

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 88
95TH GENERAL ASSEMBLY

Reported from the Committee on Transportation, February 19, 2009, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 88, adopted February 26, 2009.

Taken up for Perfection February 26, 2009. Bill declared Perfected and Ordered Printed.

0552S.02P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 304.155, RSMo, and to enact in lieu thereof one new section relating to state highway system incident management.

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Section A. Section 304.155, RSMo, is repealed and one new section
2 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,
2 or an officer of a government agency where that agency's real property is
3 concerned, may authorize a towing company to remove to a place of safety:

4 (1) Any abandoned property on the right-of-way of[

5 (a) Any interstate highway or freeway in an urbanized area,] **the state**
6 **highway system**, left unattended for ten hours, or immediately if a law
7 enforcement officer determines that the abandoned property is a serious hazard
8 to other motorists, provided that commercial motor vehicles not hauling materials
9 designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this
10 subdivision to a place of safety until the owner or owner's representative has had
11 a reasonable opportunity to contact a towing company of choice;

12 [(b) Any interstate highway or freeway outside of an urbanized area, left
13 unattended for forty-eight hours, or after four hours if a law enforcement officer
14 determines that the abandoned property is a serious hazard to other motorists,
15 provided that commercial motor vehicles not hauling materials designated as
16 hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision
17 to a place of safety until the owner or owner's representative has had a

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 reasonable opportunity to contact a towing company of choice;

19 (c) Any state highway other than an interstate highway or freeway in an
20 urbanized area, left unattended for more than ten hours; or

21 (d) Any state highway other than an interstate highway or freeway
22 outside of an urbanized area, left unattended for more than forty-eight hours;
23 provided that commercial motor vehicles not hauling waste designated as
24 hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision
25 to a place of safety until the owner or owner's representative has had a
26 reasonable opportunity to contact a towing company of choice;]

27 (2) Any unattended abandoned property illegally left standing upon any
28 highway or bridge if the abandoned property is left in a position or under such
29 circumstances as to obstruct the normal movement of traffic where there is no
30 reasonable indication that the person in control of the property is arranging for
31 its immediate control or removal;

32 (3) Any abandoned property which has been abandoned under section
33 577.080, RSMo;

34 (4) Any abandoned property which has been reported as stolen or taken
35 without consent of the owner;

36 (5) Any abandoned property for which the person operating such property
37 is arrested for an alleged offense for which the officer [is required to take] **takes**
38 the person into custody and where such person is unable to arrange for the
39 property's timely removal;

40 (6) Any abandoned property which due to any other state law or local
41 ordinance is subject to towing because of the owner's outstanding traffic or
42 parking violations;

43 (7) Any abandoned property left unattended in violation of a state law or
44 local ordinance where signs have been posted giving notice of the law or where
45 the violation causes a safety hazard; [or]

46 (8) Any abandoned property illegally left standing on the waters of this
47 state as defined in section 306.010, RSMo, where the abandoned property is
48 obstructing the normal movement of traffic, or where the abandoned property has
49 been unattended for more than ten hours or is floating loose on the water; **or**

50 **(9) Any abandoned property for which the person operating such**
51 **property or vehicle eludes arrest for an alleged offense for which the**
52 **officer would have taken the offender into custody.**

53 2. The [state transportation] department **of transportation or any law**

54 **enforcement officer within the officer's jurisdiction** may immediately
55 remove any abandoned, unattended, wrecked, burned or partially dismantled
56 property, spilled cargo or other personal property from the [roadway] **right of**
57 **way** of any **interstate highway, freeway, or** state highway if the abandoned
58 property, cargo or personal property is creating a traffic hazard because of its
59 position in relation to the **interstate highway, freeway, or** state highway. In
60 the event the property creating a traffic hazard is a commercial motor vehicle, as
61 defined in section 302.700, RSMo, the department's authority under this
62 subsection shall be limited to authorizing a towing company to remove the
63 commercial motor vehicle to a place of safety, except that the owner of the
64 commercial motor vehicle or the owner's designated representative shall have a
65 reasonable opportunity to contact a towing company of choice. The provisions of
66 this subsection shall not apply to vehicles transporting any material which has
67 been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

68 3. Any law enforcement agency authorizing a tow pursuant to this section
69 in which the abandoned property is moved from the immediate vicinity shall
70 complete a crime inquiry and inspection report. Any state or federal government
71 agency other than a law enforcement agency authorizing a tow pursuant to this
72 section in which the abandoned property is moved away from the immediate
73 vicinity in which it was abandoned shall report the towing to the state highway
74 patrol or water patrol within two hours of the tow along with a crime inquiry and
75 inspection report as required in this section. Any local government agency, other
76 than a law enforcement agency, authorizing a tow pursuant to this section where
77 property is towed away from the immediate vicinity shall report the tow to the
78 local law enforcement agency within two hours along with a crime inquiry and
79 inspection report.

