

1 AN ACT relating to vehicle towing.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 281.010 is amended to read as follows:

4 As used in this chapter:

5 (1) **"Automobile club":**

6 **(a) Means a person that, for consideration, promises to assist its members or**
 7 **subscribers in matters relating to:**

8 **1. Motor travel; or**

9 **2. The operation, use, or maintenance of a motor vehicle;**

10 **by supplying services, which may include towing service, emergency road**
 11 **service, or indemnification service; and**

12 **(b) Includes:**

13 **1. A motor vehicle dealer; or**

14 **2. An insurance company, operating as an automobile club to provide**
 15 **any of the services described in paragraph (a) of this subsection;**

16 **(2)** "Automobile utility trailer" means any trailer or semitrailer designed for use with
 17 and towed behind a passenger motor vehicle;

18 **(3)**~~(2)~~ "Automobile utility trailer certificate" means a certificate authorizing a person
 19 to engage in the business of automobile utility trailer lessor;

20 **(4)**~~(3)~~ "Automobile utility trailer lessor" means any person operating under an
 21 automobile utility trailer certificate who is engaged in the business of leasing or
 22 renting automobile utility trailers, but shall not include the agents of such persons;

23 **(5)**~~(4)~~ "Broker" means a person selected by the cabinet through a request for
 24 proposal process to coordinate human service transportation delivery within a
 25 specific delivery area. A broker may also provide transportation services within the
 26 specific delivery area for which the broker is under contract with the cabinet;

27 **(6)**~~(5)~~ "Bus" means a motor vehicle operating under a bus certificate transporting

1 passengers for hire between points over regular routes;

2 ~~(7)~~ "Bus certificate" means a certificate granting authority for the operation of one
3 (1) or more buses;

4 ~~(8)~~ "Cabinet" means the Kentucky Transportation Cabinet;

5 ~~(9)~~ "Certificate" means a certificate of compliance issued under this chapter to
6 motor carriers;

7 ~~(10)~~ "Charter bus" means a motor vehicle operating under a charter bus certificate
8 providing for-hire intrastate transportation of a group of persons who, pursuant to a
9 common purpose under a single contract at a fixed charge for the motor vehicle,
10 have acquired the exclusive use of the motor vehicle to travel together under an
11 itinerary either specified in advance or modified after having left the place of origin;

12 ~~(11)~~ "Charter bus certificate" means a certificate granting authority for the
13 operation of one (1) or more charter buses;

14 ~~(12)~~ "Commissioner" means the commissioner of the Department of Vehicle
15 Regulation;

16 ~~(13)~~ "CTAC" means the Coordinated Transportation Advisory Committee created
17 in KRS 281.870;

18 ~~(14)~~ "Department" means the Department of Vehicle Regulation;

19 ~~(15)~~ "Delivery area" means one (1) or more regions established by the cabinet in
20 administrative regulations promulgated under KRS Chapter 13A for the purpose of
21 providing human service transportation delivery in that region;

22 ~~(16)~~ "Disabled persons vehicle carrier" means a motor carrier for hire, transporting
23 passengers including the general public who require transportation in disabled
24 persons vehicles;

25 ~~(17)~~ "Disabled persons vehicle" means a motor vehicle operating under a disabled
26 persons vehicle certificate especially equipped for the transportation of passengers
27 with disabilities in accordance with 49 C.F.R. pt. 38, and is designed or constructed

1 with not more than fifteen (15) regular seats. It shall not mean an ambulance as
2 defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a
3 stretcher;

4 ~~(18)~~~~(17)~~ "Disabled persons vehicle certificate" means a certificate granting authority
5 for the operation of one (1) or more disabled persons vehicles transporting
6 passengers for hire;

7 ~~(19)~~~~(18)~~ "Driveaway" means the transporting and delivering of motor vehicles, except
8 semitrailers and trailers, whether destined to be used in either a private or for-hire
9 capacity, under their own power or by means of a full mount method, saddle mount
10 method, the tow bar method, or any combination of them over the highways of this
11 state from any point of origin to any point of destination for hire. "Driveaway" does
12 not include the transportation of such vehicles by the full mount method on trailers
13 or semitrailers;

14 ~~(20)~~~~(19)~~ "Driveaway certificate" means a certificate granting authority for the operation
15 of one (1) or more motor carrier vehicles operating as a driveaway;

16 ~~(21)~~~~(20)~~ "Driver" means the person physically operating the motor vehicle;

17 ~~(22)~~ **"Emergency towing" means the towing of a motor vehicle, with or without the**
18 **owner's consent, because of:**

19 **(a) A motor vehicle accident on a public highway; or**

20 **(b) An incident:**

21 **1. Related to an emergency; or**

22 **2. Necessitating the removal of the motor vehicle from a location for**
23 **public safety reasons;**

24 ~~(23)~~~~(21)~~ "Highway" means all public roads, highways, streets, and ways in this state,
25 whether within a municipality or outside of a municipality;

26 ~~(24)~~~~(22)~~ "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;

27 ~~(25)~~~~(23)~~ "Household goods carrier" has the same meaning as "household goods motor

1 carrier" in 49 C.F.R. sec. 375.103;

2 ~~(26)~~~~(24)~~ "Household goods certificate" means a certificate granting authority for the
3 operation of one (1) or more household goods vehicles;

4 ~~(27)~~~~(25)~~ "Human service transportation delivery" means the provision of transportation
5 services to any person that is an eligible recipient in one (1) of the following state
6 programs:

7 (a) Nonemergency medical transportation under KRS Chapter 205;

8 (b) Mental health, intellectual disabilities, or comprehensive care under KRS
9 Chapter 202A, 202B, 210, or 645;

10 (c) Work programs for public assistance recipients under KRS Chapter 205;

