

HOUSE BILL No. 2294

By Committee on Transportation

2-9

1 AN ACT concerning motor vehicles; relating to abandoned or towed
2 vehicles; requiring an individual or agency to acquire a certificate of
3 title before selling an abandoned or towed vehicle; amending K.S.A. 8-
4 2403 and K.S.A. 2020 Supp. 8-128, 8-1102, 8-1103 and 8-1104 and
5 repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2020 Supp. 8-128 is hereby amended to read as
9 follows: 8-128. (a) The following need not be registered under this act,
10 any:

- 11 (1) Implement of husbandry;
- 12 (2) all-terrain vehicle;
- 13 (3) micro utility truck;
- 14 (4) golf cart;
- 15 (5) work-site utility vehicle;
- 16 (6) road roller or road machinery temporarily operated or moved
17 upon the highways;
- 18 (7) municipally owned fire truck;
- 19 (8) privately owned fire truck subject to a mutual aid agreement with
20 a municipality;
- 21 (9) school bus owned and operated by a school district or a nonpublic
22 school that has the name of the municipality, school district or nonpublic
23 school plainly painted thereon;
- 24 (10) farm trailer used in carrying not more than 6,000 pounds owned
25 by a person engaged in farming, which trailer is used exclusively by the
26 owner to transport agricultural products produced by such owner or
27 commodities purchased by the owner for use on the farm owned or rented
28 by the owner of such trailer and the weight of any such farm trailer, plus
29 the cargo weight of 6,000 pounds or less, shall not be considered in
30 determining the gross weight for which the truck or truck tractor
31 propelling the same shall be registered;
- 32 (11) farm trailer used and designed for transporting hay or forage
33 from a field to a storage area or from a storage area to a feedlot that is only
34 incidentally moved or operated upon the highways, except that this
35 paragraph shall not apply to a farm semitrailer; ~~or~~
- 36 (12) electric-assisted scooter; *or*

1 (13) *abandoned or towed vehicle when a public agency or person*
2 *providing wrecker or towing service, as defined in K.S.A. 66-1329, and*
3 *amendments thereto, is in possession of such vehicle and applies for a*
4 *certificate of title for the purpose of selling such vehicle pursuant to K.S.A.*
5 *2020 Supp. 8-1102, 8-1103 and 8-1104, and amendments thereto, except*
6 *that this paragraph shall not apply once such vehicle has been sold*
7 *pursuant to K.S.A. 8-1102, 8-1103 and 8-1104, and amendments thereto.*

8 (b) Self-propelled cranes where the crane operator on a job site
9 operates the controls of such crane from a permanent housing or module
10 on the crane and the crane is not used for the transportation of property,
11 except the property that is required for the operation of the crane itself and
12 earth moving equipment that are equipped with pneumatic tires may be
13 moved on the highways of this state from one job location to another, or to
14 or from places of storage, delivery or repair, without complying with the
15 provisions of the law relating to registration and display of license plates
16 but shall comply with all the other requirements of the law relating to
17 motor vehicles.

18 (c) Oil well servicing, oil well clean-out or oil well drilling machinery
19 or equipment need not be registered under this act but shall comply with
20 all the other requirements of the law relating to motor vehicles.

21 (d) A truck permanently mounted with a hydraulic concrete pump and
22 placing boom may be moved on the highways of this state from one job
23 location to another, or to or from places of storage delivery or repair,
24 without being registered under this act, but shall comply with all the other
25 requirements of the law relating to motor vehicles. The provisions of this
26 subsection shall not apply to ready-mix concrete trucks.

27 Sec. 2. K.S.A. 2020 Supp. 8-1102 is hereby amended to read as
28 follows: 8-1102. (a) (1) A person shall not use the public highway to
29 abandon vehicles or use the highway to leave vehicles unattended in such
30 a manner as to interfere with public highway operations. When a person
31 leaves a motor vehicle on a public highway or other property open to use
32 by the public, the public agency having jurisdiction of such highway or
33 other property open to use by the public, after 48 hours or when the motor
34 vehicle interferes with public highway operations, may remove and
35 impound the motor vehicle.

