

**16 GCA VEHICLES
CH. 12 TOW TRUCKS**

**CHAPTER 12
TOW TRUCKS**

SOURCE: Chapter 12 added by P.L. 23-144:3 (Jan. 2, 1997).

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§ 12101. Definitions.

As used in this Chapter:

(a) Director means the Director of the Department of Revenue and Taxation.

(b) Lien, as defined in § 35101 of Title 18, Guam Code Annotated, means a charge imposed in some mode other than by a transfer in trust upon specific property by which it is made security for the performance of an act.

(c) Tow truck means a motor vehicle constructed, designed, altered, or equipped primarily for the purpose of towing or removing vehicles from a highway by means of a crane, hoist, tow bar, tow line, dolly, sling, wheel-lift, flatbed or other means as approved by the Division of Motor Vehicles of the Department of Revenue and Taxation.

(d) Tow truck business means any sole proprietorship, corporation, limited liability company, partnership, joint venture or other form of business entity engaged in the business of providing tow truck services.

(e) Tow truck service means the recovery of a vehicle or the transportation on a highway of damaged, disabled, abandoned, seized, or impounded vehicles by a tow truck.

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(f) Vehicle condition report means a report completed by a person operating a tow truck and performing a tow truck service, which documents the condition of the vehicle on which such service is performed, including comprehensive notes, diagrams and photographic evidence, either analog or digital, to establish the condition of a vehicle and any damage thereto when such vehicle is taken into custody of the tow truck business.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997). Subsection (d) amended by P.L. 32-092:3 (Nov. 27, 2013). Subsection (f) added by P.L. 32-092:4 (Nov. 27, 2013).

2014 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 12102. Tow Truck Business Requirements.

A person who operates a tow truck business shall:

(a) comply with equipment requirements under § 12103 of this Chapter;

(b) ensure that all his tow truck drivers are properly:

(1) trained to operate tow truck equipment; and

(2) licensed, as required under Article 1, Chapter 3, of this Title; and

(c) obtain and display a current certificate of inspection for each tow truck, as required under § 12103 of this Chapter.

(d) obtain a service license as required by § 16200 of the Government Code of Guam pertaining to the issuance of a business license.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997).

2013 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 12103. Department of Revenue and Taxation Duties; Inspections; Equipment Requirements; Rule Making.

(a) (1) The Department of Revenue and Taxation shall conduct inspections of tow trucks to ensure compliance with the Federal Motor Carrier Safety Regulations and the provisions of this chapter.

(2) Each inspection of a tow truck shall be conducted prior to the tow truck beginning operation and at least every quarter thereafter.

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(3) (A) The Department of Revenue and Taxation shall issue a certificate of inspection for each tow truck that complies with the provisions of this article.

(B) The inspection certificate shall expire one quarter from the month of issuance.

(4) The Department of Revenue and Taxation may charge a fee to cover the cost of the inspection required under this section, subject to the Administrative Adjudication Act,

(b) The Department of Revenue and Taxation shall promulgate rules specifying the equipment required to be carried on each tow truck, including limits on loads that may be moved based on equipment capacity and load weight. The rules shall be adopted in conformance with the Administrative Adjudication Act.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997).

2014 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme pursuant to the authority granted by 1 GCA § 1606.

§ 12104. Towing Notice Requirements; Cost Responsibilities.

(a) Unless a vehicle is impounded under § 3606 of Article 6, Chapter 3 of this Title 16, after performing a tow truck service, the person operating the tow truck business shall:

(1) complete a vehicle condition report, as defined in § 12101(f) of this Chapter;

(2) within one (1) hour of arriving at the place of storage or impound of the vehicle, contact the law enforcement agency having jurisdiction over the area from which the vehicle was towed and notify the agency of the:

(A) location of the vehicle;

(B) date, time, and location from which the vehicle was removed;

(C) reasons for the removal of the vehicle;

(D) person who requested the removal of the vehicle; and

(E) vehicle's description, including its identification number and license number; and

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(3) within seven (7) days of performing the tow truck service, make reasonable efforts via phone call to the last known phone number of the legal owner, registered owner, vehicle insurer and lienholder (obtained from the DRT Division of Motor Vehicles) and send a certified letter to the last known address of the legal owner, registered owner, vehicle insurer and lienholder, where applicable, of the vehicle (obtained from the DRT Division of Motor Vehicles), notifying them of the:

- (A) location of vehicle;
- (B) date, time, and location from which the vehicle was removed;
- (C) reasons for the removal of the vehicle;
- (D) person who requested the removal of the vehicle;
- (E) vehicle's description, including its identification number and license number;
- (F) costs and procedures to retrieve the vehicle; and
- (G) a copy of the vehicle condition report required by Subsection (a)(1) of this Section.

