

Legislation Text

File #: 100213, **Version:** 1

Amending Section 9-605 of The Philadelphia Code, entitled "Towing," by revising the provisions governing the licensing and regulation of towers, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 9-605 of The Philadelphia Code is hereby amended to read as follows:

§9-605. Towing.

(1) Declaration of Policy. For the purposes of protecting the general welfare and public interests of the community, safe-guarding the public against fraud, discrimination, deception and similar abuses, and eliminating the [retarding] *impeding* of traffic, unnecessary street congestion, unnecessary delays and traffic hazards, the towing of vehicles disabled by collision, accident, mechanical failure or wear and tear shall be subject to supervision and administrative control pursuant to the police powers of the City.

(2) Definitions. In this Section the following definitions apply:

(a) Towing Company. Any person, partnership, corporation, fiduciary, association or other entity owning, operating or conducting the business of towing.

(b) Towing. The moving or removing or the preparation therefor of a vehicle by another vehicle for which a service charge is made, either directly or indirectly, including any dues or other charges of clubs or associations which provide towing services.

(c) Tow Truck or Towing Vehicle. A vehicle that tows, carries or removes a vehicle for a fee, charged either directly or indirectly, including any dues or other charges of clubs or associations which provide towing services, and which is classified in the following manner:

(.1) Class A tow truck, light. A Class A tow truck, light shall consist of either:

(.a) a truck chassis with a manufacturer's rated capacity of at least [eight] *ten* thousand pounds, gross vehicle weight. Mounted on the chassis must be a complete commercially manufactured crane and winch having a manufacturer's rating of at least four tons, bare drum winch capacity. The tow truck body must comply with all state laws pertaining to fenders and lighting equipment, and have an appearance similar to a commercially manufactured tow truck body. It must have at least one hundred feet of three-eighths inch cable attached to the wrecker winch, and a tow sling which must be commercially manufactured to prevent damage to a towed vehicle; or

(.b) a flat car carrier with a manufacturer's rated capacity of at least eight thousand pounds, gross vehicle weight.

(.2) Class B tow truck, medium. A Class B tow truck, medium shall consist of either:

(a) a truck chassis with a manufacturer's rated capacity of at least fifteen thousand pounds gross vehicle weight. Mounted on the chassis must be a complete twin winch, commercially manufactured crane and winch having a manufacturer's rating of at least ten tons, bare winch drum capacity. The tow truck body must comply with all state laws pertaining to fenders and lighting equipment, and have an appearance similar to a commercially manufactured tow truck body. It must have at least one hundred feet of seven-sixteenths inch cable attached to each wrecker winch, and a tow sling which must be commercially manufactured to prevent damage to a towed vehicle; or

(b) a flat bed car carrier with a rated capacity of at least fifteen thousand pounds gross vehicle weight.

(.3) Class C tow truck, heavy. A Class C tow truck, heavy shall consist of either:

(a) a truck chassis with a manufacturer's rated capacity of at least twenty-four thousand pounds, gross vehicle weight. Mounted on the chassis must be a complete twin winch, commercially manufactured crane and winch having a manufacturer's rating of at least twenty tons, bare winch drum capacity. The tow truck body must comply with all state laws pertaining to fenders and lighting equipment and have an appearance similar to a commercially manufactured tow truck body. It must have at least two hundred feet of cable on each winch, at least nine-sixteenths inch in diameter, airbrakes so constructed as to lock the rear wheels automatically upon failure, and to supply air to disabled vehicles, and a tow sling which must be commercially manufactured to prevent damage to a towed vehicle; or

(b) a flatbed carrier with a rated capacity of at least twenty-four thousand pounds gross vehicle weight.

(4) Utility tow truck, light. A utility tow truck, light, shall consist of a truck chassis of at least ten thousand (10,000) pounds, gross vehicle weight. Mounted on the chassis must be a complete commercially manufactured hydraulic crane or winch having a manufacturer's rating of at least four (4) tons. The tow truck body must comply with all state laws pertaining to fenders and lighting equipment, and have an appearance similar to a commercially manufactured tow truck body. It must have a tow sling which must be commercially manufactured to prevent damage to a towed vehicle.

