

Legislation Text

File #: 100536, **Version:** 1

Amending provisions of The Philadelphia Code relating to towing; in particular, amending Section 9-605, entitled "Towing," by revising the provisions for the licensing of towing companies; by revising the rotation system for towing certain vehicles; by providing for fines, penalties and license suspensions, and for administrative adjudication of certain violations; and by delegating the administration and enforcement of the Section to the Philadelphia Parking Authority; and amending Section 12-2406.1, relating to fees for towing and storage of immobilized or impounded vehicles; all 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 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 ten

thousand (10,000) 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] *ten* thousand (10,000) 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 (15,000) 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 (15,000) 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 (24,000) 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 (24,000) 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] *working* 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 *or stiff legs* for Class B and C trucks only;

(.5) one safety tow light bar and power cord for *Class A, Class B and Class C* tow trucks [only];

(.6) an external air hookup and hoses for *Class B and 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.

(i) *Enforcement Agency. If a Memorandum of Understanding authorized by §9-605(18) is in effect, the Philadelphia Parking Authority; otherwise, the Department of Licenses and Inspections.*

(j) *Rotational Tow Required Equipment. All of the following, provided that the Enforcement Agency may by regulation revise these requirements:*

- (.1) *Cell Phone.*
- (.2) *5 lb. Hammer.*
- (.3) *Haz Mat Guide.*
- (.4) *Green Safety Vest.*
- (.5) *Gloves.*
- (.6) *6 Road Flares (36 min.).*
- (.7) *Spill Containment System.*
- (.8) *Air Caddy (Class A tow trucks only).*
- (.9) *Oil Dry (80 lb. Bag).*
- (.10) *Rock Salt/Deicer (Winter Only).*
- (.11) *Tire Chocks.*
- (.12) *Pen and Paper.*
- (.13) *Emergency Phone Numbers.*
- (.14) *Photo ID.*
- (.15) *6 Bungee Cords.*
- (.16) *Conventional Wrecker Dolly Wheels.*

(3) *Towing Company Licenses.*

(a) No person shall engage in the business of towing vehicles unless that person [has obtained, for each towing vehicle utilized,] *possesses a current license issued by the Enforcement Agency [license from the Department of Licenses and Inspections] and, for each towing vehicle used in the business, a certificate issued by the Enforcement Agency. Such license and certificates must be renewed annually.*

(b) *Reserved.* [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 *or renewed* unless the applicant *submits an application in the form required by the Enforcement Agency, including at least the following:*

(.1) *Company name, address, phone number(s), fax number(s), and email address.*

(.2) *Name of company's owner(s) and president or chief executive officer.*

(.3) *Philadelphia business privilege license number and tax account number.*

(.4) *Name, date of birth, address, and towing operator's license number of each person who will drive a tow truck for the company.*

(.5) *List of each tow truck for which a certificate is requested, and the following information for each such truck: make, model, year, mileage, copy of state registration, and proof of insurance.*

[(.1)] (.6) [files a] *A complete fee schedule setting forth [his] the applicant's 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] Enforcement Agency prior to the issuance of a license and shall be updated with the [Department] Enforcement Agency whenever the licensee alters its fee schedule. The fee schedule [may not exceed the limits established in Section 9-605(6)] shall comply with any maximum fees established by this Section.*

[(.2)] (.7) [submits proof] *Proof of insurance to the following extent as a minimum, or in such other amount as set forth in regulations issued b the Enforcement Agency:*

(.a) per each personal injury, [one hundred thousand (\$100,000) dollars] *two*

hundred thousand dollars (\$200,000);

(b) per incident, [three hundred thousand (\$300,000) dollars] five hundred thousand dollars (\$500,000);

(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)] (.8) [accompanies each] For each proof of insurance [with] submitted, a power of attorney instructing the insurance agency to notify the [Department] Enforcement Agency of any default or interruption of coverage for any reason, within [ten] five business days of such default or interruption.

(.9) Certification by the applicant that the company is not delinquent in the payment of any taxes or fees due to the City or in the payment of any fines imposed for any violation of this Code or any regulation promulgated under this Code, and that there are no delinquent, unpaid parking tickets issued to any vehicle used or to be used by the company, nor any delinquent, unpaid fines payable to Philadelphia Traffic Court with respect to any such vehicle.

