas Code §§ 27-50-1208 through 27-50-1210;

1.12 “EV assessment” means an analysis by a third-party EV resource or if similarly qualified a tow company of the extent of damage, if any, to an electric vehicle and the steps to be taken to safely perform EV towing services and EV storage services;

1.13 “EV storage services” means to properly store an electric vehicle in accordance with all state and federal laws, rules, and regulations, and includes all steps taken in connection therewith and the solicitation of EV storage services;

1.14 “EV towing services” means to tow, recover, upright, transport, repossess, immobilize, or otherwise facilitate the movement or storage of electric vehicles on or off Arkansas’s roadways and includes the solicitation of EV towing services;

1.15 “Fuel surcharge” means 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;

1.16 “Impounded or seized vehicle” means a vehicle subject to impounding or seizure by law enforcement under Arkansas law, the Arkansas Rules of Criminal Procedure, a court order, or an ordinance;

**Commented [DP6]:** Revised to mirror the definition of an EV for registration purposes under Arkansas Code §27-14-614 per AG recommendation for clarity.

**Commented [DP7]:** The words “as the context requires” were removed per AG recommendation for clarity.

**Commented [DP8]:** The following words were removed as redundant: “to recover, clean-up, upright, transport, store or to otherwise facilitate the movement and storage of disabled or abandoned vehicles”

1.17 “Labor” means additional manpower or time required to prepare a vehicle beyond the normal scope of a standard tow, including without limitation site clean-up, unloading of freight, tarping, securing vehicle parts and contents, and other recovery-related services;

1.18 “Licensee” means any person holding a valid license, registration, permit, endorsement, or enhancement issued by the Board;

1.19 “Non-consent” means the towing, storage, or recovery of any unattended or abandoned vehicle, 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;

1.20 “Notification fee” means a fee charged by a towing or storage firm for the actual expenses incurred to satisfy the notification requirements set forth in Arkansas Code § 27-50-1208(c)(1) that is not to be charged prior to two (2) business days after the date the towing/storage firm receives the vehicle, and not to exceed the amount set forth in Rule 10.3;

1.21 “Owner” means, in the absence of conclusive evidence to the contrary, the person in whose name the vehicle is registered with the Office of Motor Vehicle or in whose name the vehicle is registered in another state;

1.22 “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 tow facility chosen by the owner, the owner’s agent, or a competent occupant of the vehicle, to take charge and care of the vehicle;

1.23 “Owner preference complaint” means a complaint concerning a violation of Arkansas Code § 27-50-1201 et seq. and the circumstances associated with owner preference and consent towing or non-consent towing which may be filed with and reviewed by the Board under Arkansas Code § 27-50-1221 by:

\_\_\_\_\_ (1) A vehicle owner;

\_\_\_\_\_ (2) A lienholder;

**Commented [DP(9)]:** Replaced the words “in conjunction [with]” with the previous, highlighted language per AG’s recommendation.

(3) An insurance provider; or

(4) A law enforcement officer;

1.24 “Person” means an individual or entity;

1.25 “Personal use” means for a person’s own, non-commercial purposes that is not associated with a business or commercial purpose;

1.26 “Public way” means a road, highway, or street over which the public may travel, including the traveled surface and a berm or shoulder of a road, highway, or street;

1.27 “Recover” or “Recovery” means a service outside of the normal scope of a standard tow, including without limitation winching and corresponding labor for which a separate charge may be imposed if separately itemized on an invoice;

1.28 “Removal” means that a law enforcement officer may request a towing and storage firm that is licensed by the Board to engage in non-consent towing of vehicles to remove and store:

(1) An unattended vehicle or abandoned vehicle;

(2) A disabled or inoperative vehicle for which the owner or person in charge of the vehicle has waived his or her right to owner preference;

(3) A vehicle in which the operator was apprehended by law enforcement officers; or

(4) An impounded or seized vehicle;

1.29 “Repossession” means towing, storage, or recovery of a vehicle by the vehicle lienholder or an agent or other person working on behalf of the lienholder;

1.30 “Set out fee” means a fee charged by a towing/storage firm related to extraordinary or extenuating circumstances above and beyond the standard practice of releasing a vehicle, including without limitation using a forklift or tow truck because a vehicle is inoperable;

**Commented [DP(10):** Per AG comment, the highlighted language was chosen for clarity and the following language was deleted: “private, non-commercial purposes and includes towing, recovery, and transporting a vehicle that is not associated with a business and is not used for commercial purposes.”

**Commented [DP(11):** The words “as defined in this section” were deleted to avoid redundancy of a defined term.

**Commented [DP(12):** The words “as defined in this section” were deleted to avoid redundancy of a defined term.

**Commented [DP(13):** The words “for example” were replaced by “including without limitation” to conform to the BLR Legislative Drafting Manual.

1.31 “Standard tow” means any tow of a vehicle subject to registration that is removed from private property, a public way, an accident scene, or the side of the roadway and 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;

1.32 “Storage” means a daily fee charged by a towing business to secure and safely store a vehicle, and includes the release of a vehicle during normal or reasonable business hours;

**Commented [DP(14):** The words “when the context requires” were removed for clarity per AG recommendation for clarity.

1.33 “Third-party EV resource” means a person with demonstrated expertise, training, and experience to properly assess the towing and storage of an electric vehicle; train tow industry personnel to tow, recover, and store electric vehicles; or provide additional services to protect the public health, welfare, and safety in the performance of EV towing services and EV storage services;

1.34 “Tow business” or “Towing business” means:

(1) A person with an alternate business name under which the person is required by the Board to operate towing, recovery, or storage services, which name shall be properly filed with the Secretary of State or the county clerk under Arkansas Code § 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, including without limitation a person which:

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

(B) Stores vehicles; and

**Commented [DP(15):** The word “or” was replaced with “and” to conform to statutory definition.

(C) Conducts towing, recovery, or vehicle immobilization business with the general public; or

(2) A licensed or an unlicensed person that engages in towing services;

1.35 “Tow business license” means a certificate issued annually by the Board entitling any person to engage in the towing business;

1.36 “Towing industry” includes all persons that engage in the conduct or solicitation of towing, recovery, or related storage services;

1.37 “Towing services” means to tow, recover, upright, transport, repossess, immobilize, store, or otherwise facilitate the movement or storage of vehicles on or off Arkansas’s roadways and includes the solicitation of towing services;

1.38 “Tow vehicle” means a motor vehicle **or** related equipment subject to registration in the State of Arkansas that is used to tow, recover, upright, transport, or otherwise facilitate the movement of vehicles on public highways;

**Commented [DP(16):** The word “and” was replaced with “or” to conform to statutory definition.

1.39 “Tow vehicle safety permit” means 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 annual period by year and month for which the permit is valid;

1.40 “Unattended” or “Unattended vehicle” has the meaning stated in Arkansas Code § 27-50-1202;

1.41 “Vehicle” means a device by which persons or things may be transported upon a public highway and which is of the type subject to registration in Arkansas;

1.42 “Vehicle immobilization” or “Vehicle immobilization service” means operating or directing others to attach a wheel clamp or other Board-approved industry-recognized device used to temporarily render a vehicle immobile. A gladhand lock is not a Board-approved vehicle immobilization device;

1.43 “Vehicle isolation bay” means one (1) or more self-contained EV storage areas with sufficient drainage capacity to contain hazardous waste constructed with fire resistant components in accordance with the standards and specifications;

(1) Required by state and federal law; and

(2) Promulgated by a third-party EV resource;

1.44 “Wheel clamp” means a device attached to a wheel of a vehicle that renders or is intended to render the vehicle immobile; and

1.45 “Winching” means the additional use of cable and apparatus commonly known as a winch needed to recover or reposition a vehicle.

(1) “Winching” does not include a cable or winch used to pull a vehicle onto a rollback or trailer in connection with a standard tow.

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

~~The Rules promulgated pursuant to Ark. Code Ann. §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 Ark. Code Ann. §27-35-112 tow vehicles that are:~~

~~1. Licensed 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;~~

**Commented [DP(17):** The unnumbered “Applicability” section and this former Rule 2 concerning the same provisions under the heading “Exemptions” are combined as new Rule 1 to avoid duplication per AG recommendation.

~~D. A tow vehicle which is used by its owner in their private affairs, provided such 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. The burden shall be upon the owner of the tow vehicle to prove personal ownership of the vehicle being towed; and~~

~~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 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, or in their absence 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 Ark. Code Ann. §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 Arkansas Code Ann. § 25-15-201 et seq., as amended from time to time,~~ and the Arkansas Freedom of Information Act ~~of 1967, the same being Arkansas Code Ann. § 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.

3.10 For any issue pertaining to the conduct of a Board meeting not addressed by the Rules or the Arkansas Administrative Procedures Act the latest edition of the Roberts Rules of Order shall serve as a guide.

