

HB 1237 - AS INTRODUCED

2026 SESSION

26-3083
09/08

HOUSE BILL **1237**

AN ACT relative to the removal of abandoned vehicles by law enforcement.

SPONSORS: Rep. Roy, Rock. 31; Rep. Lascelles, Hills. 14; Rep. D. Mannion, Rock. 25; Rep. Paquette, Hills. 25; Sen. Gannon, Dist 23

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill substantially revises the procedures and processes concerning the maintenance of and utilization of a list of contracted tow companies used by the division of state police for the removal of vehicles.

This bill is a request of the department of safety.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to the removal of abandoned vehicles by law enforcement.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Removal of Abandoned Vehicles by State Police. Amend RSA 106-B:26-34 to read as follows:
2 106-B:26 Applicability.

3 I. This subdivision shall apply to the enforcement of provisions of the motor vehicle laws by
4 the state police, including clearing roads and entrances of stolen, unregistered, illegally parked,
5 disabled or abandoned vehicles, vehicles involved in accidents or crimes or other situations,
6 regarding the removal, storage, and release of such vehicles towed and transported by **a qualified**
7 **tow business** [~~wreckers, towing, and emergency road service organizations~~] in a fair and equitable
8 manner, upon request of the division of state police ("**the division**"):

9 (a) In response to requests from owners or custodians of vehicles that have encountered
10 mechanical problems that rendered them inoperable or unsafe to be driven;

11 (b) In response to requests from [~~a state trooper~~] **the division** when a vehicle has been
12 abandoned on private property without consent of the property owner;

13 (c) When a vehicle is found obstructing the passage of vehicles from a public street or
14 highway onto the driveway of such private property or public building;

15 (d) When a vehicle was involved in a traffic accident or crime or its driver is
16 incapacitated or under arrest, or is without a valid driver 's license;

17 (e) When a vehicle is interfering with snow removal or highway maintenance;

18 (f) When a vehicle has been left unattended within a state-owned park and ride facility
19 for a period greater than 21 days; [~~or~~]

20 (g) When a vehicle is without proper registration or, **in the opinion of a division**
21 **member, is determined to be** [~~apparently~~] unsafe to be driven; **or**

22 (h) **When a commercial motor vehicle or its driver has been placed out of service**
23 **based on the current edition of the Commercial Vehicle Safety Alliance's North American**
24 **out-of-service criteria or is determined to be unsafe or unfit, respectively.**

25 II. Nothing in this subdivision shall restrict the authority of town and city law enforcement
26 agencies to enforce relevant state statutes, to enact local bylaws or ordinances not in conflict with
27 any state law or administrative rule regarding the clearance of disabled, abandoned, illegally
28 parked, unregistered, or stolen vehicles or vehicles involved in crimes or collisions in areas where the
29 local police have sole or shared jurisdiction with [~~state police~~] **the division**, or to enter into
30 contractual agreements with tow companies for the removal of vehicles at the request of local
31 authorities.

1 106-B:27 State Police; Use of Tow List.

2 I. In the event the division [~~of state police~~] seeks to tow or remove any vehicle pursuant to
 3 applicable laws and rules, whenever practicable the **qualified tow business** [~~company~~] responsible
 4 for such towing or removal shall be chosen from a tow list in accordance with this subdivision.

5 II. To facilitate the timely and effective towing and removal of vehicles pursuant to this
 6 subdivision, the division [~~of state police~~] is authorized to develop and maintain a rotating list of
 7 qualified tow **businesses** [~~services~~] within each geographical troop, **county, or by city or town.**
 8 [~~Where long distances could cause unreasonably long wrecker response times, the director of state~~
 9 ~~police or designee may authorize a separate rotation list by county or group of municipalities within~~
 10 ~~a troop.~~] The director [~~from time to time~~] may [~~enlarge or shrink~~] **adjust the list of qualified tow**
 11 **businesses eligible for a city or town** [~~an area~~] if necessary, to ensure **there is** an adequate
 12 number of qualified tow businesses to handle the call workload and travel distances involved[~~and~~
 13 ~~shall review the lists periodically to ensure that needs are being met~~]. The list may be further
 14 segmented to distinguish between **class I, II, and III vehicles** [~~heavy and light/medium duty~~
 15 ~~wreckers, recovery vehicles, rollback carriers~~] and other specialized equipment.

16 III. Rotation lists [~~shall~~] **may** include notations identifying **qualified** tow businesses that
 17 maintain **class I, II, and III vehicles** [~~heavy duty wreckers, heavy duty recovery vehicles, and~~
 18 ~~recovery vehicles~~], and whenever there is a specific, identified need for one of those vehicles it [~~shall~~]
 19 **may** be summoned from the rotating list in the order in which it appears. Nothing herein shall
 20 prevent a **qualified** tow business on a tow list from responding to a call with a **class I vehicle**
 21 [~~larger, heavier~~], or more sophisticatedly equipped vehicle where only a **class II or III vehicle**
 22 [~~lighter wrecker~~] is required, provided the **qualified** tow business does not exceed its normal charge
 23 for a **class II or III vehicle** [~~lighter duty wrecker~~]. **In cases where the division requests a**
 24 **specific or higher class of vehicle to complete the task more efficiently and safely, a**
 25 **qualified tow business may charge fees equivalent with the use of the requested class of**
 26 **vehicle.**

27 IV. The director, [~~of state police~~] with the approval of the commissioner of safety, may adopt
 28 rules pursuant to RSA 541-A, consistent with relevant provisions of this subdivision setting forth
 29 minimum qualifications of tow [~~companies~~] **businesses** and their employees to participate in the
 30 state police tow list.[~~including~~] **Such minimum qualifications include, but are not limited to,**
 31 training, [~~and~~] minimum standards for equipment, response times, storage and release of towed
 32 vehicles and their contents, and criminal history and motor vehicle record checks of **employees** [~~tow~~
 33 ~~truck drivers~~].

34 V. [~~State troopers handling an incident shall not call a tow business that, in their opinion,~~
 35 ~~lacks a vehicle of sufficient size and equipment for a particular job.~~] **The division shall have the**
 36 **prerogative to utilize qualified tow businesses with sufficient equipment, personnel, and**

1 *facilities to meet the division's needs on a case by case basis.* Under such conditions a
2 *qualified* tow business not [called] *utilized* shall retain its position on the rotation list.

3 VI. Whenever a [desired] *requested qualified* tow business *declines a request or* is
4 unable to respond to a call in a timely manner with the proper equipment, the *qualified* tow
5 business next on the rotation list shall be called *and the qualified tow business unable to*
6 *respond shall be placed at the bottom of the rotation list.*

7 VII. *Qualified* tow businesses may also be called for [service] *services, including but not*
8 *limited to* [such as for] fuel, tire changes, dead battery, and removal of disabled, stolen, or
9 abandoned vehicles according to placement on the appropriate rotation list and shall have a service
10 vehicle suitably equipped and personnel capable of handling the assignment.

11 106-B:28 Definitions.

