

SECOND REGULAR SESSION

HOUSE BILL NO. 1262

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHROER.

4349H.011

D. ADAM CRUMBLISS, 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Section A. Section 304.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.155, to read as follows: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 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;

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;

39 (8) Any abandoned property illegally left standing on the waters of this state as defined
40 in section 306.010 where the abandoned property is obstructing the normal movement of traffic,
41 or where the abandoned property has been unattended for more than ten hours or is floating loose
42 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 officer's
47 jurisdiction may immediately remove any abandoned, unattended, wrecked, burned or partially
48 dismantled property, spilled cargo or other personal property from the right-of-way of any
49 interstate highway, freeway, or state highway if the abandoned property, cargo or personal
50 property is creating a traffic hazard because of its position in relation to the interstate highway,
51 freeway, or state highway. In the event the property creating a traffic hazard is a commercial
52 motor vehicle, as defined in section 302.700, the department's authority under this subsection

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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