#### **RULE 4: POWERS OF THE BOARD**

4.1 The Board shall have the power to ~~take appropriate action and~~ promulgate Rules, in the manner provided by the Arkansas Administrative Procedures Act, ~~same being Arkansas Code Ann. § 25-125-201 et seq., as amended from time to time,~~ ~~deemed~~ necessary ~~or desirable~~ to carry out the intent ~~and purposes~~ of Arkansas Code Ann. § 27-50-1201 et seq., ~~as amended from time to time,~~ and to regulate the vehicle immobilization, ~~repossession,~~ non-consent towing/storage, ~~and/or~~ consent towing industry, including but not limited to:

(1) ~~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 engaged in towing, repossession, recovery, or related storage purposes and;~~

(2) ~~Establishing reasonable safety equipment requirements for any tow vehicle as defined in Rule 1.3 or vehicle immobilization service;~~

(3) ~~Establishing a procedure~~s to accept and investigate consumer complaints or a Board initiated action for a vehicle owner, lien-holder, law enforcement, or insurance company related to any violation associated with a consent or non-consent tow, recovery, storage ~~and/or~~ vehicle immobilization services;

(4) ~~Determining and sanctioning excessive or unnecessary~~ non-consensual towing, recovery, storage, ~~fees~~ and vehicle immobilization services fees charged to consumers;

(5) ~~Requiring all entities permitted, licensed, or regulated under Ark~~ansas Code ~~Ann.~~ § 27-50-1201 *et seq.*, to provide to the Board all documents in response to information requests by the Board ~~to for~~ the investigation of consumer complaints or Board complaints against the licensee within ten (10) business days; ~~and~~

(6) ~~Requiring all entities permitted, licensed, or regulated by Ark~~ansas Code ~~Ann.~~ § 27-50-1201 *et seq.*, to maintain a copy of their current maximum rate schedule with the Arkansas Towing and Recovery Board and ~~posted to post a~~ copy of their current maximum rate schedule in a conspicuous place ~~and that is~~ readily accessible to the public.

4.2 The Board shall have the authority to license, register, permit, set fees, and establish all requirements and qualifications for all towing business licenses, registrations, endorsements, enhancements, and permits, including without limitation, a consent registration or non-consent, repossession, or, vehicle immobilization business license, ~~and for a~~ tow vehicle safety permits ~~issued to members of the towing industry, tow vehicle safety equipment requirements, signage, tow authorizations, and any license endorsement or enhancement~~.

**Commented [DP(18):** The words "including an EV endorsement or enhancement" were deleted since these don't exist, per AG recommendation.

4.3 (a) 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) initial application.~~

(b)A. ~~Penalty~~ The penalty for a late ~~L~~ license, vehicle immobilization, endorsement, or enhancement renewal application filings shall be ~~at rate of~~ five dollars (\$5.00) per day, not to exceed the amount ~~of fee~~ due for the ~~license~~ renewal.

(c)B. ~~Penalty~~ The penalty for a late ~~P~~ permit renewal application filings shall be ~~at rate of one~~ dollar (\$1.00) per day, per ~~p~~ Permit, not to exceed the 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, repossession and/or consent towing companies as defined in these Rules. [Repealed.]~~

4.5 The Board shall have authority to initiate a complaint or to investigate consumer complaints related to ~~overcharging for non-consensual towing, storage, recovery and/or vehicle immobilization service fees; any~~ alleged violations of ~~the provisions of~~ Arkansas Code ~~Annotated~~ § 27-50-1101 and § 27-50-1201 ~~et seq., as now or hereafter amended, and/or any~~ Board Rules promulgated pursuant thereto, and the authority to grant and pursue any remedies pursuant thereto.

4.6 \_\_\_\_\_ The Board shall have the authority to design and publish application forms ~~pursuant to these~~ ~~Rules, as now or hereafter amended, for any~~ tow business licenses, registration, ~~for tow vehicle safety permits, endorsement, or enhancement~~, and other forms, documents, and applications necessary or desirable to implement ~~these~~ rules 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 the 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 Ark. Code Ann. §27-50-1201 et seq. and these Rules as now or hereafter amended. [Repealed.]~~

4.8 The Board shall have the authority to refuse to renew, to order a fine, penalty, or restitution, and to suspend ~~and to or~~ revoke any license, registration, permit, endorsement, or enhancement, or tow vehicle safety permit for any violation of Ark~~ansas~~. Code Ann. § 27-50-1101 and or § 27-50-1201 et seq., ~~as now or hereafter amended,~~ or any Rule promulgated pursuant thereto.

4.9 Any vehicle immobilization, non-consent towing/storage, repossession, and/or or consent towing ~~company business determined~~business determined by the Board, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Arkansas Administrative Procedures Act, ~~of Arkansas Code § 25-15-201 et seq., as amended from time to time,~~ to have committed an act that is in violation of Ark~~ansas~~. Code Ann. § 27-50-1101 or § 27-50- 1201 et seq., as now or hereafter amended, or any Rule promulgated pursuant thereto, is subject to civil penalties, including monetary penalties, not to exceed five thousand dollars (\$5,000) per offense, ~~the payment of restitution, or and~~ the suspension or revocation of any license or permit or both. Each act of violation constitutes a distinct and separate offense. Nothing in ~~this section~~these rules 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 Procedures Act, Ark~~ansas~~. Code Ann. § 25-15-201 et seq.

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. [Repealed.]~~

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

4.15 The Board shall have the authority to issue fines between fifty dollars (\$50.00) and two hundred fifty dollars (\$250.00) for failure to comply with the signage provisions required by Arkansas Code ~~Ann. § 27-50-12171201 et seq., as now or hereafter amended~~ or by Board Rule.

#### **RULE 5: COMPLAINT AND HEARING PROVISIONS**

5.1 The Board shall promptly investigate and resolve a consumer ~~or Board-initiated~~ complaint ~~within forty-five (45) calendar days after receiving the complaint. If reasonable cause exists to believe a violation of Arkansas Code § 27-50-1101 or § 27-50-142021 et seq. or Board rule may have occurred, the Director may initiate a complaint on behalf of the Board.~~

5.2 (a) The following guidelines shall apply to ~~a consumer-complaints filed:~~

~~——(1) A ce~~Complainant~~(s)~~ ~~must shall~~ respond to a request from Board staff for additional information within ten (10) days:-

~~——(2) F~~Failure to respond to the request for additional information is grounds for immediate dismissal of the complaint:-

~~——(3) A c~~Complainant may file a written request for an extension of time with the Board:-

~~——(4) T~~The written request for an extension ~~must shall~~ be submitted to Board ~~office-staff~~ with

~~in~~within ten (10) days after receiving a request for additional information:- ~~and~~

**Commented [DP(19):** The words "on behalf of the Board" were added for clarity per AG recommendation.

~~\_\_\_\_\_~~ ~~(54)~~ ~~If an~~ extension is granted, the Board investigator shall notify the affected tow company-business

in writing of the extension.

~~\_\_\_\_\_~~ ~~(b)(1)B-~~ ~~The A~~ towing business must shall respond to a each request from ~~the~~ Board staff for information as well as any follow up which may be relevant to the complaint, as determined by Board staff. ~~All information must be received~~ within ten (10) business days after receiving the request;

~~\_\_\_\_\_~~ ~~(24)~~ Failure to respond to a written request by a tow company will result in a daily fine of up to twenty-five dollars (\$25.00) per day until the information requested is received by ~~the~~ Board staff.

~~\_\_\_\_\_~~ ~~(32)~~ The tow company-business may file a written request for an extension of time with the Board.

~~\_\_\_\_\_~~ ~~(43)~~ The written request for an extension must be submitted to the Board office within ten (10) days of the post marked date of request for additional information.

~~\_\_\_\_\_~~ ~~(54)~~ If the extension is granted, the Board investigator will notify the tow company in

writing of the extension. ~~and.~~

~~(c)C-~~ The Board may extend the period for the resolution of a complaint when conditions warrant such action.

5.3 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.

5.4 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 be advised of their right to appeal the denial to the Board.

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

5.6 ~~In the event it is determined by~~ If for any reason the Director determines that a license or permit has been issued in error, ~~including for failure to receive the, or that accounting records and/or bank statement reflects~~ proper fee amount ~~of license and/or permit fees was not received,~~ the Director may shall ~~have authority to~~ summarily suspend or revoke said license ~~and/or~~ permit. In such circumstance, or in the event of immediate suspension or revocation of any licensee or permit pursuant to Rule 9.4, ~~as now or hereafter amended, or any other Rule,~~ the licensed tow business shall be notified in writing via certified mail of his-its right to a hearing before the Board. If the licensed tow business fails to submit a request in writing for a hearing before the Board within ~~the~~ fifteen (15) days ~~prescribed in Rule 5.5, said the~~ suspension or revocation shall become final. Upon any decision to hold a formal hearing to consider the suspension or revocation of any license or tow vehicle safety permit issued by the Board ~~pursuant to Ark. Code Ann. §§27-50-1101 and 27-50-1201 et seq., as now or hereafter amended, or the Rules promulgated pursuant thereto,~~ the Board shall notify the licensed tow business of ~~his right to such~~ the hearing ~~before the Board.~~

5.7 ~~(a)(1) If,~~ as the result of its own investigation, ~~or as result of an investigation of any consumer~~ complaint filed against a licensed tow business, it is determined by the Board that sufficient evidence exists that a licensed business' conduct constitutes a violation of Ark~~ansas-~~ Code Ann. ~~§~~ §27-50-1101, ~~and §~~ §27-50-1201 ~~et seq., as now or hereafter amended, or the Rules promulgated pursuant thereto~~ a Board Rule, the Board may initiate a hearing and invoke any one (1) or more of the following resolutions: fine or impose a civil penalty against respondent as set forth in Rule 4.9, reprimand respondent, suspend or revoke any license or permit issued to respondent, and award financial restitution to the complainant, ~~and/or any combination of the above~~ at the discretion of the Board.

(2) The Board shall provide no less than fifteen (15) days advance written notice to the ~~licensed tow~~ business of ~~said the~~ hearing.

~~A(b):~~ ~~Said The~~ notice shall inform respondent of alleged facts or conduct warranting ~~a the~~ 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(c):~~ 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, ~~enhancement, endorsement, or and/or~~ permit may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.

5.8 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.

