

SECOND REGULAR SESSION

HOUSE BILL NO. 1999

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MCGHEE (Sponsor) AND AULL (Co-sponsor).

Read 1st time February 6, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4242L.01I

AN ACT

To repeal sections 304.155, 304.156, and 304.157, RSMo, and to enact in lieu thereof six new sections relating to wrecker or towing services, with penalty provisions.

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

Section A. Sections 304.155, 304.156, and 304.157, RSMo, are repealed and six new
2 sections enacted in lieu thereof, to be known as sections 304.142, 304.143, 304.144, 304.155,
3 304.156, and 304.157, to read as follows:

**304.142. 1. Unless otherwise regulated by the governing body of the political
2 subdivision, the wrecker vehicle used to perform wrecker or towing services requested by
3 a political subdivision of this state for removal of a vehicle from property for reasons listed
4 in section 304.155 or 304.157 shall be from the licensed wrecker or towing service whose
5 location is nearest to the vehicle to be towed. Requests for service may be alternated or
6 rotated among all such licensed wrecker or towing services located within a reasonable
7 radius of each other. In cities of less than fifty thousand inhabitants, all such licensed
8 wrecker or towing services located near or in the city limits of such cities shall be
9 considered as being equal distance and shall be called on an equal basis as nearly as
10 possible. The police chief of any municipality and the county sheriff of each county shall
11 keep rotation logs on all requested tows, except where there are insufficient licensed
12 wrecker or towing services available to rotate such services or services are contracted after
13 a competitive bid process. Rotation logs shall be made available for public inspection upon
14 request. Any calls made from mobile phones or two-way radios by any law enforcement**

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.

15 officer or employee of any municipality or county to any wrecker or towing service shall
16 be listed on the rotation or call logs and made available for public inspection. A wrecker
17 or tow service shall not be removed from rotation without notification to the wrecker
18 operator stating the reason for removal from the rotation log. All notification for removal
19 from a rotation log shall be mailed to the wrecker or towing service owner at least ten days
20 before removal from the rotation log and shall state the procedure and requirements for
21 reinstatement.

22 2. Except as otherwise provided in this subsection, the department of public safety
23 or any municipality, county, or other political subdivision of this state shall not place any
24 wrecker or towing service upon an official rotation log for the performance of services
25 carried out pursuant to the request of or at the direction of any employee of the
26 department of public safety or of a municipality, county, or political subdivision unless the
27 wrecker or towing service meets the following requirements:

- 28 (1) Its principal business facilities are located in Missouri;
29 (2) Its tow trucks are registered and licensed in Missouri; and
30 (3) Its owner is a resident of Missouri or the service is a Missouri corporation.

31

32 In the event a licensed wrecker or towing service is not located within a county, or city not
33 within a county, a wrecker or towing service that is located outside of the county or outside
34 this state and does not meet the above qualifications may be placed on the rotation log for
35 the county or any municipality or political subdivision located within the county.

36 3. When performing services at the request of any officer, no operator or wrecker
37 or towing service upon the rotation logs shall charge fees in excess of the maximum rates
38 for services performed within this state, including incorporated and unincorporated areas,
39 as prescribed in section 304.144.

40 4. The department of public safety shall place a licensed wrecker or towing service
41 on the highway patrol rotation log in a highway patrol troop district in which the place of
42 business and the primary storage facility of the wrecker or towing service are located upon
43 written request filed by the wrecker or towing service with the department of public safety.
44 Upon further request of the wrecker or towing service, the department of public safety may
45 place a wrecker or towing service on the highway patrol rotation log in a district adjacent
46 to the district in which the place of business and the primary storage facility of the wrecker
47 or towing service are located if the wrecker or towing service is in proximity to and within
48 a reasonable radius of the boundary of the district. When a wrecker or towing service is
49 placed on the rotation log in a district, the department of public safety shall notify the
50 wrecker or towing service and the troop commander of the district.