(d) Disabled Vehicle. A motor vehicle which has been damaged, or rendered inoperative or unsafe to drive as the result of wear and tear, mechanical failure, collision or accident.

(e) Required Accessories. Every tow truck or towing vehicle shall maintain on board at all times, on call or idle, the following accessories as applicable:

(.1) an amber rotation beam or strobe light mounted on top of said truck or vehicle and viewable when in use from front, rear, and both sides;

(.2) flood lights on its hoist, if so equipped;

(.3) one (1) snatch block for each winch, whose manufacturer's rating matches the tow truck's or vehicle's rating;

(.4) one (1) set of scotch blocks for wheels of the metal type with tail gate chains, or

hydraulic rear extendable scotch blocks for Class B and C trucks only;

(.5) one safety tow light bar and power cord for Class C tow trucks only;

(.6) an external air hookup and hoses for Class C tow trucks only;

(.7) at least one heavy duty broom, shovel, axe and crowbar or pry bar, one pair of bolt cutters, one set of jumper cables, one flashlight, one operable fire extinguisher (ABC five pounds or larger), and one first aid kit for all classes of tow trucks.

(f) Rotation system. A method of selecting a towing company from an authorized list for the purpose of towing a vehicle from one point to another. Once an assignment is made, that towing company rotates to the bottom of the list.

(g) Solicitation. The act, at a vehicular accident scene, hospital, emergency care facilities, funeral homes or during the occurrence of police operations relating thereto, of seeking, persuading, enticing or in any way offering assistance of services relating to the towing of vehicles, which services have not been requested by the person solicited.

(h) Traffic. Pedestrians, vehicles, street cars and other conveyances, whether singly or together, using any highway, roadway or trafficway for purposes of travel.

(3) Licenses.

(a) No person shall engage in the business of towing vehicles unless that person has obtained, for each towing vehicle utilized, a license from the Department of Licenses and Inspections.

(b) No licenses shall be issued to a towing company whose business is located in any political subdivision of any State where the State or political subdivision prohibit the licensure of any Philadelphia based towing company.

(c) No license shall be issued unless the applicant:

(.1) files a complete fee schedule setting forth his charges for towing; for services incident to towing and for any other minor repair service such as tire changing that may be performed at a site with the Department of Licenses and Inspections. Such fee schedule must be certified by the Department prior to the issuance of a license and shall be updated with the Department whenever the licensee alters its fee schedule. The fee schedule may not exceed the limits established in Section 9-605(6).

(.2) submits proof of insurance to the following extent as a minimum:

(.a) per each personal injury, one hundred thousand (\$100,000) dollars;

(.b) per incident, three hundred thousand (\$300,000) dollars;

(.c) per each property damage claim, fifty thousand (\$50,000) dollars;

(.d) garage keeper's legal liability insurance, one hundred thousand (\$100,000) dollars.

(.3) accompanies each proof of insurance with a power of attorney instructing the insurance agency to notify the Department of any default or interruption of coverage for any reason, within ten business days of such default or interruption.

(.4) [upon the request of the Department] presents each vehicle to be licensed for physical inspection by the [Department of Licenses and Inspections] *Police Department*, classification as a Class A, B, or C tow truck, and compliance with the accessories requirement for each class of tow truck.

(.5) pays an annual license fee of [seventy-five (\$75)] *one hundred twenty-five* dollars (\$125) per vehicle licensed.

(.6) the insurance requirements are not required for non-commercial towers or tow trucks.

