

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 1945, Page 1, in the Title, Lines 2-3, by
2 deleting the phrase "automated traffic enforcement systems" and inserting in lieu thereof the phrase
3 "transportation"; and

4
5 Further amend said bill and page, Section A, Line 2, by inserting immediately after all of said line
6 and section the following:

7
8 "304.156. 1. Within five working days of receipt of the crime inquiry and inspection report
9 under section 304.155 or the abandoned property report under section 304.157, the director of
10 revenue shall search the records of the department of revenue, or initiate an inquiry with another
11 state, if the evidence presented indicated the abandoned property was registered or titled in another
12 state, to determine the name and address of the owner and lienholder, if any. After ascertaining the
13 name and address of the owner and lienholder, if any, the department shall, within fifteen working
14 days, notify the towing company. Any towing company which comes into possession of abandoned
15 property pursuant to section 304.155 or 304.157 and who claims a lien for recovering, towing or
16 storing abandoned property shall give notice to the title owner and to all persons claiming a lien
17 thereon, as disclosed by the records of the department of revenue or of a corresponding agency in
18 any other state. The towing company shall notify the owner and any lienholder within ten business
19 days of the date of mailing indicated on the notice sent by the department of revenue, by certified
20 mail, return receipt requested. The notice shall contain the following:

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

Standing Action Taken _____ Date _____

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1 time of such transfer shall remain a liability of the owner.

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

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

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

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

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

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

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

25 5. (1) The owner of the abandoned property removed pursuant to the provisions of section
26 304.155 or 304.157 or any person claiming a lien, other than the towing company, within ten days
27 after the receipt of notification from the towing company pursuant to subsection 1 of this section
28 may file a petition in the associate circuit court in the county where the abandoned property is stored
29 to determine if the abandoned property was wrongfully taken or withheld from the owner. The
30 petition shall name the towing company among the defendants. The petition may also name the
31 agency ordering the tow or the owner, lessee or agent of the real property from which the
32 abandoned property was removed. The director of revenue shall not be a party to such petition but a
33 copy of the petition shall be served on the director of revenue who shall not issue title to such
34 abandoned property pursuant to this section until the petition is finally decided.

35 (2) Upon filing of a petition in the associate circuit court, the owner or lienholder may have
36 the abandoned property released upon posting with the court a cash or surety bond or other adequate
37 security equal to the amount of the charges for towing and storage to ensure the payment of such
38 charges in the event he does not prevail. Upon the posting of the bond and the payment of the
39 applicable fees, the court shall issue an order notifying the towing company of the posting of the
40 bond and directing the towing company to release the abandoned property. At the time of such
41 release, after reasonable inspection, the owner or lienholder shall give a receipt to the towing
42 company reciting any claims for loss or damage to the abandoned property or the contents thereof.

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

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

48 7. Thirty days after the notification form has been mailed to the abandoned property owner

1 and holder of a security agreement and the property is unredeemed and no satisfactory arrangement
2 has been made with the lienholder in possession for continued storage, and the owner or holder of a
3 security agreement has not requested a hearing as provided in subsection 5 of this section, the
4 lienholder in possession may apply to the director of revenue for a certificate. Upon such
5 application, the lienholder in possession shall become liable for any damage occurring to the
6 abandoned property. The application for title shall be accompanied by:

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

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

12 (3) A copy of the abandoned property report or crime inquiry and inspection report;

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

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

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

21 9. Any municipality or county may adopt an ordinance regulating the removal and sale of
22 abandoned property provided such ordinance is consistent with sections 304.155 to 304.158, and,
23 for a home rule city with more than four hundred thousand inhabitants and located in more than one
24 county, includes the following provisions:

25 (1) That the department of revenue records must be searched to determine the registered
26 owner or lienholder of the abandoned property;

27 (2) That if a registered owner or lienholder is disclosed in the records, that the owner and
28 lienholder or owner or lienholder are mailed a notice by the local governmental agency, by U.S.
29 mail, advising of the towing and impoundment;

30 (3) That if the vehicle is older than six years and more than fifty percent damaged by
31 collision, fire, or decay, and has a fair market value of less than two hundred dollars as determined
32 by using any nationally recognized appraisal book or method, it must be held no less than ten days
33 after the notice is sent pursuant to this section before being sold to a licensed salvage or scrap
34 business; provided however where a title is required under this chapter an affidavit from a certified
35 appraiser attesting that the value of the vehicle is less than two hundred dollars;

36 (4) That all other vehicles must be held no less than thirty days after the notice is sent
37 pursuant to this subsection before they may be sold.

38 10. Any municipality or county which has physical possession of the abandoned property
39 and which sells abandoned property in accordance with a local ordinance may transfer ownership by
40 means of a bill of sale signed by the municipal or county clerk or deputy and sealed with the official
41 municipal or county seal. Such bill of sale shall contain the make and model of the abandoned
42 property, the complete abandoned property identification number and the odometer reading of the
43 abandoned property if available and shall be lawful proof of ownership for any dealer registered
44 under the provisions of section 301.218, or section 301.560, or for any other person. Any dealer or
45 other person purchasing such property from a municipality or county shall apply within thirty days
46 of purchase for a certificate. Anyone convicted of a violation of this section shall be guilty of an
47 infraction.

48 11. Any persons who have towed abandoned property prior to August 28, 1996, may, until

1 January 1, 2000, apply to the department of revenue for a certificate. The application shall be
2 accompanied by:

- 3 (1) A notarized affidavit explaining the circumstances by which the abandoned property
4 came into their possession, including the name of the owner or possessor of real property from
5 which the abandoned property was removed;
- 6 (2) The date of the removal;
- 7 (3) The current location of the abandoned property;
- 8 (4) An inspection of the abandoned property as prescribed by the director; and
- 9 (5) A copy of the thirty-day notice given by certified mail to any owner and person holding
10 a valid security interest of record and a copy of the certified mail receipt.

