



STATE OF NEW HAMPSHIRE
DEPARTMENT OF SAFETY
DIVISION OF STATE POLICE
PROFESSIONAL STANDARDS OF CONDUCT



DIRECTIVE TITLE: UNATTENDED, ABANDONED, & TOWING MV'S
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CHAPTER 66-A
UNATTENDED, ABANDONED, TOWED
& IMPOUNDED VEHICLES

66-A.1.0 Discussion:

State Police personnel are empowered through NH RSA 262:31 to take vehicles into custody, take them away and store them under specific guidelines. Division members shall follow these guidelines when finding a vehicle that has been abandoned or otherwise needs to be towed without the owner's knowledge or consent at the time of towing.

66-A.1.1 Unattended Vehicle Stickers:

- A. As used in the Division of State Police, an Unattended Vehicle Sticker shall refer to a fluorescent orange "crack'n'peel" sticker upon which appears a legend concerning the observation and towing of abandoned or unattended vehicles.
- B. Unattended vehicle stickers shall be used both when the vehicle is in a safe enough location that it can be left there for a longer time or when the Division member is ordering that the vehicle be towed without the owner's consent or knowledge.
- C. When utilizing unattended vehicle stickers, Division members shall:
 1. Fill out the top portion of the sticker concerning the first observation of the vehicle. This information will indicate the name of the Division member making the observation along with the date and time of the observation.
 2. Affix the sticker to the rear window on the extreme upper left side.
 3. Leave one corner of the sticker with its backing intact so that the sticker may be easily removed.

D. When a Division member determines that a vehicle is to be towed, he shall:

1. Fill in the middle portion of the sticker concerning towing. This will indicate the name of the Division member requesting the towing, the date and time of the towing and the name of the wrecker service.
2. Check off the bottom portion of the sticker concerning status and enter the appropriate status code as follows:

H.L. Hazardous Location
U.R. Unregistered
O.A. Operator Under Arrest
S.R. Snow Removal
H.R. Highway Department Request
C.O. Criminal Offense

These status codes are also printed on the back of the sticker for easy reference.

3. The Division member may otherwise write upon the sticker if such will be of assistance to others that may legitimately inquire as to the status of the vehicle.

66-A.1.2 Towing of Vehicles:

- A. This procedure applies to all vehicles removed from their location, by a lawful order of any member of this Division, in accordance with NH RSAs 262:31 through 262:40-c inclusive.
- B. As used in this section, "REMOVE" shall mean: to cause a vehicle to be towed by a reputable towing agency as taken from a list as specified in Chapter 66.1.2.
- C. Removal of vehicles. Any Division member may cause the removal and storage of any vehicle if he has reasonable grounds to believe that:
 1. A vehicle is left unattended on the paved portion of a toll road, turnpike or interstate and defense highway for a period greater than four hours;
 2. A vehicle is left unattended on any way or the right-of-way thereof for a period greater than twenty-four hours;
 3. A vehicle is obstructing any way or the access thereto, or access to a public building, or is or will be a menace to traffic if allowed to remain, or is obstructing snow removal or highway maintenance operations;
 4. The owner or legal occupant of private property has complained that a vehicle is obstructing the passage of vehicles from a public street or highway onto the driveway of such private property;

