

Licensing and Regulatory Affairs Committee
July10, 2007
9:30 a.m.

Draft Minutes

The Licensing and Regulatory Affairs Committee meeting was held at the Department of Motor Vehicles on July 10, 2007 in Conference Room 702.

Members present:

Roy Boswell
Ray Drumheller
Woody Herring
Ray Hodge
Gary Teter
Ron Miner substituted for the Chair, Charlie Brown

Absent:

Charlie Brown

Other Present:

Captain Steve Chumley, Lt. Curtis Hardison, Jeff Spencer ,Office of the Attorney General, John Beall, Jr., Office of the Attorney General, Benjamin Foster and Daphane Phillips.

Call to Order:

The meeting was call to order at 12:46 p.m.

Public Comments:

None

Minutes from the last meeting:

Ron Miner asked the members if they reviewed the minutes from the June19, 2007 meeting. Seeing no questions, Ron Miner called for a motion to approve. Motions were made by Ray Hodge and second by Ray Drumheller. The minutes were adopted unanimously.

Committee Business

Ron Miner presented the second half of the draft of the Proposed Regulations on the overhead projector to the Committee and public to review. There were several motions that were carried on this document:

Ron Miner put into motion that item (A-5) 24 VAC 27-30-80 Prerequisites for Application for Drive Authorization stands as is, second by Mr. Herring. The motion was carried unanimously.

Ron Miner made the motion to leave item as is (E) 24 VAC 27-30-85 Requirements for Drivers, second by Mr. Boswell. The motion was carried unanimously.

Ron Miner made the motion on that he will talk with Mr. Brown as to why this statement (K) 24 VAC 27-30-85 is in the regulations, second by Mr. Boswell. The motion was carried unanimously.

Ron Miner made the motion to take out (A) 24 VAC 27-30-95 for now and let Charlie Brown form a subcommittee, seconded by Mr. Boswell. The motion was carried unanimously.

A copy of the draft is attached.

Adjournment

Roy Boswell made the motion to adjourn, second by Gary Teter.

Meeting was adjourned at 2:10 p.m.

Board of Towing and Recovery Operators

**Licensing and Regulatory
Affairs Committee**

Working Paper

June 19, 2007

INDEX

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Part I. General Provisions

Purpose / Requirement for regulation.

Section 46.2-2805 of the Code of Virginia establishes the authority of the Board for Towing and Recovery Operators to establish requirements and oversight of towing and recovery operators and the towing and recovery industry, to ensure their possessing and maintaining minimal levels of competency for the public safety and welfare, to establish the necessary qualifications for licensure and regulation of towing and recovery operators, to ensure the competency and integrity of the regulated industry, to examine applicants, to establish renewal schedules, to administer fees to cover the administrative expenses of the regulatory program, and to take disciplinary action for violation of laws and regulations, and to provide oversight for and enforcement of authorized documentation of drivers of towing and recovery vehicles.

24 VAC 27-30-10. 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.

[Recommend that a driver shall be authorized by the board in order to drive a tow truck while providing towing and recovery services. – MIHROA]

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

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon. *Add language regarding definition of gross weight.*

“Gross vehicle weight rating” **Re-visit this issue! (Alan Wambald) Curtis & Ray H.**

[Recommend no changes – MIHROA]

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located.

~~"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.~~

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, this term shall also include city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753 and 46.2-754 and local ordinances enacted thereunder.

"Operator" means the same as "Towing and recovery operator" notwithstanding the provisions of 46.2-100 for the purposes of these regulations.

"Towing and recovery operator" means a business, corporation, sole proprietor or any person offering services involving the use of a tow truck and services incidental to 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. Such Operator or Towing and Recovery Operator shall be licensed by the Board as a Class A or a Class B Operator.

~~"Public Safety Tow," "Police-requested towing" "Law Enforcement requested or a "police towing request" 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.~~ **Area of Concern**

Add Gary's new language.

[Recommend deleting definition from Class A and Class B regulations. Eventual definition must include any governmental agency and while on public road facility. Definition must be clarified in future Public Safety Regulations – MIHROA]

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curblineline or ditch.

"Towing and recovery of vehicles" or "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 "rollback." "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 Vehicle Decal," "Tow Truck Decal," "Decal" or similar words shall mean a Board issued decal to

be affixed to the driver side door of a tow truck owned, leased or operated by towing and recovery operator.

Chumley concerns

[Recommend that the BTRO create a total of four separate stickers for Class A and Class B towers and Class A and B public safety towers. Recommend the sticker be within close proximity of the driver's door. – MIHROA]

24 VAC 27-30-15. Fees.

A. The following fees shall be applicable:

	Initial Fee Structure/ Application Fee - Add
Annual license renewal: Class A Operator	\$ 400
Annual license renewal: Class B Operator	\$ 300
	Annual tow truck decal, per vehicle
	\$ 15
	Annual driver authoriz ation docume ntation, per driver
	\$ 25
Examination of Class A Operator	\$?
	Examination of Class B Operator \$?

Late renewal (operator, truck decal and driver)150% of renewal fee (law requires)

Reinstatement
penalty
for a
lapsed
license
.....

\$ 100

Reinstatement
following
revocation
or
suspension
of
license
.....

\$1,000

Verification
of
licensure
to
another
jurisdiction
or
government
entity
.....

\$ 25

Returned
check
.....
.....
.....
.....
.....
.....
.....

\$ 50

Duplicate
copy

of
license,
tow
truck
decal or
driver
authoriz
ation
.....

