

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/19/15
A Bill

SENATE BILL 893

By: Senator Files

For An Act To Be Entitled

AN ACT TO ESTABLISH A PROCEDURE FOR REMOVING A TOW COMPANY FROM THE NON-CONSENT ROTATION LIST; TO AUTHORIZE CERTAIN PERSONS TO ISSUE CITATIONS FOR VIOLATIONS OF THE TOWING LAWS; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH A PROCEDURE FOR REMOVING A TOW COMPANY FROM THE NON-CONSENT ROTATION LIST; AND TO AUTHORIZE CERTAIN PERSONS TO ISSUE CITATIONS FOR VIOLATIONS OF THE TOWING LAWS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 27, Chapter 50, Subchapter 12, is amended to add a new section to read as follows:

27-50-1217. Suspension from Law Enforcement Non-Consent Rotation List.

(a)(1) The Arkansas Towing and Recovery Board shall promulgate rules to establish a complaint process for the removal or suspension of a tow company from the non-consent rotation list or imposition of fines for violation of a recognized non-consent rotation policy upon receiving a request from a law enforcement agency.

(2) The board shall consider the following in making the determination to remove or suspend a tow company from the non-consent rotation list;

(A) Whether the law enforcement agency's non-consent



rotation policy is reasonable; and

(B) The severity of the violation.

(3) The board may issues fines in addition to removal or suspension of a tow company from the non-consent rotation list.

(4)(A) A tow company may be suspended from the non-consent rotation list for a first time violation of the law enforcement agency's policy for up to fifteen (15) days.

(B)(i) A second offense may result in a suspension of up to thirty (30) days by the law enforcement agency.

(ii) The law enforcement agency may request a hearing before the board for additional sanctions which may include a longer period of suspension from the non-consent rotation list and a fine.

(C) A third offense may result in a suspension of a tow company from the non-consent rotation list for up to one (1) year and a fine.

(b)(1) Except as provided under subdivision (b)(3) of this section, law enforcement shall establish a non-consent rotation policy.

(2) An adopted non-consent rotation policy shall be reasonable and reflect the day-to-day operations of a tow company in the immediate area.

(3) A law enforcement agency is not required to establish a non-consent rotation policy required by subdivision (b)(1) of this section if:

(A) The law enforcement agency has an existing non-consent rotation policy or non-consent towing service contract in place; and

(B) The provisions of this section would have a negative impact on the law enforcement agency or non-consent towing service contract.

(4) A law enforcement agency shall provide each tow company that participates in the non-consent rotation with a copy of the policy and each tow company operator shall acknowledge in writing that he or she has received a copy of the policy.

(c)(1) A tow company participating in a non-consent rotation policy administered by law enforcement shall be licensed and permitted by the board.

(2) Failure to properly license or renew with the board shall result in an immediate suspension until all permits are obtained.

(3) In addition to any law enforcement non-consent rotation policy a tow operator shall comply with all of the statutes and rules administered by the board.

(d) Following a suspension period of six (6) months or longer a tow

company must reapply for a position on the non-consent rotation list.

(e) Nothing in this act or rule adopted by the board shall be construed to prohibit a law enforcement agency, city, or county from:

(1) Enforcing any local non-consent towing policies, rules, ordinances, or contracts;

(2) Removing a tow company from the local towing rotation list;

or

(3) Assessing a fine, penalty, or other remedy available by law or under its contracts or policies.

SECTION 2. Arkansas Code Title 27, Chapter 50, Subchapter 12, is amended to add a new section to read as follows:

27-50-1218. Authority to issue citations.

(a)(1) An investigator employed by the Arkansas Towing and Recovery Board and the director of the Arkansas Towing and Recovery Board may issue citations to a tow company, owner operator, or tow vehicle driver for certain violations found in this subchapter.

(2) Citations may be issued for the following offenses:

(A) Operating a tow vehicle without a proper permit or license;

(B) Operating a tow vehicle which has not been permitted or licensed as a tow vehicle by the State of Arkansas;

(C) Operating a tow vehicle which is out of compliance with the safety and operating regulations prescribed by the board;

(D) Not responding within a prescribed time frame to a request for information related to a consumer complaint;

(E) Failure to properly post any required notifications in a conspicuous place as required by the board; or

(F) Failure to meet the basic criteria for an adequate place of business.

(b)(1) The fines assessed for a violation of this section shall be set by the board.

(2) Each fine for an individual violation should reflect the severity of the penalty and may be increased for multiple offenses or repeated violations of the same offense.

(3) Each fine for an individual violation set by the board shall

not exceed two hundred dollars (\$200).

/s/Files

APPROVED: 04/07/2015