(.10) Payment of an application fee of five hundred dollars (\$500.00) or, in the case of license renewal, payment of an annual renewal application fee of three hundred dollars (\$300.00).

(d) After receipt of a completed application, and if the Enforcement Agency determines that all requirements for issuance or renewal of the license have been met, the Enforcement Agency shall so notify the applicant and schedule an inspection of each vehicle for which a certificate is requested. Before any vehicle is inspected, the applicant shall pay an inspection fee of one hundred dollars (\$100.00) per vehicle. Such inspection shall determine whether such vehicle meets all requirements to be classified as a Class A, Class B or Class C tow truck. If a vehicle passes inspection, then the Enforcement Agency shall, upon payment of the annual certificate fee, issue a certificate for that vehicle and a decal to be displayed in accordance with subsection (3)(e)(.1), and the certificate and decal shall remain valid until the date of the next required state inspection of the vehicle. A certificate may be renewed annually if the vehicle passes inspection by the Enforcement Agency, provided the towing company has renewed the license for the towing business. The annual fee for issuing a certificate shall be one hundred (\$100.00) dollars per vehicle, except that for the first

year a certificate is issued for a vehicle, the fee shall be reduced in proportion to the number of months remaining until the date of the next required state inspection of the vehicle. If a vehicle does not pass inspection, the applicant may request a reinspection, for which a reinspection fee of seventy-five (\$75.00) dollars shall be required. Any subsequent reinspection fee for the same year shall be one hundred and fifty (\$150.00) dollars.

[(.4) presents each vehicle to be licensed for physical inspection by the 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 one hundred twenty-five (\$125) dollars per vehicle licensed.]

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

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

(.1) [carry a copy of his license in each towing vehicle when in use and] display [the accompanying] *a* decal [or medallion] on each [licensed] towing vehicle *for which a certificate has been issued*. The decal [or medallion] shall bear the words “Licensed [Tower] *Towing Company*”, the year for which [license] *the certificate* was issued and [license] *the certificate* number. The decal [or medallion] shall be [of the shape, size and style prescribed by the Department of Licenses and Inspections] *issued by the Enforcement Agency* and shall be attached by an agent of the [City] *Enforcement Agency* 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. *If a decal is damaged or stolen, a replacement decal may be obtained from the Enforcement Agency for fifty (\$50.00) dollars.*

(.2) legibly inscribe, *in a permanent manner and* in letters not less than one and one-half inches high [on the door] *on both sides* of every towing vehicle, identification consisting of commercially painted name or business logo, address and telephone number of licensee, [towing license] *certificate* 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] *Enforcement Agency* by registered mail, if [his] *the licensee's* insurance coverage has been interrupted, *within five business days of such interruption.*

(.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)](c)(.6) 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] *Enforcement Agency*.

(.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)](c)(.6), or as subsequently amended, refiled with and re-certified by the [Department of Licenses and Inspections] *Enforcement Agency*.

(.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 *and insurance company checks* in full payment of all fees listed in the fee schedule filed in accordance with Section 9-605(3)[(b)(.1)](c)(.6), and not impose any additional fee or charge for such use of a credit card or debit card *or insurance company check*, 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.

(.9) *notify the Enforcement Agency in writing of any change in the information required by subsection 9-605(3)(c), within five business days of such change.*

(.10) *comply with any regulations issued by the Enforcement Agency setting forth standards for premises at which vehicles are stored to ensure the safeguarding of vehicles and their contents*

while stored.

(.11) not use or maintain in any tow truck or other facility a radio receiving set or any other device capable of receiving signals or messages transmitted on the frequencies allocated for police or rescue.

(.12) not give or offer any payment, fee, reward, or other thing of value, directly or indirectly, for supplying information concerning a disabled vehicle which may require towing service, which information is or may be used to solicit the towing or repair of such vehicle.

(.13) maintain such records, ledgers, receipts, bills and other written records as the Enforcement Agency may prescribe by regulation, and make them available for inspection by the Enforcement Agency upon request.

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

(3.1) Towing Operator's License.

