

## Chapter 217

### ABANDONED PROPERTY

Cross References — As to open storage of vehicles, §215.070(5); as to maximum charges for towing and storage, §385.050; as to sale of abandoned property by city, §385.060; as to crime inquiry and inspection reports required by state law, §385.040.

#### **Section 217.010. Definitions.**<sup>1</sup>

As used in this Chapter, the following terms shall have the meanings set out herein:

**ABANDONED PROPERTY** — Any unattended or unlicensed motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel removed or subject to removal from public or private property as provided in this Chapter, whether or not operational. For any vehicle towed from the scene of an accident at the request of law enforcement and not retrieved by the vehicle's owner within five (5) days of the accident, the agency requesting the tow shall be required to write an abandoned property report or a criminal inquiry and inspection report.

**PERSON** — Any natural person, corporation or other legal entity.

**RIGHT-OF-WAY** — The entire width of land between the boundary lines of a public road or State highway, including any roadway.

**ROADWAY** — That portion of a public road or State highway ordinarily used for vehicular travel, exclusive of the berm or shoulder.

**TOWING COMPANY** — Any person or entity which tows, removes or stores abandoned property.

#### **Section 217.020. Abandoning Motor Vehicle — Last Owner of Record Deemed the Owner of Abandoned Motor Vehicle, Procedures — Penalty — Civil Liability.**

- A. A person commits the offense of abandoning a motor vehicle, vessel or trailer if he/she abandons any motor vehicle, vessel or trailer on the right-of-way of any public road or State highway or on or in any of the waters in this State or on the banks of any stream or on any land or water owned, operated or leased by the State, any board, department, agency or commission thereof, or any political subdivision thereof or on any land or water owned, operated or leased by the Federal Government or on any private real property owned by another without his/her consent.
- B. For purposes of this Section, the last owner of record of a motor vehicle, vessel or trailer found abandoned and not shown to be transferred pursuant to Sections 301.196 and

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1. State Law Reference — For similar provisions, §304.001, RSMo.

301.197, RSMo., shall be deemed prima facie to have been the owner of such motor vehicle, vessel or trailer at the time it was abandoned and to have been the person who abandoned the motor vehicle, vessel or trailer or caused or procured its abandonment. The registered owner of the abandoned motor vehicle, vessel or trailer shall not be subject to the penalties provided by this Section if the motor vehicle, vessel or trailer was in the care, custody or control of another person at the time of the violation. In such instance, the owner shall submit such evidence in an affidavit permitted by the court setting forth the name, address and other pertinent information of the person who leased, rented or otherwise had care, custody or control of the motor vehicle, vessel or trailer at the time of the alleged violation. The affidavit submitted pursuant to this Subsection shall be admissible in a court proceeding adjudicating the alleged violation and shall raise a rebuttable presumption that the person identified in the affidavit was in actual control of the motor vehicle, vessel or trailer. In such case, the court has the authority to terminate the prosecution of the summons issued to the owner and issue a summons to the person identified in the affidavit as the operator. If the motor vehicle, vessel or trailer is alleged to have been stolen, the owner of the motor vehicle, vessel or trailer shall submit proof that a police report was filed in a timely manner indicating that the vehicle or vessel was stolen at the time of the alleged violation.

- C. Abandoning a motor vehicle, vessel or trailer is an ordinance violation.
- D. Any person convicted pursuant to this Section shall be civilly liable for all reasonable towing, storage and administrative costs associated with the abandonment of the motor vehicle, vessel or trailer. Any reasonable towing, storage and administrative costs in excess of the value of the abandoned motor vehicle, vessel or trailer that exist at the time the motor vehicle or vessel is transferred pursuant to Section 304.156, RSMo., shall remain the liability of the person convicted pursuant to this Section so long as the towing company, as defined in Chapter 304, RSMo., provided the title owner and lienholders, as ascertained by the Department of Revenue records, a notice within the time frame and in the form as described in Subsection (1) of Section 304.156, RSMo.

