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**Legislative Testimony
by the
Kansas Motor Carriers Association
before the
Senate Transportation Committee
Senator Mike Petersen, Chairman
Wednesday, March 17, 2021**

In Support of Senate Bill No. 158

**MR. CHAIRMAN AND MEMBERS OF THE
SENATE TRANSPORTATION COMMITTEE:**

I am Tom Whitaker, Executive Director of the Kansas Motor Carriers Association. I appear before you this morning representing KMCA and specifically the forty plus member-firms of the KMCA Towing and Recovery Division in support of Senate Bill No. 158. SB 158 is the result of discussions between the Kansas Department of Revenue Division of Vehicles and KMCA to update the requirements to process a Towing and Recovery Possessory lien and ultimately provide the purchaser of the vehicle the necessary documents to secure a vehicle title.

The Towing and Recovery Possessory Lien Law was adopted during the 1987 Session of the Kansas Legislature because of a court decision which said only the owner of a vehicle could initiate a tow and create a lien on the vehicle. The Towing and Recovery Lien Law spelled out that only the vehicle owner or law enforcement could initiate a tow and create a lien on the vehicle as well as the process with proper notice to the owner and any lienholders that the vehicle could be sold at auction to satisfy the lien. These liens are processed for vehicles that have been technically abandoned.

Section 1 of SB 158 is clean up language from the Revisor of Statutes. Section 2 of SB 158 makes one change to K.S.A. 1103 by prohibiting a vehicle to be towed to a location outside of Kansas without the consent of the driver or owner of the motor vehicle or without the consent of a motor club which the driver or owner of the motor vehicle is a member. This language is mirror language of Missouri law and is designed to keep vehicles from being towed from one State to another to avoid a State's vehicle lien laws.

An example of this would be an Apartment owner in Kansas has a vehicle abandoned on private property in the Apartment's parking lot. The Apartment owner calls a Kansas tow company to move the vehicle and is told the city does not have an ordinance or the county does not have a resolution concerning "private property tows" and unless the tow is ordered by law enforcement the tow company could not dispose of the vehicle.



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At this point, the Apartment owner calls an out-of-state tower to remove the abandoned vehicle and dispose of it under the other State's law. The reason for this amendment is twofold. The first is to protect the vehicle owner from a "taking" of private property and the second is to encourage cities and counties to adopt ordinances and resolutions the set out the process to remove and dispose of abandoned vehicles on private property.

Mr. Chairman, representatives of the insurance industry have requested that the insurance company processing a claim with respect to the motor vehicle, or the agent of such insurance company be added to list of those that can request a vehicle be towed to another State. KMCA concurs with this request and would ask the bill to be amended at the proper time.

Section 3 of SB 158 set out the requirements for vehicle identification number verification, notice to the vehicle owner and any lienholders that the vehicle will be sold at auction if the towing and storage charges are not paid, publication of the notice of sale along with the time and place of the auction. The bill adds language to require the tow company do an interstate search of registered owners and lienholders if the vehicle identification number verification from the Division of Vehicles shows "no record found." This provision applies to vehicles less than 10 years old and that have not been determined to be a nonrepairable vehicle. This amendment is to protect owners and lienholders of late model cars. Currently, an online database of vehicle identification number from most States is available. It is Auto Data Direct (www.add123.com). We believe the Division of Vehicles will be able to access this information soon when the National Motor Vehicle Title Information System (NMVTIS) is up and running.

Mr. Chairman, Copart has ask for an amendment to make sure the requirements of this section only apply to the Towing and Recovery Possessory Lien Law. On Page 3, line 11 following the word vehicle by adding the words "pursuant to this section." We concur with this request to amend.

The last amendment in Section 3 of SB 158 requires the notice to be published at least seven days prior to the scheduled auction. The Division of Vehicles and many of our members have noticed that recently the notice of auction is published on the same day as the auction. We are not sure why some towers are operating in this manner but believe there should be a set amount of time between publication and the scheduled auction.

Mr. Chairman, we believe approval of SB 158 will clarify the Towing and Recovery Possessory Lien process and at the same time protect the vehicle owners. On behalf of the KMCA Towing and Recovery Division members we ask you to report SB 158 favorably with the two requested amendments. I thank you for the opportunity to appear before you this morning and would be pleased to stand for questions.

