

FIRST REGULAR SESSION

SENATE BILL NO. 84

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE AND JOHNSON.

Pre-filed December 1, 1998, and 1,000 copies ordered printed.

S0269.03I

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 304.155, 304.156, 304.157 and 304.158, RSMo Supp. 1998, relating to the removal of abandoned property, and to enact in lieu thereof five new sections relating to the same subject.

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

Section A. Sections 304.155, 304.156, 304.157 and 304.158, RSMo Supp. 1998, are repealed and five new sections enacted in lieu thereof, to be known as sections 304.155, 304.156, 304.157, 304.158 and 304.159, to read as follows: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;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours;

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

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste 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 this bill is not enacted and is intended to be omitted in the law.

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

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

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

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

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

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

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

2. The state transportation department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under section 5103(a) of Title 49, U.S.C.

3. **Any law enforcement agency authorizing a tow under this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report.** Any state or federal government agency other than a law enforcement agency authorizing a tow under this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within **[one hour] two hours** of the tow along with a **[description of the abandoned property sufficient to make a criminal] crime inquiry and**

inspection report as required in this section. **Any local government agency, other than a law enforcement agency, authorizing a tow under this section where property is towed away from the immediate vicinity shall report the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.**

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

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

6. Upon the towing of any abandoned property under this section or **under authority of a law enforcement officer or local government agency under** section 304.157, the law enforcement agency that authorized such towing or was properly notified **by another government agency** of such towing shall **promptly** make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. **If the abandoned property is not claimed within ten working days of the towing,** the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue[, on any unclaimed abandoned property, within ten working days of the towing of the abandoned property]. **A towing company in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed.** The crime inquiry and inspection report shall **be designed by the director of revenue and shall** include the following:

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

(2) A description of any damage to the property noted by the [law enforcement] officer **authorizing the tow;**

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

(4) The storage location of the towed property;

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

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

(7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. **This**

information shall be entered only by the law enforcement agency making the inquiry;

(8) The signature and printed name of the [law enforcement] officer **authorizing the tow** and the towing operator; and

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

7. [The department of revenue may design and make available to police agencies throughout the state a uniform "Authorization to Tow" form. The form shall contain lines for time, date, location, descriptive information of the vehicle, reason for towing, the tow operator and company and signature of authorizing officer. The cost of the forms will be determined by the department of revenue. The completed form shall be issued by the authorizing officer to the tow operator for that company's records as proof of authorization to tow a particular vehicle.

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

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

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

[11.] **10.** Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain [a copy of the law enforcement officer's] **information regarding the** authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, and information concerning the final disposition of the possession of the abandoned property.

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

304.156. 1. Within five working days of receipt of the crime inquiry and inspection report under section 304.155 or the abandoned property report under section 304.157, the director of revenue shall search the records of the department of revenue, or initiate an inquiry with another state, if the evidence presented indicated the abandoned property was registered or titled in another state, to determine the name and address of the owner [and/or] **and** lienholder, if any. After ascertaining the name and address of the owner [and/or] **and** lienholder, if any, the department shall, within fifteen working days, notify the towing company [and owner or lienholder]. Any towing company which comes into possession of abandoned property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the department of revenue or of a corresponding agency in any other state. The towing company shall notify the owner [and/or] **and any** lienholder within ten business days of the date of mailing indicated on the notice sent by the department of revenue, by certified mail, return receipt requested. The notice shall contain the following:

- (1) The name, address and telephone number of the storage facility;
- (2) The date, reason and place from which the abandoned property was removed;
- (3) A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;
- (4) A statement that the storage firm claims a possessory lien for all such charges;
- (5) A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
- (6) A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this section to contest the propriety of such towing or removal;
- (7) A statement that if the abandoned property remains unclaimed for thirty days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and

(8) A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.

