

# TOWING, STORAGE AND BOOTING ADVISORY BOARD

## *Licensing Division Staff Report*

November 14, 2018

Tow Trucks	New	New % Online	Renewed	Online Renewal	Population
FY2013	3331	98%	7633	83%	10975
FY2014	3526	98%	7634	90%	10709
FY2015	3995	98%	7998	90%	11243
FY2016	4150	98%	8065	90%	11455
FY2017	3480	97%	8185	89%	11357
FY2018	3685	97%	8249	89%	11421

Tow Companies	New	New % Online	Renewed	Online Renewal	Population
FY2013	1156	89%	6320	84%	4154
FY2014	1138	90%	6763	89%	4121
FY2015	1227	90%	6861	89%	4248
FY2016	1278	85%	7124	87%	4272
FY2017	1100	85%	7306	87%	4138
FY2018	1117	84%	6998	87%	4139

### Tow Company and Tow Truck Population Numbers by Type of Towing

Type of Towing	Company	Tow Truck
Consent	1819	3431
Private Property	155	359
Incident Management	2029	7427
Total**	3923	11217

\*\*As of

10/22/2018

Vehicle Storage Facilities	New	New % Online	Renewed	Renewed % Online	Population
FY2013	256	81%	2632	80%	1805
FY2014	152	88%	2706	87%	1756
FY2015	272	86%	2920	86%	1744
FY2016	164	78%	2839	84%	1790
FY2017	234	58%	3049	85%	1762
FY2018	177	63%	2981	86%	1804

Boot Companies	New	New % Online	Renewed	Renewed % Online	Population
FY2013	6	N/A	4	N/A	13
FY2014	5	N/A	4	N/A	9
FY2015	3	N/A	7	N/A	11
FY2016	7	N/A	7	N/A	16
FY2017	5	N/A	7	N/A	14
FY2018	0	N/A	6	N/A	11

\*\*SB 1501 deregulated booting at the state level and moved to local authorities effective 9/1/18.

Tow Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2013	3830	92%	7482	99%	10905
FY2014	3765	93%	7462	93%	11812
FY2015	4148	95%	8256	99%	13345
FY2016	4191	95%	7304	99%	14399
FY2017	3922	95%	8564	99%	14470
FY2018 Consent Tow	1716	99%	2399	99%	4843
FY2018 Private Property	84	95%	183	98%	298
FY2018 Incident Mgmt	1827	96%	6409	98%	8869

Vehicle Storage Facility Employees	New	New % Online	Renewed	Renewed % Online	Population
FY2013	967	97%	2453	99%	3649
FY2014	896	97%	2343	90%	3371
FY2015	939	97%	2267	99%	3314
FY2016	948	96%	1986	99%	3535
FY2017	932	96%	2213	99%	3346
FY2018	782	98%	2013	99%	2970

Boot Operators	New	New % Online	Renewed	Renewed % Online	Population
FY2013	40	83%	16	100%	60
FY2014	52	71%	18	100%	74
FY2015	25	72%	19	95%	54
FY2016	57	35%	23	95%	93
FY2017	58	58%%	22	100%	91
FY2018	40	90%	14	100%	95

\*\*SB 1501 deregulated booting at the state level and moved to local authorities effective 9/1/18.

Tow Operator Trainee	New	New% Online	Renewed	Renewed % Online	Population
FY2017	27	N/A	N/A	N/A	8
FY2018	7	N/A	N/A	N/A	4

\*\*SB 1501 eliminated tow trainee licenses effective 9/1/18.



# **Towing and Storage Advisory Board**

## **Enforcement Division Staff Report**

**November 14, 2018**

### **Case Highlights**

- **RONALD K. VICK: TOW20180007482.**

On April 27, 2018 the Department notified Respondent that, effective June 13, 2017, his Dual Incident Management Tow Operator and Vehicle Storage Facility License had been revoked by operation of law pursuant to TEX. OCC. CODE § 53.021(b). Respondent, on June 13, 2017, was incarcerated in a penitentiary for a felony conviction.

