

# RECEIVED

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### BLR

#### **RULE 1: ~~OWNER'S PREFERENCE~~ Scope & Authority**

1.1 Pursuant to A.C.A. § 12-8-106(a)(1)(B), eEach Troop shall establish, maintain, and enforce a list of approved tow businesses that shall be requested to tow vehicles to assist in clearing highways of motor vehicles which have been involved in accidents or abandoned. This list shall be known as the "Towing Rotation List".

1.2 These Rules are promulgated under the authority of A.C.A. § 12-8-106(a)(2). To the extent any other law or rule conflicts with A.C.A. Â§ 12-8-106(a) or these Rules, A.C.A. § 12-8-106(a) and these Rules shall prevail.

~~1.1~~ 1.3 Before utilizing the Towing Rotation List, "owner's preference," shall be offered by the Arkansas State Police (ASP) to the registered owner, owner's agent, driver, -or any competent occupant, if available, of any disabled or inoperative vehicle, ~~except in those circumstances when an emergency exists or where the immediate clearing of a public thoroughfare mandates that a tow operator be requested on an expedited basis, or when the occupant(s) have been physically arrested.~~

~~1.2~~ 1.4 "Owner preference" may not be offered in those instances of exigent circumstances, including when the occupant(s) has been physically arrested. ~~means the right of the owner or person in charge of any disabled or inoperative vehicle to request some responsible and reasonable person, gratuitous bailee, or bailee for hire of his or her choosing to take charge and care of said vehicle.~~

1.5 In the interest of public safety, the Arkansas State Police reserves the right to utilize the closest company to the scene of an emergency situation whereas any further delay creates a substantial safety risk.

#### **RULE 2: ~~MINIMUM REQUIREMENTS FOR PLACEMENT ON ROTATION LISTS~~ Minimum Requirements**

Satisfaction of the minimum requirements does not guarantee that a towing business will be placed on the list. The Troop Commander has discretion to monitor the number and capacity of towing businesses on a list and decline to add a towing business when the list is sufficiently full. Towing businesses that are declined may reapply the following year.

Any towing business that wishes to be placed on a Towing Rotation List shall meet the following requirements before being placed on a Towing Rotation List:

**2.1** Each towing business shall be approved by the Arkansas Towing and Recovery Board and be licensed to engage in the non-consent towing business. Each tow vehicle must have a current "Tow Vehicle Safety Permit" (decal issued by the Arkansas Towing and Recovery Board) affixed to the windshield.

~~2.2~~ 2.2. Each tow vehicle shall display a current vehicle license plate indicating the vehicle is properly registered for gross weight as set forth under Arkansas law.



2.3 Each company shall submit a signed, completed copy of the attached Non-Consent Price List.

2.3.1 The Towing company shall adhere to this list until a new list is submitted by that company and accepted by the Troop Commander.

2.3.2 The towing company must be able to accept payment at the incident scene, or the next safe location away from the scene, in the form of cash and debit/credit card at a minimum.

2.4. Secure area for storage

2.4.1 Secure fence at least 6 feet in height or more secure area subject to the approval of the Troop Commander or his designee.

2.4.2 Adequate lighting of the entire storage area

2.4.3 Clearly marked with name of towing business

2.5 Towing Operators will be ineligible if he or she has one (1) or more of the following convictions:

A felony, class B or higher;

A felony, class D or C within the last 7 years;

A theft-related misdemeanor within the last 3 years;

A sex-related misdemeanor within the last 5 years; or

A violent misdemeanor within the last 3 years.

A towing operator who has multiple prior misdemeanor convictions will be considered on a case-by-case basis. The Troop Commander shall have complete discretion when weighing the desire of the towing company to be placed on the list against public confidence in ASP's tow list.

2.6 Towing operator is defined as a person affiliated with a towing company engaged in the business of providing towing, road service, and storage services for motor vehicles.

2.6.7 Any tow vehicle being utilized by the towing business shall have the name of the towing business permanently affixed to the vehicle. Magnetic signs shall not be used.

