

FIRST REGULAR SESSION

SENATE BILL NO. 404

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time February 27, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1883S.011

AN ACT

To repeal sections 304.022 and 304.154, RSMo, and to enact in lieu thereof three new sections relating to emergency vehicles, with a penalty provision.

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

Section A. Sections 304.022 and 304.154, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 304.022, 304.153,
3 and 304.154, to read as follows:

304.022. 1. Upon the immediate approach of an emergency vehicle giving
2 audible signal by siren or while having at least one lighted lamp exhibiting red
3 light visible under normal atmospheric conditions from a distance of five hundred
4 feet to the front of such vehicle or a flashing blue light authorized by section
5 307.175, the driver of every other vehicle shall yield the right-of-way and shall
6 immediately drive to a position parallel to, and as far as possible to the right of,
7 the traveled portion of the highway and thereupon stop and remain in such
8 position until such emergency vehicle has passed, except when otherwise directed
9 by a police or traffic officer.

10 2. Upon approaching a stationary emergency vehicle displaying lighted
11 **[red or red and blue lights] red, yellow, blue, or white lights, or any**
12 **combination thereof**, or a stationary vehicle owned by the state highways and
13 transportation commission and operated by an authorized employee of the
14 department of transportation displaying lighted amber or amber and white lights,
15 the driver of every motor vehicle shall:

16 (1) Proceed with caution and yield the right-of-way, if possible with due
17 regard to safety and traffic conditions, by making a lane change into a lane not
18 adjacent to that of the stationary vehicle, if on a roadway having at least four

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

19 lanes with not less than two lanes proceeding in the same direction as the
20 approaching vehicle; or

21 (2) Proceed with due caution and reduce the speed of the vehicle,
22 maintaining a safe speed for road conditions, if changing lanes would be unsafe
23 or impossible.

24 3. The motorman of every streetcar shall immediately stop such car clear
25 of any intersection and keep it in such position until the emergency vehicle has
26 passed, except as otherwise directed by a police or traffic officer.

27 4. An "emergency vehicle" is a vehicle of any of the following types:

28 (1) A vehicle operated by the state highway patrol, the state water patrol,
29 the Missouri capitol police, a conservation agent, or a state park ranger, those
30 vehicles operated by enforcement personnel of the state highways and
31 transportation commission, police or fire department, sheriff, constable or deputy
32 sheriff, federal law enforcement officer authorized to carry firearms and to make
33 arrests for violations of the laws of the United States, traffic officer or coroner or
34 by a privately owned emergency vehicle company;

35 (2) A vehicle operated as an ambulance or operated commercially for the
36 purpose of transporting emergency medical supplies or organs;

37 (3) Any vehicle qualifying as an emergency vehicle pursuant to section
38 307.175;

39 (4) Any wrecker, or tow truck or a vehicle owned and operated by a public
40 utility or public service corporation while performing emergency service;

41 (5) Any vehicle transporting equipment designed to extricate human
42 beings from the wreckage of a motor vehicle;

43 (6) Any vehicle designated to perform emergency functions for a civil
44 defense or emergency management agency established pursuant to the provisions
45 of chapter 44;

46 (7) Any vehicle operated by an authorized employee of the department of
47 corrections who, as part of the employee's official duties, is responding to a riot,
48 disturbance, hostage incident, escape or other critical situation where there is the
49 threat of serious physical injury or death, responding to mutual aid call from
50 another criminal justice agency, or in accompanying an ambulance which is
51 transporting an offender to a medical facility;

52 (8) Any vehicle designated to perform hazardous substance emergency
53 functions established pursuant to the provisions of sections 260.500 to 260.550;
54 or

55 (9) Any vehicle owned by the state highways and transportation
56 commission and operated by an authorized employee of the department of
57 transportation that is marked as a department of transportation emergency
58 response or motorist assistance vehicle.

59 5. (1) The driver of any vehicle referred to in subsection 4 of this section
60 shall not sound the siren thereon or have the front red lights or blue lights on
61 except when such vehicle is responding to an emergency call or when in pursuit
62 of an actual or suspected law violator, or when responding to, but not upon
63 returning from, a fire.

64 (2) The driver of an emergency vehicle may:

65 (a) Park or stand irrespective of the provisions of sections 304.014 to
66 304.025;

67 (b) Proceed past a red or stop signal or stop sign, but only after slowing
68 down as may be necessary for safe operation;

69 (c) Exceed the prima facie speed limit so long as the driver does not
70 endanger life or property;

71 (d) Disregard regulations governing direction of movement or turning in
72 specified directions.

73 (3) The exemptions granted to an emergency vehicle pursuant to
74 subdivision (2) of this subsection shall apply only when the driver of any such
75 vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle
76 as may be reasonably necessary, and when the vehicle is equipped with at least
77 one lighted lamp displaying a red light or blue light visible under normal
78 atmospheric conditions from a distance of five hundred feet to the front of such
79 vehicle.

80 6. No person shall purchase an emergency light as described in this
81 section without furnishing the seller of such light an affidavit stating that the
82 light will be used exclusively for emergency vehicle purposes.

83 7. Violation of this section shall be deemed a class A misdemeanor.

**304.153. 1. Notwithstanding any other provision of law, the
2 Missouri state highway patrol shall establish a rotation list procedure
3 to be followed by law enforcement agencies for requesting wrecker or
4 towing services for the removal of a vehicle from property for reasons
5 listed in section 304.155 or 304.157.**

6 **2. As used in this section, the following terms mean:**

7 **(1) "First responder", any person defined as a first responder in**

8 section 192.800;

9 (2) "Law enforcement agency", the Missouri state highway patrol,
10 the sheriff of each county, and the police department or sheriff of each
11 city, town, or village.

