

1 A bill to be entitled
2 An act relating to towing and immobilizing vehicles
3 and vessels; amending ss. 125.0103 and 166.043, F.S.;
4 authorizing local governments to enact rates to tow or
5 immobilize vessels on private property and to remove
6 and store vessels under specified circumstances;
7 creating ss. 125.01047 and 166.04465, F.S.;
8 prohibiting counties or municipalities from enacting
9 certain ordinances or rules that impose fees or
10 charges on authorized wrecker operators or towing
11 businesses; defining the term "towing business";
12 providing exceptions; amending s. 323.002, F.S.;
13 prohibiting counties or municipalities from adopting
14 or maintaining in effect certain ordinances or rules
15 that impose charges, costs, expenses, fines, fees, or
16 penalties on registered owners, other legally
17 authorized persons in control, or lienholders of
18 vehicles or vessels under certain conditions;
19 providing an exception; prohibiting counties or
20 municipalities from enacting certain ordinances or
21 rules that require authorized wrecker operators to
22 accept a specified form of payment; amending s.
23 713.78, F.S.; authorizing certain persons to place
24 liens on vehicles or vessels to recover specified fees
25 or charges; amending s. 715.07, F.S.; removing a

26 requirement regarding notices and signs concerning the
 27 towing or removal of vehicles or vessels; prohibiting
 28 counties or municipalities from enacting certain
 29 ordinances or rules that require towing businesses to
 30 accept a specified form of payment; prohibiting
 31 counties or municipalities from authorizing attorney
 32 fees or court costs in connection with certain towing
 33 activities; preempting to the state the regulation of
 34 attorney fees and court costs in connection with
 35 certain towing activities; removing a provision
 36 regarding certain persons being liable for improperly
 37 causing a vehicle or vessel to be removed; providing
 38 an effective date.

39

40 Be It Enacted by the Legislature of the State of Florida:

41

42 Section 1. Paragraphs (b) and (c) of subsection (1) of
 43 section 125.0103, Florida Statutes, are amended to read:

44 125.0103 Ordinances and rules imposing price controls;
 45 findings required; procedures.—

46 (1)

47 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 48 the enactment by local governments of public service rates
 49 otherwise authorized by law, including water, sewer, solid
 50 waste, public transportation, taxicab, or port rates, rates for

51 towing of vehicles or vessels from or immobilization of vehicles
52 or vessels on private property, or rates for removal and storage
53 of wrecked or disabled vehicles or vessels from an accident
54 scene or the removal and storage of vehicles or vessels in the
55 event the owner or operator is incapacitated, unavailable,
56 leaves the procurement of wrecker service to the law enforcement
57 officer at the scene, or otherwise does not consent to the
58 removal of the vehicle or vessel.

59 (c) Counties must establish maximum rates which may be
60 charged on the towing of vehicles or vessels from or
61 immobilization of vehicles or vessels on private property,
62 removal and storage of wrecked or disabled vehicles or vessels
63 from an accident scene or for the removal and storage of
64 vehicles or vessels, in the event the owner or operator is
65 incapacitated, unavailable, leaves the procurement of wrecker
66 service to the law enforcement officer at the scene, or
67 otherwise does not consent to the removal of the vehicle or
68 vessel. However, if a municipality chooses to enact an ordinance
69 establishing the maximum rates ~~fees~~ for the towing or
70 immobilization of vehicles or vessels as described in paragraph
71 (b), the county's ordinance shall not apply within such
72 municipality.

73 Section 2. Section 125.01047, Florida Statutes, is created
74 to read:

75 125.01047 Rules and ordinances relating to towing

76 services.-

77 (1) A county may not enact an ordinance or rule that would
78 impose a fee or charge on an authorized wrecker operator, as
79 defined in s. 323.002(1), or on a towing business for towing,
80 impounding, or storing a vehicle or vessel. As used in this
81 section, the term "towing business" means a business that
82 provides towing services for monetary gain.

83 (2) The prohibition set forth in subsection (1) does not
84 affect a county's authority to:

85 (a) Levy a reasonable business tax under s. 205.0315, s.
86 205.033, or s. 205.0535.