2. A towing company may **only** assess **reasonable** storage charges for abandoned property **towed without the consent of the owner. Reasonable storage charges shall not exceed the charges for vehicles which have been towed with the consent of the owner on a negotiated basis. Storage charges may be assessed** only for the time in which it complies with the procedural requirements of [this section] **sections 304.155 to 304.158.**

3. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the department shall notify the towing company which shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed that no ownership documents were found and a good faith effort has been made. For purposes of this section, good faith effort means that the following checks have been performed by the company to establish the prior state of registration and title:

(1) Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a state of possible registration and title;

(2) Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;

(3) Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and

(4) If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.

4. If no ownership information is discovered, the director of revenue shall be notified in writing and title obtained in accordance with subsection [6] 7 of this section.

5. (1) The owner of the abandoned property removed pursuant to the provisions of section 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days after the receipt of notification from the towing company pursuant to subsection 1 of this section may file a petition in the associate circuit court in the county where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The director of revenue shall not be a party to such petition but a copy of the petition shall be served on the director of revenue who shall not issue title to such abandoned property pursuant to this section until the petition is finally decided.

(2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have the abandoned property released upon posting with the court a cash or surety bond or other

adequate security equal to the amount of the charges for towing and storage to ensure the payment of such charges in the event he does not prevail. Upon the posting of the bond and the payment of the applicable fees, the court shall issue an order notifying the towing company of the posting of the bond and directing the towing company to release the abandoned property. At the time of such release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing company reciting any claims for loss or damage to the abandoned property or the contents thereof.

(3) Upon determining the respective rights of the parties, the final order of the court shall provide for immediate payment in full of recovery, towing, and storage fees by the abandoned property owner or lienholder or the owner, lessee, or agent thereof of the real property from which the abandoned property was removed.

6. A towing and/or storage lien shall be enforced as provided in subsection 7 of this section.

7. Thirty days after the notification form has been mailed to the abandoned property owner and holder of a security agreement and the property is unredeemed and no satisfactory arrangement has been made with the lienholder in possession for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in subsection [4] 5 of this section, the lienholder in possession may apply to the director of revenue for **an original certificate of ownership if the vehicle is less than six years old, passes the Missouri safety and emissions inspections, if applicable, and obtains a vehicle examination certificate from the highway patrol as provided in section 301.190, RSMo, or if the vehicle is six years old or older**, a salvage certificate of title designated with the words "salvage/abandoned property" or junking certificate based on the condition of the abandoned property as stated in the abandoned property report or crime inquiry and inspection report. The application for title shall be accompanied by:

(1) An affidavit from the lienholder in possession that he has been in possession of the abandoned property for at least thirty days and the owner of the abandoned property or holder of a security agreement has not made arrangements for payment of towing and storage charges;

(2) An affidavit that the lienholder in possession has not been notified of any application for hearing as provided in this section;

(3) A copy of the abandoned property report or crime inquiry and inspection [form] **report**;

(4) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest and a copy of the certified mail receipt indicating that the owner and lienholder of record [has received] **was sent a notice** as required in this section;

(5) **A copy of the envelope or mailing container showing the address and postal markings indicating that the notice was "not forwardable" or "address unknown"; and**

(6) **A Missouri safety inspection certificate and emission inspection certificate, if applicable, and the vehicle examination certificate, if applicable.**

8. If notice to the owner and holder of a security agreement has been returned marked "not forwardable" or "addressee unknown", the lienholder in possession shall comply with subsection 3 of this section.

9. Any municipality or county may adopt an ordinance regulating the removal and sale of abandoned property provided such ordinance is consistent with sections 304.155 to 304.158.

10. Any municipality or county which has physical possession of the abandoned property and which sells abandoned property in accordance with a local ordinance may transfer ownership by means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official municipal or county seal. Such bill of sale shall contain the make and model of the abandoned property, the complete abandoned property identification number and the odometer reading of the abandoned property if available and shall be lawful proof of ownership for any dealer registered under the provisions of section 301.218, RSMo, or section 301.560, RSMo, or for any other person. Any dealer or other person purchasing such property from a municipality or county shall apply within thirty days of purchase for **an original certificate of ownership if the vehicle is less than six years old, passes the Missouri safety and emissions inspections, if applicable, and obtain a vehicle examination certificate from the highway patrol as provided in section 301.190, RSMo, or for a junking certificate or salvage certificate of title designated with the words "salvage/abandoned property" if the vehicle is six years or older.** Anyone convicted of a violation of this section shall be guilty of an infraction.

