

HOUSE BILL No. 2147

AN ACT concerning motor vehicles; relating to abandoned or towed vehicles; requiring a person providing wrecker or towing service or agency to provide a certification of compliance to a purchaser upon the sale and transfer of an abandoned or towed vehicle; modifying requirements for certified mail notices to prior owners of abandoned or towed vehicles; relating to the uniform act regulating traffic on highways; creating the crime of knowingly or intentionally manufacturing, importing, distributing, selling, offering for sale, installing or reinstalling counterfeit supplemental restraint system components and nonfunctional airbags and providing criminal penalties for violation thereof; expanding permitted lighting equipment on vehicles to include all ground effect lighting; amending K.S.A. 8-1102, 8-1103, 8-1104 and 8-1723 and repealing the existing sections.

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

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

(b) A certification of compliance shall be completed on a form and in a manner approved by the secretary of revenue, or the secretary's designee. Such certification of compliance shall certify that the requirements of K.S.A. 8-1102 through 8-1104, and amendments thereto, have been met by the public agency or person providing wrecker or towing service. The certification of compliance form shall be subject to a fee of \$20. All certification of compliance fees collected by the division of vehicles, a contractor or a county treasurer pursuant to this subsection shall be retained by the entity who processed the certification of compliance form.

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

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

(e) The provisions of this section shall take effect on and after January 1, 2024.

New Sec. 2. (a) No person shall knowingly or intentionally manufacture, import, distribute, sell, offer for sale, install or reinstall a device intended to replace a supplemental restraint system component if the device is:

- (1) A counterfeit supplemental restraint system component;
- (2) a nonfunctional airbag; or
- (3) any object in lieu of a supplemental restraint system component that was not designed in accordance with federal safety regulations for the make, model and year of the motor vehicle in which such device is or will be installed.

(b) Violation of subsection (a) shall be a class A nonperson misdemeanor.

(c) As used in this section:

(1) "Airbag" means a motor vehicle inflatable occupant restraint system device that is part of a supplemental restraint system.

(2) "Counterfeit supplemental restraint system component" means a replacement supplemental restraint system component that displays a mark identical or substantially similar to the genuine mark of a motor vehicle manufacturer or a supplier of parts to the manufacturer of a motor vehicle without authorization from that manufacturer or supplier.

(3) "Nonfunctional airbag" means a replacement airbag that:

- (A) Was previously deployed or damaged;

(B) has an electric fault that is detected by the motor vehicle's diagnostic systems when the installation procedure is completed and the motor vehicle is returned to the customer who requested the work to be performed or when ownership is intended to be transferred;

(C) includes a part or object, including a supplemental restraint system component, installed in a motor vehicle to mislead the owner or operator of the motor vehicle into believing that a functional airbag has been installed; or

(D) is prohibited from being sold or leased in accordance with 49 U.S.C. § 30120(j).

(4) "Supplemental restraint system" means a passive inflatable motor vehicle occupant crash protection system designed for use in conjunction with active restraint systems as described in 49 C.F.R. § 571.208. A supplemental restraint system includes:

(A) Each airbag installed in accordance with the motor vehicle manufacturer's design; and

(B) all components required to ensure that an airbag operates as designed in the event of a crash and in accordance with the federal motor vehicle safety standards for the specific make, model and year of the motor vehicle.

(d) This section shall be a part of and supplemental to the uniform act regulating traffic on highways.

Sec. 3. On and after January 1, 2024, K.S.A. 8-1102 is hereby amended to read as follows: 8-1102. (a) (1) A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the public agency having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle.

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

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

(B) After 15 days from date of mailing notice, the public agency shall publish a notice once a week for two consecutive weeks in a newspaper of general circulation in the county where such motor vehicle was abandoned and left—~~which~~. *Such* notice shall describe the motor vehicle by name of maker, model, serial number, and owner, if known, and stating that it has been impounded by the public agency and that it will be sold at public auction to the highest bidder for cash if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges, and publication costs incurred by the public agency. If the motor vehicle does not display a registration plate issued by the division of vehicles and is not registered with the division, the public

agency after 30 days from the date of impoundment, shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles no more than 30 days after such agency took possession of the vehicle. The public agency shall mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall state that if the owner or lienholder does not claim such motor vehicle and pay the removal and storage charges incurred by such public agency on it within 15 days from the date of the mailing of the notice, it will be sold at public auction to the highest bidder for cash. The notice shall be mailed within 10 days after receipt of verification of the last owner and any lienholders, if any, as provided in this subsection. After 15 days from the date of mailing notice, the public agency shall publish a notice in a newspaper of general circulation in the county where such motor vehicle was abandoned and left, which notice shall describe the motor vehicle by name of maker, model, color and serial number and shall state that it has been impounded by said public agency and will be sold at public auction to the highest bidder for cash, if the owner thereof does not claim it within 10 days of the date of the second publication of the notice and pay the removal and storage charges incurred by the public agency.