51 **5. The department of public safety shall be responsible for establishing**
52 **geographical areas of rotation within the troop districts and for notifying each wrecker or**
53 **towing service of the geographical areas of rotation to which the service is assigned.**

54 **6. The department of public safety shall make all rotation logs available for public**
55 **inspection at the state office and shall make rotation logs for a highway patrol troop**
56 **district available for public inspection at the district office.**

304.143. 1. No towing company or person employed by such company may solicit
2 **business or make service calls unless such towing company has a license to operate a**
3 **wrecker or towing service issued by the department of public safety under this section.**
4 **The number of the license shall be prominently displayed on both sides of every wrecker**
5 **vehicle operated by the wrecker or towing service.**

6 **2. No applicant for a wrecker license shall be required to prove public convenience**
7 **and necessity. Each licensee shall maintain liability insurance against loss of life or injury**
8 **to persons, and damage to property of others arising out of the licensee's activities in the**
9 **amount of at least one hundred thousand dollars, with a deductible not greater than one**
10 **thousand dollars per occurrence. The initial fee for such license shall be two hundred**
11 **dollars. All licenses shall expire on December thirty-first of each year and may be annually**
12 **renewed for a renewal fee of one hundred dollars in the manner prescribed by the**
13 **department of public safety. No license fee shall be refunded in the event the license is**
14 **suspended or revoked for a violation of sections 304.142, 304.143, 304.144, and sections**
15 **304.155 to 304.159, or any rule promulgated thereunder.**

16 **3. The department of public safety may cancel, suspend, revoke, or refuse to issue**
17 **or renew any license when it finds the applicant or licensee has not complied with or has**
18 **violated any provision of sections 304.142, 304.143, 304.144, and sections 304.155 to 304.159**
19 **or any rules promulgated thereunder. A suspension or revocation shall be for a period**
20 **deemed appropriate by the department of public safety based on the violation. Any**
21 **canceled, suspended, or revoked license shall be returned to the department of public**
22 **safety by the operator, and such operator shall not be eligible to apply for another license**
23 **until the period of suspension or revocation has elapsed. The department of public safety**
24 **shall notify the applicant or licensee in writing of any action under this subsection and**
25 **advise such person of the right to file an appeal with the administrative hearing**
26 **commission as provided by chapter 621, RSMo.**

27 **4. If a statewide abandoned vehicle database is established, a licensee shall take**
28 **necessary steps to have online access to such database and shall be required to use such**
29 **database in accordance with sections 304.155 and 304.157.**

30 **5. All fees collected under this section shall be sent to the director of revenue for**
31 **deposit in the state treasury in the "Wrecker License Administration Fund", which is**
32 **hereby created. The state treasurer shall be custodian of the fund. In accordance with**
33 **sections 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon**
34 **appropriation, money in the fund shall be used solely for the administration of sections**
35 **304.142, 304.143, 304.144, and sections 304.155 to 304.159. Notwithstanding the provisions**
36 **of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of**
37 **the biennium shall not revert to the credit of the general revenue fund. The state treasurer**
38 **shall invest moneys in the fund in the same manner as other funds are invested. Any**
39 **interest and moneys earned on such investments shall be credited to the fund.**

40 **6. The department of public safety may promulgate rules to administer the**
41 **provisions of sections 304.142 to 304.144. Any rule or portion of a rule, as that term is**
42 **defined in section 536.010, RSMo, that is created under the authority delegated in this**
43 **section shall become effective only if it complies with and is subject to all of the provisions**
44 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter**
45 **536, RSMo, are nonseverable and if any of the powers vested with the general assembly**
46 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
47 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
48 **authority and any rule proposed or adopted after August 28, 2008, shall be invalid and**
49 **void.**

304.144. 1. The provisions of this section shall apply only to charges for wrecker
2 **or towing services performed in this state, including incorporated and unincorporated**
3 **areas, by a wrecker or towing service licensed by the department of public safety when that**
4 **service appears on the rotation log of the department of public safety or on the rotation log**
5 **of any municipality, county, or other political subdivision of this state, or the services**
6 **performed are at the request or at the direction of any officer of the department of public**
7 **safety or of a municipality, county, or political subdivision. No wrecker or towing service**
8 **in the performance of these services shall charge any fee which exceeds the maximum rates**
9 **established under this section. Such rates shall be in addition to any other rates, fees, or**
10 **charges authorized or required by law.**

11 **2. When wrecker or towing services are performed as provided in subsection 1 of**
12 **this section:**

13 **(1) Each performance of a wrecker or towing service shall be recorded by the**
14 **operator on a bill or invoice as prescribed by rules of the department of public safety;**

