

Amendment to SB 724-FN

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

2
3 1 New Section; Abandoned Vehicles; Use of Tow List Required. Amend RSA 262 by inserting
4 after section 31 the following new section:

5 262:31-a Use of Tow List Required. In the event the state police in the interest of public safety
6 and pursuant to applicable statutes and rules, including but not limited to clearing roads and
7 entrances of disabled or abandoned vehicles, seeks to tow any vehicle, the tow company responsible
8 for removal and storage shall be chosen from a tow list in accordance with RSA 106-B:26 through
9 RSA 106-B:34.

10 2 New Subdivision; Removal of Abandoned Vehicles by State Police. Amend RSA 106-B by
11 inserting after section 25 the following new subdivision:

12 Removal of Abandoned Vehicles by State Police

13 106-B:26 Applicability.

14 I. This subdivision shall apply to the enforcement of provisions of the motor vehicle laws by
15 the state police, including clearing roads and entrances of stolen, unregistered, illegally parked,
16 disabled or abandoned vehicles, vehicles involved in accidents or crimes or other situations,
17 regarding the removal, storage, and release of such vehicles towed and transported by wreckers,
18 towing, and emergency road service organizations in a fair and equitable manner, upon request of
19 the division of state police:

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

22 (b) In response to requests from a state trooper when a vehicle has been abandoned on
23 private property without consent of the property owner;

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

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

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

29 (f) When a vehicle has been left unattended within a state-owned park and ride facility
30 for a period greater than 21 days; or

31 (g) When a vehicle is without proper registration or apparently unsafe to be driven.

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1 II. Nothing in this subdivision shall restrict the authority of town and city law enforcement
2 agencies to enforce relevant state statutes, to enact local bylaws or ordinances not in conflict with
3 any state law or administrative rule regarding the clearance of disabled, abandoned, illegally
4 parked, unregistered, or stolen vehicles or vehicles involved in crimes or collisions in areas where the
5 local police have sole or shared jurisdiction with state police, or to enter into contractual agreements
6 with tow companies for the removal of vehicles at the request of local authorities.

7 106-B:27 State Police; Use of Tow List.

8 I. In the event the division of state police seeks to tow or remove any vehicle pursuant to
9 applicable laws and rules, whenever practicable the tow company responsible for such towing or
10 removal shall be chosen from a tow list in accordance with this subdivision.

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

21 III. Rotation lists shall include notations identifying tow businesses that maintain heavy
22 duty wreckers, heavy duty recovery vehicles, and recovery vehicles, and whenever there is a specific,
23 identified need for one of those vehicles it shall be summoned from the rotating list in the order in
24 which it appears. Nothing herein shall prevent a tow business on a tow list from responding to a call
25 with a larger, heavier, or more sophisticatedly equipped vehicle where only a lighter wrecker is
26 required, provided the tow business does not exceed its normal charge for a lighter duty wrecker.

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 and their employees to participate in the state police tow
30 list, including qualifications, training, and minimum standards for equipment, response times,
31 storage and release of towed vehicles and their contents, and criminal history and motor vehicle
32 record checks of tow truck drivers.

33 V. State troopers handling an incident shall not call a tow business that, in their opinion,
34 lacks a vehicle of sufficient size and equipment for a particular job. Under such conditions a tow
35 business not called shall retain its position on the rotation list.

36 VI. Whenever a desired tow business is unable to respond to a call in a timely manner with
37 the proper equipment, the tow business next on the rotation list shall be called.

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VII. Tow businesses may also be called for service, such as for fuel, tire changes, dead battery, and removal of disabled, stolen, or abandoned vehicles according to placement on the appropriate rotation list and shall have a service vehicle suitably equipped and personnel capable of handling the assignment.

106-B:28 Definitions. In this subdivision:

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

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

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

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

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

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

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

(g) Light and airbrake hookups for the towed vehicle; and

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

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

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

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

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

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

(e) Dual rear wheels;

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

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

4 III. "Recovery vehicle" means a motor vehicle consisting of a commercially available truck
5 chassis equipped with a commercially manufactured tow body or bed and that is rated and issued a
6 serial number by the manufacturer, designed and equipped for and used in the towing or recovery of
7 vehicles, in good condition and capable of towing a vehicle by means of a tow bar, sling, or wheel lift,
8 and capable of recovering a vehicle by means of a hoist, winch, or towline.

