

Amendment to SB 617

1 Amend the bill by replacing all after the enacting clause with the following:

2

3 1 State Police; Use of Tow List. Amend RSA 106-B:27, IV to read as follows:

4 IV. The director of state police with the approval of the commissioner of safety may adopt  
5 rules pursuant to RSA 541-A consistent with relevant provisions of this subdivision setting forth  
6 minimum qualifications of tow companies and their employees to participate in the state police tow  
7 list, including qualifications, training, and minimum standards for equipment, response times,  
8 storage and release of towed vehicles and their contents, and criminal history and motor vehicle  
9 record checks of ~~[-tow truck drivers]~~ **employees**.

10 2 Definitions; Removal of Abandoned Vehicles. Amend RSA 106-B:28 to read as follows:

11 106-B:28 Definitions.

12 In this subdivision:

13 I. ***"Employee" means any individual employed by the tow business who may***  
14 ***physically respond roadside to a state police tow call for service.***

15 II. "Heavy duty wrecker" means a wrecker intended and suitably equipped for towing  
16 vehicles in excess of 10,000 pounds gross weight, such as a tractor-trailer, large truck, or similar  
17 vehicle but excluding carriers and flatbeds, and meeting the following requirements, provided that  
18 come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable:

19 (a) A truck chassis having a minimum gross vehicle weight rating of not less than 54,500  
20 pounds;

21 (b) Tandem axles, or a cab-to-axle length of not less than 102 inches;

22 (c) A combined winch capacity of not less than 50,000 pounds, as rated by the winch  
23 manufacturer;

24 (d) A single winch in good operating condition with a capacity of 50,000 pounds, as rated  
25 by the winch manufacturer, or if equipped with 2 winches, a combined rating of 50,000 pounds;

26 (e) A manufactured wheel-lift in good operating condition, with retracted lifting capacity  
27 of not less than 20,000 pounds, as rated by the lift manufacturer, with safety chains or a tow bar of  
28 equal capacity;

29 (f) A winch cable rated as specified by the winch manufacturer, in good condition;

30 (g) Light and air brake hookups for the towed vehicle; and

31 (h) Additional safety equipment as specified in this chapter and consistent with United  
32 States Department of Transportation inspection requirements.

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1           ~~[H.]~~ **III.** "Light/Medium duty wrecker" means a wrecker intended and suitably equipped for  
2 safely towing vehicles weighing 26,000 pounds or less gross weight, including passenger cars, pickup  
3 trucks, motorcycles, small trailers, and similar vehicles, that meets the following requirements,  
4 provided that come-a-longs, chains, or other similar devices shall not serve as substitutes for a winch  
5 and cable:

6           (a) A minimum gross vehicle weight rating of not less than 14,500 pounds;

7           (b) Individual boom capacity of not less than 8,000 pounds, as rated by the boom  
8 manufacturer;

9           (c) Individual power takeoff or hydraulic power or electric winch capacity of not less  
10 than 8,000 pounds, as rated by the manufacturer, and wire rope of a capacity and length consistent  
11 with the device manufacturer;

12           (d) A manufactured wheel-lift with a retracting lifting capacity of not less than 3,500  
13 pounds, as rated by the manufacturer, with safety chains;

14           (e) Dual rear wheels;

15           (f) Two chock blocks that will prevent rolling or slippage of the wrecker; and

16           (g) Additional safety equipment as specified in this chapter and consistent with United  
17 States Department of Transportation inspection requirements.

18           ~~[H.]~~ **IV.** "Recovery vehicle" means a motor vehicle consisting of a commercially available  
19 truck chassis equipped with a commercially manufactured tow body or bed and that is rated and  
20 issued a serial number by the manufacturer, designed and equipped for and used in the towing or  
21 recovery of vehicles, in good condition and capable of towing a vehicle by means of a tow bar, sling, or  
22 wheel lift, and capable of recovering a vehicle by means of a hoist, winch, or towline.

23           ~~[V.]~~ **V.** "Rollback carrier" means a flatbed vehicle in good condition that meets the following  
24 requirements, provided that come-a-longs, chains, or similar devices shall not be used as substitutes  
25 for a winch and cable:

26           (a) A minimum gross vehicle weight rating of at least 19,500 pounds;

27           (b) A specially equipped chassis with a ramp on wheels and a hydraulic lift with a  
28 capacity to haul or tow another vehicle;

29           (c) At least one 8,000 pound winch, as rated by the winch manufacturer, with at least 50  
30 feet of cable, as recommended by the winch manufacturer; and

31           (d) Additional safety equipment as specified in this chapter and consistent with United  
32 States Department of Transportation inspection requirements.