12 In this subdivision:

13 I. [~~Heavy-duty wrecker~~] *"Class I vehicle"* means a *"heavy duty recovery vehicle" as*
14 *defined in RSA 259:40-b; or a heavy duty* wrecker [intended and suitably] equipped for towing
15 vehicles in excess of 10,000 pounds gross weight, such as a tractor-trailer, large truck, or similar
16 vehicle but excluding carriers and flatbeds, and meeting the following requirements, provided that
17 come-a-longs, chains, or other similar devices shall not be used as substitutes for winch and cable:

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

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

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

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

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

28 (f) A winch cable rated as specified by the winch manufacturer, in good condition, *which*
29 *shall not be damaged in any way such as being frayed, cut, or improperly spliced or*
30 *repaired;*

31 (g) *Appropriate driveway-towaway lights* [Light] and airbrake hookups for the
32 towed vehicle; and

33 (h) Additional safety equipment as specified in this chapter and consistent with United
34 States Department of Transportation [inspection] requirements *and federal Motor Carrier Safety*
35 *regulations.*

36 II. [~~Light/Medium-duty wrecker~~] *"Class II vehicle"* means a *medium duty* wrecker
37 intended and suitably equipped for safely towing vehicles weighing 26,000 pounds or less gross

1 weight, including passenger cars, pickup trucks, motorcycles, small trailers, and similar vehicles,
2 that meets the following requirements, provided that come-a-longs, chains, or other similar devices
3 shall not serve as substitutes for a winch and cable:

4 (a) A minimum gross vehicle weight rating of not less than ~~[14,500]~~ **33,000** pounds;

5 (b) Individual boom capacity of not less than ~~[8,000]~~ **12,000** pounds, as rated by the
6 boom manufacturer;

7 (c) Individual power takeoff or hydraulic power or electric winch capacity of not less
8 than ~~[8,000]~~ **12,000** pounds, as rated by the manufacturer, and wire rope of a capacity and length
9 consistent with the device manufacturer;

10 (d) A manufactured wheel-lift with a retracting lifting capacity of not less than ~~[3,500]~~
11 **12,000** pounds, as rated by the manufacturer, with safety chains;

12 (e) ~~[Dual rear wheels;]~~ ***A winch cable rated as specified by the winch***
13 ***manufacturer, in good condition, and which shall not be damaged in any way such as***
14 ***being frayed, cut, or improperly spliced or repaired;***

15 (f) ~~[Two chock blocks that will prevent rolling or slippage of the wrecker]~~ ***Appropriate***
16 ***driveaway-towaway lights and airbrake hookups for the towed vehicle;*** and

17 (g) Additional safety equipment as specified in this chapter and consistent with United
18 States Department of Transportation ~~[inspection]~~ requirements ***and federal Motor Carrier Safety***
19 ***regulations.***

20 III. ***“Class III vehicle” means a light duty wrecker intended and suitably equipped***
21 ***for safely towing vehicles weighing 15,000 pounds or less gross weight, including passenger***
22 ***cars, pickup trucks, motorcycles, small trailers, and similar vehicles, and that meets the***
23 ***following requirements, provided that come-a-longs, chains, or other similar devices shall***
24 ***not serve as substitutes for a winch and cable:***

25 (a) ***A minimum gross vehicle weight rating of not less than 19,000 pounds;***

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

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

31 (d) ***A manufactured wheel-lift with a retracting lifting capacity of not less than***
32 ***3,500 pounds, as rated by the manufacturer, with safety chains;***

33 (e) ***A winch cable rated as specified by the winch manufacturer, in good***
34 ***working condition, which shall not be damaged in any way, such as being frayed, cut, or***
35 ***improperly spliced or repaired;***

1 (f) *Additional safety equipment as specified in this chapter and consistent with*
2 *United States Department of Transportation requirements and federal Motor Carrier*
3 *Safety regulations.*

4 IV. *“Director” means the director of the division of state police within the*
5 *department of safety or designee. “Director” includes “colonel”.*

6 V. *“Division” means the division of state police as set forth in RSA 21-P:7.*

7 VI. *“Employee” means any individual employed by the business who will have any*
8 *possible interaction with a customer associated with a state police tow.*

9 VII. *“Qualified tow business” means a tow business that has been approved to be*
10 *placed on the state police tow list. [~~“Recovery vehicle” means a motor vehicle consisting of a~~*
11 *commercially available truck chassis equipped with a commercially manufactured tow body or bed*
12 *and that is rated and issued a serial number by the manufacturer, designed and equipped for and*
13 *used in the towing or recovery of vehicles, in good condition and capable of towing a vehicle by means*
14 *of a tow bar, sling, or wheel lift, and capable of recovering a vehicle by means of a hoist, winch, or*
15 *towline.*

16 IV. ~~“Rollback carrier” means a flatbed vehicle in good condition that meets the following~~
17 ~~requirements, provided that come-a longs, chains, or similar devices shall not be used as substitutes~~
18 ~~for a winch and cable:~~

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

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

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

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

26 V.] VIII. *“Rotator” means a class I vehicle consisting of a commercially available*
27 *truck chassis equipped with a commercially manufactured rotating crane or hoisting*
28 *boom capable of rotating 360 degrees. The crane shall be rated and issued a serial number*
29 *by the manufacturer, designed and equipped for and used in the recovery of vehicles, in*
30 *good condition, and capable of hoisting, lifting, or pulling a minimum of 20 tons.*

31 IX. *“Tow business” means a person, enterprise, partnership, company, LLC, or other*
32 *corporation having a registered trade name, an active New Hampshire tax identification number, an*
33 *active New Hampshire workers' compensation insurance policy or exemption papers, an active New*
34 *Hampshire employment security account, and that meets all state and local legal requirements*
35 *including, but not limited to, those related to payment of business related taxes, fees, and insurance*
36 *coverage, and that regularly engages in the impoundment, recovery, transport, or storage of towed or*
37 *abandoned vehicles, or in the disposal of abandoned vehicles.*

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

9 ~~[VII.]~~ **XI.** "Vehicle storage area" means ~~[a suitable yard or enclosed building where a~~
 10 ~~qualified tow business keeps or stores towed or impounded vehicles]~~ **a reasonably secure area for**
 11 **the safe storage of motor vehicles or other items stored at the request of the division.**
 12 **Storage areas shall have controlled access such that no unauthorized persons can gain**
 13 **access or remove vehicles or their contents. Storage areas shall be clearly marked as**
 14 **belonging to that qualified tow business, shall be clearly posted with signage in**
 15 **accordance with RSA 635:4, and shall have adequate lighting to illuminate the enclosed**
 16 **area. If a vehicle must be stored for processing after a crime, death, or serious injury, then**
 17 **such storage facilities shall be a completely gated or fenced area adequate to reasonably**
 18 **secure the storage facility and prevent unauthorized entrance.**

19 ~~[VIII.]~~ **XII.** "Wrecker" ~~[for purposes of this chapter and except where the context clearly~~
 20 ~~indicates otherwise,]~~ means a tow truck, road service vehicle, ~~[or]~~ carrier, ~~[and recovery vehicle]~~ **or**
 21 **any other vehicle defined in this chapter** used by tow businesses ~~[on the state police tow list].~~

22 106-B:29 [Use] **Administration** of Tow List.

23 I. When a ~~[towing]~~ situation being handled by **the division** ~~[state police]~~ involves a vehicle
 24 that requires recovery, towing, or removal from the scene, the ~~[trooper]~~ **division member** in charge
 25 shall make a best effort attempt to allow the owner, operator, or other person lawfully responsible
 26 for the vehicle to contact ~~[a]~~ **their** preferred tow business, unless doing so ~~[will]~~ **would** delay the
 27 timely restoration of safe traffic movement, prolong a serious hazard, **place any emergency**
 28 **personnel on scene at greater risk**, or compromise the preservation or collection of evidence. The
 29 preferred tow business ~~[when called]~~ **utilized** shall notify **the division** ~~[state police~~
 30 ~~communications]~~ of its estimated time of arrival. The ~~[trooper]~~ **division member** on scene shall
 31 determine if that **response** time **is timely and effective pursuant to this subdivision** ~~[will~~
 32 ~~unduly continue a hazardous condition or cause serious inconvenience for the public]~~ and, if **not** ~~[so]~~,
 33 state police communications shall summon the next ~~[appropriate]~~ **qualified** tow business from the
 34 tow list. If there is no one on site who is the owner, operator, or other person lawfully responsible for
 35 the vehicle, and in the opinion of the ~~[trooper]~~ **division member** the vehicle presents a hazard or
 36 unreasonable delay to the **restoration of safe travel conditions** ~~[public]~~, the ~~[trooper]~~ **division**

1 **member** on site shall request that state police communications contact the next ~~[appropriate]~~
 2 **qualified** tow business on the list.