9 IV. "Rollback carrier" means a flatbed vehicle in good condition that meets the following
10 requirements, provided that come-a-longs, chains, or similar devices shall not be used as substitutes
11 for a winch and cable:

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

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

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

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

19 V. "Tow business" means a person, enterprise, partnership, company, LLC, or other
20 corporation having a registered trade name, an active New Hampshire tax identification number, an
21 active New Hampshire workers' compensation insurance policy or exemption papers, an active New
22 Hampshire employment security account, and that meets all state and local legal requirements
23 including, but not limited to, those related to payment of business related taxes, fees, and insurance
24 coverage, and that regularly engages in the impoundment, recovery, transport, or storage of towed or
25 abandoned vehicles, or in the disposal of abandoned vehicles.

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

34 VII. "Vehicle storage area" means a suitable yard or enclosed building where a qualified tow
35 business keeps or stores towed or impounded vehicles.

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

106-B:29 Use of Tow List.

I. When a towing situation being handled by state police involves a vehicle that requires recovery, towing, or removal from the scene, the trooper in charge shall make a best effort attempt to allow the owner, operator, or other person lawfully responsible for the vehicle to contact a preferred tow business, unless doing so will delay the timely restoration of safe traffic movement, prolong a serious hazard, or compromise the preservation or collection of evidence. The preferred tow business when called shall notify state police communications of its estimated time of arrival. The trooper on scene shall determine if that time will unduly continue a hazardous condition or cause serious inconvenience for the public and, if so, state police communications shall summon the next appropriate tow business from the tow list. If there is no one on site who is the owner, operator, or other person lawfully responsible for the vehicle, and in the opinion of the trooper the vehicle presents a hazard or unreasonable delay to the public, the trooper on site shall request that state police communications contact the next appropriate tow business on the list.

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

III. If the desired tow business is unable to respond to a call in a timely manner with the proper equipment, the tow business next in line on the rotation list will be called.

IV. Placement on the tow list shall be by order of application. Whenever a new tow business becomes authorized, it shall be placed on the bottom of the appropriate list or lists for which the director finds the tow business qualified. The director shall have authority to determine when a tow list is adequately staffed with towing businesses and may refuse to add a business to the list if he or she determines the amount and type of calls in that zone is insufficient to justify a larger list.

V. Separate rotation lists shall be maintained for each category of wrecker. When a situation requires services of a specific category of wrecker, such wrecker shall be called from the appropriate tow list unless the person responsible for the vehicle is present and has a preference for a different tow business with that category of wrecker, in which case the preferred wrecker shall be summoned if available within a reasonable response time.

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1 VI. Nothing in this chapter shall be construed to confer any vested property rights upon a
2 tow business to continue on the rotating list.

3 VII. Calling a tow company from the list does not create a contract with or obligation on the
4 part of the state police or state police personnel to reimburse any fee or towing charge, except when
5 towing a vehicle owned or leased by the state police or that is later forfeited to the state police, or if a
6 court determines that the state police wrongfully authorized the tow and orders the state police to
7 pay transportation and storage fees.

8 VIII. Placement on the rotation list does not guarantee a particular number of calls, an
9 equal number of calls to every tow business on the list, nor any compensation as a consequence of
10 not being called in accordance with the list, or when removed from the rotation list. If a towing
11 business responds to a state police call and the call is later canceled due to the vehicle no longer
12 being disabled, or the circumstances change such that after calling a tow company the vehicle must
13 be stored in a manner that preserves all evidence in or on the vehicle and the tow business is not so
14 equipped, the tow business shall go back to the top of the list.

15 IX. A tow business shall, upon receiving a request from the state police, use its own
16 equipment and shall not refer a call to another tow business.

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 of
20 equipment from accident or failure, a tow business on the tow list shall timely notify the director of
21 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 XI. New tow businesses, when qualified and accepted, shall be placed on the bottom of the
25 rotation list.

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

29 XIII. If a motorcycle is to be towed, a tow sling, wheel lift, car carrier, or other comparable
30 device shall be used that has the capability to transport motorcycles.

31 XIV. The division shall not call a tow business that, in its opinion, does not have a vehicle of
32 sufficient size and equipment for a specific job. Under these conditions, the tow business not called
33 will remain on the top of the rotation list.

34 XV. A tow business shall not sell, assign, transfer, pledge, surrender, encumber, or dispose
35 of its place on the rotation list. By applying to be placed on the list, a tow business agrees to respond
36 to all state police calls 24 hours a day, 7 days a week. If for any reason the business cannot respond

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1 to a call, it rotates to the bottom of the list. Businesses that develop a pattern of non-response to
2 calls may be subject to removal from the rotation list.

