

SECOND REGULAR SESSION

HOUSE BILL NO. 830

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HENKE.

Pre-filed December 9, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3260L.011

AN ACT

To repeal section 304.155, RSMo, and to enact in lieu thereof one new section relating to disposition of abandoned motor vehicles.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 304.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.155, to read as follows:

304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours;

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

19 (3) Any abandoned property which has been abandoned under section 577.080, RSMo;

20 (4) Any abandoned property which has been reported as stolen or taken without consent
21 of the owner;

22 (5) Any abandoned property for which the person operating such property is arrested for
23 an alleged offense for which the officer is required to take the person into custody and where
24 such person is unable to arrange for the property's timely removal;

25 (6) Any abandoned property which due to any other state law or local ordinance is
26 subject to towing because of the owner's outstanding traffic or parking violations;

27 (7) Any abandoned property left unattended in violation of a state law or local ordinance
28 where signs have been posted giving notice of the law or where the violation causes a safety
29 hazard; or

30 (8) Any abandoned property illegally left standing on the waters of this state as defined
31 in section 306.010, RSMo, where the abandoned property is obstructing the normal movement
32 of traffic, or where the abandoned property has been unattended for more than ten hours or is
33 floating loose on the water.

34 2. The state transportation department may immediately remove any abandoned,
35 unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal
36 property from the roadway of any state highway if the abandoned property, cargo or personal
37 property is creating a traffic hazard because of its position in relation to the state highway. In
38 the event the property creating a traffic hazard is a commercial motor vehicle, as defined in
39 section 302.700, RSMo, the department's authority under this subsection shall be limited to
40 authorizing a towing company to remove the commercial motor vehicle to a place of safety,
41 except that the owner of the commercial motor vehicle or the owner's designated representative
42 shall have a reasonable opportunity to contact a towing company of choice. The provisions of
43 this subsection shall not apply to vehicles transporting any material which has been designated
44 as hazardous under Section 5103(a) of Title 49, U.S.C.

45 3. Any law enforcement agency authorizing a tow pursuant to this section in which the
46 abandoned property is moved from the immediate vicinity shall complete a crime inquiry and
47 inspection report. Any state or federal government agency other than a law enforcement agency
48 authorizing a tow pursuant to this section in which the abandoned property is moved away from
49 the immediate vicinity in which it was abandoned shall report the towing to the state highway
50 patrol or water patrol within two hours of the tow along with a crime inquiry and inspection
51 report as required in this section. Any local government agency, other than a law enforcement
52 agency, authorizing a tow pursuant to this section where property is towed away from the
53 immediate vicinity shall report the tow to the local law enforcement agency within two hours
54 along with a crime inquiry and inspection report.

55 4. Neither the law enforcement officer, government agency official nor anyone having
56 custody of abandoned property under his direction shall be liable for any damage to such
57 abandoned property occasioned by a removal authorized by this section or by ordinance of a
58 county or municipality licensing and regulating the sale of abandoned property by the
59 municipality, other than damages occasioned by negligence or by willful or wanton acts or
60 omissions.

61 5. The owner of abandoned property removed as provided in this section or in section
62 304.157 shall be responsible for payment of all reasonable charges for towing and storage of
63 such abandoned property as provided in section 304.158.

64 6. Upon the towing of any abandoned property pursuant to this section or under authority
65 of a law enforcement officer or local government agency pursuant to section 304.157, the law
66 enforcement agency that authorized such towing or was properly notified by another government
67 agency of such towing shall promptly make an inquiry with the national crime information center
68 and any statewide Missouri law enforcement computer system to determine if the abandoned
69 property has been reported as stolen and shall enter the information pertaining to the towed
70 property into the statewide law enforcement computer system. If the abandoned property is not
71 claimed within ten working days of the towing, the law enforcement agency shall submit a crime
72 inquiry and inspection report to the director of revenue. A towing company in possession of
73 abandoned property after ten working days shall report such fact to the law enforcement agency
74 with which the crime inquiry and inspection report was filed. The crime inquiry and inspection
75 report shall be designed by the director of revenue and shall include the following:

76 (1) The year, model, make and property identification number of the property and the
77 owner and any lienholders, if known;