3 II. ~~[To help ensure a timely and professional response and to promote fairness to individual~~
 4 ~~towing businesses, the division of state police shall maintain a separate rotation list for each state~~
 5 ~~police geographical troop area. In any case where distances involved could cause unreasonably long~~
 6 ~~wrecker responses, the director of state police may authorize a separate rotational list by county or~~
 7 ~~group of communities for that troop. The director may enlarge or shrink an area if necessary to~~
 8 ~~provide a sufficient number of tow businesses to handle the number of calls in the area and the~~
 9 ~~travel distances involved, and shall review the zones periodically to determine if needs are being~~
 10 ~~met.~~

11 III. If the ~~[desired]~~ **requested qualified** tow business is unable to respond to a call in a
 12 timely manner with the proper equipment, the **qualified** tow business next in line on the rotation
 13 list will be called.

14 ~~[IV. Placement on the tow list shall be by order of application.]~~ III. Whenever a new tow
 15 business becomes ~~[authorized]~~ **qualified**, it shall be placed on the bottom of the appropriate list or
 16 lists for which the director finds the tow business ~~[qualified]~~ **services are appropriate and will be**
 17 **based upon the business' principal place of business**. The director shall have authority to
 18 determine when a tow list is adequately staffed with towing businesses and may refuse to add a
 19 business to the list if he or she determines the amount and type of calls in that zone is insufficient to
 20 justify a larger list.

21 ~~[V.]~~ IV. Separate rotation lists ~~[shall]~~ **may** be maintained for each **class of vehicle**
 22 ~~[category of wrecker]~~. When a situation requires services of a specific **class of vehicle** ~~[category of~~
 23 ~~wrecker]~~, such ~~[wrecker]~~ **class** shall be called from the appropriate tow list unless the person
 24 responsible for the vehicle is present and has a preference for a different tow business with that
 25 **class of vehicle** ~~[category of wrecker]~~, in which case the preferred ~~[wrecker]~~ **tow business** shall be
 26 summoned ~~[if available within a reasonable response time]~~ **in accordance with paragraph I**.

27 ~~[VI.]~~ V. Nothing in this chapter shall be construed to confer any vested property rights upon
 28 a tow business to ~~[continue]~~ **qualify or remain** on the ~~[rotating]~~ **division's tow** list.

29 ~~[VII.]~~ VI. Calling a **qualified** tow company from the list does not create a contract with or
 30 obligation on the part of the **division or division** ~~[state police or state police]~~ personnel to
 31 reimburse any fee or towing charge, except when towing a vehicle owned or leased by the ~~[state~~
 32 ~~police]~~ **division** or that is later forfeited to the **division** ~~[state police]~~, or if a court determines that
 33 the **division** ~~[state police]~~ wrongfully authorized the tow and orders the **division** ~~[state police]~~ to
 34 pay transportation and storage fees.

35 ~~[VIII.]~~ VII. Placement on the rotation list does not guarantee a particular number of calls,
 36 an equal number of calls to every **qualified** tow business ~~[on the list]~~, nor any compensation as a
 37 consequence of not being called ~~[in accordance with the list]~~, or when removed from the rotation list.

1 If a ~~[towing]~~ **qualified tow** business responds to a state police call and the call is later canceled due
 2 to the vehicle no longer being disabled, or the circumstances change such that after calling a
 3 **qualified tow business** ~~[company]~~ the vehicle must be stored in a manner that preserves all
 4 evidence in or on the vehicle and the **qualified tow business** is not so equipped, the **qualified tow**
 5 business shall go back to the top of the list.

6 ~~[IX.]~~ **VIII.** A **qualified tow business** shall, upon receiving a request from the **division**
 7 ~~[state police]~~, use its own equipment, **which has been approved by the division. The tow**
 8 **business shall not use any vehicle or equipment that has not been approved by the division**
 9 **or is unsafe or unfit for the roadway. If the qualified tow business arrives on scene and**
 10 **determines it does not have sufficient equipment to complete the requested task and**
 11 **requires additional resources, the qualified tow business may seek those additional**
 12 **resources needed from another qualified tow business** ~~[and shall not refer a call to another tow~~
 13 ~~business]~~. **A qualified tow business shall not subcontract a tow request from the division**
 14 **except as stated in this paragraph.**

15 ~~[X.]~~ **IX.** A **qualified tow business** may **voluntarily** terminate or temporarily ~~[suspend]~~
 16 **withdraw** its designation as a service provider and be removed from the rotation list by providing
 17 prompt written notice to ~~[state police communications]~~ **the division**. In the event of unforeseen
 18 circumstances such as death, fire, bankruptcy, or loss of equipment from accident or failure, a
 19 **qualified tow business** on the tow list shall ~~[timely]~~ notify the director ~~[of state police]~~ in writing
 20 **immediately** of its intent to ~~[suspend]~~ **withdraw or terminate** its designation as a service
 21 provider. If and when it desires to return to service, such **qualified tow business** ~~[company]~~ shall
 22 **complete the same application process as a new applicant, unless the withdrawal was less**
 23 **than 30 days and no changes have occurred** ~~[send a new application to the director]~~. **However,**
 24 if approved to resume operation, ~~[they]~~ **the qualified tow business** shall be placed at the bottom of
 25 the rotation list, **unless the withdrawal was less than 2 days.**

26 ~~[XI.]~~ **X.** New tow businesses, when qualified and accepted, shall be placed on the bottom of
 27 the rotation list.

28 ~~[XII.]~~ **XI.** ~~The trooper in charge at the scene of a towing situation shall have discretionary~~
 29 ~~authority to deny a request for a specific tow business whenever time is of the essence and the~~
 30 ~~request will delay the restoration of safe traffic movement.~~

31 ~~[XIII.]~~ **XI.** If a motorcycle is to be towed, a tow sling, wheel lift, car carrier, or other
 32 comparable device shall be used that has the capability to transport motorcycles.

33 ~~[XIV.]~~ **XII.** The division shall not call a **qualified tow business** that, in its opinion, does not
 34 have a vehicle of sufficient size and equipment for a specific job. Under these conditions, the
 35 **qualified tow business** not called will remain on the top of the rotation list.

36 ~~[XV.]~~ **XIII.** A **qualified tow business** shall not sell, **sublet, subcontract,** assign, transfer,
 37 pledge, surrender, encumber, ~~[or]~~ dispose, **or otherwise transfer in any manner** ~~[or]~~ its place on

1 the rotation list. By applying to be placed on the list, a **qualified** tow business agrees to respond to
 2 all state police calls 24 hours a day, 7 days a week. If for any reason the business cannot respond to
 3 a call, it rotates to the bottom of the list. Businesses that develop ~~[a]~~ **any** pattern of non-response **or**
 4 **fails to meet the response times outlined in RSA 106-B:30** to calls may be subject to removal
 5 from the rotation list **or actions outlined in RSA 106-B:34**.

6 ~~[XVI.]~~ **XIV.** A **qualified** tow business shall appear on the rotation list only once, **which**
 7 **means that a qualified tow business shall not create or establish other names or entities for**
 8 **the sole purposes of having multiple positions on the list.** The ~~[listing]~~ **qualified tow**
 9 **business** shall use the **legal trade name or the doing business as (DBA) name** of the business
 10 **found in the registrations with the United States Department of Transportation and the**
 11 **New Hampshire secretary of state, and the name** submitted at the time of application and a
 12 designation for any specialty in which the business is qualified. A **qualified** tow business
 13 conducting business at a location shall not receive multiple listings or classifications by utilizing a
 14 different or fictitious name for trucks operating from the same location or trucks operating with the
 15 same name out of different locations within that zone. **If a qualified tow business already on the**
 16 **tow list plans to or legally purchases or acquires another qualified tow business already on**
 17 **the tow list, they may retain the acquired tow companies' current position on the tow list**
 18 **only if the appropriate notifications are made and original application process is**
 19 **completed and submitted to the division 30 days prior to the acquisition. If the purchasing**
 20 **entity fails to notify the division of its acquisition or any part of the application process is**
 21 **not complete 30 days prior to the acquisition or business transfer, then the entity being sold**
 22 **shall be removed from the list. The business shall then be treated as a new applicant.**

23 ~~[XVII.]~~ **XV.** When emergency conditions necessitate, the ~~[state police]~~ **division** may request
 24 the services of the **qualified** tow business that is best equipped to handle the emergency and can
 25 reach the scene in the shortest time, regardless of its position on the rotation list. A call made under
 26 these circumstances shall count as such **qualified tow** business's next rotation call.