(d) Every person licensed to engage in the business of towing vehicles shall, as a condition to the retention of his license:

(.1) carry a copy of his license in each towing vehicle when in use and display the accompanying decal or medallion on each licensed towing vehicle. The decal or medallion shall bear the words "Licensed Tower", the year for which license was issued and license number. The decal or medallion shall be of the shape, size and style prescribed by the Department of Licenses and Inspections and shall be attached by [the licensee] *an agent of the City* to the vehicle or truck used in a place which is clearly visible to the public. Decals or medallions shall be used only during the year for which they are issued by the person to whom they were issued and may not under any circumstances be transferred to any person.

(.2) legibly inscribe in letters not less than one and one-half inches high on the door of every towing vehicle identification consisting of commercially painted name or business logo, address and telephone number of licensee, towing license number, the tow truck classification and, in letters not less than one inch high, a statement that a complete certified fee schedule is available from the driver.

(.3) conduct the business in accordance with this Section.

(.4) maintain current insurance coverage as required by Section 9-605(3)(b)(.2). The licensee shall be required to notify the Department of Licenses and Inspections by registered mail, if his insurance coverage has been interrupted.

(.5) carry in each towing vehicle when in use a copy of the complete fee schedule filed in accordance with Section 9-605(3)(b)(.1) and which includes the rate for a normal daytime pick-up, the per-mile charge, and any other special charges. The copy of the fee schedule must be certified by the Department of Licenses and Inspections.

(.6) conform at all times to the charges for towing and for services incident to towing as filed in accordance with Section 9-605(3)(b)(.1), or as subsequently amended, refiled with and re-certified by the Department of Licenses and Inspections.

(.7) conform at all times with provisions of the Commonwealth of Pennsylvania Motor Vehicle Code dealing with gross vehicle weight, 75 Pa. C.S.A. §4942 and §4945, brakes, 75 Pa. C.S.A. §4502 and safety features, 75 Pa. C.S.A. §4521-36 and other applicable standards relating to tow trucks and towing

vehicles.

(.8) accept credit cards and debit cards in full payment of all fees listed in the fee schedule filed in accordance with Section 9-605(3)(b)(.1), and not impose any additional fee or charge for such use of a credit card or debit card, except that a towing company that is chosen by the owner or driver of the vehicle to be towed is not required to accept credit cards or debit cards in payment of fees.

(e) Upon license renewal, the licensee's fleet may be subject to reinspection in the *same manner as* at the original application for a license.

(4) Rotation method of tow truck selection.

(a) Upon the City's establishment of a rotational towing system, no person shall engage in towing from the scene of an accident or with respect to a disabled vehicle that is either impeding traffic or on the shoulder of a limited access highway unless that person has either been selected through operation of such rotational system or has been selected or permitted to perform such tow from a state highway by the State Police.

(b) No rotational system shall be considered established until notice of its establishment shall be published in at least two newspapers of general circulation.

(c) The Police Department or Department of Licenses and Inspections may establish, with respect to towing pursuant to a rotational system, additional safety, accessory, insurance and other requirements not otherwise established pursuant to the Code.

(d) The City may charge a fee in connection with the towing of vehicles pursuant to a rotational system. City and tower fees in connection with a rotational system or non-consensual tows directed by the State Police shall be established or limited by regulation.

(e) The owner or operator of a vehicle towed pursuant to operation of a rotational system shall have the option to designate the location to which the vehicle shall be towed, within geographic limits as may be adopted in connection with the establishment of the rotational system.

(f) Solicitation, as otherwise prohibited by subsection (12), shall be cause for exclusion of a towing company from future participation in a rotational system.

(g) No person shall remove or tow a disabled vehicle when the owner or authorized operator of the vehicle is not present without first obtaining verification from the Police Department as to whether or not the vehicle has been reported stolen. If the vehicle has been reported stolen, then the towing company must comply with all of the requirements of §9-605(15).

(5) Towing Agreements.

(a) No person shall remove or tow a disabled vehicle from or to a place within the limits of the City of Philadelphia unless a towing agreement, in triplicate, has been signed by the owner of a disabled vehicle or his authorized representative, the operator of the towing vehicle, and a police officer if one is present except that when towing is being performed pursuant to an emergency service the signature of the owner of the disabled vehicle is not required.

