

As Amended by House Committee

Session of 2004

Substitute for SENATE BILL No. 380

By Committee on Financial Institutions and Insurance

2-20

10 AN ACT concerning liens for wrecker and towing service; pertaining to
11 notice to lienholder; amending K.S.A. 8-1102, 8-1103 and 8-1104 and
12 repealing the existing sections.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 8-1102 is hereby amended to read as follows: 8-
16 1102. (a) (1) A person shall not use the public highway to abandon vehicles
17 or use the highway to leave vehicles unattended in such a manner as to
18 interfere with public highway operations. When a person leaves a motor
19 vehicle on a public highway or other property open to use by the public,
20 the public agency having jurisdiction of such highway or other property
21 open to use by the public, after 48 hours or when the motor vehicle
22 interferes with public highway operations, may remove and impound the
23 motor vehicle.

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

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

35 When any public agency has complied with the provisions of this sec-
36 tion 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
39 on such motor vehicle, the public agency may sell the motor vehicle at
40 public auction to the highest bidder for cash.

41 (3) After any sale pursuant to this section, the purchaser may file
42 proof thereof with the division of vehicles, and the division shall issue a
43 certificate of title to the purchaser of such motor vehicle. All moneys

1 derived from the sale of motor vehicles pursuant to this section, after
2 payment of the expenses of the impoundment and sale, shall be paid into
3 the fund of the public agency which is used by it for the construction or
4 maintenance of highways.

5 (b) Any person who abandons and leaves a vehicle on real property,
6 other than public property or property open to use by the public, which
7 is not owned or leased by such person or by the owner or lessee of such
8 vehicle shall be guilty of criminal trespass, as defined by K.S.A. 21-3721,
9 and amendments thereto, and upon request of the owner or occupant of
10 such real property, the public agency in whose jurisdiction such property
11 is situated may remove and dispose of such vehicle in the manner pro-
12 vided in subsection (a), except that the provisions of subsection (a) re-
13 quiring that a motor vehicle be abandoned for a period of time in excess
14 of 48 hours prior to its removal shall not be applicable to abandoned
15 vehicles which are subject to the provisions of this subsection. Any person
16 removing such vehicle from the real property at the request of such public
17 agency shall have a possessory lien on such vehicle for the costs incurred
18 in removing, towing and storing such vehicle.

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

24 **(d) The notice provisions of this section shall apply to any mo-**
25 **tor vehicle which has been impounded as provided in K.S.A. 8-**
26 **1567, and amendments thereto.**

27 Sec. 2. K.S.A. 8-1103 is hereby amended to read as follows: 8-1103.

28 (a) Whenever any person providing wrecker or towing service, as defined
29 by law, while lawfully in possession of a vehicle, at the direction of a law
30 enforcement officer or the owner, renders any service to the owner
31 thereof by the recovery, transportation, protection, storage or safekeeping
32 thereof, a first and prior lien on the vehicle is hereby created in favor of
33 such person rendering such service and the lien shall amount to the full
34 amount and value of the service rendered. The lien may be foreclosed in
35 the manner provided in this act. If the name of the owner of the vehicle
36 is known to the person in possession of such vehicle, then within 15 days,
37 notice shall be given to the owner that the vehicle is being held subject
38 to satisfaction of the lien. Any vehicle remaining in the possession of a
39 person providing wrecker or towing service for a period of ~~60~~ 30 days
40 after such wrecker or towing service was provided may be sold to pay the
41 reasonable or agreed charges for such recovery, transportation, protec-
42 tion, storage or safekeeping of such vehicle and personal property therein,
43 the costs of such sale, the costs of notice to the owner of the vehicle and

1 publication as required by this act, except that any such vehicle and personal
2 personal property of a total value of less than \$1,000 may be sold at any time,
3 after giving the notices required by this act, unless a court order has been
4 issued to hold such vehicle for the purpose of a criminal investigation or
5 for use as evidence at a trial. If a court orders any vehicle to be held for
6 the purpose of a criminal investigation or for use as evidence at a trial,
7 then such order shall be in writing, and the court shall assess as costs the
8 reasonable or agreed charges for the protection, storage or safekeeping
9 accrued while the vehicle was held pursuant to such written order. Any
10 personal property within the vehicle need not be released to the owner
11 thereof until the reasonable or agreed charges for such recovery, trans-
12 portation or safekeeping have been paid, or satisfactory arrangements for
13 payment have been made, except that personal medical supplies shall be
14 released to the owner thereof upon request. The person in possession of
15 such vehicle and personal property shall be responsible only for the rea-
16 sonable care of such property. Any personal property within the vehicle
17 not returned to the owner shall be sold at the auction authorized by this
18 act.

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

24 Sec. 3. K.S.A. 8-1104 is hereby amended to read as follows: 8-1104.
25 Before any such vehicle and personal property is sold, the person intend-
26 ing to sell such vehicle shall request verification from the division of ve-
27 hicles of the last registered owner and any lienholders, if any. Such ver-
28 ification request shall be submitted to the division of vehicles ~~no less than~~
29 ~~45 days nor more than 60~~ *not more than 30* days after such person took
30 possession of the vehicle, ~~except that if the value of the vehicle and per-~~
31 ~~sonal property is less than \$1,000, the verification request shall be sub-~~
32 ~~mitted to the division of vehicles within 60 days after such person took~~
33 ~~possession of the vehicle.~~ Notice of sale, as provided in this act, shall be
34 mailed by certified mail to any such registered owner and any such lien-
35 holders within 10 days after receipt of verification of the last owner and
36 any lienholders, if any. The person intending to sell such vehicle and
37 personal property pursuant to this act shall cause a notice of the time and
38 place of sale, containing a description of the vehicle and personal prop-
39 erty, to be published in a newspaper published in the county **or city**
40 where such sale is advertised to take place, and if there is no newspaper
41 published in such county, then the notice shall be published in some
42 newspaper of general circulation in such county. Notices given under this
43 section shall state that if the amount due, together with storage, publi-

1 cation, notice and sale costs, is not paid within 15 days from the date of
2 mailing, the vehicle and personal property will be sold at public auction.

3 Sec. 4. K.S.A. 8-1102, 8-1103 and 8-1104 are hereby repealed.

4 Sec. 5. This act shall take effect and be in force from and after its
5 publication in the statute book.