11. Any persons who have towed abandoned property prior to August 28, 1996, may, [within one year after August 28, 1996] **until January 1, 2000**, apply to the department of revenue for **an original certificate of ownership if the vehicle is less than six years old, passes the Missouri safety and emissions inspections, if applicable, and obtain a vehicle examination certificate from the highway patrol as provided in section 301.190, RSMo, or for** either a junking certificate or a salvage certificate of title designated with the words "salvage/abandoned property" [to such property]. The application shall be accompanied by:

(1) A notarized affidavit explaining the circumstances by which the abandoned property came into their possession, including the name of the owner or possessor of real property from which the abandoned property was removed;

(2) The date of the removal;

(3) The current location of the abandoned property;

(4) An inspection of the abandoned property as prescribed [in section 304.155] **by the director**; and

(5) A copy of the thirty-day notice given by certified mail to any owner and person holding a valid security interest of record and a copy of the certified mail receipt.

12. If the director is satisfied with the genuineness of the application and supporting documents submitted pursuant to this section, the director shall issue **one of the following**:

(1) An original certificate of title if the vehicle owner has obtained a safety inspection, an emissions inspection if applicable, and a vehicle examination certificate which does not indicate that the vehicle was previously in a salvaged condition or rebuilt; or

(2) A salvage certificate of title designated with the words "salvage/abandoned property" or a junking certificate.

13. If the proceeds obtained by the towing company from sale of the abandoned property exceed the reasonable costs of towing and storage as allowed by law and the costs of retitling such property, such proceeds in excess of the costs shall be deposited with the state treasurer as unclaimed property pursuant to chapter 447, RSMo. The towing company shall include the last known address and any other identifying information about the owner and any lienholder who had an interest in the abandoned property at the time the towing company applied for title. The treasurer shall publish notice under section 447.541, RSMo, as required for other unclaimed property.

14. If abandoned property is insured, the insurer of property regards the property as a total loss and the insurer satisfies a claim by the owner for the property, then the insurer or certificate holder shall claim and remove the property from the storage facility or make arrangements to transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of all claims for towing and storage, to the towing company or storage facility. The insurer, certificate holder or the insured, if the insured's insurance policy does not cover towing and storage charges, shall pay all reasonable fees owed the towing company and storage facility. The property shall be claimed and removed or title transferred to the towing company or storage facility within thirty days of the date of the insurer paying a claim for the total loss of the property. Upon request, an adjuster or other representative of the insurer investigating the condition of the property shall supply the towing company and storage facility with the name, address and phone number of the insurance company and of the insured and with a statement regarding which party is responsible for the payment of towing and storage charges under the insurance policy.

304.157. 1. If a person abandons property, as defined in section 304.001, on any real property owned by another without the consent of the owner or person in possession of the property, at the request of the person in possession of the real property, any member of the state highway patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may authorize a towing company to remove such abandoned property from the property in the following circumstances:

- (1) The abandoned property is left unattended for more than forty-eight hours; or
- (2) In the judgment of a law enforcement officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in

possession.

2. A local government agency may also provide for the towing of motor vehicles from real property under the authority of any local ordinance providing for the towing of vehicles which are derelict, junk, scrapped, disassembled or otherwise harmful to the public health under the terms of the ordinance. Any local government agency authorizing a tow under this subsection shall report the tow to the local law enforcement agency within two hours with a crime inquiry and inspection report under section 304.155.

