

Chapter Trans 319

TOWING OF UNAUTHORIZED VEHICLES ON PRIVATE PROPERTY

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Trans 319.01 Purpose and scope. (1) The purpose of this chapter is to interpret and implement s. 349.13 (3m), Stats., relating to removal of vehicles on private property that are not authorized to park in that area.

(2) This chapter applies to the towing of vehicles parked on private property under s. 349.13 (3m), Stats.

History: EmR1425: emerg. cr., eff. 10-2-14; EmR1514: emerg. cr., eff. 4-30-15; EmR1606: emerg. cr., eff. 1-22-16; CR 15-044: cr. Register January 2016 No. 721, eff. 2-1-16.

Trans 319.02 Definitions. Words and phrases defined in s. 340.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

(1) “Properly posted” has the meaning given in s. 349.13 (3m) (a) 2., Stats.

(2) “Law enforcement agency” means a county sheriff or municipal police department.

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Trans 319.03 Charges for towing and storage. (1) TOWING SERVICE FEES. A towing service may charge a vehicle owner ordinary and reasonable fees related to removal and storage of the vehicle from private property under s. 349.13 (3m), Stats., except that no charges may exceed the following individual total amounts:

(a) \$150 for a vehicle removed using a flatbed, hook and chain, wheel-lift, boom, or any other method.

(b) \$25 for each period of 24 consecutive hours that the vehicle is stored at an outdoor storage facility.

(c) \$35 for each period of 24 consecutive hours that the vehicle is stored at an indoor storage facility.

Note: The daily storage charge under par. (b) or (c) can be collected by a towing service the first minute after notice of the tow is given to a law enforcement agency by the towing service. A second daily storage charge cannot be collected until 24 hours after the time at which notice is given to law enforcement, subject to the limits for closed storage facilities specified in s. Trans 319.03 (4).

(d) \$150 for any other necessary and commercially reasonable charges relating to the use of special equipment in the removal or storage, or both, of the vehicle, and for any expenses incurred by the towing service relating to travel exceeding twenty miles. Administrative fees, gate fees, lien processing fees, or any other fees for equipment or procedures ordinarily required for the removal or storage of a vehicle may not be charged under this paragraph. A towing service may collect charges under this paragraph only if any of the following applies:

1. The removed vehicle possesses unusual characteristics, such as size or mechanical condition that make the maximum removal charge under par. (a) unreasonably low, or has a gross vehicle weight rating or registered weight of 10,001 pounds or more.

2. The location in which the removed vehicle was parked contains certain spatial constraints or limited access to the parked vehicle impeding the tow that make the maximum removal charge under par. (a) unreasonably low.

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3. The roundtrip travel by the towing service exceeds 20 miles. A towing service may charge a surcharge of \$3.00 per mile under this subdivision for miles in excess of twenty miles. Mileage is based on roundtrip mileage from the storage facility to return thereto. The towing service shall establish the mileage from the tow truck odometer and shall include on the tow slip the beginning and ending odometer readings to the 1/10 per mile. If the tow truck is dispatched from a location other than the storage facility, the one-way mileage between the location from which the vehicle is removed and the storage facility shall be multiplied by two. Mileage fractions less than 5/10 shall be omitted, and mileage fractions of 5/10 or more shall be rounded up to the nearest whole number.

Note: Pursuant to s. 349.13 (3m) (dr) 2., Stats., a towing service is prohibited from collecting any charges for the removal or storage of an illegally parked vehicle towed under s. 349.13 (3m), Stats., if the towing service has not complied with the requirement under s. 349.13 (3m) (d) 2., Stats., to notify law enforcement prior to removing the vehicle.

(2) MUNICIPAL SERVICE FEE. If requested under s. 349.13 (3m) (dm), Stats., by the municipality in which the removed vehicle was illegally parked, the towing service shall charge the vehicle owner a service fee not exceeding \$35 and shall remit this service fee to the municipality. The fee under this subsection is in addition to any fees charged under sub. (1).

(3) TOW FEE. If the fee under sub. (2) is requested by a municipality, the towing service may charge the vehicle owner a service fee not exceeding the fee amount remitted to the municipality under sub. (2). The fee under this subsection is in addition to any fees charged under subs. (1) and (2).

(4) STORAGE PERIOD. The storage period is the number of consecutive 24-hour periods beginning on the date and time that the towing service provides the notice required under s. Trans 319.05 (1) and ending when the vehicle is retrieved, rounded up to the nearest whole number. No towing service may charge a storage fee for any calendar day that the storage facility is open less than 4 consecutive hours between the hours of 8:00 a.m. and 5:00 p.m., for retrieval of the vehicle.