**Section 217.030. (Reserved)**

**Section 217.040. Towing of Abandoned Property on Private Real Property.** <sup>2</sup>

- A. *Generally.* The City, including the City Police Department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to Section 217.030 or are derelict, junk, scrapped, disassembled or otherwise harmful to the public health. The City shall perform such tow pursuant to the terms of Section 217.050. When a City agency other than the Police Department authorizes a tow under this Subsection, it shall report the tow to the Police Department within two (2) hours with a crime inquiry and inspection report.
- B. *Towing Authorized By City Police Department.* If a person abandons property on any real property owned by another without the consent of the owner or person in possession of the real property, at the request of the person in possession of the real property, any City Police Officer may authorize a towing company to remove such abandoned property from the

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2. State Law References — For similar provisions, §§304.157.1 — 2, 304.157.4 — 9, 304.158.2 — 4, 304.158.8 — 9, RSMo. (2004)

property in the following circumstances:

1. The abandoned property is left unattended for more than forty-eight (48) hours; or
2. In the judgment of a Police Officer, the abandoned property constitutes a safety hazard or unreasonably interferes with the use of the real property by the person in possession.

C. *Towing Authorized By Real Property Owner, Lessee Or Property Or Security Manager.*

1. The owner of real property or lessee in lawful possession of the real property or the property or security manager of the real property may authorize a towing company to remove abandoned property or property parked in a restricted or assigned area without authorization by a Law Enforcement Officer only when the owner, lessee or property or security manager of the real property is present. A property or security manager must be a full-time employee of a business entity. An authorization to tow pursuant to this Subsection may be made only under any of the following circumstances:
  - a. *Sign.* There is displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering not less than one (1) inch in height, prohibiting public parking and indicating that unauthorized abandoned property or property parked in a restricted or assigned area will be removed at the owner's expense, disclosing the maximum fee for all charges related to towing and storage, and containing the telephone number of the local traffic law enforcement agency where information can be obtained or a twenty-four (24) hour staffed emergency information telephone number by which the owner of the abandoned property or property parked in a restricted or assigned area may call to receive information regarding the location of such owner's property.
  - b. *Unattended on owner-occupied residential property.* The abandoned property is left unattended on owner-occupied residential property with four (4) residential units or less and the owner, lessee or agent of the real property in lawful possession has notified the City Police Department, and ten (10) hours have elapsed since that notification.
  - c. *Unattended on other private real property.* The abandoned property is left unattended on private real property and the owner, lessee or agent of the real property in lawful possession of real property has notified the City Police Department, and ninety-six (96) hours have elapsed since that notification.
2. Pursuant to this Section, any owner or lessee in lawful possession of real property that requests a towing company to tow abandoned property without authorization from a City Police Officer shall at that time complete an abandoned property report which shall be considered a legal declaration subject to criminal penalty pursuant to Section 575.060, RSMo. The report shall be in the form designed, printed and distributed by the Missouri Director of Revenue and shall contain the following:
  - a. The year, model, make and abandoned property identification number of the

- property, and the owner and any lienholders, if known;
- b. A description of any damage to the abandoned property noted by owner, lessee or property or security manager in possession of the real property;
  - c. The license plate or registration number and the State of issuance, if available;
  - d. The physical location of the property and the reason for requesting the property to be towed;
  - e. The date the report is completed;
  - f. The printed name, address and telephone number of the owner, lessee or property or security manager in possession of the real property;
  - g. The towing company's name and address;
  - h. The signature of the towing operator;
  - i. The signature of the owner, lessee or property or security manager attesting to the facts that the property has been abandoned for the time required by this Section and that all statements on the report are true and correct to the best of the person's knowledge and belief and that the person is subject to the penalties for making false statements;
  - j. Space for the name of the law enforcement agency notified of the towing of the abandoned property and for the signature of the Law Enforcement Official receiving the report; and
  - k. Any additional information the Missouri Director of Revenue deems appropriate.
3. Any towing company which tows abandoned property without authorization from the City Police Department pursuant to Subsection (B) of this Section shall deliver a copy of the abandoned property report to the City Police Department. The copy may be produced and sent by facsimile machine or other device which produces a near exact likeness of the print and signatures required, but only if the City Police Department has the technological capability of receiving such copy and has registered the towing company for such purpose. The report shall be delivered within two (2) hours if the tow was made from a signed location pursuant to Subsection (C)(1)(a) of this Section, otherwise the report shall be delivered within twenty-four (24) hours.
  4. The City Police Department, after receiving such abandoned property report, shall record the date on which the abandoned property report is filed with the Police Department and shall promptly make an inquiry into the National Crime Information Center (NCIC) and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen. The Police Department shall enter the information pertaining to the towed property into the statewide law enforcement computer system and a Police Officer shall sign the abandoned property report and provide the towing company with a signed copy.
  5. The City Police Department, after receiving notification that abandoned property has