33           ~~[V.]~~ **VI.** "Tow business" means a person, enterprise, partnership, company, LLC, or other  
34 corporation having a registered trade name, an active New Hampshire tax identification number, an  
35 active New Hampshire workers' compensation insurance policy or exemption papers, an active New  
36 Hampshire employment security account, and that meets all state and local legal requirements  
37 including, but not limited to, those related to payment of business related taxes, fees, and insurance

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1 coverage, and that regularly engages in the impoundment, recovery, transport, or storage of towed or  
2 abandoned vehicles, or in the disposal of abandoned vehicles.

3 ~~[VI.]~~ **VII.** "Tow list" means a list or lists of qualified New Hampshire businesses compiled by  
4 the division of state police and used by them to dispatch wreckers and recovery and road service  
5 vehicles to tow, recover, and temporarily store a vehicle when the owner, driver, or other person  
6 responsible for the vehicle is not present or wishes to have the vehicle removed and expresses no  
7 choice or preference of a specific tow business, or when public safety requires the law enforcement  
8 official in charge at the scene to clear the vehicle from the location believing, in his or her sole  
9 opinion, the vehicle is causing a public hazard or safety issue or is stolen, unregistered, was involved  
10 in a crime, or is in violation of a statute that requires immediate removal.

11 ~~[VII.]~~ **VIII.** "Vehicle storage area" means a suitable yard or enclosed building where a  
12 qualified tow business keeps or stores towed or impounded vehicles.

13 ~~[VIII.]~~ **IX.** "Wrecker" for purposes of this chapter and except where the context clearly  
14 indicates otherwise, means a tow truck, road service vehicle, or carrier and recovery vehicle used by  
15 tow businesses on the state police tow list.

16 3 Use of Tow List. Amend RSA 106-B:29, X to read as follows:

17 X. A tow business may terminate or temporarily suspend its designation as a service  
18 provider and be removed from the rotation list by providing prompt written notice to state police  
19 ~~[communications]~~. In the event of unforeseen circumstances such as death, fire, bankruptcy, or loss  
20 of equipment from accident or failure, a tow business on the tow list shall timely notify the director  
21 of state police in writing of its intent to suspend its designation as a service provider. If and when it  
22 desires to return to service, such tow company shall send a new application to the director. If  
23 approved to resume operation, they shall be placed at the bottom of the rotation list.

24 4 Use of Tow List. Amend RSA 106-B:29, XV to read as follows:

25 XV. A tow business shall not sell, assign, transfer, pledge, surrender, encumber, or dispose  
26 of its place on the rotation list. By applying to be placed on the list, a tow business agrees to respond  
27 to all state police calls 24 hours a day, 7 days a week. If for any reason the business cannot respond  
28 to a call, it rotates to the bottom of the list. Businesses that develop a pattern of non-response to  
29 calls ***or fail to meet the response times outlined in RSA 106-B:30*** may be subject to removal  
30 from the rotation list ***or actions outlined in RSA 106-B:34***.

31 5 Requirements for Placement on the Tow List. Amend RSA 106-B:30, II-III to read as follows:

32 II. The tow business shall provide as part of its application a list of all ~~[tow truck operator~~  
33 ~~personnel]~~ ***employees***, including full name, current address, date and place of birth, driver's license  
34 number and type, and any restrictions, ***and*** license expiration date~~[-and social security number]~~.  
35 The application shall be updated with ***the*** state police ~~[communications]~~ within 5 days of whenever a  
36 new employee is hired, or an employee leaves the employ of the business.

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1           III. The application shall include an individual form approved by the director of state police  
2 for each [~~tow truck operator~~] **employee** and for the owner and manager of the business and any  
3 supervisors, listing under penalty of unsworn falsification their full name, date and place of birth,  
4 driver license number and type and any restrictions or limitations, and a listing of all motor vehicle  
5 offense convictions in this or any other state or Canadian province including type, court, and year in  
6 the preceding 5 years, and a list of any criminal convictions in this or any other state or Canadian  
7 province within the past 10 years, including type of offense, year of conviction, court, and sentence  
8 imposed, and whether the person is currently on probation or parole or has ever been a registered  
9 sex offender or subject to a domestic violence protective order. Nothing in this paragraph shall  
10 restrict the employer or state police in case of doubt from verifying the information through a record  
11 check or checks.