(4) For purposes of this Section, the Division of Motor Vehicles shall, upon the presentation of a declaration made under penalty of perjury that a vehicle has been towed and taken into the possession of a tow truck business, provide tow truck businesses with the last known address and telephone numbers of the legal owner, registered owner, vehicle insurer, and lienholder, where applicable, of the vehicle in question. The tow truck business shall furnish the Division of Motor Vehicles with a copy of the notice sent pursuant to Subsection (a)(3) of this Section within seven (7) days via certified mail after the release of the addresses of the legal owner, registered owner, vehicle insurer and lienholder, where applicable.

(b) (1) The legal owner, registered owner, insurer or lienholder seeking the release of a vehicle that is lawfully towed is responsible for paying the towing, impound, and storage fees incurred by the tow truck business in towing, impounding, and storing such vehicle in order to obtain its release; provided, however, that if the tow truck business has failed to comply with the requirements of Subsection (a)(3) and

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Subsection (d) of this Section, all such fees shall be forfeited, and the vehicle shall be delivered to said legal owner, registered owner, or lienholder immediately upon demand.

(2) Any tow truck business or other person responsible for or authorizing the towing, impounding or storage of a vehicle relative to this Section, but failing to comply with Subsection (a)(3) and Subsection (d) of this Section shall be guilty of a misdemeanor, and shall be liable to the legal owner, registered owner, insurer or lienholder, where applicable, of said vehicle for an amount equal to three (3) times the damages incurred by them as a consequence of said failure, together with their costs of the suit and reasonable attorneys' fees.

(c) A tow truck business which has towed a vehicle shall be liable for the cost of repair or replacement, as applicable, of the vehicle if the vehicle is damaged, destroyed or lost while in the custody of such tow truck business. Such tow truck business shall not be responsible for damage that occurred prior to the time of towing and documented by the vehicle condition report required by Subsection (a)(1) of this Section.

(d) After performing a tow truck service of a vehicle bearing the logo of the company of ownership, including, but not limited to, rental car businesses and car dealerships, the person operating the tow truck business shall within one (1) hour of arriving at the place of storage or impound of the vehicle, contact the company to which the vehicle belongs via phone call notifying it of the:

- (1) location of vehicle;
- (2) date, time, and location from which the vehicle was removed;
- (3) reasons for the removal of the vehicle;
- (4) person who requested the removal of the vehicle;
- (5) vehicle's description, including its identification number and license number;
- (6) costs and procedures to retrieve the vehicle; and
- (7) a copy of the vehicle condition report required by Subsection (a)(1) of this Section.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997), and amended by P.L. 32-092:5 (Nov. 27, 2013), effective 120 days after enactment. Subsection (a) amended by P.L.

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33-127:1 (Mar. 4, 2016). Subsection (b) amended by P.L. 33-127:2 (Mar. 4, 2016). Subsection (d) added by P.L. 33-127:3 (Mar. 4, 2016).

2016 NOTE: Subitem designations were added by the Compiler in subsection (b) and (c) pursuant to authority granted by 1 GCA § 1606.

2014 NOTE: The amendment made by P.L. 32-092:9 (Nov. 27, 2013) would become effective 120 days after enactment. Within thirty (30) days of enactment, DRT was required to issue notices to all towing companies licensed on Guam. DRT was further required to deliver to the Speaker of the Guam Legislature, a list of the towing companies that were sent notices of this law and copies of said notice.

§ 12105. Tow Truck Advisory Board.

(a) The Director shall appoint a tow truck advisory board consisting of not less than seven nor more than nine members who shall serve for a term of three years. The membership of the board shall include, but need not be limited to, representatives of the tow truck industry, motor or automobile club industry, the automobile rental and leasing association, law enforcement agencies, and local government consumer protection agencies, and a representative of the Guam Claims Association. The Director shall select from among the members a chairman, who shall serve as such for a period of two years. Members of the board shall not be compensated, but shall be allowed their actual and necessary expenses incurred in the performance of their duties. The board shall meet at least twice annually.

(b) The board shall advise the Director on matters regarding tow truck safety and operations, including but not limited to, developing standards for licensure and inspection of tow trucks and requirements and qualifications for drivers thereof. In addition, the board shall advise the Director on matters relating to the establishment of maximum rates pursuant to § 12107 of this Article.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997).

2013 NOTE: Subsection designations were altered to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

§ 12106. Tow Truck and Impound Regulation; Rates.

The Director of the Department of Revenue and Taxation shall promulgate, in accordance with the Administrative Adjudication Law, rules and regulations:

(a) establishing maximum rates tow truck businesses may charge for the towing of vehicles that are towed and taken into possession for

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impound or storage by a tow truck business, including, without limitation, vehicles towed in response to:

- (1) a peace officer dispatch call;
- (2) a Motor Vehicle Division call; and
- (3) any other call.

(b) establishing maximum rates impound yards may charge for the storage of vehicles towed and taken into possession for impound or storage by a tow truck business including, without limitation, vehicles towed as a result of:

- (1) a peace officer dispatch call;
- (2) a Motor Vehicle Division call; and
- (3) any other call where the legal owner, registered owner, insurance company, and lienholder of the vehicle has not consented to the storage of his vehicle.

