

SECOND REGULAR SESSION

HOUSE BILL NO. 1940

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WINDHAM.

4077H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 304.155, RSMo, and to enact in lieu thereof one new section relating to motor vehicles abandoned by persons under arrest.

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Section A. Section 304.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.155, to read as follows: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, or immediately if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials 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;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for twenty-four hours, or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials 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;

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.

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 twenty-four 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;

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 takes the person into custody and where such person is
33 unable to arrange for the property's ~~timely~~ removal **within forty-eight hours of such person's**
34 **arrest**;

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

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

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

44 (9) Any abandoned property for which the person operating such property or vehicle
45 eludes arrest for an alleged offense for which the officer would have taken the offender into
46 custody.

47 2. The department of transportation or any law enforcement officer within the officer's
48 jurisdiction may immediately remove any abandoned, unattended, wrecked, burned or partially
49 dismantled property, spilled cargo or other personal property from the right-of-way of any
50 interstate highway, freeway, or state highway if the abandoned property, cargo or personal
51 property is creating a traffic hazard because of its position in relation to the interstate highway,
52 freeway, or state highway. In the event the property creating a traffic hazard is a commercial

53 motor vehicle, as defined in section 302.700, the department's authority under this subsection
54 shall be limited to authorizing a towing company to remove the commercial motor vehicle to a
55 place of safety, except that the owner of the commercial motor vehicle or the owner's designated
56 representative shall have a reasonable opportunity to contact a towing company of choice. The
57 provisions of this subsection shall not apply to vehicles transporting any material which has been
58 designated as hazardous under Section 5103(a) of Title 49, U.S.C.

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

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

75 5. The owner of abandoned property removed as provided in this section or in section
76 304.157 shall be responsible for payment of all reasonable charges for towing and storage of
77 such abandoned property as provided in section 304.158.

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

89 with the requirements of subsection 3 of section 304.156. If the tower does not have online
90 access, the law enforcement agency shall submit a crime inquiry and inspection report to the
91 director of revenue. A towing company that does not have online access to the department's
92 records and that is in possession of abandoned property after ten working days shall report such
93 fact to the law enforcement agency with which the crime inquiry and inspection report was filed.
94 The crime inquiry and inspection report shall be designed by the director of revenue and shall
95 include the following:

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

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

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

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

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

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

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

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

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

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

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

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

120 9. Any person who removes abandoned property at the direction of a law enforcement
121 officer or an officer of a government agency where that agency's real property is concerned as
122 provided in this section shall have a lien for all reasonable charges for the towing and storage of
123 the abandoned property until possession of the abandoned property is voluntarily relinquished
124 to the owner of the abandoned property or to the holder of a valid security interest of record.

125 Any personal property within the abandoned property need not be released to the owner thereof
126 until the reasonable or agreed charges for such recovery, transportation or safekeeping have been
127 paid or satisfactory arrangements for payment have been made, except that any medication
128 prescribed by a physician shall be released to the owner thereof upon request. The company
129 holding or storing the abandoned property shall either release the personal property to the owner
130 of the abandoned property or allow the owner to inspect the property and provide an itemized
131 receipt for the contents. The company holding or storing the property shall be strictly liable for
132 the condition and safe return of the personal property. Such lien shall be enforced in the manner
133 provided under section 304.156.

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

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

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

161 enforcement and authorized department of revenue officials. The record shall contain the year,
162 make, identification number of the property, date of sale, and name of the purchasing scrap metal
163 operator or licensed salvage dealer and copies of all notifications issued by the towing company
164 as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record
165 of the purchase of such property as provided in section 301.227. Scrap metal operators and
166 licensed salvage dealers may obtain a junk certificate as provided in section 301.227 on vehicles
167 purchased on a bill of sale pursuant to this section.

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