- **ATLAS TOWING AND STORAGE, LLC: TOW20160025609, TOW20160016374, VSF20170000592, and TOW20180000591**

On June 26, 2018 the Executive Director issued an Agreed Order assessing an administrative penalty against Respondent in the amount of \$18,250, imposed a probated revocation until May 1, 2019 requiring that drivers complete three hours of continuing education , and ordered complete refunds to vehicle owners. Violations alleged against Respondent were employment of an unlicensed tow operator, towing in the absence of legal authority, failing to make a timely report local law enforcement of its acceptance of a non-consent tow. These were third violations for purposes of the Enforcement Plan. Full payment has been made.

- **EUROSTAR WRECKERS, LLC: 20160015982, 20160024315, TOW20170007146, TOW20170009776**

On April 25, 2018 the Executive Director issued an Agreed Order assessing Respondent an administrative penalty of \$5,700, imposing a probated revocation upon Respondent's towing license for one year, and ordering refunds to four vehicle owners. Respondent engaged in towing operations after its license had expired, towed vehicles without legal authority, and charged fees in excess of those set by Humble, Texas. These were Respondent's third violations for purposes of the Enforcement Plan. Payments are being made as agreed.

- **STEVE HERNANDEZ D/B/A HERNANDEZ TOWING: TOW20180009586**

On September 17, 2018 the Executive Director issued an Agreed Order assessing an administrative penalty against Respondent in the amount of \$3,500 for failure to perform a tow in a safe and competent manner and giving false information to an officer with the Houston Police Department. Respondent is making payments as agreed.

- **STANCE AUTOWORKS, LLC 20180003422, VSF20170009762, VSF20180006345, and VSF20180012388**

On July 20, 2018 the Executive Director issued an Agreed Order assessing Respondent an administrative penalty of \$11,000 for four instances of fraudulently transferring vehicles from its vehicle storage facility as incident management tows to its unregulated body shop, Stance Autoworks. Respondent is in compliance with penalty payments.

## **Personnel Changes**

- Hired Rebecca Burkhalter for an Attorney III vacancy, which occurred when Aaron Heath was promoted to Attorney IV. Rebecca was previously employed with the Texas Department of Public Safety (DPS) as a staff attorney in the Office of Regulatory Counsel, and later as a criminal records staff attorney. Prior to DPS, Rebecca worked for over five years in private practice as a family law attorney, representing clients in bench and jury trials in district court. She earned her bachelor's degree in finance from the University of Texas at Austin and her law degree from Texas Tech University School of Law. Rebecca started with us on August 15.
- Hired Bob Rennich for an Attorney III position, that will specialize in cases resulting from inspections and unlicensed activity. From 2007 to 2017, Bob was employed with TDLR as an enforcement prosecutor, managing a large, specialized caseload involving the review of applicants' criminal histories to determine fitness for licensure. Bob's earlier employment included more than 10 years as a criminal prosecutor with extensive trial experience in misdemeanor and felony cases. He served as a criminal prosecutor in El Paso County, Lubbock County, and the Attorney General's Office. Bob earned his bachelor's degree in History/Economics at the University of Texas at Dallas, and his law degree from the University of Texas at Austin. Bob started with us on October 1.
- Hired Dustin Exner as an Executive Assistant who will handle and coordinate office administrative work and assist the Enforcement Director. Dustin started with TDLR in September 2017 as a Legal Assistant in our Intake section. Prior to TDLR, he was employed with the Department of State Health Services (DSHS) where he served as a Compliance Technician, received several promotions with his last being an Enforcement Specialist and held that position for 11 years. He then worked with the Department of Motor Vehicles as an Operations Specialist and was later promoted to Administrative Assistant to General Counsel. Dustin is a Certified Paralegal and has over 17 years of State service. He started his new role on October 15.

## **Key Statistics**

Shown below are key statistics for the Towing and Vehicle Storage programs, and for all TDLR programs combined thru September Fiscal Year 2019 and average penalties for the Towing and Vehicle Storage programs and for all TDLR programs combined through September Fiscal Year 2019.