been towed by a towing company, shall search the records of the Missouri Department of Revenue and provide the towing company with the latest owner and lienholder information on the abandoned property, and if the tower has online access to the Department of Revenue's records, the tower shall comply with the requirements of Section 304.155, RSMo. If the abandoned property is not claimed within ten (10) working days, the towing company shall send a copy of the abandoned property report signed by a Law Enforcement Officer to the Department of Revenue.

6. No owner, lessee or property or security manager of real property shall knowingly authorize the removal of abandoned property in violation of this Section.
  7. Any owner of any private real property causing the removal of abandoned property from that real property shall state the grounds for the removal of the abandoned property if requested by the registered owner of that abandoned property. Any towing company that lawfully removes abandoned property from private property with the written authorization of the property owner or the property owner's agent who is present at the time of removal shall not be held responsible in any situation relating to the validity of the removal. Any towing company that removes abandoned property at the direction of the landowner shall be responsible for:
    - a. Any damage caused by the towing company to the property in the transit and subsequent storage of the property; and
    - b. The removal of property other than the property specified by the owner of the private real property from which the abandoned property was removed.
- D. *Damage To Property.* The owner of abandoned property removed from private real property may recover for any damage to the property resulting from any act of any person causing the removal of, or removing, the abandoned property.
- E. *Real Property Owner Liability.* Any owner of any private real property causing the removal of abandoned property parked on that property is liable to the owner of the abandoned property for double the storage or towing charges whenever there has been a failure to comply with the requirements of this Chapter.
- F. *Written Authorization Required — Delegation Of Authority To Tow.*
1. Except for the removal of abandoned property authorized by the City Police Department pursuant to this Section, a towing company shall not remove or commence the removal of abandoned property from private real property without first obtaining written authorization from the real property owner. All written authorizations shall be maintained for at least one (1) year by the towing company.
  2. General authorization to remove or commence removal of abandoned property at the towing company's discretion shall not be delegated to a towing company or its affiliates except in the case of abandoned property unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane designated by a Fire Department or the State Fire Marshal.
- G. *Towing Company Liability.* Any towing company, or any affiliate of a towing company, which removes, or commences removal of, abandoned property from private property

without first obtaining written authorization from the property owner or lessee, or any employee or agent thereof, who is present at the time of removal or commencement of the removal, except as permitted in Subsection (F) of this Section, is liable to the owner of the property for four (4) times the amount of the towing and storage charges, in addition to any applicable ordinance violation penalty, for a violation of this Section.

**Section 217.050. General Provisions and Procedures.** <sup>3</sup>

- A. *Payment Of Charges.* The owner of abandoned property removed as provided in this Chapter shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in Section 385.050.
- B. *Crime Inquiry And Inspection Report.* As to crime inquiry and inspection reports required by State law, see Chapter 385 of this Code, Section 385.040.
- C. *Reclaiming Property.* The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.
- D. *Lienholder Repossession.* If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the City Police Department within two (2) hours of the repossession and shall further provide the Police Department with any additional information the Police Department deems appropriate. The City Police Department shall make an inquiry with the National Crime Information Center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.
- E. *Notice To Owner/Tow Lien Claim.* Any towing company which comes into possession of abandoned property pursuant to this Chapter and who claims a lien for recovering, towing or storing abandoned property shall give notice to the title owner and to all persons claiming a lien thereon, as disclosed by the records of the Missouri Department of Revenue or of a corresponding agency in any other State. The towing company shall notify the owner and any lienholder within ten (10) business days of the date of mailing indicated on the notice sent by the Missouri Department of Revenue pursuant to Section 304.156, RSMo., by certified mail, return receipt requested. The notice shall contain the following:
  - 1. The name, address and telephone number of the storage facility;
  - 2. The date, reason and place from which the abandoned property was removed;
  - 3. A statement that the amount of the accrued towing, storage and administrative costs are the responsibility of the owner, and that storage and/or administrative costs will continue to accrue as a legal liability of the owner until the abandoned property is redeemed;

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<sup>3</sup>. State Law References — For similar provisions, §§304.155.5 — 6 (2004), 304.155.11 — 12(2004), 304.158.1, 304.158.5, 304.158.7, RSMo.

