

FIRST REGULAR SESSION

HOUSE BILL NO. 1248

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SIMMONS.

2035H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 304.155, RSMo, and to enact in lieu thereof one new section relating to abandoned property.

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Section A. Section 304.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.155, to read as follows: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
18 area, 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
21 motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only
22 be removed under this subdivision to a place of safety until the owner or owner's
23 representative has 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
26 obstruct the normal movement of traffic where there is no reasonable indication that the
27 person in control 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
30 consent of the owner;

31 (5) Any abandoned property for which the person operating such property is arrested
32 for an alleged offense for which the officer takes the person into custody and where such
33 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
37 ordinance where signs have been posted giving notice of the law or where the violation causes
38 a safety hazard;

39 (8) Any abandoned property illegally left standing on the waters of this state as
40 defined in section 306.010 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; or

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

46 2. The department of transportation or any law enforcement officer within the
47 officer's jurisdiction may immediately remove any abandoned, unattended, wrecked, burned
48 or partially dismantled property, spilled cargo or other personal property from the right-of-
49 way of any interstate highway, freeway, or state highway if the abandoned property, cargo or
50 personal property is creating a traffic hazard because of its position in relation to the interstate
51 highway, freeway, or state highway. In the event the property creating a traffic hazard is a
52 commercial motor vehicle, as defined in section 302.700, the department's authority under
53 this subsection shall be limited to authorizing a towing company to remove the commercial

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

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

69 4. Neither the law enforcement officer, government agency official nor anyone
70 having custody of abandoned property under his direction shall be liable for any damage to
71 such abandoned property occasioned by a removal authorized by this section or by ordinance
72 of a 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
79 authority of a law enforcement officer or local government agency pursuant to section
80 304.157, the law enforcement agency that authorized such towing or was properly notified by
81 another government agency of such towing shall promptly make an inquiry with the national
82 crime information center and any statewide Missouri law enforcement computer system to
83 determine if the abandoned property has been reported as stolen and shall enter the
84 information pertaining to the towed property into the statewide law enforcement computer
85 system. If the abandoned property is not claimed within ten working days of the towing, the
86 tower who has online access to the department of revenue's records shall make an inquiry to
87 determine the abandoned property owner and lienholder, if any, of record. In the event that
88 the records of the department of revenue fail to disclose the name of the owner or any
89 lienholder of record, the tower shall comply with the requirements of subsection 3 of section
90 304.156. If the tower does not have online access, the law enforcement agency shall submit a

91 crime inquiry and inspection report to the director of revenue. A towing company that does
92 not have online access to the department's records and that is in possession of abandoned
93 property after ten working days shall report such fact to the law enforcement agency with
94 which the crime inquiry and inspection report was filed. The crime inquiry and inspection
95 report shall be designed by the director of revenue and shall 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
99 tow;

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

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

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

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

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

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

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

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

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

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

121 9. Any person who removes abandoned property at the direction of a law enforcement
122 officer or an officer of a government agency where that agency's real property is concerned as
123 provided in this section shall have a lien for all reasonable charges for the towing and storage
124 of the abandoned property until possession of the abandoned property is voluntarily
125 relinquished to the owner of the abandoned property or to the holder of a valid security
126 interest of record. **Such lien shall be enforced in the manner provided under section**
127 **304.156.**

128 **10.** Any personal property within ~~[the]~~ abandoned property ~~[need not]~~ **removed as**
129 **provided in this section or in section 304.157 shall** be released to the owner thereof ~~[until~~
130 ~~the reasonable or agreed charges for such recovery, transportation or safekeeping have been~~
131 ~~paid or satisfactory arrangements for payment have been made, except that]~~ **including, but**
132 **not limited to,** any medication prescribed by a physician ~~[shall be released to the owner~~
133 ~~thereof upon request]~~. The company holding or storing the abandoned property shall ~~[either]~~
134 release the personal property to the owner of the abandoned property ~~[or allow the owner to~~
135 ~~inspect the property and]~~ **when requested. However, the company holding or storing the**
136 **abandoned property may require that the owner of the abandoned property complete**
137 **documentation evidencing the release of the personal property to such owner and shall**
138 provide an itemized receipt for the contents. The company holding or storing the property
139 shall be strictly liable for the condition and safe return of the personal property~~[-Such lien~~
140 ~~shall be enforced in the manner provided under section 304.156]~~ **while it remains in their**
141 **possession or control.**

142 ~~[10.]~~ **11.** Towing companies shall keep a record for three years on any abandoned
143 property towed and not reclaimed by the owner of the abandoned property. Such record shall
144 contain information regarding the authorization to tow, copies of all correspondence with the
145 department of revenue concerning the abandoned property, including copies of any online
146 records of the towing company accessed and information concerning the final disposition of
147 the possession of the abandoned property.

148 ~~[11.]~~ **12.** If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle,
149 outboard motor or vessel without the knowledge or cooperation of the owner, then the
150 reposessor shall notify the local law enforcement agency where the repossession occurred
151 within two hours of the repossession and shall further provide the local law enforcement
152 agency with any additional information the agency deems appropriate. The local law
153 enforcement agency shall make an inquiry with the national crime information center and the
154 Missouri statewide law enforcement computer system and shall enter the repossessed vehicle
155 into the statewide law enforcement computer system.

156 ~~[12.]~~ **13.** Notwithstanding the provisions of section 301.227, any towing company
157 who has complied with the notification provisions in section 304.156 including notice that
158 any property remaining unredeemed after thirty days may be sold as scrap property may then
159 dispose of such property as provided in this subsection. Such sale shall only occur if at least
160 thirty days has passed since the date of such notification, the abandoned property remains
161 unredeemed with no satisfactory arrangements made with the towing company for continued
162 storage, and the owner or holder of a security agreement has not requested a hearing as
163 provided in section 304.156. The towing company may dispose of such abandoned property
164 by selling the property on a bill of sale as prescribed by the director of revenue to a scrap

165 metal operator or licensed salvage dealer for destruction purposes only. The towing company
166 shall forward a copy of the bill of sale provided by the scrap metal operator or licensed
167 salvage dealer to the director of revenue within two weeks of the date of such sale. The
168 towing company shall keep a record of each such vehicle sold for destruction for three years
169 that shall be available for inspection by law enforcement and authorized department of
170 revenue officials. The record shall contain the year, make, identification number of the
171 property, date of sale, and name of the purchasing scrap metal operator or licensed salvage
172 dealer and copies of all notifications issued by the towing company as required in this chapter.
173 Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such
174 property as provided in section 301.227. Scrap metal operators and licensed salvage dealers
175 may obtain a junk certificate as provided in section 301.227 on vehicles purchased on a bill of
176 sale pursuant to this section.

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