

STUDY OF NON-CONSENT TOWING FEES

December 29, 2008

MORNINGSIDE
RESEARCH AND
CONSULTING, INC

www.morningsideresearch.com

STUDY OF NON-CONSENT TOWING FEES

December 29, 2008

Prepared for

Texas Department of Licensing and Regulation
920 Colorado
Austin, Texas 78701

Prepared by

Morningside Research and Consulting, Inc.
P.O. Box 4173
Austin, Texas 78765
Phone 512 302 4413 • Fax 512 302 4416
www.morningsideresearch.com

Table of Contents

I. Executive Summary.....	1	Comprehensive Statewide Rate Setting: New Mexico and Louisiana.....	34
II. Project Overview.....	6	VIII. Summary of Findings.....	37
Purpose.....	6	IX. Recommendations for Texas.....	41
Methodology.....	6	Appendix A: Local Regulation Matrix.....	43
III. History of Fee Regulation.....	10	Appendix B: Fee Schedule Compliance.....	56
History of Towing Industry Regulation.....	10	Appendix C: Tow Ticket Compliance.....	63
Regulation in Texas.....	12	Appendix D: Other State Towing Regulations and Rate Schedule.....	73
IV. Regulation of Non-Consent Towing Fees in Texas.....	14	Appendix E: Texas Municipal Rate Studies....	89
Local Regulation: Standard Towing	14	Appendix F: Bibliography.....	94
Local Regulation: Medium and Heavy-Duty Towing.....	17	Appendix G: Interviews	96
Rate Studies.....	19		
V. Compliance Review.....	20		
Fee Schedule Compliance.....	20		
Tow Ticket Compliance.....	22		
No Regulation.....	24		
VI. Complaints.....	25		
TDLR Complaint Database.....	25		
Complaints for Local Programs.....	27		
Insurance Industry Complaints.....	27		
Towing In The News	29		
VII. Non-Consent Towing Fee Regulation in Other States.....	30		
Local Authority to Set Rates: Virginia and New Jersey	30		

I. Executive Summary

Background

Section 2308.003 of the Texas Occupations Code, created by HB 2094 (80th Legislature, Regular Session, 2007), requires the Texas Department of Licensing and Regulation (TDLR) to study the following:

- The fees charged by license and permit holders for non-consent tows
- Compliance of license and permit holders with local regulations governing towing fees, and
- Consumer complaints related to fees for non-consent tows.

TDLR is to report the findings of the study, including any recommendations for state regulation of towing fees, by January 1, 2009. This report fulfills that requirement.

History

Federal legislation. In the last 25 years, federal regulation of the towing industry has undergone many changes. A trend toward deregulation began in the 1990's, followed by a series of court rulings exploring the authority of states and localities to regulate the towing industry, as well as the meaning of some key terms in the federal towing statute. In recent years, there has been mounting concern for consumer protection. A report issued to Congress in 2007 reviewing state and federal towing laws states that "the complex interaction between federal, state and local laws has created confusion among towing companies and consumers alike and has restricted the ability of vehicle owners to pursue legal claims."

Many states have either passed or are considering legislation to curb what some call predatory towing. While questions of federal preemption continue to be of concern for state and local policymakers, the current federal law is clear in giving states and localities the right to regulate non-consent towing fees.

Texas. In Texas, prior to the late 1980s, the Texas Department of Labor and Standards regulated the towing industry, but did not regulate fees. The regulation of the towing industry was then transferred to the Texas Railroad Commission which regulated the industry throughout the late 1980s and early 1990s. During that time, a detailed and complicated state tariff was in place regulating the fees for certain tows within the state. In the mid 1990s, this tariff was eliminated and the towing industry became largely unregulated, as was the case in many other states following federal deregulation efforts. After deregulation, the responsibility for monitoring the towing industry was moved to the Texas Department of Transportation.

TDLR. Most recently, HB 2094 moved the regulation of the towing industry to the Texas Department of Licensing and Regulation, effective January 2008. In September 2008, TDLR began statutorily required inspections of towing companies to ensure that they are in compliance with state statute and administrative rules. Each towing company will be inspected at least once every two years. The fee schedules and tow tickets reviewed for this study were issued prior to the start of the compliance inspections.

Regulation in Texas: State Law

In Texas, towing is regulated in Chapter 2308 of the Texas Occupations Code, and in 16 Texas Administrative Code, Chapter 86. These regulations govern the licensing of towing companies, tow trucks, and tow truck operators and provide limited requirements regarding the fees that are charged for non-consent towing.

Definition. TDLR interprets non-consent towing to mean all towing done without the consent of the owner as well as any towing resulting from the scene of an accident or incident which a law enforcement official is investigating, regardless of whether or not the owner of the vehicle authorizes the tow. In the Texas Occupations Code Section 2308.002, the definition of non-consent tow is any tow that is not a consent tow. A consent tow is defined to exclude “the tow of a motor vehicle initiated by a police officer investigating a traffic accident or a traffic incident that involves the vehicle.” This is further clarified in 16 Texas Administrative Rules Section 86.700, “a towing company or a towing operator may not request a vehicle owner or operator to sign a tow ticket or authorization form for a tow if the tow is initiated by law enforcement.”

Local authority. Texas statute allows political subdivisions (local governments) to regulate non-consent towing that occurs within the territory of the political subdivision. If a political subdivision chooses to regulate non-consent towing fees, the governing body is required by Chapter 2308.203 to conduct a towing fee study.

Maximum towing fees. In the absence of a local regulation for non-consent towing from private property, the statute contains a provision for determining the maximum amount that may be charged for a non-consent tow. The provision, in Chapter 2308.204 of the Texas Occupations Code, says that the maximum rate that may be charged in the absence of a local regulation is a percentage of the rate authorized by a law enforcement agency in the political subdivision in which the private property is located (150 percent of the local law enforcement rate for a light-duty tow and 125 percent for a heavy-duty tow). This maximum rate does not apply to a tow originated by law enforcement personnel.

Posting fees. Texas statute requires that towing companies post their fee schedules on the TDLR website, but TDLR may not make a determination as to the reasonableness of the fees included in the fee schedules.

Local Regulation in Texas

Just over half (17) of the 33 municipalities contacted for this study have ordinances regulating non-consent towing fees. Municipal ordinances may regulate towing from private property and/or tows initiated by law enforcement. Law enforcement tows that are not regulated by a municipal ordinance may be regulated by the police department. Half of the 22 municipal police departments have non-consent towing fees regulated either through a city ordinance or by a contract or agreement with towing companies.

Of the 23 counties contacted for this study, only Harris County regulates fees. Four of the 13 county sheriff's departments contacted for this study regulate fees through a contract or agreement with tow companies. Local regulations set by ordinance or by a law enforcement agency vary in their definitions of non-consent towing, the types of fees, and the rates that are set.

Compliance Review

Fee schedules. The fee schedules of 25 randomly selected towing companies were reviewed to determine their compliance with state and local non-consent towing fee regulation. Fee schedules are generally, but not fully, in compliance with state statute and administrative rules regarding format, content, and rate structure. For example, several of the fee schedules reviewed do not reflect the rates set by the municipalities or sheriff's departments.

Tow tickets. Tow tickets reviewed for this study are largely out of compliance with state statute and administrative rules. Of the 93 tow tickets from 8 companies reviewed for this study, most of the information required to be on the tow tickets is missing, such as the certificate of registration number, the name and license number of the tow operator, the specific rule sanctioning the tow, each fact justifying the non-consent tow, and the location from which the vehicle was towed.

Tow tickets from two of the eight towing companies are not in full compliance with the towing company fee schedules; some of the charges on their tow tickets exceed the amounts on their fee schedules. All of the tow tickets contain charges in addition to the towing and storage charges; these additional charges add an average of \$99 to each ticket, ranging from \$17 to \$348.

Compliance With Local Fee Regulations

For just over half of the selected tow tickets, the location where the tow originated cannot be determined; these 47 tickets either do not list a city or county where the tow originated or the origin location is vague or illegible. Without a pick-up location, it is not possible to determine if the towing company is in compliance with the regulations governing tows in that location.

Based on the review of 25 randomly selected towing companies, 40 percent are not subject to any state or local non-consent fee regulation. These 10 towing companies are located in cities and counties that have no municipal, county, or law enforcement regulation of non-consent towing fees. These towing companies operate in areas without law enforcement rate regulation, so the maximum fee specified in Texas Occupations Code Chapter 2308.204 (that limits fees for private property tows in areas without a municipal ordinance to 150 percent of the law enforcement rate) does not apply. These 10 companies are not subject to a state ceiling on fees.

Complaints

Because TDLR has such a short history addressing towing complaints, a full picture of the nature and resolution of complaints is not yet available. However, the complaint caseload has increased in the months since TDLR has received complaints regarding towing.

In addition to the information about consumer complaints from the TDLR database, insurance companies provided extensive examples of tow tickets and fee schedules that they believe are excessive. Although these tickets may show excessive charges, many of the charges on the tickets are in compliance with state law because they reflect the rates shown on the towing company fee schedules.

Other States

At least 11 other states regulate fees and four of those allow local governments to set rates. Rate-setting methodologies in the states range from simple to complex.

Findings

The results of the review of the towing companies identifies the following issues:

- The definition of non-consent towing varies and is not universally agreed upon.
- Posting fee schedules on the TDLR website as required by statute does not result in regulation of non-consent towing fees; the posted fees are not necessarily reasonable or in compliance with local regulations.
- A loophole in the Texas statute links maximum rates for private property towing to a local law enforcement rate, but many law enforcement agencies, particularly in counties, do not regulate fees.
- The other fees charged by towing companies, in addition to the towing and storage charges, increase the total charges for consumers. Great variations are seen in the fees posted for tows as well as the fees charged for tows.
- Heavy-duty towing (generally defined as the towing of vehicles with a gross weight rating of 26,000 pounds or more), presents a number of challenges and is less regulated throughout the state than light-duty or standard tows (generally defined as the towing of vehicles with a gross weight rating of 10,000 pounds or less).
- Large areas of the state lack regulation. While Texas statute leaves regulation of non-consent towing fees to local governments, a review of the regulations in place indicate that outside the major urban areas of the state, non-consent towing fees are not consistently regulated. The regulations that are in place have gaps that leave several issues unaddressed, such as heavy-duty towing, the other charges that may be added to tow tickets, and the definitions of non-consent towing.

Recommendations for Texas

To ensure more consistent and effective regulation of non-consent towing fees and consumer protection in Texas and address the issues raised in the previous chapter, the Texas legislature should consider including the following provisions in the Texas Occupations Code Chapter 2308:

1. Clarify the definition of a non-consent tow.
2. Set a maximum rate for all non-consent tows, including both private property tows and law enforcement tows. Rates should be developed by TDLR with input from the Towing and Storage Advisory Board and the rules adopted by the Texas Commission of Licensing and Regulation. The statute should require that TDLR set maximum rates for the following:
 - Standard (light-duty) tows (gross weight rating of 10,000 pounds and less)
 - Medium-duty tows (gross weight rating between 10,000 and 25,000 pounds)
 - Heavy-duty tows (gross weight rating of 26,000 pounds and more)
 - Other fees that may be charged in addition to the towing charge
3. Prohibit any fees other than those shown on the rate schedule.
4. Require that local regulations not be less restrictive than state statute regarding the definition of non-consent towing and the types of fees that may be charged. However, local governments and law enforcements agencies should be allowed to set higher rates for the fees allowed by statute if they believe they are warranted in their jurisdiction.
5. Allow consumers to recoup the cost of overpayments through an administrative law process.

These additional measures may result in a cost to state government to implement and enforce. This study did not attempt to estimate the costs or revenue that may result from the implementation of these recommendations.

Conclusion

The regulation of non-consent towing fees in Texas is inconsistent, both in coverage— many areas of the state do not have any regulations— and content— there are gaps in existing local regulations that leave issues such as charges other than towing charges and heavy-duty towing unaddressed. The absence of state regulation of fees and inconsistent local regulation of fees creates opportunities for inconsistent and, in many cases, excessive charges for consumers.

If the goals are more consistent and effective fee regulation across the state, more price transparency for consumers, and better consumer protection, then the state must either require that all local governments have a regulation in place or the state must set rate ceilings to ensure that non-consent towing fees are regulated in all areas of the state.

II. Project Overview

Purpose

Section 2308.003 of the Texas Occupations Code, created by HB 2094 (80th Legislature, Regular Session, 2007), requires the Texas Department of Licensing and Regulation (TDLR) to study the following:

- The fees charged by license and permit holders for non-consent tows
- Compliance of license and permit holders with local regulations governing towing fees, and
- Consumer complaints related to fees for non-consent tows.

TDLR is to report the findings of the study, including any recommendations for state regulation of towing fees, by January 1, 2009.

Methodology

Morningside Research and Consulting conducted a literature review of journal and newspaper articles, national and state trade and advocacy association reports, and studies written in the last five years that have examined the issues related to state and local regulation of non-consent towing fees. In addition, towing industry trade associations and other related trade associations, as well as experts in the field of non-consent towing fees were contacted to identify the benefits and challenges of regulating fees.

A bibliography is included in Appendix F and a list of individuals interviewed for this study is included in Appendix G.

Compliance

In order to review compliance of Texas towing companies with state and local regulations of non-consent towing fees, 25 towing companies were randomly selected from the database maintained by TDLR of approximately 1,700 licensed towing companies that have at least one truck licensed for incident management or private property towing. These 25 towing companies were categorized by the number of trucks, the geographic area of the state in which they are located, and whether they are in an urban, suburban, or rural area. Adjustments were made to this list (with all subsequent additions to the list chosen at random) to ensure that the list of 25 towing companies were similar in size and geographic diversity as the full list of towing companies.

GEOGRAPHIC DISTRIBUTION						
Zone	Full List	Expected % Distribution of Sample	Expected # Distribution of Sample	Rounded Expected # Distribution of Sample	Actual Distribution of Sample	% Distribution of Sample
1	479	26.7%	6.68	7	7	28.0%
2	50	2.8%	0.70	1	2	8.0%
3	59	3.3%	0.82	1	2	8.0%
4	513	28.6%	7.15	7	5	20.0%
5	693	38.6%	9.66	10	9	36.0%
Total	1,794	100.0%	25		25	100.0%

The towing companies were sorted into five zones, shown on the map on page 8. The tables here and on the next page show how the random sample of 25

towing companies compares to the full list of towing companies obtained from TDLR.

SIZE DISTRIBUTION				
	Full List	Random Sample		
Average Number of Trucks	3.49	4.6		
Minimum Number of Trucks	1	1		
Maximum Number of Trucks	51	15		
Median Number of Trucks	2	3		
# of Companies with Heavy-Duty	439	6		
% of Companies with Heavy-Duty	24%	24%		
RURAL/URBAN DISTRIBUTION				
Rural/Urban	Full List	% of Full List	Random Sample	% of Random Sample
Metropolitan	1,342	75%	17	68%
Micropolitan	203	11%	4	16%
Nonmetropolitan	249	14%	4	16%
Total	1,794	100%	25	100%

The non-consent towing fee schedules posted on the TDLR website were collected and reviewed for each of the 25 companies. The non-consent towing components of each fee schedule were catalogued in a matrix that includes detail such as:

- Fees based on vehicle size
- Fees based on towing distance
- Fees based on time of day that towing occurs
- Any other fee differentiations that are charged

The two towing companies that did not have a fee schedule posted on the TDLR website were contacted to obtain a fee schedule.

The local ordinances and regulations from the jurisdictions that are the primary service area for the 25 towing companies were collected

and reviewed. Local ordinances and regulations were requested from 33 municipalities and the police departments in those municipalities and 23 counties and the sheriff's departments in those counties. The various components of the ordinances and regulations were catalogued in a matrix, which is included in Appendix A.

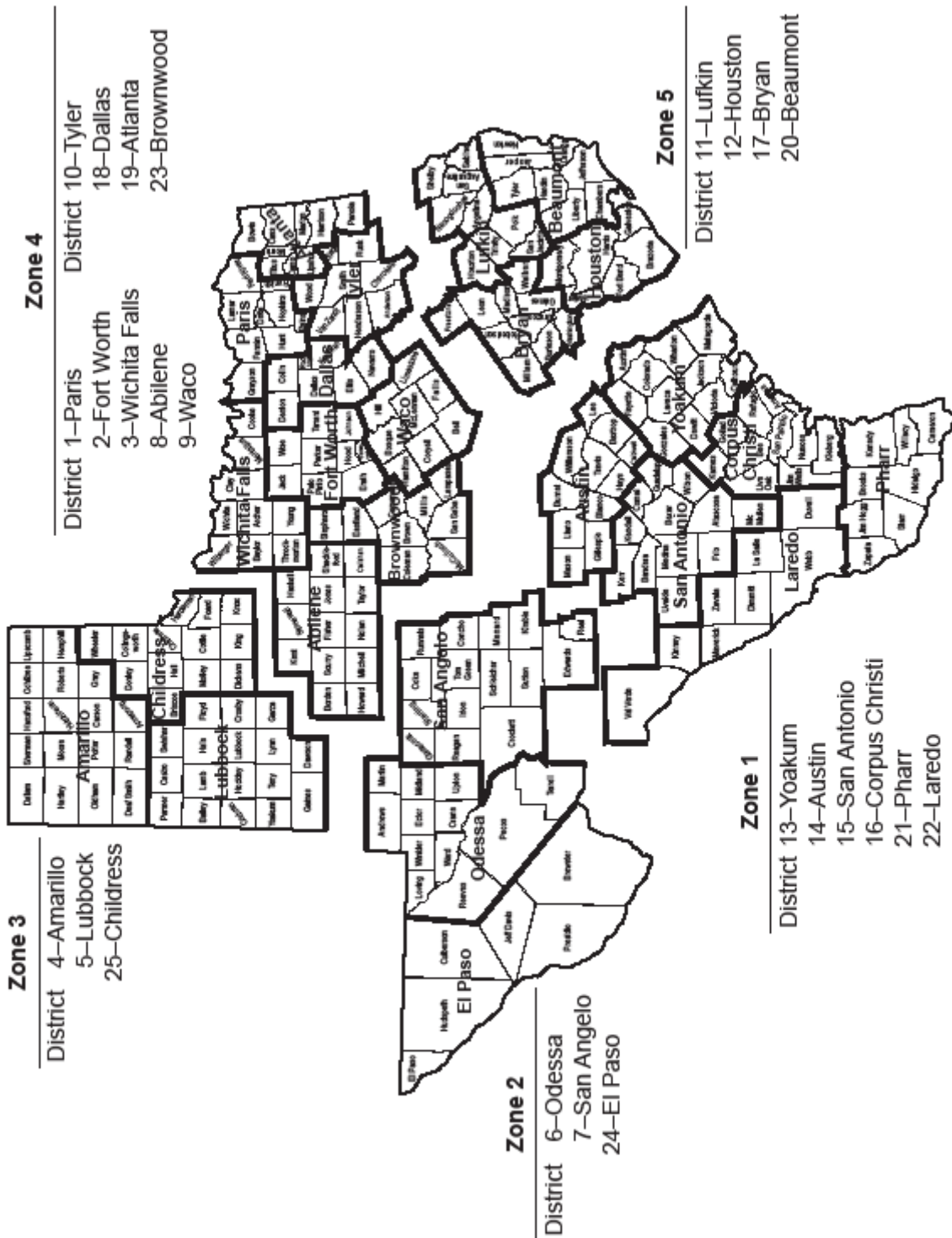
The fee schedules were compared against the appropriate local ordinance to analyze compliance of the fee schedule with local ordinances. Areas of non-compliance are noted in the matrices.

Sixteen of the 25 towing companies are located in municipalities that do not have non-consent towing fee ordinances. Eight of those companies were randomly selected and a sample of tow tickets from those companies were selected and reviewed. For each of the 8 companies identified, TDLR staff selected the first 12 non-consent tow tickets on file at the towing company office. The first ticket selected in each case was dated Tuesday, May 6, 2008 (indicated by the date and time on the ticket). TDLR then selected the next 11 non-consent tow tickets in order of date and time.

The non-consent tow tickets were then compared to the posted fee schedule for the towing company on the ticket. The results are noted on the compliance matrices included in Appendix C.

Complaint Data

Complaint data was requested from TDLR as well as each local government from which we requested local regulations related to non-consent towing fees. Other than the data from TDLR, complaint data was not readily available. The complaint section of this report includes data on complaints from TDLR, Harris County, and two of the insurance companies interviewed for this study.



Review of State Statutes

Through the literature review and the interviews conducted, we identified 17 states that might be regulating non-consent towing fees at the state level and reviewed state statutes to determine if they regulate fees at the state level.

The 17 states that were reviewed include:

- Arkansas
- California
- Connecticut
- Florida
- Georgia
- Hawaii
- Illinois
- Louisiana
- Massachusetts
- Maryland
- New Jersey
- New Mexico
- New York
- Ohio
- Utah
- Virginia
- West Virginia

Only 11 of these were found to regulate non-consent towing fees. A matrix of the 11 states that regulate non-consent towing fees is included in Appendix D.

III. History of Fee Regulation

History of Towing Industry Regulation

In the last 25 years, federal regulation of the towing industry has undergone many changes. A trend toward deregulation began in the 1990's, followed by a series of court rulings exploring the authority of states and localities to regulate the towing industry, as well as the meaning of some key terms in the federal towing statute. In recent years, there has been mounting concern for consumer protection. Many states have either passed or are considering legislation to curb what some call predatory towing. While questions of federal preemption continue to be of concern for state and local policymakers, the current federal law is clear in giving states and localities the right to regulate non-consent towing fees.¹

Federal Legislation and the Issue of Preemption

Since 1964, the Motor Carrier Safety Act (MCSA) has prohibited any federal regulation of towing unless the Interstate Commerce Commission (now the Surface Transportation Board) deems such regulation necessary. The federal statute at 49 U.S.C.A. § 13506 (b) (3) reads: "Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the secretary nor the Board has jurisdiction under this part over the emergency towing of an accidentally wrecked or disabled motor vehicle". In 1978, Congress passed the Airline Deregulation Act to prevent state governments from regulating airlines. In the intervening years, there was growing sentiment that the trucking industry was at an unfair disadvantage to the airline industry due to cumbersome regulation. In response, Congress amended the MCSA twice –once in 1994 and again a year later. Even though changes brought about by these amendments now exempted all non-consent tows from federal preemption, 49 U.S.C.A. § 13506 (b) (3) remained in place.²

Federal Aviation Administration Act (FAAA) of 1994. In 1994, Congress amended the MCSA through passage of the Federal Aviation Administration Act (FAAA). While most of the provisions of this act were focused on the airline industry, a few affected the towing and interstate trucking industries. The FAAA, now codified as 49 U.S.C.A. § 14501 (c) (1), states that no state or political subdivision thereof may enforce a law related to the "price, service, or route of any motor carrier". While the statute makes no specific reference to towing services, towing services are widely interpreted to be within its scope, although the reason for this interpretation is not clear.³ Legal scholars write that the FAAA "opened a loophole" that allowed tow truck operators to be categorized as interstate carriers, thereby excluding them from regulation *except* in the areas of safety and the price of non-consent tows.⁴ In fact, even though the FAAA is interpreted to have deregulated much of the towing industry, it is clear that it also preserves the right of states to regulate the price of non-consent tows.⁵

¹ Trefonas, p. 306.