27 ~~[XVIII.]~~ **XVI.** Whenever heavy equipment or large vehicles are involved in an incident, and
 28 it is determined that the **qualified** tow business next up on the rotation list lacks adequate
 29 equipment to handle the incident, the division may call ~~[a larger piece of]~~ **another qualified tow**
 30 **business with the proper** equipment ~~[from a business on the list that can handle the situation]~~. In
 31 such case, the **original qualified** tow business shall **remain on the top of the tow rotation** ~~[be~~
 32 ~~repositioned on the rotation list accordingly]~~. Having only one large rotation wrecker shall not
 33 justify for being called to all truck accidents.

34 ~~[XIX.]~~ **XVII.** In the event of ~~[an overturned truck]~~ **a large scale event**, the ~~[state police]~~
 35 **division** shall determine at the time if the situation requires the use of only one **qualified** tow
 36 business or if additional ~~[vehicles]~~ **resources** are required. ~~[The first named tow business shall~~
 37 ~~determine the amount of assistance necessary to remove any public hazards. The tow business~~

1 ~~responding to the law enforcement request shall be responsible for contacting others meeting the~~
 2 ~~qualifications to operate in New Hampshire and shall be the business responsible for efficient and~~
 3 ~~safe handling of the recovery.]~~ Decisions made pursuant to this paragraph shall be based on the
 4 public safety concerns.

5 ~~[XX.] XVIII.~~ At no time shall any towing vehicle exceed its manufacturer's gross vehicle
 6 weight rating or the manufacturer's rated capacity for the towing assembly or be attached to a
 7 vehicle which by its size and or weight would make towing it an unsafe movement.

8 106-B:30 Requirements for Placement on the *State Police* Tow List.

9 I. Any tow business ~~[that wishes]~~ **seeking** to be placed on the ~~[rotation]~~ **tow** list with
 10 appropriate designation shall ~~[make]~~ **complete the required** application **process** ~~[to the director of~~
 11 ~~state police].~~ **Signing and submitting the application form or forms declares that the**
 12 **business or its designee, under penalty of unsworn falsification, are in compliance and are**
 13 **adhering to all the requirements found in RSA 106-B.**

14 II. The tow business **applicant** shall provide as part of its application a list of all
 15 **employees.** ~~[tow truck operator personnel, including]~~ **This list shall include the** full name,
 16 current address, date and place of birth, driver's license number and type, **state of issuance,** ~~[and]~~
 17 any restrictions, **and** license expiration date~~[, and social security number]~~ **of each employee.** The
 18 application shall be updated with ~~[state police communications]~~ **the division** within 5 days of
 19 ~~[whenever]~~ a new employee **hire** ~~[is hired],~~ or an employee **separation from** ~~[leaves the employ of]~~
 20 the business.

21 III. The application shall include an individual form approved by the director ~~[of state~~
 22 ~~police]~~ for each **employee** ~~[tow truck operator and for the owner and manager of the business and~~
 23 ~~any supervisors],~~ listing under penalty of unsworn falsification their full name, date and place of
 24 birth, driver license number and type and any restrictions or limitations, and a listing of all motor
 25 vehicle offense convictions in this or any other state or Canadian province including type, court, and
 26 year in the preceding 5 years, and a list of any criminal convictions in this or any other state or
 27 Canadian province within the past 10 years, including type of offense, year of conviction, court, and
 28 sentence imposed, and whether the person is currently on probation or parole or has ever been a
 29 registered sex offender or subject to a domestic violence protective order. Nothing in this paragraph
 30 shall restrict the employer or ~~[state police]~~ **the division** in case of doubt from verifying the
 31 information through a record check or checks **and by signing the individual form each**
 32 **individual employee consents to any and all record checks by using any database such as,**
 33 **but not limited to, NCIC, SPOTS, and NLETS.** **The tow business shall establish a driver**
 34 **qualification ("DQ") file for each employee who will be or could possibly operate any of the**
 35 **vehicles assigned to the business, shall meet all the requirements specified or outlined in**
 36 **49 C.F.R. section 391.51 of the federal Motor Carrier Safety regulations, and shall consist of**
 37 **but not limited to the following:**

1 (a) *Employment application.*

2 (b) *Copy of the drivers' license.*

3 (c) *Copy of the driver's motor vehicle record from every state they held a driver's*
4 *license.*

5 (d) *Copy of the driver's medical examiner's certificate.*

6 (e) *Copy of tow operator certification.*

7 (f) *Copy of a criminal record, if applicable.*

8 (g) *Certificate of road test, if applicable.*

9 (h) *Drug and alcohol policy acknowledgment.*

10 (i) *Written consent for the tow business to obtain copies of the employee's motor*
11 *vehicle record at any time to verify license validity.*

12 IV. ~~[Any]~~ A history of *any* criminal convictions *under New Hampshire titles XXI, XXX,*
13 *and/or LXII, including, but not limited to:* ~~[involving (i) a felony against persons or property~~
14 ~~involving fraudulent activity, aggravated assaults, or sex offenses; (ii) burglary, or thefts resulting in~~
15 ~~a felony conviction within the last 3 years; or (iii)]~~ *any* ~~[a serious or repetitive]~~ motor vehicle
16 violation ~~[history]~~ *as defined in 49 C.F.R. parts 383 and 390* involving such individual or
17 business; *or if the applicant has been suspended more than once for a violation of RSA 106-*
18 *B or any other similar statute in this or any other jurisdiction; or has had authorization to*
19 *operate as a tow business revoked in this or any other jurisdiction.*~~[.]~~ *Such a history of*
20 *convictions may* ~~[shall]~~ be grounds for ~~[refusing to place]~~ *denial of placement* on or *the* removing
21 *of* the individual or business from the ~~[rotation]~~ *tow* list. *Any business, business owner, or*
22 *employee for the business under investigation or convicted of deceptive business practices*
23 *shall be denied placement on the rotation list and if the investigation or conviction is after*
24 *the tow business is placed on the tow list, the tow business shall be subject to the penalties*
25 *in RSA 106-B:34.*

26 V. If an *individual is an employee of* ~~[operator is employed by]~~ more than one ~~[listed~~
27 ~~towing company]~~ *tow business*, each ~~[company]~~ *business* shall maintain an independent and
28 separate driver file on such individual. When ~~[a driver, manager, or supervisor]~~ *an employee*
29 ceases employment at the business or a new such employee is hired, the company shall notify the
30 ~~[state police]~~ director in writing within ~~[10]~~ *5* days and include a copy of the application including a
31 copy of the form described in paragraph III. *A new employee shall not respond to any division*
32 *calls until they are approved. Operators and motor carriers shall require each driver used*
33 *by the motor carrier to record the driver's duty status for each 24-hour period using the*
34 *appropriate method as required under 49 C.F.R. part 395.* ~~[It shall be the responsibility of the~~
35 ~~operator to maintain appropriate records of driving times showing full compliance with all applicable~~
36 ~~laws, rules, and regulations.]~~

1 VI. In the event the ownership of a **qualified** tow business changes for any reason including
 2 but not limited to the sale of the business~~[-death,]~~ or retirement of the owner, the **qualified** tow
 3 business shall reapply before the effective date of the change in ownership for approval or the tow
 4 business shall be removed from the rotation list until such time as the new owner complies with the
 5 application process. ***In the event the ownership of a qualified tow business changes due to a***
 6 ***death of the owner, the division shall be notified immediately and the qualified tow***
 7 ***business may remain on the list as such and continue to conduct towing services for a***
 8 ***period of 30 days or until such time the reapplication process is completed, whichever***
 9 ***comes first. If the new ownership or managing members fail to complete the reapplication***
 10 ***process or fail to complete any of the necessary requirements as outlined in RSA 106-B, the***
 11 ***tow business shall be removed immediately. The tow business shall not need to be notified***
 12 ***of this removal.***

13 VII. The business shall have a telephone number listed in its name and shall also have ~~an~~
 14 ~~after hours~~ a telephone number where it can be contacted after normal business hours. The
 15 business shall be staffed Monday through Friday from at least 9 a.m. to 5 p.m. with someone who
 16 will be available for administrative matters and the release of a vehicle or other related items stored
 17 on premises. After normal business hours and on weekends or holidays, a responsible person shall
 18 be on call to provide those services.

