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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/03/2019 | . | |
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| | . | |

The Committee on Infrastructure and Security (Gruters)
recommended the following:

1 **Senate Substitute for Amendment (658588) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

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

8 125.0103 Ordinances and rules imposing price controls;
9 findings required; procedures.—

10 (1)



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11 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
12 the enactment by local governments of public service rates
13 otherwise authorized by law, including water, sewer, solid
14 waste, public transportation, taxicab, or port rates; rates for
15 towing of vehicles or vessels from, or immobilization of
16 vehicles or vessels on, private property; ~~or~~ rates for removal
17 and storage of wrecked or disabled vehicles or vessels from an
18 accident scene; or rates for ~~the~~ removal and storage of vehicles
19 or vessels in the event the owner or operator is incapacitated,
20 unavailable, leaves the procurement of wrecker service to the
21 law enforcement officer at the scene, or otherwise does not
22 consent to the removal of the vehicle or vessel. For purposes of
23 this subsection, the term "vessels" means only vessels that are
24 located on land.

25 (c) Counties must establish maximum rates which may be
26 charged on the towing of vehicles or vessels from, or
27 immobilization of vehicles or vessels on, private property; ~~the~~
28 removal and storage of wrecked or disabled vehicles or vessels
29 from an accident scene; ~~or~~ ~~for~~ the removal and storage of
30 vehicles or vessels; ~~in~~ the event the owner or operator is
31 incapacitated, unavailable, leaves the procurement of wrecker
32 service to the law enforcement officer at the scene, or
33 otherwise does not consent to the removal of the vehicle or
34 vessel. However, if a municipality chooses to enact an ordinance
35 establishing the maximum rates ~~fees~~ for the towing or
36 immobilization of vehicles or vessels as described in paragraph
37 (b), the county's ordinance shall not apply within such
38 municipality.

39 Section 2. Section 125.01047, Florida Statutes, is created



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40 to read:

41 125.01047 Rules and ordinances relating to towing
42 services.—

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

49 (2) The prohibition imposed in subsection (1) does not
50 affect a county's authority to:

51 (a) Levy a reasonable business tax under s. 205.0315, s.
52 205.033, or s. 205.0535.

53 (b) Impose and collect a reasonable administrative fee or
54 charge on the registered owner or other legally authorized
55 person in control of a vehicle or vessel, or the lienholder of a
56 vehicle or vessel, not to exceed 25 percent of the maximum
57 towing rate, to cover the cost of enforcement, including parking
58 enforcement, by the county when the vehicle or vessel is towed
59 from public property. However, an authorized wrecker operator or
60 towing business may impose and collect the administrative fee or
61 charge on behalf of the county and shall remit such fee or
62 charge to the county only after it is collected.

63 (3) This section does not affect an ordinance, resolution,
64 or regulation enacted on or before January 1, 2019, by a charter
65 county with a population exceeding 1.3 million according to the
66 most recent decennial census which relates to the towing,
67 impounding, removal, or storage of vehicles or vessels,
68 including any amendment or revision made to such ordinance,



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69 resolution, or regulation after July 1, 2019; however, any
70 changes to the ordinance, resolution, or regulation cannot
71 include new fees or charges to the towing operator or owner of
72 the vehicle or vessel.

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

75 166.043 Ordinances and rules imposing price controls;
76 findings required; procedures.—

77 (1)

78 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
79 the enactment by local governments of public service rates
80 otherwise authorized by law, including water, sewer, solid
81 waste, public transportation, taxicab, or port rates; ~~;~~ rates for
82 towing of vehicles or vessels from, or immobilization of
83 vehicles or vessels on, private property; ~~;~~ ~~or~~ rates for removal
84 and storage of wrecked or disabled vehicles or vessels from an
85 accident scene; or rates for ~~the~~ removal and storage of vehicles
86 or vessels in the event the owner or operator is incapacitated,
87 unavailable, leaves the procurement of wrecker service to the
88 law enforcement officer at the scene, or otherwise does not
89 consent to the removal of the vehicle or vessel. For purposes of
90 this subsection, the term "vessels" means only vessels that are
91 located on land.

