

Draft Minutes

**Licensing and Regulatory Affairs Committee
October 16, 2007 – 10:00 am
Comfort Inn Conference Center
3200 West Broad Street, Richmond, Virginia**

The Licensing and Regulatory Affairs Committee meeting was held at the Comfort Inn Conference Center, 3200 West Broad Street, Richmond, Virginia 23230 in the Washington Room. The meeting was called to order by Chairman Charlie Brown at 10:10 a.m.

Members present:

Charlie Brown
Roy Boswell
Ray Drumheller
Ray Hodge
Gary Teter
Ron Miner
Captain Steven Chumley

Other Board Members present:

Cary Coleman

Staff present:

Benjamin Foster, Board Executive Director
John Beall, Attorney General Office

Public Comments:

Members of the audience were given two (2) minutes to provide public comment to the Committee:

Dave Derringer of the Chesterfield Police Department presented the Committee a letter from Captain Daniel W. Kelly, Division Commander, Support Services Division. The letter expressed concerns relating to public safety towing.

Anthony Purcell inquired about the effect of Section 46.2 – 1217 of the Code of Virginia on the Public Safety Regulations.

Jason Pence of Valley Towing presented the Committee with a handout expressing concerns about several sections of the “working document.” Several of the concerns included sections on “fees”, “training requirements”, and “general requirements.”

Dewey Linton of the Chesterfield Body Shop expressed concerns regarding the Public Safety Regulations as set out in the “working document.”

Bruce Eagle of Chesterfield Towing presented the Committee with data from Chesterfield County on business transactions for public safety towing conducted at storage facilities.

George Philbates of Philbates Towing expressed concerns about wrecker requirement issues set out in the “working documents.”

Mike Pelfry of Tidewater Express expressed concerns about language regarding 48 ft truck lengths. He also expressed concern about the need for a “Hold Harmless Rule.”

Floyd Mays of Floyd Mays Insurance Company spoke about state and federal insurance concerns. He expressed concern that the Board may be unable to police the insurance requirement.

Connie Miller of Blue Streak Towing spoke about Chesterfield County requirements currently in place.

Paul Fletcher of Fletcher’s Towing spoke about Henrico County requirements for towing business offices and availability/accessibility for vehicle pickup by the owner.

Cindy Pierce of Fred’s Towing spoke about Chesterfield County’s requirements for offices, storage lots, and staffing requirements.

Barry Harmon of Harmon Towing stated that because of Interstate business towing companies should have somewhere out of the weather for people to wait until they could be picked up. He also stated that he was in favor of training standards.

Steve Rigsby of Richmond Road Service expressed concerns about these requirements on small businesses.

David Adams of New Kent talked about an accident last week that took seven (7) minutes handle with a rollback. He stated that there was no justification for a wrecker.

Harry Field of Ashland Towing said that he seconded everything said by Mr. Adams. He also extolled the virtues of a rollback.

Tommy Woods, Vice President of VATRO gave the Committee a handout entitled “VATRO’s Explanation for Recommending a Thirty-Five ton and Twenty-five ton Wrecker.”

Bruce Keeney representing VATRO said that he was confident that the Committee and Boards would make the necessary changes based on information received from sheriff's letters, manufacturer's certification, and investigations of the issue of rollback versus wreckers.

Lt. Chris Hamlin of the New Kent Sheriff's Department presented the Committee with a letter from Sheriff Farrar W. Howard, Jr. expressing support for small family-owned towing businesses in New Kent.

Brenda Pelfry of Tidewater Express spoke about office and property requirements. She also spoke about requirements currently in force by Newport News.

Robert Young of Robert Young's Towing reminded the Committee of the charge to the Board by the General Assembly. He suggested strongly that the Board stick with whatever they set up.

Ronnie Bee inquired about the Board's definition of "recovery."

Approval of Minutes from October 9, 2007:

Gary Teter made a motion to approve the minutes from the October 9, 2007 Committee meeting. The motion was seconded by Woody Herring and unanimously approved by the Committee

New Business:

Allen Wood Chairman of the VATRO Training and Education Committee presented a 30 minute presentation on training and safety issues confronting the towing profession.

Ray Hodge Chairman of the Board of Towing and Recovery Operators established an Ad Hoc Committee on Education. The members include: Ron Minor, Chair; Woody Herring; Roy Boswell; Paul Stephens; Captain Steven Chumley; and Allen Wood.

Old Business:

The Committee review and worked through the regulation "working document." A copy of which has been attached to these minutes. New language is indicated by underline, deleted language appears as ~~strike through~~, and assignment for further study or assignment is printed in **red**.

