

HOUSE BILL No. 2216

By Committee on Transportation

2-3

1 AN ACT concerning transportation; relating to wrecker or towing services;
2 establishing maximum rates for wrecker and towing services;
3 permitting additional storage and service fees when certain conditions
4 exist; amending K.S.A. 2020 Supp. 8-1103 and repealing the existing
5 section.
6

7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2020 Supp. 8-1103 is hereby amended to read as
9 follows: 8-1103. (a) (1) *Subject to the provisions of subsection (d),*
10 *whenever any person providing wrecker or towing service, as defined by*
11 ~~law~~ *K.S.A. 66-1329, and amendments thereto, while lawfully in possession*
12 *of a vehicle, at the direction of a law enforcement officer or the owner or*
13 *as provided by a city ordinance or county resolution, renders any service to*
14 *the owner thereof by the recovery, transportation, protection, storage or*
15 *safekeeping thereof, a first and prior lien on the vehicle is hereby created*
16 *in favor of such person rendering such service and the lien shall amount to*
17 *the full amount and value of the service rendered. The lien may be*
18 *foreclosed in the manner provided in this act.*

19 (2) If the name of the owner of the vehicle is known to the person in
20 possession of such vehicle, then within 15 days, notice shall be given to
21 the owner that the vehicle is being held subject to satisfaction of the lien.
22 Any vehicle remaining in the possession of a person providing wrecker or
23 towing service for a period of 30 days after such wrecker or towing service
24 was provided may be sold to pay the reasonable or agreed charges for such
25 recovery, transportation, protection, storage or safekeeping of such vehicle
26 and personal property therein, the costs of such sale, the costs of notice to
27 the owner of the vehicle and publication after giving the notices required
28 by this act, unless a court order has been issued to hold such vehicle for
29 the purpose of a criminal investigation or for use as evidence at a trial. If a
30 court orders any vehicle to be held for the purpose of a criminal
31 investigation or for use as evidence at a trial, then such order shall be in
32 writing, and the court shall assess as costs the reasonable or agreed charges
33 for the protection, storage or safekeeping accrued while the vehicle was
34 held pursuant to such written order.

35 (3) Any personal property within the vehicle need not be released to
36 the owner thereof until the reasonable or agreed charges for such recovery,

1 transportation or safekeeping have been paid, or satisfactory arrangements
2 for payment have been made, except as provided under subsection (c) or
3 for personal medical supplies which shall be released to the owner thereof
4 upon request.

5 (4) The person in possession of such vehicle and personal property
6 shall be responsible only for the reasonable care of such property. Any
7 personal property within the vehicle not returned to the owner shall be sold
8 at the auction authorized by this act.

9 (b) At the time of providing wrecker or towing service, any person
10 providing such wrecker or towing service shall give written notice to the
11 driver, if available, of the vehicle being towed that a fee will be charged
12 for storage of such vehicle. Failure to give such written notice shall
13 invalidate any lien established for such storage fee.

14 (c) *Subject to the provisions of subsection (d), a city ordinance or*
15 *county resolution authorizing the towing of vehicles from private property*
16 *shall specify in such ordinance or resolution:*

17 (1) The maximum rate such wrecker or towing service may charge
18 for such wrecker or towing service and storage fees;

19 (2) that an owner of a vehicle towed shall have access to personal
20 property in such vehicle for 48 hours after such vehicle has been towed
21 and such personal property shall be released to the owner; and

22 (3) that the wrecker or towing service shall report the location ~~of and~~
23 *intent to tow* such vehicle to local law enforcement ~~within two hours of~~
24 *before* such tow.

25 (d) (1) *A person providing wrecker or towing service, as defined by*
26 *K.S.A. 66-1329, and amendments thereto, may charge a vehicle owner*
27 *commercially reasonable fees related to such wrecker or towing service*
28 *and for the storage of such vehicle as provided by this section, except that*
29 *no fees may exceed the following amounts:*

30 (A) *\$150 for a vehicle removal using a wrecker or tow truck, as*
31 *defined in K.S.A. 66-1329, and amendments thereto;*

32 (B) *\$25 for each period of 24 consecutive hours that the vehicle is*
33 *stored at an outdoor storage facility after notice has been given to a law*
34 *enforcement agency pursuant to subsection (c)(3);*

35 (C) *\$35 for each period of 24 consecutive hours that the vehicle is*
36 *stored at an indoor storage facility after notice has been given to a law*
37 *enforcement agency pursuant to subsection (c)(3); and*

38 (D) *\$150 total for any other commercially reasonable charges*
39 *described in paragraph (2).*

40 (2) *A person providing wrecker or towing service and storing a*
41 *vehicle shall not charge any administrative fees, gate fees, lien processing*
42 *fees or any other fees for special equipment or special procedures required*
43 *for the removal or storage of a vehicle, but may charge a fee pursuant to*

1 paragraph (1)(D) if any of the following applies:

2 (A) The vehicle removed exceeds size and weight limits set forth in
3 K.S.A. 8-1902, 8-1904, 8-1908 and 8-1909, and amendments thereto, or
4 possesses any unusual component or equipment that makes the vehicle
5 removal charge in paragraph (1)(A) insufficient to cover the expenses
6 incurred.

7 (B) The removed vehicle is located in an area that has certain spatial
8 constraints or limited access to the vehicle that makes the vehicle removal
9 charge in paragraph (1)(A) insufficient to cover the expenses incurred.

10 (C) The round trip travel mileage for the person providing wrecker or
11 towing service exceeds 20 miles. A person providing wrecker or towing
12 service may charge \$3 per mile for any round trip mileage that exceeds 20
13 miles. Round trip mileage shall be determined by the mileage it takes to
14 get from the vehicle storage facility to the vehicle and to return to the
15 storage facility. The person providing wrecker or towing service shall
16 indicate the beginning and ending odometer reading before providing such
17 service to the closest $\frac{1}{10}$ of a mile. If a person providing wrecker or towing
18 service is dispatched from a facility other than the vehicle storage facility,
19 then the person may charge double the fee for round trip mileage.

20 (3) A person providing wrecker or towing service may not charge any
21 of the fees listed in paragraph (1) or (2) if that person has not provided
22 notification to a law enforcement agency as required by subsection (c)(3).

23 (4) If a city or county requests a person to provide wrecker or towing
24 service, whether by ordinance, resolution or request, the person providing
25 the service may charge a municipal service fee not exceeding \$35 to the
26 vehicle owner in addition to any of the fees listed in paragraph (1) or (2).
27 This municipal service fee shall be remitted to the city or county where the
28 vehicle was located. If the city or county requests such municipal service
29 fee, then the person providing wrecker or towing service may charge the
30 vehicle owner an additional fee not exceeding the amount remitted to the
31 city or county.

32 (5) To determine the storage fees in paragraphs (1)(B) and (C), the
33 storage period shall include the number of consecutive 24-hour periods
34 beginning on the date and time that the person providing wrecker or
35 towing service provides the required notice to a law enforcement agency
36 and the vehicle owner pursuant to this section and ending on the date and
37 time the vehicle was recovered, rounded up to the nearest whole number.
38 No storage fee shall be charged for any calendar day that the vehicle
39 storage facility is open less than four hours total for vehicle recovery.

40 Sec. 2. K.S.A. 2020 Supp. 8-1103 is hereby repealed.

41 Sec. 3. This act shall take effect and be in force from and after its
42 publication in the statute book.