

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

CIVIL INFRACTIONS: SCHEDULE OF FINES AMENDMENTS

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in Section 33 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990, effective March 8, 1991 (D.C. Law 8-237); Section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (the "Act"), (D.C. Law 6-42; D.C. Official Code § 2-1801.04); and Mayor's Order 99-68, dated April 28, 1999, hereby gives notice of the intent to adopt the following amendments to Chapter 32 of Title 16 of the District of Columbia Municipal Regulations in not less than fifteen (15) calendar days from the date of publication of this notice in the D.C. Register. There is good cause for the fifteen (15) calendar days notice and comment period because it is necessary to establish fines to enforce the Towing Service for Motor Vehicles Regulations so that the public may receive the benefit of enforceable towing regulations without undue delay. In addition, the rules to establish the civil fines were published as a Notice of Proposed Rulemaking in the D.C. Register on May 23, 2003 (50 DCR 3995). Based upon comments received, the Director has made a substantial number of changes to the previous Notice of Proposed Rulemaking. These changes include reserving section 3210.1, and transferring Class 1 infractions into the Class 2 infractions section, until further notice, among others.

Pursuant to Section 2-1801.04 of the Act, the Director will submit the proposed rules to the Council of the District of Columbia for review and approval. These rules will become effective upon Council approval, or sixty (60) days after submission, if the Council has not disapproved the proposed rulemaking, or upon publication of the final rules in the D.C. Register, whichever occurs later.

This proposed rulemaking adds a new section of infractions to the Civil Infractions Schedule of Fines (16 DCMR 32) for violations of 16 DCMR, Chapter 4--Towing Service for Motor Vehicles.

Chapter 32 of Title 16 DCMR (Consumers, Commercial Practices & Civil Infractions) (July 1998), is amended as follows to add:

3210 DCRA OFFICE OF INVESTIGATION, WEIGHTS AND MEASURES --
TOWING SERVICE FOR MOTOR VEHICLES INFRACTIONS

3210.1 [Reserved].

3210.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 16 DCMR § 401.2 (failure to permit inspection by an authorized government official, including inspecting and photographing of towing

equipment, tow trucks, towing storage lots, logs and documents related to towing services initiated in the District);

- (b) 16 DCMR § 401.3 (failure to permit inspection of a towing service storage lot by officials of DCRA and other authorized government agencies);
- (c) 16 DCMR § 401.4 (interfering with an authorized inspection);
- (d) 16 DCMR § 401.5 (failure to surrender records upon lawful demand by an authorized government official);
- (e) 16 DCMR § 401.6 (submitting towing service records that were created after demand for inspection by an authorized government official; or, creating towing service records after an authorized government official demands an inspection);
- (f) 16 DCMR § 402.1 (owning a towing business without proper licensure);
- (g) 16 DCMR § 402.2 (owning a towing service storage lot without proper licensure);
- (h) 16 DCMR § 402.4(c) (failure to report discontinuance of availability of towing service storage lot to Director at least ten (10) days prior to discontinuance of availability);
- (i) 16 DCMR § 402.7 (failure to update information provided in an application for a license or endorsement to DCRA within fourteen (14) days of change);
- (j) 16 DCMR § 402.8 (failure to identify person with financial interest in towing business or towing service storage lot);
- (k) 16 DCMR § 402.9 (owning or operating a towing business or truck, or towing service storage lot within five (5) years of specified auto related misdemeanor or felony);
- (l) 16 DCMR § 403.1 (operating or using a tow truck without an authorized unique identifier);
- (m) 16 DCMR § 403.2 (unauthorized operation of a tow truck, or operating an unlicensed tow truck);
- (n) 16 DCMR § 403.4 (failure to display license in manner specified by the Director);