\$ 15

Out of
state
tempora
ry
operatin
g permit
(each
permit)..
.....
.....
...

\$100

[AAA Mid-Atlantic Concerns

- *AAA believes that annual renewal of all licensing will be an undue hardship to many tow operators. We recommend that the licensing be extended to a multi-year process. For instance, a three (3) year renewable license may warrant consideration. An earlier renewal may be required for those who have been subject to Board, civil or criminal penalties.*
- *Proposed fees could be exorbitant for small business owners and should be reconsidered. With the current and projected driver shortage for the tow and recovery industry, this section of the regulation could hamper the recruitment of capable individuals into the industry.*
- *Out of state temporary operation permit language needs clarification and more definition. Is this for a certain period of time, or for each incident of towing into or out of the state? What is the basis for the temporary operating permit and how will prompt issuance be facilitated?]*

B. All fees are nonrefundable.

C. Examination fees shall be determined by the Board.

=

24 VAC 27-30-20. General Requirements for Operator's licensure.

As a condition for licensure, all operators shall:

A. Be a legal entity operating in the Commonwealth of Virginia.

- B. List the name of the business or parent entity of the licensee as that under which a license is applied for and if granted, maintained. However, the licensee 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 their main or principle office and the physical address of same. Should such change, the Board shall be notified within 30 days such change occurs. *Area of Concern – Possible licensing of remote locations – Designation of responsible person (i.e. real estate, contractors) 46.2-151*

[Recommend the BTRO require owners to list their main and or principal office and additionally all satellite locations. – MIHROA]

- D. related to those towing and recovery services offered or rendered by the operator.
- E. List the principle owner's name or owners' names on the application for license and advise the Board of any change of same.
- F. Provide the Board with information indicating all tow trucks owned, leased or used by the operator. Such information shall include a basic description of the type of tow truck and its license plate number and state issuing such license plate. Information shall be provided no less frequently than on an annual basis, at time of initial licensure or renewal of license.

[AAA Mid-Atlantic Concerns

- 24 VAC 27-30-20F requires reporting on an annual basis, at time of initial licensure or renewal on all trucks owned, leased or used by the operator, including a description of the type of tow truck and its license plate number and state issuing such license plate.]*

- G. Provide the Board with a list of all Drivers to the BTRO on an annual basis. *Put language back. - Ben*

[AAA Mid-Atlantic Concerns

- 24 VAC 27-30-20G requires annual reporting of all drivers to the Board. The requirement to report both the trucks and drivers on an annual basis is redundant and should be seen as unnecessary record keeping. AAA recommends that this be streamlined by reporting only when either item changes.]*

24 VAC 27-30-25. Operator's Licensure without examination.

Applicants for licensure to take effect July 1, 2008 are required to:

- A. Submit the application for license, indicating Class of operator, and remit payment of fees applicable for application and first year license. Application shall include the operator's federal tax identification number.
- B. Validate in writing that they have read and understand the laws and regulations governing towing and recovery services.
- C. In order to qualify for "grandfather status" the applicant shall submit evidence to the Board that the operator was actively engaged in the business of towing and recovery services on **January 1, 2006**. Such evidence shall include an applicable date and business name of the operator and may include but shall not be limited to copy of state or federal tax return, local business license, receipt

Shall be knowledgeable

for payment of personal property taxes, paid purchase order forms or similar documents related to repair, lease or purchase of a tow truck. The grandfather exemption shall expire on July 1, 2008.
Area of Concern – GET LEGISLATION to back this up.

[Recommend that all operators apply for their grandfather status – MIHROA]

24 VAC 27-30-30. Operator's Licensure by examination.

Applicants for licensure of those not engaged in the towing and recovery business on January 1, 2006 are required to:

- A. Submit the application for license, indicating Class of operator, and remit payment of fees applicable for application and first year license. *Application shall include the operator's federal tax identification number. Can this be required? – A.G.*
- B. For license as a Class A Operator, submit evidence of passage of all sections of Level I and of Level II of the Towing and Recovery Association's certification examination or examination deemed by the Board to be equivalent.
- C. For license as a Class B Operator, submit evidence of passage of all sections of Level I of the Towing and Recovery Association's certification examination or examination deemed by the Board to be equivalent...
- D. Applicants for Class A and Class B operator's license shall additionally successfully pass an open book jurisprudence examination provided by the Board on the laws and regulations governing towing and recovery operators.

[AAA Mid-Atlantic Concerns

- *The regulations specifically require passage of Towing and Recovery Association's (TRAA) certification examination. AAA recommends that other training and/or certification programs, such as the International Institute of Towing and Recovery (IITR), for purposes of certification and re-education also be approved by the Board to allow operators broader accessibility to industry leaders in training and/or certification. We further recommend that examination standards need to be detailed in the regulations and that online examination should be an option to satisfy at least a portion of the hours required for those businesses that do not have easy access to a BTRO approved examination processing center.]*

24 VAC 27-30-35. Operator's Licensure by endorsement.

An applicant may receive licensure by endorsement providing they (1) provide evidence of passage of the applicable examination requirements, (2) submit evidence that they have been actively engaged in towing and recovery services in another state for the past five consecutive years, (3) provide a statement from a government entity in which they have been conducting business(es) in the past five consecutive years that the applicant's business has not violated or been disciplined for violation of their state laws and regulations governing towing and recovery services, (4) passed the Board required jurisprudence examination and (5) submitted the required applications and fees to the Board. *Ben to re-write.*

24 VAC 27-30-40. Exemptions.

The following shall be exempt from these regulations.

