

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 89

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIELAND.

1040S.03P

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 304.153, 385.220, and 385.320, RSMo, and to enact in lieu thereof four new sections relating to motor clubs, with existing penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 304.153, 385.220, and 385.320, RSMo,  
2 are repealed and four new sections enacted in lieu thereof, to  
3 be known as sections 304.153, 385.220, 385.320, and 385.450, to  
4 read as follows:

304.153. 1. As used in this section, the following  
2 terms shall mean:

3 (1) "Law enforcement officer", any public servant,  
4 other than a patrol officer, who is defined as a law  
5 enforcement officer under section 556.061;

6 (2) "Motor club", [an organization which motor vehicle  
7 drivers and owners may join that provide certain benefits  
8 relating to driving a motor vehicle] **a legal entity that, in  
9 consideration of dues, assessments, or periodic payments of  
10 money, promises to provide motor club services to its  
11 members or subscribers in accordance with section 385.450;**

12 (3) "Patrol officer", a Missouri state highway patrol  
13 officer;

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14           (4) "Tow list", a list of approved towing companies  
15 compiled, maintained, and utilized by the Missouri state  
16 highway patrol or its designee;

17           (5) "Tow management company", any sole proprietorship,  
18 partnership, corporation, fiduciary, association, or other  
19 business entity that manages towing logistics for government  
20 agencies or motor clubs;

21           (6) "Tow truck", a rollback or car carrier, wrecker,  
22 or tow truck as defined under section 301.010;

23           (7) "Towing", moving or removing, or the preparation  
24 therefor, of a vehicle by another vehicle for which a  
25 service charge is made, either directly or indirectly,  
26 including any dues or other charges of clubs or associations  
27 which provide towing services;

28           (8) "Towing company", any person, partnership,  
29 corporation, fiduciary, association, or other entity that  
30 operates a wrecker or towing service as defined under  
31 section 301.010.

32           2. In authorizing a towing company to perform  
33 services, any patrol officer or law enforcement officer  
34 within the officer's jurisdiction, or Missouri department of  
35 transportation employee, may utilize the services of a tow  
36 management company or tow list, provided:

37           (1) The Missouri state highway patrol is under no  
38 obligation to include or retain the services of any towing  
39 company in any contract or agreement with a tow management  
40 company or any tow list established pursuant to this  
41 section. A towing company is subject to removal from a tow  
42 list at any time;

43           (2) Notwithstanding any other provision of law or any  
44 regulation established pursuant to this section, an owner or

45 operator's request for a specific towing company shall be  
46 honored by the Missouri state highway patrol unless:

47 (a) The requested towing company cannot or does not  
48 respond in a reasonable time, as determined by a law  
49 enforcement officer; or

50 (b) The vehicle to be towed poses an immediate traffic  
51 hazard, as determined by a law enforcement officer.

52 3. A patrol officer shall not use a towing company  
53 located outside of Missouri under this section except under  
54 the following circumstances:

55 (1) A state or federal emergency has been declared; or

56 (2) The driver or owner of the vehicle, or a motor  
57 club of which the driver or owner is a member, requests a  
58 specific out-of-state towing company.

59 4. A towing company shall not tow a vehicle to a  
60 location outside of Missouri without the consent of the  
61 driver or owner of the motor vehicle, or without the consent  
62 of a motor club of which the driver or owner of the motor  
63 vehicle is a member.

64 5. Any towing company or tow truck arriving at the  
65 scene of an accident that has not been called by a patrol  
66 officer, a law enforcement officer, a Missouri department of  
67 transportation employee, the driver or owner of the motor  
68 vehicle or his or her authorized agent, including a motor  
69 club of which the driver or owner is a member, shall be  
70 prohibited from towing the vehicle from the scene of the  
71 accident, unless the towing company or tow truck operator is  
72 rendering emergency aid in the interest of public safety, or  
73 is operating during a declared state of emergency under  
74 section 44.100.

75 6. A tow truck operator that stops and tows a vehicle  
76 from the scene of an accident in violation of subsection 5

77 of this section shall be guilty of a class D misdemeanor  
78 upon conviction or pleading guilty for the first violation,  
79 and such tow truck shall be subject to impounding. The  
80 penalty for a second violation shall be a class A  
81 misdemeanor, and the penalty for any third or subsequent  
82 violation shall be a class D felony. A violation of this  
83 section shall not preclude the tow truck operator from being  
84 charged with tampering under chapter 569.

85 7. The provisions of this section shall also apply to  
86 motor vehicles towed under section 304.155 or 304.157.

87 8. The provisions of this section shall not apply to  
88 counties of the third or fourth classification.

385.220. 1. The provisions of sections 385.200 to  
2 385.220 shall not apply to:

- 3 (1) Warranties;
- 4 (2) Maintenance agreements;
- 5 (3) Commercial transactions; [and]
- 6 (4) Service contracts sold or offered for sale to  
7 persons other than consumers; **or**

8 **(5) Motor club contracts, as defined in section**  
9 **385.450.**

10 2. Manufacturer's contracts on the manufacturer's  
11 products need only comply with the provisions of sections  
12 385.206, 385.208, and 385.216.

385.320. 1. Sections 385.300 to 385.320 shall not  
2 apply to:

- 3 (1) Warranties;
- 4 (2) Maintenance agreements;
- 5 (3) Warranties, service contracts, or maintenance  
6 agreements offered by public utilities on their transmission  
7 devices to the extent they are regulated under the laws of  
8 this state;

9           (4) Service contracts sold or offered for sale to  
10 persons other than consumers;

11           (5) Service contracts sold or offered to nonresidents  
12 of this state regardless of whether the entity selling or  
13 offering such contracts is located or doing business in this  
14 state;

15           (6) Motor vehicle extended service contracts, as  
16 defined in section 385.200; [and]

17           (7) **Motor club contracts, as defined in section**  
18 **385.450; or**

19           (8) Agreements or warranties which provide for the  
20 service, repair, replacement, or maintenance of the systems,  
21 appliances, and structural components of residential or  
22 commercial real property.

23           2. Manufacturer's service contracts on the  
24 manufacturer's products need only comply with the provisions  
25 of sections 385.306, 385.308, and 385.316.

**385.450. 1. As used in this section, the following**  
2 **terms shall mean:**

3           (1) **"Motor club", a legal entity that, in**  
4 **consideration of dues, assessments, or periodic payments of**  
5 **money, promises to provide motor club services to its**  
6 **members or subscribers;**

7           (2) **"Motor club contract", an agreement whereby a**  
8 **motor club promises to render, furnish, or procure motor**  
9 **club services to or for its members or subscribers;**

10           (3) **"Motor club services", services that assist a**  
11 **member or subscriber of a motor club in matters relating to**  
12 **motor travel or the operation, use, or maintenance of a**  
13 **motor vehicle by supplying services that may include, but**  
14 **are not limited to, towing service, emergency road service,**  
15 **bail and guaranteed arrest bond certificate service,**

16 discount service, theft service, map service, touring  
17 service, legal fee reimbursement service in the defense of  
18 traffic offenses, and participation in an accident and  
19 sickness or accidental death insurance benefit program  
20 issued by an insurance company authorized to do business in  
21 this state.

22         2. Fees collected from the sale of motor club  
23 contracts shall not be subject to taxation of premiums under  
24 chapter 148.

25         3. Motor clubs complying with the provisions of this  
26 section shall not be required to comply with the provisions  
27 of chapter 374 or 375, or any other provisions governing  
28 insurance companies, except as specifically provided.

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