11 (d) Adult services under KRS Chapter 205, 209, 216, or 273;

12 (e) Vocational rehabilitation under KRS Chapter 151B or 157; or

13 (f) Blind industries or rehabilitation under KRS Chapter 151B or 163;

14 ~~(28)~~~~(26)~~ "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;

15 ~~(29)~~~~(27)~~ "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;

16 ~~(30)~~~~(28)~~ "Limousine" means a motor vehicle operating under a limousine certificate
17 that is designed or constructed with not more than fifteen (15) regular seats;

18 ~~(31)~~~~(29)~~ "Limousine certificate" means a certificate granting authority for the operation
19 of one (1) or more limousines transporting passengers for hire;

20 ~~(32)~~~~(30)~~ "Mobile application" means an application or a computer program designed to
21 run on a smartphone, tablet computer, or other mobile device that is used by a TNC
22 to connect drivers with potential passengers;

23 ~~(33)~~~~(31)~~ "Motor carrier" means any person in either a private or for-hire capacity who
24 owns, controls, operates, manages, or leases, except persons leasing to authorized
25 motor carriers, any motor vehicle for the transportation of passengers or property
26 upon any highway, and any person who engages in the business of automobile
27 utility trailer lessor, ***vehicle towing***, driveaway, or U-Drive-It;

1 ~~(34)~~~~(32)~~ "Motor carrier vehicle" means a motor vehicle used by a motor carrier to
2 transport passengers or property;

3 ~~(35)~~~~(33)~~ "Motor carrier vehicle license" means a license issued by the department for a
4 motor carrier vehicle authorized to operate under a certificate;

5 ~~(36)~~~~(34)~~ "Motor carrier license plate" means a license plate issued by the department to
6 a motor carrier authorized to operate under a certificate other than a household
7 goods, property, TNC, or U-Drive-It certificate;

8 ~~(37)~~~~(35)~~ "Motor vehicle" means any motor-propelled vehicle used for the
9 transportation of passengers or property on a public highway, including any such
10 vehicle operated as a unit in combination with other vehicles;

11 ~~(38)~~~~(36)~~ "Passenger" means an individual or group of people;

12 ~~(39)~~~~(37)~~ "Permit" means a temporary permit of compliance issued under this chapter
13 for a specified period not to exceed ten (10) days, and for a specific vehicle, to any
14 motor carrier, including one who is a nonresident of the Commonwealth, who
15 operates a motor vehicle and is not entitled to an exemption from the payment of
16 fees imposed under KRS 186.050 because of the terms of a reciprocal agreement
17 between the Commonwealth and the state in which the vehicle is licensed;

18 ~~(40)~~~~(38)~~ "Person" means any individual, firm, partnership, corporation, company,
19 association, or joint stock association, and includes any trustee, assignee, or
20 personal representative thereof;

21 ~~(41)~~~~(39)~~ "Platoon" means a group of two (2) individual commercial motor vehicles
22 traveling in a unified manner at electronically coordinated speeds at following
23 distances that are closer than would ordinarily be allowed under KRS
24 189.340(8)(b);

25 ~~(42)~~~~(40)~~ "Prearranged ride" means the period of time that begins when a transportation
26 network company driver accepts a requested ride through a digital network or
27 mobile application, continues while the driver transports the rider in a personal

1 vehicle, and ends when the transportation network company services end;

2 ~~(43)~~~~((41))~~ "Pre-trip acceptance liability policy" means the transportation network
3 company liability insurance coverage for incidents involving the driver for a period
4 of time when a driver is logged into a transportation network company's digital
5 network or mobile application but is not engaged in a prearranged ride;

6 **(44) "Private property towing" means the towing of a motor vehicle, without the**
7 **owner's consent, from private property:**

8 **(a) On which the motor vehicle was illegally parked; or**

9 **(b) Because of an exigent circumstance necessitating its removal to another**
10 **location;**

11 ~~(45)~~~~((42))~~ "Property" means general or specific commodities, including hazardous and
12 nonhazardous materials;

13 ~~(46)~~~~((43))~~ "Property certificate" means a certificate granting authority for the
14 transportation of property, other than household goods, not exempt under KRS
15 281.605;

16 **(47) "Recovery service":**

17 **(a) Means a form of towing service which involves moving vehicles by the use**
18 **of a wheel-lift device, such as a lift, crane, hoist, winch, cradle, jack,**
19 **automobile ambulance, tow dolly, or any other similar device as requested**
20 **by a state or local law enforcement agency; and**

21 **(b) Includes:**

22 **1. Relocating a vehicle or cargo from a place where towing is not**
23 **possible to a place where towing is possible; and**

24 **2. The cleanup of debris or cargo, and returning an area to pre-event**
25 **condition;**

26 ~~(48)~~~~((44))~~ "Regular route" means the scheduled transportation of passengers between
27 designated points over designated routes under time schedules that provide a

1 regularity of services;

2 ~~(49)~~~~((45))~~ "Regular seat" means a seat ordinarily and customarily used by one (1)
3 passenger and, in determining such seating capacity, the manufacturer's rating may
4 be considered;

5 **(50) "Seizure towing" means the towing of a motor vehicle for law enforcement**
6 **purposes involving the:**

7 **(a) Maintenance of the chain of custody of evidence; or**

8 **(b) Forfeiture of assets;**

9 **(51) "Storage facility" means any lot, facility, or other property used to store motor**
10 **vehicles that have been removed from another location by a tow truck;**

11 ~~(52)~~~~((46))~~ "Street hail" means a request for service made by a potential passenger using
12 hand gestures or verbal statement;

13 ~~(53)~~~~((47))~~ "Subcontractor" means a person who has signed a contract with a broker to
14 provide human service transportation delivery within a specific delivery area and
15 who meets human service transportation delivery requirements, including proper
16 operating authority;