3 XVI. A tow business shall appear on the rotation list only once. The listing shall use the
4 name of the business submitted at the time of application and a designation for any specialty in
5 which the business is qualified. A tow business conducting business at a location shall not receive
6 multiple listings or classifications by utilizing a different or fictitious name for trucks operating from
7 the same location or trucks operating with the same name out of different locations within that zone.

8 XVII. When emergency conditions necessitate, the state police may request the services of
9 the tow business that is best equipped to handle the emergency and can reach the scene in the
10 shortest time, regardless of its position on the rotation list. A call made under these circumstances
11 shall count as such business's next rotation call.

12 XVIII. Whenever heavy equipment or large vehicles are involved in an incident, and it is
13 determined that the tow business next up on the rotation list lacks adequate equipment to handle
14 the incident, the division may call a larger piece of equipment from a business on the list that can
15 handle the situation. In such case, the tow business shall be repositioned on the rotation list
16 accordingly. Having only one large rotation wrecker shall not justify for being called to all truck
17 accidents.

18 XIX. In the event of an overturned truck, the state police shall determine at the time if the
19 situation requires the use of only one tow business or if additional vehicles are required. The first
20 named tow business shall determine the amount of assistance necessary to remove any public
21 hazards. The tow business responding to the law enforcement request shall be responsible for
22 contacting others meeting the qualifications to operate in New Hampshire and shall be the business
23 responsible for efficient and safe handling of the recovery. Decisions made pursuant to this
24 paragraph shall be based on the public safety concerns.

25 XX. At no time shall any towing vehicle exceed its manufacturer's gross vehicle weight
26 rating or the manufacturer's rated capacity for the towing assembly or be attached to a vehicle which
27 by its size and or weight would make towing it an unsafe movement.

28 106-B:30 Requirements for Placement on the Tow List.

29 I. Any tow business that wishes to be placed on the rotation list with appropriate
30 designation shall make application to the director of state police.

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

36 III. The application shall include an individual form approved by the director of state police
37 for each tow truck operator and for the owner and manager of the business and any supervisors,

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1 listing under penalty of unsworn falsification their full name, date and place of birth, driver license
2 number and type and any restrictions or limitations, and a listing of all motor vehicle offense
3 convictions in this or any other state or Canadian province including type, court, and year in the
4 preceding 5 years, and a list of any criminal convictions in this or any other state or Canadian
5 province within the past 10 years, including type of offense, year of conviction, court, and sentence
6 imposed, and whether the person is currently on probation or parole or has ever been a registered
7 sex offender or subject to a domestic violence protective order. Nothing in this paragraph shall
8 restrict the employer or state police in case of doubt from verifying the information through a record
9 check or checks.

10 IV. Any criminal history of convictions involving a felony against persons or property
11 involving fraudulent activity, aggravated assaults, sex offenses, burglary or thefts resulting in a
12 felony conviction within the last 3 years, or a serious or repetitive motor vehicle violation history of
13 any such individual shall be grounds for refusing to place on or removing the business from the
14 rotation list.

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

22 VI. In the event the ownership of a tow business changes for any reason including but not
23 limited to the sale of the business, death, or retirement of the owner, the tow business shall reapply
24 before the effective date of the change in ownership for approval or the tow business shall be
25 removed from the rotation list until such time as the new owner complies with the application
26 process.

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

33 VIII. Wreckers dispatched shall arrive at the scene within 30 minutes of being called, except
34 for cases where the travel distance, posted speeds, or traffic and weather conditions and volume of
35 traffic make this unreasonable. For heavy duty calls the company shall respond within a maximum
36 of 60 minutes regardless of the time of day. If the time exceeds the above limit and the tow business
37 does not provide state police communications or the trooper in charge at the scene a valid reason for

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1 the delay within that time, a second rotation wrecker may be dispatched. If a second wrecker is
2 requested before the arrival of the initially dispatched rotation wrecker, the initially requested
3 wrecker shall forfeit the call and leave the incident scene. Repeated tardiness may result in
4 suspension or removal from the rotation list.

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

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

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

16 XII. A secure building that provides written proof that it meets all applicable state and local
17 codes and which is suitably alarmed may substitute for a fenced area if the tow business provides for
18 total inside storage.