36 (2) Any motor vehicle ~~which~~ *that* has been impounded as provided in
37 this section for 30 days or more shall be disposed of in the following
38 manner:

39 (A) If such motor vehicle has displayed thereon a registration plate
40 issued by the division of vehicles and has been registered with the
41 division, the public agency shall request verification from the division of
42 vehicles of the last registered owner and any lienholders, if any. Such
43 verification request shall be submitted to the division of vehicles not more

1 than 30 days after such agency took possession of the vehicle. The public
2 agency shall mail a notice by certified mail to the registered owner thereof,
3 addressed to the address as shown on the certificate of registration, and to
4 the lienholder, if any, of record in the county ~~in which~~ *where* the title
5 shows the owner resides, if registered in this state. The notice shall state
6 that, if the owner or lienholder does not claim such motor vehicle and pay
7 the removal and storage charges incurred by such public agency on it
8 within 15 days from the date of the mailing of the notice, that it will be
9 sold at public auction to the highest bidder for cash. The notice shall be
10 mailed within 10 days after receipt of verification of the last owner and
11 any lienholders, if any, as provided in this subsection.

12 (B) After 15 days from date of mailing notice, the public agency shall
13 publish a notice once a week for two consecutive weeks in a newspaper of
14 general circulation in the county where such motor vehicle was abandoned
15 and left, ~~which~~. *Such* notice shall describe the motor vehicle by name of
16 maker, model, serial number, and owner, if known, and stating that it has
17 been impounded by the public agency and that it will be sold at public
18 auction to the highest bidder for cash if the owner thereof does not claim it
19 within 10 days of the date of the second publication of the notice and pay
20 the removal and storage charges, and publication costs incurred by the
21 public agency. If the motor vehicle does not display a registration plate
22 issued by the division of vehicles and is not registered with the division,
23 the public agency, after 30 days from the date of impoundment, shall
24 request verification from the division of vehicles of the last registered
25 owner and any lienholders, if any. Such verification request shall be
26 submitted to the division of vehicles no more than 30 days after such
27 agency took possession of the vehicle. The public agency shall mail a
28 notice by certified mail to the registered owner thereof, addressed to the
29 address as shown on the certificate of registration, and to the lienholder, if
30 any, of record in the county in which the title shows the owner resides, if
31 registered in this state. The notice shall state that if the owner or lienholder
32 does not claim such motor vehicle and pay the removal and storage
33 charges incurred by such public agency on it within 15 days from the date
34 of the mailing of the notice, it will be sold at public auction to the highest
35 bidder for cash. The notice shall be mailed within 10 days after receipt of
36 verification of the last owner and any lienholders, if any, as provided in
37 this subsection. After 15 days from the date of mailing notice, the public
38 agency shall publish a notice in a newspaper of general circulation in the
39 county where such motor vehicle was abandoned and left, which notice
40 shall describe the motor vehicle by name of maker, model, color and serial
41 number and shall state that it has been impounded by said public agency
42 and will be sold at public auction to the highest bidder for cash, if the
43 owner thereof does not claim it within 10 days of the date of the second

1 publication of the notice and pay the removal and storage charges incurred
2 by the public agency.

3 (C) When any public agency has complied with the provisions of this
4 section with respect to an abandoned motor vehicle and the owner thereof
5 does not claim it within the time stated in the notice and pay the removal
6 and storage charges and publication costs incurred by the public agency on
7 such motor vehicle, the public agency *shall file proof thereof with the*
8 *division of vehicles, and the division shall issue a certificate of title to the*
9 *public agency. Once any public agency is in possession of a certificate of*
10 *title for a motor vehicle, the public agency may sell the motor vehicle at*
11 public auction to the highest bidder for cash.

