

NON-CONSENSUAL TOWING CHAPTER 11
NON-CONSENSUAL TOWING CHAPTER 11
TRANSPORTATION RULES
OF
THE DEPARTMENT OF MOTOR VEHICLE SAFETY
CHAPTER 11
NON-CONSENSUAL TOWING
(Private Property Trespass)

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11-1 Definitions: §44-1-13

Terms used in these rules have the following meaning:

(a) "Nonconsensual Towing Carrier" means a wrecker service engaged in the towing of trespassing vehicles on private property without prior consent or authorization of the owner or operator of the vehicle and having a secure impoundment facility.

(b) "Nonconsensual Towing Permit" means a permit issued by the Department authorizing removal of improperly parked vehicles and trespassing personal property from private property.

(c) "Nonconsensual Towing" shall mean towing without the prior consent or authorization of the owner or operator of the motor vehicle being towed.

(d) "Secure Impoundment Facility" means a facility owned or leased by a towing company for the purposes of providing secure storage of towed vehicles.

(e) "Attendant" means any person who is authorized by the impoundment facility to release a vehicle from the facility when presented with proper documentation of ownership and payment of appropriate fees.

(f) "Receipt" means a document issued by the attendant to the owner of the vehicle stating all charges have been paid for the towing and storage of vehicle.

(g) "Wrecker" means an automotive vehicle with hoisting apparatus and equipment for towing vehicles. The term "wrecker" also includes any vehicle otherwise equipped and used for the purposes of towing vehicles.

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(h) "Maximum Rate Tariff" means the publication containing the maximum rates as prescribed by the Department that a wrecker company can assess for the towing and storage of vehicles removed pursuant to the authority granted in the "Nonconsensual Towing Permit".

(i) "Normal Business Hours" means operating hours of a nonconsensual towing carrier as approved by the Department.

Authority: O.C.G.A. §44-1-13

11-2 Procedures

(1) Before any wrecker service shall transport vehicles in nonconsensual towing on or over any public highway of the State of Georgia, it shall first secure a nonconsensual towing permit from the Department by making application on forms supplied by the Department and paying an annual filing fee of \$300.00. The permit shall be issued on an annual basis.

(2) The Department shall issue a nonconsensual towing permit if the application is complete and the applicant demonstrates compliance with the laws of Georgia and the rules and regulations of the Department related to secure impoundment facility, the maximum rate tariff, and with insurance and safety requirements.

(3) The Department may refuse to issue a permit where the applicant has failed to show compliance with the applicable laws of Georgia and the rules and regulations of the Department. In such instance, the applicant, shall upon request made within 30 days of the date of denial, be entitled to a hearing to contest said denial.

(4) The Department may, at any time after notice and an opportunity to be heard, suspend, revoke, alter, or amend any permit issued under these rules if it shall appear that the holder of the permit has violated or refused to observe any of the lawful and reasonable orders, rules or regulations prescribed by the Department, any of the applicable provisions of Title 46 or Title 40 of the Official Code of Georgia, or any other law of this state regulating or taxing motor vehicles.

(5) In the event of a change of ownership, except in the case of a corporation unless there is a sale of the controlling interest, application for a new permit shall be made to the Department and the old permit surrendered to the Department before another permit can be issued to the new owner(s). The application for a permit by a new owner shall be made in the same manner as for an original nonconsensual towing permit and the fee shall be the same as for an original permit.

Authority: O.C.G.A. §44-1-13

11-3 Fees charged for nonconsensual towing

(1) Any wrecker service engaged in the business of providing nonconsensual vehicle towing service shall not charge the owner or operator of any towed motor vehicle more than the maximum rates published in the "Nonconsensual Towing Maximum Rate Tariff" prescribed by the Department. No storage fees shall be charged for the first 24-hour period from the time the motor vehicle is removed from the property. The fees stated in the maximum rate tariff shall be all inclusive; no additional fees may be charged for the use of dollies, trailers, lifts,

slim jims or any other equipment or service. Additional charges will apply only when the vehicle(s) being towed weighs in excess of 26,000 GWVR.

(2) The fees stated in paragraph (1) above shall be payable by cash, commonly recognized travelers checks, money orders, certified checks or cashier's checks at no additional charge.

(3) No additional charges shall be assessed for storage of the vehicle once the vehicle has been claimed and payment is tendered to the towing company in the amount specified on the receipt and the vehicle has been removed from the impoundment facility.