² Stinnett, p. 27.

³ Trefonas, p. 305.

⁴ Reddick, p. 1; Saunders, p. 31; Trefonas, p. 306 and Volpe Report, p. 2.

⁵ Trefonas, p. 306.

Interstate Commerce Commission Termination Act (ICCTA) of 1995. In 1995, Congress again amended the MCSA through passage of the Interstate Commerce Commission Termination Act (ICCTA), specifically recognizing the right of states and political subdivisions to regulate the price of non-consent tows. This act also eliminated the regulatory body that performed federal oversight of tow trucks.⁶

After the passage of these two amendments to the MCSA, states were permitted to regulate towing only in the areas of price for non-consent tows and safety. In all other areas, state law is preempted – or overridden- by federal law.

Court Rulings

Federal courts have had many opportunities to interpret the federal towing statute. Soon after passage of the FAAA, towing companies and towing associations began to challenge state towing regulations on the grounds that federal law protected them from regulation in areas except for safety and non-consent tow price. However, courts generally upheld the power of states to regulate towing in these cases, citing 49 U.S.C.A. § 13506 (b) (3) which disallows federal regulation of towing in the case of a wrecked or disabled vehicle.⁷

Courts remained reluctant to find that state authority to regulate towing was preempted after the passage of the ICCTA. Two courts (*Harris County Wrecker Owners for Equal Opportunity v. the City of Houston* in 1996 and *R. Mayer of Atlanta, Inc. v. the City of Atlanta* in 1998) ruled that the ICCTA exempted state and local regulation of non-consent towing from federal preemption. The Harris County case involved a local ordinance that regulated licensing, pricing, areas of operation, and many other areas, while the Atlanta case centers on a municipal requirement that wreckers report various information to law enforcement, including rate schedules.⁸

In 2002, the Supreme Court ruled in *City of Columbus v. Ours Garage and Wrecker Service* that both state and local governments can exercise the “safety regulatory authority” provided in federal law, yet the Court did not address the specific types of regulation that would qualify under this distinction.⁹

Other court rulings on towing involve interpretation of the specific language in the FAAA, including the meaning of “price, route and services” and the “safety” exception in the act.

Price, route or service. An important Ninth Circuit ruling in the year 2000 found that a state or local regulation is related to price, route, or service if it has “more than an indirect, remote, or tenuous” effect on the companies’ prices, routes, or services. In this particular case, the towing companies argued that the local ordinances in place had become barriers to entry into the industry and were effectively raising prices in the local towing market. The court ruled that these state and local regulations were preempted by the FAAA and were therefore not enforceable.¹⁰ In 2003, the Ninth Circuit ruled that a state statute requiring that the last registered owner of an abandoned vehicle was responsible for storage and towing costs for that vehicle was not preempted because it did not have an “indirect, remote, or tenuous effect on the [towing] companies’ prices, routes or services”.¹¹

⁶ Reddick, p. 1 and Volpe Report, p. 3.

⁷ Stinnett, p. 27 and Volpe Report, p. 6.

⁸ Stinnett, pp. 27-29.

⁹ Volpe Report, p. 2.

¹⁰ Volpe Report, pp.7-8; *Tocher v. City of Santa Ana*, 218 F. 3rd 1040, (9th Circuit 2000).

¹¹ Volpe Report, p. 8.

Safety exception. Many court rulings have attempted to delineate the FAAA’s “safety” exception and to determine what kind of regulations are actually intended to promote safety. Federal court rulings on this exception have been “ambiguous and inconsistent”.¹² Some courts have broadly interpreted safety by upholding municipal regulations regarding such things as licensing, reporting, record keeping, and insurance requirements as applicable under the safety exemption of the statute. However, in 2005 in *Tillison v. City of San Diego*, the court struck down a California statute requiring the vehicle owner to be present when a non-consent tow occurs on the grounds that it did not further any safety interests.¹³

Federal Legislation: Consumer Protection

Cox-Moran Amendment. A recent trend toward insuring the safety of towing companies and consumers came to the national forefront with the passage of the Cox-Moran Amendment, which gives state and local governments the ability to enact “common-sense, pro-consumer [private property] towing protections for their residents”.¹⁴ The amendment is part of House Resolution 3, also known as the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), and was signed into law in August 2005. This amendment adds a third exception (in addition to price of non-consent tows and safety) to areas that states are permitted to regulate. It allows states the power to enact laws requiring the property owner, lessee, or agent to be present during a non-consent tow from private property. States also have the right to require that tow truck operators receive written permission from the property owner or an agent of the property owner before making a non-consent tow from the owner’s property.¹⁵

Looking Ahead

A report issued to Congress in 2007 reviewing state and federal towing laws states, “the complex interaction between federal, state and local laws has created confusion among towing companies and consumers alike and has restricted the ability of vehicle owners to pursue legal claims”.¹⁶ Many towing industry representatives advocate for federal legislation that grants states the right to regulate non-consent tows without limitation and argue that such legislation would end the uncertainties surrounding federal preemption.¹⁷

Consumers continue to push for policies to protect against price gouging and other unlawful towing practices. According to representatives from towing associations and state regulatory agencies, upcoming state legislative changes may include policies to prevent practices such as “dumping” (failing to collect a towed car from storage facility) and “low bid” (securing towing contracts by bidding very low price per tow, then tacking on extra fees to generate revenue), as well as lax requirements for inclusion on rotation lists of towing companies used by law enforcement agencies.

Regulation in Texas

In Texas, the regulation of the towing industry in the 1980s and early 1990s was the responsibility of the Texas Railroad Commission. During that time, a detailed and complicated state tariff was in place regulating the fees for certain tows within the state. In the mid 1990s, this tariff was eliminated and the towing industry

¹² McGovern, October 2007.

¹³ Volpe Report, pp. 9-10.

¹⁴ Reddick, p. 1.

¹⁵ Ibid.

¹⁶ Volpe Report, p. 33.

¹⁷ Ibid, pp. 26-32.

became largely unregulated, as was the case in many other states following federal deregulation efforts. After deregulation, the responsibility for monitoring the towing industry was moved to the Texas Department of Transportation. Most recently, HB 2094 (80th Legislature, Regular Session, 2007) moved the regulation of the towing industry to the Texas Department of Licensing and Regulation, effective January 2008.

Currently, state non-consent towing regulations in Texas do not widely regulate fees and in many areas of the state there is no regulation of non-consent towing fees at the state or local level.

IV. Regulation of Non-Consent Towing Fees in Texas

Texas Regulation

In Texas, towing is regulated in Chapter 2308 of the Texas Occupations Code, and in 16 Texas Administrative Code, Chapter 86. These regulations govern the licensing of tow trucks and tow truck operators and provide limited requirements regarding the fees that are charged for non-consent towing.

Definition. The Texas Department of Licensing and Regulation interprets the definition of non-consent towing as all towing done without the consent of the owner as well as any towing resulting from the scene of an accident or incident which a law enforcement official is investigating, regardless of whether or not the owner of the vehicle authorizes the tow. In the Texas Occupations Code Section 2308.002, the definition of non-consent tow is any tow that is not a consent tow. A consent tow is defined to exclude “the tow of a motor vehicle initiated by a police officer investigating a traffic accident or a traffic incident that involves the vehicle.” This is further clarified in 16 Texas Administrative Rules Section 86.700, “a towing company or a towing operator may not request a vehicle owner or operator to sign a tow ticket or authorization form for a tow if the tow is initiated by law enforcement.”

Local authority. Texas statute allows political subdivisions (local governments) to regulate non-consent towing that occurs within the territory of the political subdivision. If a political subdivision chooses to regulate non-consent towing fees, the governing body is required by Chapter 2308.203 to conduct a towing fee study to set rates that are reasonably related to financial information provided by towing companies.

Maximum towing fees. In the absence of a local regulation for non-consent towing from private property, the statute contains a provision for determining the maximum amount that may be charged for a non-consent tow. This provision, in Chapter 2308.204 of the Texas Occupations Code, says that the rate charged must be a percentage (150 percent for a light duty tow and 125 percent for a heavy-duty tow) of the rate authorized by a law enforcement agency in the political subdivision in which the private property is located.

Posting fees. Texas statute requires that towing companies post their fee schedules on the TDLR website, but TDLR may not make a determination as to the reasonableness of the fees included in the fee schedules.

Local Regulation in Texas: Standard Towing

Municipalities

Twenty-five towing companies were randomly selected for review for this study (see Project Overview for more information on how these 25 towing companies were selected). The municipality in which each company is located, as well as nearby municipalities, were contacted to determine if they have

non-consent towing ordinances. A total of 33 municipalities were contacted and just over half (17) have a city ordinance that regulates non-consent towing fees.

Municipalities with a Towing Fee Ordinance		
Austin	El Paso	Marshall
Beaumont	Ft. Worth	McAllen
Bryan	Harlingen	Nacogdoches
College Station	Houston	San Antonio
Corpus Christi	Longview	Victoria
Dallas	Lufkin	

Municipalities with No Towing Fee Ordinance		
Converse	Midland	Rusk
Georgetown	Lubbock	Seguin
Itasca	Midlothian	Shelbyville
Jasper	Perryton	Stafford
Kingsville	Port Lavaca	
La Feria	Richmond	

Non-consent towing policies and procedures are known for 31 of the 33 municipal police departments reviewed for this report. Police departments in Rusk and Shelbyville did not provide information about whether they have policies that set towing fees. Of these 31 municipal police departments, 11 do not regulate non-consent towing fees.

Municipal Police Department Towing Fee Regulations				
Set By Municipal Ordinance		Set by Contract/ Agreement	No Regulation	
Austin	Houston	Converse	Georgetown	Port Lavaca
Beaumont	Longview	El Paso	Itasca	Richmond
Bryan	Lufkin	Ft. Worth	Jasper	Seguin
College Station	Marshall	Midland	Kingsville	Stafford
Corpus Christi	McAllen	Lubbock	La Feria	
Dallas	Nacogdoches	San Antonio	Midlothian	
Harlingen	Victoria		Perryton	

Most of these police departments (14 of the 20 with regulated fees) adhere to maximum rates for non-consent towing set by a city ordinance. Six of the 20 police departments with regulated fees—Converse, El Paso, Fort Worth, Midland, Lubbock, and San Antonio — have a contract or agreement that sets maximum rates for all police-initiated non-consent towing.

Counties

Of the 23 counties reviewed for this study, only Harris County regulates non-consent towing fees. The Towing and Storage Unit of the Harris County Sheriff’s Department was created following the passage of legislation that mandated that the Sheriff of Harris County regulate towing and storage of non-consent police tows in unincorporated areas of Harris County (see box on pg. 16 for the text of the statute).

In addition to the county governments, the sheriff’s offices in those 23 counties were also contacted for information about policies related to non-consent towing fees. At the time this report was published, 17 had responded. The four sheriff’s departments that are known to regulate non-consent towing fees through a contract are in Fort Bend, Harrison, Travis, and Williamson counties.

County Sheriffs’ Departments With No Towing Fee Regulation		
Angelina	El Paso	Lubbock
Brazos	Guadalupe	Ochiltree
Calhoun	Jasper	Shelby
Dallas	Jefferson	
Ellis	Kleberg	

The Ochiltree County Sheriff's Department does not regulate non-consent towing fees. There is a policy and procedures document for the sheriff's rotation list that says, "[r]ates and charges shall be considered as the average of the long established firms" in the county. The policy also requires towing companies to file a fee schedule with the sheriff's department and states that any actual charges that exceed the fee schedule are grounds for removal from the rotation list.

Lawsuit. The Brazos County Sheriff's Department is currently involved in a legal case with a towing company on its rotation list. The sheriff's department tried to remove the company from the list for charging what the department

considered unfair rates. The sheriff's department has no written contract with the towing companies on the rotation list and does not regulate towing fees. The towing company is arguing that the inspection process by which wreckers can be approved for the rotation list is, in effect, a contract and that since the department does not regulate fees, the department cannot remove the company from the list.

**Texas Transportation Code
Chapter 545 Operation and Movement of Vehicles**

§ 545.306. Regulation of Towing Companies in Certain Counties
(a) The commissioners court of a county with a population of 3.3 million or more shall by ordinance provide for the licensing of or the granting of a permit to a person to remove or store a vehicle authorized by Section 545.305 to be removed in an unincorporated area of the county. The ordinance must include rules to ensure the protection of the public and the safe and efficient operation of towing and storage services in the county and may not regulate or restrict the use of lighting equipment more than the extent allowed by state and federal law. The sheriff shall determine the rules included in the ordinance with the review and consent of the commissioners court.
(b) The commissioners court shall set the fee for the license or permit in an amount that reasonably offsets the costs of enforcing the ordinance. The commissioners court shall use each license or permit fee to pay salaries and expenses of the sheriff's office for conducting inspections to determine compliance with the ordinance and laws relating to dealers in scrap metal and salvage.

Acts 1995, 74th Leg., ch. 165, § 1, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 669, § 143, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1034, § 3, eff. Sept. 1, 2003.

Definitions of Non-Consent Towing

Nine of the 17 municipal ordinances (Austin, Bryan, College Station, Corpus Christi, Dallas, El Paso, Harlingen, Nacogdoches, and San Antonio) define consent and non-consent tows using the same definition found in Chapter 2308 of the Texas Occupations Code. Definitions for the other eight are shown on the matrix in Appendix A.

The Fort Bend County Sheriff's Department contract defines non-consent towing as "any tow of a motor vehicle initiated by a peace officer investigating a traffic incident in the unincorporated area of the county."

The Harrison, Travis, and Williamson county sheriff's departments do not specifically define non-consent towing. These county contracts explain that regulated rates only apply to tows initiated by the sheriff's department, and that towing companies will only be called by the sheriff's department when the owner of the vehicle does not specify a preference for a towing service.

Maximum Rates

The average city-regulated maximum fee for a standard non-consent tow is \$111. The lowest rate is \$70 in El Paso and the highest rate is \$150 in Austin. The maximum light-duty towing rates set by the 1 county and the 4 sheriff's departments range from \$110 to \$150. For the 6 police departments with rates set by contract, 3 set the maximum rate for a light-duty accident tow at \$75 (the rates in the other 3 police department contracts are not known).

Other Charges

Most (14) of the 17 municipal ordinances allow towing companies to charge for other items in addition to the regulated towing rate. Dallas, Longview, and San Antonio do not allow charges other than the towing charge. The ordinances in the cities that allow other charges set maximum rates for the charges.

All three police departments that regulate towing fees allow towing companies to charge other fees and set maximum rates for those charges (the chart on the following page shows the charges that are allowed in local fee regulations).

The Harris County regulation does not list other charges, but does not explicitly prohibit additional charges. The Fort Bend, Harrison, Travis, and Williamson county sheriff's departments set maximum rates for several other charges in connection with a light-duty tow.

Local Fee Regulations Other Charges for Standard (Light-Duty) Towing			
Description	# of Occurrences	Lowest Maximum Rate	Highest Maximum Rate
Dolly	9	\$15.00	\$45.00 + \$1.00/mile
Wait Time	9	\$20.00/hr	\$100.00/hr
Mileage	4	\$1.00/mile	\$5.00/mile
Clean-up	3	\$25.00	\$50.00
Extra Man	3	\$15.00/hr	\$36.00/hr
Labor	3	\$55.00/hr	\$100.00/hr
Remove Drive Line	3	\$15.00	\$25.00
Winching	3	\$35.00	\$35.00/hr
Working Time	3	\$30.00/hr	\$95.00 flat fee
Hook-up Fee	2	\$25.00	\$25.00
Unusual Distance	1	\$15.00	\$15.00
Additional Equipment from Outside Company	1	Cost + 10%	Cost + 10%
After Hours Release	1	\$30.00	\$30.00
Exceptional Labor	1	\$35.00/hr	\$35.00/hr
Flatbed	1	\$36.00	\$36.00
Fuel, Insurance, Security, and Safety Fee (FISS)	1	\$50.00	\$50.00
High Water	1	\$50.00/hr	\$50.00/hr
Maximum Fee for Backup Assistance	1	\$100.00	\$100.00
Motorcycle Tow	1	\$30.00 extra	\$30.00 extra
Off Road Recovery	1	\$50.00	\$50.00
Service to Render Vehicle Drivable	1	\$50.00	\$50.00
Towing Beyond Initial Destination	1	\$50.00	\$50.00

Local Regulation in Texas: Medium and Heavy-Duty Towing

Heavy-duty towing rates vary more widely than the standard towing rates. Heavy-duty towing is generally defined as the towing of vehicles with a gross weight rating of 26,000 pounds or more and medium-duty towing is generally defined as the towing of vehicles with a gross weight rating between 10,000 and 25,000 pounds. The local regulations reviewed for this study indicate that both flat rates per tow and hourly rates are used. A third method, charging per pound for the weight of the vehicle being towed was not found in any of the local regulations reviewed, but will be discussed later in the report.

Flat Rates

Municipalities. Seven of the 17 municipal ordinances set maximum flat rates for medium- and heavy-duty tows ranging from \$150-\$400 per tow for medium-duty and \$300-\$800 per tow for heavy-duty tows. Six of these ordinances also allow for additional charges in connection with a medium or heavy-duty tow. Four of the cities do not specify a rate for medium- or heavy-duty towing.

Law enforcement. The Converse Police Department contract sets the maximum rate for heavy-duty towing at \$425; maximum rates are also set for a number of additional charges.

The Harrison, Travis, and Williamson county sheriff’s departments set maximum rates for medium and heavy-duty towing. The maximum rates range from \$150 to \$500 for medium-duty and \$300 to \$800 for heavy-duty towing. In addition, these three sheriff’s departments set maximum rates for a number of additional charges.

Municipal Towing Ordinance Heavy-Duty Fee Regulations	
Flat Rate	Hourly Rate
Austin	Corpus Christi
Dallas	Ft. Worth
El Paso	Houston
Harlingen	Longview
Marshall	McAllen
Nacogdoches	Victoria
San Antonio	

Hourly Rates

Municipalities. In contrast to setting flat rates, 6 of the cities set hourly heavy-duty towing charges that range from \$115/hour to \$218/hour. Houston has the highest hourly rate and has a two-hour minimum, but does not set rates for medium-duty tows; unlike the other municipalities, Houston defines a heavy-duty tow based on the weight of the tow truck. Three of these city ordinances— Corpus Christi, Fort Worth, and Victoria— set maximum rates for other charges related to heavy-duty towing. The Houston city ordinance states that additional charges may be charged for heavy-duty recovery, but does not list or define the charges. McAllen does not list any additional charges, but does not explicitly prohibit additional charges. Longview is the only city that explicitly prohibits additional charges related to heavy-duty towing.

Police departments. The Midland Police Department contract sets the maximum rate for heavy-duty towing at \$125 per hour and prohibits any additional charges.

Counties. The one county that regulates towing fees, Harris County (like the City of Houston) sets the rate for heavy-duty towing at \$218 per hour with a two hour minimum. The county does not list any allowed additional charges, but does not explicitly prohibit additional charges.

Other Charges

The Fort Bend County Sheriff’s Department does not set a maximum rate for medium or heavy-duty towing, but includes the following in its contract: “[m]aximum allowable fees do not include fees or charges for the removal of cargo spilled from large rigs or trailers. Fees for salvage services may be negotiated between the tow truck operator and the vehicle owner.”

The table on the following page details the additional charges for heavy-duty towing allowed by local regulations.

Local Fee Regulations Other Charges for Heavy-Duty Towing			
Description	# of Occurrences	Lowest Maximum Rate	Highest Maximum Rate
Air Bags	5	\$75.00/hr	\$3,500 minimum
Work Time	5	\$50.00/hr	\$375.00/man/hr
Specialized Equipment	4	\$75.00/hr	\$425.00/hr
Trailer Dolly	4	\$78.00	\$300.00
Extra Labor	3	\$15.00/man/hr	\$100.00 (\$125.00)
Fork Lift	3	\$75.00/hr	\$125.00/hr
Mileage	3	\$3.50/mile	\$4.00/mile
Remove Drive Line	3	\$30.00	\$100.00
Wait Time	3	\$20.00/hr	\$275.00/man/hr
Haul Trailers	2	\$75.00/hr	\$500.00 flat fee
Hook-up Fee	2	\$100.00	\$100.00
Off-load Cargo	2	\$75.00/hr	\$75.00/hr
Large Slide Trucks/	2	\$200.00	\$200.00
Rented Equipment	2	Cost + 15%	\$350.00/hr + 25%
Tanker Cushion	1	\$400.00/hr/cushion	\$400.00/hr/cushion
Clean-up	1	\$250.00	\$250.00
Exceptional Labor	1	\$15.00/hr	\$15.00/hr
Off Road Recovery	1	\$125.00	\$125.00
Prepare Vehicle for Towing	1	\$25.00	\$25.00
Winching	1	\$35.00	\$35.00

Rate Studies

Chapter 2308.203 of the Texas Occupations Code discusses towing fee studies and requires that the governing body of a political subdivision that regulates non-consent towing fees “shall establish or amend the allowable fees for non-consent tows at amounts that are reasonably related to any financial or accounting information provided to the governing body.” Local governments must also establish procedures for towing companies to request that a towing fee study be performed.

The rate studies from the cities of Austin, Dallas, Ft. Worth, and Houston were reviewed. The studies use various methodologies for determining the rates that are set by local ordinance or for determining if a rate increase is warranted. Two of the studies (Dallas and Ft. Worth) looked exclusively at financial data from towing companies; Houston reviewed financial data from towing companies as well as at data from other sources and cities. The City of Austin rate study did not review financial data from towing companies, but relied on other sources of data including the rates set in other cities. None of the fee studies reviewed for this report reflect the current regulated towing rates in their respective cities. The City of Ft. Worth is in the process of completing a new rate study. No other information on more current rate studies was available from any of the other cities. All four of these rates studies are summarized in Appendix E.

Rate studies entail a significant effort to conduct. The state requirement to conduct a rate study to determine fees may be a reason that many local governments do not regulate non-consent towing rates.

V. Compliance Review

As detailed in the Methodology section of this report, 25 towing companies were randomly selected for review to determine their compliance with state and local non-consent towing fee regulation. This chapter contains the results of that review.