4. A statement that the storage firm claims a possessory lien for all such charges;
  5. A statement that the owner or holder of a valid security interest of record may retake possession of the abandoned property at any time during business hours by proving ownership or rights to a secured interest and paying all towing and storage charges;
  6. A statement that, should the owner consider that the towing or removal was improper or not legally justified, the owner has a right to request a hearing as provided in this Section to contest the propriety of such towing or removal;
  7. A statement that if the abandoned property remains unclaimed for thirty (30) days from the date of mailing the notice, title to the abandoned property will be transferred to the person or firm in possession of the abandoned property free of all prior liens; and
  8. A statement that any charges in excess of the value of the abandoned property at the time of such transfer shall remain a liability of the owner.
- F. *Physical Search Of Property.* In the event that the Missouri Department of Revenue notifies the towing company that the records of the Department of Revenue fail to disclose the name of the owner or any lienholder of record, the towing company shall attempt to locate documents or other evidence of ownership on or within the abandoned property itself. The towing company must certify that a physical search of the abandoned property disclosed no ownership documents were found and a good faith effort has been made. For purposes of this Section, "*good faith effort*" means that the following checks have been performed by the company to establish the prior State of registration and title:
1. Check of the abandoned property for any type of license plates, license plate record, temporary permit, inspection sticker, decal or other evidence which may indicate a State of possible registration and title;
  2. Check the law enforcement report for a license plate number or registration number if the abandoned property was towed at the request of a law enforcement agency;
  3. Check the tow ticket/report of the tow truck operator to see if a license plate was on the abandoned property at the beginning of the tow, if a private tow; and
  4. If there is no address of the owner on the impound report, check the law enforcement report to see if an out-of-state address is indicated on the driver license information.
- G. *Petition In Circuit Court.* The owner of the abandoned property removed pursuant to this Chapter or any person claiming a lien, other than the towing company, within ten (10) days after the receipt of notification from the towing company pursuant to Subsection (E) of this Section may file a petition in the Associate Circuit Court in the County where the abandoned property is stored to determine if the abandoned property was wrongfully taken or withheld from the owner. The petition shall name the towing company among the defendants. The petition may also name the agency ordering the tow or the owner, lessee or agent of the real property from which the abandoned property was removed. The Missouri Director of Revenue shall not be a party to such petition but a copy of the petition shall be served on the Director of Revenue.

- H. *Notice To Owner.* Notice as to the removal of any abandoned property pursuant to this Chapter shall be made in writing within five (5) working days to the registered owner and any lienholder of the fact of the removal, the grounds for the removal, and the place to which the property has been removed by either:
1. The public agency authorizing the removal; or
  2. The towing company, where authorization was made by an owner or lessee of real property.

If the abandoned property is stored in any storage facility, a copy of the notice shall be given to the operator of the facility. The notice provided for in this Section shall include the amount of mileage if available shown on the abandoned property at the time of removal.

- I. *Tow Truck Requirements.* Any towing company which tows abandoned property for hire shall have the towing company's name, City and State clearly printed in letters at least three (3) inches in height on the sides of the truck, wrecker or other vehicle used in the towing.
- J. *Storage Facilities.* Persons operating or in charge of any storage facility where the abandoned property is stored pursuant to this Chapter shall accept cash for payment of towing and storage by a registered owner or the owner's agent claiming the abandoned property.
- K. *Disposition Of Towed Property.* Notwithstanding the provisions of Section 301.227, RSMo., any towing company who has complied with the notification provisions in Section 304.156, RSMo., including notice that any property remaining unredeemed after thirty (30) days may be sold as scrap property, may then dispose of such property as provided in this Subsection. Such sale shall only occur if at least thirty (30) days have passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in Section 304.156, RSMo. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the Director of Revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the Director of Revenue within two (2) weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three (3) years that shall be available for inspection by law enforcement and authorized Department of Revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this Chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in Section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in Section 301.227, RSMo., on vehicles purchased on a bill of sale pursuant to the Section.