

Licensing & Regulatory Affairs Committee of the
Virginia Board for Towing and Recovery Operators
May 7, 2009 – 10:00AM
DMV Headquarters Bldg
2300 West Broad Street, Room 131
Richmond, VA 23220

Members Present:

Gary Teter
Roy Boswell
Archie Orr
Scott Wyatt
Charlie Brown
Steve Chumley

Staff Present:

Marc Copeland, Executive Director
Rachel Swyers, Executive Intern
Jeff Spencer, Esq., Senior Assistant Attorney General

Staff Absent:

Daphane Phillips

Call to Order:

Chairman Teter calls the meeting to order at 10:00 a.m.

Public Comments:

There were no public comments.

Review and Approve Minutes:

Minutes had already been approved.

Discussions:

Review the need for various updates to the General Regulations as a result of changes made to the BTRO statutes during the 2009 General Assembly.

1. Update general regulations to permit and spell out the application, issuance process and any fees associated with the issuance of temporary driver authorization documents / (Sections 140 & 150)

Statutory Change/Code Section:

Allows for the issuance of temporary driver authorization documents./ §46.2-2814

The representative from Triple AAA stated that it was necessary to issue temporary documents as long as BTRO continued to take weeks or months to issue the documents after applying. David Reidenbach stated that Fairfax County was taken to court for not processing documents quickly enough after an applicant applied and that it was possible to pay extra and have a background check done overnight, however, the background check would have to be done twice to assure that BTRO was able to view all convictions. It was determined that in order to promulgate BTRO's ability to issue temporary driver authorization documents it would take over a year. Executive Director Marc Copeland stated that the process to promulgate to issue temporary driver authorization documents would take a long time, even if everything went smoothly. He recommended creating a panel, consisting of people from the public, to provide recommendations on the drafted language. Marc Copeland addressed the Chairman and stated that he should draft the language to issue temporary driver authorization documents and then present the drafted language to the Committee, who could discuss and then decide to present it to the full board at the next meeting. Scott Wyatt then asked the Triple AAA representative that if the Board fixed their administrative problems, and was able to issue the documents faster, if they would still support a temporary document. The Triple AAA representative responded that he would still support the Board having the power to issue a temporary driver authorization document. Charlie Brown made the motion to have Marc Copeland draft the language for the issuance of temporary driver authorization documents to be ready for the next time the licensing and regulatory committee meets. Scott Wyatt seconded; all were in favor.

2. Update general regulations to spell out this impacts state operators/ (Section 70)

Statutory Change/Code Section:

Exempts drivers towing a vehicle from an origin in the Commonwealth to a destination in another state from the credentialing requirements./ §46.2-2814

A discussion ensued concerning potential repercussions by charging people to come into the state to tow a car out of the state, by other surrounding states. Executive Director Marc Copeland stated that many were concerned over retribution from surrounding states, however, he stressed that the regulation states that out of state towing and recovery drivers can go into VA, pick up a car, and then go back to their state without having to be

issued a temporary driver authorization documents. Mr. Copeland also stated that there are regulations outlined specifically for operators in the general regulations, and he is not sure how to bring operators into the language regarding exemptions for the out of state drivers. Sue Farrell then stated that had been receiving a lot of calls of out of state towers worried that they would have to be fully credentialed to pick up in Virginia and drop off in other states. Mr. Copeland agreed, responding that he had heard from other states that they were also worried about that issue. Chairman Teter then stated that he was concerned that a sex offender could move over the border, and because of the exemption operate without being licensed as long as he towed the car right over the border. Chairman Teter called for a motion. Scott Wyatt made the motion to adopt the language from §46.2-2814 into Section 70 of the general regulations and the adjust Section 150 accordingly. Charlie Brown seconded the motion, all were in favor.

3. Update the fee schedule in the general regulations, as necessary, to reflect these limitations/ Section 20

Statutory Change/ Code Section:

The fees for each license year of part thereof will not exceed ten percent more than the amount sufficient to generate revenues adequate to cover the Board's costs of operations for the year./ § 46.2 – 2816

Mr. Copeland stated that the budget was tight, and BTRO was nowhere near 10 percent, and hopefully in the next year look at reducing fees. Consequently, it was not necessary to update the fee schedule, and something to be addressed later on. Mr. Copeland recommended that this be tabled. Jeff Spencer stated that it was required to put the fee schedule in the general regulations. Mr. Copeland stated that the Board would address this change when necessary, but not at the current time. Chairman Teter called for a motion to table the update in the fee schedule until a later time, Charlie Brown made the motion. Roy Boswell seconded the motion, all were in favor.

