

FIRST REGULAR SESSION

SENATE BILL NO. 323

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

Read 1st time January 30, 2019, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1704S.011

AN ACT

To repeal section 304.153, RSMo, and to enact in lieu thereof one new section relating to the towing of commercial vehicles, with existing penalty provisions.

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

Section A. Section 304.153, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 304.153, to read as follows:

304.153. 1. As used in this section, the following terms shall mean:

2 (1) "Law enforcement officer", any public servant, other than a patrol
3 officer, who is defined as a law enforcement officer under section 556.061;

4 (2) "Motor club", an organization which motor vehicle drivers and owners
5 may join that provide certain benefits relating to driving a motor vehicle;

6 (3) "Patrol officer", a Missouri state highway patrol officer;

7 (4) "Tow list", a list of approved towing companies compiled, maintained,
8 and utilized by the Missouri state highway patrol or its designee;

9 (5) "Tow management company", any sole proprietorship, partnership,
10 corporation, fiduciary, association, or other business entity that manages towing
11 logistics for government agencies or motor clubs;

12 (6) "Tow truck", a rollback or car carrier, wrecker, or tow truck as defined
13 under section 301.010;

14 (7) "Towing", moving or removing, or the preparation therefor, of a vehicle
15 by another vehicle for which a service charge is made, either directly or
16 indirectly, including any dues or other charges of clubs or associations which
17 provide towing services;

18 (8) "Towing company", any person, partnership, corporation, fiduciary,
19 association, or other entity that operates a wrecker or towing service as defined
20 under section 301.010.

21 2. In authorizing a towing company to perform services, any patrol officer
22 or law enforcement officer within the officer's jurisdiction, or Missouri department
23 of transportation employee, may utilize the services of a tow management
24 company or tow list, provided:

25 (1) The Missouri state highway patrol is under no obligation to include or
26 retain the services of any towing company in any contract or agreement with a
27 tow management company or any tow list established pursuant to this section.
28 A towing company is subject to removal from a tow list at any time;

29 (2) Notwithstanding any other provision of law or any regulation
30 established pursuant to this section, an owner or operator's request for a specific
31 towing company shall be honored by the Missouri state highway patrol unless:

32 (a) The requested towing company cannot or does not respond in a
33 reasonable time, as determined by a law enforcement officer; or

34 (b) The vehicle to be towed poses an immediate traffic hazard, as
35 determined by a law enforcement officer.

36 3. A patrol officer shall not use a towing company located outside of
37 Missouri under this section except under the following circumstances:

38 (1) A state or federal emergency has been declared; or

39 (2) The driver or owner of the vehicle, or a motor club of which the driver
40 or owner is a member, requests a specific out-of-state towing company.

41 4. A towing company shall not tow a vehicle to a location outside of
42 Missouri without the consent of the driver or owner of the motor vehicle, or
43 without the consent of a motor club of which the driver or owner of the motor
44 vehicle is a member.

45 5. Any towing company or tow truck arriving at the scene of an accident
46 that has not been called by a patrol officer, a law enforcement officer, a Missouri
47 department of transportation employee, the driver or owner of the motor vehicle
48 or his or her authorized agent, including a motor club of which the driver or
49 owner is a member, shall be prohibited from towing the vehicle from the scene of
50 the accident, unless the towing company or tow truck operator is rendering
51 emergency aid in the interest of public safety, or is operating during a declared
52 state of emergency under section 44.100.

53 6. A tow truck operator that stops and tows a vehicle from the scene of an
54 accident in violation of subsection 5 of this section shall be guilty of a class D
55 misdemeanor upon conviction or pleading guilty for the first violation, and such
56 tow truck shall be subject to impounding. The penalty for a second violation shall

57 be a class A misdemeanor, and the penalty for any third or subsequent violation
58 shall be a class D felony. A violation of this section shall not preclude the tow
59 truck operator from being charged with tampering under chapter 569.

60 7. The provisions of this section shall also apply to motor vehicles towed
61 under section 304.155 or 304.157.