(a) No person shall drive or otherwise operate a tow truck engaged in the business of towing unless that person possesses a current towing operator's license issued by the Enforcement Agency. Such license must be renewed annually.

(b) No towing operator's license shall be issued or renewed unless the applicant submits an application in the form required by the Enforcement Agency, including at least the following:

(.1) Name, home address, phone number, cell phone number, email address (if any), date of birth.

(.2) Current driver's license number.

(.3) Name and towing company license number of the towing company for whom the applicant works, if any.

(.4) Two recent and clear photographs of the applicant, in the type and size required for passports.

(.5) A list of all cases in which the applicant has been finally convicted, plead guilty or plead nolo contendere, or in which the applicant is actively under Accelerated Rehabilitative Disposition,

for any violation of Chapter 71 of the Pennsylvania Vehicle Code (Vehicle Theft and Related Provisions), or for any violation of 18 Pa.C.S. §2702 (aggravated assault) if such violation was committed against a police officer or such other officer, agent, employee or other person as is enumerated at 18 Pa. C.S. §2702(c).

(.6) A list of all traffic citations received within the previous ten years, other than citations which were dismissed.

(.7) Whether the applicant is required to register as a Sexual Offender under Pennsylvania law, 42 Pa.C.S. §9791 et seq. (Registration of Sexual Offenders).

(c) After receipt of a completed application, and if the Enforcement Agency determines that all requirements for issuance or renewal of the towing operator's license have been met, the Enforcement Agency shall so notify the applicant, and upon the applicant's payment of the license or renewal fee of fifty dollars (\$50.00), the Enforcement Agency shall issue or renew the license. The Enforcement Agency shall refuse to issue the license if the applicant has ever been finally convicted, plead guilty or plead nolo contendere, or if the applicant is actively under Accelerated Rehabilitative Disposition, for any violation of Chapter 71 of the Pennsylvania Vehicle Code (Vehicle Theft and Related Provisions) or for any violation of 18 Pa.C.S. §2702 (aggravated assault) if such violation was committed against a police officer or such other officer, agent, employee or other person as is enumerated at 18 Pa.C.S. §2702(c). The Enforcement Agency shall refuse to issue the license if the applicant is required to register as a Sexual Offender under Pennsylvania law, 42 Pa.C.S. §9791 et seq. (Registration of Sexual Offenders). The Enforcement Agency may refuse to issue the license if it determines that the applicant's traffic citations, as required to be disclosed under subsection 9-605 (3.1)(b)(.6), render the applicant unfit to perform the activities for which the license is required, based on the nature and seriousness of the conduct, the amount of time that has passed since the citations were issued, and the applicant's age at the time of the issuance of the citations.

(d) Every holder of a towing operator's license shall, as a condition of the retention of the license:

(.1) Notify the Enforcement Agency in writing of any change in the information required by subsection 9-605(3.1)(b), within five business days of such change.

(.2) Carry the towing operator's license when driving or operating a tow truck.

(3) *Notify the Enforcement Agency promptly upon discovering the towing operator's license has been lost. The Enforcement Agency shall reissue the license upon payment of a reissuance fee of twenty dollars (\$20).*

(4) *Surrender the towing operator's license to the Enforcement Agency if a driver's license issued to the holder of the towing operator's license has been suspended or revoked.*

(.5) *Not permit any other person to use the towing operator's license.*

(e) *The Enforcement Agency may, after notice and hearing, suspend or revoke a towing operator's license for violations of this Section, or based upon any new convictions or traffic citations that would be grounds for the Enforcement Agency denying the issuance of the license, or based upon the suspension or revocation of a driver's license (or any other license to operate a motor vehicle) issued to the holder of the towing operator's license. License suspension and revocation shall be in addition to any fine that may be imposed for violations of this Section or any regulations issued under this Section.*

(4) *Rotation method of tow truck selection.*

(a) *[Upon the City's establishment of a rotational towing system, no] 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] the rotational system established under this subsection, or has been selected or permitted to perform such tow from a state highway by the State Police.*

(b) *The Enforcement Agency shall compile a list of approved, licensed towing companies for the rotation list. No towing company shall be eligible for the rotation list if it is located in any political subdivision of any State where the State or political subdivision prohibits a Philadelphia based towing company from being on a rotation list or participating in a similar program. To be included on the list, a licensed towing company shall submit an application in the form required by the Enforcement Agency, including at least the following:*

(.1) *Evidence of a current license issued by the Enforcement Agency, and a current certificate for each tow truck to be used in the rotational towing program.*

(.2) *Certification that all of the equipment listed in subsection (2)(j) ("Rotational Tow*

Required Equipment”) is provided for each such tow truck.

