

FIRST REGULAR SESSION

HOUSE BILL NO. 866

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GUEST (Sponsor), FUNDERBURK, SATER, WALLACE,
NIEVES, DEEKEN AND SCHAAF (Co-sponsors).

Read 1st time February 14, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1848L.02I

AN ACT

To amend chapter 302, RSMo, by adding thereto eight new sections relating to tow truck operation, with penalty provisions.

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

Section A. Chapter 302, RSMo, is amended by adding thereto eight new sections to be known as sections 302.400, 302.402, 302.404, 302.406, 302.408, 302.410, 302.412, and 302.414, to read as follows:

302.400. Sections 302.400 to 302.414 shall be known as the "Emergency Responders Safety Act". The purpose of sections 302.400 to 302.414 shall be to foster the safe use of tow trucks by establishing and enforcing consistent statewide industry standards for licensing of tow truck business owners and operators. The provisions of sections 302.400 to 302.414 or any rules or regulations promulgated thereunder shall not be construed to amend, supersede, or conflict with any requirement of federal law or regulation governing the operation of tow trucks. The tow truck license required under sections 302.400 to 302.414 shall be in addition to any other operator's license required under this chapter.

302.402. As used in sections 302.400 to 302.414, the following terms shall mean:

- (1) "Board", the emergency responders safety board;**
- (2) "Department", the department of revenue;**
- (3) "Director", the director of the department of revenue;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

5 (4) "Tow truck operator", a person actively engaged in operating a tow truck or
6 wrecker, as defined in section 301.010, RSMo, on the public roads and highways of this
7 state.

 302.404. 1. Any individual who owns a tow truck business or operates a tow truck
2 on the roads and highways in Missouri shall obtain a tow truck license from the
3 department of revenue under sections 302.400 to 302.414. Applications for a tow truck
4 license or renewal of a tow truck license shall be on a form designated by the department,
5 and shall contain the following:

- 6 (1) The applicant's full name;
- 7 (2) The applicant's home address;
- 8 (3) The applicant's date of birth;
- 9 (4) The applicant's sex;
- 10 (5) The applicant's physical description;
- 11 (6) The applicant's driver's license number;
- 12 (7) The applicant's current place of employment; and
- 13 (8) Any other information required to fulfill the obligations of sections 302.400 to
14 302.414.

15 2. Any individual who has met the qualifications set forth in subsection 4 of this
16 section may apply for a tow truck license.

17 3. An applicant for a tow truck license shall submit an application fee and two
18 copies of the applicant's photograph with the application submitted to the department of
19 revenue. The amount of such fee shall be established by rule promulgated by the
20 department of revenue. The fee established by rule shall be no greater than the cost of
21 administering this section, but shall not exceed one hundred dollars.

22 4. An applicant for a tow truck license shall:

- 23 (1) Be at least twenty-one years of age;
- 24 (2) Not have willfully violated any provisions of sections 302.400 to 302.414;
- 25 (3) Not have knowingly withheld information or has not made any false or fictitious
26 statement intended or likely to deceive in connection with the application;
- 27 (4) Have familiarity and understanding of relevant federal and state laws relating
28 to tow truck operation;
- 29 (5) Not have been convicted in any court of, or plead guilty to, a felony;
- 30 (6) Not be a fugitive from justice;
- 31 (7) Not be an unlawful user of any controlled substance in violation of chapter 195,
32 RSMo;
- 33 (8) Have completed an approved tow truck training course that meets the
34 requirements of subdivision (1) of subsection 13 of this section and has successfully passed

35 the licensing examination under the provisions of subdivisions (1) to (5) of subsection 14
36 of this section;

37 (9) Not have been adjudicated as mentally defective; and

38 (10) Be a citizen of the United States.

39 5. Any individual holding a tow truck license under the provisions of this section
40 shall promptly notify the department of revenue if he or she has had any change of
41 material fact relating to any qualification for holding a tow truck license.

42 6. If the department of revenue finds that the requirements for a tow truck license
43 have been satisfied, a license shall be issued to the applicant.

