

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1485

Hillsborough County

**SPONSOR(S):** Glorioso

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2360

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Military & Local Affairs Policy Committee	12 Y, 0 N	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council	15 Y, 0 N	Noriega	Tinker
3)				
4)				
5)				

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**SUMMARY ANALYSIS**

Chapter 2001-299, Laws of Florida, created the Hillsborough County Public Transportation Commission (PTC) to regulate and supervise the operation of taxicabs, limousines, vans, handicabs, basic life support ambulances, and wreckers used for government purposes on public highways within all municipalities and unincorporated areas in Hillsborough County.

This bill revises the PTC's chapter law definition of "wreckers" to conform to the current statutory definition and to include those entities contracted to perform "non-consensual" or private property towing. In doing so, the bill makes these types of wreckers subject to the application, licensing, and fee provisions of the PTC. The bill specifies that these provisions apply to any person regularly engaged in towing or storing vehicles or vessels in Hillsborough County pursuant to Florida Statutes.

The bill makes minor, stylistic changes to the definition of "basic life support ambulance."

This bill has an effective date of upon becoming a law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Background

Chapter 2001-299, Laws of Florida, created the Hillsborough County Public Transportation Commission (PTC) to regulate and supervise the operation of public vehicles on the public highways of Hillsborough County and its municipalities, and all other matters affecting the relationship between the operation of public vehicles and the traveling public.

The PTC is an independent special district, and except as otherwise provided by ch. 2001-299, L.O.F., the PTC must comply with all applicable provisions of ch. 189, F.S.,<sup>1</sup> and any other general law relating to special districts.

##### Regulated Vehicles

Among the public vehicles regulated by the PTC are certain "for-hire" vehicles such as taxicabs, limousines, vans, handicabs, basic life support ambulances, and wreckers contracted for use by, through, or for any unit of local, county, or state government as requested by those entities as needed on a "rotation" basis. Examples of these wreckers are those primarily used by local police and government agencies within Hillsborough County, including police departments in the cities of Tampa, Plant City, and Temple Terrace; the Hillsborough County Sheriff's Office; the Florida Highway Patrol; and local Code Enforcement departments operating within Hillsborough County. These wreckers are also referred to as "on-rotation" or "government tows."

##### Membership

The PTC currently consists of seven elected public officials representing the municipalities and governments within Hillsborough County. The membership consists of three members from the Hillsborough County Board of County Commissioners appointed by this board, two members from the Tampa City Council appointed by this council, one member from the Plant City Commission appointed by this city commission, and one member from the Temple Terrace City Council appointed by this council. Each member must serve without compensation, and the term of the office is for a period of two years. In addition, each governing body must also appoint an alternate member to the PTC to serve during the absence of any regular member.

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<sup>1</sup> Chapter 189, F.S., addresses "Special Districts: General Provisions."

### Application and Licensing Process

The PTC requires companies, their owners and operators, and their vehicles and drivers, to submit to an application and review process that requires minimum standards, as set forth by the PTC, before obtaining a "permit" or "certificate" from the PTC to operate. These "Operator Permit" rules include a "Certificate Of Public Convenience and Necessity" (COPCN) application process that includes a business plan, good credit, insurance, a valid Florida driver's license and driver history, Florida Department of Law Enforcement (FDLE) and National Crime Information Center (NCIC) criminal history background checks for business owners, and other requirements such as minimum vehicle standards. An independent "Hearing Master" at an advertised public hearing reviews COPCN operator permit applications. The Hearing Master then submits the findings and recommendations to the full PTC Board at the PTC monthly public Commission meeting for final approval.

### Fees

According to the PTC, there were 59 towing companies licensed by the PTC to do government and law-enforcement-requested towing as of October 2009. Each of these companies currently pays an annual fee of \$290.00 for the first vehicle and \$75.00 for each additional vehicle. The PTC has stated that no fee increase has taken place since 1984.

### Types of Towing Services Available in Florida

According to the PTC, there are several types of towing services currently available in Florida. These are as follows:

1.) Repossession or "Repo" Towers

Repossession or "repo" towers can operate throughout Florida and are strictly regulated and licensed directly by the state under a separate statute<sup>2</sup> that supersedes and precludes any local government regulation. Repossession towers are licensed by the Florida Department of Agriculture and Consumer Services and are not subject to PTC regulations, except when providing "government tows";<sup>3</sup>

2.) AAA Peninsular Motor Club and Other Similar "Auto Club" Roadside Services Towers

Roadside services towers provide what is known as "consensual" services. These services are used in situations where drivers or motorists contact a wrecker or tower to pick up a disabled vehicle for transport to the closest service station for repairs. The service rates for "consensual" services towers are not regulated and their overall level of regulation may vary based on local jurisdictional requirements. In addition, these "consensual" services towers are not subject to PTC regulations, except when providing "government tows";

3.) "On-Rotation" Towers

The term "on-rotation" refers to towing companies dispatched by local police agencies from a list of towers that respond to accidents or abandoned vehicles. This type of towing is available in Hillsborough County, and responding towers are regulated by the PTC. Also, "on-rotation" towing has traditionally been covered by the PTC's "Special Act" under the statutory definition of "government tows," and, as such, is governed by the PTC's rules, regulations and fee structure; and

4.) "Non-Consensual" Towers and Impound Companies

"Non-consensual" towers remove a person's vehicle "without his or her consent" from the "private property" of a commercial or private owner. This type of towing entity then takes the offending vehicle to a locked, fenced-in area where the vehicle is then held until the owner of the vehicle visits the tower's place of business to pay a fee to retrieve and reclaim that vehicle.