5.9 The Board shall not be bound by the technical rules of evidence, and it may admit and give ~~such~~ 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, as the Board deems appropriate,~~ provided however, that the Board shall ~~endeavor to~~ 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 ~~and undue delay of the hearing.~~

5.10 (a) Financial restitution to the complainant will be considered as part of the penalty by the Board when a towing company or tow owner is found to have violated ~~provisions of any law or the~~ rules promulgated by the Board ~~authorizing restitution.~~

**Commented [DP(20):** The words "endeavor to" were removed for clarity per AG recommendation.

**Commented [DP(21):** The words "authorizing restitution" were added for clarity per AG recommendation.

~~A-(b)~~ Only actual losses which have been incurred by the complainant may be paid as restitution;

~~B-(c)~~ ~~A payment~~The amount of financial restitution to the complainant ~~must shall~~ be determined by the Board;

~~C-(d)~~ Punitive damages will not be paid to the complainant;

~~D-(e)~~ ~~This does not waive the complainant's right to sue in a court of law. Nothing in this Rule~~

5.10 prevents:

(1) A complainant from pursuing any other legal remedy; or

(2) ~~†~~The Board from imposing any other type of fine, penalty, or sanction authorized by

law.

5.11 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.

5.12 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, the 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, the burden of going forward shall be on the Board; ~~the Director or the Board's legal counsel and its staff.~~

5.13 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 to~~ the hearing.

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

~~(b) If not paid timely, a license, registration, permit, endorsement, or enhancement or permit issued by the Board may be suspended by the Board until the penalty is paid.~~

5.15 (a) If a ~~towing company~~ person fails to pay a fine or installment payment due to the Board as provided under Rule 5.14 and Arkansas Code § 27-50-1204, the Board may cause the suspension of ~~the any~~ tow vehicle license plate and registration of the ~~owner of the entity or individual~~ person that is subject to the fine 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.~~ (b) 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; and

(6) The amount of the fine or installment payments that remain delinquent.

~~B.~~ (c) When the fine ~~or installment payment(s)~~ is paid ~~or brought current~~, the Board ~~will~~ shall notify the Office of Motor Vehicle within two (2) business days by written notice ~~including the information provided for in Rule 5.15 (A)~~ to remove the suspension.

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

6.1 ~~(a)~~ A tow business, ~~storage facility, vehicle immobilization company providing vehicle immobilization, non-consent towing/storage and/or consent towing services is required to~~ shall obtain from the Board, and renew annually, ~~a Tow Business License authorizing the business~~ the appropriate licenses, endorsements, enhancements, and permits to engage ~~in in vehicle immobilization, non-consent towing/storage and/or consent towing, recovery, storage, vehicle immobilization,~~ and related services.

~~A-(b)~~ A non-consent towing license includes the authority to perform vehicle immobilization, ~~company does not have to obtain a separate license if the company already has a non-consent towing/storage safety license~~ repossession, storage, and consent towing services.

~~B-(c)~~ A consent tow service is required to obtain a consent registration and permit for each tow vehicle through the Board.

~~C-(d)~~ A repossession company is allowed to do consent towing and must obtain a repossession license and repossession permit for each tow vehicle.

6.2 ~~(a)~~ Any tow vehicle as defined in Arkansas Code ~~Ann.~~ § 27-50-1201 et seq. and these Rules which is not exempt under the provisions of Rule 2-1 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 number permanently placed on both sides of the tow vehicle ~~near under~~ the business name issued by the Board.

~~A-(b)~~ Any tow vehicle used to provide non-consent towing and related services ~~is to~~ shall 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 repossession and consent towing and related services.

~~B-(c)~~ Any tow vehicle used to provide only consent towing and related services ~~is to~~ shall display a consent Registration Number and an annual Tow Vehicle Safety Permit issued by the Board. Such vehicle shall not be used to provide repossession or non-consent towing and related services.

~~C.(d) Any tow vehicle used to provide repossession towing and related services shall display a repossession 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.~~

~~C.(e) The Tow vehicle Safety Permit ~~must~~ shall 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 or revocation of the tow vehicle permit, or both.~~

6.3 ~~(a) 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, repossession and/or consent towing company, which makes proper application. Upon proper application, reflecting that the qualifications required by the Board in these Rules are met, the Director shall issue the appropriate license, registration, endorsement, enhancement, or permit for towing, recovery, repossession, vehicle immobilization, or storage.~~

~~A.(b) No License authorizing a business to engage, or to continue to engage, in non-consent towing/storage, repossession and/or consent towing and related services license, registration, endorsement, enhancement, or permit for towing, recovery, repossession, vehicle immobilization, or storage shall be issued until a complete application is filed with the Board. For purposes of these Rules and except as otherwise provided or supplemented, a complete application for a towing business safety License-license, registration, endorsement, enhancement, or permit for towing, recovery, repossession, vehicle immobilization, or storage shall include as applicable, all requirements of the Board and these Rules, including without limitation:~~

(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 9.2~~ of these Rules which must include:

~~a-~~(A) The physical address for which the tow business is licensed;

~~b-~~(B) the The legal name or names of the tow business~~owner~~;

and

~~e-~~(C) ~~all tow vehicles used at that location~~A complete description and vehicle identification number of each tow vehicle with on hook coverage listed;

and;

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

~~(4)~~(4)(A) A copy of the current maximum ~~rate sheet~~rate sheets~~schedule for each towing, recovery, and storage service.~~ ~~(Note:~~;

~~(B)~~ The 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, including without limitation:

~~(a)~~(A) Complaint notification process;

~~(b)~~(B) Exterior business location signage; and-

~~(c)~~(C) Tow rate schedule; and

~~(6) Other~~ Any other proof or documents needed to comply with the requirements, if applicable, for an Enhanced Non-Consent Heavy Duty Tow License ~~found in~~under Rule 15.

~~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:~~

**Commented [DP(22)]:** The number "15," which was erroneously omitted from the post-comment revisions has been re-inserted and the words "or an EV towing endorsement or EV storage endorsement under Rule 17" have been removed since these will not exist.

~~(1) Registration Form Business Application 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~~

~~— Fee as prescribed by the Board for a consent registration.~~

~~C. No registration authorizing a business to engage, or to continue to engage, in repossession 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 Application 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 legal business name;~~

~~c. each tow vehicle with on hook coverage listed; and~~

~~(3)~~

~~\_\_\_\_\_ C.(c) No~~ A tow vehicle safety permit authorizing operation of a tow vehicle on public roadways in the State of Arkansas shall not 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)(A) 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 municipal, county, or state law enforcement officer, ~~municipal, county, or state~~ or Board investigator staff who so verifies by his or 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.

     ~~(aB)~~ 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.

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

(3) ~~Pictures-Photographs~~ clearly showing the following views:

     ~~(Aa)~~ The Tow Vehicle registration tag on the tow vehicle for which the permit is being requested;

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

     ~~(Ce)~~ Passenger side view of the towing vehicle showing both the name and phone number of the business:-

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

(5) Current Certificate(s) of Insurance reflecting minimum insurance coverage as prescribed by the Board in Rule ~~9-2~~.

~~D(d)~~ No vehicle immobilization business license authorizing the use of vehicle immobilization in the State of Arkansas shall be issued until a complete application is filed with the Board. For purposes of these Rules a complete application 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~~ Photographs showing the following views:

(~~A~~) The vehicle immobilization devices for which the permit is being requested; and

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

~~F. No license authorizing a business to engage, or to continue to engage, in repossession 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 Application 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 legal business name;~~

~~c. each tow vehicle with on hook coverage listed; and~~

~~(3) Fee as prescribed by the Board for a repossession license.~~

~~G(e) - F.~~ No showing of public convenience or necessity need be made in support of an application for ~~a vehicle immobilization, non consent towing/storage, repossession and/or consent towing business safety~~any license, ~~a tow vehicle safety~~ registration, endorsement, enhancement, or permit.

~~(f) - G.~~ 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)-H-~~ 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)-I-~~ It shall be the responsibility of the ~~non-consent Licensee~~ a tow business to post a sign notifying customers of the consumer complaint process ~~as required by~~ under Arkansas Code ~~Ann-~~ § 27-50-1218.

6.4 ~~(a)~~ Business licenses, business license numbers, consent ~~only~~ registrations, and tow vehicle safety permits are nontransferable;

~~(1) From one (1) owner to another; and;~~

~~(2) From one (1) tow vehicle to another.~~

~~A-(b)~~ 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-(c)(1)~~ Any tow vehicle safety permit holder who sells, disposes of, or takes a tow vehicle out of service shall remove and ~~destroy~~ submit the ~~permit~~ Permit to the Board's staff via U.S. mail and ~~shall~~ notify the Board's staff ~~that~~ the tow vehicle is removed from ~~his-its~~ fleet within ten (10) days of the removal.

~~(+2)~~ A tow vehicle safety permit ~~can~~ shall only be displayed on a tow vehicle owned by the towing business to which the Board issued the ~~Permit~~ permit.

~~C-(d)~~ Any non-consent towing business ~~or~~ / vehicle immobilization service safety licensee ~~who~~ that 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)~~ A vehicle immobilization, ~~non-consent towing/storage, repossession and/or consent-towing, recovery, repossession, or storage license, business~~ registration, endorsement, enhancement, or business

~~license number and/or a tow vehicle safety~~ permit shall be issued only to a legal entity that owns the tow business and shall not be issued solely to a fictitious name under which the tow business operates. *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. (if legally incorporated) does constitute a legal entity in that Bob Smith is identified as legal owner of the wrecker service.

~~A.(b)~~ Each separate business location of a ~~vehicle immobilization, non-consent towing/storage, repossession, and/or consent-only~~ towing business shall require a separate license, ~~or consent-only~~ registration, endorsement, enhancement, or permit.