87 (b) Impose and collect a reasonable administrative fee or
88 charge on the registered owner or other legally authorized
89 person in control of a vehicle or vessel, or the lienholder of a
90 vehicle or vessel, not to exceed 25 percent of the maximum
91 towing rate, to cover the cost of enforcement, including parking
92 enforcement, by the county when the vehicle or vessel is towed
93 from public property. However, an authorized wrecker operator or
94 towing business may impose and collect the administrative fee or
95 charge on behalf of the county and shall remit such fee or
96 charge to the county only after it is collected.

97 (3) Subsection (1) does not apply to a county with an
98 existing towing license program as of January 1, 2019. However,
99 such a county may not levy a business tax as set forth in
100 paragraph (2) (a) or impose and collect an administrative fee or

101 charge as set forth in paragraph (2) (b).

102 Section 3. Paragraphs (b) and (c) of subsection (1) of
 103 section 166.043, Florida Statutes, are amended to read:

104 166.043 Ordinances and rules imposing price controls;
 105 findings required; procedures.—

106 (1)

107 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 108 the enactment by local governments of public service rates
 109 otherwise authorized by law, including water, sewer, solid
 110 waste, public transportation, taxicab, or port rates, rates for
 111 towing of vehicles or vessels from or immobilization of vehicles
 112 or vessels on private property, or rates for removal and storage
 113 of wrecked or disabled vehicles or vessels from an accident
 114 scene or the removal and storage of vehicles or vessels in the
 115 event the owner or operator is incapacitated, unavailable,
 116 leaves the procurement of wrecker service to the law enforcement
 117 officer at the scene, or otherwise does not consent to the
 118 removal of the vehicle or vessel.

119 (c) Counties must establish maximum rates which may be
 120 charged on the towing of vehicles or vessels from or
 121 immobilization of vehicles or vessels on private property,
 122 removal and storage of wrecked or disabled vehicles or vessels
 123 from an accident scene or for the removal and storage of
 124 vehicles or vessels, in the event the owner or operator is
 125 incapacitated, unavailable, leaves the procurement of wrecker

126 | service to the law enforcement officer at the scene, or
 127 | otherwise does not consent to the removal of the vehicle or
 128 | vessel. However, if a municipality chooses to enact an ordinance
 129 | establishing the maximum rates ~~fees~~ for the towing or
 130 | immobilization of vehicles or vessels as described in paragraph
 131 | (b), the county's ordinance established under s. 125.0103 shall
 132 | not apply within such municipality.

133 | Section 4. Section 166.04465, Florida Statutes, is created
 134 | to read:

135 | 166.04465 Rules and ordinances relating to towing
 136 | services.-

137 | (1) A municipality may not enact an ordinance or rule that
 138 | would impose a fee or charge on an authorized wrecker operator,
 139 | as defined in s. 323.002(1), or on a towing business for towing,
 140 | impounding, or storing a vehicle or vessel. As used in this
 141 | section, the term "towing business" means a business that
 142 | provides towing services for monetary gain.

143 | (2) The prohibition set forth in subsection (1) does not
 144 | affect a municipality's authority to:

145 | (a) Levy a reasonable business tax under s. 205.0315, s.
 146 | 205.043, or s. 205.0535.

147 | (b) Impose and collect a reasonable administrative fee or
 148 | charge on the registered owner or other legally authorized
 149 | person in control of a vehicle or vessel, or the lienholder of a
 150 | vehicle or vessel, not to exceed 25 percent of the maximum

151 towing rate, to cover the cost of enforcement, including parking
152 enforcement, by the municipality when the vehicle or vessel is
153 towed from public property. However, an authorized wrecker
154 operator or towing business may impose and collect the
155 administrative fee or charge on behalf of the municipality and
156 shall remit such fee or charge to the municipality only after it
157 is collected.