<b><u>Statistic</u></b>	<b><u>TOW</u></b>	<b><u>VSF</u></b>	<b><u>TDLR</u></b>
• Number of cases opened:	654	181	4,700
• Number of cases resolved:	797	270	4,507
• Number of Agreed Orders:	33	37	668
• Total amount of penalties assessed:	\$172,275	\$89,050	\$1,548,075
• Total amount of penalties collected:	\$39,801	\$42,382	\$641,197

<b><u>Average Penalty</u></b>	<b><u>TOW</u></b>	<b><u>VSF</u></b>	<b><u>TDLR</u></b>
• Fiscal Year 2018	\$2,412	\$2,894	\$1,701
Licensed	\$3,229	\$3,019	\$2,087
Unlicensed	\$2,900	\$1,770	\$2,147

## **Top 10 Violations in Disciplinary Actions**

Shown below are the ten most common violations found in disciplinary actions for the Towing and Vehicle Storage programs through September of fiscal year 2019.

### **TOW**

Tow without authority-illegal tow	8
Employed unlicensed person	4
Tow without proper signage	4
Didn't tow in safe/competent manner	4
Charged more than allowed for tow	3
Failed to comply with an order	2
Failed to take to a license VSF	2
Lacks honesty/trustworthiness/integrity	2
Fail to pay dishonored check	1
Fail to issue ticket	3

### **VSF**

Fail to timely/send/publish notice	5
Charged impound w/o services or date	3
Fail to include required info on notice	3
Criminal activity	2
No maintain required records for 2 years	2
Fail to release with proper docs & \$	2
Unlicensed Company	1
Fail to give notice of rights	1
Required owner/rep sign form	1
Unlicensed-Employee	1

## KEY STATISTICS AND TRENDS

### TOW OPERATORS CONTINUING EDUCATION

FY 2018

FY 2018	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course Approvals Issued	3	4	2	9	0	3	7	10	6	4	4	14	19	1	1	21	54
Total Course Population	36	38	39	39	37	35	38	38	39	42	44	44	55	55	54	54	54
Total Provider Population	425	424	425	425	423	428	427	427	433	422	419	419	428	428	428	432	432
FY 2017	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course Approvals Issued	1	1	1	3	2	5	5	12	5	0	3	8	7	1	2	10	33
Total Course Population	35	36	35	35	34	35	36	36	39	36	36	36	36	32	33	33	33
Total Provider Population	380	409	409	409	407	415	418	418	421	424	427	427	428	430	430	430	430
FY 2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course Approvals Issued	1	0	2	3	5	6	2	13	1	2	4	7	6	6	0	12	35
Total Course Population	42	37	39	39	44	43	40	40	39	39	40	40	36	39	37	37	37
Total Provider Population	393	394	391	391	391	393	394	394	388	387	384	384	382	378	378	378	378

### BOOTING OPERATORS CONTINUING EDUCATION

FY 2018

FY 2018	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course Approvals Issued	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Total Course Population	2	2	3	3	3	3	2	2	2	2	2	2	1	1	1	1	1
Total Provider Population	425	424	425	425	423	428	427	427	433	422	419	419	428	428	428	432	432
FY 2017	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course Approvals Issued	0	0	0	0	0	0	1	1	0	0	0	0	1	0	0	1	2
Total Course Population	2	2	2	2	2	2	1	1	1	1	1	1	2	2	0	2	2
Total Provider Population	380	409	409	409	407	415	418	418	421	424	427	427	428	430	0	430	430
FY 2016	SEP	OCT	NOV	Q1	DEC	JAN	FEB	Q2	MAR	APR	MAY	Q3	JUN	JUL	AUG	Q4	TOT
Course Approvals Issued	0	0	0	0	1	1	1	3	0	0	0	0	0	0	0	0	3
Total Course Population	2	2	2	2	3	4	2	2	2	2	2	2	2	2	2	2	2
Total Provider Population	393	394	391	391	391	393	394	394	388	387	384	384	382	378	378	378	378

**TOWING AND STORAGE ADVISORY BOARD**  
**Regulatory Program Management Staff Report**  
**November 14, 2018**

**Organizational Changes**

- Since your last meeting, the Compliance Division has been renamed the Regulatory Program Management Division and reorganized. David Gonzales is now the director of the division and Lee Parham is the assistant director. The RPM Division is organized into subgroups: with the TOW and VSF programs residing within the Business and Consumer Safety section along with 11 other programs. Charlotte Melder is the manager of the B&CS section. Ms. Melder is new to the RPM Division but is a veteran attorney from TDLR's Enforcement Division. Todd Forrester and LaTasha Poland continue to serve as the TOW/VSF program specialists.

