

FIRST REGULAR SESSION

HOUSE BILL NO. 543

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIFFITH.

1630H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 304.156, RSMo, and to enact in lieu thereof one new section relating to the towing of commercial vehicles.

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

Section A. Section 304.156, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.156, to read as follows:

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

- (1) The name, address and telephone number of the storage facility;
- (2) The date, reason and place from which the abandoned property was removed;

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 (3) A statement that the amount of the accrued towing, storage and administrative
18 costs are the responsibility of the owner, and that storage and/or administrative costs will
19 continue to 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
22 retake possession of the abandoned property at any time during business hours by proving
23 ownership 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
25 improper or not legally justified, the owner has a right to request a hearing as provided in this
26 section to 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
31 the time of such transfer shall remain a liability of the owner.

32 2. A towing company may only assess reasonable storage charges for abandoned
33 property towed without the consent of the owner. Reasonable storage charges shall not
34 exceed the charges for vehicles which have been towed with the consent of the owner on a
35 negotiated basis. Storage charges may be assessed only for the time in which the towing
36 company complies with the procedural requirements of sections 304.155 to 304.158.

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

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

48 (2) Check the law enforcement report for a license plate number or registration
49 number 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
51 on 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
53 enforcement report to see if an out-of-state address is indicated on the driver license
54 information.

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

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

68 (2) Upon filing of a petition in the associate circuit court, the owner or lienholder may
69 have the abandoned property released upon posting with the court a cash or surety bond or
70 other adequate security equal to the amount of the charges for towing and storage to ensure
71 the payment of such charges in the event he does not prevail. **Beginning October 1, 2024,**
72 **the security required for release of a commercial vehicle under this subdivision shall be**
73 **twenty percent of the charges for towing and storage.** Upon the posting of the bond and
74 the payment of the applicable fees, the court shall issue an order notifying the towing
75 company of the posting of the bond and directing the towing company to release the
76 abandoned property. At the time of such release, after reasonable inspection, the owner or
77 lienholder shall give a receipt to the towing company reciting any claims for loss or damage
78 to the abandoned property or the contents thereof.

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

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

85 7. Thirty days after the notification form has been mailed to the abandoned property
86 owner and holder of a security agreement and the property is unredeemed and no satisfactory
87 arrangement has been made with the lienholder in possession for continued storage, and the
88 owner or holder of a security agreement has not requested a hearing as provided in subsection

89 5 of this section, the lienholder in possession may apply to the director of revenue for a
90 certificate. The application for title shall be accompanied by:

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

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

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

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

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

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

106 9. Any municipality or county may adopt an ordinance regulating the removal and
107 sale of abandoned property provided such ordinance is consistent with sections 304.155 to
108 304.158, and, for a home rule city with more than four hundred thousand inhabitants and
109 located in more than one county, includes the following provisions:

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

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

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

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

124 10. Any municipality or county which has physical possession of the abandoned
125 property and which sells abandoned property in accordance with a local ordinance may

126 transfer ownership by means of a bill of sale signed by the municipal or county clerk or
127 deputy and sealed with the official municipal or county seal. Such bill of sale shall contain
128 the make and model of the abandoned property, the complete abandoned property
129 identification number and the odometer reading of the abandoned property if available and
130 shall be lawful proof of ownership for any dealer registered under the provisions of section
131 301.218, or section 301.560, or for any other person. Any dealer or other person purchasing
132 such property from a municipality or county shall apply within thirty days of purchase for a
133 certificate. Anyone convicted of a violation of this section shall be guilty of an infraction.

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

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

140 (2) The date of the removal;

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

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

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

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

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

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

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

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

161 13. If abandoned property is insured and the insurer of property regards the property
162 as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer

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

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