62 8. The provisions of **subsections 1 to 6 of** this section shall not apply
63 to counties of the third or fourth classification.

64 9. **No later than January 1, 2021, the department of**
65 **transportation, in consultation with the Missouri state highway patrol**
66 **and the commercial vehicle towing advisory committee established in**
67 **subsection 10 of this section, shall promulgate rules regulating matters**
68 **relating to the towing of commercial vehicles. Any rule or portion of**
69 **a rule, as that term is defined in section 536.010 that is created under**
70 **the authority delegated in this section shall become effective only if it**
71 **complies with and is subject to all of the provisions of chapter 536, and,**
72 **if applicable, section 536.028. This section and chapter 536 are**
73 **nonseverable and if any of the powers vested with the general assembly**
74 **pursuant to chapter 536, to review, to delay the effective date, or to**
75 **disapprove and annul a rule are subsequently held unconstitutional,**
76 **then the grant of rulemaking authority and any rule proposed or**
77 **adopted after August 28, 2019, shall be invalid and void. The rules shall**
78 **ensure towing companies charge fair, equitable, and reasonable rates**
79 **for services rendered, shall be made available on the department of**
80 **transportation's website, and shall:**

81 (1) **Establish factors the department of transportation shall**
82 **consider in determining whether a charge levied by a towing company**
83 **is fair, equitable, and reasonable;**

84 (2) **Establish a process the department of transportation shall**
85 **use to receive, investigate, and adjudicate complaints against a towing**
86 **company;**

87 (3) **Establish a process the department of transportation or**
88 **Missouri state highway patrol may use to suspend or remove a towing**
89 **company from any tow list; and**

90 (4) **Establish information required to be included on any invoice**
91 **or notice associated with the towing of a commercial vehicle.**

92 10. (1) **There is created within the department of transportation**
93 **the "Commercial Vehicle Towing Advisory Committee", which shall**

94 consist of the following members:

95 (a) The director of the department of transportation, or his or
96 her designee;

97 (b) The superintendent of the Missouri highway patrol, or his or
98 her designee;

99 (c) Two members, appointed by the governor with the advice and
100 consent of the senate, to represent towing companies within the state;

101 (d) Two members, appointed by the governor with the advice and
102 consent of the senate, to represent motor carriers within the state; and

103 (e) One member, appointed by the governor with the advice and
104 consent of the senate, to represent insurers of commercial vehicles
105 within the state.

106 (2) At its first meeting, the advisory committee shall elect a
107 chairperson from its membership to serve for a term of two years. A
108 chairperson may serve consecutive terms.

109 (3) Members of the advisory committee shall serve for terms of
110 two years. Members may serve consecutive terms. Members of the
111 advisory committee shall serve without compensation, but shall be
112 reimbursed for travel and other expenses actually and necessarily
113 incurred in the performance of their duties.

114 (4) The advisory committee shall hold its first meeting no later
115 than November 1, 2019, at a date, time, and location within the state to
116 be determined by the director of the department of
117 transportation. Thereafter, meetings shall be held on dates and at
118 times and locations within the state selected by the chairperson in
119 consultation with the other members, or by the director of the
120 department of transportation if the most recent chairperson's term has
121 expired.

122 (5) A person desiring to appear before the advisory committee at
123 any meeting on any matter within the jurisdiction of the committee
124 shall, not less than ten days prior to the meeting, file with the
125 chairperson a written request in which the nature and purpose of the
126 appearance shall be stated in sufficient detail and clarity to fully
127 appraise the committee of the basis and extent of the appearance.

128 (6) The department of transportation shall keep and maintain a
129 record of all proceedings of the advisory committee, and copies of all
130 orders issued by the advisory committee.

131 **(7) The advisory committee shall, at the discretion of the**
132 **department of transportation, make recommendations regarding rules**
133 **for the towing of commercial vehicles, provided that the department of**
134 **transportation shall not be required to adopt any recommendation of**
135 **the advisory committee.**

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