(4) The Maximum Rate Tariff will be reviewed annually by the Department after receiving notification from towing firms as to their current cost for removal and storage of vehicles and personal property, and or other pertinent information. Wrecker services shall submit the information described in this subparagraph by October 1, of each year to the Director of Commercial Vehicles and Compliance.

Authority: O.C.G.A. §44-1-13

11-4 Vehicle not towed upon operator returning

(1) The operator or driver employed by a wrecker service summoned to tow away any vehicle from private property, shall not tow the vehicle away and shall not charge any fee if the operator or owner of the vehicle returns, and produces the ignition key to the vehicle, and immediately removes the vehicle from the private property.

(2) If the vehicle has been hooked with hoisting apparatus, including wheel dollies, or loaded by the wrecker service and the vehicle has not left the premises, the vehicle shall be released and the operator's fee as prescribed in the Maximum Rate Tariff may apply. A receipt, containing the date and time of the release of the vehicle, total amount charged, location of the private property, wrecker service's name, address, and telephone number shall be issued to the owner/operator of the vehicle.

(3) Once the wrecker service has left the location to which it was summoned charges may be assessed in accordance with the Maximum Rate Tariff. The operator's fee, as described in paragraph 2 shall not apply in this instance.

Authority: O.C.G.A. §44-1-13

11-5 Signs Specifications

(1) Owners of private property shall be required to place signs at each designated entrance to a parking lot or parking area where parking prohibitions apply. Where there is no designated entrance, such signs shall be posted so as to be clearly visible from each and every parking space. Such signs shall be a minimum of twelve (12) inches by eighteen (18) inches with a minimum of ¾ inch

lettering. The wording Private Parking shall be printed in Bold with a minimum of 1½ inch lettering.

(2) Such signs located at a designated entrance to a parking lot shall be at least four (4) feet above the site grade. Where there is no designated entrance, such signs shall be six (6) feet above site grade. Posted signs must be free of any natural or man-made interference and be clearly visible.

(3) Such signs shall also include the following language:

- (a) A warning that unauthorized vehicles will be towed
- (b) Towing company name, address, and telephone number location
- (c) Towing fees and daily storage fees
- (d) Hours of Operation
- (e) Method of payment

(4) No vehicle shall be relocated from private property which does not, at the time of the tow and for at least 24 hours prior thereto, have signs posted which are in substantial compliance with the provisions of paragraphs (1) through (3) above. Notwithstanding the foregoing, the provisions of this section shall not apply to owner(s) of private residential property containing not more than four (4) residential units.

(5) All signs must be removed from private property within (15) days after the termination of the contract; or authorization from the property owner, or agent is withdrawn.

Authority: O.C.G.A. §44-1-13

11-6 Authorized Attendant

(1) An attendant must be available at the impoundment facility to provide reasonable access to any towed vehicle (6) days of each week. The attendant must be available by phone 24 hours per day. The attendant shall have the authority to release any impounded vehicle upon the owner meeting the legal requirements for release. Any person claiming a vehicle impounded under the nonconsensual towing permit shall produce evidence of such person's identity and ownership or right of possession and shall pay all towing charges and storage fees which shall have accrued with respect to the vehicle. No storage fees will be charged for any days the secure impoundment

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facility is closed and the owner is unable to claim the vehicle.

(2) The owner or owner's agent shall produce a valid driver's license plus an ignition key which operates the vehicle, or indicia of ownership to include, a certificate of title, a valid and current registration card, bill of sale, or a lease or rental contract.

(3) A receipt listing the specific charges for towing and storage of the vehicle shall be issued to the owner or agent claiming the vehicle and the attendant shall retain a copy of the receipt. The receipt must be signed by the owner or agent

claiming the vehicle and by the attendant. Such receipt shall identify the vehicle and shall become part of the wrecker service's record.

Authority: O.C.G.A. §44-1-13

11-7 Records and Reports

- (1) Upon impoundment of any vehicle, the wrecker service shall maintain records, which shall include the following information:
 - (a) Date and time of initial towing
 - (b) Place of initial towing
 - (c) Date and time of arrival at the impound lot
 - (d) Date and time of release to the owner
 - (e) Name of the towing company driver and helper
 - (f) Cost for towing of the vehicle
 - (g) Cost of storage of the vehicle
- (2) The records shall be maintained at a location where any Department representative may review in person during normal business hours. Further, all wrecker companies shall provide a current telephone number of the person responsible for releasing the vehicles to the Department.
- (3) All records required by these rules shall be preserved for a period of three (3) years, unless otherwise specified by the Department.