(C) When any public agency has complied with the provisions of this section with respect to an abandoned motor vehicle and the owner thereof does not claim it within the time stated in the notice and pay the removal and storage charges and publication costs incurred by the public agency on such motor vehicle, the public agency may sell the motor vehicle at public auction to the highest bidder for cash. *A public agency shall provide a certification of compliance to a purchaser upon the sale and transfer of a vehicle authorized by this section.*

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

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

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

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

(e) Any person attempting to recover a motor vehicle impounded as provided in this section or in accordance with a city ordinance or

county resolution providing for the impoundment of motor vehicles, shall show proof of valid registration and ownership of the motor vehicle to the public agency before obtaining the motor vehicle. In addition, the public agency may require payment of all reasonable costs associated with the impoundment of the motor vehicle, including transportation and storage fees, prior to release of the motor vehicle.

Sec. 4. On and after January 1, 2024, K.S.A. 8-1103 is hereby amended to read as follows: 8-1103. (a) (1) Whenever any person providing wrecker or towing service, as defined by K.S.A. 66-1329, and amendments thereto, while lawfully in possession of a vehicle, at the direction of a law enforcement officer or the owner or as provided by a city ordinance or county resolution, renders any service to the owner thereof by the recovery, transportation, protection, storage or safekeeping thereof, a first and prior lien on the vehicle is hereby created in favor of such person rendering such service and the lien shall amount to the full amount and value of the service rendered. The lien may be foreclosed in the manner provided in this act.

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

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

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

(5) *A person providing wrecker or towing service shall provide a certification of compliance to a purchaser pursuant to section 1, and amendments thereto, upon the sale and transfer of a vehicle authorized by this section.*

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

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

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

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

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

(d) A person providing towing services shall not tow a vehicle to a

location outside of Kansas without the consent of either:

- (1) The driver or owner of the motor vehicle;
- (2) a motor club of which the driver or owner of the motor vehicle is a member; or
- (3) the insurance company processing a claim with respect to the vehicle or an agent of such insurance company.

Sec. 5. On and after January 1, 2024, K.S.A. 8-1104 is hereby amended to read as follows: 8-1104. (a) Before any such vehicle and personal property is sold, the person intending to sell such vehicle shall request verification from the division of vehicles of the last registered owner and any lienholders, if any. Such verification request shall be submitted to the division of vehicles not more than 30 days after such person took possession of the vehicle. Every person intending to sell any vehicle pursuant to this section 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.

(b) Notice of sale, as provided in this act, shall be mailed by certified mail to any such registered owner and any such lienholders within ~~10-15~~ *calendar* days after receipt of verification of the last owner and any lienholders, if any. The person intending to sell such vehicle and personal property pursuant to this act shall cause a notice of the time and place of sale, containing a description of the vehicle and personal property, to be published in a newspaper published in the county or city where such sale is advertised to take place, and if there is no newspaper published in such county, then the notice shall be published in some newspaper of general circulation in such county. Notices given under this section shall state that if the amount due, together with storage, publication, notice and sale costs, is not paid within 15 days from the date of mailing, the vehicle and personal property will be sold at public auction. Notice of an auction shall be published at least seven days prior to the scheduled auction.

Sec. 6. K.S.A. 8-1723 is hereby amended to read as follows: 8-1723. (a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.

(b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side which shall emit a white or amber light without glare.

(c) Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.

(d) Any vehicle 80 inches or more in overall width, if not otherwise required by K.S.A. 8-1710, and amendments thereto, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in ~~subsection (g) of~~ K.S.A. 8-1710(g), and amendments thereto.

(e) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.

(f) Any motor vehicle may be equipped with ~~neon~~ ground effect lighting, except that such lighting shall not flash, be any shade of red nor shall any portion of the ~~neon tubes bulb or lighting fixture~~ be visible. "~~Neon~~ Ground effect lighting" means ~~neon tubes lights~~ placed underneath the motor vehicle for the purpose of illuminating the ground below the motor vehicle creating a halo light effect.

(g) Any motor vehicle may be equipped with head lamps which alternately flash or simultaneously flash when such motor vehicle is being used as the lead motor vehicle of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

Sec. 7. K.S.A. 8-1723 is hereby repealed.

Sec. 8. On and after January 1, 2024, K.S.A. 8-1102, 8-1103 and 8-1104 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.