2.7.8 The towing business shall be willing to provide towing, storage, or other related services at all hours.

~~2.3 The towing business shall be willing to provide towing, storage, or other related services at all hours.~~

~~2.4~~ 2.89 The towing business shall have a phone number listed in the name of the towing business, and in addition, have a phone number at which the towing business can be contacted after business hours. During normal business hours, Monday through Friday, the towing business shall have someone at the business that will be available for administrative matters, and for the release of motor vehicles or other related items stored at the request of the ASP. After normal business hours, a person shall be on-call to provide said services.

~~2.5 The towing business shall provide the troop headquarters a complete list of all prices for the services it performs or may perform related to the towing and storage of any vehicle for the ASP. The list shall be on the letterhead of the towing business. The towing business shall be responsible for updating the list when prices change by submitting a new price list which~~



~~contains the date when new prices will take effect. The towing business shall not exceed the prices on file with the ASP for services performed at the request of the ASP.~~

~~**2.5.A** The towing business understands these prices may be provided to citizens needing a tow service and will be subject to public release under the Arkansas Freedom of Information Act.~~

~~**2.6** 2.910 The towing business shall provide reasonable accommodations for after-hour release of stored vehicles or the release of personal property, in accordance with A.C.A. § 27-50-1208, in stored vehicles or other related storage. Once the ASP releases any hold on personal property not affixed to the towed vehicle, the towing company, unless they can show just cause, shall release personal property to the rightful owner. Nothing herein shall be construed to require a towing business to forfeit or relinquish its possessory lien as established under Arkansas law.~~

~~**2.7** The towing business shall maintain a reasonably secure area for the safe storage of motor vehicles or other items stored at the request of the ASP. Storage facilities shall be clearly marked as belonging to that particular towing business.~~

~~**2.7.A** Each storage facility must have adequate lighting to illuminate the fenced-in area.~~

~~**2.7.B** Fencing shall be adequate to reasonably secure the storage facility and prevent unauthorized entrance. The towing business shall maintain a sufficient amount of insurance to cover loss or damage to stored vehicles or property.~~

~~**2.8** Any tow vehicle being utilized by the towing business shall have the name of the towing business permanently affixed to the vehicle. Magnetic signs shall not be used.~~



~~2.9 Each towing business shall maintain tow and hook, liability, and garage-keepers insurance in an amount not less than that designated under Arkansas law.~~

~~2.10 Towing operators that respond to ASP calls shall not have a felony conviction; or a theft-related Misdemeanor within the last (3) three years. Prior convictions will be considered on a case-by-case basis. The Troop Commander shall have complete discretion when weighing the desire of the towing company to be placed on the list against public confidence in ASP's tow list.~~

2.101 A towing business owner may not own a second wrecker company within the same towing zone. Two (2) or more businesses in the zone cannot share an address, offices, or storage facility. Each towing business must have at least one (1) primary towing operator assigned to the business who does not tow for any other towing business.

### **RULE 3: ROTATION LIST COMPLIANCE REQUIREMENTS**

~~Each towing business placed on a Towing Rotation List shall comply with the following requirements:~~

~~3.1 Towing businesses shall remove any glass, vehicle parts, or other substances dropped or spilled prior to leaving the incident scene.~~

~~3.2 Towing businesses shall not operate satellite stations on a Towing Rotation List. The towing business will only be placed on a rotation list once, unless the satellite station is a separate independent business and meets all the requirements set forth in these rules.~~

~~3.3~~ 3.1 If a towing business becomes unavailable to take calls for any period of time, it shall notify the respective Troop Communications Center. That towing business shall be removed from the troop rotation list for the requested period of time. The business may be permanently removed from the towing rotation if there are repeated instances of being unavailable.

3.2 A towing business owner is responsible for notifying the Troop Commander of any changes to the business including, but not limited to: change of address, ownership status, wreckers, condition of wreckers, drivers, or any new circumstances of a driver. Failure to do so may result in removal from the towing list.

~~3.4~~ 3.3 No towing business shall accept a service call if the tow vehicle operator is under the influence of any substance that could cause impairment.

~~3.5 The tow vehicle operator shall sign an (ASP-186) Auto Storage Report before leaving with the vehicle. Upon release of the vehicle by the towing business, the person taking possession of the vehicle shall sign the Auto Storage Report, along with the person releasing the vehicle. The date of release shall be placed on the Auto Storage Report.~~

~~3.5.A All Auto Storage Reports shall be returned to the respective Troop Headquarters on a monthly basis.~~

~~3.5.B If the towed vehicle has not been claimed after twenty (20) days, the report shall be sent to the Troop Headquarters with the words "20 days past" written on it, if the owner of the vehicle is unknown.~~



~~3.5.C~~ If the owner of the vehicle is unknown, and the vehicle has remained unclaimed for a period of thirty (30) days, the towing business shall complete an (ASP-96) Unclaimed Vehicle Report Form.