12 3. Each law enforcement agency shall establish a rotation list of
13 towing truck companies to be called to tow or remove disabled vehicles
14 within such law enforcement agency's jurisdiction. Such towing truck
15 companies shall comply with all criteria established by the law
16 enforcement agency for inclusion on the law enforcement agency's
17 rotation list. Such criteria shall include the following requirements:

18 (1) That no towing truck company called to tow or remove a
19 disabled vehicle has any connection to any first responder at the
20 location of the disabled vehicle;

21 (2) That no towing truck company shall respond to the location
22 of a disabled vehicle if such towing truck company was called to the
23 location by any first responder other than an employee of the law
24 enforcement agency with jurisdiction over the location of the disabled
25 vehicle;

26 (3) That no towing truck company shall respond to the location
27 of a disabled vehicle as a result of monitoring emergency radio
28 transmissions;

29 (4) That no towing truck company shall be included on the
30 rotation list or shall be called to respond to the location of a disabled
31 vehicle if such towing truck company is unable to respond within a
32 reasonable time;

33 (5) That the towing truck company has the necessary equipment
34 and qualified personnel to respond to calls.

35 4. Any towing truck company that violates the criteria
36 established for inclusion on the rotation list shall be removed from the
37 rotation list of the law enforcement agency with jurisdiction over the
38 location of the disabled vehicle as follows:

39 (1) The first violation of this subsection shall result in a six-
40 month removal;

41 (2) The second violation of this subsection shall result in a one-
42 year removal;

43 (3) The third violation of this subsection shall result in a three-
44 year removal;

45 **(4) The fourth and following violations of this subsection shall**
46 **result in a five-year removal.**

47 **5. Each law enforcement agency shall provide a procedure by**
48 **which a towing truck company may appeal any exclusion or removal**
49 **from the rotation list.**

50 **6. No law enforcement agency shall call a towing truck company**
51 **from the rotation list if the owner of the disabled vehicle requests a**
52 **specific towing truck company.**

53 **7. The department of public safety may promulgate all necessary**
54 **rules for the administration of this section. Any rule or portion of a**
55 **rule, as that term is defined in section 536.010, that is created under**
56 **the authority delegated in this section shall become effective only if it**
57 **complies with and is subject to all of the provisions of chapter 536 and,**
58 **if applicable, section 536.028. This section and chapter 536 are**
59 **nonseverable and if any of the powers vested with the general assembly**
60 **pursuant to chapter 536 to review, to delay the effective date, or to**
61 **disapprove and annul a rule are subsequently held unconstitutional,**
62 **then the grant of rulemaking authority and any rule proposed or**
63 **adopted after August 28, 2013, shall be invalid and void.**

 304.154. 1. Beginning January 1, 2005, a towing company operating a tow
2 truck pursuant to the authority granted in section 304.155 or 304.157 shall:

3 **(1) Have and occupy a verifiable business address and display such**
4 **address in a location visible from the street;**

5 **(2) Have a fenced, secure, and lighted storage lot or an enclosed, secure**
6 **building for the storage of motor vehicles, with a total area for storing**
7 **vehicles, either inside or outside, of at least two thousand square feet,**
8 **and fencing a minimum of seven feet high;**

9 **(3) Maintain regular business hours for the business office of 8:00**
10 **a.m. to 5:00 p.m., Monday through Friday, for customers or their**
11 **authorized agent to view and retrieve vehicles, with no additional fees**
12 **charged to view or retrieve a vehicle during these regular business**
13 **hours;**

14 **(4) Be available twenty-four hours a day, seven days a week. Availability**
15 **shall mean that an employee of the towing company or an answering service**
16 **answered by a person is able to respond to a tow request;**

17 **(5) Have and maintain an operational land-line phone at the**
18 **place of business;**

19 [(4)] **(6)** Maintain a valid insurance policy issued by an insurer
20 authorized to do business in this state, or a bond or other acceptable surety
21 providing coverage for the death of, or injury to, persons and damage to property
22 for each accident or occurrence in the amount [of at least five hundred thousand
23 dollars per incident] **prescribed by the United States Department of**
24 **Transportation;**

25 **(7)** Maintain liability insurance as follows: **garage coverage**
26 **liability of one million dollars per occurrence with an aggregate of two**
27 **million dollars or greater, garage keeper policy with a fifty thousand**
28 **dollar minimum, and hook and cargo insurance with a fifty thousand**
29 **dollar minimum;**

30 [(5)] **(8)** Provide workers' compensation insurance for all employees of the
31 towing company if required by chapter 287; [and]

32 [(6)] **(9)** Maintain current motor vehicle registrations on all tow trucks
33 currently operated within the towing company fleet;

34 **(10)** Provide a twenty-five thousand dollar surety bond by a
35 company licensed to do business in the state, or provide an irrevocable
36 letter of credit from a financial institution licensed to do business in
37 the state; and

38 **(11)** Require tow drivers to be certified by the Towing and
39 Recovery Association of America (TRAA), or any state or federally
40 funded program, as follows:

41 **(a)** Beginning August 28, 2014, light-duty operators shall have at
42 least TRAA Level 1 Certification or equivalent;

43 **(b)** Beginning March 1, 2015, medium-duty operators shall have
44 at least TRAA Level 2 Certification or equivalent; and

45 **(c)** Beginning August 28, 2015, heavy-duty operators shall have
46 at least TRAA Level 3 Certification or equivalent.

47 2. Counties may adopt ordinances with respect to towing company
48 standards in addition to the minimum standards contained in this section. [A
49 towing company located in a county of the second, third, and fourth classification
50 is exempt from the provisions of this section.]

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