PROPOSED AMENDMENT
SENATE AMENDMENTS TO H.B. 2408
(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

"Section 1. Title 41, chapter 12, Arizona Revised Statutes, is amended by adding article 12, to read:

ARTICLE 12. TOWING SERVICES

Sec. 2. Transfer and renumber
Section 28-1108, Arizona Revised Statutes, is transferred and renumbered for placement in title 41, chapter 12, article 12, Arizona Revised Statutes, as section 41-1830.51 and as so renumbered, is amended to read:

41-1830.51. Vehicle towing; rules; contractual agreement for towing services; weight exemption

A. If a vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed by the vehicle and the drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of a structural nature that cannot readily be dismembered. For the purposes of this subsection, "drawbar" means a rigid structure that connects a trailer and a towing vehicle and that articulates at the point of connection with the trailer and articulates at the point of connection with the towing vehicle.

B. If a vehicle is towing another vehicle and the connection consists of a chain, rope or cable, a white flag or cloth at least twelve inches square shall be displayed on the connection.

C. The director of the department of public safety shall:

1. Adopt and enforce rules that are not inconsistent with this chapter to govern the design and operation of all tow trucks.

2. ADOPT RULES TO PROTECT CONSUMERS AGAINST BEING OVERCHARGED FOR TOWING SERVICES. THE RULES SHALL INCLUDE THE FOLLOWING PROVISIONS:

(a) A TOWING SERVICE PROVIDER WHO IS CONTRACTED WITH THE DEPARTMENT MAY NOT CHARGE FOR SERVICES IN EXCESS OF THE MAXIMUM ALLOWABLE RATES."
(b) A MOTORIST MAY NOT BE CHARGED FOR ANY SERVICES THAT ARE NOT AUTHORIZED UNDER A DEPARTMENT TOWING OR STORAGE SERVICES CONTRACTUAL AGREEMENT WITHOUT THE PRIOR APPROVAL OF THE MOTORIST OR THE MOTORIST'S REPRESENTATIVE.

(c) COMPLAINTS SHALL BE INVESTIGATED PURSUANT TO ESTABLISHED DEPARTMENT POLICIES AND PROCEDURES TO THE EXTENT DEEMED NECESSARY BY THE DEPARTMENT HIGHWAY PATROL DISTRICT COMMANDER OR THE COMMANDER'S AUTHORIZED DESIGNEE. ON INVESTIGATION, THE DEPARTMENT HIGHWAY PATROL DISTRICT COMMANDER OR THE COMMANDER'S AUTHORIZED DESIGNEE SHALL CLASSIFY EACH COMPLAINT AS FOLLOWS:

(i) UNFOUNDED IF THE ALLEGATION IS FALSE OR NON-FACTUAL.
(ii) EXONERATED IF THE INCIDENT DID OCCUR, BUT WAS LAWFUL OR PROPER.
(iii) NOT SUSTAINED IF THERE IS INSUFFICIENT EVIDENCE EITHER TO PROVE OR DISPROVE THE ALLEGATIONS.
(iv) PARTIALLY SUSTAINED IF THERE ARE TWO OR MORE ALLEGATIONS MADE AND ONLY SOME OR A PORTION OF THE ALLEGATIONS ARE SUPPORTED BY SUFFICIENT EVIDENCE.
(v) SUSTAINED IF THE ALLEGATION IS SUPPORTED BY SUFFICIENT EVIDENCE.

(d) IF A COMPLAINT IS SUSTAINED, A LARGER CLASS OF TOW VEHICLE USED FOR LIGHTER TOWS MUST BE BILLED AT THE LIGHTER DUTY TOWING SERVICE RATES.

(e) ALL TOWING SERVICE INVOICES SHALL SPECIFY THAT THE PAYOR IS ABLE TO FILE A COMPLAINT WITH THE DEPARTMENT FOR TOWING SERVICE OVERCHARGES.

D. A person may not operate a tow truck for the purpose of towing vehicles without first registering with the director of the department of public safety, obtaining a bond and obtaining a permit pursuant to the rules that govern tow trucks and that are adopted by the department of public safety.

E. The director of the department of public safety or a county, city or town may enter into a contractual agreement with a towing firm or firms for towing or storage services, or both. At the time of application for a contractual agreement, a towing firm must disclose in writing the owners of the towing firm and, if the owners own other towing firms that are also applying for the same contractual agreement, the names of those towing firms. The contractual agreement shall comply with this section and all rules adopted under this section. Contracts shall be awarded on the basis of competitive bidding. The director of the department of public safety or a county, city or town shall reserve the right to reject all bids. If only one
bid is received, the director of the department of public safety or a county, city or town may reject the bid and negotiate a contract without bidding if the negotiated contract is at a price lower than the bid price under the terms and conditions specified in the call for bids.

F. Except as provided in subsection G of this section, a towing firm may only have one contractual agreement per geographic towing area with the department of public safety or a county, city or town for towing or storage services, or both. If an owner of a towing firm has a common ownership interest in another towing firm or the assets of another towing firm, the owner may not participate in any other application for a contractual agreement within the same geographic towing area.