Administrative rules for towing companies became effective in April 2008. In September 2008, the Texas Department of Licensing and Regulation (TDLR) began statutorily required inspections of towing companies to ensure that they are in compliance with state statute and administrative rules. Each towing company will be inspected at least every two years according to 16 Texas Administrative Code Section 86.451. The fee schedules and tow tickets reviewed for this study were issued prior to the start of the compliance inspections.

Fee Schedule Compliance

Of the 25 towing companies selected for review, 23 had non-consent towing fee schedules posted on the TDLR website. When requested, one of the towing companies submitted their fee schedule for review. One towing company confirmed that they do not have a fee schedule, and that each charge is determined on a “case-by-case basis.”

Compliance with State Statute and Administrative Rules

Chapter 2308.206 of the Texas Occupations Code requires that towing companies file a fee schedule annually with TDLR that show “each towing fee that the towing company charges in connection with a non-consent tow.” According to 16 Texas Administrative Code 86.705, a towing company “may not charge a fee for a non-consent tow that is greater than the fee listed in the [fee] schedule...” In addition to the absence of one fee schedule, one of the other fee schedules for a towing company sets their towing rate at “\$150 and up.” The posted rates for the 25 towing companies range from \$70 to \$400 and several fee schedules list rates for standard towing that exceed \$200.

Fee schedules must meet the following requirements specified in 16 Texas Administrative Code 86.500:

- Be printed on plain white paper measuring 8-1/2 inches by 11 inches and must be clearly legible using black ink and typed 12-point font.
- Contain required information:
 - Name and license number of the towing company
 - Effective date(s) of the fees
 - Clear delineation between fees assessed for one area and fees assessed for another

All of the towing company fee schedules show effective dates. One towing company fee schedule does not meet TDLR format requirements; the fee schedule is too small and is not clearly legible. Two towing company fee schedules do not show the name and license number of the towing company.

Seven (29 percent) towing company fee schedules delineate between fees charged for different jurisdictions while 17 (68 percent) do not. However, it is not known whether these towing companies

actually operate in more than one jurisdiction.

Comparison with Local Regulations

Municipalities. Of the 25 towing companies reviewed, 9 operate in a municipality that has a city ordinance that regulates non-consent towing fees. Of those 9 towing companies, the fee schedule for a towing company located in Beaumont does not reflect the non-consent tow rate in the city ordinance. In that case, the fee schedule rate of \$250.00 for towing of vehicles less than 10,000 lbs far exceeds the Beaumont city ordinance maximum rate for “all sized vehicles up to and including one-ton trucks” of \$85.

Thirteen of the 25 companies are located near a municipality (other than the city in which they are located) that regulates non-consent towing fees. Fee schedule rates for light-duty non-consent tows for 10 of these 13 towing companies do not reflect the rates set by ordinance in those municipalities.

Of the 11 towing companies that are located in the municipalities in which there is a regulated rate for police-initiated non-consent towing, all of the fee schedules include fees that do not exceed the police-regulated rate.

Counties. Of the five towing companies located in counties that have rates regulated by the county sheriff’s office, four do not reflect the regulated fees. The fee schedule for the towing company located in Harris County does not exceed the rate set in the Harris County ordinance. The counties with towing companies with fee schedules that do not match county regulated rates are listed below.

Fort Bend County. The fee schedule for the towing company located in Fort Bend County lists a charge for “county tow” which is higher than the sheriff’s department regulated rate. The towing company fee schedule also lists additional charges whereas the sheriff’s department only lists a maximum fee for “backup assistance in connection with a non-consent tow.” The sheriff’s department explicitly prohibits charges other than the “backup assistance” charge.

Harrison County. The fee schedule for the towing company located in Harrison County lists the following charges that are out of compliance with the Sheriff’s Department fee schedule:

- Working time: light-duty and medium-duty towing
- Medium-duty towing charge
- Mileage rate
- Fuel Surcharge for heavy-duty towing

Travis County. The fee schedule for the towing company located in Travis County is not in compliance with regulations listed by the Travis County Sheriff’s Department. The company lists a “Travis county Sheriff’s Department Rotation Regulated Rate” of \$150.00 for light-duty tows. The Sheriff’s department sets this rate at \$130.00. The company also lists a dolly charge and a mileage rate, both of which the sheriff’s department prohibits.

Williamson County. The charges for towing, dollies, winching, and clean-up listed on the fee schedule for the towing company located in Williamson County are all higher than the Sheriff’s Department regulated rates. The company fee schedule also lists the following fees that are not listed by the sheriff’s department:

- Upright

- Time/labor
- Mileage
- Fuel surcharge
- Preservation

Tow Ticket Compliance

For the 16 towing companies that are located in a municipality that does not regulate non-consent towing fees, 8 companies were randomly selected to have 12 non-consent tow tickets selected from their files to determine compliance with posted fee schedules and any law enforcement regulations in place in the area in which they are located.

A total of 93 tow tickets were reviewed. Most of the tickets selected from towing companies are from a one-day period. Four towing companies have ticket sets that span a period of a few days and four towing companies have ticket sets that span a period of over a month. None of the selected tickets seem to be a consecutive 12 tickets. Two towing companies had less than 12 tickets selected (10 in one case and 11 in another).

Of the 81 tow tickets that indicate who requested the tow, 90 percent indicate that the tow was requested by law enforcement. Of those, 3 percent were abandoned vehicles, 26 percent were arrests, 27 percent were accidents, and 44 percent do not specify the reason for the tow.

None of the 12 tow tickets from one towing company indicate who requested the tow. Eight of their 12 tickets are billed to car repair shops.

Compliance with Administrative Rules

None of the 93 selected tickets contain all of the required information for tow tickets set out in 16 Texas Administrative Code 86.709. The required contents are:

- Registered name of the towing company
- Publicly listed telephone number
- Towing company certificate of registration number
- Full printed name of towing operator
- TDLR license number of operator

In addition, none of the tow tickets contain the level of detail about the tow required by 16 Texas Administrative Code 86.705 that includes the following:

- Vehicle description, including license or vehicle identification number, if available
- The specific rule or statutory provision sanctioning the tow
- Each fact justifying the non-consent tow
- Location vehicle towed from
- Vehicle storage location

While all of the tickets contain the name and phone number of the towing company, less than half of the tickets include other required information:

- 45 (48 percent) of all of the selected tickets contain the certificate of registration number, however, each ticket that does show the registration number still has it listed as a TxDOT registration number.
- 19 (20 percent) of the selected tickets show the full printed name of the tow operator.
- 31 (33 percent) of the selected tickets show the TDLR license number of the tow operator.

TDLR also requires that tow tickets characterize fees using the identical fee structure stated in the company’s fee schedule. Nearly two-thirds of the tickets are in compliance with this requirement; the remaining one-third of the tickets list charges on the tow tickets that are not listed on their corresponding fee schedules.

Compliance with Fee Schedules

Six of the eight towing company ticket sets are in full compliance with the non-consent towing rate posted on the company fee schedule filed with TDLR. The other two towing companies are only partially in compliance with the light-duty/standard non-consent towing rate on its fee schedule; the charges on their tow ticket exceed their fee schedule rate for some items. The posted non-consent towing rates on the fee schedules range from \$85 to \$400 for the 8 towing companies.

Other Charges

According to 16 Texas Administrative Code 86.709, tow tickets “shall only authorize charges directly related to towing the vehicle to a designated location...” Most (84 percent) of the tow tickets include charges in addition to towing and storage charges. The number of additional charges ranges from 4 to 12 on each ticket.

The charges listed in the table are actual charges from the 93 tow tickets reviewed. The minimum and maximum charges are total charges for each item; pricing units (per mile, per hour, etc.) are not shown on the tickets.

The inclusion of these other charges (excluding storage fees, impound fees, and taxes) adds an average of \$99 to each ticket and ranges from \$17 to \$348. Following are examples of unusual items and charges on the tow tickets reviewed:

Actual Charges for Tow Tickets for "Other Charges"			
Description	# of Occurrences	Minimum Charges	Maximum Charges
Labor	37	\$10.00	\$300.00
Impound	32	\$20.00	\$20.35
Mileage	26	\$8.00	\$71.50
Fuel Surcharge	24	\$16.50	\$27.50
Hook-up	14	\$40.00	\$75.00
Notification Fee	14	\$35.00	\$50.00
Delivery Fee	3	\$75.00	\$175.00
Special Equipment	3	\$25.00	\$55.00
Wait Time	3	\$65.00	\$125.00
Work Time	3	\$25.00	\$175.00
Dolly	2	\$40.00	\$85.00
Pay Out	2	\$50.00	\$50.00
Extra Person	1	\$20.00	\$20.00
Remove Drive Line	1	\$40.00	\$40.00

- One company charged \$275 for the tow fee on 10 of their tickets; all of those 10 tickets also include labor charges ranging from \$85 to \$175. Three of the 10 tickets have a delivery fee charge that ranges from \$75 to \$175 per ticket. This same company has a \$27.50 fuel surcharge on all 12 tickets and one of the tickets also shows a mileage charge of \$71.50.
- One company charged \$275 on 6 of their tickets; 5 of those tickets also include a charge called either “labor” or “work time” of \$175. Three of those 5 tickets have a wait time charge ranging from \$65 to \$125 and 3 have a hook up fee charge of \$75.
- One towing company includes on every ticket a labor charge that ranges from \$25 to \$50 and a

mileage charge that ranges from \$12 to \$64.

- One towing company has a \$16.50 fuel surcharge on every ticket
- One towing company has a \$45 hook-up fee on every ticket.
- One towing company has a \$20 miscellaneous charge on every ticket.
- Tax is not included on every ticket.

Compliance With Local Fee Regulations

For just over half of the selected tow tickets, the location where the tow originated cannot be determined; these 47 tickets either do not list a city or county where the tow originated or the origin location is vague or illegible. This is out of compliance with 16 Texas Administrative Code 86.705 which requires that the location be recorded by the towing company. Without a pick-up location, it is not possible to determine if the towing company is in compliance with the ordinance governing tows in that location.

Two of the 8 towing companies for which tickets were selected are located in areas that have no local fee regulations. There are no municipal, county, or law enforcement regulations in or near the municipalities where these towing companies are located.

Municipal Ordinances. Tickets were selected for towing companies that operate in Lubbock and Midland. The towing company located in Lubbock holds the contract for all police towing in Lubbock. Each of the towing company's selected tickets is for police towing and all are in compliance with the police-regulated rate.

Five of the selected tickets for the towing company located in Midland indicate that the Midland Police Department requested the tow. The rates charged on all five tickets are out of compliance with the Midland Police Department's regulated rates by \$10-\$20 per tow charge.

Three of the eight towing companies for which tickets were selected are located near a municipality that regulates towing fees and five are located near a city in which there is a police-regulated rate for non-consent tows. However, none of the tickets selected indicate that the tow originated in those municipalities, so compliance with these ordinances cannot be determined.

No Regulation

Based on the review of 25 randomly selected towing companies, 40 percent are not subject to any state or local non-consent fee regulation. These 10 towing companies are located in cities and counties that have no municipal, county, or law enforcement regulation of non-consent towing fees. Of these 10, 7 are located near a municipality that regulates non-consent towing fees, but it is not known if these 7 towing companies operate in the nearby municipality.

These 10 companies are not subject to a state ceiling on fees. Because they operate in areas without law enforcement rate regulation, the maximum fee specified in Texas Occupations Code Chapter 2308.204 (that limits fees for private property tows in areas without a municipal ordinance to 150 percent of the law enforcement rate) does not apply.

The towing companies selected for review represent the same geographic, size, and rural/urban distribution as the licensed towing companies in Texas, suggesting that a significant proportion of the towing companies in Texas are not subject to fee regulation.

VI. Complaints

In order to determine the extent to which there are issues related to non-consent towing fees, consumer complaints about towing were requested from the Texas Department of Licensing and Regulation as well as local governments. While some local governments have a mechanism in their ordinance for addressing complaints, very little information on complaints was provided.

TDLR Complaint Database

The regulation of the towing industry was moved from the Texas Department of Transportation to the Texas Department of Licensing and Regulation (TDLR) in January 2008. Because TDLR has such a short history addressing towing complaints, a full picture of the nature and resolution of complaints is not yet available. However, a summary of the information available to date is detailed below.

Complaint Caseload

Of the 25 industries regulated by TDLR, the total cases opened concerning towing in FY 2008 represented the fourth largest enforcement caseload for the department and the second highest number of complaints raised by consumers. The number of open cases for towing exceeds those for vehicle storage facilities. This pattern is similar for the first two months of FY 2009, with towing representing the third largest number of cases opened and the third highest number of consumer complaints. However, TDLR is processing a backlog of complaints received from TxDOT, so it is unknown what the complaint caseload will be in the future.

FY 2008. Based on data provided by TDLR, the department opened 884 towing complaint cases in FY 2008, of which 439 were complaints from consumers and 78 were complaints made by TDLR staff, typically identified during an inspection. The remaining 365 complaints were related to licensing issues. By the end of the fiscal year, 242 cases had been closed.

FY 2009. For the first 2 months of FY 2009, 433 cases have been opened, of which 102 are complaints from consumers and 17 are complaints made by TDLR staff. Staff complaints will likely increase as a result of the implementation of compliance inspections by TDLR in September 2008. The remaining 314 complaints were related to licensing issues. During this time period, 388 cases were closed. If this rate continues, TDLR is projected to open more than 2,500 cases related to towing complaints in FY 2009, tripling the number of cases opened in FY 2008. This activity early in the fiscal year may indicate that TDLR is catching up with a backlog of cases and this level of activity might not be sustained for the entire fiscal year.

Complaint Detail

TDLR provided detailed information for 323 towing complaint cases for further review. The cases were selected from all towing complaint cases using a search for the terms “tow” and “fee”. The majority of these 323 complaints are from consumers, particularly insurance companies. The complaints are summarized below. Twenty of the complaint cases contained more than one complaint and are therefore counted more than once.

Complaints from Consumers

Of the 323 complaints, 110 were made by individuals. Some individual complainants may represent organizations such as insurance companies or towing companies, but may not be identified as such.

- 34 are for failure of the towing operator to file a fee schedule with TDLR
- 31 complaints claim that the fees charged exceed the fees listed on the fee schedule and 10 complaints claim that fees charged are not listed on the fee schedule
- 8 complaints claim that the towing operator's fee schedule violates the TDLR rules for fee schedules
- 6 of the complaints claim that the towing operator's tow ticket violates the TDLR rules for tow tickets
- Other complaints include:
 - Towing fees exceed the statutory limits set in Chapter 2308, Section 204
 - Failure to maintain minimum liability insurance
 - Failure to issue a statement to the customer of right to a tow hearing
 - Fees exceed city ordinance
 - No certificate of registration
 - Towing operator charged for services not performed
 - Vehicle towed from a lot that did not have proper signage

Complaints from Insurance Companies

- Of the 323 provided complaints, 220 were made by insurance companies. All but one of these complaints was made by one insurance company; the other was made by another insurance company..
- 88 claim that the fees charged exceed the fees listed on the fee schedule
- 66 are for failure of the towing operator to file a fee schedule with TDLR
- 19 claim that the towing operator's tow ticket violates the TDLR rules for tow tickets
- 11 claim that fees charged are not listed on the towing operator fee schedule
- 7 claim that the towing operator's fee schedule violates the TDLR rules for fee schedules
- Other complaints include:
 - Towing operator towed vehicle to an unauthorized location
 - Underinsured tow vehicle/equipment
 - Failure to issue a statement to the customer of right to a tow hearing
 - Violation of rules for registration application
 - Failure to provide proof of insurance

Complaints from TDLR

- Of the 323 provided complaints, 11 were made by TDLR. This number will likely increase as compliance inspections are done.
- 7 are for failure of the towing operator to file a fee schedule with TDLR
- 3 claim that fees charged exceed the towing operator fee schedule
- 1 complaint was made for the failure to issue a statement to the customer of right to a tow hearing

Complaints from the Towing Industry

- Of the 323 provided complaints, 2 were made by towing companies

- One complaint claims that a towing operator is operating without a license
- One complaint is for failure of a towing operator to file a fee schedule with TDLR

Cases In Process

- 212 of the 323 total cases are open cases and 163 are in process
- 49 of the open cases have been assigned to an investigator
- 34 of the cases in process have been assigned to a prosecutor

Resolution

- 76 of the 323 total cases have been closed
- Half of these were closed due to lack of evidence or a withdrawal of the complaint
- 19 cases were resolved with no disciplinary action taken
- 11 cases were closed with a warning sent to the towing operator
- 2 cases were closed after the entire penalty amount had been paid by the towing operator

Complaints for Local Programs

Each local government that regulates towing fees was asked to provide information about the quantity and nature of complaints they receive regarding towing fees, but that information has either not been systematically logged or was not readily available. The only information received was from Harris County, which indicates that since 2005, 1,378 tow hearings have been requested in Harris County. Almost all the complaints concern whether towed vehicles were legally towed; 443 of the tow hearings found no probable cause for towing. Only a few of the total requests for hearings are for complaints related to towing fees.

Insurance Industry Complaints

One of the major insurance companies in Texas pays for 300,000 to 400,000 tows in Texas annually. All of these tows are the result of accidents and 58,000 to 65,000 vehicles are considered total losses. The charges for towing total losses are reviewed most thoroughly and the company estimates that they are overcharged for 20 to 25 percent of those tows.

In 2007, when towing was regulated by the Texas Department of Transportation (TxDOT), this insurance company recouped approximately \$43,000 in towing overcharges because the practice at TxDOT was to work with towing operators to reimburse customers who were overcharged. Since the transfer of towing regulation to TDLR, the company has recovered few overcharges. This is due, according to representatives of the insurance company, to a lack of authority for TDLR to require towing companies to refund overcharges.

Representatives of the insurance company provided examples of towing company fee schedules that the company considers unreasonable as well as examples of tow tickets for which the company believes it was overcharged. A review of the examples provided yielded the following information.

Fee Schedules

The towing operator fee schedules provided by an insurance company vary greatly in the rates listed, additional charges listed, and description of charges.

- Five examples are provided of company fee schedules that list a wide price range for each charge. In one example, a towing operator lists the price for a light-duty private property tow as ranging from \$175-\$10,000. Two companies list a light-duty towing rate of \$1,000.
- Three examples are provided of company fee schedules that list high mileage charges. One towing operator charges \$2.50 per en route mile, \$3.95 per unloaded mile, and \$4.95 per loaded mile.
- Unusual charges on three different fees schedules include \$3,500 for 'water recovery', \$3,500 for 'car in ditch', and a charge for "DWI towing".

Tow tickets

- Four sample tickets are provided for a towing operator that charged a 42 percent mark-up fee and a \$100 administrative fee on each ticket.
- Several sample tickets are provided for five towing operators that charged hourly rates for each charge. One company charged \$260 (\$65 per hour per man) for labor on a light-duty tow.
- Tickets from four different towing operators are provided that show a "steering fee" or "transfer fee" ranging from \$175 to \$500. These fees are typically charged when a vehicle is released to a body shop (and have also been called "loss of business" fees). One of the tickets shows charges for a steering fee (\$500), an admin fee (\$250), a transfer fee (\$150) and pay out charges (\$331.08) for a total bill of \$1,231.08. Two fee schedules are provided showing these fees ranging from \$450 to \$600. In one case, a transfer fee was charged on a ticket, but the fee is not listed on the towing company's fee schedule.
- Several sample tickets are provided for four towing operators that charged more for towing than the towing charge listed on their fee schedules.
- Five tickets are provided for one towing operator that issued two separate tickets with different rates for towing the same vehicle on the same day. In each of the five instances, one ticket is for towing the vehicle to a vehicle storage facility (VSF) and the second ticket on the same day is for towing the vehicle from the VSF to a body shop.
- Four tickets are provided for one towing operator that charges the same winching, clean-up, and extra man charge on every ticket.
- Two tickets are provided for which light-duty vehicles were towed from a beach. One company charged \$2,185, which is within the company's fee schedule listing for off-road recovery (\$1,000 to \$20,000). The other company charged \$7,200 for water recovery, which is not listed on the company's fee schedule.

Another insurance company provided examples of two recent tow tickets that are typical of questionable charges. Both of these tickets are for tows originating in the City of Houston; City ordinance specifies that the fee for a standard tow is \$143.50, but does not address whether other fees may be charged.

- One ticket contains the following charges: \$295 wrecker service, \$125 admin fee, \$50 preservation fee (typically to cover the car with plastic when there are broken windows), \$500 steering fee (to move the vehicle from their facility), and \$500 tear down fee. The total ticket charge is \$1,470.

- Another ticket contains the following charges: \$135 wrecker fee, \$250 admin fee, \$100 preservation fee, \$30 for one day of vehicle storage, and a \$143.50 charge for which the description is illegible. The total invoice is \$658.50.

Towing In The News

A cursory review of newspaper articles in 2008 noted the following incidents involving towing:

- On February 3, 2008, *The Dallas Morning News* reported that an investigation found that three towing companies on the Denton Police Department's rotation list were in violation of licensing requirements and were therefore ineligible for inclusion on the list.
- KGBT4 News from the Rio Grande Valley reported on May 20, 2008 that a McAllen resident photographed a towing company employee illegally posting towing enforcement signs after the resident's car was towed by one of the towing company's wreckers. The resident took his case before the Hidalgo County Justice of the Peace and won.
- On September 12, 2008, *The San Antonio Express-News* reported that visitors to the Padre Island National Seashore may be charged up to \$3000 for a beach tow because the park service no longer tows vehicles for visitors but instead relies on Corpus Christi-based wrecker services.
- On October 15, 2008, *The Dallas Morning News* reported that "dozens" of State Fair visitors had their cars towed from lots they paid to park in and that they claim had no signage indicating "no parking".
- NBC Dallas-Fort Worth News reported on October 15, 2008 that "dozens" of attendees of the Texas-OU football game were waved into parking lots that they were later towed from. Drivers say the lots had no signage or barricades to indicate they should not park there.

VII. Non-Consent Towing Fee Regulation in Other States

Through the literature review and the interviews conducted, 17 states were identified that were thought to be regulating non-consent towing fees at the state level. We reviewed state statutes in each of these 17 and found that 11 regulate fees at the state level and 6 do not. We continued to gather additional information about the fee regulations in each of the states that do regulate fees.

This list is not likely to be comprehensive because the statutes of all 50 states were not reviewed. Of the literature reviewed and the individuals interviewed, there was very little comprehensive information about the states that regulate non-consent towing.

Of the 11 states that regulate fees at the state level, 4 states allow localities to set rates: Hawaii, Massachusetts, New Jersey, and Virginia. Six states set non-consent towing fees statewide and do not allow local governments to set rates:

- Georgia (only regulates fees for private property towing)
- Illinois (only regulates fees for private property towing)
- Louisiana
- New Mexico
- Utah
- West Virginia

The state of Connecticut also regulates fees at the state level, but we were not able to determine if local regulation is allowed prior to the publication of this study. While Florida does not set rates at the state level, the state statute does require that county governments develop regulations and set fees for non-consent towing. Municipalities in Florida are allowed, but not required to set rates. None of the other states reviewed for this study have a similar requirement that local governments establish rates and regulations for non-consent towing.