**Outreach Efforts**

- Todd, LaTasha and Charlotte, along with Chief of Staff Nick Voinis, attended the tow show August 17<sup>th</sup> and 18<sup>th</sup>. Todd made a presentation on notification to vehicle owners to members of the industry which was well attended. Todd and LaTasha then manned a booth where they answered questions.
- Todd and LaTasha attended and spoke at the legislative meeting on August 19<sup>th</sup>, following the tow show. We provided updates and heard concerns from the industry.
- RPM staff has been working on creating a web-based training platform that will cover the topics presented at the live trainings put on by this division. The goal is to create short videos over various issues for reference by the industry when they have questions about a particular issue.
- RPM staff is also working with the Office of Strategic Communication to create an industry compliance section to the website. The section will have information and videos for the industry to help come into and stay in compliance with the laws and rules. We are also attempting to get the compliance manual placed on the website for use by the industry.

**Internal Efforts**

- LaTasha headed up a training with customer service on October 27<sup>th</sup>. The training was aimed at increasing the knowledge of the customer service representatives, so they can provide the most up to date information to customers who call with questions.

# Towing and VSF Advisory Board Meeting Field Inspections Division Report



The Face of TDLR

November 14, 2018

## Most Common Violations Found During Inspections

### **Tow Companies**

4<sup>th</sup> Quarter, Fiscal Year 2018

**1. Vehicle Signage.** – 14 Tex. Occupations Code Ch. 2308.109(a) & 16 Tex. Admin. Code Ch. 86.701(a). Failure to display on the tow truck the permit holder's name, telephone number, city and state, and the permit number for the truck.

**2. Alcohol and Drug Testing of Towing Operators.** – 14 Tex. Occupations Code Ch.2308.158(a) and 16 Tex. Admin. Code Ch.86.710(a)(6)(A-C). A towing company shall establish an alcohol and drug testing policy for towing operators.

**3. Vehicle Signage.** – 14 Tex. Occupations Code Ch. 2308.109(b) & 16 Tex. Admin. Code Ch. 86.701(b). The information required to be displayed must be printed in letters at least 2 inches high, contrasting with background, and permanently affixed in conspicuous places on both sides of the tow truck.

**4. Equipment Violations.** – 16 Tex. Admin. Code Ch. 86.1000(a)(1)(2). Failure to display a legible manufacturer's data plate or manufacturer's documentation indicating the capacity of the boom, the winch or the carry mechanism.

**5. Equipment Violations.** – 14 Tex. Occupations Code Ch. 2308.108(c) & 16 Tex. Admin. Code Ch.86.206(c). Failure of a permit holder to keep a cab card in the cab of each permitted tow truck.

**6. Tow Ticket.** – 16 Tex. Admin. Code Ch. 86.709(e). Failure of a towing company to prepare and issue a tow ticket that contains the licensed name of the towing company, publicly listed telephone number, towing company certificate of registration number, and the TDLR license number of the towing operator.

**7. Unlicensed Vehicle.** – 14 Tex. Occupations Code Ch. 2308.101 & 16 Tex. Admin. Code Ch.86.200(a). A tow truck may not be used for consent towing or nonconsent towing on a public roadway in this state unless an appropriate permit has been issued for the tow truck.

**8. Insurance Requirements--Tow Truck Permits.** – 14 Tex. Occupations Code Ch. 2308.110(d) & 16 Tex. Admin. Code Ch.86.400(d). A permit holder shall keep evidence of insurance in a form approved by the department in the cab of each permitted tow truck. Tow truck permit applicants and permit holders must obtain insurance for each permitted tow truck. Insurance covering permitted tow trucks must be kept in full force and effect at all times.