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<sup>2</sup> Chapter 493, Part IV, F.S.

<sup>3</sup> All wreckers providing "government tows" are required to be licensed by the PTC.

Wrecker services or towers not providing "government tows," such as those providing "non-consensual" tows, are currently not subject to PTC regulations. However, Florida Statutes regulate certain aspects of roadside services wreckers and "non-consensual" towing. For example, s. 715.07, F.S.,<sup>4</sup> identifies the conditions and restrictions required to perform a "non-consensual" tow. Some violations of the conditions and restrictions are subject to criminal prosecution. A person that improperly causes a vehicle to be towed is liable to the vehicle owner for certain costs, damages, and fees.

Pursuant to s. 125.0103, F.S.,<sup>5</sup> counties have the authority to set rates for "non-consensual" towing. Hillsborough County has adopted the maximum authorized rates for "non-consensual" towing services.

The PTC has estimated that the number of towing and impound companies within Hillsborough County currently performing "non-consensual" towing is between 10 and 20.

### **Proposed Changes**

This bill revises the PTC's chapter law definition of "wreckers" to conform to the current definition found in s. 713.78, F.S.<sup>6</sup> This statutory definition includes those entities that tow, carry, or otherwise transport motor vehicles or vessels upon the public streets or highways and that are equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

This bill revises the PTC's chapter law definition of "wreckers" to conform to the current statutory definition and to include those entities contracted to perform "non-consensual" or private property towing. In doing so, the bill makes these types of wreckers subject to the application, licensing, and fee provisions of the PTC. The bill specifies that these provisions apply to any person regularly engaged in towing or storing vehicles or vessels in Hillsborough County pursuant to s. 715.07, F.S.

The bill does not affect the three other types of towing addressed in the "Current Situation" section of this analysis (repossession or "repo" wreckers, roadside services wreckers, and "on-rotation" towers), and also makes minor, stylistic changes to the definition of "basic life support ambulance."

This bill has an effective date of upon becoming a law.

#### **B. SECTION DIRECTORY:**

Section 1. Revises the definitions of "basic life support ambulance" and "wrecker."

Section 2. Provides an effective date of upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 8, 2010

WHERE? *La Gaceta*, a weekly newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? Not applicable.

<sup>4</sup> Section 715.07, F.S., addresses "vehicles or vessels parked on private property; towing."

<sup>5</sup> Section 125.0103, F.S., addresses "ordinances and rules imposing price controls; findings required; procedures."

<sup>6</sup> Section 713.78, F.S., addresses "liens for recovering, towing, or storing vehicles and vessels."

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

The PTC notes that increased enforcement of “non-consensual” towing will greatly benefit the traveling public and relieve city, county, and state law enforcement agencies that currently have to deal with non-emergency complaints against an increasing strain of dwindling revenues and funding cuts to law enforcement. The PTC also notes that taxpayers will not be affected because user fees paid by the towing companies performing “non-consensual” towing in Hillsborough County (estimated to be about \$10,000 in fiscal year 2011-12) will offset the PTC’s expenses associated with increased enforcement. Therefore, it appears that the provisions of this bill will be revenue-neutral to the PTC.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

#### Other Comments

According to the PTC, “non-consensual” towing leads to most of the complaints that local police agencies have to address. Because of this, the PTC has stated that the purpose of this bill is to provide enforcement and that this bill does not take any authority away from local jurisdictions.

The PTC recently proposed a fee increase following an advertised public hearing. This fee increase would result in a current annual fee of \$350.00 per company for the first vehicle and \$100.00 for each additional vehicle. Prior to final approval, these proposed fees are subject to Administrative Procedure Act (APA) guidelines.<sup>7</sup> At present, the PTC has not formally adopted the rules associated with these fee increases.

The PTC has also stated that several entities are proponents of this bill, including the Hillsborough County Sheriff’s Office, three Police Chiefs within Hillsborough County, the Hillsborough County Consumer Protection Agency, AAA Auto Club South, and two large towing associations in Florida (the Professional Wrecker Operators of Florida and the Hillsborough County Towing Association). While individual membership in these towing associations is voluntary, the PTC has indicated that it has received widespread support from the towing industry and other groups at public meetings and workshops in Hillsborough County that were properly noticed and videotaped. In addition, the PTC has stated that there are no known opponents of this bill.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>7</sup> Chapter 120, F.S.