- (o) 16 DCMR § 404.1 (failure to maintain at least one fully equipped and licensed tow truck);
- (p) 16 DCMR § 404.2 (failure to mark cab of tow truck with trade name, primary location and primary telephone number, as specified);
- (q) 16 DCMR § 404.3 (failure to mark cab of tow truck with private towing and storage fees, as specified);
- (r) 16 DCMR § 404.4 (failure to mark cab of tow truck with alphanumeric identifier, as specified);
- (s) 16 DCMR § 404.5 (failure to equip tow truck with operable communication system, as specified; or, failure to produce a current permit and license, as required, to operate the communications system);
- (t) 16 DCMR § 404.11 (improper use of equipment while towing; or, towing without manufacturer's minimally specified equipment for a particular vehicle);
- (u) 16 DCMR § 405.1 (failure to locate secured storage lot in the District of Columbia; or, failure to provide descriptive signage on lot; or, failure to comply with other District laws and regulations; or, failure to comply with District zoning rules);
- (v) 16 DCMR § 406.3 (failure to obtain a towing control number before initiating a public tow);
- (w) 16 DCMR § 406.4 (failure to provide information to DPW before initiating a tow from private real property);
- (x) 16 DCMR § 406.7 (towing from private property without consent of the owner and without a citation for the vehicle issued by law enforcement personnel; or, towing from private property without being directed by a police officer in an emergency; or, failure to comply with provisions of D.C. Official Code §§ 50-2651 through 50-2654 (2001));
- (y) 16 DCMR § 408.1 (charging rates for public tows that exceed rates specified in the Director's Schedule of Maximum Rates in § 408.1);
- (z) 16 DCMR § 408.2 (charging rates for private tows that exceed rates specified in the towing business's Basic Business License Endorsement Application);
- (aa) 16 DCMR § 408.3 (failure to submit documentary evidence to Director within seventy-two (72) hours after collecting extra charges under extraordinary circumstances; or, failure to provide a refund of

disapproved charges within seventy-two (72) hours of receipt of notice of disapproval);

- (bb) 16 DCMR 408.4 (towing storage lot failure to remain open as required for the reclaiming of vehicles);
- (cc) 16 DCMR § 408.5 (charging for towing service, in response to a dispatch, after authorized official determines that service is not required; or, failure to notify DPW that a public tow has been discontinued);
- (dd) 16 DCMR § 408.6 (failure to discontinue tow and release vehicle upon request by owner/operator and after payment of lawful rate (and concurrence of requesting official, if present; or, failure to notify DPW that a tow has been discontinued);
- (ee) 16 DCMR § 408.8 (failure to accept lawful payment for towing services rendered);
- (ff) 16 DCMR § 408.10 (performing repair work on a public tow vehicle without written consent of the owner or owner's agent);
- (gg) 16 DCMR § 409.3 (charging for services not provided);
- (hh) 16 DCMR § 409.4 (failure to exhibit statements or receipts upon request; or, failure to retain statements and receipts for three (3) years from date of issuance);
- (ii) 16 DCMR § 409.6 (assessing charges for providing unnecessary services; or, assessing charges for the use of unnecessary equipment);
- (jj) 16 DCMR § 409.7 (failure to release vehicle after tender of lawful payment by owner or owner's agent);
- (kk) 16 DCMR § 410.1 (operating or offering to engage in the towing business without valid licensure; or, operating a towing storage lot without valid licensure);
- (ll) 16 DCMR § 410.3 (unauthorized removal of vehicle involved in accident);
- (mm) 16 DCMR § 410.8 (installing or maintaining a receiver capable of tuning to MPD radio frequencies);
- (nn) 16 DCMR § 410.9 (soliciting or providing unauthorized towing service at the scene of an accident);

- (oo) 16 DCMR § 410.10 (depositing a vehicle that is inoperable or in disrepair upon public space, without direction from an authorized official; or, depositing a vehicle that is inoperable or in disrepair upon private property without permission of the owner of the property);
- (pp) 16 DCMR § 410.11 (failure to provide an itemized receipt for charges related to towing or storing of a vehicle);
- (qq) 16 DCMR § 410.14 (failure to surrender suspended, revoked or canceled license or endorsement);
- (rr) 16 DCMR § 410.16 (permitting the unlawful use of a towing license or endorsement; or, the unlawful use of a towing license or endorsement);
- (ss) 16 DCMR § 410.18 (towing vehicles in the District of Columbia without current insurance coverage, as required);
- (tt) 16 DCMR § 411.3 (failure to appear when summoned by the Director);
- (uu) 16 DCMR § 411.8 (performing towing services, including operating a towing service storage lot, without a license or endorsement; or, performing towing services, including operating a towing service storage lot, with a license that has been revoked, cancelled or suspended);
- (vv) 16 DCMR § 411.9 (failure to remove accident debris from roadway before towing a vehicle involved in a collision); and
- (ww) 16 DCMR § 411.11 (failure to provide documentary proof of current insurance coverage, upon the request of any District government official).