17 ~~(54)~~~~((48))~~ "Tariff" means the listing of compensation received by a motor carrier for
18 household goods that includes the manner in which and the amount of fares an
19 authorized motor carrier may charge;

20 ~~(55)~~~~((49))~~ "Taxicab" means a motor vehicle operating under a taxicab certificate that is
21 designed or constructed with not more than eight (8) regular seats and may be
22 equipped with a taximeter;

23 ~~(56)~~~~((50))~~ "Taxicab certificate" means a certificate granting authority for the operation of
24 one (1) or more taxicabs transporting passengers for hire;

25 ~~(57)~~~~((51))~~ "Taximeter" means an instrument or device approved by the department that
26 automatically calculates and plainly indicates the charge to a passenger for hire who
27 is being charged on the basis of mileage;

1 (58) "Tow truck" means a motor vehicle equipped to provide any form of towing
 2 service, including recovery service or flatbed service;

3 (59) "Tow truck operator" means an individual who operates a tow truck as an
 4 employee or agent of a towing company;

5 (60) "Towing company":

6 (a) Means a service or business operating under an intrastate motor carrier
 7 authority under the cabinet or under federal Unified Carrier Registration
 8 (UCR) that:

9 1. Tows or otherwise moves motor vehicles by means of a tow truck; or

10 2. Owns or operates a storage lot;

11 (b) Includes a tow truck operator acting on behalf of a towing company when
 12 appropriate in the context; and

13 (c) Does not include an automobile club, car dealership, insurance company,
 14 repossession company, or any other entity that contracts with a towing
 15 company;

16 (61)~~(52)~~ "Transportation network company" or "TNC" means a person or entity that
 17 connects passengers through its digital network or mobile application to its drivers
 18 for the provision of transportation network company services;

19 (62)~~(53)~~ "Transportation network company certificate" or "TNC certificate" means a
 20 certificate granting the authority for the operation of one (1) or more transportation
 21 network company vehicles transporting passengers for hire;

22 (63)~~(54)~~ "Transportation network company driver" or "TNC driver" means an
 23 individual who operates a motor vehicle that is owned or leased by the individual,
 24 or a motor vehicle for which the driver is an insured driver and has the permission
 25 of the owner or lessee of the motor vehicle, and used to provide transportation
 26 network company services;

27 (64)~~(55)~~ "Transportation network company service" or "TNC service" means a

1 prearranged passenger transportation service offered or provided through the use of
 2 a transportation network company mobile application or digital network to connect
 3 potential passengers with transportation network company drivers;

4 ~~(65)~~~~(56)~~ "Transportation network company vehicle" or "TNC vehicle" means a
 5 privately owned or leased motor vehicle, designed or constructed with not more
 6 than eight (8) regular seats, operating under a transportation network company
 7 certificate;

8 ~~(66)~~~~(57)~~ "U-Drive-It" means any person operating under a U-Drive-It certificate who
 9 leases or rents a motor vehicle for consideration to be used for the transportation of
 10 persons or property, but for which no driver is furnished, and the use of which
 11 motor vehicle is not for the transportation of persons or property for hire by the
 12 lessee or rentee; and

13 ~~(67)~~~~(58)~~ "U-Drive-It certificate" means a certificate granting authority for the operation
 14 of one (1) or more U-Drive-Its.

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
 16 READ AS FOLLOWS:

17 **(1) Prior to the removal of a towed vehicle from a tow truck, a towing company that**
 18 **engages in emergency towing shall take photographs, video, or other visual**
 19 **documentation to document evidence of any vehicle damage, debris, damaged**
 20 **cargo or property, or complications to the recovery process.**

21 **(2) Except as provided in subsection (3) of this section, a towing company, while**
 22 **providing an emergency tow, shall not stop, or cause a person to stop, at the scene**
 23 **of an accident or near a disabled motor vehicle:**

24 **(a) If there is an injury as the result of an accident; or**

25 **(b) For the purpose of:**

26 **1. Soliciting an engagement for emergency towing services;**

27 **2. Moving a motor vehicle from a public street, road, or highway; or**

1 3. Accruing charges in connection with subparagraph 1. or 2. of this
2 paragraph.

3 (3) A towing company may stop, or cause a person to stop, at the scene of an accident
4 or near a disabled motor vehicle under the circumstances of subsection (2) of this
5 section if the:

6 (a) Towing company is requested to stop or to perform a towing service by a law
7 enforcement officer;

8 (b) Towing company is summoned to the scene or requested to stop by the
9 owner or operator of a disabled motor vehicle;

10 (c) Owner of a disabled motor vehicle has provided consent to the towing
11 company to stop or perform a towing service; or

12 (d) Towing company has reasonable belief that a motorist is in need of
13 immediate aid. A towing company shall not offer towing services under this
14 paragraph unless a condition of paragraph (a), (b), or (c) of this subsection
15 has been met.

16 (4) (a) Except as provided in subsections (5) and (6) of this section, the owner or
17 operator of a disabled motor vehicle, in consultation with law enforcement
18 or with authorized state or local government personnel, may:

19 1. Summon to the disabled motor vehicle's location the towing company
20 of the owner's or operator's choice, either directly or through an
21 insurance company's or an automobile club's emergency service
22 arrangement; and

23 2. Designate the location to which the disabled motor vehicle is to be
24 towed.

25 (b) If the location designated by the owner or operator is not a storage facility
26 owned or operated by the towing company, the owner or operator shall
27 arrange for payment to the towing company at the time the towing company

1 is summoned.