(3) Certification that the applicant has received a copy of the written rules for participation in the rotational towing program promulgated under subsection (4)(d).

(4) If the Enforcement Agency has established geographic zones for the rotational towing program, a list of the geographic zones for which the applicant seeks to provide towing services.

(5) Payment of an annual application fee of one hundred and fifty (\$150.00) dollars.

(c) Upon receipt of a completed application and a determination that the applicant is a licensed towing company, the Enforcement Agency shall add the applicant to the list of towing companies approved for rotational towing.

(d) The Enforcement Agency shall promulgate regulations governing towing companies who participate in the rotational towing program, which regulations shall include at least the following provisions:

(.1) A towing company must respond on a 24-hour basis, and may not refuse more than a specified number of assignments within a specified period of time.

(.2) A tow truck must arrive at the requested location within 20 minutes from the time the towing company was contacted by the Enforcement Agency.

(.3) The towing company must tow the vehicle to a facility designated by the Enforcement Agency, except that the vehicle owner or operator may otherwise direct the towing company as to the location to which the vehicle shall be towed, within such geographic limits as the Enforcement Agency shall specify.

(.4) The towing company must provide the vehicle owner or operator with a form published by the Enforcement Agency explaining the vehicle owner or operator’s rights, and setting forth the location to which the vehicle will be towed.

(.5) The towing company must perform a reasonable clean-up at the scene, such as the removal of significant pieces of debris resulting from the accident.

(.6) The towing company must have equipment appropriate for towing, including at least one flat-bed truck suitable for removing accident vehicles;

(.7) To be included on the list for rotational towing, neither the towing company nor

any related company may have had its towing company license revoked at any time during the preceding 2 year period, and the towing company must possess a satisfactory record with regard to the operation of a towing business as determined by the Enforcement Agency based upon records of violations of this Section. For purposes of this subsection, a “related company” is any parent or subsidiary of a towing company, or any other entity in which a controlling interest is held by a person who holds a controlling interest in the towing company.

(.8) A towing company must comply with all provisions of this Section, any regulations promulgated under this Section, and all applicable law in the conduct of its business.

(e) The regulations promulgated under subsection (4)(d) shall also specify those violations for which a towing company may be suspended from the rotational list and the length of such suspensions. Such suspension from the rotational list shall be in addition to any other penalty for such violation imposed under subsection (16).

(f) The Enforcement Agency shall promulgate written procedures for how the rotational tow program will operate. Such procedures shall, at the least, provide for the maintenance of a list of approved towing companies, or for a list of approved towing companies for each of specified geographic zones of the City, and for towing assignments to be made sequentially to all towing companies on the rotational list.

(g) Each licensed towing company on the approved list for the rotational towing program shall maintain accurate records of all towing services provided in response to request from the Enforcement Agency, on forms prescribed by the Enforcement Agency. The licensee’s books and records pertinent to such requested towing services shall be made available to the Enforcement Agency for inspection upon request.

(h) Notwithstanding any other provision of this Section other than subsections (15) and (16) (relating to towing of stolen vehicles), the following towing and storage fees shall apply with respect to vehicles towed under the rotational towing system (the listed towing fees include the Enforcement Agency’s fifteen dollar (\$15) administrative fee):

Weight of vehicle	Towing fee	Storage fee (per 24 hour day)
Under 11,000 pounds	\$175	\$25
11,000 to 17,000 pounds	\$250	\$40
Over 17,000 pounds	\$360	\$75

Storage fees shall be accrued for each twenty-four hour day.

