

FIRST REGULAR SESSION

# HOUSE BILL NO. 39

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE HIGDON.

0045H.011

D. ADAM CRUMBLISS, 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 towed vehicles.

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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Section A. Section 304.155, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.155, to read as follows: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 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 **or involved in an incident in which**  
59 **a tow is conducted** pursuant to this section in which the abandoned property is moved from the  
60 immediate vicinity shall complete a crime inquiry and inspection report **any time a tow is**  
61 **conducted, regardless of whether a tow is initiated by a law enforcement officer or**  
62 **requested by another party.** Any state or federal government agency other than a law  
63 enforcement agency authorizing a tow pursuant to this section in which the abandoned property  
64 is moved away from the immediate vicinity in which it was abandoned shall report the towing  
65 to the 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 law  
67 enforcement agency, authorizing a tow pursuant to this section where property is towed away  
68 from the immediate vicinity shall report the tow to the local law enforcement agency within two  
69 hours along with a crime inquiry and inspection report.

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

89 revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply  
90 with the requirements of subsection 3 of section 304.156. If the tower does not have online  
91 access, the law enforcement agency shall submit a crime inquiry and inspection report to the  
92 director of revenue. A towing company that does not have online access to the department's  
93 records and that is in possession of abandoned property after ten working days shall report such  
94 fact to the law enforcement agency with which the crime inquiry and inspection report was filed.  
95 The crime inquiry and inspection report shall be designed by the director of revenue and shall  
96 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 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 and  
106 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 and  
115 one copy shall be retained by the towing facility in an accessible format in the business records  
116 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 of  
124 the abandoned property until possession of the abandoned property is voluntarily relinquished

125 to the owner of the abandoned property or to the holder of a valid security interest of record.  
126 Any personal property within the abandoned property need not be released to the owner thereof  
127 until the reasonable or agreed charges for such recovery, transportation or safekeeping have been  
128 paid or satisfactory arrangements for payment have been made, except that any medication  
129 prescribed by a physician shall be released to the owner thereof upon request. The company  
130 holding or storing the abandoned property shall either release the personal property to the owner  
131 of the abandoned property or allow the owner to inspect the property and provide an itemized  
132 receipt for the contents. The company holding or storing the property shall be strictly liable for  
133 the condition and safe return of the personal property. Such lien shall be enforced in the manner  
134 provided under section 304.156.

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

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

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

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

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