~~3.5.C.i~~ The Unclaimed Vehicle Report Form shall be forwarded to the respective ASP Criminal Investigation Division Company and a copy sent to the



~~Troop Headquarters originally requesting the tow.~~

3.4 Towing businesses on the Towing Rotation List shall not respond to the scene of a crash unless requested by the ASP or other law enforcement authority. If contacted by a private party to respond to the accident scene, the towing business shall contact the Troop Communications Center to advise ASP of the request before proceeding to the scene. The towing Business must be able to provide the name and number of the caller, upon request.

3.5 Towing operators soliciting “owner’s request” when responding as a first responder to any scene requiring a towing service may result in immediate suspension from the Tow List

3.6 A towing business shall accept calls on a 24-hour per day basis. A towing business shall not screen calls to accept only the most profitable, convenient ones.

3.7 A towing operator shall be prepared to transport up to one (1) motorist or passenger involved in an incident if necessary.

**3.6** 3.8 Each towing business shall maintain a record or ledger of all vehicles towed at the direction of the ASP. This record or ledger shall contain the following information: (1) date, time and location of the tow; (2) description of vehicle being towed with VIN and license plate number; (3) name of tow vehicle operator; and (4) location to which the vehicle was towed.

3.9 Towing businesses shall remove all glass, vehicles parts, or other substances or debris dropped or spilled from the entire incident scene prior to leaving the incident scene. The towing business is responsible for cleaning the entire incident scene, including removal of any **non-hazardous materials**. This cleanup shall be divided among the responding own companies in incidents which require more than one company to respond.

3.10 In cases where recovery and/or cleanup efforts last for extended periods of time (more than one hour), the towing company shall be responsible for managing traffic flow through the affected area. The towing company shall take reasonable steps to ensure the safe and efficient flow of traffic.

~~3.7 Towing businesses shall cooperate with the ASP and allow the inspection of records or equipment associated with compliance of these Rules.~~

~~3.8 Towing businesses shall maintain a physical business location within the state of Arkansas, and no vehicle or other item shall be removed from the state of Arkansas unless released to and/or authorized by the owner or the owner’s legal representative of the towed vehicle.~~

~~3.9 A towing business shall not screen calls to accept only the most profitable ones.~~

~~3.10 Towing businesses on a Towing Rotation List shall not respond to the scene of an accident unless requested by the ASP or other law enforcement authority at the direction of the ASP.~~

**3.10.A** ~~If contacted by an owner to respond to the scene of an automobile accident, the towing business shall contact the Troop Communications Center to advise ASP of the request before proceeding to the scene of the accident.~~



~~3.11 — If a towing business is unable to provide the equipment required for a particular call, or provided such equipment in a timely manner, the next available towing business having such equipment shall be called and the towing business not providing such equipment shall forfeit that particular call rotation.~~

~~3.12 The owner, or owners, and any employee of the towing business who operate a tow vehicle, shall comply with all federal and state laws.~~

#### **RULE 4: ROTATION LIST TYPES**

Each Troop Commander shall establish the towing zones within the respective Troop. Each Troop Headquarters shall establish two Towing Rotation Lists as follows:

**4.1** Light Duty Towing Rotation List: To be placed on the Light Duty Towing Rotation List, a business must have the following equipment:

~~4.1.A — 4.1.1 Towing businesses are required to have a rollback wrecker. A light duty tow vehicle, equipped with a wheel lift device. Those businesses providing services under a Towing Rotation List at the time of enactment of these Rules shall be exempt from the requirement of having available a wheel lift equipped truck, if that towing business did not operate such a truck at the time of~~



~~enactment.~~

4.1.2 At the time of the call, if the business does not have the equipment necessary to successfully tow the vehicle, they must let the Troop communications center know

