

SECOND REGULAR SESSION

# SENATE BILL NO. 851

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR STOUFFER.

Read 1st time January 11, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4353S.011

## AN ACT

To repeal section 304.155, RSMo, and to enact in lieu thereof one new section relating to motor vehicles.

*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Section A. Section 304.155, RSMo, is repealed and one new section  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, left  
6 unattended for ten hours, or immediately if a law enforcement officer determines  
7 that the abandoned property is a serious hazard to other motorists, provided that  
8 commercial motor vehicles not hauling materials designated as hazardous under  
9 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety  
10 until the owner or owner's representative has had a reasonable opportunity to  
11 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  
18 reasonable opportunity to contact a towing company of choice;

19 (c) Any state highway other than an interstate highway or freeway in an

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

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 the  
38 person into custody and where such person is unable to arrange for the property's  
39 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.

50 2. The state transportation department may immediately remove any  
51 abandoned, unattended, wrecked, burned or partially dismantled property, spilled  
52 cargo or other personal property from the roadway of any state highway if the  
53 abandoned property, cargo or personal property is creating a traffic hazard  
54 because of its position in relation to the state highway. In the event the property  
55 creating a traffic hazard is a commercial motor vehicle, as defined in section

56 302.700, RSMo, the department's authority under this subsection shall be limited  
57 to authorizing a towing company to remove the commercial motor vehicle to a  
58 place of safety, except that the owner of the commercial motor vehicle or the  
59 owner's designated representative shall have a reasonable opportunity to contact  
60 a towing company of choice. The provisions of this subsection shall not apply to  
61 vehicles transporting any material which has been designated as hazardous under  
62 Section 5103(a) of Title 49, U.S.C.

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

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

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

84 6. Upon the towing of any abandoned property pursuant to this section or  
85 under authority of a law enforcement officer or local government agency pursuant  
86 to section 304.157, the law enforcement agency that authorized such towing or  
87 was properly notified by another government agency of such towing shall  
88 promptly make an inquiry with the national crime information center and any  
89 statewide Missouri law enforcement computer system to determine if the  
90 abandoned property has been reported as stolen and shall enter the information  
91 pertaining to the towed property into the statewide law enforcement computer

92 system. If the abandoned property is not claimed within ten working days of the  
93 towing, the tower who has online access to the department of revenue's records  
94 shall make an inquiry to determine the abandoned property owner and lienholder,  
95 if any, of record. In the event that the records of the department of revenue fail  
96 to disclose the name of the owner or any lienholder of record, the tower shall  
97 comply with the requirements of subsection 3 of section 304.156. If the tower  
98 does not have online access, the law enforcement agency shall submit a crime  
99 inquiry and inspection report to the director of revenue. A towing company that  
100 does not have online access to the department's records and that is in possession  
101 of abandoned property after ten working days shall report such fact to the law  
102 enforcement agency with which the crime inquiry and inspection report was  
103 filed. The crime inquiry and inspection report shall be designed by the director  
104 of revenue and shall include the following:

- 105 (1) The year, model, make and property identification number of the  
106 property and the owner and any lienholders, if known;
- 107 (2) A description of any damage to the property noted by the officer  
108 authorizing the tow;
- 109 (3) The license plate or registration number and the state of issuance, if  
110 available;
- 111 (4) The storage location of the towed property;
- 112 (5) The name, telephone number and address of the towing company;
- 113 (6) The date, place and reason for the towing of the abandoned property;
- 114 (7) The date of the inquiry of the national crime information center, any  
115 statewide Missouri law enforcement computer system and any other similar  
116 system which has titling and registration information to determine if the  
117 abandoned property had been stolen. This information shall be entered only by  
118 the law enforcement agency making the inquiry;
- 119 (8) The signature and printed name of the officer authorizing the tow; and
- 120 (9) The name of the towing company, the signature and printed name of  
121 the towing operator, and an indicator disclosing whether the tower has online  
122 access to the department's records;
- 123 (10) Any additional information the director of revenue deems  
124 appropriate.

125 7. One copy of the crime inquiry and inspection report shall remain with  
126 the agency which authorized the tow. One copy shall be provided to and retained  
127 by the storage facility and one copy shall be retained by the towing facility in an

128 accessible format in the business records for a period of three years from the date  
129 of the tow or removal.

