

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

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

**SPONSOR(S):** Economic Affairs Committee; Civil Justice Subcommittee; Transportation & Highway Safety Subcommittee; Wood

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/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	11 Y, 2 N, As CS	Ward	Bond
3) Economic Affairs Committee	14 Y, 0 N, As CS	Davy	Creamer

### 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 creates an alternative procedure for towing vehicles and vessels from private property. 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 5 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 5 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 local law enforcement agency verifies and documents with a police report that a notice that the vehicle or vessel will be removed from the property is attached to the vehicle or vessel in compliance with certain requirements. Such a police report must be provided to the property owner and the towing company.

The bill does not appear to have a fiscal impact on the state or local governments.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### *Posting Requirements for Towing*

Currently the owner or lessee of real property may cause any vehicle or vessel parked on such property without permission to be removed by towing without liability for the cost, storage, damage or transportation associated with the towing by following the notice requirements in the statute.<sup>1</sup>

The statute provides that the owner or lessee must post a notice meeting the following requirements<sup>2</sup>:

- 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 6 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*

Lawful towing or removal of any vehicle without posted notice or the consent of the registered owner may be effected when<sup>3</sup>:

- The property belongs to and is obviously a part of a single-family residence;
- 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 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.

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<sup>1</sup> Section 715.07(2), F.S.

<sup>2</sup> Section 715.07(2)(a)5., F.S.

<sup>3</sup> Section 715.07(2)(a)5., F.S.

## Effect of Proposed Changes

The bill provides an additional exception for towing a vehicle or vessel without 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 without permission on private property for a period exceeding 5 days removed by a towing company. The owner must provide the towing company with a signed order that the vehicle or vessel be removed without a posted tow-away zone sign. The 5-day period does not begin until the local law enforcement agency is notified of the notice being posted, and the local law enforcement agency verifies and documents the notice's compliance with the requirements of s. 715.07(2)(a)6., F.S., with a police report that must be provided to the property owner and the towing company. Certain requirements must be met for the notice that the vehicle or vessel will be removed from the property and the notice must be attached to the vehicle or vessel with adhesive material. The notice must:

- be at least 8 by 10 inches in size and be sufficiently weatherproofed to withstand normal exposure to the elements;
- be attached to the vehicle's windshield or, in the case of a vessel, to the registration number on the left side; and
- clearly indicate the date posted;
- clearly indicate in bold letters that the vehicle or vessel will be towed or removed 5 days after the date on which a local law enforcement agency verifies and documents with a police report the notice's compliance with the requirements provided in s. 715.07(2)(a)6., F.S.;
- be provided simultaneously to the proposed towing company by any means designed to create a dated transmittal; and
- provide the name and phone number of the proposed towing company.

The bill further specifies that towing without the consent provisions of s. 715.07, F.S., applies 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.

The bill makes other technical and grammatical changes to the statute.

The effective date of the bill is upon becoming law.

### B. SECTION DIRECTORY:

Section 1 amends s. 715.07, F.S., relating to vehicles or vessels parked on private property; towing.

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:

The bill does not appear to have any impact on state revenues.

#### 2. Expenditures:

The bill does not appear to have any impact on state expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

See fiscal comments.

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 5 days.

D. FISCAL COMMENTS:

The bill may result in an indeterminate, insignificant increase in expenditures related to increased workload as local law enforcement agencies document and verify the posted notice's compliance with s. 715.07, F.S.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### 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.

On March 25, 2014, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides additional requirements for the 10 day notice that is placed directly on a vehicle or vessel abandoned on private property.

On April 4, 2014, the Economic Affairs Committee adopted one substitute amendment and reported the bill favorably as a committee substitute. The substitute amendment provides that the notice placed on a vehicle or vessel abandoned on private property must be in place for 5 days before the vehicle may be removed. The bill

further revises the requirements for the 5 day notice that is placed on a vehicle or vessel abandoned on private property.

This analysis is drafted to the committee substitute as reported by the Economic Affairs Committee.