

VEHICLE TOWING AND BOOTING

*Administrative Rules of the Texas Department of Licensing and Regulation
16 Texas Administrative Code, Chapter 86
(Effective March 15, 2016)*

TABLE OF CONTENTS

86.1.	Authority and Purpose.....	1
86.10.	Definitions	1
86.200.	Tow Truck Permit--Required.....	3
86.201.	Tow Truck Permit--Incident Management Towing	4
86.202.	Tow Truck Permit--Private Property Towing	4
86.203.	Tow Truck Permit--Consent Towing.....	4
86.204.	Tow Truck Permit--Approval and Issuance.....	5
86.205.	Tow Truck Permit--Renewal.....	5
86.206.	Tow Truck Cab Cards	6
86.207.	Licensing Requirements--Towing Operator License.....	6
86.208.	Towing Operator Licensing--Approval and Issuance.	6
86.209.	Licensing Requirements—Incident Management Towing Operator License	7
86.210.	Licensing Requirements--Private Property Towing Operator License	7
86.211.	Licensing Requirements--Consent Towing Operator License	7
86.212.	Licensing Requirements—Dual Vehicle Storage Facility Employee and Towing Operator License	8
86.213.	Licensing Requirements--Towing Operator Training License	8
86.214.	Licensing Renewal--Towing Operators	8
86.215.	Licensing Requirements--Towing Company License Required.	9
86.216.	Towing Company License--Approval and Issuance	9
86.217.	Towing Company License Renewal	10
86.218.	Department Notifications to Licensee or Permit Holder.....	10
86.225.	Emergency Consent Tow Truck Permit, Consent Tow Operator License, and Tow Company License	11
86.226.	Emergency Consent Tow Truck Permit	11
86.227.	Emergency Consent Tow Operator License.....	11
86.228.	Emergency Tow Company.....	12
86.250.	License Requirements--Towing Operator Continuing Education.....	12
86.400.	Insurance Requirements--Tow Truck Permits	14
86.450.	Inspections--General	16
86.451.	Periodic Inspections	16
86.452.	Risk-based Inspections.....	16
86.453.	Corrective Actions Following Inspection.....	17
86.455.	Private Property Tow Fees.	17
86.458.	Fees for Nonconsent Tows, Refund.....	18
86.500.	Reporting Requirements--Towing Company	18

86.650.	Towing, Storage, and Booting Advisory Board.....	19
86.700.	Responsibilities of Tow Truck Permit Holder--Storage of Towed Vehicles	20
86.701.	Responsibilities of Tow Truck Permit Holder--Tow Truck Signage.....	20
86.702.	Responsibilities of Licensee and Permit Holder--Change Name, Address, or Drug and Alcohol Testing Policy	20
86.703.	Responsibilities of Towing Company--Change of Ownership	21
86.705.	Responsibilities of Towing Company--Standards of Conduct	21
86.706.	Responsibilities of Towing Company--Required Postings at Vehicle Storage Facility (VSF).....	22
86.708.	Responsibilities of Towing Company--Tow Truck License Plates	22
86.709.	Responsibilities of Towing Company--Tow Ticket	22
86.710.	Responsibilities of Towing Company--Drug and Alcohol Testing Policy	22
86.711.	Responsibilities of Towing Company—Honesty, Trustworthiness, and Integrity	26
86.715.	Responsibilities of Towing Operator--Standards of Conduct.....	26
86.800.	Fees	27
86.900.	Sanctions and Administrative Penalties	28
86.901.	Cease and Desist Order.....	28
86.902.	Requirement to Reimburse.....	28
86.903.	Enforcement of Unpaid Judgments	28
86.1000.	Technical Requirements--Tow Truck Safety Equipment and Truck Operations.....	29
86.1001.	Technical Requirements--Towing Operator Safety Clothing and Identification	29
86.1002.	Technical Requirements--Towing Company Records.....	29

86.1. Authority and Purpose. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

This chapter is adopted under the authority of the Texas Occupations Code, Chapter 51 and Chapter 2308. This chapter increases the safety of vehicle towing operators by ensuring that only qualified professionals tow vehicles.

86.10. Definitions. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)*

The following words and terms, when used in this chapter will have the following meanings, unless the context clearly shows otherwise:

- (1) **Advisory board**--The Towing, Storage, and Booting Advisory Board.
- (2) **Applicant**--The person or entity submitting an application for a permit or license issued by the department.
- (3) **Certificate of insurance**--A certificate prescribed by and filed with the department in which an insurance carrier or surety company, approved in this state, warrants that a towing company for whom the certificate is filed has the minimum coverage as required by §86.400.
- (4) **Commission**--The Texas Commission of Licensing and Regulation.
- (5) **Consent tow**--Any tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include an incident management tow or a private property tow.
- (6) **Conspicuous**--Written in a size, color, and contrast so as to be readily noticed and understood.
- (7) **Contested case**--A proceeding, including a licensing proceeding, in which the legal rights, duties, or privileges of a party are to be determined by a state agency after an opportunity for adjudicative hearing.
- (8) **Department**--The Texas Department of Licensing and Regulation.
- (9) **Driver's License**--Has the meaning assigned by §521.001, Transportation Code.
- (10) **Incident**--an unplanned randomly occurring traffic event that adversely affects normal traffic operations.
- (11) **Incident management tow**--Any tow of a vehicle in which the tow truck is summoned to the scene of a traffic accident or to an incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.
- (12) **License holder or Licensee**--The person to which the department issued a license.
- (13) **Nonconsent tow**--Any tow of a motor vehicle that is not a consent tow, including:
 - (A) an incident management tow; and
 - (B) a private property tow.
- (14) **Parking facility**--Public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:
 - (A) a restricted space on a portion of an otherwise unrestricted parking facility; and

- (B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:
 - (i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and
 - (ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

- (15) **Parking facility authorized agent**--An employee or agent of a parking facility owner with the authority to:
 - (A) authorize the removal of a vehicle from the parking facility on behalf of the parking facility owner; and
 - (B) accept service on behalf of the parking facility owner of a notice of hearing requested under this chapter.

- (16) **Parking facility owner**--
 - (A) an individual, corporation, partnership, limited partnership, limited liability company, association, trust, or other legal entity owning or operating a parking facility;
 - (B) a property owners' association having control under a dedicatory instrument, as that term is defined in §202.001, Property Code, over assigned or unassigned parking areas; or
 - (C) a property owner having an exclusive right under a dedicatory instrument, as that term is defined in §202.001, Property Code, to use a parking space.

- (17) **Permit holder**--The person to which the department issued a permit.

- (18) **Private property tow**--Any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

- (19) **Property owners' association**--Has the meaning assigned by §202.001, Property Code.

- (20) **Public roadway**--A public street, alley, road, right-of-way, or other public way, including paved and unpaved portions of the right-of-way.

