



12/7/2023

RE: In response to the Attorney General's (AG) Study for Towing Practices in Vermont

Over several months, many organizations and individuals have weighed in on Vermont's towing practices. As the people who help motorists to get on their way, and who clear disabled vehicles from Vermont's roads in all weather conditions, we want to clarify our practices, and the record – as well as offer some suggestions.

Set rates for towers: We do not believe set rates for towing are practical or feasible for any tow company in Vermont. Individual tow companies' costs vary based on location, overhead, weather, type of vehicle, time of day, etc.

We are not opposed to price transparency. We can support tower registration, background checks on owners, suitable insurance requirements, equipment lists (have an actual wrecker/rollback), and published rate sheets for individual businesses.

We are concerned about the number of vehicles that are being towed at the request of state agencies without insurance or other means to cover the associated costs. These uncovered operating expenses are being cost-shifted to those who do pay and are pushing rates higher for everyone. Driving and car ownership come with responsibilities, including having a valid operator's license, having up-to-date vehicle registration, and insurance. It is shocking how often towing companies deal with damaged, stuck, or abandoned vehicles whose owners have not met these responsibilities, particularly the insurance requirement.

It is unreasonable to expect an industry to provide both planned and emergency services to keep Vermont's roadways clear and safe at all hours of the day and night, in all-weather with no clear mechanism for covering their costs. A trash company is paid to pick up garbage on the roadways, a tree service is paid to clear a tree that has fallen, and state Agency of Transportation (AOT) workers, fire, police, EMS, and Haz-Mat workers all get paid, as they should. Towing companies should as well.

Towing companies provide a service that may or may not get paid for, leaving the companies carrying all the risk in terms of not being able to cover their costs. Any regulation of the towing industry must be tied to reducing the risk of towers being left with all the costs and no way to recover them.

For the past year, New Hampshire has required towers on the State Police list to be registered with the State, to provide a list of employees, to require background checks on employees, and to provide price transparency. The results have been positive. We encourage Vermont to look at New Hampshire as a role model.

Retrieval of Personnel Items: The VTA has no objections to vehicle owners being able to retrieve some, but not all, personal items from towed vehicles including prescriptions, eyeglasses, keys, wallets, and cell phones. However, unfortunate as it is, our experience is that other items in vehicles may be the only collateral towers have to get paid for services.

Lien Provision: The VTA is in favor of a motor vehicle towing lien such as a mechanics lien to help insure payment for services. Once a vehicle and its belongings and cargo are released, there is no motivation for the owner to satisfy debts for services provided.

One solution in the case of cargo for heavy trucks and even some passenger vehicles, is to provide a surety bond, which can be obtained from most insurance companies or online for pennies on the dollar. Insurance companies will do this to get items released when payment cannot be made promptly. All this is, of course, unnecessary if the vehicle is insured. In addition, we do not feel the responsibility of towing and recovering vehicles should be the responsibility of the taxpayer and/or the State of Vermont.

While we understand a trucking company's desire to see loads delivered as quickly as possible it is important to recognize that the Food Safety Modernization Act prohibits any consumable or perishable item the has been damaged to be disposed of and not consumed. In addition, after a collision involving steel items such as bridge beams etc., they must be tested to ensure their structural integrity has not been compromised, they can't just be sent on their way..

Storage Fees: Like rates set for towing companies, a single set storage rate is not feasible. Storage rates vary and can depend on the overhead costs associated with the lot, taxes (taxes are higher in Burlington than Barton, gates, video surveillance, staffing cost, insurance cost, utility cost, moving vehicles, preventing and cleaning contamination, meeting state requirements for abandoned vehicles, preventing 'junk yard classifications', and the size, dimensions and area a load make take up. Again, we are supportive of transparency when it comes to rates, but unless we have a guaranteed income, it is not reasonable to set rates for existing businesses with different cost structures.

Short of having the State of Vermont liable for providing a towing and recovery service to state agencies it is our role to keep Vermont roadways open and clear for the safety of the motoring public. Without towers and the regulation of towing practices in Vermont, vehicles would remain abandoned and would create safety hazards for the motoring public.

Types of tows: There are varying types of tows, not every call is a small car that needs to be brought from point A to point B. Size of vehicle comes into play with medium size trucks requiring larger tow trucks, DOT/FMCSA regulation requirements, and heavy-duty trucks are even more complicated. Each category then has simple towing, simple winch outs, recoveries, or complex recoveries. Each class requires different equipment, different rigging, different levels of knowledge of the operator, and IFTA fuel tax per mile tow truck travels. All of which come at a cost.