44 7. A tow truck license shall expire three years from the date of issuance. To qualify
45 for a renewal of a tow truck license, an individual will be required to provide
46 documentation of completing eight hours of continuing training in a course of instruction
47 related to tow-truck operation that is approved by the department of revenue, half of
48 which shall have been completed within the year prior to renewal. The remainder of such
49 training for renewal of the license may be acquired at any time during the three-year
50 period that a license is valid. Additional training beyond an accumulated eight hours
51 during any three-year period is not valid for more than one subsequent renewal of the
52 license.

53 8. Each license issued under the provisions of this section shall provide
54 documentation to the license holder in the form of a letter or letter-sized certificate and a
55 card that is approximately two inches by three inches in size. Each shall specify a unique
56 license number, the name of the individual, his or her driver's license number, the
57 individual's photograph, the license's effective date and its expiration date, and any other
58 record-keeping information needed by the department of revenue. In addition, the card
59 form of the license shall contain a photographic image of the license holder.

60 9. Each individual required to have a tow truck license shall provide
61 documentation that he or she has a currently valid license to a representative of the
62 department of revenue within two business days of a written or verbal request. No
63 enforcement action shall be taken against any individual that cannot comply with such a
64 request so long as the department of revenue's records provide documentation that the
65 individual has a valid tow truck license.

66 10. (1) A tow truck license issued under the provisions of this section may be
67 suspended or revoked by the department of revenue upon substantial proof that the
68 individual holding the license has:

69 (a) Failed to advise the department of revenue of any change of material fact
70 relating to his or her qualifications for holding a tow truck license; or

71 **(b) Knowingly made a material misrepresentation of any information by any means**
72 **of false pretense, deception, fraud, misrepresentation, or cheating for the purpose of**
73 **obtaining training or otherwise meeting the qualifications of obtaining a license.**

74 **(2) The department of revenue shall provide any notice of suspension or revocation,**
75 **as provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last**
76 **known address of the holder of the license. The notice may also be verbal, but this does not**
77 **eliminate the requirement for written notice. Upon receipt of a verbal or written notice of**
78 **suspension or revocation from the department of revenue, the individual holding the**
79 **license shall immediately surrender all copies of the license to a representative of the**
80 **department of revenue.**

81 **(3) The individual holding the license may appeal any suspension or revocation to**
82 **the emergency responders safety board established under section 302.406 within forty-five**
83 **days of the date written notice was received. The department of revenue shall immediately**
84 **notify the chairperson of the board that an appeal has been received and a hearing before**
85 **the board shall be held. The board shall consider and make a decision on any appeal**
86 **received by the department of revenue within thirty days of the date the appeal is received**
87 **by the department of revenue. The board shall make a decision on the appeal by majority**
88 **vote of the board and shall immediately notify the licensee of its decision in writing. The**
89 **written statement of the board's decision shall be prepared by the department of revenue**
90 **or its designee and shall be approved by the chairperson of the board. The approved**
91 **statement of the board's decision shall be sent by certified mail to the last known address**
92 **of the holder of the license.**

93 **11. Any individual whose license has been expired for a period of three years or less**
94 **shall be required to successfully pass the examination as provided in subdivisions (1) to (5)**
95 **of subsection 14 of this section and attend the eight hours of training required for renewal**
96 **of a license as minimum qualifications for submitting an application for reinstatement of**
97 **the license. Any individual whose license has been expired for a period of more than three**
98 **years shall meet the qualifications set forth in subsection 4 of this section, including**
99 **completing twenty hours of training and passing the examination, prior to applying for a**
100 **tow truck license.**

101 **12. A license may be granted to applicants who within the last three years have held**
102 **a valid license or certification from any other source if all of the qualifications for**
103 **obtaining the license or certification meet or exceed the provisions of this section. It is the**
104 **duty of the department of revenue to investigate the qualifications required for obtaining**
105 **a license or certification from any other source.**