- (21) **Tow truck**--A motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term does not include:
 - (A) a motor vehicle owned and operated by a governmental entity, including a public school district;
 - (B) a motor vehicle towing:
 - (i) a race car;
 - (ii) a motor vehicle for exhibition; or
 - (iii) an antique motor vehicle;
 - (C) a recreational vehicle towing another vehicle;

- (D) a motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in the furtherance of a commercial enterprise;
- (E) a motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle; or
- (F) a motor vehicle that:
 - (i) is owned or operated by an entity the primary business of which is the rental of motor vehicles; and
 - (ii) only tows vehicles rented by the entity.
- (22) **Towing company**--An individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state.
- (23) **Towing operator**--The person to which the department issued a towing operator license.
- (24) **Unauthorized vehicle**--A vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.
- (25) **Vehicle**--A device in, on, or by which a person or property may be transported on a public roadway. The term includes an operable or inoperable automobile, truck, motorcycle, recreational vehicle, or trailer but does not include a device moved by human power or used exclusively on a stationary rail or track.
- (26) **Vehicle owner**--A person:
 - (A) named as the purchaser or transferee in the certificate of title issued for the vehicle under Chapter 501, Transportation Code;
 - (B) in whose name the vehicle is registered under Chapter 502, Transportation Code, or a member of the person's immediate family;
 - (C) who holds the vehicle through a lease agreement;
 - (D) who is an unrecorded lienholder entitled to possess the vehicle under the terms of a chattel mortgage; or
 - (E) who is a lienholder holding an affidavit of repossession and entitled to repossess the vehicle.
- (27) **Vehicle storage facility**--A vehicle storage facility, as defined by Texas Occupations Code, §2303.002 that is operated by a person who holds a license issued under Texas Occupations Code, Chapter 2303 to operate the facility.

86.200. Tow Truck Permit--Required. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) A tow truck may not be used for towing on the public streets or roads of this state unless an appropriate tow truck permit has been issued by the department.
- (b) A separate permit is required for each tow truck.
- (c) A tow truck permit is valid for not more than one year from the date of issuance. A tow truck permit shall expire on the same date as the license issued by the department to the tow truck company.

86.201. Tow Truck Permit--Incident Management Towing. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) An incident management towing permit is required for a tow truck used to perform any nonconsent tow initiated by a peace officer, including a tow allowed under §545.3051, Transportation Code.
- (b) To be eligible for an incident management towing permit, an applicant must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required under §86.800;
 - (3) verify that the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's guidelines.
 - (4) provide proof of insurance required under §86.400; and
 - (5) successfully pass a criminal background check.
- (c) An incident management towing permit may also be used for private property towing and consent towing.

86.202. Tow Truck Permit--Private Property Towing. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) A private property towing permit is required for a tow truck used to perform a nonconsent tow authorized by a parking facility owner.
- (b) To be eligible for a private property towing permit, an applicant must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required under §86.800;
 - (3) verify that the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's guidelines.
 - (4) provide proof of insurance required under §86.400; and
 - (5) successfully pass a criminal background check.
- (c) A private property towing permit may also be used for consent towing but not for incident management towing.

86.203. Tow Truck Permit--Consent Towing. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) A consent towing permit is required for a tow truck used to perform a consent tow authorized by the vehicle owner, as defined in §86.10(22).
- (b) To be eligible for a consent towing permit, an applicant must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required under §86.800;
 - (3) verify that the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's guidelines.
 - (4) provide proof of insurance required under §86.400; and

- (5) successfully pass a criminal background check.
- (c) A consent towing permit may not be used for nonconsent towing, including incident management towing and private property towing.

86.204. Tow Truck Permit--Approval and Issuance. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

- (a) The department will issue a permit under this chapter to an applicant who meets the requirements for a permit. The department may deny an application or revoke a license if the applicant, a partner, principal, officer, or general manager of the applicant has:
 - (1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:
 - (A) a felony; or
 - (B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;
 - (2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;
 - (3) failed to submit a license or permit bond in an amount established by the commission;
 - (4) knowingly submitted false or incomplete information on the application;
 - (5) filed an application to permit a tow truck previously permitted by a license or permit holder; or
 - (6) the applicant has had a permit revoked under this chapter.
- (b) The department will issue a certificate containing a single unique permit number for each tow truck, regardless of whether the permit holder holds more than one permit.

86.205. Tow Truck Permit--Renewal. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) The department will send written notice to permit holders at least 30 days before the permit expires. The notice will be sent to the permit holder's last known address according to the records of the department.
- (b) To renew a permit, a permit holder must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the fee required under §86.800;
 - (3) verify that the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's guidelines.
 - (4) provide proof of insurance required under §86.400; and
 - (5) successfully pass a criminal background check.
- (c) To renew and maintain continuous licensure, the renewal requirements under this section must be completed prior to the expiration of the permit. A late renewal means the permit holder will have an un-permitted period from the expiration date of the expired permit to the issuance date of the renewed permit. During the un-permitted period, a tow truck may not be used for towing on the public roadways of this state.

- (d) Non-receipt of a permit renewal notice from the department does not exempt a person from any requirements of these rules.

86.206. Tow Truck Cab Cards. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) The department will issue a cab card for each tow truck issued a permit. The cab card will:
 - (1) show the permit number of the certificate issued under these rules;
 - (2) show the type of permit issued;
 - (3) show the vehicle unit number;
 - (4) show the vehicle identification number; and
 - (5) contain a statement that the vehicle has a permit issued under these rules.
- (b) The department will issue a cab card when the department issues or renews a permit.
- (c) A permit holder must keep a copy of the cab card in the cab of each permitted tow truck.
- (d) If an original cab card is lost, stolen, destroyed, or mutilated, if it becomes illegible, or if it otherwise requires replacement, the permit holder, can request that the department issue a new cab card.
- (e) The department may require a permit holder to surrender the original cab card if the permit is suspended or revoked.

86.207. Licensing Requirements--Towing Operator License. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective March 15, 2014, 39 TexReg 1706)*

- (a) A person shall not perform towing operations without an appropriate license issued by the department.
- (b) Each type of towing operator license is:
 - (1) valid for one year from the date of issuance;
 - (2) valid throughout this state; and
 - (3) nontransferable.

86.208. Towing Operator Licensing--Approval and Issuance. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

The department will issue a license under this chapter to an applicant who meets the requirements for a towing operator license. The department may deny an application or revoke a license if the applicant has:

- (1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:
 - (A) a felony; or
 - (B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;
- (2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;

- (3) failed to submit a license or permit bond in an amount established by the commission;
- (4) knowingly submitted false or incomplete information on the application;
- (5) filed an application to permit a tow truck previously permitted by a license or permit holder; or
- (6) the applicant has had a permit or license revoked under this chapter.

86.209. Licensing Requirements—Incident Management Towing Operator License. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) An incident management towing operator's license is required to operate a tow truck permitted or required to be permitted under this chapter.
- (b) An applicant for an incident management towing operator's license must:
 - (1) submit a completed application on a department-approved form;
 - (2) hold a valid driver's license issued by a state in the United States;
 - (3) be certified by a program approved by the department;
 - (4) successfully pass a criminal background check; and
 - (5) pay the fee required under §86.800.

86.210. Licensing Requirements--Private Property Towing Operator License. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) A private property towing operator's license is required to operate a tow truck permitted or required to be permitted under this chapter.
- (b) An applicant for a private property towing operator's license must:
 - (1) submit a completed application on a department-approved form;
 - (2) hold a valid driver's license issued by a state in the United States;
 - (3) be certified by a program approved by the department;
 - (4) successfully pass a criminal background check; and
 - (5) pay the fee required under §86.800.

86.211. Licensing Requirements--Consent Towing Operator License. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) A consent towing operator's license is needed to operate a tow truck permitted or required to be permitted under this chapter.
- (b) An applicant for a consent towing operator's license must:
 - (1) submit a completed application on a department-approved form;
 - (2) hold a valid driver's license issued by a state in the United States;
 - (3) successfully pass a criminal background check; and

- (4) pay the fee required under §86.800.