15 (2) Nothing herein shall limit the right of an operator who has provided or caused
16 to be provided wrecker or towing services to require prepayment, in part or in full, or
17 guarantee of payment of any charges incurred for providing such services;

18 (3) This section shall not be construed to require an operator to charge a fee for the
19 performance of any wrecker or towing service; and

20 (4) The operator is authorized to collect all lawful fees from the owner, lienholder,
21 or agent or insurer accepting liability for paying the claim for a vehicle or purchasing the
22 vehicle as a total loss vehicle from the registered owner of the towed vehicle for the
23 performance of any and all such services. An operator shall release the vehicle from
24 storage upon authorization from the owner, agent, or lienholder of the vehicle or, in the
25 case of a total loss, the insurer accepting liability for paying the claim for the vehicle or
26 purchasing the vehicle where the vehicle is to be moved to an insurance pool yard for sale.

27 3. Rates in this subsection shall apply to the distance the towed vehicle is
28 transported and shall include services of the operator of the wrecker vehicle. Hourly rates,
29 as provided in subsection 4 of this section, may be applied in lieu of distance rates. Hourly
30 rates may be applied from the time the wrecker vehicle is assigned to the service call until
31 the time it is released from service either upon return to the premises of the wrecker or
32 towing service or upon being assigned to perform another wrecker or towing service,
33 whichever occurs first. When hourly rate is applied in lieu of distance towing rates, the
34 operator may not apply the two-hour minimum prescribed in subsection 4 of this section,
35 nor may hookup or mileage charges, as prescribed in this section, be applied. Such
36 distance rates shall be computed via the shortest highway mileage as determined from the
37 latest official Missouri department of transportation state highway map, except as follows:

38 (1) For distances or portions of distances not specifically provided for in the
39 governing highway map, the actual mileage via the shortest practical route will apply;

40 (2) In computing distances, fractions of a mile will be retained until the final and
41 full mileage is determined, at which time any remaining fraction shall be increased to the
42 next whole mile; or

43 (3) When, due to circumstances beyond the control of the wrecker or towing
44 service, roadway conditions make it impractical to travel via the shortest route, distance
45 rates shall be computed based on the shortest practical route over which the wrecker
46 vehicle and the vehicle it is towing can be moved, which route shall be noted on the bill or
47 invoice.

48 4. Any hourly rates shall apply from the time the vehicle or labor is assigned to the
49 service call until the time it is released from service either upon return to the premises of
50 the wrecker or towing service or upon being assigned to perform another wrecker or

51 towing service, whichever occurs first. Whenever a wrecker vehicle is used to tow a vehicle
52 subject to distance rates, as provided in subsection 3 of this section, hourly rates shall apply
53 only for the time such wrecker is used in the performance of services other than
54 transportation, except when such hourly rates are used in lieu of such distance rates. If the
55 service subject to an hourly rate is performed in less than two hours, the charge applicable
56 for two hours may be assessed, except as provided for in subsection 3 of this section.

57 5. An operator shall be required to provide reasonable documentation to
58 substantiate all lawful fees charged the owner, lienholder, agent, or insurer paying the
59 claim for the towed vehicle. Fees for which the operator is being reimbursed or having
60 paid to a third party, shall include copies of the invoice or other appropriate documents
61 to substantiate such payment to said third party.

62 6. The department of public safety shall establish maximum standard rate
63 schedules in accordance with this section. In addition to establishing appropriate distance
64 and hourly rate schedules, the department of public safety shall develop maximum charges
65 for hookups, curb extractions, clean up of an accident site, use of additional equipment
66 including a dolly or extra chains, and administrative or other charge. No gate fees shall
67 be charged. The department of public safety shall establish a method for an allowable fuel
68 surcharge based on the average cost of fuel in a defined geographical area.

69 7. In addition to any allowable charges under this section, the department of public
70 safety shall develop a schedule for maximum storage charges for vehicles towed subject to
71 this section. Such charges may include indoor and outdoor storage fees and after-hour
72 release fees.

73 8. The department of public safety shall provide all fee schedules and any
74 amendments thereto to each licensee under section 304.143.