**4.1.A.i** ~~However, at the discretion of the officer requesting the tow, if it is determined that a wheel lift-equipped truck is required for the particular call, the next available towing business having such equipment shall be called and the towing business not providing such equipment shall forfeit that particular call rotation.~~

**4.1.B** ~~————— A rollback-equipped truck for transporting cars, light trucks and other related items not amendable to towing by a sling, wheel lift, or other methods normally utilized by a tow truck. Those towing businesses providing services under a Towing Rotation List at the time of enactment of these rules shall be exempted from the requirement of having available a rollback-equipped truck, if the towing business did not operate such a truck at the time of enactment.~~

**4.1.B.i** ~~However, if at the discretion of the officer requesting the tow, it is determined that a rollback-equipped truck having such equipment shall be required for the particular call, the towing business not providing such equipment shall forfeit that particular call rotation.~~

**4.2** ~~4.1.3 The tow vehicle utilized for Light Duty Tow calls shall be able to respond immediately. If the towing business does not have the equipment required for a particular call is not able to respond immediately, it shall notify the Troop Headquarters. The Troop Headquarters shall move to the next available towing business having such equipment shall be called, that can respond immediately, and the towing business that was unable to respond shall forfeit~~ing ~~that call rotation.~~

**4.2** A towing business shall arrive within 30 minutes or less from receipt of the call, with the appropriate equipment and capable towing operator. The 30-minute timeframe will be waived (within reason) for incidents that occur in extreme rural areas, or when the towing operator experiences other delays (another crash on the route, traffic blocked, etc.) outside of the operator's control. It is the responsibility of the towing business to let the Troop communications center know if there is a delay, and the reason for it.

**4.3** 4.3 Heavy Duty Tow Vehicles: To be placed on the Heavy Duty Towing Rotation List, a towing business shall have available the following equipment:

**4.3.A** ~~—————~~4.3.1 A Heavy-duty truck, equipped with an "underlift" device to be utilized for connecting to the vehicle to be towed.

**4.3.A.i** ~~If aAt the discretion of the officer requesting the tow, it is determined that a heavy duty tow truck is required for the particular rotation call, the next available towing business having such equipment shall be called and the towing business not providing such equipment will forfeit that particular call rotation.~~

**4.3.A.ii** ~~————— Those towing businesses providing services under a Towing Rotation List at the time of enactment of these rules, shall be exempted from the requirement of having available an underlift-equipped truck if that towing business did not operate such an equipped truck at the time of enactment.~~



~~4.3.A.iii~~ ~~At the discretion of the officer requesting the tow, it is determined that an~~  
~~“underlift” device is required for the particular rotation call, the next available towing business~~  
~~having such equipment shall be called and the~~



~~towing business not providing such equipment shall forfeit that particular call rotation.~~

**4.3.B** 4.3.2 Access to other towing equipment (another wrecker service) to clean up major accidents, including but not limited to, grain, logs, sand, gravel, cargo, etc. For purposes of this requirement, the towing business need not own or operate the equipment itself, but the towing business shall have a written agreement with a competent business within the same towing zone with which it may contract for services on a twenty-four (24) hour basis. Any towing business contracting for clean-up services under this requirement shall be responsible for any damages inflicted by its contractor as if it were performing the services itself.

**4.4** The tow vehicle utilized for calls from the Heavy Duty Tow Vehicle Rotation List shall be dispatched immediately upon request by the Troop Headquarters. If a heavy-duty tow vehicle cannot be in route within twenty (20) minutes from the time the request for services is made, the ASP shall move to the next towing business on the Heavy Duty Towing Rotation List. A towing business that is unable to respond shall forfeit that particular call rotation.

## **RULE 5: RATES AND CHARGES REQUIREMENTS**

A towing business receiving calls from the ASP shall not charge fees in excess of those provided and agreed upon in writing by the towing business to the troop headquarters, ~~and nor~~ shall ~~not a towing business~~ charge for the use of equipment and/or personnel not reasonably necessary to perform the requested services in a timely and professional manner.