86.212. Licensing Requirements--Dual Vehicle Storage Facility Employee and Towing Operator License.

(New section adopted effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)

- (a) An applicant for a dual vehicle storage facility employee and towing operator license must:
 - (1) meet the requirements under:
 - (A) §85.204 of this title (relating to License Requirements--Vehicle Storage Facility Employee License); and
 - (B) 16 TAC §86.208 and §§86.209, 86.210, or 86.211;
 - (2) submit to the department:
 - (A) an application on a department-approved form; and
 - (B) the required license fee under §86.800.
- (b) A person holding a license issued under this section may:
 - (1) work at a vehicle storage facility; and
 - (2) perform towing operations for the class of towing endorsed on the license.
- (c) An applicant holding a valid towing operator license who seeks to obtain a dual vehicle storage facility and towing operator employee license may request an expedited license by:
 - (1) meeting the requirements under subsection (a);
 - (2) submit an application on a department-approved form; and
 - (3) pay the required license fee under §86.800.

86.213. Licensing Requirements--Towing Operator Training License. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) An applicant for a towing operator training license must:
 - (1) submit a completed application on a department-approved form;
 - (2) hold a valid driver's license issued by a state in the United States;
 - (3) successfully pass a criminal background check; and
 - (4) pay the fee required under §86.800.

- (b) A towing operator training license is valid for 90 days from the date of issuance.

86.214. Licensing Renewal--Towing Operators. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) The department will send written notice to licensees at least 30 days before the license expires. The notice will be sent to the licensee's last known address according to the records of the department.
- (b) A licensee may renew a license under this chapter by:

- (1) submitting a completed application on a department-approved form;
 - (2) pay the fee required under §86.800;
 - (3) meet the applicable continuing education requirements;
 - (4) successfully pass a criminal background check; and
 - (5) if the applicant for renewal has within the preceding 12-month period tested positive for drugs or alcohol under §86.710, the applicant must submit a negative drug or alcohol test to the department.
- (c) To renew and maintain continuous licensure, the renewal requirements under this section must be completed prior to the expiration of the license. A late renewal means the licensee will have an unlicensed period from the expiration date of the expired license to the issuance date of the renewed license. During the unlicensed period, a tow truck operator may not operate a tow truck on the public roadways of this state.
- (d) Non-receipt of a license renewal notice from the department does not exempt a person from any requirements of this chapter.

86.215. Licensing Requirements--Towing Company License Required. *(New section adopted effective May 3, 2010, 35 TexReg 3486; amended effective March 15, 2014, 39 TexReg 1706)*

- (a) A person shall not operate a towing company or operate as a towing company without a towing company license issued by the department.
- (b) To be eligible for a towing company license, an applicant must:
- (1) submit a completed application on a department-approved form;
 - (2) pay the fee required under §86.800;
 - (3) successfully pass a criminal background check;
 - (4) provide the name, and address of each partner if the applicant is a partnership;
 - (5) provide the name, and address of each corporate officer, including the president, secretary, and treasurer, if the applicant is a corporation;
 - (6) provide the name, and address of each owner of the towing company and the percentage of ownership interest each holds in the company;
 - (7) provide the name, and address of the operator or manager of the towing company if it is not operated or managed by one of the owners;
 - (8) provide the towing company's physical address, mailing address, and telephone number; and
 - (9) adopt the drug and alcohol testing policy provided in this chapter or file a drug and alcohol testing policy for approval under this chapter.

86.216. Towing Company License--Approval and Issuance. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) Upon receipt of an application for a towing company license, the department will review the application to verify the qualifications of the applicant.
- (b) If an applicant is qualified under this chapter, the department will issue a towing company license to the applicant.

- (c) If an applicant is determined to be not qualified under this chapter, the department will advise the applicant in writing of the reasons the applicant is not qualified or the deficiencies in the application.
- (d) The department may deny a towing company license application or revoke a license if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder has:
 - (1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:
 - (A) a felony; or
 - (B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;
 - (2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;
 - (3) failed to submit a license or permit bond in an amount established by the commission;
 - (4) knowingly submitted false or incomplete information on the application;
 - (5) filed an application to permit a tow truck previously permitted by a license or permit holder;
 - (6) had a license revoked under this chapter;
 - (7) failed to file a completed application; or
 - (8) provides false, misleading, or deceptive information in the application.
- (e) The department will issue a certificate containing a single unique license number for each towing company.

86.217. Towing Company License Renewal. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) The department will notify the license holder at least 30 days before the date a license expires. The notice will be in writing and sent to the license holder's last known address according to the records of the department.
- (b) To renew a towing company license, an applicant must:
 - (1) submit a completed application on a department-approved form;
 - (2) pay the applicable fee required under §86.800; and
 - (3) successfully pass a criminal background check.

86.218. Department Notifications to Licensee or Permit Holder. *(New section adopted effective May 3, 2010, 35 TexReg 3486; amended effective March 15, 2014, 39 TexReg 1706)*

- (a) Unless otherwise provided for by statute or this chapter, the department may send notice of department proposed actions and decisions through email sent to the last email address designated by the licensee or permit holder.
- (b) A person licensed as a tow company must provide to the department, if available, a valid email address and shall maintain the email address on file with the department during the term of the license.
- (c) A person licensed as a towing operator must provide the department, if available, a valid email address and shall maintain the email address on file with the department during the term of the license.

86.225. Emergency Consent Tow Truck Permit, Consent Tow Operator License, and Tow Company License. *(New section adopted effective March 15, 2016, 41 TexReg 1683)*

- (a) The department may issue an emergency consent tow truck permit, emergency consent tow operator license, or emergency tow company license if:
 - (1) the Governor of the State of Texas declares a disaster under Government Code, §418.014;
 - (2) the executive director determines that enacting these emergency tow provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements in §§86.226, 86.227 or 86.228.
- (b) An emergency license will expire ninety (90) days after issuance, and:
 - (1) is valid only for towing operations that originate in the disaster area designated by the governor;
 - (2) is valid only during the time of the declared disaster for towing operations that originate within the declared disaster area; and
 - (3) may be renewed for an additional ninety (90) days if the disaster or disaster recovery period extends beyond eighty (80) days.

86.226. Emergency Consent Tow Truck Permit. *(New section adopted effective March 15, 2016, 41TexReg 1683)*

- (a) To be eligible for an emergency consent tow truck permit, an applicant must:
 - (1) submit a completed application on a department-approved form;
 - (2) provide proof of insurance required under §86.400;
 - (3) verify that the tow truck is equipped to tow light-duty or heavy-duty vehicles according to the manufacturer's guidelines;
 - (4) successfully pass a criminal background check; and
 - (5) pay the consent tow truck permit fee required under §86.800.
- (b) An emergency consent tow truck permitted under this section must:
 - (1) carry a copy of the cab card in the cab of each permitted emergency consent tow truck;
 - (2) display on each permitted emergency consent tow truck, the permit holder's name and telephone number as listed on the application for an emergency consent tow truck permit; and
 - (3) meet the requirements in §86.1000 applicable to consent tow operators.
- (c) If the information required by subsection (b)(2) is not permanently affixed to the tow truck, the required sign may be affixed by use of magnetic signs on both sides of the tow truck, printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface.

86.227. Emergency Consent Tow Operator License. *(New section adopted effective March 15, 2016, 41 TexReg 1683)*

- (a) To be eligible for an emergency consent tow operator's license, an applicant must:
 - (1) submit a completed application on a department-approved form;
 - (2) hold a valid driver's license issued by a state in the United States;

- (3) successfully pass a criminal background check; and
 - (4) pay the consent tow operator license fee required under §86.800.
- (b) An emergency consent tow operator licensed under this section must:
- (1) allow department and law enforcement personnel to inspect each tow truck; and
 - (2) when performing towing operations carry their TDLR emergency consent tow operator license.