Authority: O.C.G.A. §44-1-13

11-8 Secure Impoundment Facility

- (1) A wrecker service licensed by the Department of Motor Vehicle Safety authorized to conduct nonconsensual towing must maintain a storage area for towed vehicles in the counties for which their office is located, unless otherwise authorized by the Department.
- (2) The wrecker service must provide for effective and efficient security for the lot at all times. The storage lot must be fenced with a minimum of six (6) feet fencing, lighted, and equipped with a lock or enclosed building.
- (3) Impounded vehicles shall be delivered to the wrecker service's secure impoundment facility in a timely manner. No wrecker service shall utilize "drop zones" or leave impounded vehicles at any location that has not been approved by the Department.

Authority: O.C.G.A. §44-1-13

11-9 Insurance Requirements

(1) A wrecker service issued a permit to conduct nonconsensual towing must maintain the minimum liability insurance prescribed by the Department and the Federal Motor Carrier Safety Administration on all vehicles used in its business as follows:

(a) Intrastate (origin and destination wholly within the state) Public Liability and Property Damage Insurance limits as set forth below:

(i) \$100,000 limit for bodily injury to or death of one person

(ii) \$300,000 limit for bodily injuries to or death of total persons in one accident

(iii) \$50,000 loss or damage in any one accident to property of others

(b) Interstate (transportation with origin or destination outside the state)

(i) \$750,000 liability

(ii) MCS-90 (Proof of liability insurance)

(2) Liability insurance, which covers stored vehicles and contents, must be maintained on the storage lot(s) sufficient to cover the actual value of all stored vehicles. The minimum amount of liability insurance for coverage of the storage vehicles must be at least \$25,000.

(3) A copy of the Certificates of Insurance must be furnished to the Department on an annual basis. A 30-day advance cancellation notice must be provided prior to insurance cancellation. No lapse in insurance coverage will be allowed.

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(4) A permit issued by the Department is in effect only while the wrecker service is in compliance with all requirements for filing proof of insurance.

Authority: O.C.G.A. §44-1-13

11-10 Office Requirements

(1) A wrecker service must maintain normal business hours and a listed public business telephone number. A wrecker service may maintain a maximum of two telephone numbers to be called for dispatching calls.

(2) All wrecker services will provide reasonable access to any towed vehicle six (6) days per week.

(3) A wrecker service must maintain proof of registration for each vehicle with the DMVS and comply with the Department's safety rules and regulations.

(4) A wrecker service must maintain and provide to the Department upon request, a list of all personnel operating wrecker equipment, as well as a current Motor Vehicle Report on each driver.

(5) Drivers must maintain a valid driver's license of the appropriate class and with the appropriate endorsements required to operate the wrecker service's vehicles under Georgia law.

(6) It shall be unlawful for a wrecker service to engage in removal of vehicles without an authorized contract signed by the owner or other authorized agent for

property owner and the towing company in the form prescribed by the Department. A copy of the contract shall be made available to the Department representatives, upon request. The contract must contain the name, address and phone number of the respective towing company, and the location of the impoundment facility, hours of operation, and the cost for removal of the vehicle and the charges for storage of the towed vehicle.

Authority: O.C.G.A. §44-1-13

11-11 Equipment

(1) All wrecker services engaged in transporting vehicles in nonconsensual towing must maintain a Department cab card with current year's identification stamp for intrastate carriers, or appropriate registration receipt for interstate carriers in the cab of each wrecker.

(2) Each vehicle operating under authority of a nonconsensual towing permit must carry a copy of the permit in the cab of the vehicle. The copy shall be presented to any investigator or enforcement officer of the Department upon request.

(3) A Georgia DOT number must be affixed to the outside of the wrecker if the wrecker is

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(4) If carrier transports vehicles across state lines (interstate) a USDOT number or United State Motor Carrier (MC) number must be affixed to the outside of the wrecker;

(5) All vehicles utilized by the wrecker companies for nonconsensual towing must be equipped with the following:

(a) Valid registration tag

(b) Fire extinguisher

(c) Tow away lamps (tail, stop and turn signal lights for vehicles being towed), and the name of the wrecker service, city, and telephone number permanently affixed to both sides. Letters must be readable at a distance of 50 feet while the vehicle is stationary.

Authority: O.C.G.A. §44-1-13

11-12 Penalties

The Department is authorized to impose a civil penalty for violation of the rules in this section in an amount not to exceed \$2,500.00 for each violation.

Authority: O.C.G.A. §44-1-13 Adopted August 1, 2004 Page 8