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**Legislative Testimony
by the
Kansas Motor Carriers Association
before the
House Transportation Committee
Representative Richard Proehl, Chairman
Wednesday, January 19, 2022**

In Strong Opposition to House Bill No. 2294

**MR. CHAIRMAN AND MEMBERS OF THE
HOUSE TRANSPORTATION COMMITTEE:**

I am Tom Whitaker, Executive Director of the Kansas Motor Carriers Association. I appear before you this afternoon along with, Deann Williams, KMCA's Associate Executive Director, representing our Towing and Recovery Division, in strong opposition to the provisions of House Bill No. 2294. The bill moves the process and expense of obtaining a Vehicle VIN Inspection (MVE-1) and titling a vehicle purchased at a Towing and Recovery Possessory Lien public auction from the Salvage Vehicle Dealer to a towing company or public agency providing towing and recovery service.

Currently, Vehicle Salvage Dealers are required to have in their possession a title for every vehicle they have in their salvage yard. When the remains of a vehicle are destroyed, the Salvage Vehicle Dealer must turn the title into the Division of Vehicles and then the vehicle information is removed from the National Motor Vehicle Title Information System. We met with the Vehicle Salvage Dealer's State Representative and the Kansas Department of Revenue last Session to try and resolve this problem of the Division of Vehicles not accepting the Towing and Recovery lien paperwork in lieu of a title, but to no avail.

Towing companies must follow strict guidelines when selling an abandoned vehicle to satisfy a Towing and Recovery Possessory Lien. We have attached an updated Towing and Recovery Possessory Lien process that reflects the changes in the law approved during the 2021 Session of the Kansas Legislature. I often refer to tow companies as the "Litter Control Officers of our Streets and Highways." Most of the vehicles they sell are not roadworthy and basically salvage. The vehicles don't bring a lot of money at public auction. Now, if HB 2294 was adopted, the cost of disposing these vehicles by the towing company would increase while the time and expense of the Vehicle Salvage Dealer would decrease. I truly doubt the Vehicle Salvage Dealer would pay more at the public auction to cover the tower's increased expenses.



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Mr. Chairman, we tried last year to find a solution to the problem the Vehicle Salvage Dealer is currently experiencing. The problem isn't really between the Vehicle Salvage Dealer and the towing company, it's between the Vehicle Salvage Dealer and the Division of Vehicles and the requirements of the National Motor Vehicle Title Information System.

As we stated earlier in our testimony, HB 2294 unfairly shifts the time and expense of titling a vehicle from the Vehicle Salvage Dealer to an already burdened tow company. We respectfully request the House Transportation Committee report HB 2294 unfavorably.

We thank you for the opportunity to appear before you this afternoon and would be pleased to respond to any questions you have.



TOWING AND RECOVERY POSSESSORY LIEN LAW
(SB 158 Amendments in Red)

The law establishes a first and prior possessory lien relationship when the owner of the vehicle or law enforcement directs a person providing towing and recovery service, as defined by law, to provide towing and recovery service for a vehicle. Further the law sets forth a time frame for disposal of the vehicle and any personal property at auction. The requirements for satisfaction of the towing and recovery lien are as follows:

- When the towing and recovery service is provided, the tow operator must inform the driver, if available, that a storage charge will be assessed and the amount of the charge. Failure to provide notice will invalidate any lien on storage fees.
- If the name of the owner of the vehicle is known to the tow operator, notice must be given to that owner within 15 days after the tow operator takes possession of the vehicle, stating that the vehicle is being held subject to payment of towing and storage charges to satisfy the tow operator's lien. Notice may be given by telephone, in person or by mail, but some written record must indicate that such notice was given within 15 days.
- Vehicles for which the towing and storage fees have not been paid, are subject to the following verification procedure:
 1. The tow truck operator must, within 30 days after taking possession of the vehicle and any personal property therein, request from the Division of Vehicles verification of the last registered owner and any lienholders, if any.
 2. Within 10 days after receipt of the verification information from the division of vehicles, the tow operator must, by certified mail, notify the owner and any lienholders that the vehicle and any personal property will be sold at public auction to satisfy the towing and recovery possessory lien if payment is not received within 15 days.
 3. **Every person intending to sell any vehicle pursuant that cannot be verified by the division of vehicles shall obtain an interstate search of registered owners and lienholders unless:(1) The vehicle is 15 years of age or older; or (2) the vehicle is determined by the division of vehicles to be a nonrepairable vehicle pursuant to K.S.A. 8-135c, and amendments thereto.**
- All sales must be at public auction for cash. Notice of the time and place of the sale, along with a description of the vehicle and any personal property, must be published in a newspaper published in the county where the sale is to take place. **Notice of an auction shall be published at least seven days prior to the scheduled auction.**
- Failure to comply with the notice requirements of the towing and recovery lien law halts the assessment of storage charges at the time a required notice was missed. Storage charge may begin again when the notice requirements have been met.
- Copies of the Vehicle VIN Verification from the Division of Vehicles, all notification to the owner and lienholder, proof of publication and the TR-85 Towing and Recovery Possessory Lien form of the Division of Vehicles shall be provided to the purchaser of such vehicle.
- **A person providing towing services shall not tow a vehicle to a location outside of Kansas without the consent of (1) the driver (2) or owner of the motor vehicle or without the consent of a motor club of which the driver or owner of the motor vehicle is a member, (3) the insurance company processing a claim with respect to the motor vehicle, or (4) the agent of such insurance company.**
- There are additional requirements for Private Property Tows.