86.228. Emergency Tow Company. *(New section adopted effective March 15, 2016, 41 TexReg 1683)*

- (a) To be eligible for an emergency tow company license, an applicant must:
- (1) submit a completed application on a department-approved form;
 - (2) provide the name and address of each partner if the applicant is a partnership;
 - (3) provide the name and address of each corporate officer, including the president, secretary, and treasurer, if the applicant is a corporation;
 - (4) provide the name and address of each owner of the towing company and the percentage of ownership interest each holds in the company;
 - (5) provide the name and address of the operator or manager of the towing company if it is not operated or managed by one of the owners;
 - (6) provide the towing company's physical address, mailing address, and telephone number; and
 - (7) pay the tow company license fee required under §86.800.
- (b) The controlling persons listed in subsection (a) must successfully pass a criminal background check.
- (c) An emergency tow company must prepare and maintain a record of each tow. The record must contain the date a vehicle was towed, the vehicle identification number, license plate number, year, color and the make and model of the towed vehicle along with the towed vehicle's point of origin and destination.
- (d) An emergency consent towing company whose principal business address is located outside the state of Texas, may maintain tow records at an out-of-state facility if the towing company reimburses the department for necessary travel expenses and per diem for any inspections or investigations conducted under these rules.
- (e) All books and records generated by an emergency consent tow company must be maintained for not less than two years and shall be provided to the department upon request.

86.250. License Requirements--Towing Operator Continuing Education. *(New section adopted effective January 12, 2009, 34 TexReg 200; amended effective September 30, 2014, 39 TexReg 7294)*

- (a) Terms used in this section have the meanings assigned by Chapter 59 of this title, unless the context indicates otherwise.
- (b) To renew a towing operator license, a licensee must complete a total of 4 hours of continuing education through Department-approved courses. The continuing education hours must include the following:
- (1) 1 hour in roadway safety;

- (2) 1 hour in Texas law and rules that regulate the conduct of towing operators; and
 - (3) 2 hours in any topic listed in subsection (g), including subsection (g)(1) and (g)(2).
- (c) For a timely renewal, the continuing education hours must have been completed within the term of the current license. For a late renewal, the continuing education hours must have been completed within the one-year period immediately prior to the date of renewal.
- (d) A licensee will not receive continuing education hours for attending the same course more than once.
- (e) A licensee will receive continuing education hours for only those courses that are approved by the Department, under procedures prescribed by the Department.
- (f) A licensee must retain a copy of the certificate of completion for a course for two years after the date of completion. In conducting any inspection or investigation of the licensee, the Department may examine the licensee's records to determine compliance with this subsection.
- (g) To be approved by the Department under Chapter 59 of this title, a provider's course must be dedicated to instruction in one or more of the following topics:
- (1) Texas law and rules that regulate the conduct of towing operators;
 - (2) roadway safety;
 - (3) driver safety;
 - (4) towing techniques;
 - (5) equipment operation and safety; and
 - (6) customer service and documentation.
- (h) A Department-approved course may be offered until the expiration of the course approval or until the provider ceases to hold an active provider registration, whichever occurs first.
- (i) A provider shall pay to the Department a continuing education record fee of \$5 for each licensee who completes a course for continuing education credit. A provider's failure to pay the record fee for courses completed may result in disciplinary action against the provider, up to and including revocation of the provider's registration under §59.90 of this title.
- (j) To renew an incident management towing operator's license the first time, a licensee must complete, in lieu of the requirements stated in subsections (b), (c), and (g), a professional development course relating to towing that:
- (1) consists of at least 8 hours of training, of which:
 - (A) at least 2 hours are live demonstration and hands-on training;
 - (B) at least 2 hours are classroom training; and
 - (C) any remaining hours are classroom training or live demonstration and hands-on training;
 - (2) is dedicated to instruction in the following topics:
 - (A) how light-duty tow trucks work;

- (B) towing with a wheel lift;
 - (C) towing with a tow sling;
 - (D) using tow dollies;
 - (E) car carrier operation;
 - (F) vehicle recovery;
 - (G) light-duty tow trucks;
 - (H) field procedures;
 - (I) vehicle maintenance; and
 - (J) safety; and
- (3) is offered by or through a Department-approved provider, including a community college, college, or university.
- (k) This section shall apply to licensees, providers, and courses upon the effective date of this section.
- (l) Notwithstanding any other provision of this section or Chapter 59 of this title, a licensee may receive credit under subsection (j) for a course that the licensee completed before the effective date of this section if:
- (1) the course satisfies the requirements of subsection (j)(1) and (j)(2); and
 - (2) the licensee furnishes to the Department a certificate of completion or other evidence satisfactory to the Department of completion of the course.
- (m) Notwithstanding any other provision of this section or Chapter 59 of this title, a licensee may receive credit under subsection (b) for a course if:
- (1) the course is a department-approved Strategic Highway Research Program 2 (SHRP2) course; and
 - (2) the course is taught by a department-approved provider.

86.400. Insurance Requirements--Tow Truck Permits. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) An applicant for a tow truck permit is responsible for ensuring the electronic submission of a certificate of insurance when applying for an initial license or permit, submitting a license or permit renewal, changing a business name or affiliation, and upon request of the department.
- (b) The certificate of insurance must be obtained from and submitted by an insurance company licensed and authorized to do business in Texas pursuant to the Texas Insurance Code.
- (c) The name and address of the applicant, licensee, or permit holder shown on the certificate of insurance form must be the same as the name and address on the application or permit. The applicant or permit holder is responsible for ensuring that the insurance information on file with the department reflects the correct name and address of the insured.
- (d) Coverage.
 - (1) Tow truck permit applicants and permit holders must obtain insurance for each permitted tow truck that meets the following requirements:
 - (A) Incident Management Towing

- (i) a minimum of \$500,000 liability insurance per tow truck per incident, which is combined single limit liability for bodily injury to or death of an individual per occurrence, loss or damage (excluding cargo) per occurrence, or both; and
 - (ii) a minimum of \$50,000 of cargo or cargo on hook insurance per tow truck per incident.
 - (B) Private Property Towing
 - (i) a minimum of \$300,000 of liability insurance per tow truck per incident, which is combined single limit liability for bodily injury to or death of an individual per occurrence, loss or damage (excluding cargo) per occurrence, or both; and
 - (ii) a minimum of \$50,000 of cargo or cargo on hook insurance per tow truck per incident.
 - (C) Consent Towing. A minimum of \$300,000 of liability insurance per tow truck per incident, which is combined single limit liability for bodily injury to or death of an individual per occurrence, loss or damage (excluding cargo or cargo on hook) per occurrence, or both.
- (2) Insurance covering permitted tow trucks must be kept in full force and effect at all times.
- (3) The certificate of insurance must contain a provision obligating the insurer give the department thirty days notice before the effective date of a policy cancellation date.
- (e) Replacement insurance filing.
 - (1) The department will consider a new insurance filing as the current record of financial responsibility required by this section if:
 - (A) the new insurance filing is received by the department; and
 - (B) a cancellation notice has not been received for previous insurance filings.
 - (2) The department may revoke a license if the insurance has been canceled and a replacement policy has not been filed prior to the cancellation date.
- (f) Insolvency of insurance carrier. If an insurer for a tow truck permit holder becomes insolvent, is placed in receivership, or has its certificate of authority suspended or revoked and if the tow truck permit holder no longer has insurance coverage as required by these rules, the tow truck permit holder shall file with the department, not later than the 10th day after the date the coverage lapses:
 - (1) evidence of insurance as required by these rules; and
 - (2) an affidavit that:
 - (A) indicates that an accident from which the tow truck permit holder may incur liability did not occur while the coverage was not in effect; or
 - (B) contains a plan acceptable to the department indicating how the tow truck permit holder will satisfy claims of liability against the tow truck permit holder for an accident that occurred while the coverage was not in effect.
- (g) Notices. The department will notify the Texas Department of Public Safety and other law enforcement agencies of each tow truck permit that has been revoked for failure to maintain the required insurance coverage.