2 (5) Subsection (4) of this section shall not apply:

3 (a) In the event of a declared emergency; or

4 (b) If the owner or operator of a disabled motor vehicle:

5 1. Is incapacitated or otherwise unable to summon a towing company; or

6 2. Defers to law enforcement or to authorized state or local government
7 personnel as to the towing company to be summoned or the location to
8 which the disabled motor vehicle is to be towed.

9 (6) The authority of an owner or operator of a disabled motor vehicle to summon the
10 towing company of the owner's or operator's choice under subsection (4) of this
11 section shall be superseded by a peace officer or by authorized state or local
12 government personnel if the towing company the owner or operator chooses:

13 (a) Is unable to respond to the location of the disabled motor vehicle in a timely
14 fashion; or

15 (b) The disabled motor vehicle is a hazard, impedes the flow of traffic, or may
16 not legally remain in the motor vehicle's location in the opinion of the
17 peace officer or authorized state or local government official.

18 (7) If a disabled motor vehicle is causing or poses a safety hazard, the towing
19 company may move the disabled motor vehicle to a safe location after being
20 authorized by a law enforcement officer or by authorized state or local
21 government personnel.

22 (8) If a towing company is summoned for emergency towing by the owner or
23 operator of a disabled motor vehicle, the towing company shall make a record, to
24 the extent available, consisting of:

25 (a) The first and last name and telephone number of the individual who
26 summoned the towing company to the scene; and

27 (b) The make, model, year, vehicle identification number, and license plate

1 number of the disabled motor vehicle.

2 (9) If a towing company is summoned for emergency towing by a law enforcement
3 officer or by authorized state or local government personnel, the towing company
4 shall make a record, to the extent available, consisting of:

5 (a) The identity of the law enforcement agency or authorized state, county, or
6 municipal agency requesting the emergency towing; and

7 (b) The make, model, year, vehicle identification number, and license plate
8 number of the disabled motor vehicle.

9 (10) A towing company shall maintain a record created under subsection (8) or (9) of
10 this section and provide the record to a law enforcement agency upon request
11 from the time the towing company appears at the location of the disabled motor
12 vehicle until the time the motor vehicle is towed and released to an authorized
13 third party. A towing company shall retain the record created under subsection
14 (8) or (9) of this section for a period of two (2) years from the date the disabled
15 motor vehicle was towed and, throughout the two (2) year period, make the
16 record available for inspection and copying, not later than forty-eight (48) hours
17 after receiving a written request from a law enforcement agency, the Attorney
18 General, the disabled motor vehicle's owner, or an authorized agent of the
19 disabled motor vehicle's owner. Records maintained under this subsection shall
20 be kept in paper or electronic form.

21 (11) A towing company that performs emergency towing under this section shall,
22 upon taking possession of the motor vehicle, secure a towed motor vehicle
23 properly and take all reasonable efforts to prevent further damage, including
24 weather damage, or theft of a towed motor vehicle, including the motor vehicle's
25 cargo and contents until the motor vehicle is out of the towing company's
26 possession. A towing company shall not be responsible for damage that occurred
27 prior to taking possession of the motor vehicle for towing.

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) Prior to removing a vehicle from a tow truck under this section, a towing
4 company that engages in or offers to engage in private property towing, shall take
5 photographs, video, or other visual documentation to document evidence of any
6 vehicle damage, debris, damaged cargo or property, or complications to the
7 recovery process.

8 (2) A towing company that tows a motor vehicle under this section shall ensure that
9 the motor vehicle is towed to a storage facility located within twenty-five (25)
10 miles of the location of the tow-away zone from which the motor vehicle was
11 removed or, if no storage facility is located within twenty-five (25) miles of the
12 location of the tow-away zone, to the storage facility nearest to the tow-away zone.

13 (3) If the owner or operator of a motor vehicle parked in violation of a tow-away
14 zone arrives at the location of the tow-away zone or private property while the
15 motor vehicle is being towed, the towing company shall give the owner or
16 operator either oral or written notification that the owner or operator may pay a
17 fee in an amount not greater than fifty percent (50%) of the amount of the fee the
18 towing company normally charges for the release of a motor vehicle. Upon the
19 owner's or operator's payment of the amount specified, the towing company shall
20 release the motor vehicle to the owner or operator and give the owner or operator
21 a receipt showing the full amount of the fee the towing company normally
22 charges for the release of a motor vehicle and the amount of the fee paid by the
23 owner or operator.

24 (4) A towing company shall provide notice to the law enforcement agency having
25 jurisdiction in the location of the private property not later than two (2) hours
26 after completing a tow of a motor vehicle from private property.

27 (5) A towing company that performs private property towing shall secure a towed

1 motor vehicle properly and take all reasonable efforts to prevent further damage,
2 including weather damage, or theft of a towed motor vehicle, including the motor
3 vehicle's cargo and contents until the motor vehicle is out of the towing
4 company's possession. A towing company shall not be responsible for damage
5 that occurred prior to taking possession of the motor vehicle for towing.

6 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) Prior to attaching a vehicle to the tow truck, the towing company shall furnish
9 the vehicle's owner or operator, if the owner or operator is present at the scene of
10 the disabled vehicle and upon the owner's or operator's request, a rate sheet
11 listing all rates for towing services, included but not limited to all rates for towing
12 and associated fees, cleanup, charges, labor, storage, and any other services
13 provided by the towing company.

14 (2) (a) Any towing company or storage facility shall post a rate sheet at its place of
15 business and shall make the rate sheet available upon a customer's request.

16 (b) Any charge in excess of the rate sheets provided under this subsection shall
17 be deemed excessive.

18 (3) An itemized invoice of actual towing charges assessed by a towing company for a
19 completed tow shall be made available to the owner of the motor vehicle or the
20 owner's agent no later than one (1) business day after:

21 (a) The tow is completed; or

22 (b) The towing company has obtained all necessary information to be included
23 on the invoice, including any charges submitted by subcontractors used by
24 the towing company to complete the tow and recovery.