3210.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 16 DCMR § 400.8 (failure to provide insurance information, upon request by the owner or operator of a towed vehicle, as requested);
- (b) 16 DCMR § 405.3 (failure to contact DPW with required information prior to releasing a public tow vehicle);
- (c) 16 DCMR § 405.7 (failure to provide "Owner's Bill of Rights for Towed Vehicles" to vehicle owner or operator on the scene before a tow; or, failure to post "Owner's Bill of Rights for Towed Vehicles" at towing service storage lot);

- (d) 16 DCMR § 406.3 (failure to display towing control number as prescribed by DPW; or, failure to use towing control number on documents related to the tow);
- (e) 16 DCMR § 406.5 (failure to obtain towing control number after emergency; or, failure to provide information as required after an emergency);
- (f) 16 DCMR § 406.8 (failure to assume responsibility for loss or damaged sustained as a result of a public tow; or, failure to provide appropriately trained personnel to tow vehicles);
- (g) 16 DCMR § 407.2 (initiating the private tow of a vehicle without obtaining written consent, as specified);
- (h) 16 DCMR § 408.7 (failure to release vehicle to authorized person when presented with proof of personal identification and lawful payment);
- (i) 16 DCMR § 408.9 (failure to provide Owner's Bill of Rights for Towed Vehicles upon release of vehicle; or, failure to provide legal authority for towing of vehicle, including towing control number; or, failure to provide itemized charges; or, failure to provide a receipt);
- (j) 16 DCMR § 408.11 (failure to provide separate form for written authorization of repair work);
- (k) 16 DCMR § 409.1 (for private tow: failure to furnish an itemized estimate of charges; or, failure to furnish an itemized estimate of charges on approved form; or, failure to obtain signature of owner or operator before initiating tow);
- (l) 16 DCMR § 409.3 (failure to document actual amount paid; or, failure to sign receipt);
- (m) 16 DCMR § 410.4 (soliciting or requiring repair work as a condition for towing of vehicle);
- (n) 16 DCMR § 410.5 (removing a vehicle from the scene of an accident or event and depositing it upon public space, without direction from a police officer);
- (o) 16 DCMR § 410.6 (charging more than one towing fee for towing to a repair facility owned or operated by person or entity conducting tow);
- (p) 16 DCMR § 410.7 (towing to a repair facility without prior written consent); and

- (q) 16 DCMR § 410.17 (failure to perform tow in accordance with vehicle manufacturer's instructions; or, failure to perform a tow in accordance with the tow crane manufacturer's instructions).

3210.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 16 DCMR § 405.2(b), (c), (d) (failure to maintain a log; or, failure to properly record entries in log; or, failure to retain log for inspection three (3) years after last entry);
- (b) 16 DCMR § 408.12 (using an improper form to obtain consent for repair work on a public tow vehicle);
- (c) 16 DCMR § 409.2 (failure to provide complete information in itemized estimate of charges);
- (d) 16 DCMR § 410.2 (misrepresentation); and
- (e) 16 DCMR § 411.10 (failure to report the presence of alleged hazardous materials, as required).

3210.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 16 DCMR § 404.6 (failure to maintain tie-down devices, chains, or straps, as specified);
- (b) 16 DCMR § 404.7 (engaging in recovery towing without proper equipment, as specified);
- (c) 16 DCMR § 404.8 (operating a crane tow truck without proper equipment, as specified);
- (d) 16 DCMR § 404.9 (operating wheel lift tow truck without proper equipment, as specified);
- (e) 16 DCMR § 404.10(a-h) (failure to maintain equipment in good working order);
- (f) 16 DCMR § 405.4 (failure to clearly designate or identify towing business assigned to each apportioned section);
- (g) 16 DCMR § 405.5 (failure to clearly designate storage spaces; or, failure to clearly identify towing business assigned to each space in an apportioned section); and

- (h) 16 DCMR § 410.13 (failure to allow inspection of vehicle before receiving payment of fees; or, failure to allow inspection before release of vehicle).

Persons desiring to comment on these proposed regulations should submit comments in writing to Julie Lee, Acting General Counsel, Department of Consumer and Regulatory Affairs, Suite 9400, 941 North Capitol Street, N.E., Washington, D.C. 20002, not later than fifteen (15) calendar days after publication of this notice in the D.C. Register. Copies of the proposed rules can be obtained from the address listed above. A copying fee of one dollar (\$1.00) will be charged for each requested copy of the proposed rulemaking.