

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2147

By Committee on Transportation

1-24

AN ACT concerning motor vehicles; relating to abandoned or towed vehicles; requiring ~~an individual~~ **a person providing wrecker or towing service** or agency to ~~acquire a certificate of title before selling~~ **provide a certification of compliance to a purchaser upon the sale and transfer of** an abandoned or towed vehicle; ~~exempting such abandoned or towed vehicles from vehicle registration requirements; exempting individuals or agencies selling such abandoned or towed vehicles from the vehicle dealers and manufacturers licensing act;~~ amending K.S.A. ~~8-128, 8-1102, and 8-1103, 8-1104 and 8-2403~~ and repealing the existing sections.

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

Section 1. ~~K.S.A. 8-128 is hereby amended to read as follows: 8-128.~~

(a) ~~The following need not be registered under this act, any:~~

- ~~(1) Implement of husbandry;~~
- ~~(2) all-terrain vehicle;~~
- ~~(3) micro utility truck;~~
- ~~(4) golf cart;~~
- ~~(5) work-site utility vehicle;~~
- ~~(6) road roller or road machinery temporarily operated or moved upon the highways;~~
- ~~(7) municipally owned fire truck;~~
- ~~(8) privately owned fire truck subject to a mutual aid agreement with a municipality;~~
- ~~(9) school bus owned and operated by a school district or a nonpublic school that has the name of the municipality, school district or nonpublic school plainly painted thereon;~~
- ~~(10) farm trailer used in carrying not more than 6,000 pounds owned by a person engaged in farming, which trailer is used exclusively by the owner to transport agricultural products produced by such owner or commodities purchased by the owner for use on the farm owned or rented by the owner of such trailer and the weight of any such farm trailer, plus the cargo weight of 6,000 pounds or less, shall not be considered in determining the gross weight for which the truck or truck tractor propelling the same shall be registered;~~
- ~~(11) farm trailer used and designed for transporting hay or forage~~

1 from a field to a storage area or from a storage area to a feedlot that is only
2 incidentally moved or operated upon the highways, except that this
3 paragraph shall not apply to a farm semitrailer;

4 (12) ~~electric-assisted scooter; or~~

5 (13) ~~electric-assisted bicycle.~~

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

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

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

25 (e) ~~An abandoned or towed vehicle does not need to be registered~~
26 ~~under this act when a public agency or person providing wrecker or~~
27 ~~towing service, as defined in K.S.A. 66-1329, and amendments thereto, is~~
28 ~~in possession of such vehicle and applies for a certificate of title for the~~
29 ~~purpose of selling such vehicle pursuant to K.S.A. 8-1102, 8-1103 and 8-~~
30 ~~1104, and amendments thereto. The provisions of this subsection shall not~~
31 ~~apply once such vehicle has been sold pursuant to K.S.A. 8-1102, 8-1103~~
32 ~~and 8-1104, and amendments thereto.~~

33 **New Section 1. (a)** A public agency or person providing wrecker
34 or towing service shall provide a certification of compliance to a
35 purchaser upon the sale and transfer of a vehicle pursuant to K.S.A. 8-
36 1102 and 8-1103, and amendments thereto. A certification of
37 compliance shall allow such purchaser to apply for and receive a
38 certificate of title from the division of vehicles that is free and clear of
39 all liens, security interests and encumbrances.

40 (b) A certification of compliance shall be completed on a form
41 and in a manner approved by the secretary of revenue, or the
42 secretary's designee. Such certification of compliance shall certify that
43 the requirements of K.S.A. 8-1102 through 8-1104, and amendments

1 thereto, have been met by the public agency or person providing
2 wrecker or towing service. The certification of compliance form shall
3 be subject to a fee of \$20.

4 (c) Certification of compliance fees prescribed by subsection (b)
5 may be applied to the purchaser as part of the sale of a vehicle
6 pursuant to K.S.A. 8-1102 and 8-1103, and amendments thereto.
7 Certification of compliance fees may be applied to the owner of the
8 vehicle if such owner claims the vehicle from a public agency or
9 person providing wrecker or towing service prior to the vehicle being
10 sold at public auction.

11 (d) A certification of compliance provided for in this section shall
12 also certify that vehicle identification number inspection requirements
13 have been met for any sales of vehicles that are registered or titled in a
14 jurisdiction outside of Kansas in accordance with K.S.A. 8-116a, and
15 amendments thereto.

16 Sec. 2. K.S.A. 8-1102 is hereby amended to read as follows: 8-1102.

17 (a) (1) A person shall not use the public highway to abandon vehicles or
18 use the highway to leave vehicles unattended in such a manner as to
19 interfere with public highway operations. When a person leaves a motor
20 vehicle on a public highway or other property open to use by the public,
21 the public agency having jurisdiction of such highway or other property
22 open to use by the public, after 48 hours or when the motor vehicle
23 interferes with public highway operations, may remove and impound the
24 motor vehicle.