(b) The original copy of the towing agreement shall be given to a police officer, if one is at the scene of the collision or accident, and shall be attached to the accident report.

(c) A copy of the towing agreement shall be retained by the licensee for 4 years.

(d) In the event that the owner or his authorized representative are injured in the accident or collision to such an extent that neither is able to sign a towing agreement and receive a copy of it from the operator of the towing vehicle, the Police Department shall issue a receipt to the injured person or whoever is attending him, in conformity with §8-411 of the Charter, and shall assume custody of the vehicle until the owner or his authorized representative orders its release.

(e) The towing agreement shall be on the form prescribed by the Department of Licenses and Inspections and shall include the following:

(.1) the name and address of the person owning the tow truck or vehicle, his towing license number, the registration number of the towing vehicle and a complete fee schedule of all charges on the face of the agreement with a statement that these fees are certified by the Department of Licenses and Inspections;

(.2) an authorization to remove the disabled vehicle to a bona fide garage or storage or repair station located within a reasonable distance from the scene of the accident, in conformity with the schedule of charges filed under §9-605(3)(b)(.1) and stated in the agreement;

(.3) in the case of clubs or associations whose dues or other charges include towing service, a provision that the towing is a membership service for which no charge is made for members;

(.4) a provision requiring the release of the disabled vehicle to the owner or his authorized representative upon payment of the amount due for towing and storage, if any, in accordance with the schedule of charges filed under §9-605(3)(b), or upon demand if the owner is a member of a club or association whose dues or other charges include towing service, unless the owner or his authorized representative has ordered additional work or services in connection with the disabled vehicle in accordance with the provisions of this Section;

(.5) a provision enabling the driver of the disabled vehicle, the owner thereof, the owner's authorized representative or the owner's insurance carrier to have free access to examine and inspect the disabled vehicle;

(.6) a provision limiting the scope of the towing agreement to towing and storage;

(.7) spaces as required to fill in all pertinent information on the vehicle in tow, which should include owner's name, address, year and make of vehicle and its registration number.

(f) No person shall use any form of towing agreement other than that prescribed by the Department.

(g) The towing agreement and the tower's bill shall be incorporated into one document.

(6) Charges.

(a) Charges listed in the fee schedule certified under Section 9-605(3) may be calculated by mileage, time and type of service and shall be clearly stated on the towing agreement. The maximum fee a tower may charge for towing a disabled vehicle is forty (40) dollars, and two (2) dollars per mile during normal work hours of 6:00 a.m. to 7:00 p.m. and fifty (50) dollars and two (2) dollars per mile for evenings, weekends and holidays. The maximum storage fee for a vehicle towed under this Section cannot exceed twenty-five (25) dollars per day. A day for the purposes of this Section shall be calculated on a twenty-four (24) hour basis. The limitations and requirements of this subsection 6(a) shall not apply to tows pursuant to a rotational system.

(b) Any service charged, other than towing, for a minor repair at the site cannot exceed ten (10) dollars and the cost of any replacement part.

(7) Any party who enters into an agreement for auto body or mechanical repairs for a vehicle towed under this Section shall have a seventy-two (72) hour time period from the time of signing service contract to reconsider their action and void said agreement. The party shall pay the storage charges as outlined in Section 9-605(6), and the direct charges for repairs that were performed prior to the termination of the service contract.

(8) Estimates, Repairs and Services.

(a) No towing company shall make repairs for a consideration on a disabled vehicle removed by a towing vehicle unless the owner of the disabled vehicle or his authorized representative has signed an agreement which includes an estimate of the cost of the repairs.

(b) No charge shall be made either directly or indirectly for estimating the cost of repairs.

(c) No repair order or authorization for an estimate of repairs shall be solicited or signed by the operator of any towing vehicle or repair station until the conditions of the towing agreement have been fulfilled and the vehicle has been removed to a garage, storage lot or repair shop.