19 VIII. ~~[Wreckers]~~ **Qualified tow businesses** dispatched shall arrive at the scene within ~~[30~~
 20 ~~minutes]~~ ***the time frame outlined in this paragraph*** of being called, except for cases where the
 21 travel distance, posted speeds, or traffic and weather conditions and volume of traffic make this
 22 unreasonable. ***For class II or III vehicle calls between 8:00 a.m. and 5:00 p.m. (business***
 23 ***hours), the company shall respond within a maximum of 30 minutes; between 5:01 p.m. and***
 24 ***7:59 a.m. (after hours), the company shall respond within a maximum of 45 minutes, if the***
 25 ***call they are responding to is within the company's respected area of coverage.*** For ~~[heavy~~
 26 ~~duty]~~ **class I vehicle** calls the company shall respond within a maximum of 60 minutes regardless of
 27 the time of day ***if the call they are responding to is within the company's respected area of***
 28 ***coverage.*** If the ***responding qualified tow business is going to*** ~~[time exceeds]~~ ***exceed*** the above
 29 ~~[limit and]~~ ***time frame,*** the **qualified** tow business shall ~~[does not]~~ provide ***the division*** ~~[state~~
 30 ~~police communications or the trooper in charge at the scene]~~ a valid reason for the delay within ***15***
 31 ***minutes for a class II or III vehicle or 30 minutes for a class I vehicle*** ~~[that time],~~ ***or*** a second
 32 ~~[rotation wrecker]~~ **qualified tow business** may be dispatched. If a second ~~[wrecker]~~ **qualified tow**
 33 **business** is requested before the arrival of the initially dispatched ~~[rotation wrecker]~~ **qualified tow**
 34 **business,** the initially requested ~~[wrecker]~~ **qualified tow business** shall forfeit the call and leave
 35 the incident scene. Repeated tardiness may result in suspension or removal from the rotation list ***or***
 36 ***any other disciplinary action as outlined in RSA 106-B:34.***

1 IX. If a *qualified* tow business responds to a rotation call and through no fault of its own,
2 does not tow the vehicle, the business shall retain its position on the rotation list.

3 X. ~~[Towing personnel shall wear reflective clothing meeting Federal Highway
4 Administration specifications at all times when working in or adjacent to the roadway.~~

5 ~~XI.] The *qualified* tow business shall maintain a *vehicle storage area* [reasonably secure
6 area for the safe storage of motor vehicles or other items stored at the request of the state police.
7 Storage facilities shall be clearly marked as belonging to that tow business and shall have adequate
8 lighting to illuminate the enclosed area. If a vehicle must be stored for processing after a crime,
9 death, or serious injury then storage facilities shall include a gated or fenced area adequate to
10 reasonably secure the storage facility and prevent unauthorized entrance. Camera surveillance is
11 recommended but not mandatory].~~

12 ~~[XII.] XI.~~ A secure building that ~~[provides written proof that it]~~ meets all applicable state
13 and local codes ~~[and which is suitably alarmed]~~ may substitute for a fenced area if the *qualified* tow
14 business provides for total inside storage.

15 ~~[XIII.] XII.~~ The tow business shall provide reasonable accommodations for after-hours
16 release of personal property in stored vehicles or other related storage once the ~~[state police]~~
17 *division* releases any hold on personal or other property not affixed to the towed vehicle, and upon
18 payment in full or mutual agreement for payment of all towing and storage fees. The towing of a
19 vehicle at the request of ~~[law enforcement]~~ *the division* shall create a lien to the *qualified* tow
20 business, equal to the cost of impoundment, recovery, transport, and storage.

21 ~~[XIV.] XIII.~~ Under no circumstance may a *qualified* tow business withhold wallets, purses,
22 life essential clothing, mail, legal documents, child safety seats, eyeglasses or contact lenses,
23 medicines, medical equipment, license plates, or house or place of business keys pending payment of
24 fees.

25 ~~[XV.] XIV.~~ Any ~~[towing or recovery]~~ vehicle used by the *qualified* tow business shall *be*
26 *marked or lettered pursuant to 49 C.F.R. section 390.21 and RSA 266:110* ~~[display lettering on~~
27 ~~both sides of the vehicle in letters that contrast in color with the background and are readily legible~~
28 ~~during daylight hours from a distance of 50 feet while the vehicle is stationary, and kept and~~
29 ~~maintained in a manner that retains such legibility, indicating the name or trade name of the~~
30 ~~wrecking service or owner thereof, the city or town and state in which the vehicle is customarily~~
31 ~~based, and the business telephone number on each front door of the truck. The identification number~~
32 ~~issued by the Federal Motor Carrier Safety Administration to the motor carrier, preceded by the~~
33 ~~letters "USDOT"; shall also be included in such lettering].~~

34 ~~[XVI.] XV.~~ The *qualified* tow business ~~[participating in the tow list]~~ shall maintain
35 *appropriate levels of financial responsibility for automobile liability.* ~~[tow and hook, liability,~~
36 ~~and garage keepers' liability insurance]~~ *Automobile liability shall be a minimum of \$1,000,000*
37 *consistent with limits outlined in 49 C.F.R. section 387.9 or any* ~~[in an]~~ amount not less than

1 that designated under New Hampshire law or administrative rule, *whichever provides the*
 2 *highest coverage*. [~~This shall include a minimum coverage of \$1,000,000 in liability including~~
 3 ~~garage-keeper's insurance coverage.~~] *Proof of the required financial responsibility shall be*
 4 *maintained at the qualified tow businesses principal place of business. The proof shall*
 5 *consist of "Endorsement(s) for Motor Carrier Policies of Insurance for Public Liability*
 6 *Under Sections 29 and 30 of the Motor Carrier Act of 1980" (Form MCS-90) issued by an*
 7 *insurer; an ACORD certificate of insurance; and an insurance binder outlining each level*
 8 *of coverage. The qualified tow business shall maintain tow and hook and garage-keeper's*
 9 *insurance coverage which shall be consistent with industry standards and adequate to*
 10 *support the operational size of the tow business.* The *qualified* tow business shall also comply
 11 with all other business requirements and taxes required under state or federal law.

12 [~~XVII.~~] *XVI.* The *qualified* tow business shall not place or imprint on its vehicles,
 13 buildings, equipment, clothing, or correspondence anything that suggests or implies an official
 14 relationship between the company and any emergency services provider or law enforcement agency.
 15 This shall extend to paint schemes, colors, shoulder patches, or decals similar in design to
 16 department of safety or state police vehicles or any name or logo implying an official connection.
 17 [~~State police~~] *The division* may design and issue a suitable decal to indicate that a tow vehicle's
 18 owner is on the rotating list. Termination of services or suspension, even if temporary, from the
 19 rotation list shall require any decal provided, issued, or approved by [~~state police~~] *the division* to be
 20 removed immediately from the tow vehicle if such vehicle will be operated on public roads.

21 [~~XVIII.~~] *XVII.* The *qualified* tow business shall provide [~~state police~~] *the division* with a
 22 complete updated list of all rates for the services it performs related to the towing and storage of
 23 vehicles, on the letterhead of the business, and shall update such list when prices change. [~~State~~
 24 ~~Police~~] *The division* shall not set the fees for these services nor use the rate schedule provided in
 25 determining placement on a rotation schedule. Price lists shall remain confidential except when
 26 determining the reasonable fee in a requested hearing conducted by the department of safety.

27 [~~XIX.~~] *XVIII.* Whenever the owner of a towed or impounded vehicle or their agent pays a
 28 towing company for those services, the company shall provide a detailed receipt to the owner or
 29 agent for the services rendered.