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

28 (A) If such motor vehicle has displayed thereon a registration plate
29 issued by the division of vehicles and has been registered with the
30 division, the public agency shall request verification from the division of
31 vehicles of the last registered owner and any lienholders, if any. Such
32 verification request shall be submitted to the division of vehicles not more
33 than 30 days after such agency took possession of the vehicle. The public
34 agency shall mail a notice by certified mail to the registered owner thereof,
35 addressed to the address as shown on the certificate of registration, and to
36 the lienholder, if any, of record in the county ~~in which~~ where the title
37 shows the owner resides, if registered in this state. The notice shall state
38 that if the owner or lienholder does not claim such motor vehicle and pay
39 the removal and storage charges incurred by such public agency on it
40 within 15 days from the date of the mailing of the notice, that it will be
41 sold at public auction to the highest bidder for cash. The notice shall be
42 mailed within 10 days after receipt of verification of the last owner and
43 any lienholders, if any, as provided in this subsection.

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

35 (C) When any public agency has complied with the provisions of this
36 section with respect to an abandoned motor vehicle and the owner thereof
37 does not claim it within the time stated in the notice and pay the removal
38 and storage charges and publication costs incurred by the public agency on
39 such motor vehicle, the public agency ~~shall file proof thereof with the~~
40 ~~division of vehicles, and the division shall issue a certificate of title to the~~
41 ~~public agency. Once any public agency is in possession of a certificate of~~
42 ~~title for a motor vehicle, the public agency~~ may sell the motor vehicle at
43 public auction to the highest bidder for cash. **A public agency shall**

1 **provide a certification of compliance to a purchaser upon the sale and**
2 **transfer of a vehicle authorized by this section.**

3 (3) After any sale pursuant to this section, the purchaser ~~may file~~
4 ~~proof thereof with the division of vehicles, and the division shall issue a~~
5 ~~certificate of title to the purchaser of such motor vehicle shall receive a~~
6 ~~certificate of title from the public agency transferring ownership to the~~
7 ~~purchaser~~ **may file proof thereof with the division of vehicles, and the**
8 **division shall issue a certificate of title to the purchaser of such motor**
9 **vehicle.** All moneys derived from the sale of motor vehicles pursuant to
10 this section, after payment of the expenses of the impoundment and sale,
11 shall be paid into the fund of the public agency ~~which~~ *that* is used by it for
12 the construction or maintenance of highways.

13 (b) Any person who abandons and leaves a vehicle on real property,
14 other than public property or property open to use by the public, ~~which~~
15 ~~that~~ is not owned or leased by such person or by the owner or lessee of
16 such vehicle shall be guilty of criminal trespass, as defined in K.S.A. 2022
17 Supp. 21-5808, and amendments thereto, and upon request of the owner or
18 occupant of such real property, the public agency in whose jurisdiction
19 such property is situated may remove and dispose of such vehicle in the
20 manner provided in subsection (a), except that the provisions of subsection
21 (a) requiring that a motor vehicle be abandoned for a period of time in
22 excess of 48 hours prior to its removal shall not be applicable to
23 abandoned vehicles ~~which~~ *that* are subject to the provisions of this
24 subsection. Any person removing such vehicle from the real property at
25 the request of such public agency shall have a possessory lien on such
26 vehicle for the costs incurred in removing, towing and storing such
27 vehicle.

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

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

36 (e) Any person attempting to recover a motor vehicle impounded as
37 provided in this section or in accordance with a city ordinance or county
38 resolution providing for the impoundment of motor vehicles, shall show
39 proof of valid registration and ownership of the motor vehicle to the public
40 agency before obtaining the motor vehicle. In addition, the public agency
41 may require payment of all reasonable costs associated with the
42 impoundment of the motor vehicle, including transportation and storage
43 fees, prior to release of the motor vehicle.

1 Sec. 3. K.S.A. 8-1103 is hereby amended to read as follows: 8-1103.

2 (a) (1) Whenever any person providing wrecker or towing service, as
3 defined by K.S.A. 66-1329, and amendments thereto, while lawfully in
4 possession of a vehicle, at the direction of a law enforcement officer or the
5 owner or as provided by a city ordinance or county resolution, renders any
6 service to the owner thereof by the recovery, transportation, protection,
7 storage or safekeeping thereof, a first and prior lien on the vehicle is
8 hereby created in favor of such person rendering such service and the lien
9 shall amount to the full amount and value of the service rendered. The lien
10 may be foreclosed in the manner provided in this act.

11 (2) If the name of the owner of the vehicle is known to the person in
12 possession of such vehicle, then within 15 days, notice shall be given to
13 the owner that the vehicle is being held subject to satisfaction of the lien.
14 ~~Subject to the provisions of paragraph (5),~~ Any vehicle remaining in the
15 possession of a person providing wrecker or towing service for a period of
16 30 days after such wrecker or towing service was provided may be sold to
17 pay the reasonable or agreed charges for such recovery, transportation,
18 protection, storage or safekeeping of such vehicle and personal property
19 therein, the costs of such sale, the costs of notice to the owner of the
20 vehicle and publication after giving the notices required by this act, unless
21 a court order has been issued to hold such vehicle for the purpose of a
22 criminal investigation or for use as evidence at a trial.

