

Administrative Rules



Administrative Rules for the Montana Tow Truck Act

This chapter deals with the Administrative Rules that have been adopted by the State of Montana to govern the tow truck inspection program and the law enforcement rotation system. These rules interpret the Montana Codes Annotated and provide specific guidance regarding what an individual must to comply with the Codes.

[23.6.101](#) DEFINITIONS

In addition to the definitions contained in [61-8-903](#), MCA, and unless the context requires otherwise, the following definitions apply to this subchapter:

- (1) "Cargo" means the contents inside or on a towed or hauled vehicle or any unit attached to a towed vehicle.
- (2) "Certified" means having passed the annual tow truck safety inspection administered by the Montana highway patrol pursuant to [61-8-907](#), MCA.
- (3) "Class 'D' towing" means, for purposes for the state law enforcement rotation system, that a class "A" or "B" tow truck has been called from the rotation system, but the operator finds that the call involves only retrieving an inoperable vehicle from a roadway or its immediate vicinity, so that the use of a rollback or car carrier would be more appropriate.
- (4) "Class 'E' towing" means, for purposes of the state law enforcement rotation system, that a class "A", "B", or "C" tow truck has been called from the rotation system, but the operator finds, upon inspection of the scene, that it cannot perform the recovery and towing
- (13) "Patrol" means the highway patrol division of the Montana department of justice.
- (14) "State rotation system" means the state law enforcement rotation system established in [61-8-908](#), MCA.

History: [61-8-911](#), MCA; [IMP](#), [61-8-903](#), MCA; [NEW](#), 1996 MAR p. 3134, Eff. 12/6/96; [AMD](#), 2003 MAR p. 2628, Eff. 11/27/03.

23.6.103 CLASSIFICATION OF TOW TRUCK EQUIPMENT

(1) All operators of commercial tow truck equipment in the state of Montana who wish to participate in the state law enforcement rotation system must have their tow trucks classified. In order to have a tow truck classified, an operator must submit a request for classification to the patrol. This request must contain the following:

- (a) the operator's name, address, and telephone number;
- (b) the tow truck's serial number and base of operations;
- (c) appropriate proof of the tow truck's weight rating; and
- (d) an affidavit of use, if required.

(2) In order to meet the requirements of (1) (c) above, all operators of commercially manufactured tow truck equipment must submit to the department proof of the manufacturer's rating of their tow truck(s). If the tow truck's nomenclature plate is not available for inspection by the patrol, the operator must obtain written documentation of the weight rating from the manufacturer and submit it to the patrol.

(3) In order to meet the requirements of (1) (c) and (d) above, all operators of noncommercially manufactured or modified tow truck equipment must:

- (a) have their equipment classified by the department if the equipment was in service on or before October 1, 1995; or
- (b) have their equipment independently classified if the equipment was placed in service after October 1, 1995.

(4) Any structural modification to noncommercially manufactured or modified tow truck equipment must be independently rated.

(5) Upon receipt of an operator's request for classification of his or her equipment, the patrol shall set and inform the operator of a time for inspecting and classifying the equipment.

(6) Upon completion of the classification inspection, the patrol shall inform the operator in writing of the results of the classification; in addition, the patrol shall inform the operator that the operator disputes the classification of its equipment.

History: [61-8-911](#), MCA; [IMP, 61-8-905](#), MCA; [NEW](#), 1996 MAR p. 3134, Eff. 12/6/96; [AMD](#), 2003 MAR p. 2628, Eff. 11/27/03.

23.6.105 TOW TRUCK COMPLAINT RESOLUTION COMMITTEE - ESTABLISHMENT

(1) Pursuant to [61-8-912](#), MCA, there is a tow truck complaint resolution committee, consisting of six members.

(2) The Attorney General shall appoint the members of the committee. Applications for appointment to the committee from the patrol shall come from the colonel of the patrol. Applications from the tow truck industry, the commercial motor carrier industry, and the insurance industry may be made by anyone involved in those industries. Applications from the public may come from any interested person wishing to serve on the committee.

(3) The deadline and procedure for appointment to the committee shall be established by the Attorney General and posted on the Department of Justice's web site. The Attorney General will provide reasonable notice of the deadline and application procedure.

(4) All applications must be in writing and must be in accordance with the procedure established by the Attorney General.

(5) The terms of the members of the committee shall be three years, starting in the month of the year of the member's appointment. The Attorney General shall stagger the terms and shall appoint the successor to any committee member unable to complete his or her term.