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

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

89 6. Upon the towing of any abandoned property pursuant to this section or

90 under authority of a law enforcement officer or local government agency pursuant
91 to section 304.157, the law enforcement agency that authorized such towing or
92 was properly notified by another government agency of such towing shall
93 promptly make an inquiry with the national crime information center and any
94 statewide Missouri law enforcement computer system to determine if the
95 abandoned property has been reported as stolen and shall enter the information
96 pertaining to the towed property into the statewide law enforcement computer
97 system. If the abandoned property is not claimed within ten working days of the
98 towing, the tower who has online access to the department of revenue's records
99 shall make an inquiry to determine the abandoned property owner and lienholder,
100 if any, of record. In the event that the records of the department of revenue fail
101 to disclose the name of the owner or any lienholder of record, the tower shall
102 comply with the requirements of subsection 3 of section 304.156. If the tower
103 does not have online access, the law enforcement agency shall submit a crime
104 inquiry and inspection report to the director of revenue. A towing company that
105 does not have online access to the department's records and that is in possession
106 of abandoned property after ten working days shall report such fact to the law
107 enforcement agency with which the crime inquiry and inspection report was
108 filed. The crime inquiry and inspection report shall be designed by the director
109 of revenue and shall include the following:

- 110 (1) The year, model, make and property identification number of the
111 property and the owner and any lienholders, if known;
 - 112 (2) A description of any damage to the property noted by the officer
113 authorizing the tow;
 - 114 (3) The license plate or registration number and the state of issuance, if
115 available;
 - 116 (4) The storage location of the towed property;
 - 117 (5) The name, telephone number and address of the towing company;
 - 118 (6) The date, place and reason for the towing of the abandoned property;
 - 119 (7) The date of the inquiry of the national crime information center, any
120 statewide Missouri law enforcement computer system and any other similar
121 system which has titling and registration information to determine if the
122 abandoned property had been stolen. This information shall be entered only by
123 the law enforcement agency making the inquiry;
 - 124 (8) The signature and printed name of the officer authorizing the tow;
- 125 [and]

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

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

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

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

140 9. Any person who removes abandoned property at the direction of a law
141 enforcement officer or an officer of a government agency where that agency's real
142 property is concerned as provided in this section shall have a lien for all
143 reasonable charges for the towing and storage of the abandoned property until
144 possession of the abandoned property is voluntarily relinquished to the owner of
145 the abandoned property or to the holder of a valid security interest of
146 record. Any personal property within the abandoned property need not be
147 released to the owner thereof until the reasonable or agreed charges for such
148 recovery, transportation or safekeeping have been paid or satisfactory
149 arrangements for payment have been made, except that any medication
150 prescribed by a physician shall be released to the owner thereof upon
151 request. The company holding or storing the abandoned property shall either
152 release the personal property to the owner of the abandoned property or allow the
153 owner to inspect the property and provide an itemized receipt for the
154 contents. The company holding or storing the property shall be strictly liable for
155 the condition and safe return of the personal property. Such lien shall be
156 enforced in the manner provided under section 304.156.

157 10. Towing companies shall keep a record for three years on any
158 abandoned property towed and not reclaimed by the owner of the abandoned
159 property. Such record shall contain information regarding the authorization to
160 tow, copies of all correspondence with the department of revenue concerning the
161 abandoned property, including copies of any online records of the towing company

162 accessed and information concerning the final disposition of the possession of the
163 abandoned property.

164 11. If a lienholder repossesses any motor vehicle, trailer, all-terrain
165 vehicle, outboard motor or vessel without the knowledge or cooperation of the
166 owner, then the reposessor shall notify the local law enforcement agency where
167 the repossession occurred within two hours of the repossession and shall further
168 provide the local law enforcement agency with any additional information the
169 agency deems appropriate. The local law enforcement agency shall make an
170 inquiry with the national crime information center and the Missouri statewide
171 law enforcement computer system and shall enter the repossessed vehicle into the
172 statewide law enforcement computer system.

173 12. Notwithstanding the provisions of section 301.227, RSMo, any towing
174 company who has complied with the notification provisions in section 304.156
175 including notice that any property remaining unredeemed after thirty days may
176 be sold as scrap property may then dispose of such property as provided in this
177 subsection. Such sale shall only occur if at least thirty days has passed since the
178 date of such notification, the abandoned property remains unredeemed with no
179 satisfactory arrangements made with the towing company for continued storage,
180 and the owner or holder of a security agreement has not requested a hearing as
181 provided in section 304.156. The towing company may dispose of such abandoned
182 property by selling the property on a bill of sale as prescribed by the director of
183 revenue to a scrap metal operator or licensed salvage dealer for destruction
184 purposes only. The towing company shall forward a copy of the bill of sale
185 provided by the scrap metal operator or licensed salvage dealer to the director of
186 revenue within two weeks of the date of such sale. The towing company shall
187 keep a record of each such vehicle sold for destruction for three years that shall
188 be available for inspection by law enforcement and authorized department of
189 revenue officials. The record shall contain the year, make, identification number
190 of the property, date of sale, and name of the purchasing scrap metal operator or
191 licensed salvage dealer and copies of all notifications issued by the towing
192 company as required in this chapter. Scrap metal operators or licensed salvage
193 dealers shall keep a record of the purchase of such property as provided in section
194 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain
195 a junk certificate as provided in section 301.227, RSMo, on vehicles purchased on
196 a bill of sale pursuant to this section.

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