19 XIII. The tow business shall provide reasonable accommodations for after-hours release of
20 personal property in stored vehicles or other related storage once the state police releases any hold
21 on personal or other property not affixed to the towed vehicle, and upon payment in full or mutual
22 agreement for payment of all towing and storage fees. The towing of a vehicle at the request of law
23 enforcement shall grant a lien to the tow business, equal to the cost of recovery and storage.

24 XIV. Under no circumstance may a tow business withhold wallets, purses, life essential
25 clothing, mail, legal documents, child safety seats, eyeglasses or contact lenses, medicines, medical
26 equipment, license plates, or house or place of business keys pending payment of fees.

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

35 XVI. The tow business participating in the tow list shall maintain tow and hook, liability,
36 and garage-keepers' liability insurance in an amount not less than that designated under New
37 Hampshire law or administrative rule. This shall include a minimum coverage of \$1,000,000 in

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1 liability including garage-keeper's insurance coverage. The tow business shall also comply with all
2 other business requirements and taxes required under state or federal law.

3 XVII. The tow business shall not place or imprint on its vehicles, buildings, equipment,
4 clothing, or correspondence anything that suggests or implies an official relationship between the
5 company and any emergency services provider or law enforcement agency. This shall extend to
6 paint schemes, colors, shoulder patches, or decals similar in design to department of safety or state
7 police vehicles or any name or logo implying an official connection. State police may design and
8 issue a suitable decal to indicate that a tow vehicle's owner is on the rotating list. Termination of
9 services or suspension, even if temporary, from the rotation list shall require any decal provided,
10 issued, or approved by state police to be removed immediately from the tow vehicle if such vehicle
11 will be operated on public roads.

12 XVIII. The tow business shall provide state police with a complete updated list of all rates
13 for the services it performs related to the towing and storage of vehicles, on the letterhead of the
14 business, and shall update such list when prices change. State Police shall not set the fees for these
15 services nor use the rate schedule provided in determining placement on a rotation schedule. Price
16 lists shall remain confidential except when determining the reasonable fee in a requested hearing
17 conducted by the department of safety.

18 XIX. Whenever the owner of a towed or impounded vehicle or their agent pays a towing
19 company for those services, the company shall provide a detailed receipt to the owner or agent for
20 the services rendered.

21 XX. Motorists using a wrecker under the rotation list shall have the option of paying by cash
22 or major debit or credit card. The tow business may inquire, prior to accepting a dispatch, as to how
23 the motorist will be paying. The owner of a towed or impounded vehicle who believes an exorbitant
24 or unreasonable fee was charged for towing the vehicle if such service rendered was covered by RSA
25 262:31 through RSA 262:40-c, may file a complaint with the commissioner of safety and request
26 review pursuant to RSA 262:35-a. If not covered by RSA 262:31 through RSA 262:40-c, the owner or
27 his or her agent shall be notified of his or her ability to make a complaint to the consumer protection
28 division of the department of justice.

29 XXI. A tow business shall not be operated without a Federal Motor Carrier Safety
30 Administration safety registration, an active United States Department of Transportation number,
31 and valid New Hampshire registration.

32 106-B:31 Requirements to Remain on the Tow List.

33 I. Tow personnel shall perform a general cleanup of an accident area before leaving the
34 scene, and remove any glass, vehicle parts, debris, or other substances dropped or spilled prior to
35 leaving an incident scene. Vehicle fluids or hazardous substances shall not be intentionally drained
36 or left on the road or surrounding environment. There will be no charge for normal highway cleanup
37 of 30 minutes or less unless cleanup is a regular part of the itemized bill. If the debris field was

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1 caused by more than one vehicle all tow personnel shall share in the cleanup duties under the
2 direction of the trooper in charge at the scene.

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

6 III. The tow business shall employ reasonable safeguards and procedures so that all
7 personal belongings and contents in the towed vehicle are intact and returned to the vehicle's owner
8 or authorized agent upon release of the vehicle upon payment in full or mutual agreement for
9 payment of fees with the exception of those essential items as provided.

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

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

15 VI. The tow business shall maintain a log or ledger of all vehicles towed at the request of
16 state police. It shall contain the date, time, and location of the tow, a description of the vehicle
17 towed including the owner's name and address, vehicle identification number, registration plate
18 number and state of registration, name of the tow vehicle operator, name and address of the person
19 to whom the vehicle was released, and location to which the vehicle was towed. This record and any
20 other records and equipment associated with compliance with these applicable state statutes and
21 these rules shall be open to inspection by department of safety personnel during normal business
22 hours and retained for the year when the record was made and one full year beyond.