We summarized the rate regulations of each of these 11 states in a matrix in Appendix D. Below we have highlighted information from four states that best illustrate two components of state regulation of non-consent towing fees: Local authority to set rates and state-wide rate setting methodologies.

Local Authority To Set Rates: Virginia and New Jersey

Both Virginia and New Jersey have recent towing legislation and both include a ceiling on fees in state statute but allow local governments to set rates.

Virginia

The state of Virginia allows towns, cities, and counties to set rates for non-consent tows. In the event that a locality does not set a rate, there is a statewide ceiling set in the Virginia Code. Virginia only sets

fees for private property tows, but has extensive regulations for all non-consent towing services.

Unique among the states reviewed for this study, Virginia requires local advisory boards to be established if local governments choose to set rates. The Virginia statute is also relatively new.

New legislation. Senate Bill 134 passed in April of 2006 and made broad changes to the towing statute. The bill was implemented to remedy what lawmakers called “inconsistent and outdated state statutes and a patchwork of local ordinances [that were] ineffective in ensuring fairness to either those in the towing and recovery business or those owners whose vehicles such businesses tow without their consent.” The bill received support from the insurance industry.

Senate Bill 134 created a new chapter in the Virginia Code (46.2-2800 through 46.2828) which established the state Board of Towing and Recovery Operators (BTRO) which is charged with licensing and regulating the towing and recovery industry. The bill specified that local regulations must be at least as restrictive as those imposed by the BTRO and increased the non-consent tow rate cap to its current levels. Provisions to protect consumers were also included in the bill, such as requirements that “no parking” signage be conspicuous and that towing companies and storage facilities accept credit cards.

Local governance. According to the Code of Virginia, sections 46.2-1217 and 46.2-1232, counties, cities and towns may enact ordinances to regulate the removal of trespassing vehicles and vehicles towed at the request of a law enforcement officer and fees assessed for all non-consent tows. If local governments set their own rates, they are required to establish an advisory board. The local governing body appoints the local advisory board to provide guidance regarding any local ordinance established to regulate non-consent tows. Voting members of the board must include an equal number of representatives from local law enforcement and licensed towing and recovery companies. The board must also include one member of the general public. The board meets at least once a year at the call of the chairman who is elected annually by a majority vote of the voting members.

Section 46.2-1233.1 specifies that if a county, city, or town has not set fees for tows from private property, no towing charges for such tows may exceed of \$125 for the hookup and initial tow fee. Additional fees charged for tows occurring between 7 p.m. and 8 a.m., or on a Saturday, Sunday, or holiday have a ceiling of \$25. This same section sets a limit of \$25 on the fee a towing company can collect from a driver who arrives in time to move their car before it is towed. No other fees are listed in the statute.

Posting fees. Towing companies are required to post fee schedules on their trucks and insure that these postings correspond exactly to lists posted at storage facilities where vehicle owners pick up their towed vehicles. This posting requirement makes certain that there is consistency in the application of rates and is intended to prevent towing companies from tacking on other charges, such as use of a dolly, extra labor costs, or extra mileage fees. This requirement is found in the Code of Virginia at 46.2-1231 and in the BTRO rules.

The Virginia Board of Towing and Recovery Operators (BTRO). The BTRO has been in operation since July of 2006. The BTRO consists of 15 board members, twelve of whom must be representatives of the towing and recovery industry and three of whom are consumers. All are appointed and approved by various branches of state government. All members are voting members and serve four-year terms.

The rules promulgated by the BTRO define some of the duties of the BTRO and codify the standards

of practice (24VAC27-30-110) and prohibited behavior (24VAC27-30-100) for towing companies. These regulations were finalized on October 15, 2008. BTRO staff report that their current focus is to get all towing companies licensed and credentialed by the December 31, 2008 deadline. Systems to monitor compliance are not in place yet.

Compliance. Currently, compliance is carried out at many different levels in many different state agencies and organizations, including local law enforcement agencies, the local advisory boards, and the Office of Consumer Services at the Department of Agriculture. Representatives at the BTRO maintain that the vast majority of complaints have to do with pricing issues. These kinds of complaints are handled exclusively by the Department of Agriculture, Office of Consumer Services. Representatives of this office were not specific about the volume of complaints they receive, but did indicate that they have no enforcement power and that if a towing company does not comply with their efforts at resolution, they are simply “flagged” in the Department’s database, which may not have any effect unless a consumer calls to specifically inquire about that particular towing company. If a complaint is generated from a police tow, then the police handle it. The BTRO reported receiving very few complaints and that when they do become fully operational, their goal is to seek objective information from all parties and to guide both parties toward quick resolution. The BTRO intends to become a repository of information on compliance in the future, if not the coordinating body for state compliance efforts.

Several issues were raised when reviewing towing practices in Virginia.

Fuel costs. Nearly all industry representatives interviewed mentioned the impact that increases in fuel costs have had on their businesses. Because fuel costs have risen in the recent past much more quickly than local ordinances can be changed, towing companies have not had much recourse to deal with this problem.

Low bids. Industry representatives in Virginia reported that some towing companies obtain contracts by bidding a very low price per tow to provide towing services in a locality and then once the contract is secured, they add ancillary charges to each tow, such as equipment or labor charges, to generate additional revenue. This practice is clearly in violation of BTRO rules, which went into effect in October of 2008.

Dumping. Another problem for the towing industry in Virginia is the practice of “dumping”. Dumping occurs when a vehicle owner whose car is towed never collects it from the storage facility, presumably because they cannot afford to pay the bill, which may exceed the value of the car. One industry representative identified this as “the biggest problem that towing companies in Virginia have to deal with” and estimated that 20 to 25 percent of police tows are “dumped” on towing companies. Towing companies report spending hours completing the required administrative tasks to identify and notify the owner, particularly if the car is from out-of-state. Towing companies are burdened with the costs of holding the cars for weeks. If no one claims the car, then the towing company has to pay to dispose of it. Often, these cars are not worth what it costs to haul them away. One industry representative said that legislation to protect towing companies from this practice will be effective in 2009.

Heavy-duty towing. Heavy-duty towing companies are concerned because their equipment is so expensive and, especially in rural areas, they typically do not receive enough calls to make a profit. Some heavy-duty towing industry representatives report that some heavy-duty towing companies resort to unscrupulous practices to recoup their equipment costs, such as extending the time it takes for them to

complete a job.

Rotation lists are another source of problems for heavy-duty towing companies. These lists are used by most local law enforcement agencies in the state and consist of towing companies in the area who are available for work and who are licensed and insured. When there is an accident, law enforcement personnel call the next name on the list and offer the job to that towing company. Towing companies can easily get their names on these lists but many do not have proper equipment for heavy-duty towing. When they get to the accident scene, they have to spend more time at the site than would be necessary for a properly equipped towing company and therefore, they charge more than they should. This practice results in higher prices for these tows and longer waiting periods to clear wreckage from the roadway. The Virginia Department of Transportation is developing more stringent standards for getting on rotation lists in hopes of improving roadway clearance times for heavy-duty tows.

Heavy-duty towing companies are also concerned about uninsured or underinsured trucking companies that cannot pay the costs of the heavy-duty equipment needed to clear an accident; the value of the truck itself may be insufficient to compensate towing companies for their work.

Heavy-duty towing representatives are candid about consumers' feeling that heavy-duty towing companies are "aggressive in pricing". They counter that rollovers and other major accidents are expensive to "right" and towing companies often have to levy high prices because they may only have one job per week.

New Jersey

In the state of New Jersey, a 2007 law set a state ceiling for non-consent as well as consent tows. Municipalities have the authority to set their own rates.

New legislation. The "Predatory Towing Prevention Act" was passed in October 2007 and is unique among the state laws examined for this study because it regulates both consent and non-consent towing, the latter of which includes both private property and law enforcement tows. The act, codified in chapter 193 of New Jersey Public Laws of 2007, contains the following sections which are relevant to this study:

Non-consent tows are defined as any tow of a motor vehicle from private or public property without the consent of the owner or operator of the vehicle (56:13-9).

The Director of the Division of Consumer Affairs by regulation shall establish a schedule of towing and storage services and shall specify services that are ancillary to and included as part of basic towing services for which no additional fees may be charged in addition to basic towing fee (56:13-14 (8)(a)).

Towing companies are required to submit tariffs annually. Towing rates may not exceed 150 percent the average rate charged in the county (56:13-14 (8)(b)).

The rule-making process associated with the new law will not be completed until the end of April 2009. New or "corrective" legislation was introduced in July of 2008 in Senate Bill 2073, which would remove all consent and law enforcement tows from those subject to regulation. The bill is currently being considered in the Senate Transportation Committee.

Local rate setting. Municipalities have the authority to set their own rates for tows from private or public property per the New Jersey Annotated Statutes at 40:48-2.49.

Comprehensive Statewide Rate-Setting: New Mexico and Louisiana

Both New Mexico and Louisiana have extensive statewide tariffs governing non-consent tows and neither state allows local governments to set rates.

New Mexico

New Mexico has been setting statewide non-consent towing rates since 1996 and does not allow local government to set rates. Rates are published in the Statewide Wrecker Tariff of 2000, which is attached. In New Mexico, a non-consent tow is defined as any situation in which a car is towed without the consent of the driver. State officials maintain that non-consent tows include both law enforcement tows and private property tows.

New Mexico statutes and rules. New Mexico statutes specify that the Public Regulation Commission (PRC) will set statewide non-consent towing rates. Statutory authority for setting these rates is found at 65-2A-4 (5). Section 65-2A-20 mandates that all towing companies have their fees approved and filed with the PRC. Section 65-2A-21 (f) gives guidance on how the PRC should determine the “reasonableness of rates”.

The New Mexico Public Regulation Commission Motor Transportation Rules, Title 18, Chapter 3, Part 12 covers all non-consent tows as well as repossessions and describes the various circumstances under which non-consent tows occur. Part 6 of the same chapter describes what is included in a tariff, how the tariff is created, and what the procedures are for making changes to a tariff or implementing fees that exceed the tariff. These rules became effective on January 1, 2005.

The PRC produces the Statewide Wrecker Tariff. The tariff is a list of prices charged for particular towing services. The tariff also contains some rules regarding what methodologies to use for assessing certain fees. Language in the tariff puts some restrictions on charges for services that are ancillary to the tow, such as extra equipment and labor.

Rate setting. The PRC oversees the rate setting process for non-consent tows and enforces these rates. When a new tariff is being formulated, the PRC holds hearings in which they receive testimony from industry representatives. The goal of these hearings is for the PRC to get a clear picture of the actual costs of towing services in the state. Using this testimony, the PRC then formulates the tariff. A towing company may charge fees that exceed the tariff, but must have their higher rate approved through a rate hearing with the PRC. Part 6 of the agency’s rules list the extensive requirements for this process, including stipulations regarding how the application should be formatted, how mileage is to be calculated, and other very specific information. The PRC either approves or denies the higher rate. PRC representatives report that no towing companies to date have requested approval for a rate that is higher than the statewide tariff.

The PRC has not adopted a new tariff since 2000. PRC staff claim this is because the “industry has not

petitioned for a rate increase” via the rate hearing option described above since the last tariff was made effective in 2000. The PRC reports that they will begin developing a new tariff in the summer of 2009.

Compliance. The Investigation Division within the PRC receives complaints and assigns each one a case number. Investigators fill out a form known as a complaint analysis, which details the two parties involved and the particular incident. The investigators research the complaint, interviewing both parties, and determine if any rules were violated. A report is submitted to the legal division. If rules have been violated, an Order to Show Cause is issued to the offender. Depending on the severity of the offense, an administrative hearing is scheduled either before the PRC or an administrative judge, known as a hearing officer. Offenders are fined or put on probation and monitored. If offenders on probation are found to have committed any further violations, their business is closed. One industry representative reported that the PRC does an excellent job handling complaints. Reports detailing the volume and outcome of complaints have been requested but were not received before the publication of this report.

Several issues were raised when reviewing towing practices in New Mexico.

Tariff. Towing industry representatives report that towing companies like the tariff because they recognize that it is necessary and without it, there would likely be price gouging. One individual stated that towing companies have been trying to change the tariff since 2001 but that it is a long and slow process requiring affirmative votes from three of the five Commissioners.

Fuel prices. As in Virginia, towing companies in New Mexico have been suffering from the increase in fuel prices. The existing tariff was written when fuel was \$1.45 per gallon. Towing companies found some relief when an emergency clause was adopted to add a fuel surcharge to the price of tows in New Mexico in March of 2008.

Rural towing companies. Rural towing companies in New Mexico have problems making ends meet, particularly those who perform heavy-duty tows. Heavy-duty towing companies report that they are not able to charge what it costs to perform heavy-duty tows in rural areas.

Louisiana

In Louisiana, non-consent tow rates are set statewide. The Louisiana Constitution and the Louisiana Revised Statutes (RS) give the Louisiana Public Service Commission (PSC) authority to regulate towing (Article IV, Section 21(B), RS 45:180.1(B)). The revised statutes mandate that all non-consent towing fees for cars towed from private property “or parking areas” shall be uniform and set according to rules and regulations promulgated by the PSC and by the Department of Public Safety and Corrections, Office of State Police (RS 32:1736).

The PSC’s General Order, Docket No. T-24789 contains the statewide towing rates, which vary according to weight and the nature of the tow. This document also defines non-consent tows as “the transportation of a vehicle by a tow truck without the prior consent of the owner or operator of the vehicle”.

Local rate setting. In parishes with populations of 400,000 or more, private property tows are capped at the fee the local governing authority would have charged to tow the car from public property (RS:32:1733).

Charges Other Than Towing Fee

Four of the 11 states that regulate non-consent towing fees (Georgia, Illinois, New Jersey, and New Mexico) do not allow towing companies to charge any fees other than the regulated towing fee. The state-wide towing regulations in Hawaii, Louisiana, Massachusetts, Utah, Virginia, and West Virginia all allow for other charges in addition to the basic tow fee and set maximum rates for those charges.

Fuel charges. Of the six states that allow other charges, Hawaii, Louisiana, Massachusetts, and Utah allow either per mile charges or a fuel surcharge in addition to the towing fee. West Virginia allows tow companies to charge a \$1.70 per mile rate instead of the state-set towing fee. Per mile rates, in addition to towing fees, range from \$3 per mile in Massachusetts to \$7.50 per mile in Hawaii. Louisiana allows a fuel surcharge of 3 percent when the cost of fuel exceeds \$1.25 per gallon. Utah allows a fuel surcharge when the cost of fuel exceeds \$2 per gallon, but the charge is not defined.

After-hours charges. Hawaii, Virginia, and West Virginia allow towing companies to charge for towing services done outside regular business hours. Hawaii and Virginia both allow a flat fee for towing done after regular business hours at \$15 and \$25 respectively. West Virginia allows a \$5.25 per hour charge for towing done on Sundays, weekends, and holidays.

Drop fees. Although Georgia does not allow charges in addition to towing charges, the state does allow towing companies to charge a drop fee for vehicles that have been prepared to tow, but are not yet being towed; the rate is \$50 for light-duty vehicles and \$100 for heavy-duty vehicles. Massachusetts and Utah both allow a drop fee of 50 percent of the regulated towing fee.

Heavy-Duty Towing

Seven of the 11 states that regulate non-consent towing fees set rates for heavy-duty non-consent towing. Hawaii, New Jersey, Massachusetts, and Virginia set maximum rates for light-duty towing, but do not address heavy-duty towing.

Hourly rates and additional charges. Connecticut, Louisiana, Utah, and West Virginia all set maximum hourly heavy-duty towing rates. The rates range from \$114 per hour in West Virginia, to \$325 per hour in Connecticut. Louisiana, Utah, and West Virginia all allow tow companies to charge other charges related to heavy-duty towing. These charges include labor, standby time, fuel surcharge, and after-hours charges.

Flat rates and additional charges. Georgia, Illinois, and New Mexico set flat rates for heavy-duty towing at \$325, \$700, and \$150 respectively. Georgia is the only state to set a heavy-duty drop fee, which is set at \$100. No other charges related to heavy-duty tows are addressed by Georgia or Illinois. New Mexico allows other charges related to heavy-duty towing and describes each charge in more detail than any other state.

Recovery. Louisiana, Massachusetts, and Utah address recovery charges in addition to heavy-duty towing charges. Louisiana allows a 50 percent mark-up for “complicated or difficult recovery.” Although Massachusetts does not address heavy-duty towing specifically, the state does allow towing companies to bill consumers for any extraordinary services at cost. Utah allows recovery charges, but only if the charges are agreed upon by the owner of the vehicle before the recovery is initiated.

VIII. Summary of Findings

Based on the results of the research conducted for this study, a number of issues emerged. Those issues are discussed below.

Definition of Non-Consent Towing Varies

In Texas statute and rules, non-consent towing is defined as towing vehicles that are improperly parked on private property as well as towing vehicles that are abandoned or involved in an accident in which a law enforcement officer is involved. Any other towing is considered consent towing and is not regulated. However, local regulations and practices may not adhere to this definition, despite the requirement in Texas Occupations Code Section 2308.208 that municipalities may not adopt ordinances that conflict with Chapter 2308. The City of Houston ordinance says that an officer at the scene of an accident must inform the vehicle owner that the towing fee will be unregulated if the owner specifies a preference for a towing company. The non-consent towing regulations in one county and three county sheriff's departments do not apply if the owner of the vehicle specifies a preference for a towing company at the scene of an accident.

Based on information from interviews, evidence suggests that some towing companies “flip” a tow from the scene of an accident from a non-consent tow to a consent tow by getting the consent of the owner at the scene of an accident. While TDLR is clear regarding their interpretation of state law, this interpretation may not be widely understood or practiced and appears to be contradicted in some local regulations.

Posted Fee Schedules Do Not Regulate the Industry

While most of the 25 fee schedules reviewed for this report meet state requirements and contain fees similar to other fee schedules, there is ample evidence that fee schedules can be and have been used to justify excessive towing charges. Even the small sample of fee schedules reviewed suggests that fee schedules are not an effective means of regulating the towing industry.

Fee Loophole In Current Texas Statute

The Texas Occupations Code Chapter 2308.204 contains language that provides a maximum limit for non-consent towing fees in the absence of local fee regulation. However, this provision has two loopholes:

- 1) It only applies to private property towing and therefore does not include towing from the scene of an accident or any other law enforcement-related tows.
- 2) The maximum rate that may be charged is tied to the fee authorized by the law enforcement agency of the political subdivision.

In the first case, law enforcement tows are the source of considerable complaints and lack of compliance; excluding these tows from the statute leaves towing largely unregulated in Texas. In the second case, the research for this study indicates that not all law enforcement agencies set rates.

Other Charges Inflate Tow Tickets

Because of the lack of regulations throughout the state, there are great variations in the fees posted for tows as well as the fees charged for tows. While this study did not attempt to determine what the reasonable cost of a tow should be, there are considerable examples of what appear to be excessive charges for towing a vehicle and the widespread use of fees in addition to the tow fee.

The review of towing companies conducted for this study indicates that there is a pattern among all of the towing companies to increase the amount of the tow ticket beyond the tow fee rates. Most (84 percent) of the 93 tow tickets reviewed include other charges that increase the total amount on the ticket by an average of \$99 and range from \$17 to \$348. However, the samples provided by insurance companies (discussed beginning on page 27) show more extensive use of other charges on tow tickets.

While basic towing charges may be regulated in some areas in Texas, the use of other charges is often not addressed. As long as a fee is shown on the towing company fee schedule and it is not explicitly prohibited by a local regulation, the fee can be charged.

Transfer fees. Some of the highest charges, as shown on tow tickets paid by insurance companies, are “transfer fees” or “steering fees”, which can run up to \$500 and \$600. These charges are also referred to as “loss of business fees” and are charged when a vehicle is towed from a vehicle storage facility (VSF) to a body shop that is not connected to the VSF or the towing company that towed the vehicle. Additional “secondary” towing charges may also be assessed when transferring a vehicle from a VSF to a body shop on the same property or to a body shop under the same ownership as the VSF or the towing company.

Cost to consumers. The actual cost to consumers of overcharges is difficult to measure. An estimated 1.4 million vehicles are towed at the expense of insurance companies in Texas every year. Assuming that 84 percent of tow tickets contain \$99 in overcharges (as the very small sample above does), \$146 million in additional charges are paid by the insurance industry annually.

Recouping costs. Consumers must pay what they are charged for tows without the opportunity to dispute the fees before making payment. In most cases, there is an urgent need to retrieve the vehicle; for example, insurance companies need to retrieve vehicles to have them repaired and truckers need to retrieve cargo. Although consumers can file claims of overcharging by towing companies in local justice of the peace courts, the amount of overcharging is often significant, running into hundreds and even thousands of dollars in the case of large vehicles.

Large Areas of the State Lack Regulation

While Texas statute leaves regulation of non-consent towing fees to local governments, a review of local regulation indicates that outside the major urban areas of the state, non-consent towing fees are not consistently regulated. And even within areas with fee regulation, there are gaps in addressing issues such as fees for heavy-duty towing, the other charges that may be added to tow tickets, and the definitions of non-consent towing.

Based on the review of 25 randomly selected towing companies, 40 percent are not subject to any state or local non-consent fee regulation. These 10 towing companies are located in cities and counties that have no municipal, county, or law enforcement regulation of non-consent towing fees.

The towing companies selected for review represent the same geographic, size, and rural/urban distribution as the licensed towing companies in Texas, suggesting that a significant proportion of the towing companies in Texas are operating in a largely unregulated environment.

Heavy-Duty Towing

There are many differing opinions about how heavy-duty towing charges should be billed and what constitutes a fair rate for heavy-duty towing. Heavy-duty towing is generally defined as the towing of vehicles with a gross weight rating of 26,000 pounds or more. The equipment used to right over-turned tractor trailers and other large vehicles is expensive and recovery can involve multiple pieces of specialized equipment and multiple individuals.

The capital investment in heavy-duty towing equipment is the primary factor in the issue between rural and urban areas. In urban areas, the equipment is used more frequently and capital and maintenance costs can be more easily recouped. In rural areas, this equipment is needed less frequently and it is more difficult for towing companies to recoup the costs of their investment.

Calculating Charges

As discussed previously, there are at least three options for determining how to calculate the charges for a heavy-duty tow: flat rates, hourly rates, and price per pound. Some individuals consider flat rates and price per pound to be the best options for ensuring that an accident is cleared quickly. Hourly rates are seen as possibly slowing down a clean-up, but may reflect more accurately the work that is involved in clearing the accident. The local regulations that were reviewed in Texas do not allow charges per pound, although two towing fee schedules were reviewed that contain price per pound fees for heavy-duty tows. The towing industry has advocates for each method of calculating charges.