Adjournment:

Gary Teter made a motion to adjourn at 2:37 p.m. The motion was seconded by Roy Boswell and unanimously approved by the Committee.

Board of Towing and Recovery Operators

**Licensing and Regulatory
Affairs Committee**

Working Paper

October 16, 2007

Public Safety Regulations

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Purpose / Requirement for regulation

The Virginia Board for Towing and Recovery Operators is mandated in Section 46.2-2826 of the Code of Virginia to establish regulations required of Class A and Class B operators to provide public safety towing and recovery services. For the purposes of this section, "public safety towing and recovery services" shall be those towing and recovery and related services requested by a state or local law-enforcement agency.

24 VAC 27- 50 - 10. Definitions

The following words and terms when used in these regulations, by the Virginia Board for Towing and Recovery Operators, or the Board's related documents, unless expressly stated otherwise, shall have the following meanings:

"Board" or **"BTRO"** means the Virginia Board for Towing and Recovery Operators.

"Class A Operator" means a towing and recovery business towing vehicles of an unlimited gross vehicle weight.

"Class B Operator" means a towing and recovery business towing vehicles of a gross vehicle weight of 26,000 pounds or less.

"Driver" means a person who drives or is in actual physical control of a tow truck. A driver shall have obtained an authorization document issued by the Board in order to drive a tow truck while providing towing or recovery services.

"Equipment" means any tow truck, vehicle or related machinery or tools used to provide towing or recovery services.

"Gross vehicle weight" means the aggregate weight of a vehicle and the load thereon.

"Gross vehicle weight rating" means as defined in Section 46.2-341.4. of the Code of the Virginia.

Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of the Code of Virginia or local ordinances authorized by law relating to drivers or driving of motor vehicles.

“Operator” means, for the purposes of these regulations, the same as “Towing and recovery operator”, notwithstanding the provisions of §46.2-100, which defines operator differently.

“Public Safety Tow” means requests for towing and recovery services made by a law enforcement officer of the county, city, or town, or by a State Police Officer within the county, city, or town pursuant to §46.2-1217 of the Code of Virginia. Additionally, it shall mean towing requests made by a law-enforcement officer at the request of the owner or operator of an unattended, abandoned, or immobile vehicle, when no specific service provider is requested by such owner or operator or if an unattended, abandoned, or immobile vehicle is located so as to impede the free flow of traffic on a public highway declared by resolution of the Commonwealth Transportation Board to be a portion of the interstate highway system.

“Private Property/Trespass Tow” means requests for towing and recovery services made by the owner, operator or lessee of private property, or the authorized agent thereof, pursuant to the provisions of Article 3 of Chapter 12 of Title 46.2 of the Code of Virginia, or local ordinances adopted under that Article, or under contract between such person and a towing and recovery operator which specifies what tows are to be made from the property when a motor vehicle or vehicle or self propelled apparatus is on the property in violation of law or rules promulgated by the owner, operator, or lessee of the private property.

“Recovery” means.....[Ron to research](#)

“Responsible Individual” means an individual identified through the Operator’s licensure process who is designated by the operator to represent and be accountable for all aspects of licensure for the operator and who is either the principal owner or chief executive officer of the business entity or manager or both of

business operations for the operator.

“Tow” means when the towing vehicle has engaged the towed vehicle by a physical, mechanical means which causes the towed vehicle to be lifted off of the ground, or moved for any distance whatsoever.

“Towing and recovery operator” means any person, including a business, corporation, or sole proprietor, offering services involving the use of a tow truck and services incidental to the use of a tow truck. Such shall include but not be limited to those engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

“Towing and Recovery Services” means services offered by a towing and recovery operator. Any person who in any way advertises himself as a towing and recovery operator or in any way conveys the impression that he is engaged in services of providing towing and recovery of vehicles shall be deemed to be engaged in towing and recovery services.

“Tow truck” means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as defined in § 46.2-100 of the Code of Virginia.

“Tow Truck Decal,” “Decal” or similar words mean a Board issued decal to be affixed to the driver side door of a tow truck owned, leased or operated by a licensed towing and recovery operator.

24 VAC 27- 50 - 20. Fees

In addition to fees required by 24VAC27-30-20 the following fees shall be applicable:

| Certification Item | Fee |
|---|----------------------------|
| Initial Fee Structure/Application Fee, | \$50 |
| Annual License Renewal | \$50 |
| Annual tow truck decal, per vehicle | \$5 |
| Annual driver authorization documentation, per driver | \$50 |
| Late renewal (operator, or truck decal) | 150 percent of renewal fee |
| Reinstatement following revocation or suspension of certification | \$1000 |
| Verification of certification to another jurisdiction or government entity | \$25 |
| Returned check | \$35 |
| Duplicate copy of certification, or tow truck decal. | \$10 |

A. All fees shall be nonrefundable.

B. Examination fees shall be determined by the Board.

24 VAC 27- 50 - 30. General Requirements for Operators

As a condition for certification, all operators shall:

A. Be licensed and in good standing with the Virginia Board of Towing and Recovery Operators as a Class A or Class B Operator.