30 [~~XX.~~] *XIX.* Motorists using a wrecker under the rotation list shall have the option of paying
 31 by cash or major debit or credit card. The *qualified* tow business may inquire, prior to accepting a
 32 dispatch, as to how the motorist will be paying. The owner of a towed or impounded vehicle who
 33 believes an exorbitant or unreasonable fee was charged for towing the vehicle if such service
 34 rendered was covered by RSA 262:31 through RSA 262:40-c, may file a complaint with the
 35 commissioner of safety and request review pursuant to RSA 262:35-a. If not covered by RSA 262:31
 36 through RSA 262:40-c, the owner or his or her agent shall be notified of his or her ability to make a
 37 complaint to the consumer protection division of the department of justice.

1 ~~XXI.~~ XX. *Prior to application the tow business shall first obtain a United States*
 2 *Department of Transportation (USDOT) number, United States Department of*
 3 *Transportation Operating Authority (MC) number, a valid New Hampshire registration,*
 4 *and a federal annual inspection for each vehicle assigned to the tow business. All*
 5 *documents associated with these requirements shall be submitted along with the tow list*
 6 *application (DSSP 455). No tow business shall be added to or allowed to remain active on*
 7 *the tow rotation when any of the said items are expired, suspended, revoked, inactive, or*
 8 *deactivated. [A tow business shall not be operated without a Federal Motor Carrier Safety*
 9 *Administration safety registration, an active United States Department of Transportation number,*
 10 *and valid New Hampshire registration.]*

11 XXI. *The tow business shall have a drug and alcohol policy in place highlighting a*
 12 *zero-tolerance policy for the use, consumption, possession, and/or transportation of any*
 13 *drugs or alcohol while on duty or their use prior to coming on duty. The policy shall have*
 14 *a signature page for the employee to sign acknowledging the receipt and understanding of*
 15 *the policy.*

16 XXII. *Excluding the drugs described in 49 C.F.R. section 392.4 of the federal Motor*
 17 *Carrier regulations and outlined under RSA 318-B, the only drugs that may be transported*
 18 *are those legally prescribed by a licensed physician, in their original container, and in the*
 19 *possession of the person who is prescribed them.*

20 XXIII. *A tow business whose drivers possess a commercial drivers' license (CDL)*
 21 *and operate CDL required vehicles shall establish a drug and alcohol testing program*
 22 *consistent with 49 C.F.R. part 40 and part 382 of the federal Motor Carrier Safety*
 23 *regulations and OSHA drug free workplace standards.*

24 XXIV. *A tow business whose drivers do not possess a commercial drivers' license*
 25 *(CDL) and operate vehicles that do not require a CDL shall establish a drug and alcohol*
 26 *testing program consistent with 49 C.F.R. part 40 and part 382 of the federal Motor Carrier*
 27 *Safety regulations and OSHA drug free workplace standards.*

28 XXV. *The tow business shall require every employee and any perspective employee,*
 29 *regardless of license type, to submit to all testing requirements found under 49 C.F.R. part*
 30 *382 who will be operating any motor vehicles assigned to the tow business or who will be*
 31 *conducting any safety sensitive function during the term of employment regardless if*
 32 *applicable under 49 C.F.R. part 382 of the federal Motor Carrier Safety regulations. If any*
 33 *individual or employee tests positive or refuses any test, they shall not operate any vehicle*
 34 *or conduct any safety sensitive function until such time they complete the return to duty*
 35 *process as outlined in 49 C.F.R. part 40.*

36 (a) *All testing results shall be maintained in a separate employee folder and*
 37 *stored in a secured location only accessible to authorized personnel.*

1 **(b) The tow business owner or their designee of choosing shall complete the**
2 **necessary reasonable suspicion training.**

3 **(c) The tow business shall enroll with a consortium and retain its certificate of**
4 **enrollment.**

5 106-B:31 Requirements to Remain on the Tow List. –

6 I. Tow personnel shall perform a general cleanup of an accident area before leaving the
7 scene, and remove any glass, vehicle parts, debris, or other substances dropped or spilled prior to
8 leaving an incident scene. **No debris or vehicle parts from the accident area shall be placed**
9 **inside the towed vehicle if it is undamaged from the crash.** Vehicle fluids or hazardous
10 substances shall not be intentionally drained or left on the road or surrounding environment. ~~There~~
11 ~~will be no charge for normal highway cleanup of 30 minutes or less unless cleanup is a regular part~~
12 ~~of the itemized bill.]~~ If the debris field was caused by more than one vehicle all tow personnel shall
13 share in the cleanup duties ~~[under the direction of the trooper in charge at the scene].~~

14 II. The **qualified** tow business shall be responsible for securing and preserving personal
15 property in a vehicle to be towed, unless the owner or person responsible is present and wishes to
16 take custody of it.

17 III. The **qualified** tow business shall employ reasonable safeguards and procedures so that
18 all personal belongings and contents in the towed vehicle are intact and returned to the vehicle's
19 owner or authorized agent upon release of the vehicle upon payment in full or mutual agreement for
20 payment of fees with the exception of those essential items **listed in RSA 106-B:30** ~~[as provided].~~

21 IV. All personal property left in a vehicle and unclaimed shall be handled in accordance with
22 applicable state laws.

23 V. No **qualified** tow business shall accept a call if the employee who will be responding is
24 under the influence of any substance that could cause impairment or has the odor of alcohol on his or
25 her breath, nor shall a **qualified** tow business employee respond in such a condition.

26 VI. The **qualified** tow business shall maintain ~~[a log or ledger of all vehicles]~~ **an**
27 **individual record of each vehicle** towed at the request of ~~[state police]~~ **the division.** It shall
28 contain the date, time, and location of the tow, a description of the vehicle towed including the
29 owner's name and address, vehicle identification number, registration plate number and state of
30 registration, name of the tow vehicle operator, name and address of the person to whom the vehicle
31 was released, and location to which the vehicle was towed. This record and any other records and
32 equipment associated with compliance with these applicable state statutes and these rules shall be
33 open to inspection by department of safety personnel during normal business hours and retained for
34 the year when the record was made and one full year beyond.

35 VII. The owner, operator, and any employee of the **qualified** tow business on the list shall
36 comply with all applicable state and federal laws and local ordinances. In matters where conflict of
37 laws arises the **qualified** tow business shall follow the lawful direction of the ~~[law enforcement~~

1 ~~officer]~~ **division member** controlling the scene of the investigations and shall be held harmless from
2 any conflicts.

3 VIII. All wrecker drivers shall have a valid driver's license for the class of vehicle they are
4 operating. Wrecker drivers shall have a motor vehicle record free of convictions of serious motor
5 vehicle offenses, or license revocations, or suspensions for serious motor vehicle offenses for the past
6 3 years.

7 IX. Tow companies on the tow list shall not permit any person to drive a wrecker if said
8 person has been convicted for any felony against persons or property involving fraudulent activity,
9 sex offenses, aggravated assaults, burglary, or theft resulting in a felony conviction within the last 3
10 years. No **qualified** tow **business** ~~[company]~~ shall permit any person to drive a wrecker if the
11 person is currently subject to probation, parole restrictions, or a court order restricting the area the
12 person may or may not be present in at any time.

13 X. Wreckers at the scene of a service call may be asked to provide minor on-site repairs,
14 such as jump-starting a dead battery or changing a tire.

15 XI. ***In addition to meeting the requirements herein, each class of vehicle that will be***
16 ***responding to tow calls*** ~~[Each tow vehicle]~~ shall ***at a minimum, be equipped with the***
17 ***following equipment, all of which shall be in good working order, and the following***
18 ***supplies*** ~~[carry at a minimum the following supplies and equipment in good working order, in~~
19 ~~addition to meeting the requirements herein for each class of vehicle that will be responding to~~
20 ~~wrecker calls]:~~

21 (a) Emergency lights meeting ***all*** statutory requirements ***to include RSA 266:109 and***
22 ***RSA 226:78-a through RSA 226:78-q***, visible at 3/4 of a mile when illuminated, and visible over
23 any vehicle being towed. Sirens, ***alternating headlights also known as wig-wags, and any***
24 ***other flashing light other than the color amber***, are prohibited.

