

SECOND REGULAR SESSION

HOUSE BILL NO. 2496

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE REIBOLDT.

6379H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 304.153, RSMo, and to enact in lieu thereof one new section relating to the towing of motor vehicles.

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

Section A. Section 304.153, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.153, to read as follows:

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

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

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

(3) **"Nonconsensual tow", the transportation of a motor vehicle by tow truck if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. For purposes of this section, all law enforcement-ordered tows are considered nonconsensual;**

(4) "Patrol officer", a Missouri state highway patrol officer;

~~(4)~~ (5) "Tow list", a list of approved towing companies compiled, maintained, and utilized by the Missouri state highway patrol or its designee;

~~(5)~~ (6) "Tow management company", any sole proprietorship, partnership, corporation, fiduciary, association, or other business entity that manages towing logistics for government agencies or motor clubs;

~~(6)~~ (7) "Tow truck", a rollback or car carrier, wrecker, or tow truck as defined under section 301.010;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           ~~[(7)]~~ (8) "Towing", moving or removing, or the preparation therefor, of a vehicle by  
19 another vehicle for which a service charge is made, either directly or indirectly, including any  
20 dues or other charges of clubs or associations which provide towing services;

21           ~~[(8)]~~ (9) "Towing company", any person, partnership, corporation, fiduciary, association,  
22 or other entity that operates a wrecker or towing service as defined under section 301.010.

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

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

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

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

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

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

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

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

42           4. A towing company shall not tow a vehicle to a location outside of Missouri without  
43 the consent of the driver or owner of the motor vehicle, or without the consent of a motor club  
44 of which the driver or owner of the motor vehicle is a member.

45           5. Any towing company or tow truck arriving at the scene of an accident that has not  
46 been called by a patrol officer, a law enforcement officer, a Missouri department of  
47 transportation employee, the driver or owner of the motor vehicle or his or her authorized agent,  
48 including a motor club of which the driver or owner is a member, shall be prohibited from  
49 towing the vehicle from the scene of the accident, unless the towing company or tow truck  
50 operator is rendering emergency aid in the interest of public safety, or is operating during a  
51 declared state of emergency under section 44.100.

52           6. A tow truck operator that stops and tows a vehicle from the scene of an accident in  
53 violation of subsection 5 of this section shall be guilty of a class D misdemeanor upon conviction

54 or pleading guilty for the first violation, and such tow truck shall be subject to impounding. The  
55 penalty for a second violation shall be a class A misdemeanor, and the penalty for any third or  
56 subsequent violation shall be a class D felony. A violation of this section shall not preclude the  
57 tow truck operator from being charged with tampering under chapter 569.

58 7. The provisions of this section shall also apply to motor vehicles towed under section  
59 304.155 or 304.157.

60 8. The provisions of **subsections 1 to 7** of this section shall not apply to counties of the  
61 third or fourth classification.

62 **9. (1) The Towing Task Force is hereby created within the department of**  
63 **transportation. The task force shall consist of nine members who shall serve four-year**  
64 **terms and be appointed as follows:**

65 (a) **One member, or the member's designee, appointed by the governor to represent**  
66 **the department of transportation;**

67 (b) **One member, or the member's designee, appointed by the superintendent of the**  
68 **Missouri state highway patrol;**

69 (c) **One member, or the member's designee, appointed by the governor to represent**  
70 **a towing association within the state;**

71 (d) **One member, or the member's designee, appointed by the governor to represent**  
72 **towing companies within the state but who does not represent a towing association;**

73 (e) **One member, or the member's designee, appointed by the governor to represent**  
74 **an association of automobile owners within the state;**

75 (f) **One member who insures commercial motor vehicles, or the member's designee,**  
76 **appointed by the governor to represent insurance companies within the state;**

77 (g) **One member, or the member's designee, appointed by the governor to represent**  
78 **an association of motor carriers within the state;**

79 (h) **One member, or the member's designee, appointed by the governor to represent**  
80 **local law enforcement agencies; and**

81 (i) **One member, or the member's designee, appointed by the governor to represent**  
82 **independent owner-operator truck drivers.**

83 (2) **The task force shall have the following duties and powers:**

84 (a) **To make comprehensive recommendations to the department about the**  
85 **maximum rates that may be charged for the recovery, towing, and storage of a vehicle that**  
86 **has been towed without the owner's consent; provided that, the use of per-pound billing**  
87 **shall be prohibited;**

88           **(b) To make comprehensive recommendations to the department on matters related**  
89 **to the investigation of overcharges made by towing companies in violation of the rules**  
90 **promulgated under this subsection, including:**

91           **a. A process for the department to adjudicate consumer complaints;**

92           **b. Factors the department shall consider in determining whether a charge levied**  
93 **by a towing company is just, fair, and reasonable; provided that it shall be a violation of**  
94 **the rules promulgated under this subsection for a towing company to charge for the use**  
95 **of unnecessary equipment and labor;**

96           **c. A process for consumers to recover overcharges from a towing company;**

97           **d. A process for the department to remove, at the discretion of the department and**  
98 **law enforcement, towing companies from rotation lists for violations of the rules**  
99 **promulgated under this subsection;**

100           **e. Civil penalties that the department may impose upon towing companies for**  
101 **violations of rules promulgated under this subsection; provided that, the assessment of a**  
102 **civil penalty shall not exceed five thousand dollars per violation; and**

103           **(c) To make comprehensive recommendations to the department regarding**  
104 **information that should be included on every invoice with respect to a nonconsensual tow.**

105           **(3) The task force shall make its first comprehensive recommendations to the**  
106 **department prior to March 1, 2020.**

107           **(4) The members of the towing task force shall elect a chair from among their**  
108 **membership. The chairperson shall set the times and frequency of the task force's**  
109 **meetings.**

110           **(5) The director of the department of transportation may promulgate all necessary**  
111 **rules and regulations for the administration of this subsection. Any rule or portion of a**  
112 **rule, as that term is defined in section 536.010, that is created under the authority**  
113 **delegated in this section shall become effective only if it complies with and is subject to all**  
114 **of the provisions of chapter 536 and, if applicable, section 536.028. This section and**  
115 **chapter 536 are nonseverable, and if any of the powers vested with the general assembly**  
116 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**  
117 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority and**  
118 **any rule proposed or adopted after August 28, 2018, shall be invalid and void.**

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