B. Provide the name of the individual or business entity under which the applicant intends to be certified. However, the applicant/certificant, at time of application and each renewal of license, shall provide the Board with any and all trade or fictitious names under which the operator conducts or offers towing and recovery services.

- C. Designate and advise the Board of the main or principal office and all additional satellite facilities and the physical addresses. Should such change, the Board shall be notified within 30 days such change occurs.
- D. Designate a Responsible Individual who shall be knowledgeable of all applicable state, federal or local laws and regulations related to those public safety and incident management towing and recovery services offered or rendered by the operator, and who shall be responsible for assuring that the operator conforms to them.
- E. List the principal owner's name or owners' names and the name of the Responsible Individual and of the principal manager and of all other individuals involved in the management and operation of the business on the application for license and advise the Board of any change of same.
- F. Certify on the application whether any owner, manager, or other individual involved in the management or operation of the business entity, including the Responsible Individual, has been convicted of any criminal offense, whether felony or misdemeanor.

24 VAC 27- 50 - 40. Training Requirements

- A. All public safety towing drivers and recovery supervisors shall attend an incident management seminar at least once every 3 years. **Defer all education material for Education Committee.**
- B. Class A public safety towing drivers shall possess a national certification adequate for towing and recovery of trucks with a GVW of 26,001 lbs. or greater. Drivers shall attend and pass a minimum of 10 hours of continuing education every three years pertaining to the towing and recovery of trucks with a GVW of 26,001 lbs. or greater. Certification shall be by a professional training organization approved by the BTRO. Training shall consist of minimum of 5 hours classroom and 5 hours hands on training. Class A public safety towing drivers shall be grandfathered with a written request to the BTRO from a licensed Class A public safety operator for the drivers

first licensing period after July 1, 2008. A licensed Class A public safety operator with a written request to the BTRO can request a thirty day grace period for any Class A driver applicant.

- C. Class B public safety towing drivers shall possess a national certification adequate for towing and recovery of vehicles with a GVW of 26,000 lbs. or less. Drivers shall attend and pass a minimum of 10 hours of continuing education every 3 years pertaining to the towing and recovery of vehicles with a GVW of 26,000 lbs. or less. Certification shall be by a professional training organization approved by the BTRO. Training shall consist of minimum of 5 hours classroom and 5 hours hands on training. Class A public safety towing drivers shall be grandfathered with a written request to the BTRO from a licensed Class A or Class B public safety operator for the drivers first licensing period after July 1, 2008. A licensed Class A or Class B public safety operator with a written request to the BTRO can request a thirty day grace period for any Class B driver applicant

24 VAC 27- 50 - 50. General Requirements for Office and Storage Area

As a condition for certification:

- A. The towing company shall have a main office location exclusively for towing and storage and shall not be a part of or attached to a residence. The office space must include a desk, chairs, filing cabinet (s), a working land line telephone in the name of the tower and available to customers, a public restroom and working utilities to include electricity and heating. **Ron to re-write**
- B. The office shall be open for business and staffed minimum of 5 days a week from at least 8:00am till 5:00pm, excluding national holidays. **Needs further study**
- C. The operator shall maintain and own or lease a dedicated storage area able to contain all public safety towed vehicles towed by the Operator. Storage area shall be fully enclosed by a commercial grade fence which is at least six feet tall, or enclosed by a permanent structure, have adequate lighting and remain clear of debris. Storage area shall have a minimum of 1500 of square footage for Class B operators and a minimum of 3000 square footage for Class A operators.

Licensed public safety operators shall not share storage lots with any other Operator unless the shared storage lot is divided by a stationary fence with a separate, locked entrance to each storage area.