25 (b) ***Appropriate flood lamps that can be used to illuminate the work area*** ~~[At~~
26 ~~least one working spotlight capable of being aimed].~~

27 (c) One fire extinguisher, ***a minimum*** 5-lb. carbon monoxide or dry powder, fully
28 charged, ***readily accessible***, and able to be operated.

29 (d) At least one heavy duty push broom, ***flat scoop shovel***, and garbage container ***or***
30 ***other suitable trash receptacle suitable for cleaning up debris***.

31 (e) A steering lock mechanism or capability to properly lock steering.

32 (f) ~~[A first aid kit.~~

33 (g) ~~A reflectorized safety vest for each employee on the vehicle.~~

34 (h) ~~For heavy duty vehicles and heavy duty recovery vehicles, portable lighting~~
35 ~~equipment.~~

36 (i) ~~Heavy duty wreckers and heavy duty recovery]~~ ***Class I and II*** vehicles shall have 10
37 of at least ~~[2]~~ ***one*** of the following: reflector flare, ~~[road flare,]~~ colored LED flashing road flare.

1 ~~[Lighter]~~ **Class III** vehicles shall have at least 3 of ~~[2]~~ **one** or more of the following: reflector flare,
2 ~~[road flare,]~~ colored LED flashing road flare. Traffic cones **meeting National Highway Safety**
3 **standards** may be substituted for one of the above ~~[on a clear day during the hours from dawn to~~
4 ~~dusk].~~

5 ~~[(j) At least one flat scoop type shovel.]~~

6 ~~[(k)]~~ **(g)** For ~~[heavy duty wreckers and heavy duty recovery]~~ **class I and II** vehicles,
7 necessary equipment to perform the tasks necessary for towing a vehicle.

8 ~~[(h)]~~ **(h)** For any ~~[wreckers]~~ **class I or II vehicles** called to recover vehicles with air
9 assisted brakes, the capability to provide air to the towed vehicle to facilitate brake operation.

10 ~~[(m) A current, valid motor vehicle registration and a current, valid state safety~~
11 ~~inspection sticker.~~

12 ~~[(n) An FCC licensed 2-way business radio or a wireless telephone.~~

13 ~~[(o)]~~ **(i)** Portable **driveaway-towaway** lights for any vehicle being towed including
14 taillights, stop lights, and directional signals.

15 ~~[(p)]~~ **(j)** A minimum of 40 pounds of sand or other appropriate absorbent material
16 designed and verified by the manufacturer to absorb hazardous waste and spills in an efficient and
17 effective manner.

18 **(k) A new tarpaulin of a minimum size of 11 feet by 23 feet.**

19 **(l) Appropriate chains, binders, nylon straps, or any other approved securement**
20 **device to properly secure vehicles being towed.**

21 **(m) Snatch block, prybar, sledge hammer, hydraulic jack, lug wrench or**
22 **comparable tool, battery jump pack.**

23 **(n) DOT approved fuel can not to exceed 8 gallons.**

24 **(o) Any other tool necessary to the recovery and towing of vehicles.**

25 XII. The management of a **qualified** towing business on the rotating list shall be primarily
26 responsible to the division of state police to inspect and maintain an ongoing awareness of
27 compliance with relevant rules, regulations, and laws affecting the business and to make prompt
28 corrections of any discrepancies. Each **qualified** tow business on the list shall annually, on or
29 before January 15 of the following year, certify to the director of state police under penalty for
30 unsworn falsification that it has conducted an internal inspection and that the business is in
31 compliance with the provisions of this subdivision and any administrative rules adopted pursuant to
32 it.

33 XIII. State troopers or other designated ~~[department of safety personnel]~~ **division members**
34 may be assigned at the discretion of the state police director to conduct reviews from time to time of
35 towing businesses, their records, and equipment to ensure compliance with relevant rules and laws
36 and make a recommendation through the state police communications commander to the director as
37 to the level of compliance and any appropriate action. **Qualified** tow businesses participating in the

1 tow list shall make, during normal business hours, their records, vehicles, facility, and equipment
2 available for examination for such reviews by troopers or other department of safety employees. In
3 cases of non-compliance, ~~[the state police communications commander]~~ **or where the qualified tow**
4 **business refuses to participate in the review or investigation or becomes uncooperative in**
5 **any way, the division member conducting the review shall** ~~[recommend appropriate]~~ **make a**
6 **recommendation of** action to the director, which may include a ~~[verbal or written reprimand,]~~
7 suspension, ~~[or]~~ revocation, **or indefinite removal** from continued participation in the rotating list.
8 ~~[Such action is discretionary and shall be based on the nature and seriousness of the discrepancy~~
9 ~~and any prior record of the business.]~~ **The division member conducting the review may also**
10 **pursue criminal or motor vehicles charges for offenses found.**

11 XIV. ~~[Before being removed from the rotating list for disciplinary reasons, a tow business or~~
12 ~~employee shall be served with a written notice of intent describing the reasons, and notified that it~~
13 ~~may request a hearing before the department of safety bureau of hearings prior to any such removal.~~
14 ~~A tow business that is removed from the list may contest the result of the hearing in superior court.~~
15 ~~Nothing in this subdivision shall be construed to confer any vested property rights upon a tow~~
16 ~~business or employee to remain on the state police rotating tow list.~~

17 XV. ~~[~~ **Qualified** tow ~~[vehicle]~~ **business** owners~~[, operators,]~~ and employees shall not be
18 abusive, disrespectful, **deceptive, threatening,** or use profane language when dealing with the
19 public or **any** officials **or any member of the division.** **The qualified tow business** ~~[and]~~ shall
20 cooperate with the **division and its** members **at all times** ~~[of the state police].~~

21 XVI. ~~[~~ **Qualified** tow businesses shall employ only drivers who demonstrate an ability
22 to perform required services in a safe, timely, courteous and civil manner and who satisfy all
23 applicable state and federal laws and regulations.

24 XVII. ~~[~~ **Qualified** tow business shall tow disabled vehicles to any destination
25 requested by the vehicle owner or person in charge of the vehicle after financial obligations have
26 been finalized to the satisfaction of the **qualified** tow business providing the service. The **qualified**
27 tow business may hold the vehicle for payment of services at the business location if not satisfied
28 with payment on site.

29 XVIII. ~~[~~ **Qualified** tow business shall allow access to the **vehicle** storage **area** ~~[facility or yard]~~ by insurance inspectors,
30 appraisers, attorneys and their assistants and private investigators shall be at their own risk and
31 the **qualified** tow business shall not be responsible for any injury sustained. **The person entering**
32 **the area should be notified that entering is at their own risk.** A vehicle owner or the owner's
33 authorized agent, upon presentation of suitable identification, may enter the yard at their own risk
34 under supervision by the **qualified** tow business to remove personal items or belongings. **The**
35 **qualified tow business shall retain a copy of all identifications of any individual entering**
36 **the vehicle storage area in relation to a state police tow.**

1 ~~[XIX.] XVIII.~~ A ~~[wrecker-operator]~~ **qualified tow business** on the rotation list shall not
2 offer towing services to the owner or operator of a vehicle currently under the supervision of ~~[state~~
3 ~~police]~~ **the division** unless dispatched by the rotation list or specifically hailed for service by the
4 trooper ~~[or other law enforcement officer]~~ under emergency circumstances. Any activity **completed**
5 **or attempted, such as but not limited to, patrolling any location, call chasing, or jumping**
6 **whether utilizing a police scanner or not, ~~[done or designed]~~** for the **sole** purpose of
7 circumventing the **rotating** list shall be cause for **disciplinary action as outlined in RSA 106-**
8 **B:34 or for the removal of ~~[the division to remove]~~** the business from the rotating list permanently,
9 **indefinitely**, or for a specific time determined by the **director** ~~[division]~~.