3. Neither the law enforcement officer, local government agency nor anyone having custody of abandoned property under his or her direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

[2.] **4.** The owner of real property or lessee in lawful possession of the real property may authorize a towing company to remove abandoned property **or property parked in a restricted or assigned area** without authorization by a law enforcement officer only when the owner, lessee or [agent] **property or security manager** of the real property is present [and]. **A property or security manager must be a full-time employee of a business entity. An authorization to tow under this subsection may be made** only under any of the following circumstances:

(1) There is displayed, in plain view at all entrances to the property, a sign not less than seventeen by twenty-two inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that unauthorized abandoned property **or property parked in a restricted or assigned area** will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained **or a twenty-four-hour staffed emergency information telephone number by which the owner of the abandoned property or improperly parked property may call to receive information regarding the location of such owner's property;**

(2) The abandoned property is [on private property and lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment necessary to operate safely on the highways,] **left unattended on owner-occupied residential property with four residential units or less, and** the owner [or], lessee [of the private property] **or agent of the real property in lawful possession** has notified the [city police or county sheriff, as] appropriate **law enforcement agency**, and [ninety-six] **ten** hours have elapsed since that notification; or

(3) The abandoned property is left unattended on private property, and the owner, lessee or agent of the real property in lawful possession of real property has notified the appropriate law

enforcement agency, and [ten days] **ninety-six hours** have elapsed since that notification.

[3.] **5.** Pursuant to this section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a law enforcement officer shall [within one hour of the tow file] **at that time complete** an abandoned property report [with the appropriate law enforcement agency where the property is located] **which shall be considered a legal declaration subject to criminal penalty under section 575.060, RSMo.** The report shall **be in the form designed, printed and distributed by the director of revenue and shall** contain the following:

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

(2) A description of any damage to the **abandoned** property noted by owner [or lessee], **lessee or property or security manager** in possession of the real property;

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

(4) The physical location of the property and the reason for requesting the property to be towed;

(5) The date the report is completed;

(6) The [signature and] printed name, **address and phone number** of the owner [or lessee], **lessee or property or security manager** in possession of the real property; [and]

(7) **The towing company's name and address;**

(8) **The signature of the towing operator;**

(9) **The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;**

[(7)] **(10) Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the law enforcement official receiving the report; and**

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

[The department of revenue may design and make available to police agencies throughout the state a uniform "Authorization to Tow" form. The form shall contain lines for time, date, location, descriptive information of the vehicle, reason for towing, the tow operator and company and signature of authorizing officer. The cost of the forms shall be determined by the department of revenue. The completed form shall be issued by the authorizing officer to the tow operator for that company's records as proof of authorization to tow a particular vehicle.]

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subsection 4 of this section shall deliver a

copy of the abandoned property report to the local law enforcement agency having jurisdiction over the location from which the abandoned property was towed. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the law enforcement agency receiving the report has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two hours if the tow was made from a signed location under subdivision (1) of subsection 4; otherwise, the report shall be delivered within twenty-four hours.

[4.] **7.** The law enforcement agency receiving such abandoned property report must record the date **on which** the abandoned property report is filed with such agency and [within five days of such filing] **shall promptly** make an inquiry into the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The law enforcement agency shall enter the information pertaining to the towed property into the statewide **law** enforcement computer system, **and an officer shall sign the abandoned property report and provide the towing company with a signed copy.** The department of revenue may design and sell to towing companies informational brochures outlining owner or lessee of real property obligations pursuant to this section.

[5. Neither the law enforcement officer nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section other than damages occasioned by negligence or by willful or wanton acts or omissions.

6. Any towing company which tows abandoned property without authorization from a law enforcement officer pursuant to subdivision (1) of subsection 2 of this section shall within one hour of the tow report the event and the circumstances to the local law enforcement agency where the abandoned property report was filed.

7.] **8.** The law enforcement agency receiving notification that abandoned property has been towed by a towing company shall [record the date the property was towed and shall forward a copy of the abandoned property report to the director of revenue.] **search the records of the department of revenue and provide the towing company with the latest owner and lienholder information on the abandoned property. If the abandoned property is not claimed within ten working days, the towing company shall send a copy of the abandoned property report signed by a law enforcement officer to the department of revenue.**

[8.] **9.** If any owner or lessee of real property **knowingly** authorizes the removal of abandoned property **in violation** [pursuant to subsection 2 of this section and such property is so removed and no sign is displayed prior to such removal as required pursuant to subsection 2] of this section, then the owner or lessee shall be deemed guilty of a class C misdemeanor.