- D. The office and storage area shall meet or exceed all local and state code and zoning requirements.
- E. Storage area shall be surfaced with stone, asphalt, permeable surface pavement, concrete or other similar product.
- F. The towing company office and or storage facility shall display a sign with the towing company name and phone number. Sign shall be visible and legible from a state, county or city maintained highway. Sign shall be at least 3' X 3' or as approved by local zoning.
- G. The towing company Public Safety Certification shall be displayed at the business office and copies shall be displayed at all storage facilities and satellite offices.
- H. The towing company will make vehicle and or contents of vehicle available to the vehicle registered owner or authorized agent during normal business hours (8:00 a.m. - 5:00 p.m., Monday through Friday). Towing company may charge a separate fee for this service if requested before or after the company's regular office hours. **Mr. Beall**
- I. The towing company shall make a reasonable attempt to provide covered storage or materials when necessary to protect the contents of vehicle in storage area from weather. The towing company may charge a separate reasonable fee for this service. **Mr. Beall**

24 VAC 27- 50 - 60. General Requirements for Equipment - Ray Hodge to research.

As a condition of certification:

- A. Any tow truck responding to an accident scene shall be equipped with the following safety equipment:
1. United States Department of Transportation required fire extinguisher (5lb.)
 2. Reflective vest or gear shall be available in the truck. (NIMS Compliant or ANSI Rated) **Next Meeting**
 3. Two revolving and or flashing amber warning lights visible 360 degrees
 4. 5 lbs. of oil absorbent material
 5. Push broom
 6. Square tip shovel
 7. ~~Four~~ Two rear flood lights
 8. Flashlight
 9. Three road flares, or triangles or traffic cones.
 10. First Aid kit
 11. Two way ~~private~~ communication (not CB or ham radio)
 12. Rear tow lights
 13. Factory manufactured and rated towing and/or recovery unit
 14. Container for debris removal.
 15. Proper grade of chain (#80) and strap **MIHRA or VATRO**
- B. Class B towing company shall own/lease a minimum of 1 towing/recovery truck with a minimum GVW of 10,000 lbs. and a recovery unit of a minimum rating of 8 tons. Unit shall have 2 winches and a boom that raises and lowers, extends and retracts by hydraulics. Unit must have a hydraulic operated wheel lift with a rating of 3500 lbs. Company shall also own/lease a rollback having a minimum GVW of 14,500 lbs. and a minimum deck length of 19'. **Use Ron's idea, with a five year window.**
- C. Class A towing company shall own/lease a minimum of 2 towing/recovery trucks with a minimum GVW of 50,000 lbs. each and a recovery unit of a minimum rating of 30 tons. Unit shall have 2 winches rated at 25,000 lbs. each with a minimum of 150' of 5/8 wire rope. Unit must have a boom that raises and lowers, extends and retracts by hydraulics. Unit must have a hydraulic operated under lift rated to lift 12,000 lbs. at full extension.

- D. Class A towing company shall own/lease or have a written agreement up to date and readily available for BTRO inspection with a subcontractor to provide the following equipment within a timely manner:
1. Lowboy hydraulic operated trailer capable of transporting a wrecked or disable road tractor and or debris
 2. Box trailer 48' or longer
 3. Dump truck, dump trailer or container
 4. Air cushions capable of up righting a loaded tractor and trailer (80,000 lbs.).
 5. A skid steer loader or forklift wheel loader capable of moving cargo and/or debris from the highway.
 6. Adequate personnel to offload cargo
 7. Tandem road tractor
 8. Forklift
 9. A rotator or crane with a minimum of 35 tons.
- E. A winch boom or under lift that does not have a factory manufacturer rating plate attached to it or that has been altered from it's original construction will not qualify for public safety towing unless unit has been certified to meet or exceed Board of Towing and Recovery Operator standards. Certification shall be done by a reputable testing facility regularly engaged in the testing of such equipment. All testing and/or certification cost shall be the responsibility of the towing company.

~~24 VAC 27- 50 - 70. Public Certification~~

24 VAC 27- 50 - 80. Public Safety Certification by Examination

Education Ad Hoc Committee

24 VAC 27- 50 - 90. Public Safety Certification by Endorsement

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~~24 VAC 27- 50 - 100. Unprofessional Conduct~~

24 VAC 27- 50 - 110. Standards of Practice

- A. Any tow truck operator summoned by a law enforcement officer who responds to a motor vehicle accident or incident shall possess a public safety responding to the scene of a motor vehicle accident or incident shall possess a public safety endorsement license issued by the BTRO.
- B. Support personnel needed to clear an accident scene are encouraged but not required to be ~~certified and/or licensed~~ or hold a drivers authorization by the BTRO. Support personnel shall qualify under Section 40 of these regulations.
- C. At least one BTRO driver's authorization holder or operator shall be at the accident scene at all times during recovery.

24 VAC 27- 50 - 120. Operating without Public Safety Certification

24 VAC 27- 50 - 130. Consumer Complaints

Gary Teter to research with help from Andy Alvarez.

24 VAC 27-50 - 140. Renewal of Public Safety Certification

Ben

24 VAC 27- 50 - 150. Requirements for Continuing Education

Education Ad Hoc Committee

24 VAC 27- 50 - 160. Requirements for Insurance

Move back to the standards of practice.

Captain Chumley