

220 CMR 272.00: RATES FOR THE TOWING OF MOTOR VEHICLES

Section

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272.01: Definitions

Commercial Motor Vehicle. A motor vehicle or combination of motor vehicles used to transport passengers or property. This shall include:

- (a) a bus or van used in commerce, having the manufacturer's rated seating capacity of at least nine passengers and a driver;
- (b) a truck used to transport property; or
- (c) any other vehicle which may display a plate other than a passenger or motorcycle plate.

Fuel-burning Operations. The services included in the basic tow rate, rate for tows in excess of five miles or the charges otherwise established in sections 220 CMR 272.03(1) through (4).

Passenger Automobile. A motor vehicle capable of transporting not more than eight passengers and a driver displaying a passenger or motorcycle plate.

Recovery. Wrecker working, winching, Waiting Time, clean up time and the provisions of special equipment needed to place a disabled motor vehicle in position to be towed.

Service Vehicle. The vehicle used to tow or transport the disabled vehicle.

Service or Waiting Time. Elapsed time the Service Vehicle is waiting to provide service at the scene, winching or utilizing Service Vehicle equipped industry standard tools or equipment.

272.02: Scope

The maximum charges established in 220 CMR 272.00 shall only apply to the towing and transportation of motor vehicles when said transportation is ordered by the police or other public authority pursuant to M.G.L. c. 159B, § 6B or for trespass pursuant to M.G.L. c. 266, § 120D. Rates stated in 220 CMR 272.00 shall not apply to towing which results from a call made by a police officer or other public employee at the request of the owner/operator to transport the vehicle to a location other than the carrier's garage.

If, at the scene, the owner/operator requests that the vehicle be transported to a location other than the carrier's garage, the maximum tow rate may not apply.

272.03: Maximum Charges for Passenger Automobiles, Motorcycles, Motor Bikes or Motor Scooters

(1) For all Passenger Automobiles, motorcycles, motor bikes, motor scooters and all vehicles capable of being transported by crane and dolly or on a ramp truck, the maximum charge for towing up to five miles shall not exceed \$108.00 per vehicle towed regardless of day of week or time of day; provided however that, the maximum charge shall include one hour of Service or Waiting Time. The Service or Waiting Time shall be computed from the time of arrival at the scene.

(2) If Service or Waiting Time exceeds one hour, a \$42.00 per ½ hour charge may be assessed for each vehicle towed when the additional time is necessary to remove the disabled vehicle or if requested by the police or other public authority; provided however that this charge shall not apply to trespass tows or snow removal tows. The starting and ending time shall be recorded on the tow slip at time of service for 220 CMR 272.03(2) to be applicable.

272.03: continued

(3) If an additional Service Vehicle or Vehicles is required, the maximum additional Service Vehicle charge shall not exceed \$108.00 per additional Service Vehicle; provided however that this charge shall not apply to trespass tows or snow removal tows. The starting and ending time shall be recorded on the tow slip at the time of service for 220 CMR 272.03(3) to be applicable. Time shall be computed from the time the Service Vehicle is dispatched until it returns to the carrier's garage or is back in service.

(4) For miles towed in excess of five miles, a surcharge of \$3.60 per mile for each mile over the five miles may be assessed.

(5) When additional labor is required and supplied because it is necessary to remove the disabled vehicle from the scene or is required by the police or other public authority, a maximum rate of \$38.40 per man hour, or any fraction thereof, shall apply. The additional labor shall be computed from the time of leaving the carrier's garage until return to the garage. A minimum charge of one hour may be assessed when additional labor is supplied under 220 CMR 272.03(5).

(6) If the carrier has to employ any extraordinary or additional services outside of its capabilities, including but not limited to, renting cranes, renting bulldozers, employing specialized labor, or utilizing services to handle hazardous material or dangerous goods (HAZMAT), the maximum charge shall not exceed the amount of such extraordinary or additional services.

(7) When determining fractions of mileage under 220 CMR 272.03(1) and (4), omit fractions of less than 5/10 and increase fractions of 5/10 or more to the next whole figure.

(8) Mileage shall be based on round trip mileage from the carrier's garage to return thereto. If the Service Vehicle is dispatched from a location other than the carrier's garage, the one-way mileage may be doubled. The carrier shall establish the mileage from the Service Vehicle odometer and shall include the odometer readings on the tow slip.