In response to information submitted to the Attorney General's office

Letter from Grey Barreda: After some work, we were able to find this person's vehicle. We found the vehicle not at Handy's in Burlington but at Spillane's Towing in Burlington. Spillane's Towing contracts with the City of Burlington under their regulated parking enforcement policy. Spillane's has been in contact with the customer and has towed this person's vehicle over 13 times for the City of Burlington. In this case the owner had parked at a parking meter for 5 days and DID NOT feed the meter. Spillane's was ordered under the contract of Burlington Parking Enforcement to tow his vehicle. Spillane advised they are not going to charge Grey Barreda for the tow, but cannot release the vehicle until the owner goes to Burlington and pays the parking fine with the city. The e-mail does not provide any facts of the case and it is misconstrued to make the tower look at fault, when it is quite the opposite.

Letter from Assoc. General Contractors of VT: Again, referring to an incident in Burlington where over 20 vehicles were towed on a hot summer day. The City of Burlington law enforcement and parking division ordered vehicles to be towed that were blocking a roadway, in a no parking zone. This is a regulated City of Burlington Ordinance published on the City website and was enforced at the request of City officials as dictated under contract in accordance with town ordinance regulation.

Invoices and letter from VT Truck & Bus / Bellavance Trucking: Most reputable trucking companies such as Bellavance and similar companies across Vermont do have proper truck, trailer, and cargo insurance. However, the invoice in question states a tower billed over \$88,000.00 in recovery fees for rolled over unit hauling dog food. After negotiations, Bellavance stated the invoice was reduced to \$27,000.00. This is inaccurate. Emails provided by Progressive Insurance verify that the total fee of \$88,000 was split between Bellavance as the product / load insurer, and the out-of-state truck owner operator and trailer. The total Invoice was split into 4 parts: truck, trailer, cargo, and hazmat. Bellavance Trucking is self-insured, so their portion was approximately \$27,000.00 of the total invoice. The dog food for this recovery was loaded into a replacement trailer by the tower and delivered to Blue Seal without further delay. Bellavance is attempting to compare the dog food incident with a previous incident involving a load of wood. The dog food incident requires a different clean up method. The dog food incident occurred in a no-till field of a farmer that had specific requirements by the State of Vermont, requiring a more thorough cleaning to restore to original condition. Referring to the Food Safety Modernization Act, research should be done on whether this should have been delivered for distribution for animal consumption or proper disposal.

Bellavance is correct that all trucking companies and vehicles must have insurance. This includes a requirement for insurance by the Federal Motor Carrier Safety Administration. Trucking companies

need a \$750,000 insurance policy for non-hazmat loads and \$1,000,000 if hauling Hazmat. This refers to environmental and liability cases only, not for full coverage Insurance. Full coverage in part covers the recovery, towing, remediation, and storage. Liability insurance would only kick in if there is a need to mitigate a hazardous material spill. As most people are aware, a minimum of liability insurance is required for passenger vehicles in Vermont. However, numerous people do not have any coverage. In these situations, towers who perform a service and do not get paid. The only way to recoup monies is by selling the vehicle or worse sending it to scrap. If no lien is in place this would allow a simple car tow to go unpaid or worse a major truck incident incurring 10's or thousands of dollars to be left with the tower, again putting towers at financial risk, and potentially putting them out of business.

Letters from Rep. Barbara Rachelson: Rep. Rachelson has advocated for years for regulating towers and protecting the consumer. She sent a spreadsheet via e-mail of over 200 tows where someone had a complaint. We reviewed many, not all on the list, and found they were all in the City of Burlington/Chittenden County. Again, we reiterate, the City of Burlington and surrounding cities have regulated city ordinances and parking enforcement, which dictate what the contracted tower can charge as well as the fine the local cities charge. Additionally, the cars are being towed at the request of city officials based on the ordinances. This is pertinent to Chittenden County only and not statewide. Furthermore, in most cases a tow in the City of Burlington will be cheaper than a tow in, say, Newport or Cannan.

In conclusion, we believe it is unreasonable to leave towers, small and medium-sized businesses across Vermont, with all the financial risk when they provide a service to Vermont drivers, municipalities, and the State. It is easy to think that no one wants to get towed, but there is often relief on the faces of drivers when they are pulled out of a snowbank or delivered safely to a repair shop. Towing businesses, big and small, must make large investments to operate successfully in Vermont. Without an ability to get paid for their work, towers find it hard to operate in Vermont, especially in the more expensive rural areas outside Chittenden County.

Respectfully submitted,

The Vermont Towing Association Inc