

FIRST REGULAR SESSION

# SENATE BILL NO. 387

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR HOUGH.

1804S.02I

ADRIANE D. CROUSE, Secretary

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Section A. Section 304.153, RSMo, is repealed and one new  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

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

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

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

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

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

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

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

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

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

29           2. In authorizing a towing company to perform  
30 services, any patrol officer or law enforcement officer  
31 within the officer's jurisdiction, or Missouri department of  
32 transportation employee, may utilize the services of a tow  
33 management company or tow list, provided:

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

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

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

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

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

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

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

56           4. A towing company shall not tow a vehicle to a  
57 location outside of Missouri without the consent of the  
58 driver or owner of the motor vehicle, or without the consent  
59 of a motor club of which the driver or owner of the motor  
60 vehicle is a member.

61           5. Any towing company or tow truck arriving at the  
62 scene of an accident that has not been called by a patrol  
63 officer, a law enforcement officer, a Missouri department of  
64 transportation employee, the driver or owner of the motor  
65 vehicle or his or her authorized agent, including a motor  
66 club of which the driver or owner is a member, shall be  
67 prohibited from towing the vehicle from the scene of the  
68 accident, unless the towing company or tow truck operator is  
69 rendering emergency aid in the interest of public safety, or  
70 is operating during a declared state of emergency under  
71 section 44.100.

72           6. A tow truck operator that stops and tows a vehicle  
73 from the scene of an accident in violation of subsection 5  
74 of this section shall be guilty of a class D misdemeanor  
75 upon conviction or pleading guilty for the first violation,  
76 and such tow truck shall be subject to impounding. The  
77 penalty for a second violation shall be a class A  
78 misdemeanor, and the penalty for any third or subsequent  
79 violation shall be a class D felony. A violation of this

80 section shall not preclude the tow truck operator from being  
81 charged with tampering under chapter 569.

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

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

87 9. No later than June 1, 2023, the department of  
88 transportation, in consultation with the Missouri state  
89 highway patrol and the commercial vehicle towing advisory  
90 committee established in subsection 10 of this section,  
91 shall promulgate rules regulating matters relating to the  
92 towing of commercial vehicles. Any rule or portion of a  
93 rule, as that term is defined in section 536.010, that is  
94 created under the authority delegated in this section shall  
95 become effective only if it complies with and is subject to  
96 all of the provisions of chapter 536 and, if applicable,  
97 section 536.028. This section and chapter 536 are  
98 nonseverable and if any of the powers vested with the  
99 general assembly pursuant to chapter 536 to review, to delay  
100 the effective date, or to disapprove and annul a rule are  
101 subsequently held unconstitutional, then the grant of  
102 rulemaking authority and any rule proposed or adopted after  
103 August 28, 2021, shall be invalid and void. The rules shall  
104 ensure towing companies charge fair, equitable, and  
105 reasonable rates for services rendered, shall be made  
106 available on the department of transportation's website, and  
107 shall:

108 (1) Establish factors the department of transportation  
109 shall consider in determining whether a charge levied by a  
110 towing company is fair, equitable, and reasonable;

111           (2) Establish a process the department of  
112 transportation shall use to receive, investigate, and  
113 adjudicate complaints against a towing company;

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

117           (4) Establish information required to be included on  
118 any invoice or notice associated with the towing of a  
119 commercial vehicle.

120           10. (1) There is created within the department of  
121 transportation the "Commercial Vehicle Towing Advisory  
122 Committee", which shall consist of the following members:

123           (a) The director of the department of transportation  
124 or his or her designee;

125           (b) The superintendent of the Missouri state highway  
126 patrol or his or her designee;

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

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

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

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

139           (3) Members of the advisory committee shall serve for  
140 terms of two years. Members may serve consecutive terms.  
141 Members of the advisory committee shall serve without  
142 compensation but shall be reimbursed for travel and other

143 expenses actually and necessarily incurred in the  
144 performance of their duties.

145 (4) The advisory committee shall hold its first  
146 meeting no later than June 1, 2022, at a date, time, and  
147 location within the state to be determined by the director  
148 of the department of transportation. Thereafter, meetings  
149 shall be held on dates and at times and locations within the  
150 state selected by the chairperson in consultation with the  
151 other members or by the director of the department of  
152 transportation if the most recent chairperson's term has  
153 expired.

154 (5) A person desiring to appear before the advisory  
155 committee at any meeting on any matter within the  
156 jurisdiction of the committee shall, not less than ten days  
157 prior to the meeting, file with the chairperson a written  
158 request in which the nature and purpose of the appearance  
159 shall be stated in sufficient detail and clarity to fully  
160 apprise the committee of the basis and extent of the  
161 appearance.

162 (6) The department of transportation shall keep and  
163 maintain a record of all proceedings of the advisory  
164 committee, and copies of all orders issued by the advisory  
165 committee.

166 (7) The advisory committee shall, at the discretion of  
167 the department of transportation, make recommendations  
168 regarding rules for the towing of commercial vehicles,  
169 provided that the department of transportation shall not be  
170 required to adopt any recommendation of the advisory  
171 committee.

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