Price per pound. Price per pound is the most controversial method of charging, with some interviewees seeing it as simply a way to justify excessively high fees. Price per pound also may not reflect the amount of work done at an accident scene, since payment is dependent on the weight of the truck, not on the complexity of the recovery. For example, in an accident, the driver of the truck is injured and unable to operate the truck, but the truck itself has only minor damage. The towing company then performs a simple tow, but is able to charge a high rate for towing based on the full weight of the truck and its cargo. Many of the people interviewed do not support this method of pricing, but there are advocates of price per pound.

Local regulations. In the local regulations reviewed for this report, about half of the regulations that address heavy-duty towing specify flat fees that range from \$300 to \$800. Nearly all of the regulations include other fees that may be charged with maximum charges specified. The other half specify hourly rates that range from \$115/hour to \$218/hour. Few of those regulations allow other charges related to heavy-duty towing.

Other charges. As with standard towing, the array of other fees charged for heavy-duty towing can significantly increase the cost of the tow. Rented equipment for an accident can often be charged at cost with a substantial markup. In the fee schedules reviewed for this study, six towing companies indicate that additional equipment required for a heavy-duty tow will be billed at cost plus a percentage, ranging in the fee schedules from 25 percent to 50 percent. Three local regulations allow cost plus a percentage, ranging from 10 to 25 percent.

One of the issues relayed anecdotally is a “drive” charge that occurs when the tow operator drives the truck to storage rather than actually towing the vehicle; these charges seem excessive when a tow did not occur.

While Texas statute allows vehicle owners to retrieve personal documents necessary for identification from vehicles in storage facilities (Texas Occupations Code Section 2308.158), the retrieval of cargo that is not owned by the owner of the vehicle is not addressed in statute. Towing companies will hold towed vehicles and cargo until the towing bill is paid. Trucking companies must pay the towing bill in order to recover equipment and cargo without having the opportunity to dispute any charges.

IX. Recommendations for Texas

Considerations

In developing a recommendation for Texas, both sides of the issue should be considered:

- Consumers, including individuals, the insurance industry, and the trucking industry, should not be charged excessive fees for towing services, and
- Towing companies should be treated as professionals who are often first responders to accident scenes and should be allowed to make a profit and compete.

Options

Maintain the status quo. The number and nature of complaints, the lack of any regulation in many areas of the state, as well as the desire of the towing industry to create a more professional image probably preclude leaving things as they are. The towing industry is generally in support of more regulation (but not necessarily state regulation) that will reduce the number of “bad apples” within the industry. While local government and law enforcement officials are generally, but not universally, in support of more state regulation or at least guidance from the state, there are not many options that will achieve the goal of more consistent and effective regulation across the state without making adjustments to the state statute.

Require political subdivisions to regulate fees. Florida requires, but does not enforce the requirement, that counties set rates for non-consent towing. Texas statute requires that Harris County have regulations. While this could be done state-wide, this is likely to be seen as an unfunded mandate for local governments. And if the state does not enforce this requirement, which will require significant effort, the results are not likely to be different than what is in existence currently.

Set fees statewide and eliminate local control. Texas could set rates statewide, perhaps with regional variation, superseding local regulation. Because of the size of Texas, the variation in the economics of operating a towing company in the various regions in Texas would likely make the process of setting of fees cumbersome and unwieldy. And local governments and law enforcement agencies may be reluctant to give up their authority to control towing fees locally.

Recommendations

To ensure more consistent and effective regulation of non-consent towing fees in Texas and address the issues raised in the previous chapter, the Texas legislature should consider modifying the Texas Occupations Code Chapter 2308 with the following provisions that set rates for towing in the absence of local regulation.

1. Clarify the definition of a non-consent tow to indicate whether a tow is a non-consent tow in the following instances:
 - When the owner of a vehicle involved in an accident requests a specific towing company, and

- When the owner of a vehicle involved in an accident directs the towing company to take the vehicle to a location other than the towing company's vehicle storage facility.
2. Revise Chapter 2308 to set a maximum rate for all non-consent tows, including both private property tows and law enforcement tows. Rather than tie the maximum rate to a local law enforcement rate which may not exist, the statute should require that the maximum rates for towing be developed by TDLR with input from the Towing and Storage Advisory Board and adopted by the Texas Commission of Licensing and Regulation. The statute should require that TDLR set maximum rates for the following:
 - Standard (light-duty) tows (gross weight rating of 10,000 pounds and less)
 - Medium-duty tows (gross weight rating between 10,000 and 25,000 pounds)
 - Heavy-duty tows (gross weight rating of 26,000 pounds and more)
 - Other fees that may be charged in addition to the towing charge

While setting rates initially will be challenging, this is essential to addressing the issues in the previous chapter. This recommendation allows rates to be set outside the legislative process, which will allow more flexibility in adjusting rates and modifying the rate schedule. How those rates should be structured (hourly or flat fees, rural vs. urban variations, for example) should be determined by TDLR.

As the primary consumer group for heavy-duty towing, the trucking industry should be included in discussions about setting heavy-duty towing rates.

3. Prohibit charges other than those included in the TDLR rate schedule.
4. Specify that local regulations should not be less restrictive than state statute to avoid conflict between local regulations and state law regarding the definition of non-consent towing and the types of fees that may be charged. However, local governments and law enforcement agencies should be allowed to set higher rates if they believe they are warranted in their jurisdiction.
5. Allow consumers to recoup the cost of overpayments through the state enforcement process. Currently, consumer must pay towing charges before retrieving a vehicle and have no opportunity before paying to dispute what are often significant charges.

These additional measures may result in a cost to state government to implement and enforce. This study did not attempt to estimate the costs or revenue that may result from the implementation of these recommendations.

Appendix A. Local Regulation Matrix

Attached is a matrix showing local regulation of non-consent towing fees in Texas.

All language describing fees and charges is from the documents reviewed. Terms differ in the various documents reviewed and no definitions of the terms are provided.

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Light Duty Fee	Medium Duty Fee	Heavy Duty Fee	Other Charges
AUSTIN	\$150.00	\$400.00	\$800.00	<p>Exceptional Labor: \$35.00/hr described as clearing debris. Does not include normal hook-up procedure. Does not include the disposal of hazardous waste or vehicle cargo.</p> <p>Wait Time: \$20.00/hr</p> <p>Winching: \$35.00/hr</p>
BEAUMONT	\$85.00	not addressed	not addressed	<p>Dolly: \$25.00</p> <p>Extraordinary situations may occur which require additional vehicles or equipment for which additional reasonable charges may be made.</p>
BRYAN	<p>Rotation tow: \$100.00</p> <p>Private Property: \$75.00</p>	not addressed	not addressed	An additional \$100.00 may be charged on a rotation tow when "stand by time" exceeds 2 hrs.
COLLEGE STATION	<p>Rotation tow: \$100.00</p> <p>Private Property: \$75.00</p>	not addressed	not addressed	An additional \$100.00 may be charged on a rotation tow when "stand by time" exceeds 2 hrs.
CONVERSE Police Department	\$75.00	\$125.00	\$425.00	<p>Mileage: \$2.50/mile after 5 miles</p> <p>Dollies: \$30.00</p> <p>Off Road Recovery: \$50.00</p> <p>Wait Time: \$60.00/man/hr.</p> <p>Labor Time: \$75.00/man/hr.</p> <p>Additional Labor: \$75.00/hr.</p> <p>Clean-up: \$50.00</p> <p>Impoundment Fee: \$20.00</p> <p>Notification Fee: \$50.00</p> <p>City Fee: \$10.00</p>

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Drop Fee	Other Charges-Med. Duty Towing	Other Charges-Heavy Duty Towing	Charges Other Than Those Listed are Prohibited	Applies to Police Rotation List
AUSTIN	\$50.00	not addressed	Work time: \$25.00 per 15 minutes Exceptional Labor: \$15.00 per hr per man Specialized Equipment: \$300.00/hr Air Bags: \$100.00 per bag per hour Fork Lift: \$125.00/hr Haul Trailers: \$500.00 Trailer Dollies: \$300.00 Large slide trucks/rollbacks: \$200.00 Chief of Police can authorize additional charges	√	√
BEAUMONT	\$45.00	not addressed	not addressed		√
BRYAN	\$40.00	not addressed	not addressed		√
COLLEGE STATION	\$40.00	not addressed	not addressed		√
CONVERSE Police Department	not addressed	Mileage: \$3.00/mile after 5 miles Drive Shaft Removal: \$30.00 Off Road Recovery: \$125.00 Waiting Time: \$85.00/man/hr. Labor Time: \$150.00/man/hr/ Additional Labor: \$85.00/hr Clean-up: \$75.00 Impoundment Fee: \$20.00	Mileage: \$4.00/mile after 5 miles Drive Shaft Removal: \$30.00 Off Road Recovery: \$125.00 Waiting Time: \$275.00/man/hr. Labor Time: \$375.00/man/hr/ Additional Equipment and Man Power(heavy duty wrecker, men): \$425.00/hr Additional Equipment and Man Power(light duty wrecker, men): \$125.00/hr Additional Equipment(Tractors, fork lifts, front-end loaders): \$350.00/hr. + 25% Clean-up: \$250.00 Impoundment Fee: \$20.00 City Fee: \$50.00	√	√

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Definition of Consent/Non-Consent Tow
AUSTIN	Same as Texas Occupations Code
BEAUMONT	Any tow conducted without permission of or not at the direction of the towed vehicle's legal or registered owner, or such owners authorized representative. Regardless of the definition, city police officers may control the scene of an accident in the manner that they deem appropriate and order a non-consent tow.
BRYAN	Same as Texas Occupations Code
COLLEGE STATION	Same as Texas Occupations Code
CONVERSE Police Department	Service: To provide all labor, equipment, and materials to remove any vehicle from public streets, right of ways, or public property as directed by the Chief of Police or his designated representative.

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Light Duty Fee	Medium Duty Fee	Heavy Duty Fee	Other Charges
CORPUS CHRISTI	Rotation tow: \$135.00 Private Property: \$145.00	\$200/hr 1 hr minimum	\$200/hr 1 hr minimum	Work Time: \$15.00 for every 30 min. after the first 30 min. Unusual distance: \$15.00 Clean-up (no tow required): \$35.00
DALLAS	\$95.00	\$150.00	\$350.00	not addressed
DALLAS Police Department	\$95.00 + \$50.00 for each hr over 3 hrs	\$150.00 + \$75.00 for each hr over 2 hrs	\$350.00 + \$125.00 for each hr over 2 hrs	Service to render vehicle driveable: \$50.00 Mileage: \$1.00/mile outside city limits
EL PASO	\$70.00	\$350.00	\$350.00	Labor: \$55.00/hr after 2 hrs. Dolly: \$25.00
EL PASO Police Department	unknown	unknown	unknown	unknown
FORT BEND County Sheriff	\$150.00	not addressed	not addressed	Maximum fee for back-up assistance: \$100.00
FORT WORTH	\$135.00	not addressed	\$216.00/hr 1 hr minimum	Extra Work: \$100.00/hr
HARLINGEN	\$125.00	not addressed	Private Property: \$550 Accident(non-hazardous): \$500/hr Accident (hazmat): \$750/hr	Dolly: \$50.00 Flatbed: \$50.00 Labor (rollover, winch out extended wait time): \$125.00/hr
HARRIS County	\$143.50	not addressed	\$218.00/hr 2 hrs minimum	not addressed

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Drop Fee	Other Charges-Med. Duty Towing	Other Charges-Heavy Duty Towing	Charges Other Than Those Listed are Prohibited	Applies to Police Rotation List
CORPUS CHRISTI	\$50.00	Time at scene: \$50.00 for each hour after the first 30 min Impoundment fee: \$20.00	Time at scene: \$50.00 for each hour after the first 30 min. Impoundment fee: \$20.00		√
DALLAS	not addressed	not addressed	not addressed	√	X
DALLAS Police Department	not addressed	not addressed	not addressed	√	√
EL PASO	1/2 of tow fee	not addressed	not addressed		X
EL PASO Police Department	unknown	unknown	unknown	unknown	unknown
FORT BEND County Sheriff	not addressed	Maximum allowable fees do not include fees or charges for the removal of cargo spilled from large rigs or trailers. Fees for salvage services may be negotiated between the tow truck operator and the vehicle owner.	Maximum allowable fees do not include fees or charges for the removal of cargo spilled from large rigs or trailers. Fees for salvage services may be negotiated between the tow truck operator and the vehicle owner.	√	√
FORT WORTH	not addressed	not addressed	Renting Equipment: Reimbursed cost + 15% markup Extra Man: \$20.00/man/hr Air Bags: \$150.00/hr/cushion Tanker Cushion: \$400.00/hr/cushion Special Equipment: \$216.00/hr		√
HARLINGEN	not addressed	not addressed	not addressed		√
HARRIS County	not addressed	not addressed	not addressed		√

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Definition of Consent/Non-Consent Tow
CORPUS CHRISTI	Same as Texas Occupations Code
DALLAS	Same as Texas Occupations Code
DALLAS Police Department	Same as Texas Occupations Code
EL PASO	Same as Texas Occupations Code
EL PASO Police Department	unknown
FORT BEND County Sheriff	<p>Consent Tow: any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle.</p> <p>Non-consent tow: any tow of a motor vehicle initiated by a peace officer investigating a traffic incident in the unincorporated area of the county.</p>
FORT WORTH	Non-consent tow shall mean any tow conducted without the permission of, or not at the direction of, the vehicle's legal or registered owner, or such owner's authorized representative, regardless of the vehicle's condition or location.
HARLINGEN	Same as Texas Occupations Code
HARRIS County	It is ordered that the rate for a tow of a vehicle originating in the unincorporated area of Harris County, when such a tow is not initiated by the owner of the vehicle , or by a person who has custody or control of the vehicle shall be \$143.50 regardless of the time used to tow a vehicle.

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Light Duty Fee	Medium Duty Fee	Heavy Duty Fee	Other Charges
HARRISON County Sheriff	\$125.00	\$150.00	\$300.00	Drive Line Disconnect: \$25.00 Working Time: \$95.00 Hook-up fee: \$25.00 Dolly: \$45.00+\$1.00/mile FISS Fee (Fuel Insurance Security Safety): \$50.00
HOUSTON	\$143.50	not addressed	\$218.00/hr 2 hrs minimum	not addressed
LONGVIEW	\$120.00	not addressed	\$275.00/hr	Dolly: \$35.00 Wait Time: \$80.00/hr Towing beyond initial destination: \$50.00
LUBBOCK Police Department	Accident Disabled Vehicle: \$75.00 Impounded Vehicle: \$55.00	not addressed	not addressed	Dollies: \$15.00 Supplemental charges (wait time): Up to 1/2 of the actual towing charge Impound Fee: \$20.00 Notification Fee: \$35.00 Storage: \$10.00 (impound), \$15.00 (accident) After Hours Release: \$30.00
LUFKIN	Accident fee: \$150.00 Arrest fee: \$100.00	unknown	unknown	Exceptional Tow: Wreckers may charge additional fees if the officer on the scene approves.
MARSHALL	\$125.00	\$150.00	\$300.00	Drive Line Disconnect: \$25.00 Working Time: \$95.00 Hook-up fee: \$25.00 Dolly: \$45.00+\$1.00/mile FISS Fee (Fuel Insurance Security Safety): \$50.00

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Drop Fee	Other Charges-Med. Duty Towing	Other Charges-Heavy Duty Towing	Charges Other Than Those Listed are Prohibited	Applies to Police Rotation List
HARRISON County Sheriff	not addressed	Pick up or pulling small motor home: \$150.00 Hook up Fee: \$50.00 Working Time: \$150.00 Extra Labor (normal hours): \$50.00 Extra Labor (after hours): \$75.00 Remove Drive Line: \$50.00	Hook up Fee: \$100.00 Per mile outside city limits: \$3.50 Working Time: \$300.00 Extra Labor (normal hours): \$100.00 Extra Labor (after hours): \$125.00 Remove Drive Line: \$100.00 Minimum charge for air bag lifts: \$3,500.00		√
HOUSTON	not addressed	not addressed	Additional fees may be reasonably imposed for recovery services.		√
LONGVIEW	not addressed	not addressed	not addressed	√	√
LUBBOCK Police Department	Vehicle Custody Fee: \$35.00	not addressed	not addressed	√	√
LUFKIN	unknown	unknown	unknown		√
MARSHALL	not addressed	Pick up or pulling small motor home: \$150.00 Hook up Fee: \$50.00 Working Time: \$150.00 Extra Labor (normal hours): \$50.00 Extra Labor (after hours): \$75.00 Remove Drive Line: \$50.00	Hook up Fee: \$100.00 Per mile outside city limits: \$3.50 Working Time: \$300.00 Extra Labor (normal hours): \$100.00 Extra Labor (after hours): \$125.00 Remove Drive Line: \$100.00 Minimum charge for air bag lifts: \$3,500.00		√

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Definition of Consent/Non-Consent Tow
<p>HARRISON County Sheriff</p>	<p>Participating Harrison county towing companies will be used on all accidents and custody arrests when the owner or person in charge of the vehicle specifies no towing service preference, or is unable to specify a preference for towing service. Owner preferences will be disregarded only under exigent circumstances (road blocked, pinned-in occupants, aggravated custody arrests or when requested services are unavailable or impractical due to unreasonable response times).</p>
<p>HOUSTON</p>	<p>Non consent tow mean the tow of a motor vehicle in every instance in which the vehicle owner is unwilling or unable to designate a tow operator to remove the vehicle. Individuals are allowed to request a tow operator in an accident, but the operator must inform them that the tow will be unregulated.</p>
<p>LONGVIEW</p>	<p>Non-consent-The towing of a disabled vehicle, or vehicle that has been involved in an accident, whose owner or operator is unable, fails, or refuses to designate a wrecker service to remove the vehicle.</p>
<p>LUBBOCK Police Department</p>	<p>Impounded Vehicle means a vehicle whose driver has been arrested, an illegally parked vehicle, a vehicle that is a traffic hazard, or a vehicle that is taken into custody during the investigation of a crime. Accident disabled vehicle means a vehicle damaged as a result of an accident which is incapable of safe or legal operation and is required by a law enforcement officer to be removed from public or private property.</p>
<p>LUFKIN</p>	<p>Police Pull: When the Police Department has called a tow truck company from the rotation list to remove a wrecked or disabled vehicle, or to remove a vehicle in safe driving condition, when the driver is absent, in custody, or otherwise incapable of making authorization.</p>
<p>MARSHALL</p>	<p>Disabled Vehicle: 1) any vehicle that has been rendered unsafe to drive as the result of some occurrence other than a wreck, including, but not limited to, mechanical failure or breakdown, fire, or vandalism. 2) any vehicle that is in safe driving condition, but the owner is not present, able, or permitted to drive, so as to reasonably necessitate that the vehicle be removed by a wrecker. Wrecked Vehicle: any vehicle that has been damaged as the result of overturning or colliding with another vehicle or object so as to reasonably necessitate that a wrecker service remove the vehicle.</p>

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Light Duty Fee	Medium Duty Fee	Heavy Duty Fee	Other Charges
MCALLEN	\$100.00	\$115.00/hr 1 hr minimum	\$115.00/hr 1 hr minimum	High Water: \$50.00/hr Mileage: \$5.00/mile outside city limits Additional equipment or services from outside company: Cost + 10% markup
MIDLAND Police Department	Rotation tow: \$75.00 Private Property: \$70.00	not addressed	\$125.00/hr	Mileage: \$1.50/mile outside city limits Wait Time: \$10.00/15 min after first 30 min
NACOGDOCHES	Rotation tow: \$125.00 Private Property: \$85.00	not addressed	Rotation tow: \$250.00 Private Property: \$170.00	Wait Time: \$100.00/hr over 1 hr
SAN ANTONIO	\$85.00	\$125.00	\$300.00	not addressed
TRAVIS County Sheriff	\$130.00	\$393.00	\$393.00	Preparing Vehicle to tow: \$25.00 Special Equipment: \$75.00/hr Extra man: \$15.00/hr/man Winching: \$35.00 Wait Time: \$30.00/hr Large Slide
VICTORIA	\$90.00	\$180.00/hr + \$150.00 for each additional hr.	\$180.00/hr + \$150.00 for each additional hr.	Flatbed: \$36.00 Dolly: \$36.00 Remove Drive Line: \$15.00 Motorcycle Tow: \$30.00 extra Wait Time: \$18.00/15min. Extra Man: \$9.00/15 min.
WILLIAMSON County Sheriff	\$110.00	\$400.00 \$500.00 for a large slide truck	\$800.00	Dollies: \$35.00 Winching: \$35.00 Wait Time: \$30.00/hr after 1st hr. Clean-up: \$25.00 (flat fee)

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Drop Fee	Other Charges-Med. Duty Towing	Other Charges-Heavy Duty Towing	Charges Other Than Those Listed are Prohibited	Applies to Police Rotation List
MCALLEN	Drop fee at scene: \$40.00 If the vehicle operator does not have cash the vehicle can be claimed at the VSF within 1.5 hours for a fee of \$65.00.	not addressed	not addressed		√
MIDLAND Police Department	not addressed	not addressed	not addressed	√	√
NACOGDOCHES	not addressed	not addressed	Wait Time: \$200.00/hr over 1 hr		√
SAN ANTONIO	\$85.00	not addressed	not addressed	√	√
TRAVIS County Sheriff	not addressed	not addressed	Large Slide Truck: \$200.00 Off-Load Cargo: \$75.00/hr Trailer Dolly: \$75.00/hr Fork Lift: \$75.00/hr Air bags: \$75.00/hr		√
VICTORIA	not addressed	Truck Dolly: \$78.00	Truck Dolly: \$78.00		√
WILLIAMSON County Sheriff	not addressed	Air Bags: \$75.00/hr. Fork Lift: \$75.00/hr Wait Time: \$20.00/hr after 1st hr. Haul Trailer or Off-Load Cargo: \$75.00/hr. Trailer Dollies: \$75.00/hr. Winching: \$35.00 Prepare Vehicle for Towing: \$25.00 Other Specialized Equipment: \$75.00/hr/ Additional Labor: \$15.00/hr/man	Air Bags: \$75.00/hr. Fork Lift: \$75.00/hr Wait Time: \$20.00/hr after 1st hr. Haul Trailer or Off-Load Cargo: \$75.00/hr. Trailer Dollies: \$75.00/hr. Winching: \$35.00 Prepare Vehicle for Towing: \$25.00 Other Specialized Equipment: \$75.00/hr/ Additional Labor: \$15.00/hr/man		√

Local Regulation of Non-Consent Towing Fees in Texas

Local Jurisdiction	Definition of Consent/Non-Consent Tow
MCALLEN	If the owner of a vehicle in an accident scene is physically unable to name the wrecker company desired, or declines to name or or if the McAllen Police Department is called relating to a request for a wrecker company, the investigating or responding officer or employee shall cause the request for a wrecker company to be initiated from the wrecker rotation list maintained by the McAllen Police Department.
MIDLAND Police Department	MPD shall summon contractor for removing vehicles involved in accidents or when the driver of the vehicle is arrested, missing, or unable to operate the vehicle. In cases where the owner designates another wrecker service, the vehicle owner's wishes shall be respected, any other provision of this contract not withstanding, and the city shall incur no liability to the Contractor for such designation.
NACOGDOCHES	Same as Texas Occupations Code
SAN ANTONIO	Same as Texas Occupations Code
TRAVIS County Sheriff	When a deputy determines that the owner of a vehicle requiring towing is unable to select a towing company for any reason, the deputy will request that a towing company be selected from the list.
VICTORIA	Any tow conducted without permission of or not at the direction of the towed vehicle's legal or registered owner, or such owners authorized representative. Regardless of the definition, city police officers may control the scene of an accident in the manner that they deem appropriate and order a non-consent tow.
WILLIAMSON County Sheriff	When a deputy determines that the owner or operator of a vehicle requiring towing is unable to select a towing company for any reason , the Deputy will request that a towing company be selected from the List and called to execute the tow.