Note: In general, the storage charge is the whole number of days from towing until retrieval, multiplied by the storage charge rate specified under s. Trans 319.03 (1) (b) or (c). However, this subsection prohibits a daily storage charge for any calendar day during which the storage facility is open less than 4 consecutive hours between 8:00 a.m. and 5:00 p.m. for vehicle retrieval. For example, consider a vehicle towed at 10:20 p.m. on Friday and retrieved at 10:00 a.m. on Monday, and stored at a facility that is open for vehicle retrieval on Saturday from 10:00 a.m. until 2:00 p.m., closed Sunday, and open Monday from 10:00 a.m. until 10:00 p.m. The vehicle was stored for a period of three days, but the vehicle owner cannot be charged for one of those days of storage since the storage facility was not open for vehicle retrieval on Sunday; only two days of storage are chargeable by the towing service.

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Trans 319.04 Form and manner of display of notice. (1) FORM OF POSTING. (a) The posted notice shall be clearly visible and displayed in either of the following formats:

1. A notice consisting of a word message that indicates the parking of unauthorized vehicles is prohibited and that unauthorized vehicles may be removed.

2. A notice consisting of the symbol for a tow-away zone and a word message that indicates the parking of unauthorized vehicles is prohibited.

(b) The letters contained in a word message under par. (a) shall be not less than 2 inches in height and in a color that contrasts with the background on which the notice is printed. The size requirement under this paragraph applies only to notices erected after February 1, 2016.

(2) MANNER OF POSTING. A parking area is properly posted if all of the following apply:

(a) A notice is erected at each vehicle entrance to the parking area or property that is conspicuous and readily legible to operators of vehicles driving through that entrance.

(b) A notice is erected that is conspicuous and readily legible to persons at the location of the parked vehicle. The bottom of the notice shall be at least 4 feet above the parking area surface. The size requirement under this paragraph applies only to notices erected after February 1, 2016.

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Trans 319.05 Towing service notification requirements. (1) NOTICE OF TOW TO LAW ENFORCEMENT. Prior to removing a vehicle from private property pursuant to s. 349.13

(3m), Stats., a towing service shall give notice of the impending tow to the police department for the municipality in which the vehicle is parked or, if that municipality has no police department, the sheriff of that county. The towing service shall deliver the notice to the law enforcement agency's non-emergency telephone number, unless a different delivery method is designated by the law enforcement agency that is any of the following:

(a) By telephone, including voice mail, answering machine or answering service capable of recording messages.

(b) By transmission to an electronic mail address specified by the law enforcement agency.

(c) By any other electronic means, including computerized or web-based systems capable of receiving and storing information

from towing services related to the removal of vehicles parked on private property.

(2) CONTENTS OF NOTICE. A towing service shall include the following information in a notice under sub. (1):

(a) The name and telephone number of the towing service.

(b) The make and model of the vehicle being removed.

(c) The license plate number of the vehicle being removed, unless license plates are not attached to the vehicle.

(d) The vehicle identification number of the vehicle being removed, unless the vehicle identification number is not visible through the vehicle windshield adjacent to the left windshield pillar.

Note: 49 CFR s. 565.13, requires that vehicle identification numbers (VINs) be affixed to passenger cars, multi-purpose passenger vehicles, low-speed vehicles and trucks of 4,536 Kg or less (10,000 lbs.) adjacent to the left windshield pillar. The vehicle manufacturer is required to make the VIN visible; however, it may be obstructed by materials within the vehicle.

(e) The location from which the vehicle will be removed.

(f) The address of the location to which the vehicle will be removed and, if that location is not operated by the towing service removing the vehicle, the name of the operator at the location.

(g) A phone number of the location identified in par. (f).

(3) RECORDS OF NOTICES. A law enforcement agency receiving notice under this section shall maintain a record of the information received under sub. (2) and a record of the date and time that the notice was given. The records shall be maintained for at least 60 days after the date on which notice was given. If the owner or person authorized by the owner of a removed vehicle under s. 349.13 (3m), Stats., requests information related to the tow, the law enforcement agency shall immediately provide to that person the name and telephone number of the towing service, the date and time that the vehicle was towed, the address of the location to which the vehicle was removed and, if that location is not operated by the towing service that removed the vehicle, the name and telephone number of the operator at the location.

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