(i) For each tow provided under the rotational towing system, the Enforcement Agency shall charge an administrative fee of fifteen dollars (\$15). If a vehicle has been towed to a facility owned or operated by the Enforcement Agency, so that the towing and storage fees are paid to the Enforcement Agency, then the Enforcement Agency shall deduct its administrative fee before remitting the balance of the towing fee to the towing company. The Enforcement Agency may establish a procedure to remit such fees to towing companies on a monthly or other periodic basis. If a vehicle has been towed to some other destination at the request of the owner or operator of the vehicle, so that the towing and storage fees are not paid to the Enforcement Agency, then the towing company shall remit the administrative fee to the Enforcement Agency on a monthly or other periodic basis specified by the Enforcement Agency.

[(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)] (i) 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] *Except for towing pursuant to subsection (4) (rotational towing system), 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] the owner's 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]. *The operator of the towing vehicle shall give a copy of the towing agreement to the operator of the vehicle, if present, prior to moving the vehicle.*

(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.] *Reserved.*

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

(.1) the name and address of the [person owning the tow truck or vehicle] *towing company*, [his] *the towing company's towing company* 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] *Enforcement Agency*;

(.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] *tow*, 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] *the owner's* 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] *the owner's* 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 *stating the location where the disabled vehicle will be stored and* 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] *Enforcement Agency*.

(g) The towing agreement and the [tower's] *towing company'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] *towing company* 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] *sixty dollars (\$60) and three dollars (\$3) per mile*. 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] *Other than towing and storage, no charge may be made other than for minor repairs at the site, which shall be limited to ten dollars (\$10) 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] *the owner's* 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] *the owner's* 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] *tow truck* and the owner or

driver of any [towing car] *tow truck* 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] *tow truck* to tow the disabled vehicle;

(.3) the [towing car] *tow truck* 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 the *Enforcement Agency*, 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, *and provided that such towing companies must have the prior written permission of the owner or other person in lawful possession of the property, or of a designated agent of such person, prior to towing from or in front of such property. A towing company shall retain on file all written permissions required by this Section.*

(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 of *sufficient* 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] *Enforcement Agency*. The [Department] *Enforcement Agency* 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 the amounts set forth in subsections 9-605(11)(b)(1) through (.3) for towing and storage of a vehicle pursuant to this subsection 9-605(11). 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 *seventy-five* (\$175.00) [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 *fifty* (\$250.00) [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)] *forty* (\$40.00) dollars for the storage of these vehicles for each twenty-four-hour period of fraction thereof;

(.3) Three hundred and *sixty* (\$360.00) [thirty-five (\$335.00)] dollars for the towing of vehicles or combinations at or over 17,000 pounds and [sixty (\$60.00)] *seventy-five* (\$75.00) 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.] *Reserved.*

(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 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] *Before issuing such a ticket*, 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] *one hour* following the towing of the vehicle the towing company must, in writing, *or in such other manner as the Enforcement Agency may permit or require*, 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] *Except as otherwise specified in subsection 4(a)*, *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) *Reserved.* [Disputes.]

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

(14) [Penalties] *Enforcement.*

[(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)] (a) [In addition to the penalties stated above, the Department] *The Enforcement Agency* 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. *Such impoundment fee shall be in addition to any fines or civil penalties set forth in this Section.*

[(c)] (b) [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.] *Fines, Civil Penalties, and License Suspension.*

(.1) *Violations of this Section and any regulations promulgated under this Section shall be subject to the following civil penalties and license suspensions:*

<i>Violation</i>	<i>Civil Penalty - License suspension</i>
<i>Refusing excessive number of assignments (§9-605(4)(d)(.1))</i>	<i>\$100</i>
<i>Failure to appear within 20 minutes (§9-605(4)(d)(.2))</i>	<i>\$100</i>
<i>Improper maintenance of accident site (§9-605(4)(d)(.5))</i>	<i>\$100</i>
<i>Expired truck registration, inspection, or tow license (§9-605(3)a)</i>	<i>\$500</i>
<i>Failure to maintain proper equipment (§9-605(3)(e)(.9))</i>	<i>\$100</i>
<i>Illegal solicitation of work (§9-605(12))</i>	
<i>First offense</i>	<i>\$500</i>
<i>Second offense</i>	<i>\$1,000</i>
<i>Third offense</i>	<i>\$1,000 and six months license suspension</i>
<i>Fourth offense</i>	<i>\$1,000 and one year license suspension</i>
<i>Towing from private lot, private property or driveway without required ticketing of vehicle (§9-605(11)(d))</i>	
<i>First offense</i>	<i>\$500</i>