Appendix B. Fee Schedule Compliance

Attached is a matrix indicating the compliance of fee schedules with local regulations in Texas for standard/light-duty, medium-duty and heavy-duty towing rates.

All language describing fees and charges is from the documents reviewed. Terms differ in the various documents reviewed and no definitions of the terms are provided.

Fee Schedule Compliance With Local Regulations (Standard/Light-Duty Rates)

Tow Company #	Company Standard Fee	Location City	Location City Maximum Fee	Location City Police Fee	Near City	Near City Maximum Fee	Near City Police Fee
1	\$125.00	MIDLOTHIAN	no ordinance	no regulation	Dallas/Fort Worth	Dallas-\$95.00 Fort Worth-\$150.00	Dallas-\$95.00 Fort Worth-\$150.00
2	\$134.50	HOUSTON	\$143.50	\$143.50	n/a	n/a	n/a
3	Wrecker Fee: \$125.00 Accident-Recovery: \$225.00	PORT LAVACA	no ordinance	no regulation	Victoria/Corpus Christi	Victoria-\$90.00 Corpus-\$135.00	Victoria-\$90.00 Corpus-\$135.00
4	\$125.00	MARSHALL	\$125.00	\$125.00	Longview	\$120.00	\$120.00
5	\$150.00	AUSTIN	\$150.00	\$150.00	n/a	n/a	n/a
6	Accidents: \$75.00 Police Regulated Rate: \$75.00 Private Property Regulated Rate: \$75.00	MIDLAND	no ordinance	\$75.00	n/a	n/a	n/a
7	\$70.00	EL PASO	\$70.00	\$90.00	n/a	n/a	n/a
8	Accident Rates: \$145.00 Police Regulated Rates: \$145.00 Private Property Regulated Rate: \$145.00	SEGUIN	no ordinance	no regulation	San Antonio	\$85.00	\$85.00
9	Light Duty Accidents: \$300.00 Police Authorized: \$143.50 Sheriff Authorized: \$143.50	HOUSTON	\$143.50	\$143.50	n/a	n/a	n/a
10	\$175.00	STAFFORD	no ordinance	no regulation	Houston	\$143.50	\$143.50
11	\$125.00	KINGSVILLE	no ordinance	no regulation	Corpus Christi	\$90.00	\$90.00
12	\$175.00	RICHMOND	no ordinance	no regulation	Houston	\$143.50	\$143.50
13	\$400.00	RUSK	no ordinance	unknown	Nacogdoches	\$85.00	\$125.00
14	\$225.00	JASPER	no ordinance	no regulation	n/a	n/a	n/a
15	\$130.00	GEORGETOWN	no ordinance	no regulation	Austin	\$150.00	\$150.00
16	\$85.00	LA FERIA	no ordinance	no regulation	Harlingen/McAllen	McAllen -\$100.00 Harlingen-\$125.00	McAllen -\$100.00 Harlingen-\$125.00
17	\$250.00	BEAUMONT	\$85.00	\$85.00	n/a	n/a	n/a
18	\$250.00	LUBBOCK	no ordinance	\$75.00	n/a	n/a	n/a
19	\$85.00	CONVERSE	no ordinance	\$75.00	San Antonio	\$85.00	\$85.00
20	\$80.00	PERRYTON	no ordinance	no regulation	n/a	n/a	n/a
21	n/a	DALLAS	\$95.00	\$95.00	n/a	n/a	n/a
22	\$125.00	ITASCA	no ordinance	no regulation	n/a	n/a	n/a

Fee Schedule Compliance With Local Regulations (Standard/Light-Duty Rates)

Tow Company #	Location County	Location County Maximum Fee	Location County Sheriff Fee	State Rules			
				Format	Name and License #	Effective Dates	Delineation Between Geographic Area
1	Ellis	unknown	no regulation	√	√	√	X
2	Harris	\$143.50	\$143.50	√	√	√	X
3	Calhoun	unknown	no regulation	√	√	√	X
4	Harrison	unknown	\$125.00	√	√	√	X
5	Travis	unknown	\$130.00	√	√	√	√
6	Midland	unknown	unknown	√	√	√	√
7	El Paso	unknown	no regulation	√	√	√	X
8	Guadalupe	no regulation	no regulation	√	√	√	√
9	Harris	\$143.50	\$143.50	√	√	√	X
10	Fort Bend	n/a	\$150.00	√	√	√	√
11	Kleberg	n/a	no regulation	√	√	√	X
12	Fort Bend	n/a	\$150.00	√	√	√	√
13	Cherokee	n/a	unknown	√	√	√	X
14	Jasper	no regulation	no regulation	√	√	√	X
15	Williamson	n/a	\$110.00	√	X	√	X
16	Cameron	n/a	unknown	√	√	√	X
17	Jefferson	n/a	no regulation	√	√	√	X
18	Lubbock	no regulation	no regulation	√	√	√	X
19	Bexar	n/a	unknown	√	√	√	X
20	Ochiltree	n/a	no regulation	√	√	√	X
21	Dallas	n/a	unknown	X	X	X	X
22	Hill	no regulation	unknown	√	X	√	X

Fee Schedule Compliance With Local Regulations (Standard/Light-Duty Rates)

Tow Company #	Company Standard Fee	Location City	Location City Maximum Fee	Location City Police Fee	Near City	Near City Maximum Fee	Near City Police Fee
23	City of Bryan/College Station: \$100 Sheriff/DPS: \$250.00 City Private Property: \$75.00 County Private Property: \$125.00	BRYAN	\$75.00	\$100.00	College Station	\$75.00	\$100.00
24	\$225.00	LUFKIN	no ordinance	\$150.00	Nacogdoches	\$85.00	\$125.00
25	\$150.00 and up	SHELBYVILLE	no ordinance	unknown	Nacogdoches	\$85.00	\$125.00

Fee Schedule Compliance With Local Regulations (Standard/Light-Duty Rates)

				State Rules			
Tow Company #	Location County	Location County Maximum Fee	Location County Sheriff Fee	Format	Name and License #	Effective Dates	Delineation Between Geographic Area
23	Brazos	unknown	no regulation	√	√	√	√
24	Angelina	unknown	no regulation	X	√	√	X
25	Shelby	no regulation	no regulation	√	√	√	√

Fee Schedule Compliance With Local Regulations
(Medium and Heavy-Duty Rates)

Tow Company #	Company Fee Medium Duty	Company Fee Heavy Duty	Location City	City Fee Medium Duty	City Fee Heavy Duty	City Police Fee Medium Duty	City Police Fee Heavy Duty	Near City	Near City Fee Medium Duty
4	\$175.00	\$275.00	MARSHALL	\$150.00	\$300.00	\$150.00	\$300.00	Longview	not addressed
6	not addressed	\$250.00/hr	MIDLAND	n/a	n/a	\$125.00/hr	\$125.00/hr	n/a	n/a
7	\$195.00	not addressed	EL PASO	\$350.00	\$350.00	\$350.00	\$350.00	n/a	n/a
11	\$200.00	not addressed	KINGSVILLE	n/a	n/a	n/a	n/a	Corpus Christi	\$200.00/hr
13	\$500.00	\$500.00	RUSK	n/a	n/a	n/a	n/a	Nacogdoches	not addressed
14	\$225.00	\$325.00	JASPER	n/a	n/a	n/a	n/a	n/a	n/a
16	\$150.00	\$500.00	LA FERIA	n/a	n/a	n/a	n/a	Harlingen/McAllen	n/a
17	\$225.00/hr	\$275.00/hr	BEAUMONT	not addressed	not addressed	not addressed	not addressed	n/a	n/a
18	\$500.00	\$500.00	LUBBOCK	n/a	n/a	not addressed	not addressed	n/a	n/a
19	not addressed	\$500.00/hr	CONVERSE	n/a	n/a	\$125.00	\$425.00	San Antonio	\$125.00

Fee Schedule Compliance With Local Regulations
(Medium and Heavy-Duty Rates)

Tow Company #	Near City Fee Heavy Duty	Near City Police Fee Medium Duty	Near City Police Fee Heavy Duty	Location County	Sheriff's Department Fee Medium Duty	Sheriff's Department Fee Heavy Duty
4	\$275.00	not addressed	\$275.00	Harrison	\$150.00	\$300.00
6	n/a	n/a	n/a	Midland	unknown	unknown
7	n/a	n/a	n/a	El Paso	n/a	n/a
11	\$200.00/hr	\$200.00/hr	\$200.00/hr	Kleberg	n/a	n/a
13	\$170.00	not addressed	\$250.00/hr	Cherokee	unknown	unknown
14	n/a	n/a	n/a	Jasper	n/a	n/a
16	n/a	n/a and \$115.00/hr	\$550.00 and n/a	Cameron	unknown	unknown
17	n/a	n/a	n/a	Jefferson	n/a	n/a
18	n/a	n/a	n/a	Lubbock	n/a	n/a
19	\$300.00	\$125.00	\$300.00	Bexar	unknown	unknown

Appendix C. Tow Ticket Compliance

Attached is a matrix showing tow ticket compliance.

All language describing fees and charges is from the documents reviewed. Terms differ in the various documents reviewed and no definitions of the terms are provided.

Tow Ticket Compliance

						State Rules for Tow Tickets				
Tow Company #	Ticket #	Type	Requested By	Itemized Charges Match Fee Schedule Language	Actual Charges within Fee Schedule Max	Name of Company	Telephone #	Company Registration #	Printed Name of Operator	TDLR License # of Operator
1	1	Accident	Sheriff, Ellis	√	√	√	√	X	√	X
1	2	Accident	DPS	√	√	√	√	X	X	X
1	3	Arrest	DPS	√	√	√	√	X	√	X
1	4	Arrest	DPS	√	√	√	√	X	√	X
1	5	Arrest	DPS	√	√	√	√	X	√	X
1	6	Accident	DPS	√	√	√	√	X	√	X
1	7	Arrest	Sheriff, Ellis	√	√	√	√	X	√	X
1	8	Arrest	Sheriff, Ellis	√	√	√	√	X	√	X
1	9	Arrest	DPS	√	√	√	√	X	√	X
1	10	Abandoned	Sheriff, Ellis	√	√	√	√	X	√	X
1	11	Arrest	DPS	√	√	√	√	X	√	X
1	12	Arrest	Sheriff, Ellis	√	√	√	√	X	√	X
3	1	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
3	2	Not specified	Individual	√	X	√	√	X	X	X
3	3	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
3	4	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
3	5	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
3	6	Not specified	Sheriff, Calhoun	√	√	√	√	X	X	X
3	7	Not specified	Sheriff, Calhoun	√	√	√	√	X	X	X
3	8	Not specified	Police, Port Lavaca	√	X	√	√	X	X	X
3	9	Not specified	Sheriff, Calhoun	√	√	√	√	X	X	X
3	10	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
3	11	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
3	12	Not specified	Police, Port Lavaca	√	√	√	√	X	X	X
6	1	Accident	DPS	X	X	√	√	√	X	√
6	2	Impound	Sheriff, Midland	X	X	√	√	√	X	√
6	3	Not specified	Sheriff, Midland	X	√	√	√	√	X	√
6	4	Impound	Sheriff, Midland	X	√	√	√	√	X	√
6	5	Accident	DPS	X	X	√	√	√	X	√
6	6	Tow-Off	Police, Midland	X	X	√	√	√	X	√
6	7	Tow-Off	Police, Midland	X	X	√	√	√	X	√
6	8	Tow-Off	Police, Midland	X	X	√	√	√	X	√
6	9	Tow-Off	Police, Midland	X	X	√	√	√	X	√
6	10	Tow-Off	Police, Midland	X	X	√	√	√	X	√
8	1	Arrest	Police, Seguin	√	√	√	√	X	X	X
8	2	Not specified	DPS	not legible	√	√	√	X	X	X
8	3	Accident	DPS	X	√	√	√	X	X	X
8	4	Abandoned	Sheriff, Guadalupe	√	√	√	√	X	X	X
8	5	Arrest	Sheriff, Guadalupe	√	√	√	√	X	X	X

Tow Ticket Compliance

Tow Company #	Ticket #	Total Tow Charges	Total Storage Charges	Total Labor Charges	Total Mileage Charges	Total Work Time Charges	Total Wait Time Charges	Total Extra Person Charges	Total Dolly Charges	Total Special Equipment Charges	Total Hook-Up Fee Charges	Total Remove Drive Line Charges
1	1	\$150.00	\$80.00	\$50.00	\$24.00					\$25.00		
1	2	\$150.00	\$100.00	\$50.00	\$64.00							
1	3	\$125.00	\$40.00	\$25.00	\$12.00							
1	4	\$125.00	\$40.00	\$25.00	\$28.00							
1	5	\$125.00		\$25.00	\$44.00							
1	6	\$125.00	\$260.00	\$25.00	\$28.00					\$25.00		
1	7	\$125.00		\$25.00	\$36.00							
1	8	\$125.00		\$25.00	\$44.00							
1	9	\$125.00	\$20.00	\$25.00	\$16.00							
1	10	\$125.00		\$25.00	\$36.00							
1	11	\$125.00		\$25.00	\$12.00							
1	12	\$125.00	\$20.00	\$25.00	\$24.00							
3	1	\$110.00	\$60.00								\$45.00	
3	2	\$75.00										
3	3	\$110.00	\$20.00								\$45.00	
3	4	\$110.00	\$20.00								\$45.00	
3	5	\$110.00	\$140.00								\$45.00	
3	6	\$110.00	\$20.00		\$12.00						\$45.00	
3	7	\$110.00	\$20.00		\$8.00						\$45.00	
3	8	\$175.00	\$500.00			\$150.00			\$85.00		\$45.00	
3	9	\$110.00	\$20.00		\$12.00						\$45.00	
3	10	\$110.00	\$20.00			\$25.00					\$45.00	
3	11	\$110.00	\$40.00		\$45.00							
3	12	\$110.00	\$20.00								\$45.00	
6	1	\$85.00	\$20.00	\$100.00								
6	2	\$85.00	\$20.00									
6	3	\$75.00	\$80.00									
6	4	\$150.00	\$120.00									\$40.00
6	5	\$85.00	\$40.00									
6	6	\$85.00										
6	7	\$95.00										
6	8	\$95.00										
6	9	\$85.00									\$40.00	
6	10	\$85.00							\$40.00			
8	1	\$145.00	\$20.00	\$10.00	\$20.00							
8	2	\$145.00	\$160.00	\$32.00	\$20.00							
8	3	\$145.00		\$95.00	\$20.00							
8	4	\$145.00	\$140.00		\$32.00			\$20.00				
8	5	\$145.00			\$20.00							

Tow Ticket Compliance

Tow Company #	Ticket #	Total Fuel Charges	Total Misc. Charges	Total Impound Charges	Total Notification Fee Charges	Total Payout Charges	Total Delivery Fee Charges	Total Tax	Total Ticket Charges
1	1			\$20.00				\$8.25	\$357.25
1	2			\$20.00				\$9.90	\$393.90
1	3			\$20.00				\$4.95	\$226.95
1	4			\$20.00				\$4.95	\$242.95
1	5			\$20.00				\$1.65	\$215.65
1	6			\$20.00				\$23.10	\$506.10
1	7								\$186.00
1	8			\$20.00				\$1.65	\$215.65
1	9			\$20.00				\$3.30	\$209.30
1	10								\$186.00
1	11			\$20.00				\$1.65	\$183.65
1	12			\$20.00				\$3.30	\$217.30
3	1			\$20.00				\$4.95	\$239.95
3	2								\$75.00
3	3			\$20.00				\$1.65	\$196.65
3	4			\$20.00				\$1.65	\$196.65
3	5			\$20.00		\$50.00		\$11.55	\$376.55
3	6			\$20.00				\$1.65	\$212.65
3	7			\$20.00				\$1.65	\$204.65
3	8			\$20.00		\$50.00		\$41.25	\$1,066.25
3	9			\$20.00				\$1.65	\$208.65
3	10			\$20.00				\$1.65	\$221.65
3	11			\$20.00				\$3.30	\$218.30
3	12			\$20.00				\$1.65	\$196.65
6	1		\$20.00					\$1.65	\$226.65
6	2		\$20.00					\$1.65	\$126.65
6	3		\$20.00					\$6.60	\$181.60
6	4		\$20.00					\$9.90	\$339.90
6	5		\$20.00					\$3.30	\$148.30
6	6		\$20.00		\$50.00				\$155.00
6	7		\$20.00		\$50.00				\$165.00
6	8		\$20.00		\$50.00				\$165.00
6	9		\$20.00		\$50.00				\$195.00
6	10		\$20.00		\$50.00				\$195.00
8	1							\$1.65	\$196.65
8	2		\$50.00					\$1.32	\$420.20
8	3								\$260.00
8	4		\$50.00						\$398.55
8	5		\$50.00					\$19.80	\$474.80

Tow Ticket Compliance

						State Rules for Tow Tickets				
Tow Company #	Ticket #	Type	Requested By	Itemized Charges Match Fee Schedule Language	Actual Charges within Fee Schedule Max	Name of Company	Telephone #	Company Registration #	Printed Name of Operator	TDLR License # of Operator
8	6	Arrest	Police, Seguin	√	√	√	√	X	X	X
8	7	Arrest	Not specified	√	√	√	√	X	X	X
8	8	Accident	Police, Seguin	√	√	√	√	X	X	X
8	9	Arrest	Police, Seguin	√	√	√	√	X	X	X
8	10	Impound	Police, Seguin	√	√	√	√	X	X	X
8	11	Arrest	Police, State	√	√	√	√	X	X	X
8	12	Arrest	Police, Seguin	√	√	√	√	X	X	X
13	1	Accident	DPS	√	√	√	√	√	X	√
13	2	Accident	DPS	√	√	√	√	√	X	√
13	3	Accident	Owner	√	√	√	√	√	√	√
13	4	Accident	DPS	X	√	√	√	√	X	√
13	5	Accident	c/c	X	√	√	√	√	X	√
13	6	Accident	c/c	√	√	√	√	√	√	√
13	7	Accident	Owner	X	√	√	√	√	X	√
13	8	Accident	Sheriff, Cherokee	√	√	√	√	√	√	√
13	9	Accident	DPS	√	√	√	√	√	X	√
13	10	Arrest	Police, Alto	√	√	√	√	√	X	√
13	11	Accident	DPS	√	√	√	√	√	√	√
13	12	Arrest	Police, Rusk	√	√	√	√	√	√	√
14	1	Not specified	Not specified	√	√	√	√	X	X	X
14	2	Not specified	Not specified	√	√	√	√	X	X	X
14	3	Not specified	Not specified	√	√	√	√	X	X	X
14	4	Not specified	Not specified	X	√	√	√	X	√	X
14	5	Not specified	Not specified	X	√	√	√	X	X	X
14	6	Not specified	Not specified	√	√	√	√	X	X	X
14	7	Not specified	Not specified	√	√	√	√	X	X	X
14	8	Not specified	Not specified	X	√	√	√	X	√	X
14	9	Not specified	Not specified	X	√	√	√	X	X	X
14	10	Not specified	Not specified	X	√	√	√	X	X	X
14	11	Not specified	Not specified	√	√	√	√	X	X	X
14	12	Not specified	Not specified	X	√	√	√	X	√	X
16	1	Flatbed	DPS	√	√	√	√	√	X	X
16	2	Flatbed	Not specified	√	√	√	√	√	X	X
16	3	Flatbed	Sheriff, Cameron	√	√	√	√	√	X	X
16	4	Wheel Lift	DPS	X	√	√	√	√	X	X
16	5	Flatbed	Sheriff, Cameron	√	√	√	√	√	X	X
16	6	Flatbed	Border Patrol	√	√	√	√	√	X	X
16	7	Flatbed	DPS	√	√	√	√	√	X	X
16	8	Flatbed	Sheriff, Cameron	√	√	√	√	√	X	X

Tow Ticket Compliance

Tow Company #	Ticket #	Total Tow Charges	Total Storage Charges	Total Labor Charges	Total Mileage Charges	Total Work Time Charges	Total Wait Time Charges	Total Extra Person Charges	Total Dolly Charges	Total Special Equipment Charges	Total Hook-Up Fee Charges	Total Remove Drive Line Charges
8	6	\$145.00	\$40.00		\$20.00							
8	7	\$145.00	\$40.00	\$20.00	\$48.00							
8	8	\$145.00	\$120.00		\$20.00							
8	9	\$145.00	\$20.00	\$20.00								
8	10	\$125.00										
8	11	\$145.00	\$20.00		\$20.00					\$55.00		
8	12	\$145.00		\$20.00								
13	1	\$275.00	\$180.00	\$170.00								
13	2	\$275.00	\$160.00	\$170.00								
13	3	\$275.00	\$240.00	\$85.00	\$71.50							
13	4	\$275.00	\$40.00	\$170.00								
13	5	\$275.00	\$80.00	\$85.00								
13	6	\$275.00	\$120.00	\$85.00								
13	7	\$275.00	\$140.00	\$85.00								
13	8	\$275.00	\$400.00	\$127.50								
13	9	\$275.00	\$360.00	\$85.00								
13	10	\$172.00	\$20.00									
13	11	\$275.00	\$200.00	\$85.00								
13	12	\$175.00	\$20.00									
14	1	\$150.00										
14	2	\$150.00										
14	3	\$125.00										
14	4	\$275.00	\$120.00									
14	5	\$275.00	\$60.00	\$175.00			\$125.00					
14	6	\$275.00	\$200.00			\$175.00					\$75.00	
14	7	\$175.00										
14	8	\$225.00										
14	9	\$275.00	\$80.00	\$175.00			\$65.00					
14	10	\$275.00	\$80.00	\$175.00			\$65.00				\$75.00	
14	11	\$225.00										
14	12	\$275.00	\$440.00	\$175.00							\$75.00	
16	1	\$150.00										
16	2	\$150.00		\$150.00								
16	3	\$150.00										
16	4	\$150.00		\$300.00								
16	5	\$150.00										
16	6	\$150.00										
16	7	\$150.00										
16	8	\$150.00		\$25.00								