- A. "Rollbacks" used exclusively to transport cargo other than vehicles.

[Recommend deletion of this exemption – MIHROA]

- B. "Automobile or watercraft transporters," "stinger-steered" automobiles or watercraft transporters" or "tractor trucks" as defined in § 46.2-100 of the Code of Virginia. Such transporters are only exempt if capable of transporting five (5) or more vehicles and have appropriate and required interstate operating authority. **Research "stinger-steered."**
- C. "Household goods carriers" as defined in Section 46.2-100 of the Code of Virginia providing they have been issued a valid "certificate of public convenience and necessity" means by the Virginia Department of Motor Vehicles.
- D. Tow trucks solely owned and operated directly by a government entity used for public safety towing or non-commercial purposes, providing such do not impose a fee for services rendered.
- E. Tow trucks registered and domiciled in another state, providing such has appropriate and required interstate operating authority. **Such tow trucks must obtain a temporary operating permit from the Board prior to operating in Virginia authorized by the Board.** However, tow trucks registered and domiciled in another state are not exempt from licensure or provisions of applicable State laws or regulations of the Board if both pickup or hook up and delivery of a vehicle are in Virginia. **Area of Concern – Ron**

[Recommend further review – MIHROA]

- F. Tow trucks owned by a person and used exclusively to transport vehicles owned by the person providing there is no charge or acceptance of fees or payment for services. In such situations, ownership of vehicles being transported must be supported by possession of title, bill of sale, registration or other legal document while the vehicle is being transported and signage must be permanently posted on the door of both sides of said tow truck indicating "NOT FOR HIRE." Letters for such sign shall be each be at least 3 inches in height and each 1/4" in width and in a color contrasting with the tow truck's color.
- G. Tow trucks owned by tow truck dealers or tow truck manufacturers operating with a legally recognized dealer license plate. Such tow trucks may only be operated by an employee of the dealer or manufacturer for the sole purpose of transporting it to and from the location of sale or demonstration. Such tow trucks shall be required to have temporary or permanent lettering with the dealer's or manufacturer's name, city and state and the words "NOT FOR HIRE" displayed on both on the door of sides of the tow truck. Letters for such sign shall be each be at least 3 inches in height and each 1/4" in width and in a color contrasting with the tow truck's color.

[Recommend no changes – MIHROA]

24 VAC 27-30-45. Transfer of operator's license.

- A. An Operator's license is not transferable.
- B. Transfer of an Operator's under emergency circumstances as agreed to by the BTRO executive director shall be granted an exception for up to 90 days.
- C. At any time in which 50% of more of an operator's towing and recovery business is sold or transferred, the Board shall be notified in writing within 30 calendar days the sale or transfer occurred. **Area of Concern – Charlie**

[Recommend changing 10 days to 30 days – MIHROA]

24 VAC 27-30-50. Temporary Towing Permits or duplicate applications

The Board may promulgate regulations providing that an application for a certificate of towing and registration of a tow vehicle, either new or after a transfer, the vehicle may be operated on the highway under (i) temporary permit issued by the Board or (II) a duplicate application carried in the vehicle.

Change language - Ron

[New language from Ron]

24 VAC 27-30-55. Trip permits, regulations, fees

The Board may, on application on forms provided by the Board, issue a trip permit to any owner of a tow truck which would otherwise be subject to registration with the Board but is not currently registered. The permit shall be valid for three days and shall show the vehicle identification number, the beginning point and the point of destination. The fee for the permit shall be five dollars.

For a single-trip temporary registration or permit issued under this section, the applicant shall pay a fee of \$.10 per mile for every mile to be traveled, in addition to any administrative fee required by the Board. ~~In lieu of a single trip permit, an annual multi trip permit may be issued for a fee of \$XX.XX, in addition to any administrative fee required by the Board.~~

[New language from Ron]

[This would be next to impossible from an administrative standpoint – Ben]

24 VAC 27-30-60. Unprofessional conduct.

Area of Concern – Language?

It shall be deemed unprofessional conduct, and may be subject to disciplinary action or sanctions by the Board, for any licensed operator in the Commonwealth to violate any statute or regulation governing towing and recovery services or fail to: ***Ben fix language in this section***

- A. Employ any driver who fails to comply with the Board's requirements for drivers.
- B. Advise the Board in writing of any change in ownership, or in the licensee's mailing or principle business address within 30 days of such change occurring.

[Recommend no changes – MIHROA]

- C. Use only drivers employed by a designated licensed operator and who has a valid driver's authorization documentation from the Board.
- D. Have the trade name, clearly indicated on all of the operator's tow trucks.

[Recommend deleting, "required signage for posting of fees and invoices." – MIHROA]

- E. Retain for a minimum of one year, from last date of service, records of services and fees charged or collected. If said records are not maintained at the operator's principle place of business, the location of such records shall be made known to the Board at the Board's request.

[Recommend no changes – MIHROA]

- F. Allow an authorized agent of the Board to review or inspect, during regular business hours, the operator's records of services rendered and fees charged or collected, facilities and equipment. Such inspections shall be limited to that which is related to compliance of laws or regulations

governing operators.

[Recommend no changes – MIHROA]

- G. Accept at least one of two nationally recognized credit cards. Such credit card may be considered invalid if the credit card processing company denies charges being applied to said card or if the card is not presented to the Operator for inspection. Operator may insist payment by credit card be made at their principle place of business or any location at which payment for fees or services is normally accepted. Operator may also insist at his/her discretion to accept credit card only from registered owner of the vehicle towed or impounded.