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

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

6.7 ~~(a) Any~~ Except as provided in subsection (b) of this Rule 6.7, if a final judgment rendered by a court of competent jurisdiction against a ~~vehicle immobilization, non-consent towing/storage, repossession and/or consent~~ towing business or an owner or employee thereof, arising from ownership or operation of the ~~vehicle immobilization, non-consent towing/storage, repossession and/or consent~~ towing business, including but not limited to towing, up-righting, recovery, transporting, immobilizing, and storage of vehicles, ~~must be~~ is not satisfied within thirty (30) calendar days. ~~If such judgment is not timely satisfied, the vehicle immobilization,~~

~~non-consent towing/storage, repossession and/or consent, any or all of the~~ towing business's licenses, ~~registrations, endorsements, enhancements, or and/or~~ tow vehicle safety permit(s) may be suspended until the judgment is satisfied, ~~provided,~~

~~A.(b) If approved by the Board and in its discretion:~~

~~(1) A release or written agreement signed by the judgment creditor and approved by the Board~~ shall reinstate eligibility; and,

~~B.(2) If the~~ judgment is covered by insurance up to the amount and to the extent required by the Board, ~~this subparagraph shall not apply a suspension under subsection (a) of this rule may be waived.~~

6.8 No application for ~~vehicle immobilization, non-consent towing/storage, repossession and/or consent only a license, registration, endorsement, enhancement, and/or or~~ tow vehicle safety permit shall be approved by the Arkansas Towing & Recovery Board if the applicant ~~or any of its directors, members, officers, or employees~~ has any ~~overdue~~ unpaid civil ~~penalty(s) due~~ ~~fine, penalty, or other indebtedness due~~ and payable to the Board.

#### **RULE 7: EQUIPMENT REQUIREMENTS**

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

~~A.(1)~~ Hold a current Motor Vehicle Registration Certificate and have evidence of such properly displayed on the tow vehicle (e.g., state license plate);

~~B.(2)~~ Comply with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas Department of Transportation and Arkansas Department of Revenue Rules applicable thereto;

~~C.(3)~~ Maintain a valid tow business license number permanently affixed and a 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; and

**Commented [DP23]:** The added language is intended to clarify that an "applicant" may not ignore a fine or penalty by establishing a new business under another name.

~~D-(4)~~ If applicable, comply with the additional tow vehicle and equipment standards found in Rule 15 for the Enhanced Non-Consent Heavy Duty Tow License.

7.2 (a) All tow vehicles as defined in these rules which operate on Arkansas's ~~public~~ roadways shall have the following minimum equipment installed on board, or ~~on Board~~ displayed:

~~A-(1)~~ Fire Extinguisher(s), ABC Type, total capacity of not less than ~~nine (9) pounds~~ five (5) pounds;

~~B-(2)~~ Amber flashing light(s) visible within 360-degree rotation around the tow vehicle, and visible in bright sunlight;

~~C-(3)~~ Tail, turn, and stop lights attached, or to be attached, to the towed or towing vehicle ~~so as to be~~ that are visible from the rear;

~~D-(4)~~ Safety chains, ~~and/or~~ straps, or both to secure the towed vehicle to the towing vehicle when towing or and/or otherwise transporting vehicles on ~~public~~ roadways;

~~E-(5)~~ Flares, reflective cones, reflective triangle safety signals, or other similar safety devices;

~~F-(6)~~ 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~~ board);

~~G-(7)~~ The name and telephone number of the towing business ~~shall be~~ displayed and permanently affixed by paint or decal on each side of the tow vehicle along with the permanent business license number assigned by the Board (e.g., "ATRB9999") not less than two inches (2") in height so that it is visible and legible from a distance of fifty ~~(50)~~ feet (50'); ~~(i.e. painted or by decal)~~. (Magnetic signs not permanently affixed are not allowed);

~~H-(8)~~ Light and air brake hookups (required only on tow vehicles being designated "Heavy Duty" for the purpose of these rules and capable of towing semi-truck and trailer vehicles.); and

**Commented [DP24]:** The words "and Rule 17 for an EV towing endorsement or an EV storage endorsement" have been removed since these will not exist.

~~I.(9)~~ –Safety straps for wheel lift equipment as required by the equipment manufacturer for ~~\_~~securing the towed vehicle to the towing vehicle~~;~~

~~I.(b)~~ Tow vehicles equipped with winches and used for recovery, ~~and/or~~ hoisting, ~~and or both, or~~ for towing a vehicle during transport, shall have a winch with an 8,000-pound minimum capacity and a minimum ~~3/8-inch~~3/8-inch diameter cable size, provided~~;~~:

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

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

~~(c)(1).K. Any~~ Except as provided in subdivision (c)(2) of this Rule 7.2, a 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~~ gross vehicle weight rating.~~;~~  
~~provided; however,~~

~~\_\_\_\_\_ (2) ¶~~ 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 for which renewal permits have been issued regularly thereafter, is exempt from the dual wheel and 9,000 GVWR gross vehicle weight rating requirements as long as ownership of the tow vehicle does not change and regular renewals continue to be issued by the Board.

~~(d) L-~~ (1)(A) Any Except as provided in subdivision (d)(1)(B) of this Rule 7.2, a tow vehicle used as a ~~Heavy Duty~~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.~~ pounds at full extension.

~~\_\_\_\_\_ (B) 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 January 1,

~~19952007~~, 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 an ~~d~~ 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 ~~must shall~~ display a current consent Tow Vehicle Safety Permit issued by the Board.

~~\_\_\_\_\_~~(e)(1)(A) ~~(3) Any~~ Except as provided in subdivision (e)(1)(B) of this Rule 7.2, a 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. pounds~~ at full extension.

~~\_\_\_\_\_~~ ( B ) ~~Provided; however that t~~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 January 1, 2007~~, 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)(4)~~ Any tow vehicle used as a Medium Duty Vehicle without an ~~d~~ 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 ~~must shall~~ 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, repossession and/or consent~~ Each towing business and ~~his tow business operators to shall~~ use all of ~~that the~~ ~~tow~~ business's ~~towing-related equipment and/or vehicle immobilization-related~~ equipment knowledgeably and safely.

7.4 ~~\_\_\_\_\_~~ (a)(1) For purposes of these Rules tow vehicles shall be classified by gross vehicle weight rating as follows:

~~A. Gross Vehicle Weight Ratings:~~

~~(A) Light Duty: 9,000 - 15,000 pounds GVWR.;~~

~~(B) Medium Duty: 15,001 - 33,000 pounds GVWR.;~~

~~and~~

~~(C) Heavy Duty: 33,001 pounds and over or more~~

~~GVWR.~~

~~\_\_\_\_\_ (2) Provided, it is recommended that~~ The owner or operator of any Light Duty, Medium Duty, or ~~Heavy-Duty~~ Heavy-Duty tow vehicle, shall observe applicable gross vehicle weight ratings ~~(GVWR)~~ when transporting or attempting to transport, vehicles on public roadways of the State of Arkansas.

~~(b)(1)B. Any A~~ 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 Arkansas Code ~~Ann. § 27-50-1202(10)(12).~~

~~(2)(1) Provided, a 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 unless both~~ the vehicle towing ~~such the~~ trailer, and the trailer ~~must be in compliance comply~~ with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas Department of Transportation and Arkansas Department of Revenue rules applicable thereto, including but not limited to registration, lighting, and braking.

~~(3)(2)~~ The A vehicle towing ~~such a~~ trailer, shall have liability insurance covering injury and/or damage meeting minimum financial responsibility laws of the State of Arkansas;

~~(4)(3)~~ The weight distribution on ~~the a~~ vehicle towing a trailer, and on the trailer shall be stable during transport. In the absence of evidence to the contrary, ~~a combination of a vehicle towing a trailer the~~ weight distribution, shall be considered stable when ~~observing the following weight specifications:~~

~~a.~~(A) The laden weight of the vehicle towing a trailer ~~shall does~~ not exceed the Gross Vehicle Weight Rating (~~GVWR~~) of ~~the at~~ vehicle;

~~b.~~(B) The laden weight of the trailer ~~shall does~~ not exceed the Gross Trailer Weight Rating (~~GTWR~~) of the trailer; and

~~c.~~(C) No axle of the vehicle towing ~~such the~~ trailer, ~~shall have carry~~ carries a weight in excess of the Gross Axle Weight Rating (~~GAWR~~) ~~of for~~ that axle.

(45) 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, if~~ any usage in conjunction with non-consent towing ~~shall have has~~ coverage in compliance with the insurance requirements of Rule 9.2 of these Rules.

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

~~A.~~(1) Notify ~~the~~ Board staff of the year, make and type (*E.g.*, wrecker, rollback, hauler, *etc.*);

~~B.~~(2) Send to ~~the~~ Board ~~s~~Staff from the licensee's insurance carrier an amended

Certificate of Insurance reflecting the ~~tow vehicle~~addition has been added to present coverage;

~~C-(3)~~ Have the ~~vehicle~~addition inspected pursuant to Rule 6.3~~(B)~~ of these Rules, if applicable; and

~~D-(4)~~ Submit to ~~the~~ Board staff a timely application for a tow vehicle safety permit and any other required permit.

7.6 All ~~vehicle immobilization and non-consent towing/storage~~ businesses shall use an invoice for each vehicle towed, recovered, repossessed, stored, or and/or immobilized, and each invoice shall explain how all charges were calculated, separately itemizing all fees and charges ~~to owner(s) and lien holders pursuant to Ark. Code Ann. §27-50-1208(b)(2), as now or hereafter amended~~, and shall furnish, upon request, to the owner or lienholder of the towed, recovered, repossessed, stored, 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.~~ C comply with all Motor Vehicle Laws enacted by the State of Arkansas and all Arkansas Department of Transportation and Arkansas Department of Revenue rules applicable thereto.