25 (4) The itemized invoice required under subsection (3) of this section shall contain
26 the following information:

27 (a) The date and time the motor vehicle was towed;

- 1 (b) The location to which the motor vehicle was towed;
- 2 (c) The name, address, and telephone number of the towing company;
- 3 (d) A description of the towed motor vehicle, including the make, model, year,
- 4 and vehicle identification number of the motor vehicle;
- 5 (e) The license plate number and state of registration for the towed motor
- 6 vehicle;
- 7 (f) The cost of the original towing service;
- 8 (g) The cost of any vehicle storage fees, expressed as a daily rate;
- 9 (h) Other fees, including documentation fees and motor vehicle search fees;
- 10 and
- 11 (i) The costs for services that were performed under a warranty or that were
- 12 otherwise performed at no cost to the owner of the motor vehicle.
- 13 (5) Any service or fee in addition to the services or fees described in subsection (4)(f),
- 14 (g), or (h) of this section shall be set forth individually as a single line item on the
- 15 invoice required by this section, with an explanation and the exact charge for the
- 16 service or the exact amount of the fee.
- 17 (6) A copy of each invoice and receipt submitted by a tow truck operator in
- 18 accordance with this section shall:
- 19 (a) Be retained by the towing company for a period of two (2) years from the
- 20 date of issuance; and
- 21 (b) Throughout the two (2) year period described in this subsection, be made
- 22 available for inspection and copying not later than forty-eight (48) hours
- 23 after receiving a written request for inspection from:
- 24 1. A law enforcement agency;
- 25 2. The Attorney General;
- 26 3. A city attorney, county attorney, or the prosecuting attorney having
- 27 jurisdiction in the location of any of the towing company's business

1 locations;

2 4. The disabled motor vehicle's owner; or

3 5. An agent of the disabled motor vehicle's owner.

4 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) Any towing company shall attempt to ascertain from the cabinet the identity of
7 the registered owner of the motor vehicle and within ten (10) business days of the
8 removal shall, by certified mail, attempt to notify the registered owner at the
9 address of record, when a motor vehicle has been:

10 (a) Towed under Sections 3 and 4 of this Act;

11 (b) Involuntarily towed or transported pursuant to order of police, other public
12 authority, or private person or business for any reason;

13 (c) Stolen or misappropriated and its removal from the public ways has been
14 ordered by police, other public authority, or by private person or business;

15 or

16 (d) In any other situation, involuntarily towed or transported by order of police,
17 other authority, or by private person or business.

18 (2) (a) If a vehicle described in subsection (1) of this section is placed in a garage
19 or other storage facility, the owner of the facility shall attempt to provide the
20 notice provided in subsection (1) of this section, by certified mail, to the
21 registered owner at the address of record of the motor vehicle within ten
22 (10) business days of recovery of, or taking possession of, the motor vehicle.

23 (b) Any notice sent under this subsection shall comply with the notification
24 provisions of subsection (3) of this section and shall include an estimated
25 itemized invoice pursuant to subsection (3) of Section 4 of this Act that
26 specifies the amount of reasonable charges for towing, recovery, storage,
27 transporting, and other applicable charges due on the vehicle.

- 1 (c) When the owner of the facility fails to provide notice as provided in this
2 section, the motor vehicle storage facility shall forfeit all storage fees
3 accrued after ten (10) business days from the date of tow.
- 4 (d) This subsection shall not apply to a garage or storage facility owned or
5 operated by a government entity.
- 6 (3) Any notification required under subsection (1) or (2) of this section shall include:
- 7 (a) The date and time the vehicle was towed;
8 (b) The location from which the vehicle was towed;
9 (c) The name, address, and telephone number where the vehicle will be located;
10 (d) The location, address, and phone number where payment and business
11 transactions take place if different from business address;
12 (e) The name, address, and phone number of the towing company or storage
13 facility;
14 (f) A description of the towed vehicle which shall at a minimum include the
15 make, model, year, vehicle identification number, and color of the towed
16 vehicle;
17 (g) The license plate number and state of registration of the towed vehicle; and
18 (h) A copy of the rate sheet required in subsection (1) of Section 4 of this Act, if
19 the vehicle was towed by a towing company operating under this chapter
20 and vehicles are being held in a storage facility or garage.
- 21 (4) If a vehicle described in subsection (1) of this section is determined to be a
22 corporately owned motor vehicle, the notices required under subsections (1) and
23 (2) of this section shall be sent to the state corporate address listed on the
24 registration. The motor vehicle shall be held for up to sixty (60) days to allow the
25 motor vehicle owner to retrieve the towed motor vehicle. The rate charged shall
26 be comparable to the standard daily rate of the towing company or storage
27 facility. If at any time more than one (1) motor vehicle owned by the same

1 corporation is under the control of a towing company or storage facility, each
 2 motor vehicle shall be processed under a separate transaction.

3 (5) A towing company or storage facility that has met the provisions of this section
 4 may sell the towed vehicle in accordance with Section 10 of this Act.

5 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
 6 READ AS FOLLOWS:

7 This section applies to towing companies that tow and store motor vehicles, and to
 8 storage facilities that store vehicles towed by a towing company, regardless of whether
 9 the towing company and the storage facilities are affiliates.

10 (1) Upon payment of all costs incurred against a motor vehicle towed and stored
 11 under this chapter, the towing company or storage facility shall release the motor
 12 vehicle to:

13 (a) A properly identified person that owns or holds a lien on the motor vehicle;

14 or

15 (b) A representative of the insurance company or their contracted service
 16 provider insuring the motor vehicle if the:

17 1. Motor vehicle is covered by an active policy of insurance and the
 18 insurance representative provides proof of coverage; or

19 2. Owner of the motor vehicle approves release of the vehicle to the
 20 insurance company representative.