106 **13. (1) The tow board or its authorized agent shall offer annually at least two**
107 **courses of instruction that fulfill the training requirement of qualifying for a tow truck**

license and two courses that fulfill the training requirement for renewal of a tow truck license. In addition, any person may apply to the department of revenue for approval of a course of instruction that meets the training requirement of obtaining a tow truck license or renewal of a tow truck license. The application shall include a description of the qualifications of the instructor, a description of instructional materials to be used in the course, and an outline of the subject matter to be taught, including minimum hours of instruction on each topic. The department of revenue shall review the application regarding the knowledge and experience of proposed instructors, the total hours of training and the adequacy of proposed training in subject matter with regard to the provisions of sections 302.400 to 302.414. If the department of revenue determines that training proposed by the applicant is adequate, a letter of approval shall be issued to the applicant. The letter of approval shall be effective for a period of three years. If at any time the department of revenue determines that an approved training course no longer meets the standards of this section, the letter of approval may be revoked with written notice. The department of revenue or any person providing a course of instruction may charge an appropriate fee to recover the cost of conducting such instruction.

(2) To be approved by the department of revenue, a tow truck training course shall contain at least twelve hours of continuing instruction to prepare attendees for obtaining a tow truck license the first time, or eight hours of instruction to prepare attendees for obtaining a license renewal.

(3) Any person providing training in a course of instruction approved by the department of revenue shall submit a list of individuals that attended any such course to the department of revenue within ten business days after completion of the course.

(4) The department of revenue shall maintain a current list of persons who provide approved training and shall make this list available by any reasonable means to professional and trade associations, labor organizations, universities, vocational schools, and others upon request.

14. (1) The tow board shall approve a standard examination or examinations for the purpose of qualifying an individual to obtain a tow truck license. Each individual taking the examination shall pay a fee to the department of revenue, or the department's agent, that is established by rule. Testing fees shall be no greater than what is required to administer the testing provisions of this section and shall not exceed one hundred twenty-five dollars per test.

(2) Except as provided in subsection 11 of this section, no individual shall be allowed to take an examination for purposes of obtaining a tow truck license unless that individual has completed a training course approved by the department of revenue. The individual must have completed an approved course of instruction as provided in

145 subdivision (1) of subsection 13 of this section no longer than two years prior to taking the
146 examination. The examination may be administered by any person approved to provide
147 a course of instruction, as provided in subdivision (1) of subsection 13 of this section, at the
148 site of instruction. The department of revenue may also administer such examinations at
149 other times and locations.

150 (3) Standards for passing the examination shall be set by the department of revenue
151 by rule.

152 (4) The department of revenue or its authorized agent shall provide a written
153 statement within thirty days to the individual taking the examination as to whether that
154 individual passed or failed.

155 (5) Any individual failing to pass the examination may retake the examination
156 within six months without having to complete an additional approved course of instruction.
157 If the individual fails the second examination, the person must complete another course of
158 instruction as required in subdivision (1) of subsection 13 of this section before taking the
159 examination again. No limit will be placed on how many times any individual may take the
160 examination, subject to the provisions of this subdivision.

161 (6) Individuals having previously taken an approved tow truck training course, and
162 passed an approved examination, and having taken an approved tow truck license renewal
163 training course, or that have obtained a tow truck license as provided in subsections 11 and
164 12 of this section are eligible for renewal of a tow truck license after meeting the
165 requirements of subsection 7 of this section. The fee for renewal of a license shall be the
166 same as the fee specified in subsection 3 of this section.

167 15. Any person violating sections 324.1150 to 324.1165, RSMo, or the regulations
168 of the division shall be guilty of a class A misdemeanor.

302.406. 1. The state emergency responders safety board is hereby created and
2 assigned to the department of revenue. There shall be five members of this board, as
3 appointed by the governor, with the advice and consent of the senate, to be comprised of:

4 (1) One representative of the Missouri department of transportation;

5 (2) Three tow truck drivers or tow company owners; and

6 (3) One representative of the general public.

7 2. Each board member shall serve for a term of six years, except for the members
8 initially appointed one term shall be for one year, one term shall be for two years, one term
9 shall be for three years, one term shall be for four years, one term shall be for five years.
10 Members appointed and serving shall serve until their successor is named and shall be
11 eligible for reappointment.