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

A-(1) The company name, phone numbers, and serial number of the vehicle immobilization ~~and/or~~ non-consent towing/storage business permanently affixed in a legible manner; and

B-(2) 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 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 repossession consent towing business~~ license shall be accompanied by a license fee of one hundred fifty dollars (\$150).

~~heavy duty~~

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~~ seventy-two dollars (\$72.00) for each light duty tow vehicle or each medium duty rollback or medium duty tow vehicle or ~~heavy duty~~ 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~~ shall require the purchase of replacement permits at a permit fee set by the Board. Once a towing business ~~safety license, registration, endorsement, enhancement, license, and/ or tow vehicle safety~~ permit has been issued ~~the fees are~~ is non-refundable.

8.6 The initial Towing Business License issued to a towing/storage/vehicle immobilization company shall expire one (1) year from the month of issuance, and annually thereafter, until such time ~~as~~ 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, repossession, or consent~~ towing business for a designated tow vehicle shall expire one (1) 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 (a) The Director shall send a renewal notice to each ~~licensee,~~ holder of a ~~consent only registration and tow vehicle safety permit holder license, registration, permit, endorsement, or enhancement~~ at least thirty (30) calendar days prior to expiration. Any ~~license, registration or tow vehicle safety permit for which a complete~~ renewal application ~~that~~ is ~~not complete under these Rules and~~ received

later than 4:30 p.m. on the date of expiration is subject to a 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 A completed, timely application for renewal of a license, registration or tow vehicle safety permit is received by the Board, defers the expiration of the existing license, registration, permit, endorsement, or enhancement, registration and permit subject to renewal shall not expire prior to pending review of the application by Board staff, provided, if the~~

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

~~B.(b) Such An~~ application reviewed after expiration of ~~a the~~ license, registration, permit, endorsement, or enhancement or permit and found to be insufficient is subject to the fee for late renewal application filing, effective upon notice of the review and:-

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

(2) ~~Penalty~~ The penalty as provided in Rule 4.3(A)(B) will be assessed from the

date of notice of the 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 a license, registration, endorsement, enhancement, and/or permit(s), and continues to ~~work in the perform~~ vehicle immobilization, ~~non-consent towing, recovery, or storage services/storage, repossession and/or consent towing industry, shall may~~ be held liable as outlined ~~in sanctioned under -Arkansas- Code Ann. §§ 27-50-1101, § and 27-50-1201 et seq., as now or hereafter amended, and the~~ Rules promulgated by the Board ~~pursuant thereto~~.

## **RULE 9: INSURANCE REQUIREMENTS**

9.1 ~~(a) The provisions of Rule 9 shall apply to those businesses licensed by the Board to engage in vehicle immobilization, non-consent towing/storage, repossession and/or consent towing and related services.~~ All businesses required to be licensed by the Board under this Act shall comply with all

~~requirements of this Rule 9, including without limitation the requirement to~~ obtain, and keep in continuous effect, all applicable insurance coverage required in by 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.

**Commented [DP(25):** The highlighted language was reinstated for clarity per AG recommendation.

~~A.(b) The~~ Certificate of Insurance shall:

~~(1) be~~ issued to the Arkansas Towing ~~&and~~ Recovery Board at its current mailing address:-

~~B.(2) Certificate of Insurance shall have~~ Describe the provisions for notice of cancellation or material change, as ~~according to~~ stated in the insurance policy; ~~and~~.

~~C.(3) Certificate of Insurance shall d~~Display the physical location of each non-consensual towing impound lot ~~for~~ which coverage is extended.

**Commented [DP(26):** The words "and EV storage lot" were deleted because there are no additional EV insurance requirements.

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

**Commented [DP(27):** The words ", including any EV towing or storage service" were deleted because there are no additional EV insurance requirements.

~~A.(1)~~ Each tow vehicle shall have liability insurance covering injury and ~~or~~ damage, except that to the towed vehicle, for which the tow business or tow truck owner is liable. Said coverage shall meet state and federal minimum financial responsibility laws for motor carriers (45 CRFR 387.9); ~~and~~.

**Commented [DP(28):** The highlighted language was revised as indicated to provide needed clarification of insurance coverage requirements in response to the Arkansas Trucking Association's comments.

~~B-(2)~~ Each ~~non-consent tow vehicle, repossession 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 Light Duty, One Hundred Thousand Dollars (\$100,000) for Medium Duty, and Two Hundred Thousand Dollars (\$200,000) for Heavy Duty, according to the gross vehicle weight {GVWR} ratings as per under Rule 7-4(A)}. For purposes of this Rule, on-hook, cargo, or any similar term, is construed to include coverage for losses and ~~(property damage)~~ to the vehicle(s) being towed, recovered, up-righted, transported, or driven-away by the insured; or ~~his agent, where of the insured~~ when the insured is liable, whether or not such loss is due to the negligence of the insured or ~~his-the~~ agent.

~~C.(3)~~ 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 or otherwise stored by the business are stored. (~~E.g., Garagekeepers Legal Liability~~).

**Commented [DP(29):** The words "and EV storage business" were deleted because there are no additional EV insurance requirements.

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~~ any applicable license, registration, endorsement, enhancement, and/or permit(s) immediately suspended by the ~~D~~irector on behalf of 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 ~~or~~ liability incurred during the immobilization and subsequent tow and storage of an immobilized vehicle ~~by a duly licensed and permitted non-consent towing company~~.

9.6 A vehicle immobilization company shall ~~be responsible to~~ maintain liability insurance in an amount not less than Fifty Thousand Dollars (\$50,000) to cover ~~losses incurred to property for any~~ damage liability incurred during the immobilization and subsequent tow and storage of an immobilized vehicle.

**Commented [DP(30):** The words "damage or liability" was changed back to "damage liability" per AG recommendation for clarity.

#### **RULE 10: CHARGES FOR NOTIFICATIONS**

10.1 ~~A.(a)~~ All Licensees shall comply with ~~the all~~ requirements for notification to owners and lien holders, ~~as provided by including without limitation, Ark. ansas Code Ann. §§ 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) or both~~, shall be given to those persons or entities listed as an owner ~~(s) and/or~~ a 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.

~~B.(b)~~ Vehicle immobilization companies shall place a notification on the vehicle in a conspicuous area stating the following:

- (1) The vehicle has been immobilized;
- (2) The name, location, and local phone number of the company immobilizing vehicle;
- (3) A time limit of forty-eight (48) hours before the vehicle will be towed; and
- (4) The name, location, and phone number of the tow company removing the vehicle after the 48 hours has expired.

10.2 For purposes of the second notice to be given and published pursuant to ~~Arkansas~~ 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 Licensee shall separately obtain the owner and lienholder information ~~as described set for~~ in Rule 10.1 and notice shall be given of the exact date, time, and place of the sale.

10.3 The charges for sending ~~the each~~ notice required by law(s); if any ~~regardless of the number of owners and lienholders~~ shall not exceed the greater of twenty-five dollars (\$25) ~~per notification~~, or the actual cost of postage. For the purposes of ~~this~~ ~~these~~ ~~Rules~~ 10.3, each notice required by law to be sent regardless of the number of recipient owners and lienholders the total number of notices required to be sent to the last registered owner(s) and any lien holder(s) of record pursuant to Ark. Code Ann. §§27-50-1208(b)(2) and 27-50-1209(d) after taking possession of a vehicle shall constitute a single notification subject to the limit of twenty-five dollars (\$25) or the actual cost of postage, whichever is greater.

10.4 ~~For purposes of these rules 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. [Repealed.]~~

10.5 All notification documents ~~must~~ shall be maintained for a period of not less than three (3) years from the time of the tow or recovery of a vehicle.

#### **Rule 11: EXCESSIVE PRICING FACTORS**

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

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

#### **RULE 12: PLACE OF BUSINESS REQUIREMENTS**

~~Any~~ towing business ~~or towing company licensed pursuant to these rules~~ shall utilize business and storage facilities that are:

- ~~A.~~(1) Located in Arkansas;
- ~~(2)B.~~ Easily accessible to the public;
- ~~(3)C.~~ In compliance with all local state and federal regulations and ordinances;
- ~~(4)D.~~ Utilizing an appropriate and secure filing system for records;
- ~~(5)E.~~ Utilizing clear and visible signage displaying the name on the business license issued

by the Board that:

~~(1A)~~ Is 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

~~(2B)~~ Displays the name, physical address, a published telephone number, ~~of the towing company~~ and hours of operation: of the tow business; and

~~F(6)~~ Sufficient in space to safely secure the towed vehicles and any personal property stored within.

**Commented [DP(31):** The words "towed vehicles and personal property" were chosen instead of the words "vehicles and any related personal property stored within" for clarity per AG recommendation.

### RULE 13: ISSUANCE OF CITATIONS

13.1 Acting upon probable cause or during an inspection or investigation ~~of a Business~~, an investigator ~~and~~/or the Director ~~employed by the Board~~, may cite a licensee tow business for any of the following offenses:

~~A(1)~~ Operating a tow vehicle without a proper permit or license;

~~B(2)~~ Operating a tow vehicle which is out of compliance with the safety and operating rules prescribed by the Board;

~~C(3)~~ Operating a tow vehicle which has not been permitted or licensed as a tow vehicle by the State of Arkansas;

**Commented [DP(32):** The word "facility" was deleted after the words "tow vehicle" because it is the vehicle, not the facility, that is licensed,

~~D(4)~~ Not responding within the prescribed time frame to a request for information relating to a consumer complaint. Citations shall be in addition to the mandated daily accrual of \$25.00 per day;

**Commented [DP(33):** The word "facility" was deleted after the words "tow vehicle" because it is the vehicle, not the facility, that is licensed,

~~E(5)~~ Failure to properly post required notifications in a conspicuous place as required by the Board; or

~~F(6)~~ Failure to meet the basic criteria for an adequate place of business.