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

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

5 (a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours,
6 or immediately if a law enforcement officer determines that the abandoned property is a serious
7 hazard to other motorists, provided that commercial motor vehicles not hauling materials
8 designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision
9 to a place of safety until the owner or owner's representative has had a reasonable opportunity
10 to contact a towing company of choice;

11 (b) Any interstate highway or freeway outside of an urbanized area, left unattended for
12 forty-eight hours, or after four hours if a law enforcement officer determines that the abandoned

13 property is a serious hazard to other motorists, provided that commercial motor vehicles not
14 hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under
15 this subdivision to a place of safety until the owner or owner's representative has had a
16 reasonable opportunity to contact a towing company of choice;

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

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

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

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

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

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

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

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

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

43 2. The state transportation department may immediately remove any abandoned,
44 unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal
45 property from the roadway of any state highway if the abandoned property, cargo or personal
46 property is creating a traffic hazard because of its position in relation to the state highway. In
47 the event the property creating a traffic hazard is a commercial motor vehicle, as defined in
48 section 302.700, RSMo, the department's authority under this subsection shall be limited to

49 authorizing a towing company to remove the commercial motor vehicle to a place of safety,
50 except that the owner of the commercial motor vehicle or the owner's designated representative
51 shall have a reasonable opportunity to contact a towing company of choice. The provisions of
52 this subsection shall not apply to vehicles transporting any material which has been designated
53 as hazardous under Section 5103(a) of Title 49, U.S.C.

54 3. Any law enforcement agency authorizing a tow pursuant to this section in which the
55 abandoned property is moved from the immediate vicinity shall complete a crime inquiry and
56 inspection report. Any state or federal government agency other than a law enforcement agency
57 authorizing a tow pursuant to this section in which the abandoned property is moved away from
58 the immediate vicinity in which it was abandoned shall report the towing to the state highway
59 patrol or water patrol within two hours of the tow along with a crime inquiry and inspection
60 report as required in this section. Any local government agency, other than a law enforcement
61 agency, authorizing a tow pursuant to this section where property is towed away from the
62 immediate vicinity shall report the tow to the local law enforcement agency within two hours
63 along with a crime inquiry and inspection report.

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

70 5. The owner of abandoned property removed as provided in this section or in section
71 304.157 shall be responsible for payment of all reasonable charges for towing and storage of
72 such abandoned property as provided in section 304.158.

73 6. Upon the towing of any abandoned property pursuant to this section or under authority
74 of a law enforcement officer or local government agency pursuant to section 304.157, the law
75 enforcement agency that authorized such towing or was properly notified by another government
76 agency of such towing shall promptly make an inquiry with the national crime information center
77 and any statewide Missouri law enforcement computer system to determine if the abandoned
78 property has been reported as stolen and shall enter the information pertaining to the towed
79 property into the statewide law enforcement computer system. If [the abandoned property is not
80 claimed within ten working days of the towing,] the tower [who] has online access to the
81 department of revenue's records, **the tower** shall make an inquiry to determine the abandoned
82 property owner and lienholder, if any, of record. In the event that the records of the department
83 of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall
84 comply with the requirements of subsection 3 of section 304.156. If the tower does not have

85 online access, the law enforcement agency shall submit a crime inquiry and inspection report to
86 the director of revenue. A towing company that does not have online access to the department's
87 records and that is in possession of abandoned property [after ten working days] shall, **upon**
88 **towing such vehicle**, report such fact to the law enforcement agency [with which the crime
89 inquiry and inspection report was filed]. The crime inquiry and inspection report shall be
90 designed by the director of revenue and shall include the following:

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

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

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

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

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

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

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

102 (8) The signature and printed name of the officer authorizing the tow; and

103 (9) The name of the towing company, the signature and printed name of the towing
104 operator, and an indicator disclosing whether the tower has online access to the department's
105 records;

106 (10) Any additional information the director of revenue deems appropriate.

107 7. One copy of the crime inquiry and inspection report shall remain with the agency
108 which authorized the tow. One copy shall be provided to and retained by the storage facility and
109 one copy shall be retained by the towing facility in an accessible format in the business records
110 for a period of three years from the date of the tow or removal.