12 3. Members of the board shall serve without compensation but may be reimbursed
13 by the department of revenue for reasonable and necessary expenses. Meetings of the

14 board shall be held in facilities arranged by the department of revenue. Hearings of the
15 board may be held at a location in Missouri specified by the chairperson of the board.
16 Upon agreement by the licensee and the chairperson of the state emergency responders
17 safety board, hearings may be conducted by conference call.

18 4. The board shall annually by January thirty-first elect a chairperson from one
19 of the members. The chairperson shall be elected by majority vote of the board and shall
20 preside over all meetings and hearings and perform any specific duties set out in sections
21 302.400 to 302.414.

22 5. The board shall meet as needed at the call of the chairperson. The board shall
23 meet at least once each calendar year.

24 6. It shall be the duty of the board to:

25 (1) Advise the department of revenue in the development of application and
26 registration forms, training and examinations, and setting fees for the filing of required
27 applications, registrations, and reports;

28 (2) Approve or disapprove any examination for licensing of tow truck operators;

29 (3) Hold hearings and make decisions by majority vote upon appeals under section
30 302.404 and upon notices of violation under section 319.333, RSMo;

31 (4) Approve or disapprove any rule proposed by the department of revenue for the
32 administration of sections 302.400 to 302.414;

33 (5) Advise or assist the department of revenue in any other matter regarding
34 administration or enforcement, within the scope and requirements of sections 302.400 to
35 302.414.

302.408. 1. It shall be the duty of the department of revenue to:

2 (1) Develop and distribute all forms, certificates, and printed material necessary
3 for carrying out duties relating to applications, registrations, training, testing, and
4 licensing required by sections 302.400 to 302.414;

5 (2) Publish, distribute, and administer an examination that tests the knowledge of
6 applicants for a tow truck license. The examination may be given to applicants by
7 representatives of the department of revenue, by persons approved by the department of
8 revenue to provide training under section 302.404, or by other persons designated by the
9 department of revenue;

10 (3) Upon approval by majority vote of the emergency responders safety board,
11 promulgate any rule necessary for carrying out the purposes of sections 302.400 to 302.414.

12 2. The department of revenue may enforce any provision of sections 302.400 to
13 302.414 by referral of violations to the attorney general or a prosecuting attorney and may
14 seek criminal penalties and may seek injunctive relief. For any matter upon which a
15 hearing is held under subdivision (3) of subsection 7 of section 302.406, any referral of a

16 notice of violation or request for criminal or civil enforcement action or injunctive relief
17 shall be made by the tow safety board to the attorney general or a prosecuting attorney,
18 only upon a majority vote by the board.

302.410. There is hereby created in the state treasury the "Missouri Emergency
2 Responders Safety Act Administration Fund", which shall consist of all fees collected
3 under sections 302.400 to 302.414, appropriations of the general assembly, federal grants,
4 and private donations. The state treasurer shall be custodian of the fund. In accordance
5 with sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements.
6 Upon appropriation, money in the fund shall be used solely for the administration of
7 sections 302.400 to 302.414. Notwithstanding the provisions of section 33.080, RSMo, to
8 the contrary, any moneys remaining in the fund at the end of the biennium shall not revert
9 to the credit of the general revenue fund. The state treasurer shall invest moneys in the
10 fund in the same manner as other funds are invested. Any interest and moneys earned on
11 such investments shall be credited to the fund.

302.412. Any individual aggrieved by any official action of the state emergency
2 responders safety board or the department of revenue affecting their license status,
3 including revocation, suspension, failure to renew, or refusal to grant a license may seek
4 a determination thereon by the administrative hearing commission under the provisions
5 of section 621.045, RSMo.

302.414. Any rule or portion of a rule, as that term is defined in section 536.010,
2 RSMo, that is created under the authority delegated in sections 302.400 to 302.414, shall
3 become effective only if it complies with and is subject to all of the provisions of chapter
4 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
5 RSMo, are nonseverable and if any of the powers vested with the general assembly
6 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove or
7 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
8 authority and any rule proposed or adopted after August 28, 2007, shall be invalid and
9 void.

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