

281.922 Emergency towing -- Duties of towing company.

- (1) This section applies to any towing company that engages in, or offers to engage in, emergency towing.
- (2)
 - (a) Prior to the removal of a towed motor vehicle from a tow truck, a towing company that engages in emergency towing shall take photographs, video, or other visual documentation to document evidence of any vehicle damage, debris, or damaged cargo or property.
 - (b) A towing company operating under this section may document, at the scene, any complications to the recovery process in writing or by using any of the methods outlined in paragraph (a) of this subsection, if:
 1. Law enforcement does not object; and
 2. It can be performed in a safe manner.
- (3) Except as provided in subsection (4) of this section, a towing company, while providing an emergency tow, shall not stop, or cause a person to stop, at the scene of an accident or near a disabled motor vehicle, for the purpose of:
 - (a) Soliciting an engagement for emergency towing services;
 - (b) Moving a motor vehicle from a public street, road, or highway; or
 - (c) Accruing charges in connection with paragraph (a) or (b) of this subsection.
- (4) A towing company may stop, or cause a person to stop, at the scene of an accident or near a disabled motor vehicle under the circumstances of subsection (3) of this section if the:
 - (a) Towing company is requested to stop or to perform a towing service by a law enforcement officer;
 - (b) Towing company is summoned to the scene or requested to stop by the owner or operator of a disabled motor vehicle;
 - (c) Owner of a disabled motor vehicle has provided consent to the towing company to stop or perform a towing service; or
 - (d) Towing company has reasonable belief that a motorist is in need of immediate aid. A towing company shall not offer towing services under this paragraph unless a condition of paragraph (a), (b), or (c) of this subsection has been met.
- (5)
 - (a) Except as provided in subsections (6) and (7) of this section, the owner or operator of a disabled motor vehicle, in consultation with law enforcement or with authorized state or local government personnel, may:
 1. Summon to the disabled motor vehicle's location the towing company of the owner's or operator's choice, either directly or through an insurance company's or an automobile club's emergency service arrangement; and
 2. Designate the location to which the disabled motor vehicle is to be towed.
 - (b) If the location designated by the owner or operator is not a storage facility owned or operated by the towing company, the owner or operator shall arrange for payment to the towing company at the time the towing company is

summoned.

- (6) Subsection (5) of this section shall not apply:
 - (a) In the event of a declared emergency; or
 - (b) If the owner or operator of a disabled motor vehicle:
 1. Is incapacitated or otherwise unable to summon a towing company; or
 2. Defers to law enforcement or to authorized state or local government personnel as to the towing company to be summoned or the location to which the disabled motor vehicle is to be towed.
- (7) The authority of an owner or operator of a disabled motor vehicle to summon the towing company of the owner's or operator's choice under subsection (5) of this section shall be superseded by a law enforcement officer or by authorized state or local government personnel if:
 - (a) The towing company the owner or operator chooses is unable to respond to the location of the disabled motor vehicle in a timely fashion; or
 - (b) The disabled motor vehicle is a hazard, impedes the flow of traffic, or may not legally remain in the motor vehicle's location in the opinion of the law enforcement officer or authorized state or local government official.
- (8) If a disabled motor vehicle is causing or poses a safety hazard, the towing company may move the disabled motor vehicle to a safe location after being authorized by a law enforcement officer or by authorized state or local government personnel. The owner of the disabled vehicle shall be responsible for the costs of the tow.
- (9) A disabled vehicle shall not be removed from a scene that is under the control of a law enforcement agency without authorization from the law enforcement agency.
- (10) If a towing company is summoned for emergency towing by the owner or operator of a disabled motor vehicle, the towing company shall make a record, to the extent available, consisting of:
 - (a) The first and last name and telephone number of the individual who summoned the towing company to the scene; and
 - (b) The color, make, model, year, vehicle identification number, and license plate number of the disabled motor vehicle.
- (11) If a towing company is summoned for emergency towing by a law enforcement officer or by authorized state or local government personnel, the towing company shall make a record, to the extent available, consisting of:
 - (a) The identity of the law enforcement agency or authorized state, county, or municipal agency requesting the emergency towing; and
 - (b) The color, make, model, year, vehicle identification number, and license plate number of the disabled motor vehicle.
- (12) A towing company shall maintain a record created under subsection (10) or (11) of this section and provide the record to a law enforcement agency upon request from the time the towing company appears at the location of the disabled motor vehicle until the time the motor vehicle is towed and released to an authorized third party. A towing company shall retain the record created under subsection (10) or (11) of this

section for a period of two (2) years from the date the disabled motor vehicle was towed and, throughout the two (2) year period, make the record available for inspection and copying, not later than forty-eight (48) hours after receiving a written request from a law enforcement agency, the Attorney General, the disabled motor vehicle's owner, or an authorized agent of the disabled motor vehicle's owner. If the disabled motor vehicle was involved in a collision, the records shall be available for inspection by any individual involved in the underlying collision, his or her respective insurance companies, or his or her legal representatives. Records maintained under this subsection shall be kept in paper or electronic form.

- (13) A towing company that performs emergency towing under this section shall, upon taking possession of the motor vehicle, secure a towed motor vehicle properly and take all reasonable efforts to prevent further damage, including weather damage, or theft of a towed motor vehicle, including the motor vehicle's cargo and contents until the motor vehicle is out of the towing company's possession. A towing company shall not be responsible for damage that occurred prior to taking possession of the motor vehicle for towing.

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