23 VII. The owner, operator, and any employee of the tow business on the list shall comply with
24 all applicable state and federal laws and local ordinances. In matters where conflict of laws arises
25 the tow business shall follow the lawful direction of the law enforcement officer controlling the scene
26 of the investigations and shall be held harmless from any conflicts.

27 VIII. All wrecker drivers shall have a valid driver's license for the class of vehicle they are
28 operating. Wrecker drivers shall have a motor vehicle record free of convictions of serious motor
29 vehicle offenses, or license revocations, or suspensions for serious motor vehicle offenses for the past
30 3 years.

31 IX. Tow companies on the tow list shall not permit any person to drive a wrecker if said
32 person has been convicted for any felony against persons or property involving fraudulent activity,
33 sex offenses, aggravated assaults, burglary, theft resulting in a felony conviction within the last 3
34 years. No tow company shall permit any person to drive a wrecker if the person is currently subject
35 to probation, parole restrictions, or court order restricting the area the person may or may not be
36 present in at any time.

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

3 XI. Each tow vehicle shall carry at a minimum the following supplies and equipment in good
4 working order, in addition to meeting the requirements herein for each class of vehicle that will be
5 responding to wrecker calls:

6 (a) Emergency lights meeting statutory requirements, visible at 3/4 of a mile when
7 illuminated, and visible over any vehicle being towed. Sirens are prohibited.

8 (b) At least one working spotlight capable of being aimed.

9 (c) One fire extinguisher, 5-lb. carbon monoxide or dry powder, fully charged and able to
10 be operated.

11 (d) At least one heavy duty push broom and garbage container.

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

13 (f) A first aid kit.

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

15 (h) For heavy duty vehicles and heavy-duty recovery vehicles, portable lighting
16 equipment.

17 (i) Heavy duty wreckers and heavy-duty recovery vehicles shall have 10 of at least 2 of
18 the following: reflector flare, road flare, colored LED flashing road flare. Lighter vehicles shall have
19 at least 3 of 2 or more of the following: reflector flare, road flare, colored LED flashing road flare.
20 Traffic cones may be substituted for one of the above on a clear day during the hours from dawn to
21 dusk.

22 (j) At least one flat scoop type shovel.

23 (k) For heavy duty wreckers and heavy-duty recovery vehicles, necessary equipment to
24 perform the tasks necessary for towing a vehicle.

25 (l) For any wreckers called to recover vehicles with air assisted brakes, the capability to
26 provide air to the towed vehicle to facilitate brake operation.

27 (m) A current, valid motor vehicle registration and a current, valid state safety
28 inspection sticker.

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

30 (o) Portable lights for any vehicle being towed including taillights, stop lights, and
31 directional signals.

32 (p) A minimum of 40 pounds of sand or other appropriate absorbent material designed
33 and verified by the manufacturer to absorb hazardous waste and spills in an efficient and effective
34 manner.

35 XII. The management of a towing business on the rotating list shall be primarily responsible
36 to the division of state police to inspect and maintain an ongoing awareness of compliance with
37 relevant rules, regulations, and laws affecting the business and to make prompt corrections of any

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1 discrepancies. Each tow business on the list shall annually, on or before January 15 of the following
2 year, certify to the director of state police under penalty for unsworn falsification that it has it has
3 conducted an internal inspection and that the business is in compliance with the provisions of this
4 subdivision and any administrative rules adopted pursuant to it.

5 XIII. State troopers or other designated department of safety personnel may be assigned at
6 the discretion of the state police director to conduct reviews from time to time of towing businesses,
7 their records, and equipment to ensure compliance with relevant rules and laws and make a
8 recommendation through the state police communications commander to the director as to the level
9 of compliance and any appropriate action. Tow businesses participating in the tow list shall make,
10 during normal business hours, their records, vehicles, facility, and equipment available for
11 examination for such reviews by troopers or other department of safety employees. In cases of non-
12 compliance, the state police communications commander shall recommend appropriate action to the
13 director, which may include a verbal or written reprimand, suspension, or revocation from continued
14 participation in the rotating list. Such action is discretionary and shall be based on the nature and
15 seriousness of the discrepancy and any prior record of the business.

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

22 XV. Tow vehicle owners, operators, and employees shall not be abusive, disrespectful, or use
23 profane language when dealing with the public or officials and shall cooperate with the members of
24 the state police.

