

Ohio Adm.Code 4901:2-24  
Rates for Towing, Storage, and Retrieval of Motor Vehicles  
Case Number: 22-692-TR-ORD  
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## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

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### Business Impact Analysis

**Agency, Board, or Commission Name:**  
Public Utilities Commission of Ohio

**Rule Contact Name and Contact Information:**  
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**Regulation/Package Title (a general description of the rules' substantive content):**

Ohio Adm.Code Chapter 4901:2-24 Adoption of Rules Related to Rates for Towing and Storage of Motor Vehicles

**Rule Number(s):** 4901:2-24-01; 4901:2-24-02; 4901:2-24-03

**Date of Submission for CSI Review:** September 21, 2022

**Public Comment Period End Date:** October 19, 2022

**Rule Type/Number of Rules:**

New/      rules

No Change/   2   rules (FYR? Yes)

Amended/   1   rules (FYR? Yes)

Rescinded/      rules (FYR?     )

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**The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.**

### **Reason for Submission**

1. **R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.**

**Which adverse impact(s) to businesses has the agency determined the rule(s) create?**

**The rule(s):**

- a. ☐ **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.**
- b. ☐ **Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.**
- c. ☐ **Requires specific expenditures or the report of information as a condition of compliance.**
- d. ☒ **Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.**

### **Regulatory Intent**

2. **Please briefly describe the draft regulation in plain language.**  
***Please include the key provisions of the regulation as well as any proposed amendments.***

Ohio Adm. Code 4901:2-24, pursuant to R.C. 4921.25(B), implements fees for towing and storage of motor vehicles.

Any and all amendments to these proposed rules are made pursuant to Ohio Revised Code 121.951(A)(1) that requires state agencies to reduce their total number of regulatory restrictions.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

Chapter 4901:2-24 is authorized by R.C. 4921.25.

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

No.

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

Pursuant to R.C. 4921.25, this chapter implements maximum fees charged by carriers engaged in the towing of motor vehicles or storage facility that accepts such vehicles under R.C. 4513.60 and 4513.601. The Commission has not made an independent determination that such regulation is necessary, because no discretionary authority was granted in the authorizing legislation.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Commission will measure success by monitoring feedback from affected companies regarding the rates and track the number of customer complaints concerning towing/storage fees that exceed the maximum rates installed by the rule.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

Not applicable.

### **Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

On July 25, 2022, in Case No. 22-692-TR-ORD, the Commission issued an Entry indicating that a workshop would be conducted on August 23, 2022, to listen to stakeholders' concerns concerning rules in this chapter. The Entry was served upon the Ohio Petroleum Marketers Association, National Tank Truck Carriers, Inc., Ohio State Highway Patrol, the Ohio Trucking Association, Ohio Department of Public Safety, Ohio Department of Transportation, Ohio Association of Chiefs of Police, Buckeye State Sheriff's Association, Ohio Municipal League, County Commissioners' Association of Ohio, Ohio Township Association, WreckMaster Inc. USA, Towing and Recovery Association of America, North American Towing Academy, American Towing and Recovery Institute, Ohio Insurance Institute, Towing and Recovery Association of Ohio, AAA Ohio, all household goods carriers, Ohio Association of Movers, Ohio Brokers of household goods as identified by the Federal Motor Carrier Safety Administration, and the transportation list-serve. The workshop was conducted as scheduled.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

No comments were provided by stakeholders at the workshop.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

No scientific data was directly provided or considered.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulations were considered. The Commission is authorized by statute to establish rules concerning maximum rates for towing and storage of motor vehicles.

**13. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

The Commission did not consider a performance-based regulation. The rules in this chapter are primarily regulatory in nature and are required by the Ohio Revised Code.

**14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Commission has widely publicized notice of the consideration of these rules to parties in the towing industry, as well as other governmental organizations and interest groups. The Commission has reviewed other Ohio regulations and found no duplicate, nor has a duplicate regulation been identified by any stakeholder.

**15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Commission conducted a workshop on August 23, 2022, to consider any rule changes proposed by stakeholders. Next, the Commission has issued an Entry containing Staff's proposed changes to the rules, to which stakeholders will have another opportunity to comment. Finally, following the comment period specified in the Entry, the Commission will issue a Finding and Order adopting the rules. All potential stakeholders will be notified that this chapter is under review by Staff and they will be provided an opportunity for feedback concerning the proposed changes to the rules in the chapter. Thus, stakeholders will have an opportunity to provide feedback to Staff concerning the efficiency and effectiveness of the rules in this chapter.

**Adverse Impact to Business**

**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community; and**

The impacted business community consists of for-hire motor carriers that tow and/or storage motor vehicles from private property under a contract with the private property owner.

**b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**

The impacted business community are required to charge within the maximum rates for towing and storage.

**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a*

***“representative business.” Please include the source for your information/estimated impact.***

Towing services and storage facilities must currently operate in accordance with the maximum towing and storage fees set by statute. The proposed changes will not affect these fee amounts.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The Commission has not identified an adverse impact on business as a result of the proposed revisions. In fact, the business impacts resulting from the proposed revisions are expected to be positive impacts for the business community because the purpose of the rule change is to remove regulatory restrictions.

The regulatory intent of the proposed rules is to fulfill the requirements of the R.C. 4921.25, which requires that the PUCO set maximum rates for nonconsensual towing and storage of motor vehicles. Although changes to law allow the PUCO to assess a forfeiture upon a towing service or storage facility charging an amount in excess of the maximum rates described in the proposed rules, the amount of the forfeiture associated with each violation may be reduced based on a number of factors, such as prior history of violations, business impact, demonstration that the towing service or storage facility has come into compliance, etc. Further, the Commission is permitted to waive the requirements described in the rules upon an application or motion filed by a party, for good cause shown.

**Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No. Section 4921.25 of the Revised Code requires the Commission to establish the maximum fees for all for-hire motor carriers. As such, the Commission does not have the statutory authority to establish an exemption or alternative means of compliance for small businesses.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The proposed regulations in this chapter do not impose fines or penalties. Per R.C. 4513.60 and 4513.601, a for-hire motor carrier that charges fees in excess of those established by PUCO in the proposed rule is guilty of a minor misdemeanor. Furthermore, R.C. 4513.611

permits a vehicle owner to file a civil action when they believe a violation of the law has occurred. Finally, the PUCO has authority to assess a forfeiture in an amount not to exceed \$25,000 for violations of Chapter 4921 or 4923 of the Revised Code or rules adopted thereunder. Because these rules would be adopted under R.C. 4921.25, the PUCO could assess such a forfeiture following notice and opportunity for a hearing. Such violations may be reduced or waived upon good cause shown and are subject to an adjudicatory process with full appeal rights that may be exercised by the parties to the case.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The Commission Staff notifies all towing services that are registered in the State of Ohio of the established maximum fees in a format that is easy to read and understand.