**5.1** Storage fees shall be ~~reasonable, as~~ determined by industry standards and shall be included in the ~~A list of fees provided and agreed upon in writing by the towing business to the troop headquarters, and how those fees are calculated shall be given to the ASP in accordance with~~ **RULE 2.5**. ~~Consumer charges shall not deviate from the list provided.~~

**5.2** A towing business shall not charge greater fees for answering calls by ASP than they do for owner preference calls. ~~Whenever complaints are received by the ASP concerning the services provided or the fees charged for towing and related services requested through the ASP, the complaint shall be investigated in accordance with~~ **RULE 6** ~~to determine the validity of the complaint and if any action is warranted against the towing business.~~

**5.3** Any towing business ~~found to have exceeded~~ ing its ~~posted~~ prices provided to the troop headquarters, or, using unnecessary services to increase its fees, ~~or engaging in unethical business practices~~ shall be subject to permanent removal from the Towing Rotation List by the Troop Commander, at his or her discretion. ~~Towing businesses shall maintain a current price list, on its letterhead, of all charges for equipment and services at the respective troop headquarters in accordance with~~ **RULE 2.5**.

## **RULE 6: COMPLAINTS AGAINST TOWING BUSINESS AND LIST REMOVAL FROM ROTATION GROUNDS**

Complaints made against a towing business on a Towing Rotation List shall be handled as provided below, with the discretion of the Troop Commander; ~~any other complaint for a service provided by the ASP. The Troop Commander may refer it to the~~



~~Arkansas Towing and Recovery Board when it is a complaint relating to licensing.~~

~~6.1 Minor infractions include, but are not limited to: response times exceeding normal response time; self-dispatching to crashes; being rude/disrespectful to dispatcher; troopers working crashes, and/or drivers at crash scenes; arriving at crashes unprepared to be effective; or, any other minor infraction reported to and substantiated by the Troop Commander. These may be subject to suspension of rotation(s). If the Troop Commander opens a complaint, it shall follow the normal route of a complaint filed with the ASP. After a review of the complaint file, the Troop Commander shall render a decision. The decision of the Troop Commander may be reviewed by the Bureau Commander. A decision rendered by the Bureau Commander shall be final.~~

~~6.2 Major infractions include, but are not limited to, failing to meet rules established for non-consent towing by the Arkansas Towing and Recovery Board; repeated complaints; dishonest, fraudulent or false statements made to ASP; repeated failure to follow these rules; or other major infractions reported to and substantiated by the Troop Commander. These may be subject to permanent removal from the Rotation List.~~

~~6.2 Any towing business receiving calls from a Towing Rotation List maintained by the ASP shall be subject to removal for:~~

~~6.2.A Failing to follow these Rules;~~

~~6.2.B Failing to meet the rules established for non-consent towing by the Arkansas Towing and Recovery Board;~~

~~6.2.C Substantiated complaint; or~~

~~6.2.D Dishonest, fraudulent or false statements made to the ASP.~~

~~6.3 If a complaint against a towing business is related to the amount charged for the services provided, the towing business shall bear the burden of demonstrating the reasonableness of the charge. If this complaint is substantiated the towing business may be subject to suspension or removal from the towing list at the Troop Commander's discretion, dependent on the severity of the unreasonableness of the charge.~~

## **RULE 7: TOWING BUSINESS COMPLAINTS AGAINST THE ARKANSAS STATE POLICE**

~~In those instances where a towing business on a Towing Rotation List has a complaint against the ASP, the owner or designated agent for that towing business shall comply with the following procedure order to insure proper redress:~~

7.1 The towing business owner or designated agent shall submit the complaint in written form, with the original being sent to the respective Troop Commander and a copy to the Law Enforcement Bureau Commander. It shall include the following: (1) The specific nature of the complaint, including a detailed recitation of the facts upon which the allegation is based; (2) the name or identity of the ASP employee who has engaged in the alleged conduct which has given rise to the complaint; and (3) any supporting documentation that would establish a basis for the complaint.



**7.2** If the complaint is based upon an allegation of missed tow rotation calls, or inequitable assignment, the towing business owner or designated agent shall first examine the Troop Headquarters records before filing a formal complaint. This will provide both the ASP and towing business the opportunity to correct inadvertent omissions in tow assignments.

~~7.2.A~~ If no resolution is reached, the Troop Commander shall review the complaint information and render a decision. ~~The decision of the Troop Commander may be reviewed by the Bureau Commander. A decision rendered by the Bureau Commander shall be final.~~

**7.3** If the complaint is against an officer, the complaint will follow the normal course of citizen complaints.