(6) The Attorney General may remove any member of the committee for any reason prior to the completion of their term. In such instance, the Attorney General shall appoint the successor to any committee member. The successor member shall complete the term of the member whom they replaced and may apply to be appointed to subsequent terms.

(7) The committee shall hold an annual meeting in December of each year. At its annual meeting, the committee shall elect a chair to preside over its meetings and hearings. The committee shall also elect a vice chair to preside in the chair's absence. A quorum of the committee shall consist of at least four members, one of whom must be from the tow truck industry. A majority vote of a quorum is necessary for the committee to take any official action.

History: [61-8-912](#), MCA; IMP, [61-8-908](#), [61-8-912](#), MCA; [NEW](#), 1996 MAR p. 3134, Eff. 12/6/96; [AMD](#), 2003 MAR p. 2628, Eff. 11/27/03; [AMD](#), 2011 MAR p. 2396, Eff. 11/11/11.

23.6.106 TOW TRUCK COMPLAINT RESOLUTION COMMITTEE - JURISDICTION AND PROCEDURE

(1) Pursuant to [61-8-912](#), MCA, the committee shall review and resolve complaints about tow truck issues, including towing charges.

(2) The committee shall have the authority to act as a hearing examiner in contested cases with the powers set forth in [2-4-611](#), MCA.

(3) Complaints must be signed and submitted in writing to the Office of Consumer Protection (OCP) at P.O. Box 200151, Helena, MT 59620-0151, or to a member of the committee. The complaint must identify the tow truck operator against whom it is filed and include a description of the underlying facts giving rise to the complaint.

(4) After receiving a written complaint, the OCP shall forward a copy of the complaint to the tow truck operator complained of, who has 20 days to respond in writing to the OCP. If the tow truck operator fails to respond within 20 days, beginning on the 21st day, the tow truck operator shall be suspended from participating in the state and local rotation system for a period of 30 days. The tow truck operator shall remain suspended from participating in the state and local rotation system until the tow truck operator responds to the OCP.

(5) The OCP will forward the complaint(s) to the full committee if:

(a) the tow truck operator fails to respond to the complaint;

(b) the tow truck operator lacks the proper registration, licensing, endorsements, equipment, or any other requirement provided by law;

(c) the OCP is unable to resolve the complaint; or

(d) the OCP believes it to be in the best interests of the public.

(6) If the complaint is forwarded to the committee, the committee will:

(a) give all parties to the dispute reasonable notice of the date, time, and location at which the committee will hear the complaint;

- (b) request notification by any party of its desire to call witnesses, and the proposed subject of the witnesses' testimony;
 - (c) provide the complaining party an opportunity to address the committee regarding his or her complaint;
 - (d) provide the responding party an opportunity to answer the complaining party;
 - (e) provide any other party an opportunity to address the committee regarding the complaint;
 - (f) provide any witness the committee deems relevant an opportunity to address the committee; and
 - (g) keep a tape recording of the hearing that may be copied or transcribed at the request of any person who pays the cost thereof.
- (7) With a majority vote, the committee may:
- (a) dismiss the complaint; or
 - (b) treat the matter as a contested case under [2-4-611](#), MCA.
- (8) If after a hearing the committee finds the complaint to have merit, the committee may:
- (a) issue a warning;
 - (b) suspend the operator from participating in the state rotation system for six months;
 - (c) permanently suspend the operator from participating in the state rotation system; or
 - (d) issue some other sanction that a majority of the committee agrees is appropriate.
- (9) The committee's decision is subject to judicial review under [2-4-702](#), MCA.
- History: [61-8-912](#), MCA; IMP, [61-8-908](#), [61-8-912](#), MCA; NEW, 1996 MAR p. 3134, Eff. 12/6/96; AMD, 2003 MAR p. 2628, Eff. 11/27/03; AMD, 2008 MAR p. 2054, Eff. 9/26/08.