92 (c) Counties must establish maximum rates which may be
93 charged on the towing of vehicles or vessels from, or
94 immobilization of vehicles or vessels on, private property; ~~the~~
95 removal and storage of wrecked or disabled vehicles or vessels
96 from an accident scene; or for ~~for~~ the removal and storage of
97 vehicles or vessels, in the event the owner or operator is



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98 incapacitated, unavailable, leaves the procurement of wrecker
99 service to the law enforcement officer at the scene, or
100 otherwise does not consent to the removal of the vehicle or
101 vessel. However, if a municipality chooses to enact an ordinance
102 establishing the maximum rates fees for the towing or
103 immobilization of vehicles or vessels as described in paragraph
104 (b), the county's ordinance established under s. 125.0103 shall
105 not apply within such municipality.

106 Section 4. Section 166.04465, Florida Statutes, is created
107 to read:

108 166.04465 Rules and ordinances relating to towing
109 services.-

110 (1) A municipality may not enact an ordinance or rule that
111 would impose a fee or charge on an authorized wrecker operator,
112 as defined in s. 323.002(1), or on a towing business for towing,
113 impounding, or storing a vehicle or vessel. As used in this
114 section, the term "towing business" means a business that
115 provides towing services for monetary gain.

116 (2) The prohibition imposed in subsection (1) does not
117 affect a municipality's authority to:

118 (a) Levy a reasonable business tax under s. 205.0315, s.
119 205.043, or s. 205.0535.

120 (b) Impose and collect a reasonable administrative fee or
121 charge on the registered owner or other legally authorized
122 person in control of a vehicle or vessel, or the lienholder of a
123 vehicle or vessel, not to exceed 25 percent of the maximum
124 towing rate, to cover the cost of enforcement, including parking
125 enforcement, by the municipality when the vehicle or vessel is
126 towed from public property. However, an authorized wrecker



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127 operator or towing business may impose and collect the
128 administrative fee or charge on behalf of the municipality and
129 shall remit such fee or charge to the municipality only after it
130 is collected.

131 Section 5. Present subsection (4) of section 323.002,
132 Florida Statutes, is redesignated as subsection (6), and new
133 subsections (4) and (5) are added to that section, to read:

134 323.002 County and municipal wrecker operator systems;
135 penalties for operation outside of system.—

136 (4) (a) Except as provided in paragraph (b), a county or
137 municipality may not adopt or maintain in effect an ordinance or
138 rule that imposes a charge, cost, expense, fine, fee, or penalty
139 on an authorized wrecker operator, registered owner or other
140 legally authorized person in control of a vehicle or vessel, or
141 the lienholder of a vehicle or vessel, when the vehicle or
142 vessel is towed by an authorized wrecker operator under this
143 chapter.

144 (b) A county or municipality may adopt or maintain an
145 ordinance or rule that imposes a reasonable administrative fee
146 or charge on the registered owner or other legally authorized
147 person in control of a vehicle or vessel, or the lienholder of a
148 vehicle or vessel, that is towed by an authorized wrecker
149 operator, not to exceed 25 percent of the maximum towing rate,
150 to cover the cost of enforcement, including parking enforcement,
151 by the county or municipality when the vehicle or vessel is
152 towed from public property. However, an authorized wrecker
153 operator or towing business may impose and collect the
154 administrative fee or charge on behalf of the county or
155 municipality and shall remit such fee or charge to the county or



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156 municipality only after it is collected.

157 (c) A municipality or county may not enact an ordinance or
158 rule requiring an authorized wrecker operator to accept checks
159 as a form of payment.