86.450. Inspections--General. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) A towing company shall be inspected periodically, according to a risk-based schedule, or as a result of a complaint. These inspections are performed to determine compliance with the requirements of the Act and these rules. In addition, the department may make information available to licensees and managers on best practices for risk-reduction techniques.
- (b) Inspections shall be performed during the normal operating hours of the towing company. The department may conduct inspections under the Act and these rules with or without advance notice.
- (c) The department inspector will contact the towing company owner, manager, or their representative upon arrival at the towing company, and before proceeding with the inspection.
- (d) The towing company owner, manager, or their representative shall cooperate with the inspector in the performance of the inspection.

86.451. Periodic Inspections. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) Each towing company shall be inspected at least once every two years.
- (b) The towing company owner, manager, or their representative must, upon request, make available to the inspector all records, notices and other documents required by these rules.
- (c) Upon completion of the inspection, the owner manager, or representative shall be advised in writing of the results of the inspection. The inspection report will indicate whether the inspection was approved or not approved, and will describe any violations identified during the inspection.
- (d) For inspections that are not approved, the inspection report will identify violations that must be corrected by the owner. The report will also indicate the corrective actions required to address the violations, in accordance with §86.453. Additionally, the department may assess administrative penalties and/or administrative sanctions for violations.
- (e) Based on the results of the periodic inspection, a towing company may be moved to a risk-based schedule of inspections. The department will notify the owner of the towing company, in writing, if the company becomes subject to the risk-based inspection schedule and the scheduled frequency of inspection.

86.452. Risk-based Inspections. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

- (a) Risk-based inspections are those required in addition to periodic inspections required under §86.451, for towing companies determined by the department to be a greater risk to the public.
- (b) To determine which towing company will be subject to risk-based inspections, the department has established criteria and frequencies for inspections.
- (c) The owner of the towing company shall pay the fee required under §86.800 for each risk-based inspection, in a manner established by the department.
- (d) Each towing company subject to risk-based inspections will be scheduled for inspection based on the following risk criteria and inspection frequency:

Tier	Criteria	Total Inspection Frequency (includes both periodic and risk-based inspections)
Tier 1	Violation of the rules determined by the department to pose a potential economic harm to property; or Repeated violations relating to unlicensed activity.	Once each year
Tier 2	A serious or repeated violation relating to documentation and records requirements; or Failure to maintain required records; or Serious or repeated violations relating to unlicensed activity.	Twice each year
Tier 3	Repeated, serious violations related to towing company technical requirements; or A significant violation of notifications rules, particularly those that threaten economic harm; or Significant or repeated violations relating to unlicensed activity.	Four times each year

- (e) At the time of inspection of a towing company, the owner, manager, or their representative must, upon request, make available to the inspector, records, notices and other documents required by this chapter.
- (f) Upon completion of the inspection, the owner of the towing company shall be advised in writing of the results of the inspection.
- (g) The inspection report will identify violations that must be corrected by the towing company. The report will also indicate the corrective actions required to address the violations, in accordance with §86.453. Additionally, the department may assess administrative penalties and/or administrative sanctions for violations.
- (h) A towing company on a risk-based inspection schedule that has no significant violations in four consecutive inspections, may be moved to a less frequent risk-based inspection schedule or returned to a periodic schedule of inspections. The department will notify the owner of the towing company if there is a change in the towing company's risk-based schedule or if the towing company is returned to a periodic inspection schedule.

86.453. Corrective Actions Following Inspection *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) When corrective actions to achieve compliance are required:
 - (1) the department shall provide the towing company a list of required corrective modification(s);
 - (2) within 10 days after receiving the list of required corrective actions, the owner shall complete all corrective actions and provide written verification of the corrective actions to the department; and
 - (3) the department may grant an extension, consistent with established procedures, if satisfactory evidence is presented showing that the time period specified is inadequate to perform the necessary corrections.
- (b) The department may assess administrative penalties and/or administrative sanctions for violations or for failure to complete corrective actions timely or provide written verification to the department timely, in accordance with §86.900.

86.455. Private Property Tow Fees. *(New section adopted effective September 1, 2010, 35 TexReg 7788; amended effective January 16, 2012, 37 TexReg 116; amended effective March 1, 2015, 40 TexReg 701)*

- (a) For purposes of this section:

- (1) light-duty means the tows of motor vehicles with a gross weight rating of 10,000 pounds or less;
 - (2) medium-duty means the tows of motor vehicles with a gross weight rating of more than 10,000 pounds, but less than 25,000 pounds; and
 - (3) heavy-duty means the tows of motor vehicles with a gross weight rating that exceeds 25,000 pounds; and
 - (4) drop charge means the maximum that may be charged for the release of the vehicle before its removal from the property or parked location.
- (b) The maximum amount that may be charged for private property tows is as follows:
- (1) light duty tows -- \$255;
 - (2) medium duty tows -- \$357; and
 - (3) heavy duty tows -- \$459 per unit or a maximum of \$918.
- (c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is parked without the authorization of the property owner attempts to retrieve the motor vehicle before its removal from the property or parked location, the maximum amount that may be charged for a drop charge (if the motor vehicle is hooked up) is:
- (1) light duty tows -- \$127;
 - (2) medium duty tows -- \$178; and
 - (3) heavy duty tows -- \$229.
- (d) If an owner, authorized operator, or authorized agent of the owner of a motor vehicle is present before the removal from the property or parked location the towing operator shall advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle that he or she may offer payment of the towing drop charge.
- (e) For purposes of this section, a tow company must accept cash, credit cards and debit cards as payment for the drop charge.

86.458. Fees for Nonconsent Tows, Refunds. *(New section adopted effective January 16, 2012, 37 TexReg 116)*

- (a) A license or permit holder may not charge a fee for a nonconsent tow that is greater than a nonconsent tow established under Texas Occupations Code, §2308.2065.
- (b) A license or permit holder may not charge a fee for a service related to a nonconsent tow that is not included in the list of fees established under Texas Occupations Code, §2308.2065.
- (c) The department may require a license or permit holder to refund to a vehicle owner or operator the amount charged to the owner or operator in excess of the amounts established by Texas Occupations Code.

86.500. Reporting Requirements--Towing Company. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective September 1, 2010, 35 TexReg 7788; amended effective January 16, 2012, 37 TexReg 116)*

- (a) If a political subdivision begins regulating nonconsent tow fees, the towing company must update the fee schedules provided to the VSF and used by the towing company before the 30th day after the ordinance goes into effect.

- (b) Any changes in nonconsent tow fees regulated by a political subdivision must be provided to the VSF by the towing company before the 30th day after the effective date of the change.
- (c) Complete lists required. Each time a towing company provides a nonconsent towing fee schedule to the VSF, the towing company must include a complete list of all nonconsent towing fees charged by the towing company. Partial towing fee schedules are not acceptable. Each fee schedule required by this chapter is a complete schedule of all nonconsent towing fees of the company.
- (d) If a municipality establishes private property tow fees that are less than the private property tow fees authorized by §86.455, the fee schedule must separately identify those municipalities and list each authorized fee.
- (e) If a municipality establishes private property tow fees that are greater than the private property tow fees authorized by this section, the private property tow fee schedule may not exceed each fee authorized by §86.455.