(d) No tie-in agreement authorizing repairs or an estimate of repairs shall be required or solicited as a condition for towing the disabled vehicle to a garage, storage lot or repair shop.

(e) If the owner or person in charge of the motor vehicle at the time of the accident is to be hospitalized, an agreement for repairs shall not be entered into with the injured party until 48 hours have elapsed from the time of the accident, unless the injured party has been discharged from the hospital prior to the signing of the agreement.

(f) One copy of any agreement entered into pursuant to §9-605(6)(a) shall be given to the owner of the disabled vehicle or his authorized representative and one copy shall be retained by the licensee for 4 years.

(g) Except where such towing is prohibited pursuant to subsection (4), the owner or driver of any disabled motor vehicle may require the service of any available towing car and the owner or driver of any towing car shall not refuse to render such services if:

(.1) the owner or driver of the disabled vehicle is willing to pay the fee prescribed under this Section;

(.2) it is physically possible for the towing car to tow the disabled vehicle;

(.3) the towing car is not going to or returning from a towing job.

(9) Bail.

(a) No person towing disabled vehicles shall offer to secure or provide bail, or enter into an arrangement, oral or written, to secure or provide bail, or arrange for the providing of bail for any person involved in a motor vehicle collision or accident.

(b) This prohibition shall not apply to automobile clubs or associations.

(10) Gratuities and Bribes.

(a) No person shall offer or give any gratuity, bribe or inducement of any kind to any officer or employee of the City or any governmental officer or employee whose salary is paid out the City Treasury, in order to obtain towing business or recommendations for towing or storage or estimating upon or repairing disabled vehicles.

(11) Towing From Private Lots, Private Property and Driveways. Only towing companies licensed under paragraph (3) of this Section shall be permitted to tow any illegally parked vehicle from any licensed or unlicensed parking lot, from private property, from any common driveway and from in front of any driveway where the vehicle is blocking access to that driveway.

(a) No such tow is permitted unless the parking lot or private property has posted in a conspicuous place near its entry which can be easily seen by the public a sign no smaller than thirty-six (36) inches high and thirty-six (36) inches across or, for single-family residential properties, no smaller than eighteen (18) inches high and eighteen (18) inches across, *with text size no less than ten (10) percent of the size of the sign to ensure that the sign can be easily read. No such sign shall be posted unless the towing company has reported the location of the sign to the Department. The Department may by regulation detail the manner in which such reports must be filed, and may require a towing company to file an annual or other regularly updated list of all signs posted by the towing company.* The towing company is responsible for the information on the sign, which shall give notice:

(.1) That unauthorized parking is prohibited and unauthorized vehicles will be towed.

(.2) That vehicles whose authorized parking time has elapsed will be towed.

(.3) Of the name, address, and telephone number of the towing company.

(.4) Of the charges for the towing and storage of towed vehicles.

(.5) Of the place where the towed vehicle can be redeemed after paying the allowable charges *and the hours of operation.*

(.6) *That payment shall be made by cash, credit card or debit card.*

(.7) *That towing related complaints shall be reported to 3-1-1.*

(b) No towing company may charge more than [\$150]*the amounts set forth in subsections 9-605(1)*

(b)(1) through (3) for towing *and storage* of a vehicle pursuant to this subsection [9-205(11)]9-605(11). [No towing company may charge more than \$25 per day for storage of a vehicle pursuant to this subsection, up to a maximum of \$175 in total storage charges.] Neither the towing company, owner of the property from where the vehicle was towed nor any other person may charge the vehicle owner or operator any other charges, amounts or fees in connection with the towing and storage of the vehicle. The towing company or person storing such towed vehicle may not refuse to release the vehicle based on a claim to any charges in excess of the permitted amounts.