158 Section 5. Subsection (4) of section 323.002, Florida
159 Statutes, is renumbered as subsection (5), and a new subsection
160 (4) is added to that section to read:

161 323.002 County and municipal wrecker operator systems;
162 penalties for operation outside of system.—

163 (4) (a) Except as provided in paragraph (b), a county or
164 municipality may not adopt or maintain in effect an ordinance or
165 rule that imposes a charge, cost, expense, fine, fee, or penalty
166 on an authorized wrecker operator, registered owner or other
167 legally authorized person in control of a vehicle or vessel, or
168 the lienholder of a vehicle or vessel, when the vehicle or
169 vessel is towed by an authorized wrecker operator under this
170 chapter.

171 (b) A county or municipality may adopt or maintain an
172 ordinance or rule that imposes a reasonable administrative fee
173 or charge on the registered owner or other legally authorized
174 person in control of a vehicle or vessel, or the lienholder of a
175 vehicle or vessel, that is towed by an authorized wrecker

176 operator, not to exceed 25 percent of the maximum towing rate,
177 to cover the cost of enforcement, including parking enforcement,
178 by the county or municipality when the vehicle or vessel is
179 towed from public property. However, an authorized wrecker
180 operator or towing business may impose and collect the
181 administrative fee or charge on behalf of the county or
182 municipality and shall remit such fee or charge to the county or
183 municipality only after it is collected.

184 (c) A county or municipality may not enact an ordinance or
185 rule that requires an authorized wrecker operator to accept a
186 check as a form of payment.

187 Section 6. Subsection (2) of section 713.78, Florida
188 Statutes, is amended to read:

189 713.78 Liens for recovering, towing, or storing vehicles
190 and vessels.—

191 (2) Whenever a person regularly engaged in the business of
192 transporting vehicles or vessels by wrecker, tow truck, or car
193 carrier recovers, removes, or stores a vehicle or vessel upon
194 instructions from:

195 (a) The owner thereof;

196 (b) The owner or lessor, or a person authorized by the
197 owner or lessor, of property on which such vehicle or vessel is
198 wrongfully parked, and the removal is done in compliance with s.
199 715.07;

200 (c) The landlord or a person authorized by the landlord,

201 when such motor vehicle or vessel remained on the premises after
202 the tenancy terminated and the removal is done in compliance
203 with s. 83.806 or s. 715.104; or

204 (d) Any law enforcement agency,

205

206 she or he shall have a lien on the vehicle or vessel for a
207 reasonable towing fee, for a reasonable administrative fee or
208 charge imposed by a county or municipality, and for a reasonable
209 storage fee; except that no storage fee shall be charged if the
210 vehicle or vessel is stored for less than 6 hours.

211 Section 7. Subsection (5) of section 715.07, Florida
212 Statutes, is renumbered as subsection (4) and subsection (2) and
213 present subsection (4) of that section are amended to read:

214 715.07 Vehicles or vessels parked on private property;
215 towing.—

216 (2) The owner or lessee of real property, or any person
217 authorized by the owner or lessee, which person may be the
218 designated representative of the condominium association if the
219 real property is a condominium, may cause any vehicle or vessel
220 parked on such property without her or his permission to be
221 removed by a person regularly engaged in the business of towing
222 vehicles or vessels, without liability for the costs of removal,
223 transportation, or storage or damages caused by such removal,
224 transportation, or storage, under any of the following
225 circumstances:

226 (a) The towing or removal of any vehicle or vessel from
227 private property without the consent of the registered owner or
228 other legally authorized person in control of that vehicle or
229 vessel is subject to substantial ~~strict~~ compliance with the
230 following conditions and restrictions:

231 1.a. Any towed or removed vehicle or vessel must be stored
232 at a site within a 10-mile radius of the point of removal in any
233 county of 500,000 population or more, and within a 15-mile
234 radius of the point of removal in any county of less than
235 500,000 population. That site must be open for the purpose of
236 redemption of vehicles on any day that the person or firm towing
237 such vehicle or vessel is open for towing purposes, from 8:00
238 a.m. to 6:00 p.m., and, when closed, shall have prominently
239 posted a sign indicating a telephone number where the operator
240 of the site can be reached at all times. Upon receipt of a
241 telephoned request to open the site to redeem a vehicle or
242 vessel, the operator shall return to the site within 1 hour or
243 she or he will be in violation of this section.