5. A vehicle is reported stolen or is apparently abandoned or without proper registration or apparently unsafe to be driven; or
 6. The owner or custodian of the vehicle is under arrest or otherwise incapacitated and the vehicle is a menace to traffic if permitted to remain.
- D. Division members shall cause vehicles to be removed because they are obstructing snow removal operations or highway maintenance operations upon the request of any highway maintenance person.
- E. NH RSA 262:40-a directs that a peace officer SHALL cause the removal of any vehicle parked or abandoned on private property without permission when so requested by the owner of the property. Prior to removing a vehicle on private property, the Division member shall:
1. Attempt to notify the registered owner and request that the vehicle be removed or
 2. If unable to contact the owner of the vehicle, or if the owner is unwilling to remove it, determine with certainty that the person requesting removal is the legal owner of the land, or the owner's authorized spokesman.
- F. The Division member requesting removal of vehicle under this chapter shall:
1. Prior to removal, make an NCIC inquiry using both the vehicle's registration number and Vehicle Identification Number.
 2. Notify his Dispatch center to request the towing and give that Dispatch center the following information:
 - a. Description of vehicle.
 - b. Reason for removal.
 - c. Location vehicle removed from.
 - d. Location vehicle towed to.
 - e. The name, address and telephone number of the person requesting the removal, if other than the Division member.
3. Inventory all towed vehicles and their contents and document their contents.
- a. Use a DST-104 to record the inventory.
 - b. Leave a copy of the inventory in the vehicle.

- c. When the vehicle inventory reveals the presence of controlled drugs, firearms, currency in excess of fifty dollars (\$50.00), jewelry of value in excess of one-hundred dollars (\$100.00) or other easily stored valuables, the Division member shall take custody of those items and store them in accordance with the Division's directives concerning Property Management.
 - (1) Separate inventory sheets shall be used to record items removed from a vehicle and items left with a vehicle.
- d. When property is left with the vehicle, the inventory of that property shall be signed by the tow operator removing the vehicle to indicate his receipt of the property.

4. An inventory search of a motor vehicle **must be non-investigatory** and designed to protect the interests of the property owner, the police and society. If a Division Member has probable cause to search a vehicle, then it **shall** be done under the authority of a warrant or one of the exceptions to the warrant requirement, other than inventory, if applicable. If it becomes obvious during the course of the inventory search that a criminal investigation is warranted and that probable cause to search exists, the inventory search **shall** be stopped and the Division Member should apply for a search warrant or conduct a search pursuant to one of the recognized exceptions to the warrant requirement. Since the purpose of an inventory search is different than a search for contraband or evidence of a crime, the inventory search should be completed after the completion of any search pursuant to a search warrant or other recognized exception to the warrant requirement.

PROFESSIONAL STANDARDS OF CONDUCT
ADDENDUM
CHAPTER 66-A
UNATTENDED, ABANDONED, TOWED
& IMPOUNDED VEHICLES

***DIRECTIONS:** Insert this page between pages 4 and 5 of Chapter 66-A. The purpose of this addendum is to clarify and add to the Division's policy regarding searches of closed containers found in vehicles during inventory searches.*

66-A.1.2.F.3

The U.S. Supreme Court ruled in Florida V. Wells 110 S.Ct. 1632 (1990) that searches of closed containers found in vehicles during the course of inventory searches are impermissible absent a policy concerning the searches of such closed containers.

Inventory procedures serve to protect an owner's property while it is in the custody of the police and guards the police from danger. Therefore it shall be the policy of the Division that inventory searches of vehicles produce an inventory, which will document thoroughly the contents of every vehicle taken into custody.

When closed containers (such as suitcases, briefcases, boxes, etc.) are encountered during an inventory search, the contents of such containers shall be ascertained and fully described. If the contents of a container are not easily discernable without opening the container, then the container shall be opened to enable a thorough inventory of its contents. If the closed container is locked or otherwise sealed so that it cannot be opened without causing damage, it shall not be opened but rather the container and its manner of closure shall be thoroughly described.

All vehicle inventories and their chain of custody shall be documented on a Possessed Property Report (DSSP 104A). Box 15 of the report shall be checked and labeled "INVENTORY". Each Troop Commander shall maintain logbooks of these Possessed Property Reports as proof of a consistently applied inventory policy as required by Florida V. Wells.

End of Addendum

tents.