[Operator may also insist at his/her discretion to accept credit card only from registered owner of the vehicle towed or impounded. – Roy]

[Recommend deleting first sentence and replacing with, “Accept at least one of two nationally recognized credit cards.” – MIHROA]

- H. Post at the principle office, and at any location where payment is accepted, the maximum fees normally charged for basic services for towing, recovery and processing fees for vehicles weighing 26,000 pounds or less. **In Code leave in.**

[Or provide written receipt upon request of persons reclaiming towed or impounded vehicle. – Roy]

[Recommend deleting, “vehicles weighing 26,000 pounds or less,” and replacing with, “Passenger car.” Ensure this applies only to trespass towing. – MIHROA]

- I. For private property/trespass towing prominently display, for all businesses engaged in towing passenger vehicles without the consent of their owners, at their main place of business and at any other location where towed vehicles may be reclaimed, a comprehensive list of all their fees for towing and recovery or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed passenger vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered without his consent. If the owner or representative or agent of the owner of the trespassing passenger vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed **ENTER CODE SECTION** or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

[No changes – Roy]

[Recommend deleting as repetitious all language up to the sentence beginning with, “If the owner or representative or agent...” Recommend deleting mention of \$25 instead, replacing it with reference to code section. – MIHROA]

- J. Provide, at the customer’s request, a price list indicating the maximum fees normally charged for basic services for towing, recovery and processing fees for vehicles weighing 26,000 pounds or less. If storage fees are not included in said list of charges, the list shall include a statement indicating storage fees may be additional and vary according to size and condition of vehicle, length of time vehicle is stored and other costs which may be incurred by the operator when storing the vehicle. **Keep**

[This requirement can also be satisfied with a written receipt upon request by the person reclaiming the vehicle towed or impounded. - Roy]

[Recommend deleting, “vehicles weighing 26,000 pounds or less,” and replacing with, “passenger car.” Ensure this applies only to trespass towing. – MIHROA]

- K. Have affixed on the driver’s side all of the operator’s tow trucks a tow vehicle authorization decal.

[Recommend that the BTRO create a total of four separate stickers for Class A and Class B towers and Class A and Class B public safety towers. Recommend the sticker be within close proximity of the driver’s door. – MIHROA]

- L. To display his operator’s license in a conspicuous place in the principal office in which he operates and display a copy of his operator’s license at all other locations at which fees for payment are accepted. **Possible remote language to be included.**

- M. Comply with the provisions in accordance to § 43-32 of the Code of Virginia especially as it pertains to the process of paperwork.

[New language from Roy]

24 VAC 27-30-65. Standards of practice.

Violations of a standard of practice may be subject to Board disciplinary actions or sanctions.

- A. All of an operator’s places of business, including their offices and storage facilities shall comply with any required state or local building or zoning laws or codes.
- B. If required by the locality in which the operator designates as his principle place of business, an operator must maintain a valid business license from that locality.
- C. Any operator permanently ceasing to provide towing and recovery shall immediately notify the Board in writing and return the license for voluntary suspension or revocation of license.
- D. A licensed operator must maintain the following proof of insurance; A, \$750,000 for general commercial liability, B. \$50,000 garage keeper’s liability, C. \$50,000 on hook coverage, D. worker’s compensation as required by state and federal entities. **Area of Concern – Gary – Ray-Speaker at July 10th Board meeting**

[Recommend that in item D. delete, “as required by state and federal entities,” and replace with, “for all operators and drivers licensed by the BTRO.” – MIHROA]

- E. Operators shall assure that only equipment designed and rated for the type of vehicle being transported is used. Operators shall additionally assure that at no time shall one of their tow trucks exceed the manufacturer’s gross vehicle weight rating, for a Class B Operator a **minimum of 14,500 pounds on a rollback and a minimum of 10,000 on a wrecker**, for a Class A Operator a minimum of 33,000 gross vehicle weight pounds gross vehicle weight for a wrecker and or manufacturer’s rated capacity for towing apparatus. **Area of Concern – Address later**

[Recommend that the last sentence read, “..., for a class A operator a minimum of 80,000 pounds gross vehicle weight for a wrecker and or manufacturer’s rated capacity for towing apparatus of 80,000 pounds.” – MIHROA]

- F. All tow trucks shall meet all federal Department of Transportation and applicable Virginia regulations. Towing or rollback units shall be a factory manufactured unit and only used as designed and rated to haul the vehicle being transported. Tow trucks shall be able to retain 50% of its front axle weight during towing operations. Safety chains or straps shall be used in all towing

operations with such chains or straps rated to secure the towed vehicle to the tow truck. **Area of Concern –**

[Recommend adding in last sentence, Safety chains shall be used in all towing operations with such chains rated and “tied down” to secure the towed vehicle to the tow truck. – MIHROA]

- G. ~~Any and all advertisements, promotions, offers for services or invoices shall include the operator’s name as it appears on their license, in addition to any trade or fictitious name if used by the operator.~~ Any and all advertisements, promotions, offers for services or invoices shall include the operator’s trade name as registered with the BTRO. **Area of Concern – LLC?**

[Recommend deleting the above and replacing with, “Any and all advertisements, promotions, offers for services or invoices shall include the operator’s trade name as registered with the BTRO.” – MIHROA]

- H. An operator shall be required to provide the owner of a vehicle, as defined in the Code of Virginia, with written notice of their rights to be reimbursed for towing and storage of their vehicle from the State Treasury. (46.2-1209) **Area of Concern – Stolen Vehicle ?**

[Recommend adding the code section reference – MIHROA]

- I. Operators shall be responsible for the supervision and all actions of their employees and drivers, including their compliance with laws and regulations governing towing and recovery services.