23.6.108 VEHICLE TOW AND STORAGE REQUIREMENTS – INSURANCE

- (1) For purposes of compliance with the insurance standards of [61-8-906](#), MCA, an operator's storage facility is deemed to be part of its business premises.
- (2) A representative of the Montana Highway Patrol or of a local law enforcement agency may request that a qualified operator in the state rotation system improve its storage facility so as to comply with [61-8-906](#), MCA. If the operator wishes to contest the request, he or she may file a written complaint with the committee.
- (3) Pursuant to [69-12-102](#), MCA, each and every commercial tow truck operator shall cause proof of insurance coverage to be filed with the Montana Highway Patrol, notwithstanding the fact that any individual operator may be a subsidiary of another operator and may be covered by the parent operator's insurance.
- (4) A tow operator must comply with applicable insurance laws at all times, including [61-8-906](#) and [61-6-302](#), MCA. If the Montana Highway Patrol is advised at any time that an operator's insurance is expired or cancelled, the operator must immediately cease towing and must take all trucks out of service. The operator must not resume commercial towing until the operator provides proof of valid insurance to the Montana Highway Patrol. If the operator holds a current letter of appointment, the operator will also be reinstated to the rotation list. Such placement on the rotation list is not retroactive.

(5) Proof of insurance, through the submission of the MV-5 form to the Montana Highway Patrol, must be filed prior to the annual safety inspection.

(6) The inspector must confirm proof of vehicle insurance during the annual safety inspection, evidenced by an insurance card as required by [61-6-302](#), MCA. An operator need not furnish a copy of the MV-5 form to the inspector.

History: [61-8-911](#), MCA, [IMP](#), [61-8-906](#), MCA; [NEW](#), 1996 MAR p. 3134, Eff. 12/6/96; [AMD](#), 2003 MAR p. 2628, Eff. 11/27/03; [AMD](#), 2011 MAR p. 2396, Eff. 11/11/11.

23.6.109 SAFETY INSPECTION PROCESS

(1) All operators of commercial tow truck equipment in the state of Montana must have an annual safety inspection.

(2) The department hereby adopts by reference the CVSA level 1 inspection, 49 CFR Chapter III, Subchapter B, Appendix G, as standards for the chassis portion of the safety inspections required by [61-8-907](#), MCA. Copies of these regulations may be obtained from the Montana Highway Patrol, 2550 Prospect Avenue, P.O. Box 201419, Helena, Montana 59620-1419. Compliance with the CVSA level 1 standards must be determined before the tow truck is placed in the state rotation system. The inspector need not complete the CVSA level 1 form unless the tow truck operator requests CVSA certification, but all applicable standards must be met.

(3) Standards for the safety inspection of the towing and recovery equipment that is mounted on the chasses are set forth in ARM [23.6.110](#).

(4) Standards for the safety inspection of the equipment that a commercial tow truck must carry are set forth in [61-9-411](#) and [61-9-416](#), MCA.

(5) As part of the annual inspection process, each tow truck operator shall provide the Montana Highway Patrol with an active driver roster including proof of each driver's towing certification or towing experience and proof of valid driver's license for each driver for the class of vehicle operated. A list of nationally recognized certification programs for tow truck operators that are acceptable to meet the requirements for a qualified tow truck operator under [61-8-903](#)(b)(i) and (ii), MCA, is maintained by the Montana Tow Truck Association.

(6) All safety inspectors must have a CVSA level 1 inspector's certification before being qualified to inspect tow trucks.

(7) A Montana Highway Patrol-approved inspection form will be completed by an assigned trooper. If minimum standards are met, a Montana Highway Patrol-approved decal will be affixed to the lower right hand corner of the windshield indicating passage of the inspection. The decal will indicate the date of the inspection and the class and license plate number of the tow truck.

(8) The safety certification is effective for one year, beginning September 1 of each year. There will be a grace period extending to December 31 at the expiration of the certification to allow for scheduling an inspection of the tow truck. It is the responsibility of the tow truck operator to complete the entire inspection process by December 31. The tow truck must be taken out of service for both commercial and rotation system towing if the inspection process is incomplete by December 31.

(9) It is the responsibility of the tow truck operator to contact the Montana Highway Patrol and Montana Department of Transportation Motor Carrier Services District

Captain to request the inspection. The inspection site must be relatively flat and of a hard surface to allow for movement of the inspector under the tow truck.

(10) The department may inspect any tow truck when questions or concerns arise as to the safety or serviceability of the tow truck and there are reasonable grounds for those concerns. The operator must be given advance written notice of such an inspection, and the notice must specify the alleged defects.

(11) Any additional tow truck placed into service by an operator must be qualified and classified prior to answering any commercial towing calls or calls from the law enforcement rotation system.

(12) If any commercial tow truck is sold, the tow truck is not qualified until it is reinspected by the department. In addition, the seller must remove the tow truck's certification decal.

