

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 617 Towing of Vehicles & Vessels

SPONSOR(S): Wood

TIED BILLS: **IDEN./SIM. BILLS:** SB 974

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	14 Y, 0 N, As CS	Davy	Miller
2) Civil Justice Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

Current law provides certain requirements for proper posted notice before an owner or lessee of real property may have a vehicle or vessel removed from the property without the owner of the vehicle or vessel's consent. These include the location of the notice, the graphics of the notice, and the length of time the notice has been posted.

The bill provides an additional exemption from the posted notice requirements. It provides that the owner, lessee, or agent of the owner or lessee of real property may have a vehicle or vessel that has been parked or stored on private property for a period exceeding 10 days removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign. The 10 day period after which the owner or lessee, or agent of the owner or lessee, of the real property may have the vehicle or vessel removed without tow-away zone signage does not begin until a notice that the vehicle or vessel will be removed from the property is attached to the vehicle or vessel with adhesive material.

The bill specifies that, in addition to the property owners already provided for, the designated representative of the cooperative association if the real property is a cooperative, or the designated representative of the homeowners' association if the real property is owned by a homeowners' association may cause a vehicle or vessel parked on such property without her or his permission to be towed under certain circumstances.

The bill does not have a fiscal impact on state or local governments. Owners and lessees of real property could avoid the cost of posting tow-away zone signage when a vehicle or vessel has been parked or stored on the property for more than 10 days.

The bill provides that the act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Towing Without Consent

In current law, there are several requirements for a private owner or lessee of real property, or any person authorized by the owner or lessee to cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage.¹

Posting Requirements

Any property owner or lessee, or person authorized by the property owner or lessee, prior to towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, must post a notice meeting the following requirements²:

- The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.
- The notice must clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not less than 4-inch high letters.
- The notice must also provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.
- The sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than 3 feet and not more than 65 feet above ground level and must be continuously maintained on the property for at least 24 hours prior to the towing or removal of any vehicles or vessels.
- The local government may require permitting and inspection of these signs prior to any towing or removal of vehicles or vessels being authorized.
- A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.
- A property owner towing or removing vessels from real property must post notice consistent with the all other notice requirements that unauthorized vehicles or vessels will be towed away at the owner's expense.

Exceptions to Posting Requirements

The circumstances for lawful towing or removal of any vehicle without posted notice or the consent of the registered owner or other legally authorized person in control of that vehicle are as follows³:

- the property belongs to and obviously a part of a single-family residence;
- instances when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved

¹ Section 715.07(2), F.S.

² Section 715.07(2)(a)5.

³ Section 715.07(2)(a)5.

or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is subject to being removed at the owner's or operator's expense;

- the vehicle or vessel is parked in such a manner that restricts the normal operation of business; or
- if a vehicle or vessel parked on a public right-of way obstructs access to a private driveway, the owner, lessee, or agent may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

Effect of Proposed Changes

The bill provides an additional exemption from the posted notice requirements. It provides that the owner, lessee, or agent of the owner or lessee of real property may have a vehicle or vessel that has been parked or stored on private property for a period exceeding 10 days removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign. The 10 day period after which the owner or lessee, or agent of the owner or lessee, of the real property may have the vehicle or vessel removed without tow-away zone signage does not begin until a notice that the vehicle or vessel will be removed from the property is attached to the vehicle or vessel with adhesive material.

The bill further specifies that the towing without consent provisions of s. 715.07, F.S., apply to the designated representative of the cooperative association if the real property is a cooperative, or the designated representative of the homeowners' association if the real property is owned by a homeowners' association.

B. SECTION DIRECTORY:

Section 1. Amends s. 715.07, F.S., to provide that private property owners may have vehicles or vessels removed without meeting posted notice requirements if the vehicles or vessels have been parked on private property for over 10 days.

Section 2. Provides that the act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The added exemption may provide private property owners with greater ease in having abandoned vehicles towed from their properties. Owners and lessees of real property could avoid the cost of

posting tow-away zone signage when a vehicle or vessel has been parked or stored on the property for more than 10 days.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There is concern from the towing industry about liability incurred regarding the verifiability that the notice has in fact been attached to a vehicle for 10 days.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the Transportation & Highway Safety Subcommittee adopted two amendments to HB 617 and reported the bill favorably as a committee substitute. The amendments provided:

- the 10 day period after which the owner or lessee, or agent of the owner or lessee, of the real property may have the vehicle or vessel removed without tow-away zone signage does not begin until a notice that the vehicle or vessel will be removed from the property is attached to the vehicle or vessel with adhesive material; and
- the towing without consent provisions of s. 715.07, F.S., apply to the designated representative of the cooperative association if the real property is a cooperative, or the designated representative of the homeowners' association if the real property is owned by a homeowners' association.

This analysis is drafted to the committee substitute as reported by the Transportation & Highway Safety Subcommittee.