G. If a towing firm that has a contractual agreement pursuant to this section acquires another towing firm that has a contractual agreement pursuant to this section, both contractual agreements remain valid for one year after the date of the acquisition.

H. Notwithstanding subsection F of this section, an agency may allow a towing firm to use resources from another towing firm if an agency deems the use of those resources is necessary for traffic incident management.

I. The total weight of a tow truck and the towed vehicle is exempt from the maximum total gross weight load allowed under section 28-1100 if a damaged, disabled or abandoned vehicle or vehicle combination is towed.

Sec. 3. Title 41, chapter 12, article 12, Arizona Revised Statutes, is amended by adding sections 41-1830.52, 41-1830.53 and 41-1830.54, to read:

41-1830.52. Department of public safety contractual agreements; towing; rates

THE DEPARTMENT SHALL ADJUST DEPARTMENT CONTRACTUAL AGREEMENTS WITH A TOWING FIRM FOR TOWING OR STORAGE SERVICES, OR BOTH, TO CONFORM TO BASE RATES THAT ARE SET BY THE DIRECTOR AND TO REFLECT THE RESULTS FROM THE DEPARTMENT RATE SURVEYS.

41-1830.53. Department of public safety contractual agreements; towing; rates

THE DIRECTOR SHALL ESTABLISH BY RULE THE MAXIMUM ALLOWABLE RATES FOR TOWING VEHICLE CLASSIFICATIONS USED IN DEPARTMENT AGREEMENTS WITH A TOWING FIRM FOR TOWING OR STORAGE SERVICES, OR BOTH.
41-1830.54. **Department of public safety survey of existing service contract providers**

A. The Director shall adopt rules that require the Department to conduct a survey of existing towing service contract providers in each geographical towing area by July 1 of each even-numbered year. The Department shall determine survey data categories in consultation with a statewide towing industry association and providers of towing services. The Director may consult additional stakeholders as needed. The data categories shall be used in subsequent surveys.

B. The Department shall calculate the percentage difference in each data category from the previous survey conducted and shall adjust the towing service fees to reflect the percentage price difference in the aggregate of the data categories by January 1 of each even-numbered year.

Sec. 4. **Department of public safety rules; towing services**

The director of the department of public safety shall adopt rules establishing a heavy duty rotator recovery vehicle classification for towing services. The rules shall include rates and general guidelines for the use of heavy duty rotator recovery vehicles and shall define "heavy duty rotator recovery vehicle" as a tow vehicle that has all of the following:

1. A manufacturer's gross vehicle weight rating in excess of fifty-two thousand pounds.

2. A boom that is capable of moving its position to the side of the vehicle to perform recoveries and that has a boom rating of at least forty tons.

3. Air brakes that are capable of providing air to the towed vehicle's brakes.

Sec. 5. **Department of public safety initial rate survey**

On or before December 31, 2015, the department of public safety shall conduct a survey of existing towing service contract providers in each geographical towing area in an effort to establish baseline towing industry costs. The department of public safety shall determine survey data categories in consultation with a statewide towing industry association and providers of towing services. The director of the department of public safety may consult additional stakeholders as needed. The initial survey shall determine survey data category prices for all towing service vehicle classifications on or within ten days of July 1, 2010 except for a heavy duty rotator recovery vehicle.
Sec. 6. Conditional repeal
A. Section 4 of this act is repealed as of the date the department of public safety adopts rules establishing a super heavy duty rotator recovery vehicle classification for towing services and rates and general guidelines for the use of heavy duty rotator recovery vehicles, including defining "heavy duty rotator recovery vehicle" as a tow vehicle that has all of the following:
1. A manufacturer's gross vehicle weight rating in excess of fifty-two thousand pounds.
2. A boom that is capable of moving its position to the side of the vehicle to perform recoveries and that has a boom rating of at least forty tons.
3. Air brakes that are capable of providing air to the towed vehicle's brakes.
B. The department of public safety shall notify in writing the director of the Arizona legislative council of this date.

Sec. 7. Conditional repeal
A. Section 5 of this act is repealed on December 31, 2016 if the department of public safety has adjusted towing service prices in its contractual agreements with towing firms as a result of rate surveys conducted by the department of public safety.
B. The department of public safety shall notify in writing the director of the Arizona legislative council if the towing service prices are adjusted pursuant to subsection A of this section.

Sec. 8. Conditional repeal
A. Section 41-1830.53, Arizona Revised Statutes, is repealed on December 31, 2016 if the department of public safety has adjusted towing service prices in its contractual agreements with towing firms as a result of rate surveys conducted by the department of public safety.
B. The department of public safety shall notify in writing the director of the Arizona legislative council if the towing service prices are adjusted pursuant to subsection A of this section.

Sec. 9. Conditional repeal
A. Section 41-1830.54, Arizona Revised Statutes, is repealed as of the date the department of public safety adopts rules to establish the maximum allowable rates for towing vehicle classifications used in department of
Senate Amendments to H.B. 2408

1 public safety contractual agreements with a towing firm for towing or storage
2 services, or both.
3
4 B. The department of public safety shall notify in writing the
director of the Arizona legislative council of this date."
5 Amend title to conform

STEVE SMITH

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