86.650. Towing, Storage, and Booting Advisory Board. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

- (a) The advisory board consists of the ten members appointed by the chairman of the commission with the approval of the commission. The ten members include:
 - (1) one representative of a towing company operating in a county with a population of less than one-million;
 - (2) one representative of a towing company operating in a county with a population of one-million or more;
 - (3) one owner of a vehicle storage facility located in a county with a population of less than one-million;
 - (4) one owner of a vehicle storage facility located in a county with a population of one-million or more;
 - (5) one law enforcement officer from a county with a population of less than one-million;
 - (6) one law enforcement officer from a county with a population of one-million or more;
 - (7) one parking facility owner;
 - (8) one representative of property and casualty insurers who write automobile insurance in this state;
 - (9) one member of a booting company; and
 - (10) one public member.
- (b) The advisory board shall include representation for each classification of towing.
- (c) Advisory board members serve terms of six years, with the terms of two or three members, expiring on February 1 of each odd-numbered year.
 - (1) A member may not serve more than two full consecutive terms.
 - (2) If a vacancy occurs during a term, the chairman of the commission will appoint a replacement who meets the qualifications of the open position to serve for the balance of the term.
- (d) The chairman of the commission appoints one of the advisory board members to serve as the presiding officer of the advisory board for one year. The presiding officer of the advisory board may vote on any matter before

the advisory board.

- (e) Advisory board members do not receive compensation. They are, subject to the General Appropriations Act, reimbursed for actual and necessary expenses incurred in performing the duties of the advisory board.
- (f) The advisory board meets twice yearly and may meet at other times at the call of the chairman of the commission or the executive director.
- (g) The advisory board provides advice and recommendations to the department on technical matters relevant to the administration and enforcement of this chapter, including examination content, licensing standards, continuing education requirements, and maximum amounts that may be charged for fees related to private property tows.

86.700. Responsibilities of Tow Truck Permit Holder--Storage of Towed Vehicles. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective January 16, 2012, 37 TexReg 116)*

- (a) Unless the towing company agrees to take the vehicle to a location designated by the vehicle's owner, a towing company that makes a nonconsent tow shall tow the vehicle to a vehicle storage facility operated by a person who holds a vehicle storage facility license issued by the department.
- (b) In the event the vehicle is taken to a location other than a licensed vehicle storage facility, the document signed by the vehicle owner or operator to authorize the tow may not include authorization of any other services other than those necessary to perform the nonconsent tow.

86.701. Responsibilities of Tow Truck Permit Holder--Tow Truck Signage. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) A tow truck permit holder must display on each permitted tow truck:
 - (1) the permit holder's name;
 - (2) the permit holder's publicly listed telephone number;
 - (3) the city and state where the permit holder is located; and
 - (4) the permit number for the tow truck.
- (b) The information required to be displayed must be:
 - (1) printed in letters and numbers that are at least two inches high and in a color that contrasts with the color of the background surface; and
 - (2) permanently affixed in conspicuous places on both sides of the tow truck.

86.702. Responsibilities of Licensee and Permit Holder--Change Name, Address, or Drug and Alcohol Testing Policy. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective March 15, 2014, 39 TexReg 1706)*

- (a) A licensee or permit holder shall notify the department of changes to any of following information:
 - (1) change in the licensee's or permit holder's name no later than the effective date of the change;
 - (2) change of the licensee's or permit holder's mailing, physical address, and email address, no later than the effective date of the change; or
 - (3) change in the licensee's drug and alcohol testing policy no later than 30 days before the effective date of the change.
- (b) The requirements of subsection (a)(3) apply only to a towing company regulated by this chapter.

86.703. Responsibilities of Towing Company--Change of Ownership. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

A towing company must file an original application for licensure when there is a change in the ownership of the company, including but not limited to, a corporate merger or a change in the sole proprietorship or partnership.

86.705. Responsibilities of Towing Company--Standards of Conduct. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)*

- (a) Except for signs required by Texas Occupations Code, §2308.301, a towing company may not directly or indirectly give anything of value to a parking facility owner in connection with the removal of a vehicle from a parking facility.
- (b) A towing company may not have a direct or indirect monetary interest in a parking facility from which the towing company for compensation removes unauthorized vehicles.
- (c) A towing company may not tow a vehicle to a vehicle storage facility unless the vehicle storage facility is in compliance with the required postings in Texas Occupations Code, §2308.207.
- (d) A towing company may not remove and store an unauthorized vehicle unless authorized by Texas Occupations Code, §2308.255.
- (e) A towing company may not perform a nonconsent tow unless the property from which the vehicle is towed is in compliance with Texas Occupations Code, §§2308.301-2308.305.
- (f) Except as authorized by Texas Occupations Code, §§2308.351-2308.354, a towing company may not perform a nonconsent tow from:
 - (1) a leased right-of-way;
 - (2) an area between a parking facility and a public right-of-way;
 - (3) a public right-of-way; or
 - (4) a public roadway.
- (g) A towing company may not contract for the removal from a parking facility of a vehicle that does not display an unexpired license plate or registration insignia or a valid inspection certificate, unless the towing company notes on the tow ticket the:
 - (1) name of the person or company that authorized the tow;
 - (2) telephone number of the company or person that authorized the tow; and
 - (3) date of compliance with the notice provisions in Texas Occupations Code, §2308.253(e).
- (h) A towing company or towing operator may not charge a fee for a nonconsent tow that is greater than the fee listed in the schedule most recently submitted to the department.
- (i) A towing company or towing operator may not charge a fee related to a nonconsent tow that is not listed in the schedule most recently submitted to the department.
- (j) A towing company may not charge a fee for a nonconsent tow that is greater than the statewide fee or nonconsent tow fee authorized by Texas Occupations Code, §2308.2065.
- (k) A towing company may not charge a fee related to a nonconsent tow unless that fee is authorized by the

statewide fee or nonconsent tow fees authorized by Texas Occupations Code, §2308.2065.

- (l) A towing company must keep record of every nonconsent tow including, but not limited to, the following information:
 - (1) vehicle description, including license or vehicle identification number, if available;
 - (2) a statement describing the reason for towing the vehicle;
 - (3) location vehicle towed from; and
 - (4) vehicle storage location.
- (m) A towing company may not employ or contract with unlicensed persons required to hold a license under this chapter.

86.706. Responsibilities of Towing Company--Required Postings at Vehicle Storage Facility (VSF). *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

- (a) A towing company must provide its nonconsent towing fees schedule to all VSF's to which the towing company delivers vehicles for storage.
- (b) The nonconsent towing fees schedule provided to the VSF and made available to the public at the VSF must match the nonconsent towing fees schedule on file with the department.
- (c) A towing company may not collect nonconsent towing fees unless the VSF accepting nonconsent towed vehicles post a sign in one inch letters stating "Nonconsent tow fees schedules available on request."
- (d) The nonconsent towing fees schedule must be made available to any requestor during normal business hours of the VSF.

86.708. Responsibilities of Towing Company--Tow Truck License Plates. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486)*

Unless allowed by another law or regulation, a towing company or tow truck operator must not operate or cause a tow truck to be operated on the public roadways of this State unless the tow truck displays current license plates that includes the words "Tow Truck."

