

DRAFT

INFORMAL OUTLINE OF ATTORNEY GENERAL'S PROPOSED RULES

NOTICE: This represents an Informal Draft of proposed rules to the Administrative Rules of Montana 23.6.105. The proposed rules would be drafted pursuant to Mont. Code Ann. § 61-8-912 and once drafted and formalized, opportunities for public comment will occur. Please be advised that the language within this Draft does not mean it will be the language contained within the proposed rules.

I. Definitions

- A. "Department" means the Department of Justice.
- B. "Committee" means the Tow Truck Complaint Resolution Committee

II. Jurisdiction and Procedure

- A. Complaints regarding tow truck operators will be handled by the Office of Consumer Protection, which is within the Attorney General's Office. Except as provided in B., the Office of Consumer Protection and ultimately, the Committee, can hear complaints regarding Tow Truck Operator conduct, including but not limited to rates charged by the Tow Truck Operator.
- B. The Office of Consumer Protection and the Committee have no jurisdiction to address the following:
 - 1. Complaints brought by the Highway Patrol involving safety issues or criminal conduct;
 - 2. Complaints brought by one Tow Truck Operator against another;
 - 3. Complaints brought directly to the Committee by a committee member.
- C. All complaints received by the Office of Consumer Protection will be sent to the Tow Truck Operator, who will then have 20 days to respond in writing. If the Tow Truck Operator fails to respond within 20 days, the Operator will be suspended from the Rotation for a period of 30 days.
- D. The Office of Consumer Protection will forward the Complaint(s) to the Committee if:
 - 1. The Operator fails to respond;

2. The Operator lacks the proper registration, licensing, endorsements, equipment, or any other requirement provided by law;
 3. The Office of Consumer Protection is unable to resolve the complaint;
 4. The complaint is the third complaint or more in a year against the Operator or fourth complaint in two years against the Operator; or
 5. The Office of Consumer Protection believes it to be in the best interests of the public.
- E. Once the Complaint is forwarded to the Committee, the Committee shall consider the merits of the complaint and any response by the Tow Truck Operator and decide whether to take further action. With a simple majority vote, the Committee can decide to do one of the following:
1. Take no action and dismiss the complaint; or
 2. Treat the matter as a contested case according to Mont. Code Ann. § 2-4-601 et. al and set a public hearing on the complaint.
 - (a) If the Committee sets a hearing, the hearing must be set within a reasonable time after receiving the complaint from the Office of Consumer Protection;
 - (b) The provisions of Mont. Code Ann. § 2-4-601 et. al control how the hearing is conducted, including but not limited to whether the proceeding will be formal or informal.
 - (c) Upon conclusion of the hearing, the Committee shall immediately render its decision, which is final.