(c) establishing procedures or requirements for clearances and licensing of impoundment and storage facilities.

(d) establishing any other procedures or requirements that the Director deems appropriate to ensure that tow truck businesses are operated efficiently and safely, and to ensure that residents are provided with adequate tow truck services. Such regulations shall provide for the suspension or termination of tow truck driver's licenses of individual tow truck drivers and for the suspension or termination of the business licenses of tow truck businesses when the Director finds either such individuals or businesses in substantial noncompliance with the regulations promulgated pursuant to this Section.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997). Amended by P.L. 32-092:6 (Nov. 27, 2013). Subitem (a)(3) amended by P.L. 33-127:4 (Mar. 4, 2016).

§ 12107. Lien on Towed Vehicles; Lien Holders' Sale.

(a) Notwithstanding any other provision of law, *unless* a vehicle is impounded under § 3606 of Article 6, Chapter 3 of this Title 16, every tow truck business which tows a vehicle and to which the requirements of § 12104 of this Chapter apply and are complied with by such tow truck business, while lawfully in possession of the vehicle, has a lien thereon, dependent upon possession, for the compensation, if any, which is due it.

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(b) Notwithstanding any other provision of law, § 39106 of Title 18, Guam Code Annotated, concerning a lien in excess of Three Hundred Dollars (\$300.00), shall not apply to tow truck services rendered to vehicles towed and taken into possession for impound or storage by a tow truck business, including, without limitation, tow truck services provided in response to a peace officer dispatch call; a Motor Vehicle Division call; and any other call.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997). Subsection (b) amended by P.L. 33-127:5 (Mar. 4, 2016).

§ 12108. Prohibitions.

(a) It is a misdemeanor for the owner or operator of a tow truck to stop at the scene of an accident for the purpose of soliciting an engagement for towing services, either directly or indirectly, or to furnish any towing services, unless summoned to the scene, requested to stop, or flagged down by the owner or operator of a disabled vehicle or requested to perform the service by a law enforcement officer or public agency pursuant to that agency's procedures.

(b) It is a misdemeanor for the owner or operator of a tow truck to move any vehicle from a highway, street, or public property without the express authorization of the owner or operator of the vehicle or a law enforcement officer or public agency pursuant to that agency's procedures, when the vehicle has been left unattended or when there is an injury as the result of an accident.

(c) This section shall not apply to the following:

(1) A vehicle owned or operated by, or under contract to, a motor club, which stops to provide services for which compensation is neither requested nor received, provided that those services may not include towing other than that which may be necessary to remove the vehicle to the nearest safe shoulder. The owner or operator of such a vehicle may contact a law enforcement agency or other public agency on behalf of a motorist, but may not refer a motorist to a tow truck owner or operator, unless the motorist is a member of the motor club, the motorist is referred to a tow truck owner or operator under contract to the motor club, and, if there is a dispatch facility which services the area and is owned or operated by the motor club, the referral is made through that dispatch facility.

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(2) A tow truck operator employed by a law enforcement agency or other public agency.

(3) A tow truck owner or operator acting under contract with a law enforcement or other public agency to abate abandoned vehicles, or to provide towing service, to the extent authorized by law.

(d) It is a misdemeanor for an owner or operator of a tow truck to store vehicles on lots other than duly licensed impound lots or storage lots certified, approved and licensed by the Division of Motor Vehicles of the Department of Revenue and Taxation. This prohibition shall not apply to vehicles stored on private non-commercial property at the direction of the owner of the vehicle and with the consent of the property owner.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997).

2013 NOTE: Subsection designations were altered to adhere to the Compiler's alphanumeric scheme in accordance with the authority granted by 1 GCA § 1606.

§ 12109. Promulgation of Rules and Regulations.

The Department of Revenue and Taxation shall promulgate rules and regulations necessary to carry out the provisions of this Act within one-hundred eighty (180) days after its enactment.

SOURCE: Added by P.L. 23-144:3 (Jan. 2, 1997).

§ 12110. Penalty.

(a) A violation of any provision of this Chapter is a civil violation.

(b) Each violation shall be subject to the following penalties:

(1) First offense shall be subject to a penalty of up to One Hundred Dollars (\$100.00);

(2) Second offense of the same provision within a twelve (12)-month period shall be subject to a penalty of up to Four Hundred Dollars (\$400.00) but no less than One Hundred Dollars (\$100.00);

(3) Third offense of the same provision within a twelve (12)-month period shall be subject to a penalty of no less than One Thousand Dollars (\$1,000.00);

(4) Fourth offense of the same provision within a twelve (12)-month period shall be punishable as a misdemeanor and the business license shall be suspended for up to one (1) year or until the violation has been cured.

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(c) All fines imposed under this Section shall be deposited into the Police Patrol Vehicle and Equipment Revolving Fund pursuant to § 77135, Chapter 77, 10 GCA.

SOURCE: Added by P.L. 33-127:6 (Mar. 4, 2016).