- J. An operator shall not provide a public safety tow service unless (1) authorized by the Board to provide public safety towing and recovery services, (2) providing such services under the direction and supervision of an operator authorized by the Board to provide public safety towing and recovery services, or (3) if specifically requested by law enforcement personnel to assist in an emergency situation. **Area of Concern – Move to public safety regulations**

[Recommend the deletion of this item. Recommend that public safety regulations be compiled in the public safety set of regulations. – MIHROA]

- K. Whenever a trespassing vehicle is removed or towed without the owner’s permission, notice of this action shall forthwith be given by the operator to the State Police or the local law-enforcement agency of the jurisdiction from which the vehicle was towed. Should the operator fail to report such action, it shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage. **Area of Concern – Second Signature Committee**

[Recommend the deletion of this item. Recommend the Second Signature Committee review this issue if necessary. – MIHROA]

- L. In lieu of having a trespassing vehicle removed by towing or otherwise, the licensed operator, at the request of the property’s or premise’s owner, operator, lessee or authorized agent on which the trespassing vehicle is parked may immobilize the vehicle by a boot or other device that prevents a vehicle from being moved by preventing a wheel from turning, provided that the boot or other device does not damage the vehicle or wheel. The charge for the removal of any boot or device shall not exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance. **Area of Concern – Second Signature Committee**

[Recommend the deletion of this item – MIHROA]

- M. An operator shall comply with all local ordinances or contracts, if any, with which he has entered

into an agreement or has accepted. The Board however shall not adjudicate conflicts between an operator and a locality regarding compliance with local ordinances or contracts. **Second Signature Committee**

[Recommend the deletion of this item. The BTRO should not limit its authority or involvement in local ordinances or contracts. – MIHROA]

- N. For vehicles towed or removed from private property, unless different limits are legally established by ordinance of the local governing body, an operator shall not charge a hookup and initial towing fee in excess of **eighty-five dollars \$125**. For towing a such vehicle between seven o'clock p.m. and eight o'clock a.m. or on any Saturday, Sunday, or holiday, an additional fee of **ten dollars** no more than \$25 per instance may be charged.; however, in no event shall more than two such fees be charged for towing any such vehicle. No charge shall be made for storage and safekeeping for a period of twenty-four hours or less. Except for such stated fees, no other fees or charges shall be imposed during the first twenty-four-hour period. **Area of Concern – Second Signature Committee**

[Recommend the deletion of this item. – MIHROA]

- O. No operator shall impersonate a licensed operator of a like or different name;
- P. No operator shall publish or cause to be published in any manner an advertisement that is false, deceptive, or misleading, or violates regulations of the Board governing advertising by towing and recovery operators.
- Q. No operator shall provide any towing and recovery services for vehicles of a gross vehicle weight over 26,000 pounds unless licensed as a Class A Operator.

R. No operator shall:

1. Engage in fraud or deceit in the offering or delivering of towing and recovery services.
2. Conduct his business or offering services in such a manner as to endanger the health and welfare of the public.

[Recommend no changes – MIHROA]

3. Allow any use of alcohol or drugs to the extent such use renders the operator or his drivers unsafe to provide towing and recovery services.

[Recommend no changes - – MIHROA]

4. Neglect to maintain on record at the licensed operator's principal office a list of all drivers in the employ of the operator.
5. Obtain any fee by fraud or misrepresentation.
6. Advertise directly or indirectly that which deceives, misleads, or defrauds the public.
7. Advertise or offering services under a name other than one's own name or trade name (as specified on the truck) as set forth on the operator's license.
8. One of two nationally recognized credit cards. Fails to accept for payment cash, insurance company check, certified check, money order, at least either Mastercard or VISA. **Area of Concern – Gary**

[Recommend deleting, “at least either Mastercard or VISA,” and replacing with, “at least one of two nationally recognized credit cards.” – MIHROA]

9. Fails to display at the licensed operator’s principal office in a conspicuous place a listing of all towing, recovery, and processing fees for vehicles of 26,000 pounds gross vehicle weight or less, or provide written receipt upon request.

[New language from Roy]

[Recommend replacing, “vehicles of 26,000 pounds,” to, “passenger cars.” Ensure this is for trespass towing only. – MIHROA]

10. Fails to have readily available, at the customer’s request, the maximum fees normally charged by the licensed operator for basic services for towing and initial hookup of vehicles of 26,000 pounds gross vehicle weight or less.

[Recommend replacing, “vehicles of 26,000 pounds,” to, “passenger cars.” Ensure this for trespass towing only. – MIHROA]

11. Fails to provide at the consumer’s request the phone number for which consumer complaints may be filed with the Board.

12. Knowingly charges excessive fees for towing, storage, or administrative services or charging fees for services not rendered. **Area of Concern - Charlie**

[Recommend no changes. – MIHROA]

13. Fails to maintain all towing records, which shall include itemized fees, for a period of one year from the date of service.

14. Willfully invoice for payment any services not stipulated or otherwise incorporated in a contract for services rendered between the licensed operator and any locality or political subdivision of the Commonwealth that has established a local Towing Advisory Board pursuant to § 46.2-1233.2 of the Code of Virginia.