86.709. Responsibilities of Towing Company--Tow Ticket. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)*

- (a) A towing company must prepare and issue a tow ticket for each nonconsent tow.
- (b) A copy of the tow ticket must be given to the vehicle owner, if the owner or operator is present and available at the time of the tow, and a copy delivered to the vehicle storage facility, or place agreed upon by the towing operator and vehicle owner.
- (c) The tow ticket shall only authorize charges directly related to towing the vehicle to a designated location authorized by subsection (b).
- (d) The tow ticket shall itemize each charge and must characterize the fees using the identical fee structure stated in the towing company's nonconsent towing fee schedule on file with the VSF.
- (e) The tow ticket must contain 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.

86.710. Responsibilities of Towing Company--Drug and Alcohol Testing Policy. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 348; amended effective January 16, 2012, 37 TexReg*

- (a) A towing company adopting paragraphs (1) - (12) of this subsection will comply with Texas Occupations Code, §2308.158.
- (1) Purpose and Scope. This drug and alcohol testing policy provides guidance to supervisors and towing operators about their responsibilities under this policy. Except as stated in paragraph (12), this policy applies to all towing operators and all towing operator job applicants.
 - (2) Definitions. The words and terms used in this policy shall have their ordinary meaning unless the words or terms are used in Texas Occupations Code, Chapter 2308 or Title 49 Code of Federal Regulation Part 40, in which event the words or terms shall have the meaning designated in those regulations.
 - (3) Consent Form.
 - (A) Before a drug or alcohol test is administered, towing operators and applicants are required to sign a consent form authorizing the test and permitting release of test results to the medical review officer (MRO), the company, and the department. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the drug and alcohol testing policy.
 - (B) The consent form shall set forth the following information:
 - (i) the procedure for confirming and verifying an initial positive test result;
 - (ii) the consequences of a verified positive test result; and
 - (iii) the consequences of refusing to undergo a drug or alcohol test.
 - (C) The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if the tested drugs were present in the towing operator's or applicant's system.
 - (4) Compliance with Drug and Alcohol Testing Policy. The failure or refusal by a towing operator or applicant to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is a diluted specimen shall be grounds for refusal to hire or for termination.
 - (5) General Rules. This drug and alcohol testing policy is governed by these general rules:
 - (A) towing operators shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician.
 - (B) towing operators are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time.
 - (C) all towing company property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. Towing company property includes, but is not limited to, vehicles, desks, containers, files, and lockers.
 - (D) any towing operator convicted of violating a criminal drug or alcohol statute shall inform his/her supervisor of such conviction (including pleas of guilty and *nolo contendere*) within five days of the conviction occurring. Failure to inform the supervisor subjects the employee to disciplinary action up to and including termination for the first offense. The towing

company will notify the Texas Department of Licensing and Regulation of the conviction (including pleas of guilty and *nolo contendere*).

- (6) Types of Tests
- (A) Pre-employment. All applicants for positions requiring a towing operator's license, who have received a conditional offer of employment, must take a drug test before receiving a final offer of employment.
 - (B) Annual. All towing operators employed by a towing company must complete at least one scheduled drug test each 12-month period from the date of the initial license or renewal.
 - (C) Random Testing. In addition to annual testing, towing operators are subject to random urine drug and alcohol testing. Under this policy, annual random test for drugs and alcohol of at least 25 percent of the total number of towing operators is required.
 - (i) A minimum of 15 minutes and a maximum of two hours will be allowed between notification of a towing operator for random urine drug and alcohol testing and the actual presentation for specimen collection.
 - (ii) Random donor selection dates will be unannounced with unpredictable frequency.
 - (iii) Each licensed towing company participating in a consortium must ensure that the consortium performs random drug testing on at least 25% of the total number of the licensed towing operators participating in and tested by the consortium.
 - (D) Return-to-Duty and Follow-Up.
 - (i) Any towing operator who has violated this drug and alcohol testing policy and is allowed to return to work must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after a towing operator returns to duty. Follow-up testing may be extended for up to 60 months following return to duty. The test results of all return to duty and follow-up must be negative.
 - (ii) The towing operator will be required to pay for his or her return-to-duty and follow-up tests accordingly.
- (7) Drug Testing. The drugs for which tests are required under this policy are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates.
- (8) Specimen Collection Procedures.
- (A) All urine specimens will be collected by a laboratory that is certified and monitored by the Federal Department of Health and Human Services.
 - (B) Drug and alcohol testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory.
 - (C) If the analysis of the primary specimen confirms the presence of drugs or alcohol, the towing operator has 72 hours to request sending the split specimen to another Federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The towing operator will be required to pay for his or her split specimen test(s).
 - (D) For the towing operator's protection, the results of the analysis will be confidential except for

the testing laboratory. After the MRO has evaluated a positive test result, the towing operator will be notified, and the MRO will notify the company.

- (E) The towing company will notify the department of the positive test result. Notification to the department must occur within 3 days of receipt of the confirmed test results from the MRO. The notification must include the:
 - (i) towing operator's name;
 - (ii) towing operator's license number;
 - (iii) date of the positive test;
 - (iv) substance detected by the drug and alcohol test; and
 - (v) disciplinary action imposed violation of the drug testing policy.

- (9) Reporting and Reviewing of Drug and Alcohol Testing Results.
 - (A) The company shall designate a medical review officer (MRO) to receive, report, and store testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.
 - (B) The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the Federal Department of Transportation.
 - (C) Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the towing operator by telephone upon exchange of acceptable identification.
 - (D) Neither the company, the laboratory, nor the MRO shall disclose any drug or alcohol test results to any other person except under written authorization from the towing operator, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties having a legal right-to-know as determined by state and federal law.

- (10) Distribution of Information to Towing Operators. The minimal distribution of information for all towing operators will include the display and distribution of:
 - (A) informational material on the physical and mental effects of drugs and alcohol;
 - (B) an existing community services hotline number, available drug and alcohol counseling, rehabilitation, and assistance program;
 - (C) the company's policy regarding the use of prohibited drugs and/or alcohol; and
 - (D) the consequences or disciplinary action that may be imposed upon VSF employees for violating the drug and alcohol policy.

- (11) Consequences of a Confirmed Positive Drug and Alcohol Test.
 - (A) Job applicants will be denied employment if their initial positive pre-employment drug test results have been confirmed.
 - (B) If a towing operator's positive drug and alcohol test result has been confirmed, the towing operator will stand down from towing operation duties and may be subject to disciplinary action up to and including termination.

- (C) The company may consider the following factors in determining the appropriate disciplinary action: the towing operator's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions.
 - (D) No disciplinary action may be taken pursuant to this drug and alcohol policy against towing operators who voluntarily identify themselves as drug or alcohol users, obtain counseling, rehabilitation and comply with return to duty and follow-up drug and alcohol testing.
- (12) Exceptions.
- (A) Towing operators subject to random drug and alcohol testing under Title 49, Code of Federal Regulation, Part 40 who have been randomly tested in the 12-month reporting period are exempt from the annual test requirement, provided that the towing operator's tested negative and the negative test results are submitted to and verified by the MRO.
 - (B) Towing operators holding a valid Towing Operator License issued by the department who are tested for drugs and alcohol in accordance with 16 Texas Administrative Code Chapter 85 are exempt from this section.
- (b) Independent drug and alcohol testing policy.
- (1) A towing company may file an independent drug and alcohol testing policy.
 - (2) The filing must describe how the independent drug and alcohol testing policy is as stringent as each provision of the model policy set forth in subsection (a).
- (c) Compliance. A towing company is required to adopt and implement an alcohol and drug testing policy that complies with subsection (a) or (b).

86.711. Responsibilities of Towing Company--Honesty, Trustworthiness, and Integrity. *(New section adopted effective January 16, 2012. 37 TexReg 116)*

A towing company must conduct towing operations with honesty, trustworthiness, and integrity.