5. Ascertain the name of the owner of the vehicle and cause that person to be notified of the towing as soon as possible.
6. Check with the towing agency within three working days to ascertain if the vehicle has been claimed. If not, request another NCIC check and check to make sure the owner has been notified. If not stolen and the owner is not located, draw a Criminal Case Number from the appropriate Troop area and write a narrative on a DSSP-102 detailing the actions taken so far. This narrative and the DSSP-104 inventory completed earlier will be then submitted to the appropriate Troop area station.
7. Owner's information shall not be given to the Towing Agency if it was obtained by utilizing a motor vehicle record of any type (license, registration, SPOTS) This is a violation of the Driver Privacy Act (RSA 260:14). Towing agencies requesting this information must utilize the DSMV 505, which is mailed to the Division of Motor Vehicles.

G. The Troop Commander shall:

1. Forward the Abandoned Vehicle Report (DSSP-102 and DSSP-104) to the Investigative Services Bureau at Headquarters where it shall be recorded as any other criminal report, except that a copy shall be sent to the Director of Motor Vehicles.
2. Cause a check to be made at the Towing Agency between ten and thirty days after removal to determine if the vehicle is still unclaimed. An NCIC check will be made if warranted. If the vehicle has been claimed, the name and address of the person claiming the vehicle and the date the vehicle was claimed will be reported on a DSSP 102 to the Investigative Services Bureau under the case number already drawn.

H. If the owner or any other person lawfully entitled to possession of the vehicle wishes to challenge whether there were sufficient grounds for towing and storage, he may pay over to the custodian of the vehicle an amount equal to the towing and storage charges to secure the release of such vehicle, and, within fifteen days of the towing and impoundment, request in writing a hearing.

1. Pursuant to SAF-C 2400, hearings to contest vehicle removal will be conducted by the Department of Safety, Bureau of Hearings, as designated by the Director.
2. Whenever the State Police receives a claim seeking to recover towing and/or storage costs for a vehicle that was removed/impounded by a Division member, the claimant should be directed to forward the claim and receipts, for the actual costs incurred by the individual for which he/she is seeking recovery, to the Director of State Police, insuring that it is postmarked within 15 days from the date of removal and impoundment.

- a. Per SAF-C 2403, the claim shall be in writing, addressed to the Director of State Police and include the following information:
 - (1) Name, address and telephone number of person requesting the hearing,
 - (2) Make and registration of the vehicle in question,
 - (3) Date and time the vehicle was removed from its location
 - (4) Location of vehicle after removal,
 - (5) Name of Division member involved, if known, and
 - (6) Reason for contesting removal.
 - b. If the written claim is received on the Troop/Unit level, it will be forwarded to the Administrative Officer without delay.
 - (1) The mailing envelope should be retained in the event it becomes an issue as to the timely filing of the claim.
3. The Troop/Unit Commander of the Division employee responsible for the removal will cause a detailed report to be submitted outlining the circumstances surrounding the removal, to include the specific statutory authority relied upon to justify this action as well as receipted verification of the towing/storage costs charged to the claimant by the towing agency.
- a. This report will be submitted to the Administrative Officer within 15 days of receipt of the written claim.
4. Upon receipt of the written claim and investigative report by the Administrative Officer, it will be forwarded to the Bureau of Hearings who will in turn schedule a hearing date within 15 days.
5. Division employee(s) responsible for the removal/impoundment will be notified by the Administrative Officer of the scheduled hearing date. The conduct of the hearing will be similar to other administrative hearings of this nature and the Division employee(s) will be required to attend and present evidence that the removal was justified pursuant to RSA 263:32.
6. All correspondence with the claimant will be handled by the Administrative Officer and the Bureau of Hearings.

66-A.1.3 Impoundment of Vehicles:

- A. Vehicles may be impounded as evidence in any crime. This impounding is similar to any other seizure under the 4th Amendment and must be handled accordingly.

