

SECOND REGULAR SESSION

HOUSE BILL NO. 2051

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSMER.

Read 1st time February 26, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3406L.011

AN ACT

To repeal section 304.157 as enacted by senate bill no. 17, ninetieth general assembly, first regular session and section 304.157 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, and to enact in lieu thereof one new section relating to abandoned property, with a penalty provision.

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

Section A. Section 304.157 as enacted by senate bill no. 17, ninetieth general assembly, first regular session and section 304.157 as enacted by conference committee substitute for house substitute for senate substitute for senate committee substitute for senate bill no. 19, ninetieth general assembly, first regular session, are repealed and one new section enacted in lieu thereof, to be known as section 304.157, to read as follows:

[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. The owner of real property or lessee or property or security manager in

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

13 lawful possession of the real property may authorize a towing company to remove
14 abandoned property or property parked in a restricted or assigned area without
15 authorization by a law enforcement officer only when the owner, lessee or property
16 or security manager of the real property is present. A property or security manager
17 must be a full-time employee of a business entity. An authorization to tow under this
18 subsection may be made only under any of the following circumstances:

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

30 (2) The abandoned property is on private property and lacks an engine,
31 transmission, wheels, tires, doors, windshield or any other major part or equipment
32 necessary to operate safely on the highways, the owner or lessee of the private
33 property has notified the city police or county sheriff, as appropriate, and ninety-six
34 hours have elapsed since that notification; or

35 (3) The abandoned property is left unattended on private property, and the
36 owner, lessee or agent of the real property in lawful possession of real property has
37 notified the appropriate law enforcement agency, and ten days have elapsed since that
38 notification.

39 3. Pursuant to this section, any owner or lessee in lawful possession of real
40 property that requests a towing company to tow abandoned property without
41 authorization from a law enforcement officer shall within one hour of the tow file an
42 abandoned property report with the appropriate law enforcement agency where the
43 property is located. The report shall contain the following:

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

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

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

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

52 (5) The date the report is completed;

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

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

- 56 (8) The signature of the towing operator;
57 (9) The name of the law enforcement agency notified of the abandoned
58 property.
59

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

67 4. The law enforcement agency receiving such abandoned property report
68 must record the date the abandoned property report is filed with such agency and
69 within five days of such filing make an inquiry into the national crime information
70 center and any statewide Missouri law enforcement computer system to determine
71 if the abandoned property has been reported as stolen. The law enforcement agency
72 shall enter the information pertaining to the towed property into the statewide
73 enforcement computer system. The department of revenue may design and sell to
74 towing companies informational brochures outlining owner or lessee of real property
75 obligations pursuant to this section.

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

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

85 7. The law enforcement agency receiving notification that abandoned
86 property has been towed by a towing company shall record the date the property was
87 towed and shall forward a copy of the abandoned property report to the director of
88 revenue.

89 8. If any owner or lessee of real property authorizes the removal of
90 abandoned property pursuant to subsection 2 of this section and such property is so
91 removed and no sign is displayed prior to such removal as required pursuant to
92 subsection 2 of this section, then the owner or lessee shall be deemed guilty of a class
93 C misdemeanor.]

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

6 following circumstances:

7 (1) The abandoned property is left unattended for more than forty-eight hours; or

8 (2) In the judgment of a law enforcement officer, the abandoned property constitutes a
9 safety hazard or unreasonably interferes with the use of the real property by the person in
10 possession.

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

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

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

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

37 (2) The abandoned property is left unattended on [owner-occupied] residential property
38 with **two to** four residential units [or less], and the owner, lessee or agent of the real property in
39 lawful possession has notified the appropriate law enforcement agency, and ten hours have
40 elapsed since that notification; or

41 (3) The abandoned property is left unattended on private property, and the owner, lessee

42 or agent of the real property in lawful possession of real property has notified the appropriate law
43 enforcement agency, and ninety-six hours have elapsed since that notification[.]; or

44 **(4) The abandoned property is left unattended on owner-occupied single unit**
45 **residential property, and the owner or agent of the owner has notified the appropriate law**
46 **enforcement agency.**

47 5. Pursuant to this section, any owner, **agent of the owner of real property**, or lessee
48 in lawful possession of real property that requests a towing company to tow abandoned property
49 without authorization from a law enforcement officer shall at that time complete an abandoned
50 property report which shall be considered a legal declaration subject to criminal penalty pursuant
51 to section 575.060, RSMo. The report shall be in the form designed, printed and distributed by
52 the director of revenue **to all law enforcement agencies and towing companies** and shall
53 contain the following:

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

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

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

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

61 (5) The date the report is completed;

62 (6) The printed name, address and phone number of the owner, lessee or property or
63 security manager in possession of the real property;

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

65 (8) The signature of the towing operator;

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

70 (10) Space for the name of the law enforcement agency notified of the towing of the
71 abandoned property and for the signature of the law enforcement official receiving the report;
72 and

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

74 6. Any towing company which tows abandoned property without authorization from a
75 law enforcement officer pursuant to subsection 4 of this section shall **provide an abandoned**
76 **property report for the owner, agent of the owner of real property, or lessee in lawful**
77 **possession of real property to fill out and after it is filled out shall** deliver a copy of the

78 abandoned property report to the local law enforcement agency having jurisdiction over the
79 location from which the abandoned property was towed. The copy may be produced and sent
80 by facsimile machine or other device which produces a near exact likeness of the print and
81 signatures required, but only if the law enforcement agency receiving the report has the
82 technological capability of receiving such copy and has registered the towing company for such
83 purpose. The registration requirements shall not apply to law enforcement agencies located in
84 counties of the third or fourth classification. The report shall be delivered within two hours if
85 the tow was made from a signed location pursuant to subdivision (1) of subsection 4 of this
86 section, otherwise the report shall be delivered within twenty-four hours.

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

96 8. The law enforcement agency receiving notification that abandoned property has been
97 towed by a towing company shall search the records of the department of revenue and provide
98 the towing company with the latest owner and lienholder information on the abandoned property.
99 If the abandoned property is not claimed within ten working days, the towing company shall send
100 a copy of the abandoned property report signed by a law enforcement officer to the department
101 of revenue.

102 9. If any owner or lessee of real property knowingly authorizes the removal of abandoned
103 property in violation of this section, then the owner or lessee shall be deemed guilty of a class
104 C misdemeanor.