

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

1 Strike everything after the enacting clause and insert:

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

4 ARTICLE 12. TOWING SERVICES

5 Sec. 2. Transfer and renumber

6 Section 28-1108, Arizona Revised Statutes, is transferred and
7 renumbered for placement in title 41, chapter 12, article 12, Arizona Revised
8 Statutes, as section 41-1830.51 and as so renumbered, is amended to read:

9 41-1830.51. Vehicle towing; rules; contractual agreement for
10 towing services; weight exemption

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

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

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

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

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

28 (a) A TOWING SERVICE PROVIDER WHO IS CONTRACTED WITH THE DEPARTMENT
29 MAY NOT CHARGE FOR SERVICES IN EXCESS OF THE MAXIMUM ALLOWABLE RATES.

1 (b) A MOTORIST MAY NOT BE CHARGED FOR ANY SERVICES THAT ARE NOT
2 AUTHORIZED UNDER A DEPARTMENT TOWING OR STORAGE SERVICES CONTRACTUAL
3 AGREEMENT WITHOUT THE PRIOR APPROVAL OF THE MOTORIST OR THE MOTORIST'S
4 REPRESENTATIVE.

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

11 (i) UNFOUNDED IF THE ALLEGATION IS FALSE OR NON-FACTUAL.

12 (ii) EXONERATED IF THE INCIDENT DID OCCUR, BUT WAS LAWFUL OR PROPER.

13 (iii) NOT SUSTAINED IF THERE IS INSUFFICIENT EVIDENCE EITHER TO PROVE
14 OR DISPROVE THE ALLEGATIONS.

15 (iv) PARTIALLY SUSTAINED IF THERE ARE TWO OR MORE ALLEGATIONS MADE AND
16 ONLY SOME OR A PORTION OF THE ALLEGATIONS ARE SUPPORTED BY SUFFICIENT
17 EVIDENCE.

18 (v) SUSTAINED IF THE ALLEGATION IS SUPPORTED BY SUFFICIENT EVIDENCE.

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

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

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

28 E. The director ~~of the department of public safety~~ or a county, city
29 or town may enter into a contractual agreement with a towing firm or firms
30 for towing or storage services, or both. At the time of application for a
31 contractual agreement, a towing firm must disclose in writing the owners of
32 the towing firm and, if the owners own other towing firms that are also
33 applying for the same contractual agreement, the names of those towing firms.
34 The contractual agreement shall comply with this section and all rules
35 adopted under this section. Contracts shall be awarded on the basis of
36 competitive bidding. The director of the department of public safety or a
37 county, city or town shall reserve the right to reject all bids. If only one

1 bid is received, the director of the department of public safety or a county,
2 city or town may reject the bid and negotiate a contract without bidding if
3 the negotiated contract is at a price lower than the bid price under the
4 terms and conditions specified in the call for bids.

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

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

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

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

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

24 41-1830.52. Department of public safety contractual agreements;
25 towing; rates

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

30 41-1830.53. Department of public safety contractual agreements;
31 towing; rates

32 THE DIRECTOR SHALL ESTABLISH BY RULE THE MAXIMUM ALLOWABLE RATES FOR
33 TOWING VEHICLE CLASSIFICATIONS USED IN DEPARTMENT AGREEMENTS WITH A TOWING
34 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.

1 Sec. 6. Conditional repeal

2 A. Section 4 of this act is repealed as of the date the department of
3 public safety adopts rules establishing a super heavy duty rotator recovery
4 vehicle classification for towing services and rates and general guidelines
5 for the use of heavy duty rotator recovery vehicles, including defining
6 "heavy duty rotator recovery vehicle" as a tow vehicle that has all of the
7 following:

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

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

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

15 B. The department of public safety shall notify in writing the
16 director of the Arizona legislative council of this date.

17 Sec. 7. Conditional repeal

18 A. Section 5 of this act is repealed on December 31, 2016 if the
19 department of public safety has adjusted towing service prices in its
20 contractual agreements with towing firms as a result of rate surveys
21 conducted by the department of public safety.

22 B. The department of public safety shall notify in writing the
23 director of the Arizona legislative council if the towing service prices are
24 adjusted pursuant to subsection A of this section.

25 Sec. 8. Conditional repeal

26 A. Section 41-1830.53, Arizona Revised Statutes, is repealed on
27 December 31, 2016 if the department of public safety has adjusted towing
28 service prices in its contractual agreements with towing firms as a result of
29 rate surveys conducted by the department of public safety.

30 B. The department of public safety shall notify in writing the
31 director of the Arizona legislative council if the towing service prices are
32 adjusted pursuant to subsection A of this section.

33 Sec. 9. Conditional repeal

34 A. Section 41-1830.54, Arizona Revised Statutes, is repealed as of the
35 date the department of public safety adopts rules to establish the maximum
36 allowable rates for towing vehicle classifications used in department of

1 public safety contractual agreements with a towing firm for towing or storage
2 services, or both.

3 B. The department of public safety shall notify in writing the
4 director of the Arizona legislative council of this date."

5 Amend title to conform

STEVE SMITH

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