12 (3) After any sale pursuant to this section, the purchaser ~~may file~~
13 ~~proof thereof with the division of vehicles, and the division shall issue a~~
14 ~~certificate of title to the purchaser of such motor vehicle shall receive a~~
15 ~~certificate of title from the public agency transferring ownership to the~~
16 ~~purchaser.~~ All moneys derived from the sale of motor vehicles pursuant to
17 this section, after payment of the expenses of the impoundment and sale,
18 shall be paid into the fund of the public agency ~~which that~~ is used by it for
19 the construction or maintenance of highways.

20 (b) Any person who abandons and leaves a vehicle on real property,
21 other than public property or property open to use by the public, ~~which~~
22 ~~that~~ is not owned or leased by such person or by the owner or lessee of
23 such vehicle shall be guilty of criminal trespass, as defined in K.S.A. 2020
24 Supp. 21-5808, and amendments thereto, and upon request of the owner or
25 occupant of such real property, the public agency in whose jurisdiction
26 such property is situated may remove and dispose of such vehicle in the
27 manner provided in subsection (a), except that the provisions of subsection
28 (a) requiring that a motor vehicle be abandoned for a period of time in
29 excess of 48 hours prior to its removal shall not be applicable to
30 abandoned vehicles ~~which that~~ are subject to the provisions of this
31 subsection. Any person removing such vehicle from the real property at
32 the request of such public agency shall have a possessory lien on such
33 vehicle for the costs incurred in removing, towing and storing such
34 vehicle.

35 (c) Whenever any motor vehicle has been left unattended for more
36 than 48 hours or when any unattended motor vehicle interferes with public
37 highway operations, any law enforcement officer is hereby authorized to
38 move such vehicle or cause to have the vehicle moved as provided in
39 K.S.A. 8-1103 et seq., and amendments thereto.

40 (d) The notice provisions of this section shall apply to any motor
41 vehicle ~~which that~~ has been impounded as provided in K.S.A. 8-1567, and
42 amendments thereto.

43 (e) Any person attempting to recover a motor vehicle impounded as

1 provided in this section or in accordance with a city ordinance or county
2 resolution providing for the impoundment of motor vehicles; shall show
3 proof of valid registration and ownership of the motor vehicle to the public
4 agency before obtaining the motor vehicle. In addition, the public agency
5 may require payment of all reasonable costs associated with the
6 impoundment of the motor vehicle, including transportation and storage
7 fees, prior to release of the motor vehicle.

8 Sec. 3. K.S.A. 2020 Supp. 8-1103 is hereby amended to read as
9 follows: 8-1103. (a) (1) Whenever any person providing wrecker or towing
10 service, as defined by ~~law~~ *K.S.A. 66-1329, and amendments thereto*, while
11 lawfully in possession of a vehicle, at the direction of a law enforcement
12 officer or the owner or as provided by a city ordinance or county
13 resolution, renders any service to the owner thereof by the recovery,
14 transportation, protection, storage or safekeeping thereof, a first and prior
15 lien on the vehicle is hereby created in favor of such person rendering such
16 service and the lien shall amount to the full amount and value of the
17 service rendered. The lien may be foreclosed in the manner provided in
18 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 *Subject to the provisions of paragraph (5)*, any vehicle remaining in the
23 possession of a person providing wrecker or towing service for a period of
24 30 days after such wrecker or towing service was provided may be sold to
25 pay the reasonable or agreed charges for such recovery, transportation,
26 protection, storage or safekeeping of such vehicle and personal property
27 therein, the costs of such sale, the costs of notice to the owner of the
28 vehicle and publication after giving the notices required by this act, unless
29 a court order has been issued to hold such vehicle for the purpose of a
30 criminal investigation or for use as evidence at a trial. If a court orders any
31 vehicle to be held for the purpose of a criminal investigation or for use as
32 evidence at a trial, then such order shall be in writing, and the court shall
33 assess as costs the reasonable or agreed charges for the protection, storage
34 or safekeeping accrued while the vehicle was held pursuant to such written
35 order.