23 (3) If a court orders any vehicle to be held for the purpose of a
24 criminal investigation or for use as evidence at a trial, then such order shall
25 be in writing, and the court shall assess as costs the reasonable or agreed
26 charges for the protection, storage or safekeeping accrued while the
27 vehicle was held pursuant to such written order.

28 (4) Any personal property within the vehicle need not be released to
29 the owner thereof until the reasonable or agreed charges for such recovery,
30 transportation or safekeeping have been paid, or satisfactory arrangements
31 for payment have been made, except as provided under subsection (c) or
32 for personal medical supplies which shall be released to the owner thereof
33 upon request. The person in possession of such vehicle and personal
34 property shall be responsible only for the reasonable care of such property.
35 Any personal property within the vehicle not returned to the owner shall
36 be sold at the auction authorized by this act.

37 ~~(5)—A sale of a vehicle authorized by this section shall not occur until~~
38 ~~the person providing wrecker or towing service has obtained a certificate~~
39 ~~of title from the division of vehicles. Upon showing satisfactory proof to~~
40 ~~the division of vehicles that the person has complied with the notice and~~
41 ~~storage requirements under paragraph (2), the division shall issue a~~
42 ~~certificate of title to the person. Upon receiving such certificate of title, the~~
43 ~~person may sell the vehicle~~ A person providing wrecker or towing

1 **service shall provide a certification of compliance to a purchaser**
2 **pursuant to section 1, and amendments thereto, upon the sale and**
3 **transfer of a vehicle authorized by this section.**

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

9 (c) A city ordinance or county resolution authorizing the towing of
10 vehicles from private property shall specify in such ordinance or
11 resolution:

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

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

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

19 (d) A person providing towing services shall not tow a vehicle to a
20 location outside of Kansas without the consent of either:

21 (1) The driver or owner of the motor vehicle;

22 (2) a motor club of which the driver or owner of the motor vehicle is
23 a member; or

24 (3) the insurance company processing a claim with respect to the
25 vehicle or an agent of such insurance company.

26 ~~Sec. 4. K.S.A. 8-1104 is hereby amended to read as follows: 8-1104.~~
27 ~~(a) Before any such vehicle and personal property is sold, the person~~
28 ~~intending to sell such vehicle shall request verification from the division of~~
29 ~~vehicles of the last registered owner and any lienholders, if any. Such~~
30 ~~verification request shall be submitted to the division of vehicles not more~~
31 ~~than 30 days after such person took possession of the vehicle. Every~~
32 ~~person intending to sell any vehicle pursuant to this section that cannot be~~
33 ~~verified by the division of vehicles shall obtain an interstate search of~~
34 ~~registered owners and lienholders unless:~~

35 ~~(1) The vehicle is 15 years of age or older; or~~

36 ~~(2) the vehicle is determined by the division of vehicles to be a~~
37 ~~nonrepairable vehicle pursuant to K.S.A. 8-135c, and amendments thereto.~~

38 ~~(b) Notice of sale, as provided in this act, shall be mailed by certified~~
39 ~~mail to any such registered owner and any such lienholders within 10 days~~
40 ~~after receipt of verification of the last owner and any lienholders, if any.~~
41 ~~The person intending to sell such vehicle and personal property pursuant to~~
42 ~~this act shall cause a notice of the time and place of sale, containing a~~
43 ~~description of the vehicle and personal property, to be published in a~~

1 newspaper published in the county or city where such sale is advertised to
2 take place, and if there is no newspaper published in such county, then the
3 notice shall be published in some newspaper of general circulation in such
4 county. Notices given under this section shall state that if the amount due,
5 together with storage, publication, notice and sale costs, is not paid within
6 15 days from the date of mailing, the vehicle and personal property will be
7 sold at public auction. Notice of an auction shall be published at least
8 seven days prior to the scheduled auction.

9 ~~(e) A sale of a vehicle authorized by this section shall not occur until~~
10 ~~the seller obtains a certificate of title for the vehicle from the division of~~
11 ~~vehicles.~~

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

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

17 (b) ~~This act shall not apply to:~~

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

21 (2) ~~charitable organizations, which that are exempt from federal~~
22 ~~income taxation pursuant to section 501(c)(3) and are eligible recipients of~~
23 ~~charitable contributions pursuant to section 170(e)(2) of the federal~~
24 ~~internal revenue code, selling motor vehicles at a charitable auction; or~~

25 (3) ~~a public agency or person providing wrecker or towing services,~~
26 ~~as defined in K.S.A. 66-1329, and amendments thereto, if such agency or~~
27 ~~person sells more than five vehicles in a calendar year pursuant to the~~
28 ~~procedures set forth in K.S.A. 8-1102, 8-1103 and 8-1104, and~~
29 ~~amendments thereto.~~

30 Sec. 6. ~~4. K.S.A. 8-128, 8-1102; and 8-1103; 8-1104 and 8-2403 are~~
31 ~~hereby repealed.~~

32 Sec. 7. ~~5. This act shall take effect and be in force from and after~~
33 **January 1, 2024, and its publication in the statute book.**