4. Update general regulations to spell out the process for receiving information from those convicted as set forth in this statute and possibly spell out criteria for and amounts of fines/ Section 100 or a new section

Statutory Change/Code Section:

Persons convicted of any violation of the BTRO laws must report he same to the BTRO within 30 days. Person who fail to report these convictions as prescribed are to be subject to a fine assessed by BTRO not to exceed \$1,000./ §46.2 – 2825 (9)

Mr. Copeland recommended that he, along with the help of the Superintendent, draft the violations and convictions that people must report and the process as to how to report. This will be posted online and available to all those who apply and receive credentials. Jeff Spencer stated that this language does not have to be drafted into the regulations, bypassing a lengthy process; however, BTRO has the authority to create a supplement to the regulations outlining the process of reporting convictions and violations.

Archie Orr made a motion for the BTRO staff to draft a list of convictions and violations that are necessary to report to BTRO. Charlie Brown seconded, all were in favor.

5. Update general regulations to spell out BTRO will determine eligibility and what, if any, additional penalties would apply for failure to comply/ Section 100 or a new section

Statutory Change/Code Section:

Licensed Operators with an annual gross income of less than \$10,000 derived from the performance of towing and recovery services will not be required to accept credit cards, other than when providing police requested towing as defined in §46.2-1217, but will be required to accept personal checks §46.2-2825 (9)

Mr. Copeland stated that it would be difficult to determine who was making more than \$10,000 and not taking credit cards. He said that most operators were complying with this policy, and that the compliance officer would be able to see the records of those who were not complying, to see if they were making less than \$10,000 a year. Archie Orr made the motion to take the language from Section code §46.2-2825 (9) and insert it into Section 110-16h of the general regulations. Scott Wyatt seconded, all were in favor.

6. Update general regulations to conform to this change/Section 140 or new section

Statutory Change/Code Section:

Credentials cannot be suspended, revoked, or renewal of same denied without a hearing./ §46.2-2825.1 through §46.2-2825.4

Mr. Copeland recommended that there should be some type of procedural outline as to how the hearing process would work. After much discussion Archie Orr made the motion to utilize the statute §46.2-2825.1 through §46.2-2825.4 in the general regulations. This was seconded by Scott Wyatt, all were in favor.

7. Update general regulations to spell out what these incentives may include and how they would be applied to the benefit of persons with BTRO credentials/Section 180 or new section

Statutory Change/ Code Section:

Establish Incentives for taking voluntary continuing education courses at no cost to persons with BTRO credentials./ §46.2-2827

Mr. Copeland recommended that this was an informative suggestion, and that it was too early with budgeting and licensing to deal with incentives. Mr. Spencer agreed with Mr. Copeland. Charlie Brown made a motion to send the establishment of incentives to the previous established ad hoc committee for deliberation. Steve Chumley seconded the motion, all were in favor.

Public Comments:

George from Skimino Towing stated that BTRO needs the authority to issue temporary tow truck driver authorization documents, since he had applied since October and still had not received his. Also, he needs to be able to go to other states to pick up long term customers and then come back to Virginia, and worries that surrounding states will start making Virginia towers become credentialed if BTRO creates rules that make out of state towers become credentialed.

Scott Wyatt stated that the administrative issues at BTRO were still apparent, and many people who applied for credentials to BTRO a long time ago still have not received them, and that the administrative issues needed to be fixed.

The representative from Triple AAA stated that some credentials were going out saying that they expired December 31 instead of June 30. Mr. Copeland stated that they were sending out a notification stating that the date was June 30, regardless of what the credentials said.

Adjourned:

Chairman Teter called for a motion to adjourn. Mr. Brown made the motion, which was seconded by Mr. Wyatt; the adjournment passed unanimously. The meeting adjourned at 12:45 p.m.

4. Additional public comment
5. Other Business
6. Adjournment