21 (2) Prior to payment of fees and release of the motor vehicle, a storage facility or tow
 22 company shall not refuse the right of physical inspection of the towed vehicle by:

23 (a) An owner;

24 (b) A lienholder;

25 (c) A representative of the insurance company that insures the motor vehicle;

26 or

27 (d) A contracted service provider of the insurance company.

1 (3) A towing company or storage facility shall accept payment made by any of the
2 following means from an individual seeking to release a motor vehicle:

3 (a) Cash;

4 (b) Insurance check;

5 (c) Credit card;

6 (d) Debit card;

7 (e) Money order; or

8 (f) Certified check.

9 (4) Upon receiving payment of all costs incurred against a motor vehicle, a towing
10 company or storage facility shall provide to the person making payment an
11 itemized receipt in accordance with subsections (3) and (4) of Section 4 of this
12 Act to the extent the information is known or available.

13 (5) A towing company or storage facility shall be open for business and accessible by
14 telephone during posted business hours. A towing company or storage facility
15 shall provide a telephone number available on a twenty-four (24) hour basis to
16 receive calls and messages from callers, including calls made outside posted
17 business hours. All calls made to a towing company or storage facility shall be
18 returned within twenty-four (24) hours from the time received. However, if
19 adverse weather, an emergency situation, or another act over which the towing
20 company or storage facility has no control prevents the towing company or
21 storage facility from returning calls within twenty-four (24) hours, the towing
22 company or storage facility shall return all calls received as quickly as possible.

23 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
24 READ AS FOLLOWS:

25 (1) A towing company or storage facility shall file a copy of its rate sheet required
26 under subsection (1) of Section 4 of this Act with the cabinet.

27 (2) A towing company or storage facility shall not charge a fee for towing, cleanup

1 services, storage of a vehicle, or a combination thereof that is excessive or
2 unfairly discriminatory.

3 (3) All services rendered by a towing company or storage facility, including warranty
4 or no-cost services, shall be recorded on an invoice. The storage facility, towing
5 company, or the owner or operator of a tow truck, shall maintain the records for
6 two (2) years, including rate sheets, and shall make the records available for
7 inspection and copying upon written request from law enforcement or the
8 cabinet. Records maintained under this section shall be kept in paper or
9 electronic form.

10 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO
11 READ AS FOLLOWS:

12 (1) A towing company shall not:

13 (a) Falsely represent that the towing company represents or is approved by any
14 law enforcement agency, or any organization that provides emergency road
15 service for disabled motor vehicles;

16 (b) Require an owner or an operator of a disabled motor vehicle to preauthorize
17 more than twenty-four (24) hours of storage or repair work as a condition
18 to providing towing service for the disabled vehicle;

19 (c) Charge more than one (1) towing fee when the owner or operator of a
20 disabled motor vehicle requests transport of the motor vehicle to a repair
21 facility owned or operated by the towing company; or

22 (d) Tow a motor vehicle to a repair facility, unless the owner of the motor
23 vehicle or the owner's designated representative gives consent and the
24 consent is given prior to the removal of the motor vehicle from the location
25 from which the motor vehicle is to be towed. This paragraph shall not apply
26 to a storage facility that has a repair facility on the same site so long as the
27 motor vehicle is not moved into the repair facility without consent.

1 **(2) A towing company or storage facility shall not:**

2 **(a) Upon payment of all costs incurred against a motor vehicle towed and**
 3 **stored under this chapter, refuse to release the motor vehicle to a properly**
 4 **identified individual who owns or holds a lien on the motor vehicle or to a**
 5 **representative of the insurance company insuring the motor vehicle or the**
 6 **insurance company's contracted provider, if the motor vehicle is covered by**
 7 **an active policy of insurance. Motor vehicle release under this paragraph**
 8 **shall not apply to any case in which a law enforcement agency has ordered**
 9 **the motor vehicle not to be released or in any case in which a judicial order**
 10 **prohibits its release;**

11 **(b) Refuse to permit a properly identified individual who owns or holds a lien**
 12 **on a motor vehicle or a representative of the insurance company insuring**
 13 **the motor vehicle if the motor vehicle is covered by an active policy of**
 14 **insurance to inspect the motor vehicle before all costs incurred against the**
 15 **motor vehicle are paid or the motor vehicle is released; or**

16 **(c) Charge a storage fee for a stored motor vehicle with respect to any day on**
 17 **which release of the motor vehicle or inspection of the motor vehicle by the**
 18 **owner, lienholder, or insurance company is not permitted during posted**
 19 **business hours by the towing company or storage facility.**

20 ➔Section 9. KRS 359.230 is amended to read as follows:

21 (1) (a) If the occupant is in default for a period of more than forty-five (45) days, the
 22 operator may enforce a lien by selling the property stored in the leased space
 23 at a public or private sale, for cash.

24 (b) Proceeds shall then be applied to satisfy the lien, with any surplus disbursed as
 25 provided in subsection (5) of this section.