304.158. 1. [The person or agency causing] **Notice as to the** removal of any abandoned property under section 304.155 or 304.157 shall[, if the person or agency knows the registered owner or lienholder,] **be made in writing** within five working days[, give notice in writing] to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and [indicate] the place to which the property has been removed **by either:**

(1) **The public agency authorizing the removal; or**

(2) **The towing company, where authorization was made by an owner or lessee of real property.**

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this section shall include the amount of mileage, if available, shown on the abandoned property at the time of removal.

2. Any owner of any private real [estate] **property** causing the removal of abandoned property from that real [estate] **property** shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:

(1) Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and

(2) The removal of property other than the property specified by the owner of the private property from which the abandoned property was removed.

3. The owner of abandoned property removed from private property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.

4. Any owner of any private property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this section or [to state the grounds for the removal of the property if requested by the registered owner of the abandoned property as required by subsection 2 of this section] **section 304.157.**

5. Any towing company which tows abandoned property for hire shall have the towing company's name, city and state clearly printed in letters at least three inches in height on the sides of the truck, wrecker or other vehicle used in the towing.

6. A towing company may impose a charge of not more than one-half of the regular towing charge for the towing of abandoned property at the request of the owner of private property or that owner's agent pursuant to this section if the owner of the abandoned property or the owner's agent

returns to the abandoned property before it is removed from the private property. The regular towing charge may only be imposed after the abandoned property has been removed from the property and is in transit.

7. Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this section shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property. [Persons operating or in charge of any storage facility which is not operated by the state, a county or municipality, which is located in an area with a population in excess of fifty thousand at a density at or greater than one thousand persons per square mile, and where the abandoned property is stored pursuant to this section shall accept a valid bank credit card for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property, except where the tow and impoundment of the abandoned property was the result of an arrest or accident whereby the towing company or storage facility may then demand payment in the form of cash. A person operating or in charge of such storage facility who refuses to accept a valid bank credit card pursuant to this subsection is liable to the registered owner of the abandoned property for four times the amount of the towing and storage charges, but not to exceed five hundred dollars.] In addition, persons operating or in charge of the storage facility shall have sufficient moneys on the premises to accommodate, and make change in, a reasonable monetary transaction.

8. **[A] Except for the removal of abandoned property authorized by a law enforcement agency under section 304.157, a** towing company shall not remove or commence the removal of abandoned property from private property without first obtaining written authorization from the property owner. All written authorizations shall be maintained for at least one year by the towing company. General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen feet of a fire hydrant or in a fire lane designated by a fire department or the state fire marshal.

9. Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property without first obtaining written authorization from the property owner or lessee, or an employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in subsection 8 of this section, is liable to the owner of the property for four times the amount of the towing and storage charges, in addition to any applicable criminal penalty, for a violation of this section.

10. Any county, city, town or village may enact ordinances or orders which are consistent with sections 304.155 to 304.158 and which may specify maximum reasonable towing, storage and other charges which can be imposed by towing and storage companies operating within the governmental entity's jurisdiction.

11. Any person who knowingly violates any provision of sections 304.155 to 304.158 shall

be guilty of a class A misdemeanor. Any violation of the provisions of this section shall constitute a violation of the provisions of section 407.020, RSMo. In any proceeding brought by the attorney general for a violation of the provisions of this section, the court may, in addition to imposing the penalties provided for in this section order the revocation or suspension of the registration or license of the towing company.

304.159. 1. Any city, town, or village within this state may prohibit, by ordinance, the storage of inoperable vehicles or other vehicles deemed by such city, town, or village to constitute a public safety hazard. Nothing in this section shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, nor to any vehicle upon the property of a business licensed as salvage, swap, or junk dealer.

2. Upon a showing of probable cause of the existence of such inoperable or hazardous vehicles by the sworn application of any law enforcement official or code official designated by the city, town or village, the municipal judges of any city, town, or village are hereby authorized to issue to law enforcement officials and code officials warrants to enter private premises for inspection and abatement of such conditions by towing or otherwise.

Bill ✓

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