**9. Unlicensed Operator Activity.** – 14 Tex. Occupations Code Ch. 2308.151(2) and 16 Tex. Admin. Code Ch. 86.215(a). Operated a towing company without the appropriate license.

## Vehicle Storage Facilities

4<sup>th</sup> Quarter, Fiscal Year 2018

**1. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(d). Failure to have a sign describing the documents that may be presented by the vehicle owner or his/her authorized representative to obtain possession of the vehicle.

**2. Notice of Complaint Procedure.** – 16 Tex. Admin. Code Ch. 86.707(a)&(b). Failure to notify the vehicle owner of the department's website and email address, mailing address, and telephone number, for purposes of directing complaints regarding the vehicle storage to the department. The notice shall be included on a sign prominently displayed to the public at the place of payment, with letters at least one inch in height, and a contrasting background; and the front page of any bill for service.

**3. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(a). Failure to have a clearly visible and readable sign at its main entrance, containing the registered name, address, phone number for release of the vehicle, facility hours and the storage lot's state license number. Such sign shall have letters at least 2 inches in height, with contrasting background, shall be visible at 10 feet.

**4. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(e). Failure to conspicuously post a sign that states: "This vehicle storage facility must accept payment by an electronic check, credit card, or debit card for any fee or charge associated with delivery or storage of a vehicle."

**5. Storage Lot Surface.** – 16 Tex. Admin. Code Ch. 85.1001. All VSFs shall have an all-weather surface such as concrete, asphalt, black-top, stone, macadam, limestone, iron ore, gravel, shell, or caliche, that enables the safe and effective movement of stored vehicles upon all portions of the lot, both under their own power and under tow, at all times, regardless of prevailing weather conditions. The surface shall also be free of overgrown vegetation.

**6. Impoundment Fee.** – 16 Tex. Admin. Code Ch. 85.722(e). A VSF operator may charge a vehicle owner an Impoundment fee if Impoundment is performed in accordance with these rules. The Impoundment fee may not exceed \$20. If the VSF operator charges a fee for Impoundment, the written bill for services must specify the exact services performed for that fee and the dates those services were performed.

**7. Storage Lot Signs.** – 16 Tex. Admin. Code Ch. 85.1003(c). Failure to conspicuously place a sign, at the place of payment, stating "Non-Consent Tow Fees Schedules Available on Request".

**8. Notice to Vehicle Owner or Lienholder.** – 14 Tex. Occupations Code Ch. 2303.151(a). The operator of a vehicle storage facility who receives a vehicle that is registered in this state and that is towed to the facility for storages hall send a written notice to the registered owner and the primary lienholder of the vehicle not later than the fifth day after the date but not earlier than 24 hours after the date the operator receives the vehicle.

**9. Notice to Vehicle Owner or Lienholder.** – 14 Tex. Occupations Code Ch. 2303.153(a) & 16 Tex. Admin. Code Ch. 85.703(i)(1). All mailed notifications must state all required information.

## **Personnel Updates**

North Region Inspector Sharon Hollins resigned, effective September 30, 2018. The Field Inspections wishes Sharon all the best in her future endeavors. We are working to post for an inspector position in the DFW area.

## Inspection Statistics and Trends

### Towing, Vehicle Storage Facility and Booting Inspection Totals

	Tow Truck Companies		Tow Trucks		Vehicle Storage Facilities		Tow & VSF Program Totals	
	FY 2019	FY 2018	FY 2019	FY 2018	FY 2019	FY 2018	FY 2019	FY 2018
SEPT	44	114	33	155	65	17	142	286
OCT		82		118		28		228
NOV		48		69		40		157
QTR 1	44	244	33	342	65	85	142	671
DEC		131		192		20		343
JAN		137		160		24		321
FEB		122		141		50		313
QTR 2		390		493		94		977
MAR		231		300		39		570
APR		211		253		69		533
MAY		216		272		72		560
QTR 3		658		825		180		1663
JUNE		302		374		41		717
JUL		91		106		39		236
AUG		77		80		42		199
QTR 4		470		560		122		1152
Year to Date/ Year End	44	1762	33	2220	65	481	142	4463