

CHAPTER NO. 806

HOUSE BILL NO. 3048

By Representatives Westmoreland, Todd, Roach, Montgomery

Substituted for: Senate Bill No. 3121

By Senator Haun

AN ACT to amend Tennessee Code Annotated Title 54, Chapter 16, relative to the removal of vehicles, spilled cargo or other personal property from controlled-access highways, and to amend Tennessee Code Annotated, Subsection 55-10-117(c), relative to the removal of vehicles from accident scenes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 54, Chapter 16, is amended by adding the following language as a new, appropriately designated section:

54-16-___. **Removal of Vehicles, Spilled Cargo or Other Personal Property.** -- (a) The Department of Safety, Department of Transportation, or local law enforcement agency may immediately remove or cause to be removed any wrecked, abandoned, unattended, burned or partially dismantled vehicle, spilled cargo or other personal property from the roadway of a controlled-access highway if the vehicle, cargo or personal property is creating an obstruction or hazard to traffic because of its position in relation to the highway, as determined by authorized officers or employees of such department or agency.

(b)(1) Vehicles, cargo or personal property may be removed to any place within the immediate vicinity without any further action or obligation by the Department of Transportation, Department of Safety, local law enforcement agency or others acting at the direction of such department or agency. Provided, however, that in the event of a motor vehicle accident which results in apparent serious personal injury or death, no removal shall occur until a law enforcement officer determines that adequate information has been obtained for preparation of an accident report.

(2) When the property creating an obstruction or hazard to traffic is a motor carrier, as defined in § 65-15-102(4), the agency causing its removal shall make a reasonable effort to allow the owner of the vehicle to arrange for its removal and shall give due consideration to having the vehicle towed by a licensed towing service capable of safely moving the vehicle in question. The final decision on removal shall rest with the agency causing the removal.

(c) The removal of vehicles away from the immediate vicinity by law enforcement agencies pursuant hereto shall be subject to the same procedures as set forth in § 55-16-101 *et seq.* If the Department of Transportation removes or orders the removal of a vehicle away from the immediate vicinity, the department shall notify the Department of Safety or the local law enforcement agency, and the Department of Transportation shall follow the same procedures as in § 55-16-101 *et seq.*, provided that the Department of Transportation may make arrangements with the Department of Safety or local law enforcement agency to act on behalf of the Department of Transportation in complying with § 55-16-101 *et seq.*

(d) If the Department of Safety, Department of Transportation, or local law enforcement agency removes or orders the removal of spilled cargo or personal property away from the immediate vicinity the department or agency shall make reasonable efforts to notify the owner, if known, and shall allow the owner at least 48 hours to claim the cargo or personal property. However, the department or agency may immediately dispose or arrange for the disposal of any cargo, personal property or other debris that is damaged beyond use or repair.

(e)(1) Any liability of the Department of Safety or the Department of Transportation for damage to vehicles or cargo resulting from removal pursuant to the provisions of this section shall be determined in accordance with the provisions of §§ 9-8-301, *et seq.*

(2) Any liability of local law enforcement agencies for damage to vehicles or cargo resulting from removal pursuant to the provisions of this section shall be determined in accordance with the provisions of §§ 29-20-101, *et seq.*

(f) The Department of Safety, Department of Transportation, or local law enforcement agency may require the owner and carrier, if any, of the vehicle, spilled cargo or other personal property removed or disposed of under the authority of this section to pay for any costs incurred in the removal and subsequent disposition of such vehicle, spilled cargo or other personal property.

SECTION 2. Tennessee Code Annotated, Section 55-10-117, is amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) When a motor vehicle traffic accident occurs with no apparent serious personal injury or death, the driver of each motor vehicle involved in such traffic accident, or any other occupant of any such motor vehicle who possesses a valid driver license, should remove the vehicle from the immediate confines of the roadway into a safe refuge on the shoulder, emergency lane, or median, or to a place otherwise removed from the roadway whenever, in the judgment of the driver, such moving of a vehicle may be done safely and the vehicle is capable of being normally and safely driven, does not require towing, and may be operated under its own power in its customary manner without further damage or hazard to itself, to the traffic elements, or to the roadway. The driver of such motor vehicle may request any person who possesses a valid driver license to remove such motor vehicle as provided in this section, and such person may comply with such request.

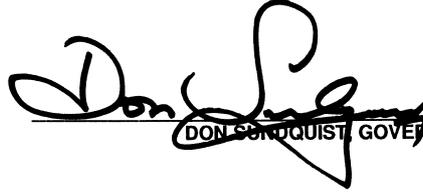
SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 15, 2000


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 23rd day of May 2000


DON SUNDQUIST, GOVERNOR