Tow Ticket Compliance

Tow Company #	Ticket #	Total Fuel Charges	Total Misc. Charges	Total Impound Charges	Total Notification Fee Charges	Total Payout Charges	Total Delivery Fee Charges	Total Tax	Total Ticket Charges
8	6							\$3.30	\$208.00
8	7							\$3.30	\$256.30
8	8		\$50.00					\$9.90	\$344.90
8	9							\$1.65	\$186.65
8	10								\$125.00
8	11							\$1.65	\$214.65
8	12		\$250.00					\$1.65	\$416.65
13	1	\$27.50			\$50.00			\$12.15	\$714.65
13	2	\$27.50			\$50.00			\$10.80	\$693.30
13	3	\$27.50						\$16.20	\$715.30
13	4	\$27.50					\$150.00	\$2.70	\$665.20
13	5	\$27.50					\$75.00	\$5.40	\$547.90
13	6	\$27.50			\$50.00			\$8.10	\$565.60
13	7	\$27.50			\$50.00		\$175.00	\$9.45	\$761.95
13	8	\$27.50			\$50.00			\$27.00	\$907.00
13	9	\$27.50			\$50.00			\$24.30	\$821.80
13	10	\$17.50						\$1.35	\$213.85
13	11	\$27.50			\$50.00			\$13.50	\$651.00
13	12	\$17.50						\$1.35	\$213.85
14	1								\$150.00
14	2								\$150.00
14	3								\$125.00
14	4							\$9.90	\$404.90
14	5							\$4.95	\$639.95
14	6							\$16.50	\$741.50
14	7								\$175.00
14	8								\$225.00
14	9							\$6.60	\$601.60
14	10							\$6.60	\$676.60
14	11								\$225.00
14	12							\$36.30	\$1,001.30
16	1								\$150.00
16	2								\$300.00
16	3								\$150.00
16	4								\$450.00
16	5								\$150.00
16	6								\$150.00
16	7								\$150.00
16	8								\$175.00

Tow Ticket Compliance

						State Rules for Tow Tickets				
Tow Company #	Ticket #	Type	Requested By	Itemized Charges Match Fee Schedule Language	Actual Charges within Fee Schedule Max	Name of Company	Telephone #	Company Registration #	Printed Name of Operator	TDLR License # of Operator
16	9	Flatbed	Police, La Feria	√	√	√	√	√	X	X
16	10	Flatbed	DPS	√	√	√	√	√	X	X
16	11	Flatbed	Police, La Feria	X	√	√	√	√	X	X
18	1	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	2	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	3	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	4	Wreck	Police, Lubbock	X	√	√	√	√	X	√
18	5	Not specified	Police, Lubbock	X	√	√	√	√	X	X
18	6	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	7	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	8	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	9	Wreck	Police, Lubbock	X	√	√	√	√	X	X
18	10	Wreck	Police, Lubbock	X	√	√	√	√	X	√
18	11	Not specified	Police, Lubbock	X	√	√	√	√	X	√
18	12	Wreck	Police, Lubbock	X	√	√	√	√	X	X

Tow Ticket Compliance

Tow Company #	Ticket #	Total Tow Charges	Total Storage Charges	Total Labor Charges	Total Mileage Charges	Total Work Time Charges	Total Wait Time Charges	Total Extra Person Charges	Total Dolly Charges	Total Special Equipment Charges	Total Hook-Up Fee Charges	Total Remove Drive Line Charges
16	9	\$150.00										
16	10	\$150.00		\$75.00								
16	11	\$150.00										
18	1	\$75.00	\$420.00									
18	2	\$75.00	\$15.00									
18	3	\$75.00	\$15.00									
18	4	\$75.00	\$60.00									
18	5	\$75.00	\$225.00									
18	6	\$75.00	\$45.00									
18	7	\$75.00	\$30.00									
18	8	\$75.00	\$30.00									
18	9	\$75.00										
18	10	\$75.00	\$90.00									
18	11	\$75.00	\$45.00									
18	12	\$75.00	\$45.00									

Tow Ticket Compliance

Tow Company #	Ticket #	Total Fuel Charges	Total Misc. Charges	Total Impound Charges	Total Notification Fee Charges	Total Payout Charges	Total Delivery Fee Charges	Total Tax	Total Ticket Charges
16	9								\$150.00
16	10								\$225.00
16	11								\$150.00
18	1	\$16.50	\$10.00	\$20.00	\$35.00			\$34.65	\$611.15
18	2	\$16.50		\$20.00				\$1.24	\$127.74
18	3	\$16.50		\$20.00				\$1.24	\$127.74
18	4	\$16.50		\$20.00				\$4.95	\$176.45
18	5	\$16.50		\$20.35				\$18.56	\$390.06
18	6	\$16.50		\$20.00				\$3.71	\$160.21
18	7	\$16.50		\$20.00				\$2.48	\$143.98
18	8	\$16.50		\$20.00				\$2.48	\$143.98
18	9	\$16.50							\$91.50
18	10	\$16.50		\$20.00	\$35.00			\$7.43	\$243.93
18	11	\$16.50		\$20.00				\$3.71	\$160.21
18	12	\$16.50		\$20.00				\$3.71	\$160.21

Appendix D. Other State Towing Regulations and Rate Schedules

Attached is a matrix of states that regulate non-consent towing fees. Also attached are the comprehensive fee schedules for Louisiana and New Mexico.

State Non-Consent Towing Fee Regulations

State	Local Government Regulation Allowed	Private Property Towing Rates	Law Enforcement Towing Rates	Recovery charges
Connecticut	Not sure.	Light-duty: \$88.00 Medium-Duty: 200.00/hr Heavy-duty: 325.00/hr		Included in towing charge
Georgia	Allowed for towers operating "wholly within a single municipality"	\$125 for vehicles less than 10,000 pounds \$195 for vehicles between 10,001 and 20,000 pounds \$325 for vehicles greater than 20,000 pounds - per unit charge \$650 for vehicles greater than 20,000 pounds - combination unit	Not addressed.	No rates set by the state.
Hawaii	According to the Hawaii Towing Association, the state sets private property rate, cities set law enforcement rate. Statute regulating private property towing does not apply to counties that have their own regulations.	\$65.00	Not addressed.	No rates set by the state.
Illinois	State law covers Cook County (Chicago) and other counties may opt in. Any local government may set their own rates.	Light-duty: \$170 Medium-duty: \$520 Heavy-duty: \$700	No rates set by the state.	No rates set by the state.
Louisiana	In parishes with populations of 400,000 or more, private property tows are capped at whatever local governing authority would charge for tow off of public property; Municipalities can set rates through ordinances only until the PSC has "passed uniform regulations applicable throughout the state".	See attached rate schedule for list of fees and limitations on charges.		Rate schedule defines a "complicated or difficult recovery." Recovery charges are specified in attached rate schedule. Recovery may be billed at 50% above the tariff rate allowed on recovery charges only.
Massachusetts	Local regulation allowed, but fees cannot exceed the state maximum rates.	May not exceed the maximum amount for law enforcement towing.	\$90.00	Any extraordinary or additional services outside of its capabilities are invoiced at cost.

State Non-Consent Towing Fee Regulations

State	Drop Fee	Other charges	Penalties
Connecticut	No rates set by the state.	Mileage : \$4.75/mile May only be charged for light-duty tows	Fine of \$30.00-50.00 for first offense, \$50-100.00 for 2nd offense
Georgia	Light-duty: \$50 Heavy-duty: \$100	Not addressed.	A court shall award three times actual damages for an intentional violation of the state code.
Hawaii	Tow companies must release the vehicle at no charge .	Overtime (after hours): \$15 Difficult Hook-up: \$30 Dolly: \$10 Mileage: \$7.50/towed mile	A person, or the person's insurer, who has been charged in excess of the regulated fees, can sue for damages. The court shall award the amount of the damages and court costs.
Illinois	No rates set by the state.	Not addressed.	Court hearings called 'operating practices proceedings' follow investigations of violations of the law. Civil penalties may be awarded to the plaintiff if a towing company is proven to have violated the law.
Louisiana	No rates set by the state.	Standby Charges: \$40/hr for light duty, \$87.50 for medium duty, and \$112.50 for heavy duty. Additional laborers: \$30/hr each Additional supervisors: \$50/hr each Rented Equipment: Cost + 15% Fuel Surcharge: 3% when fuel costs exceed \$1.25/gal	Fines plus a refund of up to 200% of any overcharges.
Massachusetts	The operator may charge up to 1/2 of the towing fee if the tow is not yet completed.	Mileage:: \$3.00/mile after 5 miles Additional Labor: \$32.00/hr	Penalties not addressed in the material reviewed.

State Non-Consent Towing Fee Regulations

State	Local Government Regulation Allowed	Private Property Towing Rates	Law Enforcement Towing Rates	Recovery charges
New Jersey	Municipalities have the authority to set their own rates for tows from private or public property.	Statewide tariffs currently under development. Until then, the statute says that towing rates may not exceed by 150 percent the average rate charged in the county.		No rates set by the state.
New Mexico	Not allowed, but towers may petition the state to allow higher rates.	See attached wrecker tariff. A list of rates are provided for 4 classes of tow trucks.		See attached tariff
Utah	Not allowed.	Light-duty: \$121/hour Medium-duty: \$200/hour Heavy-Duty: \$250/hour		Have to be agreed on between the vehicle owner and the tower before the recovery is initiated.
Virginia	Local regulations allowed. A local advisory board is required to be established to set the rates.	\$125	No rates set by the state.	No rates set by the state.
West Virginia	Not allowed.	Automobiles 1 ton or less: \$25/hr Trucks 1.5-3 tons: \$40/hr Trucks and buses over 3 tons: \$53/hr Heavy duty wrecker: \$60/hr Trucks 35K-50K lbs: \$73/hr Trucks 50-60K lbs: \$86/hr Trucks 60-70K lbs: \$100/hr Trucks > 75K lbs: \$114/hr	No rates set by the state.	No rates set by the state.

State Non-Consent Towing Fee Regulations

State	Drop Fee	Other charges	Penalties
New Jersey	No rates set by the state.	The Director of the Division of Consumer Affairs defines charges comprising a basic tow and those that are ancillary to basic towing services. No additional fees may be charged in addition to basic towing fee.	If a tower overcharges, the consumer is entitled to a full refund with interest.
New Mexico	No rates set by the state.	See attached tariff	Tow companies are fined or put on probation for any offense. If a company on probation commits a second offense, their business is closed.
Utah	50% of the posted rate schedule if the vehicle has not been removed from the scene.	Hazardous Cargo: Additional 15% Fuel Surcharge: not defined, but allowed when fuel costs exceed \$2.00/gal	Any tow company that charges rates in excess of the law will have to pay civil penalties, but the penalties are not addressed in the material reviewed.
Virginia	No rates set by the state.	After Hours: \$25.00	Penalties not addressed in the material reviewed.
West Virginia	No rates set by the state.	Sundays, Evenings, and Holidays: \$5.25/hr Additional Labor: \$10.50/hr minimum Mileage: Wreckers may charge \$1.70/mile instead of the hourly tow charge.	Penalties not addressed in the material reviewed.

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER

LOUISIANA PUBLIC SERVICE COMMISSION,
EX PARTE

Docket No. T-24789 In re: Proposed rulemaking regarding statewide prescribed rates for non-consensual tow/recovery.

(Decided at the May 16, 2001 Open Session)

Amends and Supersedes "Attachment A" of the July 5, 2000 General Order

BACKGROUND

This Docket was initiated pursuant to La R.S. 45:180.1 which authorizes the Louisiana Public Service Commission ("Commission" "LPSC") to "fix reasonable and just rates" for wrecker and towing services. The Staff initially received tariffs from a number of wrecker and towing operators and associations in the state, in connection with the requirements of Louisiana Public Service Commission General Order dated October 13, 2000. The data obtained from these individual tariffs, as well as rates previously existing in parish ordinances and other states, was considered in the setting of an initial statewide prescribed rate.

The initial statewide rate proposed by Staff was ultimately adopted by the Commission in the July 7, 2000 General Order, In re: Proposed rulemaking regarding statewide prescribed rates for non consensual tow/recovery ("General Order"). Following passage of the General Order, Staff was directed by the Commission to review and recommend changes, if any, to the Commission within 120 days. In recent months, the Commission's District Offices and Transportation Division have received an increasing number of complaints relating to charges both contained and not contained in the Commission's prescribed rates. Legal Staff responded to these concerns by convening with representatives of each District Office and the LPSC's Transportation Division to address these concerns. Staff's proposed changes that resulted from its review were incorporated into a modified "Attachment A" to the General Order and subsequently published for comment.

JURISDICTION

The Commission exercises jurisdiction over motor carriers pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which provides:

The Commission shall regulate all common carriers... and have such other regulatory power as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

The Commission also exercises jurisdiction over motor carriers pursuant to La. R.S. 45:161-194, particularly La. R.S. 45:180.1, which provides:

C. (1) The commission has power and authority necessary to supervise, govern, regulate and control the business of the operation and use of wreckers and towing services, to designate classes and categories of said vehicles, to fix reasonable and just rates, fares, tolls, charges for storage services, or charges for the commodities furnished or services rendered by persons engaging in the operation and use of said vehicles.

PROCEDURAL BACKGROUND

General Order dated June 19, 2001
Page 1

Staff received written comments from shippers who routinely use wrecker services, as well as oral comments from the towing industry. Following review of these comments, Staff submitted a recommendation for the Commission's consideration at the May 16, 2001 Business and Executive Session. On Motion of Commissioner Field, seconded by Commissioner Owen, and unanimously adopted, the Commission voted to adopt the Staff's Recommendation, approving the rates, terms and conditions found in the revised "Attachment A". Additionally, the Commission voted to add a provision that all towing bills include contact information for filing complaints.

THEREFORE IT IS ORDERED AND DECREED THAT:

1. The following Rates and Terms for Non-Consensual Towing and Recovery Services and related charges proposed by Staff and Contained in the modified "Attachment A" are hereby adopted. All changes are in *bold italics*.
2. This Order shall be effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
June 19, 2001**

/S/ JAMES M. FIELD
DISTRICT II
CHAIRMAN JAMES M. FIELD

/S/ JACK "JAY" A. BLOSSMAN, J
DISTRICT I
VICE CHAIRMAN JACK "JAY" A. BLOSSMAN, JR.

/S/ DON OWEN
DISTRICT V
COMMISSIONER DON OWEN

/S/ IRMA MUSE DIXON
DISTRICT III
COMMISSIONER IRMA MUSE DIXON

LAWRENCE C. ST. BLANC
S E C R E T A R Y

/S/ C. DALE SITTIG
DISTRICT IV
COMMISSIONER C. DALE SITTIG

ATTACHMENT "A"

3. DEFINITIONS

- A. Light Duty - is defined as the towing, transport, and recovery of motor vehicles with a gross vehicle weight rating of 15,000 pounds or less.
- B. Medium Duty - is defined as the towing, transport, and recovery of motor vehicles with a gross vehicle weight rating of 15,001 pounds to 26,001 pounds.
3. Heavy Duty - is defined as the towing, transport and recovery of motor vehicles with a gross vehicle weight rating of 26,001 pounds and greater.
4. Recovery - is defined as the use of one or more of the following techniques under the following scenario: The use of air bags, wenching, hoisting, up-righting, removing, or otherwise relocating a vehicle when the vehicle is found in such a location, state or position in which it could not remove itself from the location, state or position under the use of its own power, even if it were in complete operating condition.
5. Non-Consensual Tow/Recovery- is defined as the transportation of a vehicle by a wrecker/tow truck without the prior consent or authorization of the owner or operator of the vehicle. Nothing herein shall permit the seizure of a vehicle without first complying with the procedure established by law.
6. Stand-by- is defined as any hour or half of an hour during which a towing or recovery unit is not actively engaged in the towing or recovery of a vehicle. Travel time from dispatch to arrival on the scene shall not be considered "Stand-By."

II EQUIPMENT CHARGES

A. Light Duty

Light Duty Towing/Recovery	\$ 80.00 per hour, with a 1 ½ hour minimum charge. After the 1 ½ minimum, charges will be computed on a half hour basis.
Private Property Tow	\$ 80.00 flat rate
Mechanical Breakdown Tow	\$ 80.00 per hour, one hour minimum charge.
<i>Stand-by</i>	<i>\$ 40.00 per hour</i>

B. Medium / Heavy Duty Towing and Recovery

	<u>Towing charges</u>	<u>Recovery charges</u>
Medium Duty Wrecker	\$ 175.00 per hour	\$ 225.00 per hour
<i>Medium Duty Stand-by</i>	<i>\$ 87.50 per hour</i>	<i>\$ 87.50 per hour</i>
Heavy Duty Wrecker	\$ 225.00 per hour	\$ 275.00 per hour
<i>Heavy Duty Stand-by</i>	<i>\$ 112.50 per hour</i>	<i>\$ 112.50 per hour</i>

C. Additional Medium/ Heavy Duty Charges

Extra Truck & Trailer For
Removal Of Load \$ 100.00 per hour *of actual use.*

Complete Air Bag Unit \$1600.00 Flat rate (includes all equipment and personnel
associated with the air bag recovery)

D. Additional Manpower Charges

Laborer \$ 30.00 per hour per person
Supervisor \$ 50.00 per hour

A Supervisor *may* be dispatched when two or more *units and/or laborers* are required or needed during complicated or difficult recovery as defined below:

Also, additional manpower *may* be dispatched on a need basis during complicated or difficult recovery as defined below:

Complicated or Difficult Recovery

1. Rollover recovery - when additional operator required or needed.
2. Removal of unsecured load or debris from accident scene.
3. Unloading and reloading box trailers, box trucks, and flatbed trailers.
4. Water recovery - when additional operator is required or needed.

E. Miscellaneous Requirements

1. One (1) hour minimum charge for all of the above services rendered , except light duty towing and recovery charges, private property tows, *stand-by time* and air bags. After the one (1) hour minimum, charges will be computed in half-hour increments. ***Stand-by time will be computed in half-hour increments.***
2. Rates are charged from time of dispatch at terminal until unhooked from towed vehicle.
3. All charges for all wrecker services are for truck and driver.
4. If the towing operator must rent or subcontract equipment or labor not used in the normal course of a towing procedure (i.e. professional diver, bulldozers, front end loaders, dump trucks, forklifts, etc.), a maximum 15% surcharge may be added to the amount of the rental or subcontractors invoice.
5. When fuel costs exceed \$1.25 per gallon, a 3% surcharge will be added to the total amount of the hourly rate charged for the wrecker. If fuel costs decrease to less than \$0.90 per gallon, there will be a 3% reduction to the total amount of the hourly rate charged for the wrecker. The surcharge will be based on the average price of self-service diesel fuel as determined based upon the price reported by the U. S. Department of Energy (DOE) for the Petroleum Administration for Defense District 3 (Gulf Coast).
6. ***Recovery of hazardous materials cargo, as defined by D.E.Q. or State Police Hazmat Unit may be billed at 50% above the tariff rate allowed on recovery charges only.***
7. All bills for non-consensual towing and recovery shall be itemized on a line item basis, including all LPSC prescribed and non-prescribed charges (i.e. gate fees, administrative fees.) For all charges other than storage fees, surcharges and the hourly rates for towing, recovery and stand-by, the towing company shall attach an

invoice for the service rendered (including, but not limited to extra labor, extra equipment, administrative fees, etc.)

8. All bills for non-consensual towing and/or recovery shall specifically state the time of dispatch and the time services are completed.
9. In addition to any fines authorized by LSA- R.S. Title 45, Section 163 et. seq., the Louisiana Public Service Commission may order a refund of up to 200% of any overcharges found to have occurred.
10. All bills for non-consensual towing and/or recovery shall include the following language printed at the bottom of the bill:
"Complaints may be addressed to the Louisiana Public Service Commission-
Attention Transportation Division, P.O. Box 91154, Baton Rouge, Louisiana 70821."

All Commissioners

Brandon Frey - LPSC Staff Attorney

Martha Powell - Director of Transportation

Bill Withers - LPSC Transportation Division

Bobby Tassin - LPSC District III

IP - Robbie's Wrecker Service, 1199 East Ardoin St., Eunice, LA 70535

IP - Bob Witkovski, 141 Fuselier St., Eunice, LA 70535

IP - Christopher J. Gannet, Ganey's Wrecker Service, 4993 Hwy. 84 West, Vidalia, LA 71373

IP - Margie Vincent, Stephen's Towing, Recovery & Rescue, Inc., 1303 Marshall St.,
Cameron, LA 70631

IP - Billy Landry, Douet Motors, Inc., P.O. Box 439, St. Martinville, LA 70582

IP - Jerry Tyler Enterprises, Inc., d/b/a Jerry Tyler's Towing, 215 Bragg St., Pineville, LA 71360

IP - Cliff's Towing Service, 718 East First St., Crowley, LA 70526

IP - Jesse W. Rivet, 1418 N. Polk St., Rayne, LA 70578

IP - B & B Towing & Recovery, 1416-A North Polk St., Rayne, LA 70578

IP - W & W Towing, P.O. Box 1206, West Monroe, LA 71292

IP - Duane D. Johnson, Deputy Chief, Technical and Support Bureau, City of New Orleans,
Department of Police, P.O. Box 51480, New Orleans, LA 70151

IP - Premier Towing, 40055 Coon Trap Rd., Gonzales, LA 70737

IP - Judy M. Smart, Southern Information Services, 3465 Harding Blvd., Baton Rouge, LA
70807

IP - Otis' Auto Repair, 112 East 114th St., Galliano, LA 70354

IP - Larry's, Inc./Larry's Towing Service, 1007 St. Patrick St., Thibodaux, LA 70301

IP - South Side Motors & Towing, P.O. Box 879, Abbeville, LA 70511-0879

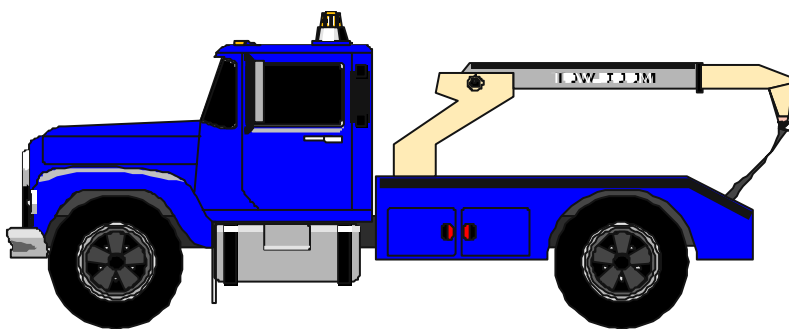
IP - A. H. Bert King, Guy's Towing Service, Inc., P.O. Box 60816, Lafayette, LA 70596

IP - Harold Tyson, Alexandria Towing and Recovery, P.O. Box 7591, Alexandria, LA 71306

I - Manville F. Borne, Breazeale, Sachse & Wilson, P.O. Box 3197, Baton Rouge, LA
70821-3197 (P-387-4000) (Fax - 381-8029)(Rep. Towing and Recovery Professionals of Louisiana)

NEW MEXICO
PUBLIC REGULATION COMMISSION

STATEWIDE
WRECKER TARIFF



EFFECTIVE DATE
AUGUST 27, 2000

ISSUED BY
TRANSPORTATION DIVISION
PUBLIC REGULATION COMMISSION
P.O. BOX 1269
SANTA FE, NEW MEXICO 87504-1269
(505) 827-4519 FAX (505) 827-4023

NEW MEXICO
PUBLIC REGULATION COMMISSION
STATEWIDE
WRECKER TARIFF

EFFECTIVE AUGUST 27, 2000

SCOPE:

This Tariff governs rates for non-consensual towing between points and place in New Mexico by wrecker, of wrecked, damaged, disabled, or abandoned motor vehicles and their cargo, and inoperative and replacement vehicles and parts and equipment for the above-described vehicles, vehicles the driver of which has been declared unable to drive by a duly authorized law enforcement officer, and vehicles repossessed, confiscated or seized by any lawful authority.