25 XVI. Tow businesses shall employ only drivers who demonstrate an ability to perform
26 required services in a safe, timely, courteous and civil manner and who satisfy all applicable state
27 and federal laws and regulations.

28 XVII. The tow business shall tow disabled vehicles to any destination requested by the
29 vehicle owner or person in charge of the vehicle after financial obligations have been finalized to the
30 satisfaction of the tow business providing the service. The tow business may hold the vehicle for
31 payment of services at the business location if not satisfied with payment on site.

32 XVIII. Access to the storage facility or yard by insurance inspectors, appraisers, attorneys
33 and their assistants and private investigators shall be at their own risk and the tow business shall
34 not be responsible for any injury sustained. A vehicle owner or the owner's authorized agent, upon
35 presentation of suitable identification, may enter the yard at their own risk under supervision by the
36 tow business to remove personal items or belongings.

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1 XIX. A wrecker operator on the rotation list shall not offer towing services to the owner or
2 operator of a vehicle currently under the supervision of state police unless dispatched by the rotation
3 list or specifically hailed for service by the trooper or other law enforcement officer under emergency
4 circumstances. Any activity done or designed for the purpose of circumventing the list shall be cause
5 for the division to remove the business from the rotating list permanently or for a specific time
6 determined by the division.

7 XX. Tow service vehicles shall not be driven at an unsafe or unreasonable speed, commit
8 other moving motor vehicle violations or drive recklessly on the way to or from a towing service call,
9 and may be removed from the list for such behavior.

10 XXI. State police shall not show any favoritism or circumvent the tow list to favor one or
11 more businesses and shall be subject to divisional discipline for doing so.

12 106-B:32 Recordkeeping; Mandatory Records.

13 I. Each operator or business on the rotating list shall maintain a record system covering all
14 services performed in roadside service, pulling, towing, or transporting vehicles in response to calls
15 from the state police, which shall include the following information:

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

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

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

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

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

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

24 (g) The service or towing charge and other related fees.

25 II. All such records shall be available for inspection and copying by state troopers or agents
26 of the department of safety during normal business hours at the place of business of the wrecker
27 business, and shall be maintained for the current calendar year and the year immediately prior to
28 the current calendar year.

29 106-B:33 Confiscated Vehicles; Impoundment. A state trooper may impound or confiscate a
30 vehicle towed by a tow business that is on the rotation list in furtherance of law enforcement duties,
31 such as when the vehicle is reported stolen or involved in a crime, is unsafe to be driven, or is to be
32 processed for possible forensic evidence of a crime. In such events:

33 I. The vehicle may be towed to a location specified by the processing officer to facilitate
34 evidence preservation, collection, or processing, otherwise it shall be securely stored on the premises
35 of the towing service.

36 II. The towing and storage of the vehicle shall be at the expense of the state police. The
37 wrecker business shall not release the vehicle to anyone unless and until authorized to do so by the

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1 trooper who arranged for the hold or a state police officer superior in rank to that trooper, or on an
2 order by the court.

3 III. The tow business shall not allow anyone except a member of the law enforcement agency
4 having jurisdiction or someone having written permission from the state police to enter, inspect, or
5 touch the vehicle or any parts from the vehicle.

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

9 106-B:34 Compliance Action; Disciplinary Enforcement. Participation in the state police tow list
10 is a privilege, not a right. The director of state police is charged with the responsibility of ensuring
11 that the towing, storage, roadside emergency service, and recovery of vehicles at the direction or
12 request of the division of state police is accomplished consistent with state law and administrative
13 rules and in a manner that maintains the confidence and respect of the motoring public. To
14 accomplish this, the director may take appropriate action to uphold the integrity and efficiency of the
15 tow list and the duties and responsibilities of businesses participating in the list and their owners,
16 managers, and employees. The director may take appropriate action including removal of a tow
17 business or a tow business employee from participating in the tow list, and which may include upon
18 satisfactory evidence of violations or deliberate noncompliance, a verbal or written warning,
19 suspending the business or employee or both from the list for a period of one to 120 days, or removal
20 from the list and ineligibility for restoration for up to 2 years, depending on the seriousness of the
21 offense, any prior history of violations, and any resulting harm. Causes for such action shall include
22 violations of the equipment and other requirements set forth in RSA 106-B:28, and the provisions of
23 RSA 106-B:29 through 106-B:33. Disciplinary actions may be appealed to the department of safety
24 bureau of hearings and to the superior court as provided in RSA 106-B:31, XIV.

25 3 Effective Date. This act shall take effect 60 days after its passage.