10 ~~[XX.] XIX.~~ **Qualified tow business** ~~[Tow service]~~ vehicles shall not be driven at an unsafe
11 or unreasonable speed, commit other moving motor vehicle violations or drive recklessly on the way
12 to or from a towing service call~~[, and may be removed from the list for such behavior]~~. **Any division**
13 **member who observes any motor vehicle or criminal violation may handle the violation**
14 **immediately and accordingly and shall refer this information to the director. Upon receipt**
15 **of any information of the committed violations the qualified tow business shall be subject**
16 **to disciplinary action as outlined in RSA 106-B:34.**

17 ~~[XXI.] XX.~~ State police shall not show any favoritism or circumvent the tow list to favor one
18 or more businesses and shall be subject to divisional discipline for doing so.

19 **XXI. In the event a qualified tow business has been removed from the tow list and**
20 **seeks placement on the tow list, the director shall determine their eligibility based on the**
21 **seriousness of the prior offense or offenses, any prior history of violations, or any case**
22 **where violations resulted in harm. Any tow business removed from the tow list shall be**
23 **ineligible to reapply for a minimum of 5 years from the date of removal.**

24 106-B:32 Recordkeeping; Mandatory Records.

25 I. Each ~~[operator or]~~ **qualified tow** business on the ~~[rotating]~~ list shall maintain a record
26 system covering all services performed in roadside service, pulling, towing, **recovery**, or transporting
27 vehicles in response to calls from the **division** ~~[state police]~~, which shall include the following
28 information:

29 (a) The date and time of day the business was contacted and requested to the scene and
30 the times of arrival and departure from the scene.

31 (b) The name of the person requesting the service.

32 (c) The location of the vehicle or incident.

33 (d) A description of the vehicle including license plate and vehicle identification number.

34 (e) The name and address of the owner or lessee of the vehicle, if known.

35 (f) The name and address, date of birth, driver license number, and licensing state or
36 province of the driver of the vehicle, if known.

1 (g) ~~[The]~~ *A detailed breakdown of all services rendered* ~~[service]~~ or towing ~~[charge]~~
2 *charges* and other related fees.

3 (h) *The full name and signature of the employee who operated the tow vehicle,*
4 *responded to the scene, towed the vehicle, and released the vehicle.*

5 II. *Each qualified tow business shall retain a copy of the receipts outlined above*
6 *and required in RSA 106-B:30, XVIII at the principal place of business for a minimum of*
7 *one year from the date of payment.*

8 III. All such records shall be available for inspection and copying by state troopers or
9 *division members* ~~[agents of the department of safety]~~ during normal business hours at the
10 *principal* place of business of the ~~[wrecker]~~ *qualified tow* business, and shall be maintained for **2**
11 *years* ~~[the current calendar year and the year immediately prior to the current calendar year].~~

12 106-B:33 Confiscated Vehicles; Impoundment. –

13 A state trooper may impound *and hold* or confiscate a vehicle *to be* towed by a *qualified* tow
14 business that is on the rotation list in furtherance of law enforcement duties, such as when the
15 vehicle is reported stolen, ~~[or]~~ involved in a crime, is unsafe to be driven, *pending a search*
16 *warrant*, or is to be processed for possible forensic evidence of a crime. In such events:

17 I. The vehicle may be towed to a location specified by the *division member or forensic*
18 *technician* ~~[processing officer]~~ to facilitate evidence preservation, collection, or processing,
19 otherwise it shall be securely stored on the premises of the towing service.

20 II. The ~~[wrecker]~~ *qualified tow* business shall not release the vehicle to anyone unless and
21 until authorized to do so by the ~~[trooper]~~ *division member* who arranged for the hold or a *ranking*
22 *division member* ~~[state police officer]~~ superior in rank to that ~~[trooper]~~ *division member who*
23 *requested the hold*, or on ~~[an]~~ *any* order by the court.

24 III. The *qualified* tow business shall not allow anyone except a *division* member ~~[of the~~
25 ~~law enforcement agency having jurisdiction]~~ or someone having written permission from the
26 *division* ~~[state police]~~ to enter, inspect, or touch the vehicle or any parts from the vehicle.

27 IV. When the *qualified* vehicle is released, the tow business shall require that the person to
28 whom the vehicle is released display a valid photo driver license or other official government photo
29 identification, and the *qualified* tow business shall keep a photocopy of such card or document.

30 106-B:34 Compliance Action; Disciplinary Enforcement. ~~[Participation in the state police tow~~
31 ~~list is a privilege, not a right. The director of state police is charged with the responsibility of~~
32 ~~ensuring that the towing, storage, roadside emergency service, and recovery of vehicles at the~~
33 ~~direction or request of the division of state police is accomplished consistent with state law and~~
34 ~~administrative rules and in a manner that maintains the confidence and respect of the motoring~~
35 ~~public. To accomplish this, the director may take appropriate action to uphold the integrity and~~
36 ~~efficiency of the tow list and the duties and responsibilities of businesses participating in the list and~~
37 ~~their owners, managers, and employees. The director may take appropriate action including~~

1 ~~removal of a tow business or a tow business employee from participating in the tow list, and which~~
 2 ~~may include upon satisfactory evidence of violations or deliberate noncompliance, a verbal or written~~
 3 ~~warning, suspending the business or employee or both from the list for a period of one to 120 days, or~~
 4 ~~removal from the list and ineligibility for restoration for up to 2 years, depending on the seriousness~~
 5 ~~of the offense, any prior history of violations, and any resulting harm. Causes for such action shall~~
 6 ~~include violations of the equipment and other requirements set forth in RSA 106-B:28, and the~~
 7 ~~provisions of RSA 106-B:29 through 106-B:33. Disciplinary actions may be appealed to the~~
 8 ~~department of safety bureau of hearings and to the superior court as provided in RSA 106-B:31,~~
 9 ~~XIV.]~~

10 *I. Participation in the state police tow list is a privilege, not a right, and no one*
 11 *person or tow company is entitled to participate on the tow list. The director has the*
 12 *authority to determine who is added or removed from the tow list. No tow business shall*
 13 *make any demands, requests, or repeated complaints to intimidate or force the director to*
 14 *act. The director is responsible for ensuring that the towing, storage, roadside emergency*
 15 *service, and recovery of vehicles at the direction or request of the division is accomplished*
 16 *consistent with state law and administrative rules and in a manner that maintains the*
 17 *safety, confidence, and respect of the motoring public. The director may take appropriate*
 18 *action to uphold any law, the integrity or the efficiency of the tow list, and the duties and*
 19 *responsibilities of qualified tow businesses participating in the list and their employees.*
 20 *Action may include, but is not limited to, a verbal or written warning, suspension, removal*
 21 *of a qualified tow business or a tow business employee or both from participating on the*
 22 *tow list, or an administrative fine.*

23 *II. Upon any evidence, any qualified tow business or tow business employee found to*
 24 *be in violation of this subdivision or any federal or state law, rule, or regulation*
 25 *surrounding the operation of any qualified tow business participating on the tow list shall*
 26 *be subject to disciplinary action. The director will determine the level of discipline*
 27 *necessary depending on the seriousness of the offense, prior history of violations, or any*
 28 *case where violations resulted in harm. The director may adopt rules pursuant to RSA 541-*
 29 *A to establish an administrative fine schedule.*

30 *III. Before being suspended or removed from the tow list for disciplinary reasons, a*
 31 *qualified tow business or employee shall be issued a written notice of intent describing the*
 32 *reasons for discipline, and they may request a hearing with the department of safety*
 33 *bureau of hearings ("bureau of hearings"). Hearings requests shall be received in writing*
 34 *by the bureau of hearings within 10 business days from the date of issuance of discipline.*
 35 *Any request received after 10 business days shall not be accepted by the bureau of hearings*
 36 *and the issued discipline shall be final.*

1 *IV. A qualified tow business under an active criminal investigation may be*
2 *suspended from the tow list pending the outcome of the investigation.*

3 *V. Disciplinary actions upheld by the bureau of hearings may be appealed to the*
4 *superior court.*

5 2 Effective Date. This act shall take effect 60 days after its passage.