36 (3) Any personal property within the vehicle need not be released to
37 the owner thereof until the reasonable or agreed charges for such recovery,
38 transportation or safekeeping have been paid, or satisfactory arrangements
39 for payment have been made, except as provided under subsection (c) or
40 for personal medical supplies which shall be released to the owner thereof
41 upon request.

42 (4) The person in possession of such vehicle and personal property
43 shall be responsible only for the reasonable care of such property. Any

1 personal property within the vehicle not returned to the owner shall be sold
2 at the auction authorized by this act.

3 (5) *No sale of a vehicle authorized by this act shall occur until the*
4 *person providing wrecker or towing service has received a certificate of*
5 *title from the division of vehicles. Upon showing satisfactory proof to the*
6 *division of vehicles that the person has complied with the notice and*
7 *storage requirements of paragraph (2), the division shall issue a*
8 *certificate of title to the person. Upon receiving such certificate of title, the*
9 *person may sell the vehicle.*

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

15 (c) A city ordinance or county resolution authorizing the towing of
16 vehicles from private property shall specify ~~in such ordinance or~~
17 ~~resolution.~~

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

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

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

25 Sec. 4. K.S.A. 2020 Supp. 8-1104 is hereby amended to read as
26 follows: 8-1104. Before any such vehicle and personal property is sold, the
27 person intending to sell such vehicle shall request verification from the
28 division of vehicles of the last registered owner and any lienholders, if any.
29 Such verification request shall be submitted to the division of vehicles not
30 more than 30 days after such person took possession of the vehicle. Notice
31 of sale, as provided in this act, shall be mailed by certified mail to any
32 such registered owner and any such lienholders within 10 days after
33 receipt of verification of the last owner and any lienholders, if any. The
34 person intending to sell such vehicle and personal property pursuant to this
35 act shall cause a notice of the time and place of sale, containing a
36 description of the vehicle and personal property, to be published in a
37 newspaper published in the county or city where such sale is advertised to
38 take place, and if there is no newspaper published in such county, then the
39 notice shall be published in some newspaper of general circulation in such
40 county. Notices given under this section shall state that if the amount due,
41 together with storage, publication, notice and sale costs, is not paid within
42 15 days from the date of mailing, the vehicle and personal property will be
43 sold at public auction. *No sale of a vehicle authorized by this act shall*

1 *occur until the seller obtains a certificate of title for the vehicle from the*
2 *division of vehicles.*

3 Sec. 5. K.S.A. 8-2403 is hereby amended to read as follows: 8-2403.

4 (a) No person shall engage in the business of a vehicle dealer unless such
5 person has complied with the applicable provisions of this act. The director
6 shall issue licenses provided for by this act and shall have supervision over
7 the licensees hereunder in respect to all the provisions of this act.

8 (b) This act shall not apply to:

9 (1) Vehicle dealers or manufacturers dealing exclusively in farm
10 trailers or utility or boat trailers having a gross weight of 2,000 pounds or
11 less and which are not required by law to be registered; or

12 (2) charitable organizations, ~~which~~ *that* are exempt from federal
13 income taxation pursuant to section 501(c)(3) and are eligible recipients of
14 charitable contributions pursuant to section 170(c)(2) of the federal
15 internal revenue code, selling motor vehicles at a charitable auction.

16 (3) *a public agency or person providing wrecker or towing services,*
17 *as defined in K.S.A. 66-1329, and amendments thereto, if such agency or*
18 *person sells more than five vehicles in a calendar year pursuant to the*
19 *procedures set forth in K.S.A. 8-1102, 8-1103 8-1104, and amendments*
20 *thereto.*

21 Sec. 6. K.S.A. 8-2403 and K.S.A. 2020 Supp. 8-128, 8-1102, 8-1103
22 and 8-1104 are hereby repealed.

23 Sec. 7. This act shall take effect and be in force from and after its
24 publication in the statute book.