ALL RULES AND REGULATIONS THAT GOVERN WRECKER SERVICES IN THE STATE OF NEW MEXICO ARE CONTAINED IN THE PUBLIC REGULATION COMMISSION MOTOR TRANSPORTATION RULES DATED FEBRUARY 15, 1993 AND MODIFIED NOVEMBER 30, 1995, OR THE NEXT ONE.

DEFINITIONS OF TERMS USED IN THIS TARIFF

CONTRACT EQUIPMENT AND LABOR means equipment which a wrecker service does not ordinarily need to provide its authorized service and labor not ordinarily employed by the wrecker service but which is necessary to provide adequate service in a unique or exigent situation.

DAY means a calendar day which begins at 12:00 midnight and ends at 11:59 pm.

DAY RATE means the rate that applies to wrecker services provided between 6:00 am to 6:00 pm, Monday through Friday, excluding holidays.

DELIVERY means placing a vehicle in the actual possession of the owner or his agent.

EXTENDED BUSINESS HOURS means 5:30 pm to 7:30 pm, Monday through Friday, 8:00 am to 8:00 pm Saturdays, and 8:00 am to 5:00 pm Sundays and holidays.

HOLIDAYS means those days designated as legal holidays or as public holidays by the legislature of the state of New Mexico in NMSA 1978 Sections 12-5-1 et seq.

NIGHT RATE means the rate that applies to wrecker services provided between 6:00 pm to 6:00 am, Monday through Friday, and all day Saturday, Sunday, and holidays.

NON-BUSINESS HOURS means all hours of the day which are not normal business hours or extended business hours.

NON CONSENSUAL TOW means for hire motor vehicle transportation by a wrecker, if such transportation is performed without prior consent or authorization of the owner or operator of the motor vehicle.

NORMAL BUSINESS HOURS means 7:30 am to 5:30 pm, Monday through Friday, excluding holidays.

WRECKER EQUIPMENT AND LABOR means equipment which and labor which is employed by the wrecker service.

GENERAL PROVISIONS

All rates are stated in terms of United States currency.

Invoices are payable when the service is rendered by the wrecker service, unless other arrangements have been made in advance.

The time at which a wrecker service receives a request for service will determine whether the day rate or the night rate applies.

Distance rates are based on the distance from point of origin to final destination, computed in accordance with the Motor Transportation Rules. Distance rates are in addition to other charges provided for in this tariff.

In computing time for rates per fifteen (15) minutes, seven (7) minutes or less will be dropped and eight (8) minutes or more will be increased to a full fifteen (15) minutes.

When a wrecker service is called, but not used through no fault of the wrecker service, charges for the first mile and deadhead mileage will apply.

Rates for extra equipment include the driver or operator and apply from the time extra equipment is assigned to a wrecker service until it is released from service, either at the wrecker service's terminal or on location if it is assigned to another wrecker service. Fractions of hours will not be aggregated for two vehicles used on two or more days, but each day will be charged separately.

Rates for extra labor apply from the time the extra labor is assigned to the wrecker service until released from the service, either at wrecker service's terminal or on location if it is assigned to another wrecker service. Fractions of hours will not be aggregated for two or more laborers used on two or more days, but each day will be charged for separately.

Rates for retrieval services include the driver or operator and apply from the time the retrieval service is assigned until it is released. Fractions of hours will not be charged for separately.

When a wrecker service performs retrieval services in addition to transporting the vehicle, the hourly rates for retrieval services will apply only for the time the wrecker is used in performing such retrieval services.

Any fraction of a day will be considered a full day for the purpose of computing storage charges under this tariff.

No motorcycle shall be stored in Type 1 or 2 Facility. The charge for motorcycles stored in a Type 3 storage facility shall be \$6.00 per day.

Waiting time rates apply whenever the wrecker or operator arrives at the scene to provide towing services and due to factors beyond his control is unable to perform the requested services until a later time.

Dolly charges can only be charged when dollies are actually used.

Winching Charges are added to a tow ticket only in cases where the vehicle must be repositioned before loading it for transport. Repositioning will involve the following steps:

1. Hooking up to the vehicle;
2. Winching the vehicle to a new position;
3. Unhooking from the vehicle
4. Moving the wrecker to a new position;
5. Re-hooking to the vehicle for loading.

STATEWIDE WRECKER TARIFF-
Effective: August 27, 2000

DISTANCE RATES	CLASS A	CLASS B	CLASS C	CLASS D
Day rate, first mile or less	45	45	75	150
Night rate, first mile or less	55	55	100	200
2 to 25 miles, inclusive	3.5	3.5	5	10
Over 25 miles	2	2	3	6
Excess deadhead	1	1	1.5	2
Disconnect drive line	20	20	50	100
Use of dolly	30	30	n/a	n/a
Towing on dolly, per mile	1	1	n/a	n/a
Tire change, per tire	10	10	n/a	n/a
Extra equipment per hour	25	25	50	75
Extra equipment per 15 minutes	6	6	10	20
Retrieval/Winching rates per hour	40	40	100	150
Retrieval/Winching rates per 15 minutes	12	12	25	40
Four wheel drive rate per mile	3	3	5	n/a
Extra labor rate, per hour, day	12	12	15	20
Extra labor rate, per 15 minutes, night	3	3	4	6
Extra labor rate, per hour, night	18	18	20	25
Extra labor rate, per 15 minutes, night	5	5	6	8
STORAGE CHARGES PER DAY				
TYPE 1	6	6	8	10
TYPE 2	8	8	10	15
TYPE 3	10	10	15	20
WAITING TIME				
Rate per hour, day	15	15	15	20
Rate per hour, night	20	20	20	30
Rate per 15 minutes, day	5	5	5	8
Rate per 15 minutes, night	6	6	6	9
ADMINISTRATIVE CHARGE	10	10	10	10
MVD Record Search	Amount equal to current MVD fee paid			

Separate Entity Record Search

Entity's cost of performing the title search at reasonable, prevailing rates

Certified Letters

Amount equal to the postage paid required by Motor Transportation Rules

DELIVERY CHARGE

Extended business hours

15

15

15

15

Non-business hours

30

30

30

30

Appendix E. Texas Municipal Rate Studies

Rate Study Summaries

The following studies were conducted to determine the cost for providing non-consent towing services. Two of the studies looked at financial data from tow companies to determine cost. The other two studies looked at financial data from tow companies as well as data from other cities in Texas and peer cities across the nation.

None of the studies summarized below reflect the current regulated towing rates in their respective cities. The City of Ft. Worth is in the process of completing a new rate study. We were not able to get any additional information on more current rate studies from any of the other cities.

Fort Worth

Overview

The Fort Worth rate study was completed in February of 2007. Data from 2005-2006 were used. Another study is currently underway. The 2007 study was done in response to a request for an 11 percent increase in towing fees by towing companies contracted by the police department.

Methodology

Costs. Based on the unaudited financials of police-contracted towing companies, average profit margins per vehicle tow were determined. Three categories of tows were given, but no definitions for these categories were provided. The profit margins for each are listed below.

- Heavy-duty Tows: \$22.73 (11 percent of fee)
- Standard Tows: \$15.92 (12 percent of fee)
- Car Carrier Tows: \$20.35 (15 percent of fee)

To determine the cost of providing non-consent towing, the following expenditures per tow were used:

- Salary-Drivers (calculated at \$40.63 for a standard tow)
- Fringes-Drivers (defined as 40 percent of salary)
- Vehicle Maintenance (calculated at \$8.77 per tow)
- Fuel (calculated at \$2.45 per gallon with a 4 gallon average)
- Vehicle depreciation (calculated at \$15.19 for a standard tow truck)
- Administrative expenses (defined as 50 percent of salary and fringe benefits)

Based on information supplied by tow companies, these expense categories were summed to get the following costs per tow:

- Car Carrier: \$114.65
- Standard: \$40.63
- Heavy-duty: \$193.27

Towing fees from eight other cities were compared to towing fees in Fort Worth; four of the cities are larger and four are smaller than Fort Worth.

Results

The study found that the 11 percent increase that was requested was not satisfactorily supported by the data.

Dallas

Overview

The Dallas rate study was completed in 1999; 1998 data was used. Unlike the Fort Worth study, the Dallas study was done to determine an appropriate rate for non-consent tows and not to justify a rate increase.

Methodology

Costs. Data was collected from 1998 unaudited financials for an unspecified number of tow companies. A “full-absorption” cost methodology was used. Tows were divided into these categories:

- Gross vehicle weight rating of not more than 10,000 lbs
- Gross vehicle weight rating of 10,001 lbs but not more than 26,000 lbs
- Gross vehicle weight rating of 26,000 lbs or more

Consent tows are used for the latter two categories because none of the tow companies that participated in the study did any non-consent towing of vehicles with a gross vehicle weight rating greater than 10,000 lbs.

Direct costs are defined as direct labor in connection with the product and the direct support expenditures. These costs are listed as:

- Driver’s salaries, payroll taxes, contract towing, vehicle repair, fuel, truck lease, truck insurance, tools, and truck depreciation
- Film costs are a direct cost. For liability protection and to minimize the cost of lawsuits, the companies provide drivers with cameras.
- Companies invest in two-way radios. Safety and ability to communicate with trucks, since they operate twenty-four hours a day seven days a week, is critical. Therefore, radio costs are a direct cost.
- Sign costs are a direct cost. If a towing company accepts an apartment complex or personal property on its patrol route, the company is required to post signs under Dallas City Code.
- Sales people needed to market non-consent towing services. Therefore, sales costs are a direct cost
- Interest expense recorded in the companies is directly related to the trucks. Therefore, interest costs are a direct cost.

Allocated costs are defined as costs which are not business line specific. These costs are listed as:

- Non-driver salary and related payroll taxes allocated to a tow based on the number of employees who perform tasks
- Facility costs are allocated to a tow based on the square footage of the property used for a tow
- Other costs are allocated based on percentage of manpower or percentage of revenue

All of these costs are then weighted by company size (number of trucks) and averaged.

Reasonable profit. Once costs are determined, a weighted average cost of capital (WACC) analysis was done to determine the price at which tow companies could make a reasonable profit. WACC is a calculation of the following factors:

- Percentage of equity capital in capital structure
- Percentage of debt capital in capital structure
- Cost of debt
- Cost of common equity capital

The cost of common equity capital is what rate of return an investor would require to invest in a towing company. A risk factor model, based on Ibbotson Associate's *Stocks, Bonds, Bills and Inflation: 1991 Yearbook* was used to estimate the cost of common equity capital.

Results

A weighted average of all direct and allocated costs were summed and divided by the total number of tows to determine an average cost per tow of a vehicle with a GVWR < 10,000 lbs. This cost (\$95.76) was then multiplied by the WACC (1.1728) to determine a suggested price per tow (\$112.30).

No recommendations for medium or heavy-duty non-consent towing rates were made. The actual cost for performing a non-consent tow for vehicles with a GVWR > 10,000 lbs could not be determined. Instead, heavy-duty consent tow rates from companies in the Dallas area were examined. The average price of a consent tow in the Dallas area at the time was \$96.25. The following three reasons were given as to why this amount was not a good estimate for making a recommendation:

- Consent towing has lower vehicle cost.
- Consent towing has a lower return rate.
- Consent towing does not supply signs or sticker costs or labor costs related to posting and maintaining signs and stickers.

Houston

Overview

The Houston rate study was done in 2004 at the request of towing companies to justify a rate increase for non-consent towing. The City of Houston regulates non-consent towing fees for "standard" and "heavy-duty" tows. The previous rate study in Houston was done in 1997. The 2004 study examined the increase in cost of providing non-consent tows since 1997.

Methodology

Costs. To determine an appropriate rate increase, the following analyses were done:

- Review of wrecker industry financial data
- Comparison of industry data to independent sources on towing costs
- Survey of rates charged in other major Texas cities
- Survey of rates charged in surrounding area
- Survey of peer cities across the U.S.
- Comparison of consumer price indices

Eight different consumer price indices were used:

- All items
- Transportation
- Transportation services
- Vehicle insurance
- Vehicle maintenance and repairs
- Motor vehicle maintenance and servicing
- Services less medical care services
- Gasoline (all types)

Results

A rate increase for light-duty non-consent tows of 38.5 percent (from \$83 to \$115) was recommended based on the average percent increase of the eight consumer price indices and the average towing rates in other Texas cities, the surrounding area, and peer cities across the U.S.

A rate increase for heavy-duty towing of 27 percent (from \$138 per hour to \$175 per hour) was recommended based on the same methodology.

Austin

Overview

The City of Austin provided a rate study that was completed in 2001. The rates shown below do not reflect the current rates listed in the City of Austin Vehicle Towing Services ordinance.

Methodology

The City considered the Consumer Price Index, the Cost of Living Index, and both current and historical fee increases in the City of Austin, other major Texas cities, nearby cities, and other major cities in the nation.

Results

The following recommendations were made:

- Standard tow: Increase from \$65 to \$85
- Tow for vehicles in excess of 10,000 pounds: Increase from \$300 to \$393
- Use of a dolly: \$35
- Additional fee for use of a flat bed in a standard tow during rush hour: \$35
- Winching: \$35
- Storage: \$15/day
- Impoundment fee: \$10
- Exceptional Labor: \$35/hr

Currently, the regulated rates for the City of Austin are \$150 for light-duty, \$400 for medium-duty, and \$800 for heavy-duty. The City of Austin did not provide a rate study that supports these rates.

Appendix F. Bibliography

Brown, Lowell, "Law provided man with some pull on tow bill", Dallas Morning News, 2/3/08.

Catalanello, Rebecca, "Crist's towing bill gets new name", St. Petersburg Times, 3/39/07, http://www.sptimes.com/2007/03/29/State/Crist_s_towing_bill_g.shtml accessed 10/31/08.

Compiled Logic, host of Towing University website. http://www.compiledlogic.com/resources/Towing_University_registration.aspx, accessed 10/16/08.

Craver, Kevin, "New state regulations irk towers", Northwest Herald, October 7, 2008, <http://www.nwherald.com/articles/2008/10/07/news/local/doc48eb2d050dc4b478436397.txt>, accessed 10/31/08.

Footnotes Towblog: Towing News from Around the World, <http://trfootnotesnews.blogspot.com/2008/04/hi-non-consent-towing-fees-may-increase.html>, accessed 10/31/08.

Holt, Brady, "At first meeting, state task force looks to reduce predatory towing", The Diamondback, 10/15/08, <http://media.www.diamondbackonline.com/media/storage/paper873/news/2008/10/15/News/At.First.Meeting.State.Task.Force.Looks.To.Reduce.Predatory.Towing-3487830-page2.shtml>, accessed 10/31/08.

John A. Volpe National Transportation Systems Center, "Report to Congress on the Review of Federal and State Laws Regarding Vehicle Towing", May 2007.

Keeshan, Charles, "McHenry County opts out of state towing regulations", Chicago Daily Herald, 10/15/08, <http://www.dailyherald.com/story/print/?id=242766>, accessed 10/31/08.

Keeshan, Charles, "Tow drivers must now follow state regulations", Chicago Daily Herald, 2/20/08, <http://www.dailyherald.com/story/?id=138286>, accessed 10/31/08.

Kipp, Rachael, "Newark approves new towing regulations", The News Journal, 9/23/08, <http://www.delawareonline.com/apps/pbcs.dll/article?AID=/20080923/NEWS02/809230>, accessed 10/16/08.

McGovern, Michael, "Patrol Towing: New law raises new questions", Tow Times, October 2005.

McGovern, Michael, "Congress Receives Report on Vehicle Towing: FMCSA report highlights non-consent towing issues", Tow Times, October 2007.

Meyers, Jessica, "Dallas investigates possible towing scam preying on State Fair of Texas visitors", Dallas Morning News, 10/15/08, <http://www.dallasnews.com/sharedcontent/dws/news/localnews/statefair/stories/101408dnmettowing.4a7ef30.html>, accessed 10/21/08.

Milansinic, Adam. "Trouble with Towing", Kent News, 9/27/06, <http://media.www.kentnewsnet.com/media/storage/paper867/news/2006/09/27/News/Trouble.With.Towing-2309974.shtml>, accessed 10/16/08.

NBC Dallas-Fort Worth News, "Mayor Calls for Investigation in Texas-OU Towing", nbc5i.com, http://www.nbcdfw.com/news/local/More_Allegations_Surface_In_Texas-OU_Towing.html, accessed 10/21/08.

Pedraza, Ray. "Judge rules against All Texas Towing", KGBT4.com News, 5/20/08, http://www.team4news.com/news/news_story.aspx?id=136610, accessed 10/21/08.

Reddick, David, "Virginia's New Towing and Recovery Operator Law: Is it a Model for Other States?", National Association of Mutual Insurance Companies Issue Brief, May 2006.

San Antonio Express-News, "Kenedy County officials must regulate towing fees", 9/12/08, http://mysanantonio.com/opinion/Kenedy_County_officials_must_regulate_towing_fees.html, accessed

Saunders, James, "Eenie, Meenie, Miney, Mo... Who's to Regulate This Tow?", The Florida Bar Journal, January 2005.

Smith, Ron, "Upping the Ante: 2008 Changes in Private Property Impounds and Non-Consent Towing" Powerpoint, July 2008.

Stinnett, Dan Casey, "The Trouble with Tow Trucks: Federal Preemption of State Law Claims Against Tow Truck Companies", Journal of Texas Consumer Law, Vol.8, No.1, Fall 2004, p. 26.

Trefonas, Elizabeth, "California's Regulation of Non-Consensual Private Property Tows: Why Section 22658(l) is Federally Preempted", California Western Law Review, No.41, Fall 2004, p. 303.

Velotta, Richard, "State agency mulls tow car regulations", Las Vegas Sun, 2/24/08, <http://www.lasvegassun.com/news/2005/feb/24/state-agency-mulls-tow-car-regulations/>, accessed 10/31/08.

Appendix G. Interviews

Brassel, Sue. Executive Director, Virginia Association of Towing and Recovery Operators. Telephone interview. November 18, 2008.

Brown, Charlie. Board Member, Virginia Board of Towing and Recovery Operators. Telephone interview. December 1, 2008.

Brown, Dee. Volunteer Secretary, Florida Independent Towing Association. Telephone interview. November 13, 2008.

Cabello, Hector. Owner/Operator, Cabello Wrecker Service, Inc. Telephone interview. November 19, 2008.

Copeland, Mark. Executive Director, Virginia Board of Towing and Recovery Operators. Telephone interview. November 21, 2008.

Dear, Ronnie. Property Damage process Leader, Progressive Auto Insurance, Houston, Texas. Telephone interview. December 3, 2008.

Dewbre, J. Michael. Public Assistance Unit Supervisor, Motor Carrier Operations, Motor Carrier Division, Texas Department of Transportation. Interview. November 7, 2008.

Ellis, Mike. Texas Department of Transportation. Interview. November 7, 2008.

Findeisen, Les. Director of Policy/Intergovernmental Relations, Texas Motor Transportation Association. Telephone interview. November 18, 2008.

Gross, Tom. Coordinator of Restitution and Towing and Storage for Region 1, GEICO. Telephone interview. November 25, 2008.

Kole, Deborah. Staff Attorney, New Jersey State League of Municipalities. Telephone interview. November 24, 2008.

Liebman, Burt. Director of Legislative and Regulatory Affairs, New Jersey Division of Consumer Affairs. Telephone interview. December 1, 2008.

Marton, Janet. Senior Assistant County Attorney, Harris County, TX. Telephone interview. November 12, 2008.

McLaughlin, James. President, Texas Police Chief's Association. Telephone interview. November 25, 2008.

Messina, Joann. President, Southwest Tow Operators; Board Member, Texas Towing and Storage Advisory Board. Telephone interview. November 14, 2008.

Milstead-Ellzey, Amy. Vice President, Milstead Companies. Telephone interview. November 25, 2008.

Montoya, Paul. Bureau Chief for Compliance, Transportation Division, New Mexico Public Regulation Commission. Telephone interview. November 25, 2008.

Morris, Robert. President, National Conference of State Transportation Specialists. Telephone interview. December 1, 2008.

Lujan, Larry. Financial Analyst, Transportation Division, New Mexico Public Regulation Commission. Telephone interview. November 18, 2008.

Pettit, Philip. Field Operations Supervisor, Motor Carrier Operations, Motor Carrier Division, Texas Department of Transportation. Interview. November 7, 2008.

Rash, Jeanette. President, Texas Towing and Storage Association. Chair, Texas Towing and Storage Advisory Board. Telephone interview. November 5, 2008.

Remmert, Doug. Salvage Team Manager, State Farm. Member, Texas Towing and Storage Advisory Board. Interview, November 14, 2008.

Richter, Richard. Towing Manager, Milstead Automotive. Telephone interview. November 25, 2008.

Rochester, Gay. Towing Industry Consultant. Telephone interview. November 14, 2008.

Rodriguez, Carlos. Assistant Attorney General, New York State, Rochester Office. Telephone interview. November 25, 2008.

Smith, Steve. President, Dallas Towing Association. Telephone interview. 6 November 2008.

Stewart, Steve. President, New Mexico Motor Carrier's Association. Telephone interview. November 18, 2008.

Titlow, Gary. Transportation Regulation Manager, Public Works and Transportation Department, City of Dallas, TX. Telephone interview. November 10, 2008.