26 (2) Before conducting a sale under subsection (1) of this section, the operator shall:

27 (a) Notify the occupant of the default by regular or verified electronic mail at the

- 1 occupant's last known address;
- 2 (b) Send a second notice of default by verified mail or verified electronic mail to
- 3 the occupant at the occupant's last known address which includes:
- 4 1. A statement that the contents of the occupant's leased space are subject
- 5 to the operator's lien;
- 6 2. A statement of the operator's claim, indicating the charges due on the
- 7 date of the notice, the amount of any additional charges which shall
- 8 become due before the date of sale, and the date those additional charges
- 9 shall become due;
- 10 3. A demand for payment of the charges due within a specified time, not
- 11 less than fourteen (14) days after the date of the notice;
- 12 4. A statement that unless the claim is paid within the time stated, the
- 13 contents of the occupant's leased space shall be sold at a specified time
- 14 and place; and
- 15 5. The name, street address, and telephone number of the operator, or his
- 16 or her designated agent, whom the occupant may contact to respond to
- 17 the notice; and
- 18 (c) At least three (3) days before the sale, advertise the time, place, and terms of
- 19 the sale in a newspaper of general circulation in the jurisdiction where the sale
- 20 is to be held.
- 21 (3) At any time before a sale under this section, the occupant may pay the amount
- 22 necessary to satisfy the lien and redeem the occupant's personal property.
- 23 (4) The sale under this section shall be held at the self-service storage facility, the
- 24 location of the self-contained storage unit where the personal property is stored, or a
- 25 publicly accessible Web site.
- 26 (5) If a sale is held under this section, the operator shall:
- 27 (a) Satisfy the lien from the proceeds of the sale;

- 1 (b) Hold the balance, if any, for delivery to any other recorded lienholders who
2 present claims within sixty (60) days. Notwithstanding Article 9 of KRS
3 Chapter 355, claims shall be satisfied on a first come first served basis; and
- 4 (c) Deliver, upon expiration of sixty (60) days, the balance of any remaining
5 proceeds to the occupant.
- 6 (6) A purchaser in good faith of any personal property sold under KRS 359.200 to
7 359.250 takes the property free and clear of any rights of:
- 8 (a) Persons against whom the lien was valid; and
9 (b) Other lienholders.
- 10 (7) If the operator complies with the provisions of KRS 359.200 to 359.250, the
11 operator's liability:
- 12 (a) To the occupant shall be limited to the net proceeds received from the sale of
13 the personal property;
- 14 (b) To other lienholders shall be limited to the net proceeds received from the sale
15 of any personal property covered by that other lien; and
- 16 (c) To the occupant or valid lienholders shall be relieved upon full distribution of
17 proceeds in accordance with the provisions of KRS 359.200 to 359.250.
- 18 (8) If an occupant is in default, the operator may deny the occupant access to the leased
19 space.
- 20 (9) (a) Unless otherwise specifically provided, all notices required by KRS 359.200
21 to 359.250 shall be sent by verified mail or verified electronic mail.
- 22 (b) 1. Notices sent to the operator shall be sent to the operator's principal
23 office, as listed on the rental agreement.
- 24 2. Notices to the occupant shall be sent to the occupant at the occupant's
25 last known address.
- 26 (c) Notices shall be deemed delivered when deposited with the United States
27 Postal Service, properly addressed as provided in paragraph (b) of this

1 subsection, with postage paid, or sent by verified electronic mail.

2 (10) Provided, however, unless the rental agreement specifically provides otherwise and
 3 until a lien sale under KRS 359.200 to 359.250, the exclusive care, custody, and
 4 control of all personal property stored in the leased space shall remain vested in the
 5 occupant.

6 (11) If the rental agreement specifies a limit on the value of the personal property that
 7 may be stored in the occupant's leased space, the limit shall be deemed to be the
 8 maximum value of the stored personal property.

9 (12) If the occupant is in default for more than sixty (60) days and the personal property
 10 stored in the leased space is a motor vehicle as defined in KRS 376.268, the
 11 operator may, in lieu of a sale authorized in this chapter, have the vehicle or
 12 watercraft towed or removed from the self-service storage facility, and the towing
 13 company shall execute the notice provisions as specified in Section 5 of this
 14 Act~~[KRS 376.275]~~.

15 ➔Section 10. KRS 376.275 is amended to read as follows:

16 (1) ~~[When a motor vehicle has been involuntarily towed or transported pursuant to~~
 17 ~~order of police, other public authority, or private person or business for any reason~~
 18 ~~or when the vehicle has been stolen or misappropriated and its removal from the~~
 19 ~~public ways has been ordered by police, other public authority, or by private person~~
 20 ~~or business, or in any other situation where a motor vehicle has been involuntarily~~
 21 ~~towed or transported by order of police, other authority, or by private person or~~
 22 ~~business, the police, other authority, private person or business shall attempt to~~
 23 ~~ascertain from the Transportation Cabinet the identity of the registered owner of the~~
 24 ~~motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within~~
 25 ~~ten (10) business days of the removal shall, by certified mail, attempt to notify the~~
 26 ~~registered owner at the address of record of the make, model, license number and~~
 27 ~~vehicle identification number of the vehicle and of the location of the vehicle, and~~

1 the requirements for securing the release of said motor vehicle.

2 ~~(2) If a vehicle described in subsection (1) of this section is placed in a garage or other~~
3 ~~storage facility, the owner of the facility shall attempt to provide the notice provided~~
4 ~~in subsection (1) of this section, by certified mail, to the registered owner at the~~
5 ~~address of record of the motor vehicle or lessor of a motor carrier as defined in KRS~~
6 ~~Chapter 281 within ten (10) business days of recovery of, or taking possession of~~
7 ~~the motor vehicle. The notice shall contain the information as to the make, model,~~
8 ~~license number and vehicle identification number of the vehicle, the location of the~~
9 ~~vehicle and the amount of reasonable charges for towing, recovery, storage,~~
10 ~~transporting, and other applicable charges due on the vehicle. When the owner of~~
11 ~~the facility fails to provide notice as provided herein, the motor vehicle storage~~
12 ~~facility shall forfeit all storage fees accrued after ten (10) business days from the~~
13 ~~date of tow. This subsection shall not apply to a garage or storage facility owned or~~
14 ~~operated by a government entity.~~

15 ~~(3)}~~ (a) Any person engaged in the business of storing or towing motor vehicles, who
16 has~~—substantially~~ complied with the notification~~[aforementioned]~~
17 requirements of Section 5 of this Act~~[this section]~~, shall have a lien on the
18 motor vehicle and its contents, except as set forth in subsection ~~(2)~~~~(4)}~~ of this
19 section, for the applicable charges assessed in accordance with Sections 4
20 and 7 of this Act~~[reasonable or agreed charges for towing, recovery, storage,~~
21 ~~transporting, and other applicable charges due on the vehicle]~~, as long as it
22 remains in his or her possession.