<i>Second offense</i>	<i>\$1,000</i>
<i>Third offense</i>	<i>\$1,000 and six months license suspension</i>
<i>Fourth offense</i>	<i>\$1,000 and one year license suspension</i>
<i>Failure to accept credit/debit card (§9-605(3)(e)(.8))</i>	
<i>First offense</i>	<i>\$175</i>
<i>Second offense</i>	<i>\$250</i>
<i>Third offense</i>	<i>\$1,000 and six months license suspension</i>
<i>Fourth offense</i>	<i>\$1,000 and one year license suspension</i>
<i>Failure to report vehicle towing (§9-605(11)(d))</i>	<i>\$500</i>
<i>Failure to maintain proper records (§9-605(4)(g))</i>	<i>\$500</i>
<i>All other violations</i>	<i>\$300</i>

[(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.]

(d) Administrative Adjudication.

(.1) Any duly authorized employee of the Enforcement Agency, and any other person authorized to enforce ordinances, may issue a ticket to any person in violation of this Section, pursuant to the procedures set forth in §10-1606. Contested charges shall be resolved, fines shall be imposed, and payments shall be collected and processed by the Director of Finance and the Bureau of Administrative Adjudication, all pursuant to the procedures set forth in §§10-1604 through 10-1609. The ticket shall contain an appropriate notice to the recipient of his or her right not to contest the violation and appropriate instructions and procedures for payment, as prescribed by the Director of Finance.

(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] *the owner’s* 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] *the owner’s*

authorization, express or implied. This amount is inclusive of the City's \$15 administrative cost.

(17) Private Rights of Action.

(a) Any person who is charged fees by a towing company in excess of the fees set forth in the fee schedule filed pursuant to subsection [(3)(c)(.1)] (3)(c)(.6), or in excess of the maximum fees set forth in subsections (6), (11)(b) or (15), *or whose vehicle is towed other than in circumstances authorized by this Section or otherwise authorized by law*, shall have a right of action against such towing company in a court of competent jurisdiction, and may recover for each such violation:

- (i) Actual damages;
- (ii) Exemplary damages of \$2,000;
- (iii) Reasonable attorney's fees and court costs;
- (iv) Such other relief, including injunctive relief, as the court may deem appropriate.

(b) The right of action provided in subsection 9-605(17)(a) shall not apply to fees regulated by subsections (3)(c)(.1) or (6)(a) to the extent that those subsections provide for limits on towing charges to persons who contract for towing of a vehicle that they own or otherwise legally control, to be towed with their consent.

(c) Nothing in this subsection shall limit the right of an aggrieved person to recover damages under any other applicable law or legal theory, nor shall it limit the right of the City to seek license suspension, penalties, or other remedies for violations of this Section 9-605, except that any penalty imposed by the City for a violation of this Section shall be reduced by the amount of exemplary damages, if any, finally awarded pursuant to subsection (17)(a)(ii) for the same violation.

(18) *Delegation of Administration and Enforcement to the Philadelphia Parking Authority; Effective Date.*

(a) *The Mayor and such other appropriate officers as the Mayor designates are authorized, on behalf of the City, to enter into a Memorandum of Understanding with the Philadelphia Parking Authority ("Parking Authority") under which the Parking Authority will administer and enforce all provisions of this Section 9-605. Such Memorandum of Understanding shall detail the financial arrangements between the City and the Parking Authority with respect to the Parking Authority's assumption of such powers and duties.*

(b) Upon execution of the Memorandum of Understanding, the power and duty to administer and enforce all provisions of this Section 9-605 is delegated to the Parking Authority.

SECTION 2. Section 12-2406.1 of The Philadelphia Code is hereby amended to read as follows:

§12-2406.1. Fees and Charges.