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

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

151           10. Towing companies shall keep a record for three years on any  
152 abandoned property towed and not reclaimed by the owner of the abandoned  
153 property. Such record shall contain information regarding the authorization to  
154 tow, copies of all correspondence with the department of revenue concerning the  
155 abandoned property, including copies of any online records of the towing company  
156 accessed and information concerning the final disposition of the possession of the  
157 abandoned property.

158           11. If a lienholder repossesses any motor vehicle, trailer, all-terrain  
159 vehicle, outboard motor or vessel without the knowledge or cooperation of the  
160 owner, then the reposessor shall notify the local law enforcement agency where  
161 the repossession occurred within two hours of the repossession and shall further  
162 provide the local law enforcement agency with any additional information the  
163 agency deems appropriate. The local law enforcement agency shall make an

164 inquiry with the national crime information center and the Missouri statewide  
165 law enforcement computer system and shall enter the repossessed vehicle into the  
166 statewide law enforcement computer system.

167           12. Notwithstanding the provisions of section 301.227, RSMo, any towing  
168 company who has complied with the notification provisions [in section 304.156  
169 including notice that any property remaining unredeemed after thirty days may  
170 be sold as scrap property may then dispose of such property as provided in this  
171 subsection. Such sale shall only occur if at least thirty days has passed since the  
172 date of such notification, the abandoned property remains unredeemed with no  
173 satisfactory arrangements made with the towing company for continued storage,  
174 and the owner or holder of a security agreement has not requested a hearing as  
175 provided in section 304.156. The towing company may dispose of such abandoned  
176 property by selling the property on a bill of sale as prescribed by the director of  
177 revenue to a scrap metal operator or licensed salvage dealer for destruction  
178 purposes only. The towing company shall forward a copy of the bill of sale  
179 provided by the scrap metal operator or licensed salvage dealer to the director of  
180 revenue within two weeks of the date of such sale] **of sections 304.155 and**  
181 **304.156, excluding subdivision (7) of subsection 1 and subsection 7 of**  
182 **section 304.156, shall give notification to the last owner of record and**  
183 **any lienholder of the vehicle that such vehicle may be sold for parts,**  
184 **excluding major component parts or scrap metal, after the property**  
185 **remains unredeemed after the ten-day notification to the last known**  
186 **owner and any lienholder of record with the department of**  
187 **revenue. Such notification shall be sent by certified mail, return**  
188 **receipt requested. The notification form, approved by the director of**  
189 **revenue, shall state that if the property remains unredeemed with no**  
190 **satisfactory arrangements made with the towing company for continued**  
191 **storage, and the owner or holder of a security agreement has not**  
192 **requested a hearing as provided in section 304.156, the towing company**  
193 **may dispose of such property after the ten-day period by selling the**  
194 **property on a bill of sale as prescribed by the director of revenue to a**  
195 **scrap metal operator or licensed salvage dealer. The towing company shall**  
196 **keep a record of each such vehicle sold [for destruction] for three years [that],**  
197 **and such records** shall be available for inspection by law enforcement and  
198 authorized department of revenue officials. The record shall contain the year,  
199 make, identification number of the property, date of sale, and name of the

200 purchasing scrap metal operator or licensed salvage dealer, and copies of all  
201 notifications **and certified mail receipts** issued by the towing company as  
202 required in this [chapter] **section**. Scrap metal operators or licensed salvage  
203 dealers shall keep a record of the purchase of such property as provided in section  
204 301.227, RSMo. Scrap metal operators and licensed salvage dealers [may obtain  
205 a junk certificate as provided in section 301.227, RSMo, on vehicles purchased on  
206 a bill of sale pursuant to this section] **shall not be issued a junking**  
207 **certificate or certificate of ownership for property by the director of**  
208 **revenue under this subsection.**

209 **13. The registered owner or owner's agent claiming abandoned**  
210 **property under chapter 304 shall present a copy of the most recent**  
211 **validated registration form, or a valid license with the name of the**  
212 **registered owner that can be compared with a validated registration**  
213 **form if such form is contained in the abandoned property, to the**  
214 **appropriate law enforcement agency or towing company before the**  
215 **property is released.**

Bill  
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