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

- 13 (1) An original certificate of title if the vehicle owner has obtained a vehicle examination
14 certificate as provided in section 301.190 which indicates that the vehicle was not previously in a
15 salvaged condition or rebuilt;
- 16 (2) An original certificate of title designated as prior salvage if the vehicle examination
17 certificate as provided in section 301.190 indicates the vehicle was previously in a salvage condition
18 or rebuilt;
- 19 (3) A salvage certificate of title designated with the words "salvage/abandoned property" or
20 junking certificate based on the condition of the abandoned property as stated in the abandoned
21 property report or crime inquiry and inspection report;
- 22 (4) Notwithstanding the provisions of section 301.573 to the contrary, if satisfied with the
23 genuineness of the application and supporting documents, the director shall issue an original title to
24 abandoned property previously issued a salvage title as provided in this section, if the vehicle
25 examination certificate as provided in section 301.190 does not indicate the abandoned property was
26 previously in a salvage condition or rebuilt.

27 13. If abandoned property is insured and the insurer of property regards the property as a
28 total loss and the insurer satisfies a claim by the owner for the property, then the insurer or
29 lienholder shall claim and remove the property from the storage facility or make arrangements to
30 transfer the title, and such transfer of title subject to agreement shall be in complete satisfaction of
31 all claims for towing and storage, to the towing company or storage facility. The owner of the
32 abandoned vehicle, lienholder or insurer, to the extent the vehicle owner's insurance policy covers
33 towing and storage charges, shall pay reasonable fees assessed by the towing company and storage
34 facility. The property shall be claimed and removed or title transferred to the towing company or
35 storage facility within thirty days of the date that the insurer paid a claim for the total loss of the
36 property or is notified as to the location of the abandoned property, whichever is the later event.
37 Upon request, the insurer of the property shall supply the towing company and storage facility with
38 the name, address and phone number of the insurance company and of the insured and with a
39 statement regarding which party is responsible for the payment of towing and storage charges under
40 the insurance policy.

41 304.157. 1. If a person abandons property, as defined in section 304.001, on any real
42 property owned by another without the consent of the owner or person in possession of the property,
43 at the request of the person in possession of the real property, any member of the state highway
44 patrol, state water patrol, sheriff, or other law enforcement officer within his jurisdiction may
45 authorize a towing company to remove such abandoned property from the property in the following
46 circumstances:

- 47 (1) The abandoned property is left unattended for more than forty-eight hours; or
- 48 (2) In the judgment of a law enforcement officer, the abandoned property constitutes a

1 safety hazard or unreasonably interferes with the use of the real property by the person in
2 possession.

3
4 When a tow is authorized under this subsection or subsection 2 of this section, the abandoned
5 property report shall be signed by a law enforcement officer employed by an agency having
6 jurisdiction over the location to which the abandoned property is towed or by a designated Missouri
7 state highway patrol employee.

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

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

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

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

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

39 (3) The abandoned property is left unattended on private property including a tow company
40 storage lot, and the owner, towing company owner or manager, lessee or agent of the real property
41 in lawful possession of real property has notified the appropriate law enforcement agency, and
42 ninety-six hours have elapsed since that notification. For the purposes of this subdivision, the
43 appropriate law enforcement agency for a tow company owner or manager to notify is the law
44 enforcement agency having jurisdiction over the location to which the abandoned property was
45 towed or a designated Missouri state highway patrol employee.

46 5. Pursuant to this section, any owner or lessee in lawful possession of real property that
47 requests a towing company to tow abandoned property without authorization from a law
48 enforcement officer shall at that time complete an abandoned property report which shall be

1 considered a legal declaration subject to criminal penalty pursuant to section 575.060. The report
2 shall be in the form designed, printed and distributed by the director of revenue and shall contain the
3 following:

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

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

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

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

11 (5) The date the report is completed;

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

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

15 (8) The signature of the towing operator;

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

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

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

23 6. Any towing company which tows abandoned property without authorization from a law
24 enforcement officer pursuant to subsection 4 of this section shall deliver a copy of the abandoned
25 property report to the local law enforcement agency having jurisdiction over the location from
26 which the abandoned property was towed. The copy may be produced and sent by facsimile
27 machine or other device which produces a near exact likeness of the print and signatures required,
28 but only if the law enforcement agency receiving the report has the technological capability of
29 receiving such copy and has registered the towing company for such purpose. The registration
30 requirements shall not apply to law enforcement agencies located in counties of the third or fourth
31 classification. The report shall be delivered within two hours if the tow was made from a signed
32 location pursuant to subdivision (1) of subsection 4 of this section, otherwise the report shall be
33 delivered within twenty-four hours.

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

43 8. The law enforcement agency receiving notification that abandoned property has been
44 towed by a towing company shall search the records of the department of revenue and provide the
45 towing company with the latest owner and lienholder information, if available, on the abandoned
46 property, and if the tower has online access to the department of revenue's records, the tower shall
47 comply with the requirements of section 301.155. If the abandoned property is not claimed within
48 ten working days, the towing company shall send a copy of the abandoned property report signed by

1 a law enforcement officer to the department of revenue.

2 9. If any owner or lessee of real property knowingly authorizes the removal of abandoned
3 property in violation of this section, then the owner or lessee shall be deemed guilty of a class C
4 misdemeanor."; and

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6 Further amend said bill, Page 2, Section C, Lines 1-7, by removing all of said section and lines from
7 the bill; and

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9 Further amend said bill by amending the title, enacting clause, and intersectional references
10 accordingly.

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