

“He who fails to plan, plans to fail.”

A LOOK AT PA'S NEW TOWING LAW

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necessary. To add to the trucking company's nightmare, every day their truck sits in storage they are being charged storage fees. On average, these fees range from \$50 to \$75 per day. In addition to the storage fees, trucking companies are also losing revenue because their vehicle is out of commission.

In early September, Pennsylvania addressed this issue by enacting the Towing and

Towing Storage Facility Standards Act. The act provides trucking companies new rights regarding the towing and storage of their vehicles.

First, the act provides that a tow truck operator shall undertake towing at the scene of the motor vehicle accident only if summoned to the scene by the vehicle owner or operator, law enforcement, or authorized municipal personnel.

Second, it provides that “the owner or operator of the vehicle being towed shall summon to the scene the tow truck operator of the owner's or operator's choice in consultation with law enforcement or authorized municipal personnel and designate the location where the vehicle to is be towed.” This provides the owner or the operator of the vehicle the right to choose the towing operator it wants to come to the scene and the location to be towed.

The act makes an exception to this right if the owner or operator is incapacitated, unable to summon a tow operator, or defers to

Growing up, one of my dad's favorite quotes by Winston Churchill was “he who fails to plan, plans to fail.” I honestly never truly understood the meaning of this saying until I started practicing law. All too often our office receives calls from clients regarding disputes between them and a towing company. For example a trucking company has a driver who was involved in an accident. Following the accident, law enforcement officers or authorized municipal personnel called a towing company (from a list of towing companies in the area) to come to the scene and tow the truck. In the days following the accident, the trucking company or the insurance company receives an outrageous bill – which requires full payment before the vehicle is returned – from the towing company.

Some of the outrageous expenses charged by towing companies include charging for: more hours of service than the work required, excess employees and tow trucks which were unnecessarily dispatched to the scene, or work that was not

law enforcement or municipal personnel. It also provides that the owner or operator's right may be superseded by a law enforcement officer or authorized municipal personnel if the owner or operator's tow cannot respond in sufficient time and the vehicle "is a hazard, impedes the flow of traffic or may not legally remain in its location in the opinion of law enforcement or authorized municipal personnel."

The Towing and Towing Storage Facility Standards Act provides trucking companies new rights regarding the towing and storage of their vehicles.

The key to protecting your right of choice is two-fold. First it is important to have a plan. As a trucking company you should be aware of the regular roads your employees drive on. For instance, in Pennsylvania, Interstate 81 is frequently used by trucking companies. If you know your employees travel on Interstate 81 on a regular basis, it would be a good idea to have a list of preferred towing companies, their addresses, and phone numbers easily accessible to both drivers and dispatch personnel. When a driver is broken down or in an accident, the dispatcher or driver should: (1) contact your chosen tow operator, from the pre-generated list—ASAP; (2) have the tow operator give you an estimated

time of arrival; and (3) immediately tell law enforcement and municipal authorities the name of the towing company you contacted, that they are on the way, and the time they are expected to arrive. By following these steps, you should not find yourself in a nightmare dispute with a towing company.

What do you do if you do find yourself in a dispute with a towing company and the towing company is not allowing you access to inspect your vehicle until you pay their bill in full?

The new act also contains provisions regarding the release of the vehicle, access to it, and storage fees. A towing operator shall not refuse to release a vehicle during its posted operating hours upon request by the owner or person authorized by the owner.

In addition, a tow trucking operator must provide reasonable hours when the owner or person authorized by the owner can access the vehicle "for purposes of inspection and retrieval." Unless ordered to hold the vehicle by law enforcement, no storage fee may be charged for any period during which the tow operator refused reasonable access during normal business hours or refused to allow inspection of the vehicle for repairs or appraisal.

Next time your company is faced with a driver broken down or in an accident, do not let Winston Churchill's quote "he who fails to plan, plans to fail" haunt you. ■



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