(9) When more than one vehicle is transported on a Service Vehicle between municipalities and a mileage charge would result in a charge greater than five miles, the mileage charge shall be computed according to a commercial global positioning system (GPS) tracking application and then doubled to arrive at the round trip mileage.

(10) The owner/operator shall be responsible for all toll charges.

272.04: Maximum Charges for Commercial Motor Vehicles

(1) For all Commercial Motor Vehicles, the maximum charge for towing up to five miles shall not exceed \$108.00 per tow regardless of day of week or time of day.

(2) For services necessary to the Recovery of a disabled Commercial Motor Vehicle, the carrier shall establish the charges.

(3) For miles towed in excess of five miles, a surcharge of \$5.40 per mile for each mile over the five miles may be assessed.

(4) When determining fractions of mileage under 220 CMR 272.04(1) and (3), omit fractions of less than 5/10 and increase fractions of 5/10 or more to the next whole figure.

(5) Mileage shall be based on round trip mileage from the carrier's garage to return thereto. If the Service Vehicle is dispatched from a location other than the carrier's garage, the one-way mileage may be doubled. The carrier shall establish the mileage from the Service Vehicle odometer and shall include the odometer readings on the tow slip.

(6) The owner/operator shall be responsible for all toll charges.

272.05: Fuel Price Surcharge

- (1) When the average cost of diesel fuel in New England exceeds \$2.622 per gallon, the Department shall authorize a fuel surcharge under 220 CMR 272.00. The Department shall calculate the fuel surcharge as a factor that may be multiplied by the sum of those applicable rates and charges relating to Fuel-burning Operations of the Service Vehicles.
- (2) The Department shall obtain the retail on-highway price per gallon of diesel fuel for New England as reported by the Energy Information Administration of the U.S. Department of Energy on its website, www.eia.doe.gov, for the first three Mondays of each month (Retail Prices).
- (3) The Department shall calculate the average cost of diesel fuel by taking the average of the Retail Prices as determined in 220 CMR 272.05 (Average Cost).
- (4) To determine the appropriate fuel surcharge factor, the Department shall divide the Average Cost by \$2.622 to produce a multiplication factor (Fuel Multiplication Factor or FMF). The Fuel Multiplication Factor is then multiplied by \$7.32, the embedded cost of fuel in the basic tow rate, to arrive at the current fuel cost per basic tow (Current Fuel Cost). The Current Fuel Cost is then divided by the fuel-adjusted basic tow revenue requirement, which is the sum of the \$108.00 basic tow rate, plus the product of the Fuel Multiplication Factor multiplied by \$7.32, minus the embedded fuel cost of \$7.32 (Fuel-adjusted Revenue Requirement). Dividing the Current Fuel Cost by the Fuel-adjusted Revenue Requirement and subtracting the current embedded 6.8 % yields a fuel surcharge factor (Fuel Surcharge Factor) that may be applied in the next month to the sum of the applicable rates and charges relating to Fuel-burning Operations of the Service Vehicles. This formula is mathematically represented as: $((\$7.32 \times \text{FMF}) \div (\$108.00 + ((\$7.32 \times \text{FMF}) - \$7.32))) - .068 = \text{Fuel Surcharge Factor}$.
- (5) On the fourth Monday of each month (or the next business day if this falls on a holiday) preceding a month in which the Department will authorize a surcharge, the Transportation Oversight Division will issue an Administrative Order setting forth the amount of the Fuel Surcharge Factor effective for the following calendar month by:
 - (a) posting on the Department's website the Fuel Surcharge Factor and the month and year for which it applies, where it will remain at least until the expiration of the month to which it relates; and
 - (b) recording a message accessible by telephone stating the Fuel Surcharge Factor and the month and year for which it applies, where it will remain at least until the expiration of the month to which it relates.
- (6) To apply a fuel surcharge, the towing slip shall record the following:
 - (a) each applicable rate and charge relating to Fuel-burning Operations of the Service Vehicles and a sum total;
 - (b) the amount of the authorized Fuel Surcharge Factor; and
 - (c) the amount of the applicable surcharge (the product of multiplying the sum total from 220 CMR 272.05(6)(a) by 220 CMR 272.05(6)(b)).
- (7) The authorization of the Fuel Surcharge Factor shall expire on the last day of the calendar month for which it is authorized.
- (8) The application of the surcharge is voluntary.

REGULATORY AUTHORITY

220 CMR 272.00: M.G.L. c. 159B, § 6B; c. 266, § 120D.