

SECOND REGULAR SESSION

HOUSE BILL NO. 3447

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VERNETTI.

7423H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 303.190 and 304.156, RSMo, and to enact in lieu thereof two new sections relating to towing, with a penalty provision.

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

Section A. Sections 303.190 and 304.156, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 303.190 and 304.156, to read as follows:

303.190. 1. A "motor vehicle liability policy" as said term is used in this chapter shall
2 mean an owner's or an operator's policy of liability insurance, certified as provided in section
3 303.170 or section 303.180 as proof of financial responsibility, and issued, except as
4 otherwise provided in section 303.180 by an insurance carrier duly authorized to transact
5 business in this state, to or for the benefit of the person named therein as insured.

6 2. Such owner's policy of liability insurance:

7 (1) Shall designate by explicit description or by appropriate reference all motor
8 vehicles with respect to which coverage is thereby to be granted;

9 (2) Shall insure the person named therein and any other person, as insured, using any
10 such motor vehicle or motor vehicles with the express or implied permission of such named
11 insured, against loss from the liability imposed by law for damages arising out of the
12 ownership, maintenance or use of such motor vehicle or motor vehicles within the United
13 States of America or the Dominion of Canada, subject to limits, exclusive of interest and
14 costs, with respect to each such motor vehicle, as follows: twenty-five thousand dollars
15 because of bodily injury to or death of one person in any one accident and, subject to said
16 limit for one person, fifty thousand dollars because of bodily injury to or death of two or more

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 persons in any one accident, and twenty-five thousand dollars because of injury to or
18 destruction of property of others in any one accident; and

19 (3) May exclude coverage against loss from liability imposed by law for damages
20 arising out of the use of such motor vehicles by a member of the named insured's household
21 who is a specifically excluded driver in the policy.

22 3. Such operator's policy of liability insurance shall insure the person named as
23 insured therein against loss from the liability imposed upon him or her by law for damages
24 arising out of the use by him or her of any motor vehicle not owned by him or her, within the
25 said territorial limits and subject to the same limits of liability as are set forth above with
26 respect to any owner's policy of liability insurance.

27 4. Such motor vehicle liability policy shall state the name and address of the named
28 insured, the coverage afforded by the policy, the premium charged therefor, the policy period
29 and the limits of liability, and shall contain an agreement or be endorsed that insurance is
30 provided thereunder in accordance with the coverage defined in this chapter as respects
31 bodily injury and death or property damage, or both, and is subject to all the provisions of this
32 chapter.

33 5. Such motor vehicle liability policy need not insure any liability pursuant to any
34 workers' compensation law nor any liability on account of bodily injury to or death of an
35 employee of the insured while engaged in the employment, other than domestic, of the
36 insured, or while engaged in the operation, maintenance or repair of any such motor vehicle
37 nor any liability for damage to property owned by, rented to, in charge of or transported by the
38 insured.

39 6. Every motor vehicle liability policy shall be subject to the following provisions
40 which need not be contained therein:

41 (1) The liability of the insurance carrier with respect to the insurance required by this
42 chapter shall become absolute whenever injury or damage covered by said motor vehicle
43 liability policy occurs; said policy may not be cancelled or annulled as to such liability by any
44 agreement between the insurance carrier and the insured after the occurrence of the injury or
45 damage; no statement made by the insured or on his or her behalf and no violation of said
46 policy shall defeat or void said policy;

47 (2) The satisfaction by the insured of a judgment for such injury or damage shall not
48 be a condition precedent to the right or duty of the insurance carrier to make payment on
49 account of such injury or damage;

50 (3) The insurance carrier shall have the right to settle any claim covered by the policy,
51 and if such settlement is made in good faith, the amount thereof shall be deductible from the
52 limits of liability specified in subdivision (2) of subsection 2 of this section;

53 (4) The policy, the written application thereof, if any, and any rider or endorsement
54 which does not conflict with the provisions of this chapter shall constitute the entire contract
55 between the parties.

56 7. Any policy which grants the coverage required for a motor vehicle liability policy
57 may also grant any lawful coverage in excess of or in addition to the coverage specified for a
58 motor vehicle liability policy and such excess or additional coverage shall not be subject to
59 the provisions of this chapter. With respect to a policy which grants such excess or additional
60 coverage the term "motor vehicle liability policy" shall apply only to that part of the coverage
61 which is required by this section.

