

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

**CHAPTER 12
TOW TRUCKS**

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NOTE: Chapter 12 added by P.L. 23-144.

§ 12101. Definitions.

As used in this Chapter:

(1) *Director* means the Director of the Department of Revenue and Taxation.

(2) *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.

(3) *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.

(4) *Tow truck business* means an enterprise that provides tow truck services.

(5) *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.

§ 12102. Tow Truck Business Requirements.

A person who operates a tow truck business shall:

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- (1) comply with equipment requirements under § 12103 of this Chapter;
- (2) ensure that all his tow truck drivers are properly:
 - (a) trained to operate tow truck equipment; and
 - (b) licensed, as required under Article 1, Chapter 3, of this Title; and
- (3) obtain and display a current certificate of inspection for each tow truck, as required under § 12103 of this Chapter.
- (4) obtain a service license as required by § 16200 of the Government Code of Guam pertaining to the issuance of a business license.

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

(1) (a) 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.

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

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

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

(d) 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,

(2) 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.

§ 12104. Towing Notice Requirements; Cost Responsibilities.

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(1) Unless a vehicle is impounded under § 3606 of this Title, after performing a tow truck service without the vehicle owner's knowledge, the person operating the tow truck shall:

(a) within one hour of arriving at the place of storage or impound of the vehicle, contact the law enforcement agency having jurisdiction over the area where the vehicle was picked-up and notify the agency of the:

- (i) location of the vehicle;
- (ii) date, time, and location from which the vehicle was removed;
- (iii) reasons for the removal of the vehicle;
- (iv) person who requested the removal of the vehicle; and
- (v) vehicle's description, including its identification number and license number; and

(b) within five days of performing the tow truck service, send a certified letter to the last known address of the registered owner of the vehicle obtained from the Division of Motor Vehicles or if the person has actual knowledge of the owner's address to the current address, notifying him of the:

- (i) location of vehicle;
- (ii) date, time, location from which the vehicle was removed;
- (iii) reasons for the removal of the vehicle;
- (iv) person who requested the removal of the vehicle;
- (v) vehicle's description, including its identification number and license number; and
- (vi) costs and procedures to retrieve the vehicle.

(c) For purposes of this Section, the Division of Motor Vehicles shall, upon the presentation of official documents (Guam Police Report or Department of Revenue and Taxation Directive), provide tow truck businesses with the last known address of the registered owner 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

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Subsection (b) above within five days after the release of the registered owner's address.

(2) The registered owner of a vehicle lawfully removed is responsible for paying the towing, impound, and storage fees, unless the vehicle was stolen or taken without the consent of the owner in which case the parties responsible for such actions shall be liable for the cost incurred in removal of said vehicle.

§ 12105. Tow Truck Advisory Board.

(1) 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.

(2) 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.

§ 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:

(1)(a) establishing maximum rates tow truck businesses may charge for the towing of vehicles that are transported in response to:

(i) a peace officer dispatch call;

(ii) a Motor Vehicle Division call; and

(iii) any other call where the owner of the vehicle has not consented to removal of his vehicle.

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(b) establishing maximum rates impound yards may charge for the storage of vehicles stored as a result of:

- (i) a peace officer dispatch call;
- (ii) a Motor Vehicle Division call; and

(iii) any other call where the owner 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 service. 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 companies when the Director finds either such individuals or companies in substantial noncompliance with the regulations promulgated pursuant to this Section.

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

(1) Notwithstanding any other provision of law, unless a vehicle is impounded under § 3606 of this Title, every tow truck business, who, while lawfully in possession of a vehicle renders towing, impound, and/or storage services in response to a peace officer dispatch call; a Motor Vehicle Division call; and any other call where the owner of the vehicle has not consented to removal of his vehicle; has a lien thereon, dependent upon possession, for the compensation, if any, which is due him from the owner for such service. If there is a prior lien on said vehicle the tow truck business may record a second lien on said vehicle. Any tow truck business may retain possession of the same until the charges are paid.

(2) Notwithstanding any other provision of law, § 39106 of Title 18, Guam Code Annotated, concerning a lien in excess of Three Hundred Dollars (\$300), shall not apply to towing, impound, and/or storage services provided in response to a peace officer dispatch call; a Motor Vehicle Division call; and any other call where the owner of the vehicle has not consented to removal of his vehicle; provided that notice requirements are administered pursuant to § 12104 of this Title.

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(3) If the tow truck business entitled to the lien on a vehicle provided in Subsection (1) of this Section is not paid the amount due, then such lien holder may proceed to sell said vehicle to satisfy the lien and costs of sale at public auction. This Subsection is not applicable until sixty (60) days after notice has been sent pursuant to § 12104 of this Title. Under the provisions of this Subsection, the tow truck business shall give at least ten days' previous notice of such sale by posting notice of sale in three public places in the town or place where such property is to be sold, for ten days previous to the date of the sale, and by serving personal notice upon the owner.

§ 12108. Prohibitions.

(1) 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.

(2) 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.

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

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

(c) 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.

(4) 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.

§ 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.
