

FIRST REGULAR SESSION

HOUSE BILL NO. 1101

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRIFFITH.

2320H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 304.153, RSMo, and to enact in lieu thereof one new section relating to the towing of commercial 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Section A. Section 304.153, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 304.153, to read as follows: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) "Patrol officer", a Missouri state highway patrol officer;

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

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

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

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.

17 (8) "Towing company", any person, partnership, corporation, fiduciary, association, or
18 other entity that operates a wrecker or towing service as defined under section 301.010.

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

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

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

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

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

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

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

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

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

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

48 6. A tow truck operator that stops and tows a vehicle from the scene of an accident in
49 violation of subsection 5 of this section shall be guilty of a class D misdemeanor upon conviction
50 or pleading guilty for the first violation, and such tow truck shall be subject to impounding. The
51 penalty for a second violation shall be a class A misdemeanor, and the penalty for any third or

52 subsequent violation shall be a class D felony. A violation of this section shall not preclude the
53 tow truck operator from being charged with tampering under chapter 569.

54 7. The provisions of this section shall also apply to motor vehicles towed under section
55 304.155 or 304.157.

56 8. The provisions of **subsections 1 to 6** of this section shall not apply to counties of the
57 third or fourth classification.

58 **9. No later than January 1, 2021, the department of transportation, in consultation**
59 **with the Missouri state highway patrol and the commercial vehicle towing advisory**
60 **committee established in subsection 10 of this section, shall promulgate rules regulating**
61 **matters relating to the towing of commercial vehicles. Any rule or portion of a rule, as that**
62 **term is defined in section 536.010 that is created under the authority delegated in this**
63 **section shall become effective only if it complies with and is subject to all of the provisions**
64 **of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are**
65 **nonseverable and if any of the powers vested with the general assembly pursuant to**
66 **chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are**
67 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
68 **proposed or adopted after August 28, 2019, shall be invalid and void. The rules shall**
69 **ensure towing companies charge fair, equitable, and reasonable rates for services rendered,**
70 **shall be made available on the department of transportation's website, and shall:**

71 (1) Establish factors the department of transportation shall consider in determining
72 whether a charge levied by a towing company is fair, equitable, and reasonable;

73 (2) Establish a process the department of transportation shall use to receive,
74 investigate, and adjudicate complaints against a towing company;

75 (3) Establish a process the department of transportation or Missouri state highway
76 patrol may use to suspend or remove a towing company from any tow list; and

77 (4) Establish information required to be included on any invoice or notice
78 associated with the towing of a commercial vehicle.

79 **10. (1) There is created within the department of transportation the "Commercial**
80 **Vehicle Towing Advisory Committee", which shall consist of the following members:**

81 (a) The director of the department of transportation, or his or her designee;

82 (b) The superintendent of the Missouri state highway patrol, or his or her designee;

83 (c) Two members, appointed by the governor with the advice and consent of the
84 senate, to represent towing companies within the state;

85 (d) Two members, appointed by the governor with the advice and consent of the
86 senate, to represent motor carriers within the state; and

87 (e) One member, appointed by the governor with the advice and consent of the
88 senate, to represent insurers of commercial vehicles within the state.

89 (2) At its first meeting, the advisory committee shall elect a chairperson from its
90 membership to serve for a term of two years. A chairperson may serve consecutive terms.

91 (3) Members of the advisory committee shall serve for terms of two years.
92 Members may serve consecutive terms. Members of the advisory committee shall serve
93 without compensation, but shall be reimbursed for travel and other expenses actually and
94 necessarily incurred in the performance of their duties.

95 (4) The advisory committee shall hold its first meeting no later than November 1,
96 2019, at a date, time, and location within the state to be determined by the director of the
97 department of transportation. Thereafter, meetings shall be held on dates and at times and
98 locations within the state selected by the chairperson in consultation with the other
99 members, or by the director of the department of transportation if the most recent
100 chairperson's term has expired.

101 (5) A person desiring to appear before the advisory committee at any meeting on
102 any matter within the jurisdiction of the committee shall, not less than ten days prior to the
103 meeting, file with the chairperson a written request in which the nature and purpose of the
104 appearance shall be stated in sufficient detail and clarity to fully apprise the committee of
105 the basis and extent of the appearance.

106 (6) The department of transportation shall keep and maintain a record of all
107 proceedings of the advisory committee, and copies of all orders issued by the advisory
108 committee.

109 (7) The advisory committee shall, at the discretion of the department of
110 transportation, make recommendations regarding rules for the towing of commercial
111 vehicles, provided that the department of transportation shall not be required to adopt any
112 recommendation of the advisory committee.

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