244 b. If no towing business providing such service is located
245 within the area of towing limitations set forth in sub-
246 subparagraph a., the following limitations apply: any towed or
247 removed vehicle or vessel must be stored at a site within a 20-
248 mile radius of the point of removal in any county of 500,000
249 population or more, and within a 30-mile radius of the point of
250 removal in any county of less than 500,000 population.

251 2. The person or firm towing or removing the vehicle or
252 vessel shall, within 30 minutes after completion of such towing
253 or removal, notify the municipal police department or, in an
254 unincorporated area, the sheriff, of such towing or removal, the
255 storage site, the time the vehicle or vessel was towed or
256 removed, and the make, model, color, and license plate number of
257 the vehicle or description and registration number of the vessel
258 and shall obtain the name of the person at that department to
259 whom such information was reported and note that name on the
260 trip record.

261 3. A person in the process of towing or removing a vehicle
262 or vessel from the premises or parking lot in which the vehicle
263 or vessel is not lawfully parked must stop when a person seeks
264 the return of the vehicle or vessel. The vehicle or vessel must
265 be returned upon the payment of a reasonable service fee of not
266 more than one-half of the posted rate for the towing or removal
267 service as provided in subparagraph 6. The vehicle or vessel may
268 be towed or removed if, after a reasonable opportunity, the
269 owner or legally authorized person in control of the vehicle or
270 vessel is unable to pay the service fee. If the vehicle or
271 vessel is redeemed, a detailed signed receipt must be given to
272 the person redeeming the vehicle or vessel.

273 4. A person may not pay or accept money or other valuable
274 consideration for the privilege of towing or removing vehicles
275 or vessels from a particular location.

276 5. Except for property appurtenant to and obviously a part
277 of a single-family residence, and except for instances when
278 notice is personally given to the owner or other legally
279 authorized person in control of the vehicle or vessel that the
280 area in which that vehicle or vessel is parked is reserved or
281 otherwise unavailable for unauthorized vehicles or vessels and
282 that the vehicle or vessel is subject to being removed at the
283 owner's or operator's expense, any property owner or lessee, or
284 person authorized by the property owner or lessee, prior to
285 towing or removing any vehicle or vessel from private property
286 without the consent of the owner or other legally authorized
287 person in control of that vehicle or vessel, must post a notice
288 meeting the following requirements:

289 a. The notice must be prominently placed at each driveway
290 access or curb cut allowing vehicular access to the property,
291 ~~within 5 feet from the public right-of-way line.~~ If there are no
292 curbs or access barriers, the signs must be posted not less than
293 one sign for each 25 feet of lot frontage.

294 b. The notice must ~~clearly~~ indicate, in not less than 2-
295 inch high, light-reflective letters on a contrasting background,
296 that unauthorized vehicles will be towed away at the owner's
297 expense. The words "tow-away zone" must be included on the sign
298 in not less than 4-inch high letters.

299 c. The notice must also provide the name and current
300 telephone number of the person or firm towing or removing the

301 vehicles or vessels.

302 d. The sign structure containing the required notices must
 303 be permanently installed with the words "tow-away zone" ~~not less~~
 304 ~~than 3 feet and not more than 6 feet above ground level~~ and must
 305 be continuously maintained on the property for not less than 24
 306 hours prior to the towing or removal of any vehicles or vessels.

307 e. The local government may require permitting and
 308 inspection of these signs prior to any towing or removal of
 309 vehicles or vessels being authorized.

310 f. A business with 20 or fewer parking spaces satisfies
 311 the notice requirements of this subparagraph by prominently
 312 displaying a sign stating "Reserved Parking for Customers Only
 313 Unauthorized Vehicles or Vessels Will be Towed Away At the
 314 Owner's Expense" in not less than 4-inch high, light-reflective
 315 letters on a contrasting background.