160 (5) This section does not affect an ordinance, resolution,
161 or regulation enacted on or before January 1, 2019, by a charter
162 county with a population exceeding 1.3 million according to the
163 most recent decennial census which relates to the towing,
164 impounding, removal, or storage of vehicles or vessels,
165 including any amendment or revision made to such ordinance,
166 resolution, or regulation after July 1, 2019; however, any
167 changes to the ordinance, resolution, or regulation may not
168 include new fees or charges to the towing operator or owner of
169 the vehicle or vessel.

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

172 713.78 Liens for recovering, towing, or storing vehicles
173 and vessels.-

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

178 (a) The owner thereof;

179 (b) The owner or lessor, or a person authorized by the
180 owner or lessor, of property on which such vehicle or vessel is
181 wrongfully parked, and the removal is done in compliance with s.
182 715.07;

183 (c) The landlord or a person authorized by the landlord,
184 when such motor vehicle or vessel remained on the premises after



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185 the tenancy terminated and the removal is done in compliance
186 with s. 83.806 or s. 715.104; or

187 (d) Any law enforcement agency,

188
189 she or he shall have a lien on the vehicle or vessel for a
190 reasonable towing fee, for a reasonable administrative fee or
191 charge imposed by a county or municipality, and for a reasonable
192 storage fee; except that no storage fee shall be charged if the
193 vehicle or vessel is stored for less than 6 hours.

194 Section 7. Subsections (2) and (4) of section 715.07,
195 Florida Statutes, are amended to read:

196 715.07 Vehicles or vessels parked on private property;
197 towing.—

198 (2) The owner or lessee of real property, or any person
199 authorized by the owner or lessee, which person may be the
200 designated representative of the condominium association if the
201 real property is a condominium, may cause any vehicle or vessel
202 parked on such property without her or his permission to be
203 removed by a person regularly engaged in the business of towing
204 vehicles or vessels, without liability for the costs of removal,
205 transportation, or storage or damages caused by such removal,
206 transportation, or storage, under any of the following
207 circumstances:

208 (a) The towing or removal of any vehicle or vessel from
209 private property without the consent of the registered owner or
210 other legally authorized person in control of that vehicle or
211 vessel is subject to strict compliance with the following
212 conditions and restrictions:

213 1.a. Any towed or removed vehicle or vessel must be stored



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214 at a site within a 10-mile radius of the point of removal in any
215 county of 500,000 population or more, and within a 15-mile
216 radius of the point of removal in any county of less than
217 500,000 population. That site must be open for the purpose of
218 redemption of vehicles on any day that the person or firm towing
219 such vehicle or vessel is open for towing purposes, from 8:00
220 a.m. to 6:00 p.m., and, when closed, shall have prominently
221 posted a sign indicating a telephone number where the operator
222 of the site can be reached at all times. Upon receipt of a
223 telephoned request to open the site to redeem a vehicle or
224 vessel, the operator shall return to the site within 1 hour or
225 she or he will be in violation of this section.

226 b. If no towing business providing such service is located
227 within the area of towing limitations set forth in sub-
228 subparagraph a., the following limitations apply: any towed or
229 removed vehicle or vessel must be stored at a site within a 20-
230 mile radius of the point of removal in any county of 500,000
231 population or more, and within a 30-mile radius of the point of
232 removal in any county of less than 500,000 population.

233 2. The person or firm towing or removing the vehicle or
234 vessel shall, within 30 minutes after completion of such towing
235 or removal, notify the municipal police department or, in an
236 unincorporated area, the sheriff, of such towing or removal, the
237 storage site, the time the vehicle or vessel was towed or
238 removed, and the make, model, color, and license plate number of
239 the vehicle or description and registration number of the vessel
240 and shall obtain the name of the person at that department to
241 whom such information was reported and note that name on the
242 trip record.