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

115 9. Any person who removes abandoned property at the direction of a law enforcement
116 officer or an officer of a government agency where that agency's real property is concerned as
117 provided in this section shall have a lien for all reasonable charges for the towing and storage of
118 the abandoned property until possession of the abandoned property is voluntarily relinquished
119 to the owner of the abandoned property or to the holder of a valid security interest of record.
120 Any personal property within the abandoned property need not be released to the owner thereof

121 until the reasonable or agreed charges for such recovery, transportation or safekeeping have been
122 paid or satisfactory arrangements for payment have been made, except that any medication
123 prescribed by a physician shall be released to the owner thereof upon request. The company
124 holding or storing the abandoned property shall either release the personal property to the owner
125 of the abandoned property or allow the owner to inspect the property and provide an itemized
126 receipt for the contents. The company holding or storing the property shall be strictly liable for
127 the condition and safe return of the personal property. Such lien shall be enforced in the manner
128 provided under section 304.156.

129 10. Towing companies shall keep a record for three years on any abandoned property
130 towed and not reclaimed by the owner of the abandoned property. Such record shall contain
131 information regarding the authorization to tow, copies of all correspondence with the department
132 of revenue concerning the abandoned property, including copies of any online records of the
133 towing company accessed and information concerning the final disposition of the possession of
134 the abandoned property.

135 11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard
136 motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall
137 notify the local law enforcement agency where the repossession occurred within two hours of
138 the repossession and shall further provide the local law enforcement agency with any additional
139 information the agency deems appropriate. The local law enforcement agency shall make an
140 inquiry with the national crime information center and the Missouri statewide law enforcement
141 computer system and shall enter the repossessed vehicle into the statewide law enforcement
142 computer system.

143 12. Notwithstanding the provisions of section 301.227, RSMo, any towing company who
144 has complied with the notification provisions in section 304.156 including notice that any
145 property remaining unredeemed after thirty days may be sold as scrap property may then dispose
146 of such property as provided in this subsection. Such sale shall only occur if at least thirty days
147 has passed since the date of such notification, the abandoned property remains unredeemed with
148 no satisfactory arrangements made with the towing company for continued storage, and the
149 owner or holder of a security agreement has not requested a hearing as provided in section
150 304.156. The towing company may dispose of such abandoned property by selling the property
151 on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed
152 salvage dealer for destruction purposes only. The towing company shall forward a copy of the
153 bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of
154 revenue within two weeks of the date of such sale. The towing company shall keep a record of
155 each such vehicle sold for destruction for three years that shall be available for inspection by law
156 enforcement and authorized department of revenue officials. The record shall contain the year,

157 make, identification number of the property, date of sale, and name of the purchasing scrap metal
158 operator or licensed salvage dealer and copies of all notifications issued by the towing company
159 as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record
160 of the purchase of such property as provided in section 301.227, RSMo. Scrap metal operators
161 and licensed salvage dealers may obtain a junk certificate as provided in section 301.227, RSMo,
162 on vehicles purchased on a bill of sale pursuant to this section.

304.156. 1. Within five working days of receipt of the crime inquiry and inspection
2 report under section 304.155 or the abandoned property report under section 304.157, the
3 director of revenue shall search the records of the department of revenue, or initiate an inquiry
4 with another state, if the evidence presented indicated the abandoned property was registered or
5 titled in another state, to determine the name and address of the owner and lienholder, if any.
6 After ascertaining the name and address of the owner and lienholder, if any, the department shall,
7 within fifteen working days, notify the towing company. Any towing company which comes into
8 possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien
9 for recovering, towing or storing abandoned property shall give notice to the title owner and to
10 all persons claiming a lien thereon, as disclosed by the records of the department of revenue or
11 of a corresponding agency in any other state. The towing company shall notify the owner and
12 any lienholder within ten business days of the date of mailing indicated on the notice sent by the
13 department of revenue, by certified mail, return receipt requested. The notice shall contain the
14 following:

- 15 (1) The name, address and telephone number of the storage facility;
- 16 (2) The date, reason and place from which the abandoned property was removed;
- 17 (3) A statement that the amount of the accrued towing, storage and administrative costs
18 are the responsibility of the owner, and that storage and/or administrative costs will continue to
19 accrue as a legal liability of the owner until the abandoned property is redeemed;
- 20 (4) A statement that the storage firm claims a possessory lien for all such charges;
- 21 (5) A statement that the owner or holder of a valid security interest of record may retake
22 possession of the abandoned property at any time during business hours by proving ownership
23 or rights to a secured interest and paying all towing and storage charges;
- 24 (6) A statement that, should the owner consider that the towing or removal was improper
25 or not legally justified, the owner has a right to request a hearing as provided in this section to
26 contest the propriety of such towing or removal;
- 27 (7) A statement that if the abandoned property remains unclaimed for thirty days from
28 the date of mailing the notice, title to the abandoned property will be transferred to the person
29 or firm in possession of the abandoned property free of all prior liens; and

30 (8) A statement that any charges in excess of the value of the abandoned property at the
31 time of such transfer shall remain a liability of the owner.