(13) Failure to provide true and accurate information, or failure to supply updated information, required by these rules to the Montana Highway Patrol will result in immediate suspension from commercial towing for a minimum of 30 days. A tow truck operator may not commence commercial towing until complete, accurate, and updated information is provided. Following suspension, a tow truck operator must resubmit all information required by the annual safety inspection and reapply for a letter of appointment to participate in the state rotation system.

(14) This rule is subject to the following qualifications:

(a) if the inspection identifies a defect of any type, the operator is entitled to request a second inspection by another inspector;

(b) if the inspection identifies a non-safety-related defect or deficiency, the operator will be informed of the defect or deficiency and requested to correct it. Failure to correct the defect or deficiency within 30 days of notice will result in suspension from the state rotation system until the defect or deficiency is corrected;

(c) if the inspection identifies a safety-related defect or deficiency, the tow truck will be immediately taken out of service. The tow truck cannot be used in the state rotation system until the reinspection confirms that the defect or deficiency has been corrected; and

(d) if either the inspection form or certification decal is lost, removed, rendered unreadable, or destroyed, the operator must immediately notify the nearest Montana Highway Patrol office that can provide a copy of the inspection report from its files and/or reissue a certification decal.

(15) Once a successful inspection is completed, the inspector will provide a copy of the approved inspection report to the tow truck operator and affix the certification decal to the windshield. A copy of the safety certification must be carried in the tow truck at all times.

History: [61-8-911](#), MCA; [IMP](#), [61-8-907](#), MCA; [NEW](#), 1996 MAR p. 3134, Eff. 12/6/96; [AMD](#), 2003 MAR p. 2628, Eff. 11/27/03; [AMD](#), 2011 MAR p. 2396, Eff. 11/11/11.

23.6.110 GENERAL TOW TRUCK EQUIPMENT SAFETY STANDARDS

(1) All towing and recovery equipment mounted on the chassis of a commercial tow truck must meet the following standards:

(a) chain or cable capable of safely handling loads equal to the minimum manufacturer's ratings established in [61-8-905](#), MCA;

- (b) drums capable of fully extending and retracting the cable;
 - (c) winch equipment capable of safely handling loads equal to the minimum manufacturer's ratings established in [61-8-905](#), MCA;
 - (d) a boom as defined by [61-8-903](#), MCA and which is capable of safely handling loads equal to the minimum manufacturer's ratings established in [61-8-905](#), MCA.
- (2) Any structural modifications to towing and recovery equipment must be independently rated.
- History: [61-8-911](#), MCA; IMP, [61-8-907](#), MCA; NEW, 1996 MAR p. 3134, Eff. 12/6/96; AMD, 2003 MAR p. 2628, Eff. 11/27/03.

23.6.113 STATE LAW ENFORCEMENT ROTATION SYSTEM – ADMISSION AND SUSPENSION

- (1) The state law enforcement rotation system consists of lists of the names and telephone numbers of qualified class "A", "B", and "C" tow truck operators in different parts of the state. Operators are called as needed from the rotation lists for different classes of tow trucks in succession, subject to considerations of public safety and (5) .
- (2) Class D and class E towing operations are not part of the state law enforcement rotation system. Pursuant to the definitions of the two classes given in ARM [23.6.101](#), they are subsumed under class "A", "B", or "C", depending on the weight rating of the tow truck needed.
- (3) An operator seeking to participate in the state law enforcement rotation program must submit a written request to the patrol which includes:
- (a) the name of the operator's insurance company;
 - (b) the class of the operator's tow truck(s) ;
 - (c) that the operator possesses a unique business name and telephone number.
- (4) In administering the state rotation system, the department:
- (a) is subject to all requirements of [61-8-908](#), MCA; and
 - (b) shall reexamine the rotation system as needed to ensure compliance with the statute.
- (5) In order to be eligible to participate in the state rotation system an operator must meet the safety standards of the patrol, as set forth in ARM [23.6.109](#) and [23.6.110](#).
- (6) An operator participating in the state rotation system must respond to or decline any call from the rotation area; he or she may not authorize any other operator or satellite operation to respond to that call. Violation of this rule may result in suspension (permanent or temporary) from the rotation system. An operator responding under this section must respond to the call with the class of equipment requested by the patrol.
- (7) Section (6) does not apply to a qualified operator who, with the approval of the officer at the scene, subcontracts with another operator for temporary assistance in the interest of public safety.
- History: [61-8-911](#), MCA; IMP, [61-8-908](#), MCA; NEW, 1996 MAR p. 3134, Eff. 12/6/96; AMD, 2003 MAR p. 2628, Eff. 11/27/03.