23 (b) ~~[Prior to payment of fees and release of a vehicle, a towing or storage~~
24 ~~company shall not refuse the right of physical inspection of the towed vehicle~~
25 ~~by the owner or an insurance company representative. Release of the vehicle~~
26 ~~shall occur to the owner or insurance company representative upon payment~~
27 ~~and consent of the release from the owner or the owner's authorized~~

1 ~~representative. Each additional service shall be set forth individually as a~~
2 ~~single line item in the bill with an explanation and the exact charge for the~~
3 ~~service.~~

4 ~~(e)~~ If, after a period of forty-five (45) days, the **charges assessed in accordance**
5 **with Sections 4 and 7 of this Act** ~~reasonable or agreed charges for towing,~~
6 ~~recovery, storage, transporting, and other applicable charges due on a motor~~
7 ~~vehicle and its contents} have not been paid, the motor vehicle and its~~
8 ~~contents, except as set forth in subsection (2)(4) of this section, may be sold~~
9 ~~to pay the charges after the owner has been notified by certified mail ten (10)~~
10 ~~days prior to the time and place of the sale. If the proceeds of the sale of any~~
11 ~~vehicle pursuant to this section are insufficient to satisfy accrued charges~~ ~~for~~
12 ~~towing, transporting, and storage}, the sale and collection of proceeds shall not~~
13 ~~constitute a waiver or release of responsibility for payment of unpaid~~ ~~towing,~~
14 ~~transporting, and storage} charges by the owner or responsible casualty insurer~~
15 ~~of the vehicle. A lien on a vehicle under this subsection shall be subject to~~
16 ~~prior recorded liens.~~

17 ~~(c)(d)~~ A lien holder having a prior recorded lien listed on the title issued by the
18 Commonwealth of Kentucky shall be notified by certified mail within the first
19 fifteen (15) days of impoundment. The letter shall include the make, model,
20 license number, vehicle identification number, owner's name and last known
21 address, and tentative date of sale for the vehicle, **and that the towing**
22 **company or storage facility intends to obtain a new title free and clear of**
23 **any liens.** If the above-referenced certified letter is not sent within the fifteen
24 (15) days by the towing and storage company, then only fifteen (15) days of
25 storage may be charged. The lien holder has the right to take possession of the
26 motor vehicle after showing proof of lien still enforced, and paying the
27 reasonable or agreed towing and storage charges on the motor vehicle.

1 Nothing in this section shall allow the transfer of a vehicle subject to a lien,
2 except as provided in KRS 186A.190.

3 ~~(2)(4)~~ Subsection ~~(1)(3)~~ of this section shall not apply to the following contents of
4 a motor vehicle, which shall be released to the vehicle owner or the owner's
5 designated agent upon request, if the request is made within forty-five (45) days of
6 the date the vehicle was towed:

- 7 (a) Prescription medication in its proper container;
- 8 (b) Personal medical supplies and equipment or records;
- 9 (c) Educational materials, including but not limited to calculators, books, papers,
10 and school supplies;
- 11 (d) Documents, files, electronic devices, or equipment which may be able to store
12 personal information or information relating to a person's employment or
13 business;
- 14 (e) Firearms and ammunition. Notwithstanding the provisions of subsection
15 ~~(3)(5)~~ of this section, firearms and ammunition which are not claimed by the
16 owner of the vehicle within forty-five (45) days of the date the vehicle was
17 towed shall be transferred to the Department of Kentucky State Police for
18 disposition as provided by KRS 16.220;
- 19 (f) Cargo in the possession of persons engaged in transportation in interstate
20 commerce as registered under KRS 186.020;
- 21 (g) Cargo in the possession of an integrated intermodal small package carrier as
22 defined by KRS 281.605(12);
- 23 (h) Child restraint systems or child booster seats; and
- 24 (i) Checks, checkbooks, debit or credit cards, money orders, stocks, or bonds.

25 ~~(3)(5)~~ Except as provided for in subsection ~~(2)(e)(4)(e)~~ of this section, any contents
26 exempted under subsection ~~(2)(4)~~ of this section that are not claimed by the owner
27 of the vehicle within forty-five (45) days of the date the vehicle was towed may be

1 sold or otherwise legally disposed of by the storage or towing company.

2 ~~(4)~~~~(6)~~ The storage or towing company shall not be responsible for contents in a
3 vehicle's trunk or other locked compartment to which the storage or towing
4 company is without access, unless the towing company intentionally opens the area
5 without the owner's consent.

6 ~~(5)~~~~(7)~~ The provisions of this section shall not apply when a local government causes
7 a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government
8 causes a vehicle to be towed.

9 ➔Section 11. KRS 189.725 is amended to read as follows:

10 (1) Any owner or attendant of a privately owned parking lot may have a towing
11 company remove~~removed~~ from the lot any unauthorized parked vehicle~~parked~~.
12 A towing company~~and any person~~ engaged to remove such vehicle shall have a
13 lien on the vehicle in accordance with Section 10 of this Act~~KRS 376.275~~.

14 (2) Every operator of a parking lot covered by the provisions of subsection (1) shall
15 post signs stating thereon that the parking lot is privately owned and unauthorized
16 vehicles will be towed away at the owner's expense.