- B. Whenever any impoundment is made, the Division member shall adhere to the following procedures:
1. Notify the Troop Supervisor and obtain authorization to impound the vehicle.
 - a. The Troop Supervisor is responsible to notify the County Attorney and obtain authorization to incur towing and storage fees.
 2. Notify his Dispatch center to request the towing and give that Dispatch center the following information:
 - a. Description of vehicle.
 - b. Reason for removal.
 - c. Location vehicle removed from.
 - d. Location vehicle towed to.
 3. Maintain continuity in the Chain of Custody of the evidence.
 4. The vehicle shall be towed to a secure facility such as at Headquarters, Troop Stations or other locked areas.
 - a. Vehicles stored at the Headquarters impound area shall have the prior approval of the Investigative Services Bureau Commander or his designee.
 - b. Vehicles stored at Troop Area impound areas shall have the prior approval of the Troop Commander or his designee.
 5. Conduct an inventory of the vehicle and document the contents on a DSSP-104 and leave a copy of the inventory with the vehicle. The inventory of the vehicle shall not be a substitute for obtaining a proper Search Warrant, if appropriate.
 6. The Division member first seizing the vehicle shall also document in his report any visible damage already existing on the vehicle.
- C. Labeling and record keeping requirements concerning impounded vehicles.
1. Impounded vehicles shall be labeled as follows:
 - a. An Impound Sticker shall be attached to the side window, or otherwise attached to the vehicle as feasible. In every event, the label shall be so attached as to protect it from the weather.

- b. The sticker shall contain the following information:
 - (1) Case number
 - (2) Division member responsible for case
 - (3) Date of seizure
 - (4) Date vehicle placed in storage
 - c. If the vehicle is to be processed by Forensic Laboratory personnel, attachment of the sticker shall be delayed until after their examination is done.
2. Impounded vehicles shall be recorded as follows:
- a. Commanders of impound lots shall cause to be maintained logs containing the following information:
 - (1) Case number
 - (2) Division member responsible for case
 - (3) Date of seizure
 - (4) Date vehicle placed in storage
 - (5) Vehicle description
 - (a) Year
 - (b) Make
 - (c) Model
 - (d) Color
 - (e) Registration number and issuing state
 - (f) Vehicle Identification Number
 - (6) Defendant's name, Date of Birth and Address
 - (7) If different from (6) above, owners name, DOB, address
 - (8) Disposition, when available
3. Keys for impounded vehicles shall be kept in a key locker either at the respective Troop Station or for Headquarters in a key locker located in the Headquarters Communications Center.
- a. The keys will be individually tagged with the following information:
 - (1) Case number
 - (2) Year, make and color of vehicle
 - (3) Registration number and issuing State
 - (4) Division member responsible for case

- D. Release of vehicles from Impound Lots.
 - 1. No vehicle impounded shall be released without the consent of both the investigating Division member and the official responsible for prosecuting the case in court.
 - 2. When a vehicle is released, the person receiving the vehicle shall sign a receipt written on a DSSP-48.
 - 3. The Division member making the release shall submit the DSSP-48 to be filed with the case report.

- E. In addition to impoundment, a vehicle may be subject to confiscation, for the use of the State, if it was used in connection with a felonious drug offense, subject to the conditions contained in RSA 318-B:17b. See Chapter 43-C, "Forfeiture of Items Used in Connection with Drug Offenses", for procedures to follow regarding forfeiture of personal property.

66-A.1.4 Use of State Police impound lots by outside agencies:

- A. Authorization for outside agencies to store vehicles in State Police Impound Lots shall be at the discretion of the Commander of the lot requested to be used.

- B. Outside agencies granted permission to use a State Police Impound Lot shall be notified by that lot's Commander or his designee in writing that the State Police shall not assume responsibility for damage or loss incurred as a result of the use of a State Police Impound Lot.
 - 1. An authorized representative of an outside agency shall sign to acknowledge the release of responsibility.
 - 2. A copy of this letter shall be filed with the Impound Lot record required by this chapter along with the other information required concerning the vehicle.

- C. Labels of vehicles and keys and records required by section 66-A.1.3 shall be used. The keys shall be maintained in the appropriate State Police key locker.