15. ~~Employ any driver required to register as a sex offender as provided in § 9.1-901 in the Code of Virginia.~~ No operator shall employ any driver that is required to register as a sex offender as provided in § 9.1-901 in the Code of Virginia. **Area of Concern - Curtis**

[An operator shall not employ any driver that is required to register as a sex offender as provided in § 9.1-901 in the Code of Virginia. – Curtis]

[Recommend no changes. – MIHROA]

16. Remove or tow a trespassing vehicle, as provided in § 46.2-1231 in the Code of Virginia, or a vehicle towed or removed at the request of a law-enforcement officer to any location outside the Commonwealth.

17. Refuse at any operator's place of business where payment is accepted, to make change, up to \$100, for the owner of the vehicle towed without the owner's consent if the owner pays in cash for charges for towing and storage of the vehicle.

[Recommend no changes. – MIHROA]

18. Violates, assists, induces, or cooperates with others in violating any provisions of law related to the offering or delivery of towing and recovery services, including the laws and regulations governing towing and recovery services.

19. Fails to provide the owner of a stolen vehicle written notice of his right under law to be reimbursed for towing and storage of his vehicle out of the state treasury from the appropriation for criminal charges as required in § 46.2-1209 of the Code of Virginia.
Repeat of earlier section.

20. Process all paperwork on vehicles towed or impounded in accordance to the § 43-32 of the Code of Virginia. **Copy previous language.**

[New language from Roy]

STOPPED HERE 4:00 p.m.

Started Here 12:45 p.m. July 10, 2007

24 VAC 27-30-70. Operating without a license, penalties.

A. Should the Board, after investigation, determine an operator is engaged in or offering towing and recovery services without a license, as authorized by the Code of Virginia, the Board may bring an action in the name of the commonwealth to enjoin any violations of these regulations, statutes or Chapter 28 of Title 46.2. ~~on or business found to be engaged in or offering towing and recovery services without a license.~~ **Area of Concern**

[Recommend seeking out additional enforcement and penalty mechanisms for this item. – MIHROA]

B. Those found to be engaged in or offering towing and recovery services without a license may be subject to a Board imposed civil penalty of up to \$1,000 for each violation. **Area of Concern**

[Recommend seeking out additional enforcement and penalty mechanisms for this item. – MIHROA]

C. Additionally, the Board may seek criminal prosecution where the violation has occurred as provided in Section 46.2-2812 of the Code.

24 VAC 27-30-75. Expedited process to consider consumer complaints.

A. ~~With the exception of complaints related to possible harm or damage to person or property, the Board's Executive Director or his designated staff shall have the authority to attempt to address any consumer complaints submitted in writing and mailed to the Board's office. Such complaints must: (1) be in writing, (2) include the name, address and phone number of the party making the complaint, (3) clarify the nature and specifics of the complaint, and (4) what course of action would be necessary for the party making the complaint to consider it resolved. The Executive Director shall keep track and a record of all complaints against individual Operators and or Drivers and deliver the BTRO a summary review of complaints received at each meeting.~~ **Area of Concern – Ben to write policy. Cite Code and reference policy.**

The Boards executive director or designated staff shall have the authority to initiate an expedited process to mediate and resolve complaints filed against those licensed or otherwise regulated by the board according to guidelines developed by the board.

B. Anonymous complaints received by the board will be handled in accordance with board policy and guidance documents.

[If any person attempts to make an anonymous complaint against an operator or driver it shall be reviewed by the Executive Director to determine if such alleged complaint is credible. If upon review of the Executive Director the complaint is found to be credible he may elect to have the matter investigated. – Curtis]

[Recommend further review of this section and input from BTRO Policy Committee. Recommend sharing of monthly detailed complaint statistics by region, type of complaint and other areas, with board members and the public. – MIHROA]

[This should be a board policy or guidance document not regulation. Additionally, only limited information can be provided to the Board until the case is closed. – Ben]

- B. Upon receipt of such information, the Board's Executive Director or his designated staff may phone the operator, advise them of the specifics of the complaint, and provide an opportunity for the opportunity to resolve the complaint to the consumer's satisfaction. Prior to discussing the complaint with the operator, the operator shall be advised of the nature of the call, that no comments nor information presented during the expedited process may be used against the operator should the complaint result in a hearing for disciplinary action, and that attempt by the operator to resolve the complaint will not be considered as an admission of a violation. ~~Ben to add this to policy.~~

[This should be a board policy or guidance document not regulation. – Ben]

- ~~C. The Executive Director or his designated staff shall not utilize the expedited process set forth in this section if there is evidence of repeated complaints or disciplinary action by the Board involving similar allegations. Ben to add this to policy.~~

[Recommend defining the number of complaints necessary and our at the discretion of the Executive Director and the board. – MIHROA]

[This should be a board policy or guidance document not regulation. – Ben]

24 VAC 27-30-80. Prerequisites for Application for Driver's Authorization.

- A. Applicants for a Board's driver's authorization shall require

1. Provide the Board with finger prints of the applicant for the purpose of assisting the required criminal background check. Fingerprints must be submitted to the Board or its designated subordinate directly from the law enforcement agency arranging for such finger prints to be obtained. Cost of obtaining finger prints are the responsibility of the applicant. **Area of Concern – Curtis Note: Issues of /concerned were addressed by the Bylaws committee on July 10, 2007.**

[The cost incurred by the Virginia Department of State Police for a National Criminal Background Check for fingerprints shall be \$37.00. There may be an additional cost of \$10.00 or more from a local agency or whoever may be actually taking the prints for the individual. This cost does not coincide with the processing fee. – Curtis]