32 2. A towing company may only assess [reasonable storage] charges **as prescribed by**
33 **section 304.144** for abandoned property towed without the consent of the owner. [Reasonable
34 storage charges shall not exceed the charges for vehicles which have been towed with the consent
35 of the owner on a negotiated basis.] Storage charges may be assessed only for the time in which
36 the towing company complies with the procedural requirements of sections **304.142, 304.143,**
37 **304.144, and sections** 304.155 to 304.158.

38 3. In the event that the records of the department of revenue fail to disclose the name of
39 the owner or any lienholder of record, the department shall notify the towing company which
40 shall attempt to locate documents or other evidence of ownership on or within the abandoned
41 property itself. The towing company must certify that a physical search of the abandoned
42 property disclosed that no ownership documents were found and a good faith effort has been
43 made. For purposes of this section, "good faith effort" means that the following checks have
44 been performed by the company to establish the prior state of registration and title:

45 (1) Check of the abandoned property for any type of license plates, license plate record,
46 temporary permit, inspection sticker, decal or other evidence which may indicate a state of
47 possible registration and title;

48 (2) Check the law enforcement report for a license plate number or registration number
49 if the abandoned property was towed at the request of a law enforcement agency;

50 (3) Check the tow ticket/report of the tow truck operator to see if a license plate was on
51 the abandoned property at the beginning of the tow, if a private tow; and

52 (4) If there is no address of the owner on the impound report, check the law enforcement
53 report to see if an out-of-state address is indicated on the driver license information.

54 4. If no ownership information is discovered, the director of revenue shall be notified in
55 writing and title obtained in accordance with subsection 7 of this section.

56 5. (1) The owner of the abandoned property removed pursuant to the provisions of
57 section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within
58 ten days after the receipt of notification from the towing company pursuant to subsection 1 of
59 this section may file a petition in the associate circuit court in the county where the abandoned
60 property is stored to determine if the abandoned property was wrongfully taken or withheld from
61 the owner. The petition shall name the towing company among the defendants. The petition
62 may also name the agency ordering the tow or the owner, lessee or agent of the real property
63 from which the abandoned property was removed. The director of revenue shall not be a party
64 to such petition but a copy of the petition shall be served on the director of revenue who shall not
65 issue title to such abandoned property pursuant to this section until the petition is finally decided.

66 (2) Upon filing of a petition in the associate circuit court, the owner or lienholder may
67 have the abandoned property released upon posting with the court a cash or surety bond or other
68 adequate security equal to the amount of the charges for towing and storage to ensure the
69 payment of such charges in the event he does not prevail. Upon the posting of the bond and the
70 payment of the applicable fees, the court shall issue an order notifying the towing company of
71 the posting of the bond and directing the towing company to release the abandoned property. At
72 the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt
73 to the towing company reciting any claims for loss or damage to the abandoned property or the
74 contents thereof.

75 (3) Upon determining the respective rights of the parties, the final order of the court shall
76 provide for immediate payment in full of recovery, towing, and storage fees by the abandoned
77 property owner or lienholder or the owner, lessee, or agent thereof of the real property from
78 which the abandoned property was removed.

79 6. A towing and storage lien shall be enforced as provided in subsection 7 of this section.

80 7. Thirty days after the notification form has been mailed to the abandoned property
81 owner and holder of a security agreement and the property is unredeemed and no satisfactory
82 arrangement has been made with the lienholder in possession for continued storage, and the
83 owner or holder of a security agreement has not requested a hearing as provided in subsection
84 5 of this section, the lienholder in possession may apply to the director of revenue for a
85 certificate. The application for title shall be accompanied by:

86 (1) An affidavit from the lienholder in possession that he has been in possession of the
87 abandoned property for at least thirty days and the owner of the abandoned property or holder
88 of a security agreement has not made arrangements for payment of towing and storage charges;

89 (2) An affidavit that the lienholder in possession has not been notified of any application
90 for hearing as provided in this section;

91 (3) A copy of the abandoned property report or crime inquiry and inspection report;

92 (4) A copy of the thirty-day notice given by certified mail to any owner and person
93 holding a valid security interest and a copy of the certified mail receipt indicating that the owner
94 and lienholder of record was sent a notice as required in this section; and

95 (5) A copy of the envelope or mailing container showing the address and postal markings
96 indicating that the notice was "not forwardable" or "address unknown".