316 g. A property owner towing or removing vessels from real
 317 property must post notice, consistent with the requirements in
 318 sub-subparagraphs a.-f., which apply to vehicles, that
 319 unauthorized vehicles or vessels will be towed away at the
 320 owner's expense.

321
 322 A business owner or lessee may authorize the removal of a
 323 vehicle or vessel by a towing company when the vehicle or vessel
 324 is parked in such a manner that restricts the normal operation
 325 of business; and if a vehicle or vessel parked on a public

326 right-of-way obstructs access to a private driveway the owner,
327 lessee, or agent may have the vehicle or vessel removed by a
328 towing company upon signing an order that the vehicle or vessel
329 be removed without a posted tow-away zone sign.

330 6. Any person or firm that tows or removes vehicles or
331 vessels and proposes to require an owner, operator, or person in
332 control or custody of a vehicle or vessel to pay the costs of
333 towing and storage prior to redemption of the vehicle or vessel
334 must file and keep on record with the local law enforcement
335 agency a complete copy of the current rates to be charged for
336 such services and post at the storage site an identical rate
337 schedule and any written contracts with property owners,
338 lessees, or persons in control of property which authorize such
339 person or firm to remove vehicles or vessels as provided in this
340 section.

341 7. Any person or firm towing or removing any vehicles or
342 vessels from private property without the consent of the owner
343 or other legally authorized person in control or custody of the
344 vehicles or vessels shall, on any trucks, wreckers as defined in
345 s. 713.78(1)(c), or other vehicles used in the towing or
346 removal, have the name, address, and telephone number of the
347 company performing such service clearly printed in contrasting
348 colors on the driver and passenger sides of the vehicle. The
349 name shall be in at least 3-inch permanently affixed letters,
350 and the address and telephone number shall be in at least 1-inch

351 permanently affixed letters.

352 8. Vehicle entry for the purpose of removing the vehicle
353 or vessel shall be allowed with reasonable care on the part of
354 the person or firm towing the vehicle or vessel. Such person or
355 firm shall be liable for any damage occasioned to the vehicle or
356 vessel if such entry is not in accordance with the standard of
357 reasonable care.

358 9. When a vehicle or vessel has been towed or removed
359 pursuant to this section, it must be released to its owner or
360 person in control or custody ~~eustodian~~ within one hour after
361 requested. Any vehicle or vessel owner or person in control or
362 custody has ~~agent shall have~~ the right to inspect the vehicle or
363 vessel before accepting its return, and no release or waiver of
364 any kind which would release the person or firm towing the
365 vehicle or vessel from liability for damages noted by the owner
366 or the person in control or custody ~~other legally authorized~~
367 ~~person~~ at the time of the redemption may be required from any
368 vehicle or vessel owner, or person in control or custody
369 ~~eustodian, or agent~~ as a condition of release of the vehicle or
370 vessel to its owner. A detailed, signed receipt showing the
371 legal name of the company or person towing or removing the
372 vehicle or vessel must be given to the person paying towing or
373 storage charges at the time of payment, whether requested or
374 not.

375 (b) These requirements are minimum standards and do not

376 preclude enactment of additional regulations by any municipality
377 or county including the right to regulate rates when vehicles or
378 vessels are towed from private property, except that a county or
379 municipality may not enact an ordinance or rule that requires a
380 towing business to accept a check as a form of payment.
381 Notwithstanding the foregoing, a county or municipality may not
382 authorize attorney fees or court costs in connection with the
383 towing of vehicles or vessels from private property. This
384 paragraph expressly preempts to the state the regulation of
385 attorney fees and court courts in connection with the towing of
386 vehicles or vessels from private property and supersedes any
387 county or municipal ordinance on the subject.

388 ~~(4) When a person improperly causes a vehicle or vessel to~~
389 ~~be removed, such person shall be liable to the owner or lessee~~
390 ~~of the vehicle or vessel for the cost of removal,~~
391 ~~transportation, and storage; any damages resulting from the~~
392 ~~removal, transportation, or storage of the vehicle or vessel;~~
393 ~~attorney's fees; and court costs.~~

394 Section 8. This act shall take effect July 1, 2019.