

TECHNICAL BULLETIN

Nonconsent Towing and Owner Preference

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What does **'owner preference'** mean to a vehicle owner or to a tow company, particularly at the scene of an accident? The first part of the question is easy to answer; the vehicle owner is allowed to choose the company that will tow their vehicle, plain and simple. This was in part the intent of the legislation to create owner preference.

For many tow companies it protects the **'consent'** business they worked hard to develop. For others however it became by its definition an opportunity to avoid a consumer complaint if a question of overcharging or notice arose.

The *fly in the ointment* was embedded in the definition of **'nonconsent'**. HB 1999 / Act 953 removed owner preference from the definition while preserving its continued use in other sections of the statute.

An investigator uses several qualifying points to determine whether a tow and recovery was in fact consent or nonconsent when a complaint is filed.

- Did the tow company and the owner have a 'relationship' before the accident occurred?

It would be unusual for this agency to receive a complaint from a regular customer.

- Did the law enforcement officer or someone else at the scene of the accident suggest an alternate tow company rather than the next company in rotation?

While it is against the law for a law enforcement officer to steer a vehicle owner at the scene of an accident it does happen. Too, some tow companies follow scanners and show up at the scene of the accident and solicit business, this may not be considered a consent tow.

- Who made the call to the tow company?

- Did the fee(s) charged reflect pricing that is posted on the nonconsent rotation rate sheet?

- Was the vehicle impounded or was it towed to a location the vehicle owner chose?

If a tow company treats a tow just as if it were a nonconsent tow at the scene of an accident it may be difficult to label it as a consent tow.

- How timely was the response time by the tow company?

In general consent tows do not happen with the same urgency as a tow associated with an accident unless of course there is an established relationship.

While the agency has no intention of interfering with an **'owner preference'** call if the vehicle was damaged or disabled then abandoned and a call was initiated by law enforcement treating that tow as consent is not permissible. Other factors may come into play as well.

The information in this bulletin is based on changes to ACA §27-50-1202(4) and §27-50-1202(6).



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