(1) *One hundred and fifty (\$150.00) dollars for the towing of vehicles or combinations under 11,000 pounds (i.e. passenger vehicles, cars, pickup trucks, SUVs, and light duty vans) and twenty-five (\$25.00) dollars for the storage of these vehicles for each twenty-four hour period or fraction thereof;*

(2) *Two hundred and twenty-five (\$225.00) dollars for the towing of vehicles or combinations at or over 11,000 pounds up to 17,000 pounds and thirty (\$30.00) dollars for the storage of these vehicles for each twenty-four-hour period or fraction thereof;*

(3) *Three hundred and thirty-five (\$335.00) dollars for the towing of vehicles or combinations at or over 17,000 pounds and sixty (\$60.00) dollars for the storage of these vehicles for each twenty-four-hour period or fraction thereof.*

(c) No towing company shall tow under this subsection unless it shall first file with the Department of Licenses and Inspections a form or agreement indicating the terms for the towing of the vehicle and such form is approved by the Department of Licenses and Inspections.

(d) No vehicle shall be *hooked, towed, or handled in any manner* under this subsection *unless the vehicle has been ticketed for a violation at the location where the vehicle is to be towed, and* until the towing company has notified the Police Department that the vehicle [is illegally parked and] is to be towed, *except that in a licensed parking lot, a vehicle may be moved to another location in the parking lot prior to ticketing.* Upon such notice, the Police Department shall determine whether or not the vehicle has been reported stolen. If the vehicle has been reported stolen, and except in the case of an immediate threat to public safety as determined by the Police, or a case where a vehicle is blocking access to a public or private driveway, no such vehicle shall be towed unless the Police have either notified, or attempted to notify, the owner of the vehicle of its recovery by calling the contact number provided to the Police at the time it was reported stolen and, unless the Police are unable to contact the owner or leave a message for the owner, or the owner elects to have the Police tow the vehicle, the owner has been given 24 hours from the time of such notification or attempted notification to recover the vehicle in lieu of the tow. If the vehicle is towed, the towing company must comply with all of the requirements of §9-605(15). Within 24 hours following the towing of the vehicle the towing company must, in writing, notify the Police Department of the vehicle's removal.

(12) Prohibited Conduct. No person shall engage in solicitation as defined in Section 9-605(2)(g) unless summoned by a party to the accident or a police officer. Nothing in this Section shall prohibit a party to an accident, or any person acting on behalf of a party, from utilizing a towing service chosen by the party.

(13) Disputes.

(a) Any dispute shall be resolved in a Court of Competent Jurisdiction.

(14) Penalties.

(a) Every person licensed to engage in the business of towing who violates any provisions of this Section or who fails to comply with any provision or term of a towing agreement shall have his towing license revoked for 90 days upon the first offense and for one year upon each succeeding offense and shall be subject to any other penalties or remedies as may be applicable pursuant to rules and regulations established in connection with the implementation of a rotational towing system.

(b) In addition to the penalties stated above, the Department or the Police Department may impound any unlicensed tow truck the owner may reclaim any impounded vehicle upon the payment of a five hundred (500) dollars impoundment fee.

(c) Any person who violates this Section shall have committed a Class III offense and be subject to the fines set forth in subsection 1-109(3) of The Philadelphia Code.

(d) In addition to the penalties stated above, any person who violates subsection 11(d) hereof shall be subject to a penalty of imprisonment for not more than ninety (90) days for each such offense.

(15) Towing Stolen Vehicles. No more than \$15 shall be charged to the owner of any vehicle to cover the City's administrative costs related to towing, storage and recovery when the vehicle has been reported stolen to the Police Department or illegally used by a person other than the owner of the vehicle, without his authorization, express or implied.

(16) No more than one hundred and five dollars (\$105) shall be charged to the owner of any vehicle to cover the costs related to towing and recovery when the vehicle has been reported stolen to the Police Department or illegally used by a person other than the owner of the vehicle, without his authorization, express or implied. This amount is inclusive of the City's \$15 administrative cost.

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SECTION 2. Effective Date. This Ordinance shall take effect sixty (60) days after it becomes law.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.