12           6 Requirements for Placement on the Tow List. Amend RSA 106-B:30, V to read as follows:

13           V. If an [~~operator~~] **individual** is [~~employed by~~] **an employee of** more than one listed towing  
14 company, each company shall maintain an independent and separate driver file on such individual.  
15 When [~~a driver, manager, or supervisor~~] **an employee** ceases employment at the business or a new  
16 such employee is hired, the company shall notify the state police director in writing within 10 days  
17 and include a copy of the application including a copy of the form described in paragraph III. It shall  
18 be the responsibility of the operator to maintain appropriate records of driving times showing full  
19 compliance with all applicable laws, rules, and regulations.

20           7 Requirements for Placement on the Tow List. Amend RSA 106-B:30, VIII to read as follows:

21           VIII. Wreckers dispatched shall arrive at the scene within 30 minutes of being called, except  
22 for cases where the travel distance, posted speeds, or traffic and weather conditions and volume of  
23 traffic make this unreasonable. For heavy duty calls the company shall respond within a maximum  
24 of 60 minutes regardless of the time of day. If the time exceeds the above limit and the tow business  
25 does not provide state police communications or the trooper in charge at the scene with a valid  
26 reason for the delay within that time, a second rotation wrecker may be dispatched. If a second  
27 wrecker is requested before the arrival of the initially dispatched rotation wrecker, the initially  
28 requested wrecker shall forfeit the call and leave the incident scene. Repeated tardiness may result  
29 in suspension or removal from the rotation list **or any other disciplinary action as outlined in**  
30 **RSA 106-B:34. Notwithstanding any other provision of law, for imminent concerns related**  
31 **to public health, safety, or welfare, the director may order the immediate suspension of the**  
32 **tow business at their discretion, and without a hearing. Any such suspension shall be**  
33 **subject to the hearing requirements and timelines set forth in RSA 541-A:30, III.**

34           8 Requirements to Remain on the Tow List. Amend RSA 106-B:31, XIII to read as follows:

35           XIII. State troopers or other designated department of safety personnel may be assigned at  
36 the discretion of the state police director to conduct reviews from time to time of towing businesses,  
37 their records, and equipment to ensure compliance with relevant rules and laws and make a

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1 recommendation[~~through the state police communications commander~~] to the director as to the level  
2 of compliance and any appropriate action. Tow businesses participating in the tow list shall make,  
3 during normal business hours, their records, vehicles, facility, and equipment available for  
4 examination for such reviews by troopers or other department of safety employees. In cases of non-  
5 compliance, the state police [~~communications commander~~] shall recommend appropriate action to  
6 the director, which may include a verbal or written reprimand, suspension, or revocation from  
7 continued participation in the rotating list. Such action is discretionary and shall be based on the  
8 nature and seriousness of the discrepancy and any prior record of the business.

9 9 Compliance Action; Disciplinary Enforcement. RSA 106-B:34 is repealed and reenacted to  
10 read as follows:

11 106-B:34 Compliance Action; Disciplinary Enforcement.

12 I. Participation in the state police tow list is a privilege and not a right. The director of the  
13 division of state police shall administer the state police tow list and shall ensure that towing,  
14 storage, roadside emergency service, and vehicle recovery performed at the direction or request of  
15 the division of state police are conducted in compliance with state law and rules adopted pursuant to  
16 RSA 541-A, and in a manner that promotes public safety and maintains the confidence of the  
17 motoring public.

18 II. The director may take disciplinary action upon a finding, supported by satisfactory  
19 evidence, that a tow business or tow business employee has violated:

20 (a) The provisions of RSA 106-B:29 through RSA 106-B:33; or

21 (b) Any rule adopted pursuant to this subdivision.

22 III. Disciplinary actions authorized under this section may include:

23 (a) A verbal or written warning;

24 (b) Suspension of a tow business, a tow business employee, or both, from participation in  
25 the state police tow list for a period not to exceed 2 years; or

26 (c) Removal from the state police tow list. Tow businesses that are removed are eligible  
27 to reapply to the state police tow list after a period of not less than 2 years.

28 IV. In determining the appropriate disciplinary action, the director shall consider the  
29 seriousness of the violation, any prior history of violations, and any resulting harm to the public or to  
30 property.

31 V. Any person aggrieved by a disciplinary action imposed under this section may appeal the  
32 decision to the department of safety bureau of hearings and thereafter to the superior court in  
33 accordance with RSA 106-B:31, XIV.

34 10 Effective Date. This act shall take effect 60 days after its passage.