[Recommend further review of this section and input from BTRO Policy Committee. Recommend reviewing the eligibility of violent felons or other crimes which may be of concern to the industry. – MIHROA]

[AAA Mid-Atlantic Concerns

- Fingerprinting and criminal background checks could present an issue for the Board from a protection of personal privacy issue. Care should be given to the procedures set in place to maintain these records. It must also be made clear whether fingerprints and a background check will be obtained each year at renewal or only upon initial application.]*

2. Authorization and applicable payment for the Board to conduct a criminal background check as required by the Code of Virginia (FBI criminal background check.) Results of the background check shall be sent directly to the Board office and maintained confidentially unless its contents are used to reject or place conditions upon a driver's authorization document. **Area of Concern - Curtis**

[The Board will be billed monthly for payment of background checks. – Curtis]

Upon determination from the background check that a driver has been convicted of a sex offender crime he will be notified. The driver will be contacted by mail and advised that his application has been rejected because of a criminal conviction. It is incumbent upon the requestor to seek the reason for such rejection or to notify the Board for an appeal.

[Language addition/substitution – Curtis]

[Recommend further review of this section and input from BTRO Policy Committee. – MIHROA]

3. Possess a valid driver's license. The driver shall be required to possess a commercial driver's license if applicable to the Class of Operator the driver is to be employed or the type of tow truck to be driven. **Leave as is,**

[AAA Mid-Atlantic Concerns

- Due to the high turnover of tow and recovery drivers a process needs to be identified for temporary learner's permits to give adequate time for the operator to meet certification and licensing requirements under the regulations and to maintain proper driver resources and business continuity while obtaining the above certifications and training.]*

4. The applicant shall be required to sign a statement verifying they are not currently on any state or federal list as a sex offender.

5. Driver's authorization documents shall be valid for one year and subject to annual renewal on June 30th of each year. Driver authorization documents issued on or after April 1 of any year, with the payment of a full years fee, will be valid until June 30th of the following year. the anniversary date of the document being approved. **Area of Concern – Ben Stand as is!**

[Recommend further review by Ben Foster pending BTRO budget draft. Recommend BTRO offer multi-year discounted licenses. – MIHROA]

[Anniversary date renewal can be problematic from a financial standpoint and a nightmare should the Board require continuing education. – Ben]

24 VAC 27-30-85. Requirements for Drivers.

All drivers shall:

- A. Possess a valid and appropriate driver's license within 60 days of employment. *Area of Concern*
- B. At time of application, provide evidence that he is employed or about to be employed by a licensed operator.
- C. Promptly advise the Board of the driver's employee who shall be a licensed operator.
- D. Maintain in their possession and have readily available for inspection, when providing towing and recovery services, their Board issued driver's authorization documentation. The driver's authorization document shall include the name of the driver and the driver's appropriate driver's license number of the state in which they hold a valid driver's license.
- E. Notify the Board immediately upon the driver being convicted of an offense in which the driver is required to be included in the state or federal lists of convicted sex offenders. *Area of Concern - Charlie*

[Recommend adding to the end of the sentence, "and other offenses determined by the board. – MIHROA]

- F. Provide services in a safe manner.
- G. Review and read all regulations and laws related to standards of practice, unprofessional conduct and safety prior to operating a tow truck or providing towing and recovery services. The driver shall sign a statement to be retained by the operator who employs the driver verifying the driver's compliance with this subsection. *Area of Concern - Ben*

[This verification should be part of the driver authorization application and thus maintained by the Board. – Ben]

[Recommend no changes. – MIHROA]

- ~~H. Not lend their driver's authorization document to any person. *Area of Concern - Ben*~~

[Is this really necessary? – Ben]

[Recommend including language prohibiting impersonations. - – MIHROA]

- I. Notify the Board within 15 days of any change in licensed operator who employs the driver. The driver's authorized documentation shall, within 30 days of any change in employer, reflect the current operator or operators whom employ the driver.
- J. As may requested by the Board, return their driver's authorization document should the Board determine the driver has violated laws or regulations governing towing and recovery services. The Board shall have the authority to rescind, revoke or deny driver's authorization documentation.
- K. The Board may issue a driver's authorization document to a driver employed by a towing and recovery operator from out of state and not otherwise eligible for license providing the out of state driver provides the Board with documentation of (1) their employment by an out of state operator, (2) their completing finger print, criminal background check requirements applicable to drivers employed by a licensed operator, and (3) evidence that they are not listed in any local, state or federal listing of sex offenders. Such out of state drivers must retain a log of dates, location of pick up and delivery and the type of towing and recovery services provided for inspection and

review upon request of the Board. Out of state drivers must delivery the towed vehicles for storage at premises located in Virginia unless specified in writing in advance by the owner of the vehicle. **Area of Concern – Ron will review with Charlie and then re-write or strike.**

[Recommend further review. - – MIHROA]

24 VAC 27-30-90. Renewal of licensure; reinstatement; renewal of fees.

- A. All those licensed by the Board as a towing and recovery operator shall, on or before July 1 of every year, submit a completed renewal application and pay the prescribed annual licensure fee.
- B. It shall be the duty and responsibility of each licensee to assure that the Board has the licensee's current mailing address. All changes of mailing addresses or change of name shall be furnished to the Board within 30 days after the change occurs. All notices required by law or by these rules and regulations are to be deemed validly tendered when mailed to the address given and shall not relieve the licensee of the obligation to comply.
- C. The license of every person or business who does not reply the completed form(s) and fee(s) by August 31 of each year may be renewed for up to one year by paying the prescribed renewal fee and late fee. After August 31, a license that has not been renewed is lapsed. Engaging in towing and recovery services with a lapsed license may subject the licensee to disciplinary action and additional fines by the Board. **Area of Concern - Ben**