97 8. If notice to the owner and holder of a security agreement has been returned marked
98 "not forwardable" or "addressee unknown", the lienholder in possession shall comply with
99 subsection 3 of this section.

100 9. Any municipality or county may adopt an ordinance regulating the removal and sale
101 of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158,

102 and, for a home rule city with more than four hundred thousand inhabitants and located in more
103 than one county, includes the following provisions:

104 (1) That the department of revenue records must be searched to determine the registered
105 owner or lienholder of the abandoned property;

106 (2) That if a registered owner or lienholder is disclosed in the records, that the owner and
107 lienholder or owner or lienholder are mailed a notice by the local governmental agency, by U.S.
108 mail, advising of the towing and impoundment;

109 (3) That if the vehicle is older than six years and more than fifty percent damaged by
110 collision, fire, or decay, and has a fair market value of less than two hundred dollars as
111 determined by using any nationally recognized appraisal book or method, it must be held no less
112 than ten days after the notice is sent pursuant to this section before being sold to a licensed
113 salvage or scrap business; provided however where a title is required under this chapter an
114 affidavit from a certified appraiser attesting that the value of the vehicle is less than two hundred
115 dollars;

116 (4) That all other vehicles must be held no less than thirty days after the notice is sent
117 pursuant to this subsection before they may be sold.

118 10. Any municipality or county which has physical possession of the abandoned property
119 and which sells abandoned property in accordance with a local ordinance may transfer ownership
120 by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the
121 official municipal or county seal. Such bill of sale shall contain the make and model of the
122 abandoned property, the complete abandoned property identification number and the odometer
123 reading of the abandoned property if available and shall be lawful proof of ownership for any
124 dealer registered under the provisions of section 301.218, RSMo, or section 301.560, RSMo, or
125 for any other person. Any dealer or other person purchasing such property from a municipality
126 or county shall apply within thirty days of purchase for a certificate. Anyone convicted of a
127 violation of this section shall be guilty of an infraction.

128 11. Any persons who have towed abandoned property prior to August 28, 1996, may,
129 until January 1, 2000, apply to the department of revenue for a certificate. The application shall
130 be accompanied by:

131 (1) A notarized affidavit explaining the circumstances by which the abandoned property
132 came into their possession, including the name of the owner or possessor of real property from
133 which the abandoned property was removed;

134 (2) The date of the removal;

135 (3) The current location of the abandoned property;

136 (4) An inspection of the abandoned property as prescribed by the director; and

(5) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest of record and a copy of the certified mail receipt.

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue one of the following:

(1) An original certificate of title if the vehicle owner has obtained a vehicle examination certificate as provided in section 301.190, RSMo, which indicates that the vehicle was not previously in a salvaged condition or rebuilt;

(2) An original certificate of title designated as prior salvage if the vehicle examination certificate as provided in section 301.190, RSMo, indicates the vehicle was previously in a salvage condition or rebuilt;

(3) A salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report;

(4) Notwithstanding the provisions of section 301.573, RSMo, to the contrary, if satisfied with the genuineness of the application and supporting documents, the director shall issue an original title to abandoned property previously issued a salvage title as provided in this section, if the vehicle examination certificate as provided in section 301.190, RSMo, does not indicate the abandoned property was previously in a salvage condition or rebuilt.

13. If abandoned property is insured and the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or lienholder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The owner of the abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers towing and storage charges, shall pay reasonable fees assessed by the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date that the insurer paid a claim for the total loss of the property or is notified as to the location of the abandoned property, whichever is the later event. Upon request, the insurer of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.

304.157. 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction

5 may authorize a towing company to remove such abandoned property from the property in the
6 following circumstances:

7 (1) The abandoned property is left unattended for more than forty-eight hours; or

8 (2) In the judgment of a law enforcement officer, the abandoned property constitutes a
9 safety hazard or unreasonably interferes with the use of the real property by the person in
10 possession.