13.2 Fines assessed by citation for each violation of this section Rule 13.1 shall be fifty dollars (\$50.00) for the first offense, one hundred dollars (\$100.00) for the second offense, and two hundred dollars (\$200.00) for the third and each subsequent offense.

**Commented [DP(34):** The highlighted language was added for clarity.

~~\$100.00 for the second offense and \$200.00 for the third and each subsequent offense.~~

13.3. (a) The ~~licensee~~ licensee-tow business may pay the fine within fifteen (15) calendar days of receiving the citation or submit an appeal to the Board within the fifteen (15) calendar days.

~~A.~~(b) Appeals shall be in writing and shall include the following information:

- (1) Business Name and Address;
- (2) Email Address;
- (3) Daytime Telephone Number;
- (4) Name of Responsible Party and ~~or~~ Owner;
- (5) Citation Number;
- (6) Permit Number (if applicable);
- (7) Reason for appeal; and
- (8) Supporting evidentiary documentation.

13.4 (a) If the fine is not paid and no notice of an appeal is filed within the fifteen (15) calendar days, the ~~Director will~~ shall set the violation and the unpaid fine for a hearing before the board. The ~~licensee will~~ licensee-tow business shall be notified in writing of the ~~first available~~ hearing date.

~~(b)~~ ~~A.~~ The Board may choose to take the following actions:

- ~~—~~(1) Uphold the fine issued by the investigator or Director;
- ~~—~~(2) Uphold the citation ~~requiring and may require~~ additional action for the violation;
- ~~—~~(3) Reduce the fine or increase the fine not to exceed two hundred dollars (\$200) for the violation; ~~or~~
- ~~—~~(4) Dismiss the citation; or
- ~~—~~(5) Revoke or suspend a license, registration, permit, endorsement, or enhancement; ~~enhancement.~~

**Commented [DP(35):** The highlighted language was added to properly reflect the statutory language of Arkansas Code § 27-50-1220(b).

#### **RULE 14 SUSPENSION FROM LAW ENFORCEMENT NON-CONSENT ROTATION LIST**

14.1 ~~(a)~~ ~~A.~~ ~~—~~ A complaint request from law enforcement to remove or suspend a tow ~~company~~ ~~business~~ from the non-consent rotation list shall include the following:

- ~~—~~(1) Copy of rotation policy~~;~~
- ~~—~~(2) Copy of complaint~~;~~
- ~~—~~(3) Copy of supporting documentation ~~of for~~ allegations~~;~~ and
- ~~—~~(4) Signature of the Department Head.

~~(b)~~ ~~B.~~ ~~—~~ Upon receipt of a complaint request from law enforcement to remove or suspend a tow company from the non-consent rotation list, the Director ~~will shall~~ assign ~~the~~ complaint to an investigator to ~~complete following:~~

- (1) Timely~~ine of~~ investigat~~ion to conform with Rule 5.1~~~~the complaint;~~
- (2) Determine whether the law enforcement agency's non-consent rotation

policy is reasonable; and

- (3) ~~Determine~~ the severity of the violation.

~~(c)~~

~~C.~~ ~~—~~ The Board may issue fines in addition to removal or suspension of a tow ~~company business~~ from the non-consent rotation list.

~~(d)~~(1) A tow company may be suspended from the non-consent rotation list for a first-time violation of the law enforcement agency's policy for up to fifteen (15) days.

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

~~(3)~~ A third offense may result in a suspension of a tow company from the non-consent rotation list for up to one (1) year and a fine.

~~(e)~~ ~~D.~~ ~~—~~ The law enforcement agency may request a hearing before the Board for additional sanctions which may include a longer period of suspension from the non-

consent rotation list and a fine.

14.2 ~~As provided pursuant to Ark. Code Ann. §27-50-1219(b)(3) and this rule, law enforcement shall establish a~~ non-consent rotation policy shall comply with Arkansas Code § 27-50-1219.

~~A. An adopted non-consent rotation policy shall be reasonable and reflect the day-~~

~~to day operations of a tow company in the immediate area.~~

~~B. A law enforcement agency is not required to establish a non-consent rotation policy pursuant to Ark. Code Ann. §27-50-1219 (b)(1) or this rule if:~~

~~(1) The law enforcement agency has an existing non-consent rotation policy or non-consent towing service contract in place; and~~

~~(2) The provisions of this section would have a negative impact on the law enforcement agency or non-consent towing service contract.~~

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

~~A.(b)~~— A tow company participating in a non-consent rotation policy administered by law enforcement shall be licensed and permitted by the Board.

(c)

~~B.~~— Failure to properly license or renew with the Board shall result in an immediate suspension until all permits are obtained.

~~C.(d)~~— In addition to any law enforcement non-consent rotation policy a tow operator shall comply with all of the statutes and rules administered by the Board.

14.4 ~~Nothing in this act or rule adopted by the Board~~ these Rules shall be construed to prohibit a law

enforcement agency, city, or county from:

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

~~B-(2)~~ Removing a tow company from the local towing rotation list; or

~~C-(3)~~ Assessing a fine, penalty, or other remedy available by law or under its

contracts or policies.

#### **RULE 15 . ENHANCED TOW VEHICLE LICENSE FOR HEAVY DUTY NON-CONSENT ROTATION**

15.1 A tow business meeting the definition and standards as defined in this rule may apply for an enhanced license to be designated as a heavy-duty motor vehicle incident management tow facility for participation in a law enforcement rotation program, heavy duty non-consent rotation.

15.2 (a) ~~A~~The tow facility ~~must~~shall:

\_\_\_\_\_ ~~A-(1)~~ Complete in its entirety the application for a Heavy-Duty Motor Vehicle Incident Management Tow Facility which includes an on-site inspection by an investigator or the ~~d~~Director;

\_\_\_\_\_ ~~B-(2)~~ Comply with all applicable state and federal laws for a tow business operating in the State of Arkansas;

\_\_\_\_\_ ~~C-(3)~~ Have at least one (1) person (owner, ~~partner~~partner, or employee) who has proof of:

\_\_\_\_\_ ~~(A+)~~ ~~d~~Documented training through a nationally recognized towing and recovery program in heavy-duty on-scene recovery techniques; or

\_\_\_\_\_ ~~(B2)~~ ~~f~~Five (5) years or more experience in the towing and recovery of heavy-duty vehicles that can be verified.

~~D-(b)~~ Each tow facility owner, partner, and employee must shall complete a minimum of four (4) hours of Traffic Incident Management Training sanctioned by the ~~Arkansas Towing & Recovery~~ Board in a classroom setting or an on-line program sanctioned by the Board.

15.3 A tow vehicle used in the towing ~~and/or~~ recovery by a Heavy-Duty Motor Vehicle Incident Management Tow Facility must shall:

~~A-(1)~~ Meet the criteria in the Required Tow Vehicle & Equipment List established ~~through Rule 154.4~~ by the Arkansas Towing & Recovery Board.

~~B-(2)~~ Successfully pass a Tow Vehicle Safety Inspection administered by ~~the Arkansas Towing & Recovery~~ Board staff including proof of safety inspection by the Arkansas Highway Police for the North American Standard Level I Inspection Procedure of the Commercial Vehicle Safety Alliance; and

~~C-(3)~~ Comply with all other applicable state and federal laws.

15.4 ~~(a)(1)~~ The ~~following~~ tow vehicle(s) and equipment described in:

~~(A) Subsection (b) of this Rule 15.4 must shall~~ be accessible for use at all times ~~either~~ through ownership;

~~(B) Subsection (c) of this Rule 15.4 may be~~ shared with other licensed tow facilities located within a reasonable distance with a common ownership if accessible within thirty (30) minutes; ~~located within a reasonable distance~~ or

~~(C) Subsection (d) of this Rule 15.4 may be~~ available through contract on a 24-hour, seven (7) day ~~aper~~ week basis if accessible within thirty (30) minutes and located within a reasonable distance.

~~(2) Each Heavy-Duty Motor Vehicle Incident Management Tow Facility shall independently~~ satisfy the requirements of this Rule 15.4.