[Board must decide whether renewals will be staggered (anniversary date) or non-staggered. This language will be reflective of that choice. I would suggest that "late renewal" be the 30 days after expiration date on this license, and that "reinstatement" be from the 31st day through the 365th day. – Ben]

[Recommend input from Executive Director – MIHROA]

- D. An operator whose license has been lapsed for more than one year and who wishes to resume providing services as a towing and recovery operator shall apply for reinstatement. The Executive Director may grant reinstatement provided that:
 - 1. The applicant can demonstrate continued competency;
 - 2. The applicant has satisfied current requirements for continuing education for the period in which the license has been lapsed, not to exceed two years; and
 - 3. The Board may require an applicant who has allowed his license to expire and who cannot demonstrate continued competency to pass all or parts of the Board approved examinations.

~~24 VAC 27-30-95. Requirements for continuing education.~~

- ~~A. Exclusive of additional hours which may required of those recognized by the Board to provide Public Safety Towing and Recovery Services, each operator's license for renewal shall be conditioned upon submission of evidence to the Board of 16 hours of continuing education taken by the applicant during the previous license period. **Area of Concern – Roy / Ben**~~

~~*[There is no documented proof in any profession that continuing education makes a practitioner more competent or lowers disciplinary actions – Ben]*~~

~~*[One training course every three years – Roy]*~~

~~*[Recommend changing 16 hours to 12 hours education. – MIHROA]*~~

~~[AAA Mid-Atlantic Concerns~~

- ~~• The requirement for 16 hours of continuing education annually may place an undue burden on small business owners and those in rural areas. Online training should be approved to meet at least one portion of this requirement. AAA recommends that 8 hours of continuing education should be sufficient to meet the requirements of Section A. 1. and 2.]~~

- ~~1. The required hours of continuing education shall be directly related to the safe and proper rendering of towing and recovery services, proper inspection and maintenance of equipment, and laws and regulations governing towing and recovery operators.~~
 - ~~2. Courses that are offered directly by or of which a majority of their content promote the sale of specific equipment or products or on augmenting income are excluded and will not receive credit by the Board.~~
- ~~B. Each licensee shall attest to fulfillment of continuing education hours on the required annual renewal form prepared by the Board. All continuing education shall be completed prior to July 1 of each year unless an extension or waiver has been granted by the Board's Continuing Education Committee.~~

~~[Issues with dates must be worked out—Ben]~~

- ~~C. Requests to the Board for consideration of waiver, reduction in the number of hours or extension for time to complete continuing education shall be in writing and must be received by the Board no later than April 1 of the year for which such request is being made. Such requests are only to be considered when based on documented illness or undue hardship.~~

~~[Issues with dates must be worked out—Ben]~~

- ~~D. All continuing education courses shall be offered by an approved sponsor. Courses which are not offered by an approved sponsor shall not be accepted for continuing education credit.~~

~~[Who will determine whether a sponsor is approved?—Ben]~~

~~[AAA Mid-Atlantic Concerns~~

- ~~• Section D needs to clarify the requirements to become an approved sponsor.~~
- ~~• AAA offers a wide range of training including complete HTR curriculum for light duty (class B) towing, and we have fully equipped training facilities within the state. AAA is willing to assist the Board by opening its training centers to non-affiliated tow companies to participate in the ongoing HTR courses offered to AAA Associates and Independent Contractors. We also wish to have our training staff certified in any courses required by the BTRO to help ensure that AAA affiliated tow firms have prompt access to specific training related to Virginia regulations.]~~

- ~~E. At least one half of the required number of continuing education credit hours completed annually shall be through face to face instruction which requires the presenter and audience see and hear each other during the presentation.~~

~~[This requirement could present a hardship for operators in rural areas of the state thus~~

*it could be a tough sell to the Department of Planning and Budget (DPB). One of the things that DPB looks at during the regulatory process is the impact on small business.—
Ben}*

- F. Courses presented via the internet or by correspondence must be (1) sponsored by a Board approved sponsor and (2) require a post test with credit only to be granted for the licensee receiving a passing grade as indicated on the certificate of completion of the course.
- G. Licensees shall maintain documentation for a period of at least three years of the continuing education completed as required for renewal of license.
- H. At the discretion of the Board, a random audit of licensees may be conducted by the Board which will require that the licensee, within 21 days of the request, provide evidence substantiating participation in the required continuing education courses. *Area of Concern—Ben*

{The 21 day timeframe is unrealistic.—Ben}

{Recommend changing 21 days to 7 days.—MIHROA}

- I. Documentation of hours shall clearly indicate the (1) name of the sponsor of the continuing education, (2) name or title of the presentation or instruction, (3) name of instructor, (4) location instruction presented, (5) time period of instruction, (6) number of applicable continuing education hours received, (7) name of the licensee, and (8) either a signature, type of stamp or some other means to verify attendance. Documents failing to have the required information shall not be acceptable to the Board. Correspondence or internet courses shall be credited according to the date on which the post test was graded as indicated on the applicable continuing education certificate.
- J. One hour of continuing education credit shall require the licensee's presence and participation for at least 50 minutes.

{F.Y.I. There is no way to verify this for on line continuing education. A person can pay for the course and take the test without reading the material.—Ben}

- K. A licensee shall be exempt from the continuing education competency requirements for the first renewal following the date of initial licensure by examination in Virginia.