(1) Fees shall be assessed to cover the costs of immobilization and/or impoundment of any vehicle or combinations immobilized or impounded pursuant to the provisions of this Chapter or other provisions of law:

(a) A one hundred and fifty (\$150.00) dollar boot fee and/or a one hundred and *seventy-five* (\$175.00) [fifty (\$150.00)] dollar towing and removal fee for vehicles or combinations under 11,000 pounds; and

(b) A one hundred and fifty (\$150.00) dollar boot fee and/or a two hundred and *fifty* (\$250.00) [twenty-five (\$225.00)] dollar towing and removal fee for vehicles or combinations at or over 11,000 pounds up to 17,000 pounds; and

(c) A one hundred and fifty (\$150.00) dollar boot fee and/or a three hundred and *sixty* (\$360.00) [thirty-five (\$335.00)] dollar towing and removal fee for vehicles or combinations at or over 17,000 pounds.

(2) Storage charges for the storage of any vehicle or combination impounded under the provisions of the Chapter or other provisions of law shall be calculated:

(a) At the rate of *twenty-five* (\$25.00) [eighteen (\$18.00)] dollars for each twenty-four hour period or fraction thereof, for the first five (5) days of impoundment, and *twenty-five* (\$25.00) [eighteen (\$18.00)] dollars for each twenty-four (24) hour period or fraction thereof thereafter for vehicles under 11,000 pounds; and

(b) At the rate of *forty* (\$40.00) [thirty (\$30.00)] dollars for each twenty-four hour period or fraction thereof, for vehicles at or over 11,000 pounds up to 17,000 pounds; and

(c) At the rate of *seventy-five* (\$75.00) [sixty (\$60.00)] dollars for each twenty-four hour period or fraction thereof, for vehicles at or over 17,000 pounds.

(3) The foregoing charges shall not be assessed against the owner of any vehicle taken into custody

by the Department in the course of a criminal investigation, except that such charges shall be assessed if:

(a) The vehicle is not reclaimed within twenty-four (24) hours of notice to reclaim the vehicle; or

(b) The owner of the vehicle is arrested and charged with an offense related to such investigation; provided, however, that, if the owner is acquitted of all charges, or all charges are dropped, the owner shall have the right to reimbursement of such fees.

(4) Notwithstanding the foregoing, no more than \$15 shall be charged to the owner of any vehicle taken into custody by a [private tower] *towing company* on behalf of the Department 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.

(5) No vehicle towed to an Official Towing Station shall be released to its owner, lienholder or anyone claiming a right of possession until all outstanding fees, charges and fines are paid. Any person who disputes the validity or the amount of such fees, charges or fines may demand an expedited hearing pursuant to §12-2406; except that, for vehicles towed pursuant to provisions of law other than this Chapter, such hearing may only be had after the Police Department determines the vehicle is available to be reclaimed, and the only issue at such hearing shall be the validity and amount of the fees, charges and fines. Prior to such determination, a vehicle may only be reclaimed pursuant to Police Department regulations or to the Rules of Criminal Procedure.

(6) 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.

(7) No towing company may charge more than eighteen (\$18) dollars per day for storage of a vehicle that has been reported stolen by its owner to the Police Department, or illegally used by another person other than the owner of the vehicle, without his authorization, express or implied, up to a maximum of one hundred seventy-five (\$175.00) dollars in total storage charges.

SECTION 3. This Ordinance shall take effect May 1, 2011, except with respect to the amendments to §9-605(4) of The Philadelphia Code (“Code”) relating to the rotation method of tow truck selection. The amendments to §9-605(4) shall take effect upon a date (the “Transition Date”) designated by regulation of the Enforcement Agency (as defined in §9-605(2) of the Code, as amended by Section 1). Before the Transition Date, the Enforcement Agency shall promulgate all regulations necessary for administration and enforcement of §9-605(4) (as amended by Section 1), and shall compile an initial list of approved towing companies for the rotational tow program, following the procedures set forth in §9-605(4), as amended. The Enforcement Agency shall mail written notice of the Transition Date to each towing company licensed under §9-605 at least two weeks before the Transition Date. Until the Transition Date, the rotational tow program shall continue to be governed by the provisions of §9-605(4) of the Code as it existed before the amendments set forth in Section 1, and any regulations promulgated under those provisions.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.