~~(b)A.~~ -Items requiring ownership shall include ~~the following:~~

~~(1) Required For~~ tow vehicles, trailers, and other support vehicles:

~~(aA)~~ Two (2) heavy duty tow and recovery vehicles with a combined integrated unit capacity rating of seventy (70) tons established by the manufacturer's specifications, ~~(Including but not limited to GVWR including without limitation gross vehicle weight rating,~~ boom capacity, winch rating, wheel lift capacity, and wheelbase ~~all~~) noted on the data plate of the unit. A rotator may be substituted for one ~~(1)~~ of the tow vehicles;

~~(bB)~~ -A medium duty rollback or other similarly configured equipment (such as a Trailer) which could be used ~~in instead its stead;~~

~~(eC)~~ SA support vehicle, service truck, or other vehicle capable of transporting equipment and supplies to the scene in a timely manner; ~~and~~

~~(dD)~~ SA skid steer or tractor with a front-loaded bucket and forks; ~~and~~

(2) Required For equipment and supplies:

~~(AA)~~ Shovel(s);

~~(bB)~~ Broom(s);

~~(eC)~~ Crowbar(s);

~~(dD)~~ Bolt Cutter(s);

~~(eE)~~ Pike Bar;

~~(fF)~~ Sledgehammer(s);

~~(gG)~~ Snatch blocks - Four (4) ~~On each T~~truck;

- (~~h~~H) Hydraulic jacks(s) and one (1) 20-ton mat jack, a ~~high-pressure~~high-pressure lift jack;
- (~~i~~I) Ladder, 20' Type 1A OSHA Standard;
- (~~j~~J) Wheel chocks;
- (~~k~~K) Hand truck;
- (~~l~~L) Pallet jack;
- (~~m~~M) Transfer pump, 20 gallon/per minute minimum;
- (~~n~~N) Two (2) 55-gallon drums ~~(2)~~;
- (~~o~~O) Brake release kit;
- (~~p~~P) Full set of tools, standard & metric;
- (~~q~~Q) Transport chains and binders;
- (~~r~~R) Miscellaneous chains ~~&~~and straps for recovery;
- (~~s~~S) Hardwood cribbing and angle irons of ~~(various sizes)~~;
- (~~t~~T) Heavy duty flashlights;
- (~~u~~U) Acetylene/Oxygen torch with tanks;
- (~~v~~V) Portable air compressor or other means of continuous air supply;
- (~~w~~W) Chop saw;
- (~~x~~X) Impact wrench with sockets; and
- (~~y~~Y) Light plant or truck mounted auxiliary flood lights;

~~B-(c)~~ -Items which may be shared with other tow facilities with common ownership located within a reasonable distance and- that can be accessed within thirty (30) minutes or less shall include:

~~(1)~~ Required For tow vehicles, trailers, and other support vehicles:

~~(a)~~ Sliding or traveling axle trailer such as a landoll or a ~~heavy-duty~~heavy-duty low boy trailer or a ~~heavy-duty~~heavy-duty construction trailer; and

~~(b)~~ Box trailer for purposes of transloading cargo and the power unit to move the trailer to the scene.

~~C-(d)~~ -Items that ~~can may~~ be rented on a 24-hour, seven (7) days ~~aper~~ week basis if located within a reasonable distance and accessible within thirty (30) minutes or less shall include:

~~(1)~~ Required For tow vehicles, trailers, and other support vehicles:

~~(a)~~ Rough ~~Terrain-terrain~~ Forklift;

~~(b)~~ Standard Forklift;

~~(c)~~ Track Hoe;

~~(d)~~ Dumpsters and Hoppers;

~~(e)~~ Dump Truck; and

~~(f)~~ -Forty (40) Yard Roll-Offs.

15.5 ~~Safety standard for~~For the safety of on-scene personnel-

~~A. —~~ Every each person working on scene should have Personal Protective Equipment (PPE). ~~Reference, and~~ the tow business shall meet the safety standards of the 2009 Edition, Manual on Traffic Devices, Section 6D.03

Worker Safety Consideration, Standard 04, including:

(1) High-visibility apparel meeting Performance Class 2 or 3 requirements

of the ANSI/ISEA 107–2004 publication entitled “American National Standard for High-Visibility Safety Apparel and Headwear” (see Section 1A.11), or equivalent revisions, and labeled as meeting the ANSI 107-2004 standard performance for Class 2 or 3 risk exposure;

- ~~\_\_\_\_\_~~ (2) Eye protection;
- (3) Head protection;
- (4) Foot protection; and
- (5) Hand protection.

15.6 A law enforcement agency may utilize any properly licensed tow facility to respond to an incident when:

~~A-(1)~~ Response time is of the essence; and

~~B-(2)~~ A Heavy-Duty Motor Vehicle Incident Management Tow Facility is not available in or near the local area.

15.7 ~~(a)~~ A Heavy-Duty Motor Vehicle Incident Management Tow Facility ~~must~~shall perform in a manner that reflects the intent of Rule 15~~7~~, to maintain or re-establish traffic flow as quickly as reasonable, enable commerce, and protect the safety and well-being of the motoring public.

~~A-(b)~~ Poor or inadequate on-scene performance by a Heavy-Duty Motor Vehicle Incident Management Tow Facility resulting in lengthy lane closures or unreasonable clean-up times may result in the suspension or revocation of its enhanced license. Criteria for a final determination ~~will~~shall include:

~~\_\_\_\_\_~~ (1) Inability to access tow vehicles or equipment required for the issuance of an enhanced heavy-duty tow license in a timely manner~~;~~

\_\_\_\_\_ (2) Improper maintenance of tow vehicles or equipment resulting in poor performance and unnecessary time delays;

\_\_\_\_\_ (3) Demonstrating inadequate performance due to a lack of training by the owner, partner, or employee in accordance with Rule 15.2(C); and

\_\_\_\_\_ (4) Lack of personnel to operate tow vehicles or utilize equipment in a timely manner.

~~B.(c)~~ A tow business ~~will~~ shall not be held accountable for any delay prior to the accident scene being turned over to ~~their~~ its care or instructions or requests that may be made by law enforcement or other on-scene state or federal agencies with additional requirements for recovery and/or clean-up.

~~C.(d)~~ A law enforcement agency that uses an enhanced heavy-duty non consent rotation list and manages a traffic incident may submit to the Board for review a performance ~~or~~ safety-related issue.

#### **RULE 16. SALE AND POSTING OF VEHICLES, TRAILERS, AND CONTENTS ON WEBSITE**

16.1 ~~(a) As used in this Rule 16, “vehicles, trailers, and contents” means a towed or stored vehicle and its contents and any trailer attached to the vehicle at the time it is towed and any contents of such trailer including, but not limited to, other vehicles or boats, to which a possessory lien attached under Arkansas Code § 27-50-1208.~~

\_\_\_\_\_ (b) All vehicles, trailers, and ~~equipment~~ ~~contents~~ towed, ~~recovered~~ ~~recovered~~, or stored that have not been claimed;

\_\_\_\_\_ ~~A. By the owner~~ within forty-five (45) days ~~must~~ ~~after perfection of the towing lien by both~~ ~~maintaining possession and sending notice (by certified mail) that complies with Arkansas Code § 1208(b)(2) or~~ ~~(3) shall~~ be offered for sale through a non-judicial public sale pursuant to ~~(A.C.A. Arkansas Code, §§ 27-50-1208 through 27-50-1210.)~~ ~~or~~

\_\_\_\_\_ ~~B. All vehicles, trailers, and contents~~ ~~vehicle~~ that ~~is~~ ~~are~~ impounded, towed, ~~recovered~~ ~~recovered~~, or stored which ~~has~~ ~~have~~ not been properly registered with a state, ~~if required~~, and ~~or~~ ~~for which~~ no ownership

**Commented [DP(36):** The words “by the owner” were deleted in response to the Arkansas Trucking Association comment to clarify that any interested party could redeem the party’s property from the tow lien.

**Commented [DP(37):** The highlighted language was added in response to the Arkansas Trucking Association comment to clarify the time for the nonjudicial public sale and the statutory requirements to perfect the lien.

**Commented [DP(38):** “27-50-1210” replaced “27-5-1210” to provide the correct citation.

information may be found ~~must shall~~ be advertised and sold in accordance with ~~this rule~~ Arkansas Code §§ 27-50-1208 through 27-50-1210.

**Commented [DP(39):** "27-50-1210" replaced "27-5-1210" to provide the correct citation.

16.2 (a) In addition to ~~the any~~ advertising requirements requiring publication of vehicles, ~~trailers~~ trailers, and ~~equipment contents~~ in a newspaper of general circulation, the same ~~must simultaneously shall~~ be posted on the ~~tow b~~ Board's website, including without limitation:

~~\_\_\_\_\_~~ A. ~~V~~ vehicles, trailers, and equipment contents which have been impounded and for which 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.

(b)(1) The

~~1. This~~ post on the Board's website must shall occur on or before the 10<sup>th</sup> business day after the vehicle, trailer, and contents were or equipment was towed.

~~(2).~~ All posts on the ~~tow b~~ Board website shall follow the template prescribed and ~~must shall~~ be filled out completely.

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

(c)(1)(A)

~~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, trailers, and contents ~~vehicles~~ scheduled for a non-judicial public sale ~~must~~ shall be posted on the ~~tow b~~ Board website in addition to the any required newspaper posting at least fifteen (15) days before the sale.

~~\_\_\_\_\_ (B) A newspaper publication and website posting shall include the specific date of the sale.-~~

~~\_\_\_\_\_ (2)~~

~~1.-~~ All posts on the ~~tow b~~Board website shall follow the template prescribed and ~~must-shall~~ be filled out completely.;

~~\_\_\_\_\_ (3)~~

~~2.-~~ Usage fees ~~must-shall~~ 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.~~

Commented [DP40]: Moved to (new) Rule 16.5

16.3 The Board's online template ~~must-shall~~ include ~~the following items;without limitation:~~

~~A-(1)~~ Date and time of sale.;

~~B-(2)~~ Company name and tow business license number.;

~~C-(3)~~ The address of the facility where the non-judicial public sale will occur including the city and county.;

~~D-(4)~~ Type of sale (auction, written bids, online, etc.);

~~E-(5)~~ Type and description of item to be offered for sale. ~~(V, for example, vehicle, motorcycle, trailer, equipment, etc.);~~

~~F-(6)~~ 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, ~~model and~~ type of equipment, ~~type of equipment, and any~~ other items which may be ~~\_\_\_\_\_~~ included on the template or in the description which may help identify ownership; ~~and-~~

~~G-(7)~~ Any special or unusual identifying marks or characteristics which may be helpful in determining ownership.