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243 3. A person in the process of towing or removing a vehicle
244 or vessel from the premises or parking lot in which the vehicle
245 or vessel is not lawfully parked must stop when a person seeks
246 the return of the vehicle or vessel. The vehicle or vessel must
247 be returned upon the payment of a reasonable service fee of not
248 more than one-half of the posted rate for the towing or removal
249 service as provided in subparagraph 6. The vehicle or vessel may
250 be towed or removed if, after a reasonable opportunity, the
251 owner or legally authorized person in control of the vehicle or
252 vessel is unable to pay the service fee. If the vehicle or
253 vessel is redeemed, a detailed signed receipt must be given to
254 the person redeeming the vehicle or vessel.

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

258 5. Except for property appurtenant to and obviously a part
259 of a single-family residence, and except for instances when
260 notice is personally given to the owner or other legally
261 authorized person in control of the vehicle or vessel that the
262 area in which that vehicle or vessel is parked is reserved or
263 otherwise unavailable for unauthorized vehicles or vessels and
264 that the vehicle or vessel is subject to being removed at the
265 owner's or operator's expense, any property owner or lessee, or
266 person authorized by the property owner or lessee, prior to
267 towing or removing any vehicle or vessel from private property
268 without the consent of the owner or other legally authorized
269 person in control of that vehicle or vessel, must post a notice
270 meeting the following requirements:

271 a. The notice must be prominently placed at each driveway



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272 access or curb cut allowing vehicular access to the property~~7~~
273 ~~within 5 feet from the public right-of-way line.~~ If there are no
274 curbs or access barriers, the signs must be posted not less than
275 one sign for each 25 feet of lot frontage.

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

281 c. The notice must also provide the name and current
282 telephone number of the person or firm towing or removing the
283 vehicles or vessels.

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

289 e. The local government may require permitting and
290 inspection of these signs prior to any towing or removal of
291 vehicles or vessels being authorized.

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

298 g. A property owner towing or removing vessels from real
299 property must post notice, consistent with the requirements in
300 sub-subparagraphs a.-f., which apply to vehicles, that



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301 unauthorized vehicles or vessels will be towed away at the
302 owner's expense.

303
304 A business owner or lessee may authorize the removal of a
305 vehicle or vessel by a towing company when the vehicle or vessel
306 is parked in such a manner that restricts the normal operation
307 of business; and if a vehicle or vessel parked on a public
308 right-of-way obstructs access to a private driveway the owner,
309 lessee, or agent may have the vehicle or vessel removed by a
310 towing company upon signing an order that the vehicle or vessel
311 be removed without a posted tow-away zone sign.

312 6. Any person or firm that tows or removes vehicles or
313 vessels and proposes to require an owner, operator, or person in
314 control or custody of a vehicle or vessel to pay the costs of
315 towing and storage prior to redemption of the vehicle or vessel
316 must file and keep on record with the local law enforcement
317 agency a complete copy of the current rates to be charged for
318 such services and post at the storage site an identical rate
319 schedule and any written contracts with property owners,
320 lessees, or persons in control of property which authorize such
321 person or firm to remove vehicles or vessels as provided in this
322 section.

323 7. Any person or firm towing or removing any vehicles or
324 vessels from private property without the consent of the owner
325 or other legally authorized person in control or custody of the
326 vehicles or vessels shall, on any trucks, wreckers as defined in
327 s. 713.78(1)(c), or other vehicles used in the towing or
328 removal, have the name, address, and telephone number of the
329 company performing such service clearly printed in contrasting



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330 colors on the driver and passenger sides of the vehicle. The
331 name shall be in at least 3-inch permanently affixed letters,
332 and the address and telephone number shall be in at least 1-inch
333 permanently affixed letters.

334 8. Vehicle entry for the purpose of removing the vehicle or
335 vessel shall be allowed with reasonable care on the part of the
336 person or firm towing the vehicle or vessel. Such person or firm
337 shall be liable for any damage occasioned to the vehicle or
338 vessel if such entry is not in accordance with the standard of
339 reasonable care.

