



POLICY AND PROCEDURE

NO.693

Towed Vehicles from Private Property

Date Issued March 1, 2010	Date Effective March 1, 2010	Revision No. 1	No. of pages 4
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DEPARTMENTAL POLICY:

Massachusetts General Law Chapter 266 § 120D permits so called “Trespass Tows” where a motor vehicle is towed from a private lot or other property by a tow truck company upon the order of the property owner or person in lawful control of that property. The Commonwealth of Massachusetts Department of Public Utilities is the licensing agency for tow truck companies and promulgates the rules by which these companies operate. MGL Ch. 266 § 120D specifies that the Chief of Police sets policy for the towing of improperly parked vehicles from private property. It is the policy of the Worcester Police Department that “Trespass Tows” be permitted where fairness to both the property owner and vehicle owner is preserved and where persons whose cars are towed can readily locate and retrieve their property. Moreover, this practice must be in full compliance with the provisions of MGL Ch. 266 § 120D.

PROCEDURES:

Before a vehicle may be towed as a “Trespass Tow” at the expense of that vehicle’s owner, the following conditions must be met *in their entirety*.

Fair Notice:

The person who has lawful control of such private property must forbid the operator of the vehicle from parking it or letting it stand upon that property either by informing the operator directly or by posted notice. Such posted notice must be prominently posted at each entrance to the property in such a way that a reasonable person will have known that parking at that location without permission will result in the towing of that vehicle.

Police Notification:

No such vehicle shall be removed by the person in control of the property UNTIL he has notified the Police Department that he is going to have it removed. Notification must be made in person to the Worcester Police Department Bureau of Records or via fax to the same. Upon receipt to this department, in-person trespass tow notifications will be time and date stamped by Records Division personnel (or the Services Division personnel when the Records Division is closed). Facsimile reports will be automatically date and time stamped upon electronic receipt.

- A. Such notification shall include:
- B. The name and address of the person (property owner or person in lawful control of the private property) who is directing that the tow be conducted at the expense of the vehicle’s owner.
- C. The address from which the vehicle is being towed.

- D. The name and address of the tow truck company and name or employee number of the tow truck operator.
- E. The address and telephone number of the storage facility.
- F. Vehicle description to include registration tag and state, make, model and color.
- G. The means by which the operator was advised that parking was prohibited on this private property; i.e. verbally or by prominently posted sign.
- H. Whether entry was required into the vehicle's interior and the reason for that intrusion.
- I. Any person who, without first properly notifying the Worcester Police Department of the aforementioned tow and vehicle information, or without obtaining the consent of the owner, removes a vehicle from a private way or from improved or enclosed property as aforesaid, shall, in addition to any other penalty of law, may be charged under MGL Ch. 266 § 120D punishable by a fine of not more than one hundred dollars. The employer of such person, if any, shall also be punished by a fine of not more than one hundred dollars.

Towing, Transportation and Storage Fees:

The registered owner of such towed vehicle is liable for the charges of towing, transportation and storage. The person or company holding the vehicle may hold that vehicle until the registered owner pays the removal and storage charges.

- A. The maximum amount for towing, transportation and storage of "Trespass Tows" motor vehicles is established by the Massachusetts Department of Public Utilities and is delineated in MGL Ch.159B §6B. No other fees may be applied.

Incomplete Tows:

If the owner of such vehicle appears at the scene of the removal to remove such vehicle before the towing is completed, the person who was called to do the towing may, at his discretion, charge the car owner one-half the fee usually charged for such towing.

Storage Location:

MGL Ch.159B §6B mandates that vehicles so removed shall be stored in a convenient location. So-called "Trespass Tows" may not be towed and/or stored outside of Worcester city limits and must be stored in a place that is secure from damage to and theft of and from the towed vehicle. The Chief of Police, at his discretion, may by written authority, applies authority to out of town tow companies on a case by case basis.

Vehicle Retrieval:

Vehicle owners must be able to retrieve their vehicles on a 24-hour, 7-day a week basis. In no case may a tow operator delay the return of a vehicle for a period in excess of 30 minutes provided all applicable storage and towing fees have been paid.

Compliance:

Any person who purports to authorize the removal of a vehicle from a way or property as aforesaid without having fully complied with the provisions of MGL Ch.159B §6B may be charged under that section and is subject to a fine of not more than one hundred dollars. Any person who removes a vehicle illegally parked or standing on a private way or upon improved or enclosed property, or holds

such a vehicle after its removal, and who has not complied in full with the provisions of this section, shall release such vehicle to its owner without assessing any charges for its removal or storage.

Special Considerations:

- A. No entry may be made into any vehicle towed unless entry is necessary for the safe towing of that vehicle.
- B. Tow truck companies and operators are responsible to insure that vehicles towed under the provisions of this policy and procedure are not damaged and that due care is made to prevent damage and theft of and from the vehicle in their care.
- C. No vehicle may be towed or placed upon a flatbed tow vehicle with a person or domestic animal therein. In instances where a domestic animal is present in the vehicle for a prolonged period of time, the Animal Control Unit of the Worcester Police Dept. may be called during that unit's ordinary duty hours.
- D. Vehicle owners, who cannot immediately pay the towing and storage fees to the tow company operator, shall be afforded a reasonable single opportunity to retrieve personal belongings from the vehicle while it is in the custody of the tow company. No parts or any item mounted to the vehicle such as audio, video, permanently mounted GPS systems, etc. may be removed from the vehicle while the vehicle is in the custody of the tow company.

Record Keeping:

The Records Bureau of the Worcester Police Department, during normal operational hours, shall enter record of the tow into the automated towed vehicle record keeping system.

Tow Suspension:

Upon the order of the Chief of Police, all "Trespass Towing" may be suspended for a period not to exceed 24 hours where that suspension is in the best interest in the orderly operation of the Worcester Police Department and City of Worcester.

Complaints:

Vehicle owners who allege that their vehicle was towed in violation of statute, the Code of Massachusetts Regulations and/or the policy Trespass Tow policy of the Worcester Police Department should submit a written complaint to the Commonwealth of Massachusetts Department Energy and Environmental Affairs Transportation Division. The written complaint should include the complainant's name, address, daytime phone number, a complete description of the complaint, and any actions taken to resolve it thus far. Copies of all pertinent documents such as tow slips, bills of lading, claim forms and/or correspondence relating to the complaint should be submitted as well to:

*Massachusetts Department of Telecommunications & Energy
Transportation Division
Attn: Timothy P. Davis, Assistant Director
One South Station
Boston, MA 02110
Fax: (617) 478-2598*

Per:

A handwritten signature in cursive script, appearing to read "Gary J. Gemme".

Gary J. Gemme

GJG/ejm

WPD P&P #693 Originally Issued: JANUARY 6, 1994