16.4 The search engine for a user ~~or a vehicle, trailer or equipment owner will~~ of the Board's website shall include:

~~A-(1)~~ The ~~last eight (8) digits of the full~~ vehicle identification or serial number;

~~B-(2)~~ Make;

~~C-(3)~~ Model;

~~D-(4)~~ Year; and

~~E-(5)~~ ~~†~~The county where the item was impounded.

16.5 ~~Failure to post items in accordance with this Rule 16 may result in civil penalties of up to~~ not to exceed five-thousand dollars (\$5,000), suspension or revocation of a tow business license, or both.

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

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

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

16.89 A company (such as a financial finance-institution) may contract with the ~~tow b~~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 approved by the Board.

## RULE 17. RECOMMENDATIONS FOR ELECTRIC VEHICLE TOWING AND STORAGE

### SERVICES

#### 17.1 TOWING AUTHORIZATION

A duly licensed tow business in good standing may perform EV towing services and EV storage services.

**Commented [DP41]:** The following former 17.1(b) was deleted as unnecessary due to other revisions, especially revised Rule 17.2, clarifying that the recommendations were merely guidelines:  
(b) The Board recommends that all EV towing services and EV storage services be performed according to the guidelines contained in Rules 17.3, 17.4, and 17.6 of this Rule 17.

#### 17.2 RECOMMENDATIONS AND OUTREACH

(a) The Board recommends that all EV towing services and EV storage services be performed according to the guidelines contained in this Rule 17 and any subsequent guidance it is able to provide through outreach efforts, posting on its website, or both, to reflect current best practices.

**Commented [DP42]:** The following former Rule 17.2 was deleted and replaced by the current language clarifying that the recommendations were merely guidelines:

##### 17.2 DISCIPLINARY ACTION

(a)(1) The failure to comply with all applicable local, state, and federal laws and accepted standards for a tow business operating in the State of Arkansas for towing, recovering, or storing an EV may result in a fine, restitution, suspension or revocation of a license, and any other action authorized by Arkansas Code § 27-50-1201 *et seq.* and the rules of the Board.

(2)(A) A second and any subsequent failure to comply with all applicable local, state, and federal laws and accepted standards for a tow business operating in the State of Arkansas for towing, recovering, or storing an EV in any consecutive twelve-month period shall result in the immediate suspension of an applicable EV towing endorsement or EV storage endorsement, or both, followed by a prompt hearing before the Board.

(B) At the hearing the Board may impose any additional penalty authorized by Arkansas Code § 27-50-1201 *et seq.* and the rules of the Board, including without limitation a fine, restitution, and the continued suspension or revocation of an EV towing endorsement or EV storage endorsement.

(b) Except as provided in Rule 17.7, nothing in this Rule 17:

(1) Relieves the tow business engaging in the original tow from the obligation to provide notice to a vehicle owner or lienholder in accordance with Arkansas Code § 27-50-1201 *et seq.* and the rules of the Board; or

(2) Prevents a tow business's right to execute a possessory lien when the standard for doing so has been met.

(b) The Board will use its best efforts to provide information and resources to the tow industry and general public concerning the safe performance of EV towing services and EV storage services.

#### 17.3 RECOMMENDED GUIDELINES FOR PERFORMING EV TOWING SERVICES

(a)(1) Prior to performing an EV towing service it is recommended that a tow business complete or have a third-party EV resource complete an EV assessment.

(2) If during the performance of EV towing services anything occurs that might reasonably change the EV assessment obtaining an additional EV assessment is recommended.

(3) It is recommended that all EV towing services be performed in accordance with the most recent EV assessment.

(b) It is recommended that the tow business:

(1) Maintains a record of all EV assessments for two (2) years and provides a copy of the most recent EV assessment to:

(A) The person, if any, the tow business uses to provide EV storage services; and

(B) Any other transferee of the EV, including without limitation the EV owner, a lienholder, an insurance provider, a garage or body shop, a salvage vehicle pool or salvage vehicle auction, or another tow business; and

(2) Attaches a sticker or decal indicating the risk level of the most recent EV assessment and that the sticker or decal remain affixed to the EV at all times during EV towing services and EV storage services.

#### 17.4 RECOMMENDED GUIDELINES FOR PERFORMING EV STORAGE SERVICES

(a)(1) Prior to performing an EV storage service it is recommended that a tow business complete or obtain from a third-party EV resource an EV assessment.

(2) If during the performance of EV storage services anything occurs that might reasonably change the EV assessment obtaining an additional EV assessment is recommended.

(3) It is recommended that all EV storage services be performed in accordance with the most recent EV assessment.

(b) It is recommended that the tow business:

(1) Maintains a record of all EV assessments for two (2) years and provides a copy of the most recent EV assessment to any transferee, including without limitation the EV owner, a lienholder, an insurance provider, a garage or body shop, a salvage vehicle pool or salvage vehicle auction, or another tow business; and

(2) Attaches a sticker or decal indicating the risk level of the most recent EV assessment and that the sticker or decal remain affixed to the EV at all times during EV towing services and EV storage services.

(c)(1) If an EV assessment indicates the EV may not be safely stored in the same manner as a non-EV, it is recommended that precautions be taken to appropriately store the EV to minimize risks of injury or

**Commented [DP43]:** The former requirement that each tow business "[c]onsents to the release to the Board of all EV assessment records of each of its third-party EV resources" has been deleted.

**Commented [DP44]:** The former requirement that each tow business "[c]onsents to the release to the Board of all EV assessment records of each of its third-party EV resources" has been deleted.

property damage such as storing it separate and apart from buildings, other vehicles, or combustible materials, or in a vehicle isolation bay.

(2) It is recommended that a vehicle isolation bay be located in an area that is easily accessible by fire equipment and personnel.

(d) It is recommended that:

(1) Each stored EV be clearly marked and recognizable as an electric vehicle; and

(2) A damaged EV not be stored inside a building unless it is secured in a fully enclosed vehicle isolation bay approved for indoor use.

#### 17.5 INFORMATION AND OTHER RESOURCES

The Board may post on its website or otherwise publish information concerning training opportunities and best practices for providing EV towing services and EV storage services.

#### 17.6 RECOMMENDED CHAIN OF CUSTODY PROCEDURES

It is recommended that:

(1) Upon release of the EV to another party, including without limitation to the EV owner, a lienholder, an insurance provider, a garage or body shop, a salvage vehicle pool, a salvage vehicle auction, or another tow business, a copy of the most recent EV assessment and a written or electronic chain of custody record accompany the EV, signed and dated by the party releasing the EV and the party receiving the EV.

(2) Each party in the chain of custody maintain a copy of each chain of custody form signed by the party for two (2) years; and

(3) The chain of custody form include:

(A) The name and contact information of the tow business releasing the EV;

(B) The name and contact information of each party receiving the EV;

**Commented [DP(45)]:** This subdivision (c)(1) was re-written to clarify that storage of a damaged EV in a vehicle isolation bay or at a minimum distance of 50 feet is recommended but not mandatory.

**Commented [DP(46)]:** The former requirement for the continued affixation of an EV assessment sticker or decal has been deleted.

(C) A description of the EV including the year, make, model, and vehicle identification number of the EV; and

(D) Signature blocks and a place for the date for each person who transfers and each person who receives the EV.

17.7 LIEN RIGHTS AND PROCEDURES

(a) Except as provided in this Rule 17.7, a towing business that performs EV towing services, EV storage services, or both, shall have a first priority possessory lien on the EV, its contents, and any trailer, vehicle, or boat attached to the EV and their contents under Arkansas Code § 27-50-1208.

(b) If a tow business uses another tow business to provide EV storage services, upon payment of the fair market value of the towing services, the amount paid shall be transferred to and included in the storage tow business's lien for EV storage services.

**Commented [DP(47):** This subsection was rewritten to eliminate any mandatory transfer or payment requirements, but to preserve lien rights upon transfer.

(c) The procedures for notice, foreclosure, sale, and disposition of proceeds shall be governed by Arkansas Code §§ 27-50-1208 through 27-50-1210.

17.8 REPORTING EV INCIDENTS TO THE ARKANSAS TOWING & RECOVERY BOARD

Any catastrophic, emergency, or otherwise noteworthy incident involving the towing or storage of an EV, including without limitation an incident involving fire, smoke emanating from the EV, damage to property, injury to persons, or necessitating an emergency response, shall be reported solely for informational purposes to the Director of the Board no later than ten (10) business days after the incident by submitting the EV Incident Report Form located on the Board's website.

**Commented [DP(48):** Rule 17.8 was revised to clarify the timing and events giving rise to the reporting of EV incidents to the Board solely for informational purposes on a form supplied by the Board - per AG recommendation.

Effective date: \_\_\_\_\_

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1765

5 By: Representative Wing  
6

## For An Act To Be Entitled

8 AN ACT TO AUTHORIZE THE ARKANSAS TOWING AND RECOVERY  
9 BOARD TO ESTABLISH RULES NECESSARY FOR THE TOWING,  
10 RECOVERY, AND STORAGE OF ELECTRIC VEHICLES; AND FOR  
11 OTHER PURPOSES.  
12  
13

## Subtitle

14 TO AUTHORIZE THE ARKANSAS TOWING AND  
15 RECOVERY BOARD TO ESTABLISH RULES  
16 NECESSARY FOR THE TOWING, RECOVERY, AND  
17 STORAGE OF ELECTRIC VEHICLES.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Title 27, Chapter 50, Subchapter 12, is  
24 amended to add an additional section to read as follows:

25 27-50-1224. Rules for towing of electric vehicles.

26 The Arkansas Towing and Recovery Board shall promulgate rules necessary  
27 for the towing, recovery, and storage of electric vehicles by October 31,  
28 2023.  
29  
30

31 APPROVED: 4/13/23  
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