340 9. When a vehicle or vessel has been towed or removed
341 pursuant to this section, it must be released to its owner or
342 person in control or custody ~~custodian~~ within one hour after
343 requested. Any vehicle or vessel owner or person in control or
344 custody has ~~agent shall have~~ the right to inspect the vehicle or
345 vessel before accepting its return, and no release or waiver of
346 any kind which would release the person or firm towing the
347 vehicle or vessel from liability for damages noted by the owner
348 or the person in control or custody ~~other legally authorized~~
349 ~~person~~ at the time of the redemption may be required from any
350 vehicle or vessel owner or person in control or custody,
351 ~~custodian, or agent~~ as a condition of release of the vehicle or
352 vessel to its owner. A detailed, signed receipt showing the
353 legal name of the company or person towing or removing the
354 vehicle or vessel must be given to the person paying towing or
355 storage charges at the time of payment, whether requested or
356 not.

357 (b) These requirements are minimum standards and do not
358 preclude enactment of additional regulations by any municipality



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359 or county including the right to regulate rates when vehicles or
360 vessels are towed from private property. However, a municipality
361 or county may not enact an ordinance or rule requiring a towing
362 business to accept checks as a form of payment. Additionally, a
363 municipality or county may not authorize attorney fees or court
364 costs in connection with the towing of vehicles or vessels from
365 private property. The regulation of attorney fees and court
366 costs in connection with the towing of vehicles or vessels from
367 private property is expressly preempted to the state and any
368 municipal or county ordinance on the subject is void.

369 ~~(4) When a person improperly causes a vehicle or vessel to~~
370 ~~be removed, such person shall be liable to the owner or lessee~~
371 ~~of the vehicle or vessel for the cost of removal,~~
372 ~~transportation, and storage; any damages resulting from the~~
373 ~~removal, transportation, or storage of the vehicle or vessel;~~
374 ~~attorney's fees; and court costs.~~

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

376
377 ===== T I T L E A M E N D M E N T =====

378 And the title is amended as follows:

379 Delete everything before the enacting clause
380 and insert:

381 A bill to be entitled
382 An act relating to towing of vehicles and vessels;
383 amending ss. 125.0103 and 166.043, F.S.; specifying
384 that local governments may enact rates to tow or
385 immobilize vessels on private property and to remove
386 and store vessels under specified circumstances;
387 defining the term "vessels"; creating ss. 125.01047



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388 and 166.04465, F.S.; prohibiting counties or
389 municipalities from enacting certain ordinances or
390 rules that impose fees or charges on authorized
391 wrecker operators or towing businesses; defining the
392 term "towing business"; providing exceptions; amending
393 s. 323.002, F.S.; prohibiting counties or
394 municipalities from adopting or maintaining in effect
395 an ordinance or rule that imposes charges, costs,
396 expenses, fines, fees, or penalties on authorized
397 wrecker operators or registered owners or other
398 legally authorized persons in control or lienholders
399 of vehicles or vessels under certain conditions;
400 providing exceptions; prohibiting municipalities or
401 counties from enacting an ordinance or rule requiring
402 an authorized wrecker operator to accept checks as a
403 form of payment; amending s. 713.78, F.S.; authorizing
404 certain persons to place liens on vehicles or vessels
405 to recover specified fees or charges; amending s.
406 715.07, F.S.; revising certain notice and signage
407 requirements; revising requirements relating to towing
408 and to removing vehicles or vessels to include persons
409 who are in custody of a vehicle or of a vessel;
410 prohibiting municipalities or counties from enacting
411 an ordinance or rule requiring a towing business to
412 accept checks as a form of payment; prohibiting
413 municipalities or counties from authorizing attorney
414 fees or court costs in connection with the towing of
415 vehicles or vessels from private property; providing
416 that the regulation of attorney fees and court costs



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417 in connection with the towing of vehicles or vessels
418 from private property is expressly preempted to the
419 state and any municipal or county ordinance on the
420 subject is void; deleting a requirement related to
421 liability for improper removal of a vehicle or of a
422 vessel; providing an effective date.