78 (2) A description of any damage to the property noted by the officer authorizing the tow;

79 (3) The license plate or registration number and the state of issuance, if available;

80 (4) The storage location of the towed property;

81 (5) The name, telephone number and address of the towing company;

82 (6) The date, place and reason for the towing of the abandoned property;

83 (7) The date of the inquiry of the national crime information center, any statewide
84 Missouri law enforcement computer system and any other similar system which has titling and
85 registration information to determine if the abandoned property had been stolen. This
86 information shall be entered only by the law enforcement agency making the inquiry;

87 (8) The signature and printed name of the officer authorizing the tow and the towing
88 operator; and

89 (9) Any additional information the director of revenue deems appropriate.

90 7. One copy of the crime inquiry and inspection report shall remain with the agency

91 which authorized the tow. One copy shall be provided to and retained by the storage facility and
92 one copy shall be retained by the towing facility in an accessible format in the business records
93 for a period of three years from the date of the tow or removal.

94 8. The owner of such abandoned property, or the holder of a valid security interest of
95 record, may reclaim it from the towing company upon proof of ownership or valid security
96 interest of record and payment of all reasonable charges for the towing and storage of the
97 abandoned property.

98 9. Any person who removes abandoned property at the direction of a law enforcement
99 officer or an officer of a government agency where that agency's real property is concerned as
100 provided in this section shall have a lien for all reasonable charges for the towing and storage of
101 the abandoned property until possession of the abandoned property is voluntarily relinquished
102 to the owner of the abandoned property or to the holder of a valid security interest of record.
103 Any personal property within the abandoned property need not be released to the owner thereof
104 until the reasonable or agreed charges for such recovery, transportation or safekeeping have been
105 paid or satisfactory arrangements for payment have been made, except that any medication
106 prescribed by a physician shall be released to the owner thereof upon request. The company
107 holding or storing the abandoned property shall either release the personal property to the owner
108 of the abandoned property or allow the owner to inspect the property and provide an itemized
109 receipt for the contents. The company holding or storing the property shall be strictly liable for
110 the condition and safe return of the personal property. Such lien shall be enforced in the manner
111 provided under section 304.156.

112 10. Towing companies shall keep a record for three years on any abandoned property
113 towed and not reclaimed by the owner of the abandoned property. Such record shall contain
114 information regarding the authorization to tow, copies of all correspondence with the department
115 of revenue concerning the abandoned property, and information concerning the final disposition
116 of the possession of the abandoned property.

117 11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard
118 motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall
119 notify the local law enforcement agency where the repossession occurred within two hours of
120 the repossession and shall further provide the local law enforcement agency with any additional
121 information the agency deems appropriate. The local law enforcement agency shall make an
122 inquiry with the national crime information center and the Missouri statewide law enforcement
123 computer system and shall enter the repossessed vehicle into the statewide law enforcement
124 computer system.

125 **12. Notwithstanding the provisions of section 301.227, RSMo, any towing company**
126 **who has complied with the notification provisions in section 304.156, including notice that**

127 any property remaining unredeemed after ninety days may be sold as scrap property may
128 then dispose of such property as provided in this subsection. Such sale shall only occur if
129 at least ninety days has passed since the date of such notification, the abandoned property
130 remains unredeemed with no satisfactory arrangements made with the towing company
131 for continued storage, and the owner or holder of a security agreement has not requested
132 a hearing as provided in section 304.156. The towing company may dispose of such
133 abandoned property by selling the property on a bill of sale as prescribed by the director
134 of revenue to a scrap metal operator for destruction purposes only. The towing company
135 shall forward a copy of the bill of sale provided by the scrap metal operator to the director
136 of revenue within two weeks of the date of such sale. The towing company shall keep a
137 record of each such vehicle sold for destruction for three years that shall be available for
138 inspection by law enforcement and authorized department of revenue officials. The record
139 shall contain the year, make, identification number of the property, date of sale, and name
140 of the purchasing scrap metal operator and copies of all notifications issued by the towing
141 company as required in this chapter. Scrap metal operators shall keep a record of the
142 purchase of such property as provided in section 301.227, RSMo.