11 2. A local government agency may also provide for the towing of motor vehicles from
12 real property under the authority of any local ordinance providing for the towing of vehicles
13 which are derelict, junk, scrapped, disassembled or otherwise harmful to the public health under
14 the terms of the ordinance. Any local government agency authorizing a tow under this
15 subsection shall report the tow to the local law enforcement agency within two hours with a
16 crime inquiry and inspection report pursuant to section 304.155.

17 3. Neither the law enforcement officer, local government agency nor anyone having
18 custody of abandoned property under his or her direction shall be liable for any damage to such
19 abandoned property occasioned by a removal authorized by this section other than damages
20 occasioned by negligence or by willful or wanton acts or omissions.

21 4. The owner of real property or lessee in lawful possession of the real property or the
22 property or security manager of the real property may authorize a towing company to remove
23 abandoned property or property parked in a restricted or assigned area without authorization by
24 a law enforcement officer only when the owner, lessee or property or security manager of the real
25 property is present. A property or security manager must be a full-time employee of a business
26 entity. An authorization to tow pursuant to this subsection may be made only under any of the
27 following circumstances:

28 (1) There is displayed, in plain view at all entrances to the property, a sign not less than
29 seventeen by twenty-two inches in size, with lettering not less than one inch in height,
30 prohibiting public parking and indicating that unauthorized abandoned property or property
31 parked in a restricted or assigned area will be removed at the owner's expense, disclosing the
32 maximum fee for all charges related to towing and storage, and containing the telephone number
33 of the local traffic law enforcement agency where information can be obtained or a
34 twenty-four-hour staffed emergency information telephone number by which the owner of the
35 abandoned property or property parked in a restricted or assigned area may call to receive
36 information regarding the location of such owner's property;

37 (2) The abandoned property is left unattended on owner-occupied residential property
38 with four residential units or less, and the owner, lessee or agent of the real property in lawful
39 possession has notified the appropriate law enforcement agency, and ten hours have elapsed
40 since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law enforcement agency, and ninety-six hours have elapsed since that notification.

5. Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the director of revenue and shall contain the following:

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

(2) A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;

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

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The printed name, address and phone number of the owner, lessee or property or security manager in possession of the real property;

(7) The towing company's name and address;

(8) The signature of the towing operator;

(9) The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;

(10) Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the law enforcement official receiving the report; and

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

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection 4 of this section shall, **upon towing such vehicle, enter the appropriate information on the statewide abandoned vehicle database** or deliver a copy of the abandoned property report to the local law enforcement agency having jurisdiction over the location from which the abandoned property was towed. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the law enforcement agency receiving the report

77 has the technological capability of receiving such copy and has registered the towing company
78 for such purpose. The registration requirements shall not apply to law enforcement agencies
79 located in counties of the third or fourth classification. The report shall be delivered within two
80 hours if the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of
81 this section, otherwise the report shall be delivered within twenty-four hours.

82 7. The law enforcement agency receiving such abandoned property report must record
83 the date on which the abandoned property report is filed with such agency and shall promptly
84 make an inquiry into the national crime information center and any statewide Missouri law
85 enforcement computer system to determine if the abandoned property has been reported as
86 stolen. The law enforcement agency shall enter the information pertaining to the towed property
87 into the statewide law enforcement computer system, and an officer shall sign the abandoned
88 property report and provide the towing company with a signed copy. The department of revenue
89 may design and sell to towing companies informational brochures outlining owner or lessee of
90 real property obligations pursuant to this section.

91 8. The law enforcement agency receiving notification that abandoned property has been
92 towed by a towing company shall search the records of the department of revenue and provide
93 the towing company with the latest owner and lienholder information on the abandoned property,
94 and if the tower has online access to the department of revenue's records, the tower shall comply
95 with the requirements of section 301.155, RSMo. If the abandoned property is not claimed
96 within ten working days, the towing company shall send a copy of the abandoned property report
97 signed by a law enforcement officer to the department of revenue.

98 9. If any owner or lessee of real property knowingly authorizes the removal of abandoned
99 property in violation of this section, then the owner or lessee shall be deemed guilty of a class
100 C misdemeanor.

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