62 8. Any motor vehicle liability policy may provide that the insured shall reimburse the
63 insurance carrier for any payment the insurance carrier would not have been obligated to
64 make under the terms of the policy except for the provisions of this chapter.

65 9. Any motor vehicle liability policy may provide for the prorating of the insurance
66 thereunder with other valid and collectible insurance.

67 10. The requirements of a motor vehicle liability policy may be fulfilled by the
68 policies of one or more insurance carriers which policies together meet such requirements.

69 11. Any binder issued pending the issuance of a motor vehicle liability policy shall be
70 deemed to fulfill the requirement for such a policy.

71 **12. Any motor vehicle liability policy for a commercial motor vehicle, as defined**
72 **in section 301.010, with a gross vehicle rating of more than twenty-six thousand pounds**
73 **shall provide coverage for towing, winching, vehicle recovery, and emergency roadside**
74 **labor in an amount of at least one hundred thousand dollars. Proof of such insurance**
75 **shall be maintained in the vehicle and submitted to the department upon request.**

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
5 or titled in another state, to determine the name and address of the owner and lienholder, if
6 any. After ascertaining the name and address of the owner and lienholder, if any, the
7 department shall, within fifteen working days, notify the towing company. Any towing
8 company which comes into possession of abandoned property pursuant to section 304.155 or
9 304.157 and who claims a lien for recovering, towing or storing abandoned property shall
10 give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the
11 records of the department of revenue or of a corresponding agency in any other state. The
12 towing company shall notify the owner and any lienholder within ten business days of the
13 date of mailing indicated on the notice sent by the department of revenue, by certified mail,
14 return receipt requested. The notice shall contain the 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
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. Upon the posting of the bond
72 and the payment of the applicable fees, the court shall issue an order notifying the towing
73 company of the posting of the bond and directing the towing company to release the
74 abandoned property. At the time of such release, after reasonable inspection, the owner or
75 lienholder shall give a receipt to the towing company reciting any claims for loss or damage
76 to the abandoned property or the contents thereof.

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

81 **(4) The provisions of this subsection shall apply only to abandoned property**
82 **removed pursuant to the provisions of section 304.155 or 304.157 with costs charged by**
83 **the towing company that do not exceed fifteen thousand dollars.**

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

86 7. Thirty days after the notification form has been mailed to the abandoned property
87 owner and holder of a security agreement and the property is unredeemed and no satisfactory
88 arrangement has been made with the lienholder in possession for continued storage, and the

89 owner or holder of a security agreement has not requested a hearing as provided in subsection
90 5 of this section, the lienholder in possession may apply to the director of revenue for a
91 certificate. The application for title shall be accompanied by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

141 (2) The date of the removal;

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

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

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

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

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

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

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

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

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

177 **14. (1) Notwithstanding the provisions of subsection 5 of this section to the**
178 **contrary, for any property removed pursuant to the provisions of section 304.155 or**
179 **304.157 with a gross vehicle rating of more than twenty-six thousand pounds and with**
180 **costs charged by the towing company exceeding fifteen thousand dollars, the owner of**
181 **such property may, within seven days after the receipt of notification from the towing**
182 **company pursuant to subsection 1 of this section, file a petition in a court of competent**
183 **jurisdiction in the county where the abandoned property is stored if there is a dispute**
184 **arising over costs charged by the towing company. The petition shall name the towing**
185 **company among the defendants.**

186 **(2) Upon filing the petition, the property owner shall pay to the towing company**
187 **fifty percent of all costs charged by the towing company as of the date of filing, and the**
188 **remaining fifty percent of all costs shall be deposited with the court. If the court finds in**
189 **favor of the towing company, the property owner shall pay the remainder of the costs to**
190 **the towing company along with interest accrued from the date of filing at the rate**
191 **determined by section 32.065.**

192 **(3) Within five business days of depositing fifty percent of the costs charged by**
193 **the towing company with the court, the property owner shall remove the truck, trailer,**
194 **cargo, and any debris associated with such items from the premises of the towing**
195 **company. Failure to remove such property shall result in the property owner forfeiting**
196 **the moneys deposited with the court to the towing company.**