

SECOND REGULAR SESSION

# HOUSE BILL NO. 1780

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WINDHAM.

3362H.011

DANA RADEMAN MILLER, Chief Clerk

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### 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.

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*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Section A. Section 304.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.155, to read as follows: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 **within forty-eight hours of**  
34 **such person's 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  
38 ordinance where signs have been posted giving notice of the law or where the violation causes  
39 a safety hazard;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

128 to the owner thereof until the reasonable or agreed charges for such recovery, transportation  
129 or safekeeping have been paid or satisfactory arrangements for payment have been made,  
130 except that any medication prescribed by a physician shall be released to the owner thereof  
131 upon request. The company holding or storing the abandoned property shall either release the  
132 personal property to the owner of the abandoned property or allow the owner to inspect the  
133 property and provide an itemized receipt for the contents. The company holding or storing  
134 the property shall be strictly liable for the condition and safe return of the personal property.  
135 Such lien shall be enforced in the manner provided under section 304.156.

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

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

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

165 property, date of sale, and name of the purchasing scrap metal operator or licensed salvage  
166 dealer and copies of all notifications issued by the towing company as required in this chapter.  
167 Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such  
168 property as provided in section 301.227. Scrap metal operators and licensed salvage dealers  
169 may obtain a junk certificate as provided in section 301.227 on vehicles purchased on a bill of  
170 sale pursuant to this section.

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