86.715. Responsibilities of Towing Operator--Standards of Conduct. *(New section adopted effective January 16, 2012, 37 TexReg 116)*

- (a) A towing operator may not charge a fee for a nonconsent tow that is greater than the statewide fee or nonconsent tow fee approved by Texas Occupations Code, §2308.2065.
- (b) A towing operator may not charge a fee related to a nonconsent tow unless that fee is authorized by the statewide fee or nonconsent tow fees approved by Texas Occupations Code, §2308.2065.
- (c) A towing operator must allow department personnel and law enforcement to inspect a tow truck permitted under this chapter.
- (d) A towing operator must perform each tow in a safe and competent manner based on the circumstances and type of vehicle under tow.
- (e) During the term of the towing operator license, a towing operator must maintain a current valid driver's license. An occupational driver's license does not meet the requirements of this chapter.
- (f) A towing operator may not tow a vehicle to a vehicle storage facility unless the vehicle storage facility displays a TDLR license number.
- (g) A towing operator may not remove and store an unauthorized vehicle unless authorized by Texas Occupations

Code, §2308.255.

- (h) A towing operator may not perform a nonconsent tow unless the property from which the vehicle is towed is in compliance with Texas Occupations Code, §§2308.301-2308.305.
- (i) Except as authorized by Texas Occupations Code, §§2308.351-2308.354, a towing operator may not perform a nonconsent tow from:
 - (1) a leased right-of-way;
 - (2) an area between a parking facility and a public right-of-way;
 - (3) a public right-of-way; or
 - (4) a public roadway.
- (j) A towing operator must prepare and issue a tow ticket for each nonconsent tow.
- (k) towing operator must provide a copy of the tow ticket to the vehicle owner or representative, if the owner or representative, or operator is present and available at the time of the tow, and a copy delivered to the vehicle storage facility, or place agreed upon by the towing operator and vehicle owner.
- (l) The tow ticket provided by the towing operator shall only authorize charges directly related to towing the vehicle to a designated location authorized by subsection (k).
- (m) The tow ticket provided by the towing operator must itemize each charge and must characterize the fees using the identical fee structure stated in the towing company's nonconsent towing fee schedule on file with the VSF.
- (n) The towing operator must include on the tow ticket the licensed name of the towing company, publicly listed telephone number, towing company TDLR license number, and the TDLR license number of the towing operator.
- (o) A towing operator must perform each towing operation with honesty, trustworthiness, and integrity.
- (p) When performing towing operations, all towing operators must carry and openly display the appropriate TDLR issued original towing operator license.

86.800. Fees. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)*

- (a) Application Fees
 - (1) Permit Tow Truck
 - (A) Original Application--\$75
 - (B) Renewal--\$75
 - (C) Duplicate Permit--No charge
 - (D) Permit Amendment--\$25
 - (2) Tow Company License
 - (A) Original Application--\$350
 - (B) Renewal--\$350

- (C) Duplicate License--\$25
- (D) Permit Amendment--\$25
- (3) Operator License
 - (A) Original Application--\$100
 - (B) Renewal--\$100
 - (C) Duplicate License--\$25
 - (D) Operator License Amendment--\$25
 - (E) Training License--\$25
- (4) Dual Vehicle Storage Facility License and Towing Operator
 - (A) Original Application--\$150
 - (B) Expedited Dual License--\$75
 - (C) Renewal--\$150
- (b) Risk-based inspections--\$150
- (c) Late renewal fees for licenses and permits issued under this chapter are provided under §60.83 of this title (relating to Late Renewal Fees)
- (d) All fees are nonrefundable except as provided for by commission rules or statute.

86.900. Sanctions and Administrative Penalties. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

A person that violates Texas Occupations Code, Chapter 2308, a rule, or an order of the Executive Director or Commission relating to Texas Occupations Code, Chapter 2308, will be subject to administrative sanctions and/or administrative penalties under Texas Occupations Code, Chapters 51 and 2308 and applicable agency rules.

86.901. Cease and Desist Order. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

The executive director may issue a cease and desist order as necessary to enforce this chapter if the executive director determines the action is necessary to prevent a violation of this chapter and to protect public health and safety.

86.902. Requirement to Reimburse. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

A license or permit holder charging a fee greater than the fee listed on its most recent fee schedule submitted to the department or a fee not listed on its most recent fee schedule submitted to the department may be ordered to reimburse the vehicle owner or operator of the over charges and unauthorized charges.

86.903. Enforcement of Unpaid Judgments. *(New section adopted effective May 3, 2010, 35 TexReg 3486)*

- (a) The department shall suspend a license holder's license on the license holder's failure to pay a final judgment awarded to an owner or operator of a vehicle before the 60th day after the date of the final judgment. The department must provide notice of the suspension to the license holder at least 30 days before the date the license is to be suspended.
- (b) The owner or operator of the vehicle shall submit a certified copy of the final judgment to the department.

- (c) On receipt of the certified copy of the unpaid final judgment, the department shall disqualify a person from renewing a license or permit or deny the person the opportunity of taking a licensing examination on the grounds that the person, towing company, or vehicle storage facility has not paid a final judgment awarded to an owner or operator of a vehicle.
- (d) The department shall reinstate the license on submission of evidence satisfactory to the department of payment of the final judgment by the person, towing company, or vehicle storage facility.

86.1000. Technical Requirements--Tow Truck Safety Equipment and Truck Operations. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)*

- (a) Each tow truck shall, if applicable:
 - (1) have a legible manufacturer's data plate indicating the capacity of the boom, the winch or the carry mechanism; or
 - (2) have a document in the truck from the manufacturer stating the capacity of the boom, the winch and the carry mechanism.
- (b) Every hydraulic line on each tow truck must be free of leaks and be in good working condition free of defects.
- (c) The winch must not exceed the capacity of the boom or leak oil.
- (d) The cables must be as specified by the manufacturer and be in good condition, within manufacturer guidelines.

86.1001. Technical Requirements--Towing Operator Safety Clothing and Identification. *(New section adopted effective April 15, 2008, 33 TexReg 2940; amended effective May 3, 2010, 35 TexReg 3486; amended effective January 16, 2012, 37 TexReg 116)*

- (a) Towing operators, as a condition of their license must comply with the protective clothing policy.
- (b) Towing operators must wear a reflective vest, shirt, or reflective jacket at all times while working outside the tow truck; the reflective vest, shirt, or reflective jacket must meet the ANSI/ISEA requirements for high visibility safety apparel at all times when using or assisting in the use or operation of a licensed tow truck on a road or road related area.
- (c) When performing towing operations, all tow truck operators must carry and openly display the appropriate TDLR issued original towing operator license.
- (d) Towing operators permitted under §86.211 are exempt from the requirements of subsection (b).

86.1002. Technical Requirements--Towing Company Records. *(New section adopted effective April 15, 2008, 33 TexReg 2940)*

- (a) General records to be maintained. Except as provided in paragraphs (1) and (2), every towing company shall maintain at a principal office in Texas all records and information required by the department.
 - (1) Texas firms. If a towing company wishes to maintain records at a location other than its principal office in Texas, the towing company shall make a written request to the department. A tow company may not begin maintaining records at an alternate location until the request is approved by the department.
 - (2) Out-of-state firms. A towing company whose principal business address is located outside the state of Texas shall maintain records required under this section at its principal office in Texas. Alternatively, a towing company may maintain such records at an out-of-state facility if the towing company reimburses the department for necessary travel expenses and per diem for any inspections or

investigations conducted under these rules.

- (b) Preservation and destruction of records. All books and records generated by a tow company must be maintained for not less than two years at the towing company's principal business address.