

By the Committees on Infrastructure and Security; and Community Affairs; and Senator Gruters

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1 A bill to be entitled
2 An act relating to towing of vehicles and vessels;
3 amending ss. 125.0103 and 166.043, F.S.; specifying
4 that local governments may enact rates to tow or
5 immobilize vessels on private property and to remove
6 and store vessels under specified circumstances;
7 defining the term "vessels"; creating ss. 125.01047
8 and 166.04465, F.S.; prohibiting counties or
9 municipalities from enacting certain ordinances or
10 rules that impose fees or charges on authorized
11 wrecker operators or towing businesses; defining the
12 term "towing business"; providing exceptions; amending
13 s. 323.002, F.S.; prohibiting counties or
14 municipalities from adopting or maintaining in effect
15 an ordinance or rule that imposes charges, costs,
16 expenses, fines, fees, or penalties on authorized
17 wrecker operators or registered owners or other
18 legally authorized persons in control or lienholders
19 of vehicles or vessels under certain conditions;
20 providing exceptions; prohibiting municipalities or
21 counties from enacting an ordinance or rule requiring
22 an authorized wrecker operator to accept checks as a
23 form of payment; amending s. 713.78, F.S.; authorizing
24 certain persons to place liens on vehicles or vessels
25 to recover specified fees or charges; amending s.
26 715.07, F.S.; revising certain notice and signage
27 requirements; revising requirements relating to towing
28 and to removing vehicles or vessels to include persons
29 who are in custody of a vehicle or of a vessel;

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30 prohibiting municipalities or counties from enacting
 31 an ordinance or rule requiring a towing business to
 32 accept checks as a form of payment; prohibiting
 33 municipalities or counties from authorizing attorney
 34 fees or court costs in connection with the towing of
 35 vehicles or vessels from private property; providing
 36 that the regulation of attorney fees and court costs
 37 in connection with the towing of vehicles or vessels
 38 from private property is expressly preempted to the
 39 state and any municipal or county ordinance on the
 40 subject is void; deleting a requirement related to
 41 liability for improper removal of a vehicle or of a
 42 vessel; providing an effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Paragraphs (b) and (c) of subsection (1) of
 47 section 125.0103, Florida Statutes, are amended to read:

48 125.0103 Ordinances and rules imposing price controls;
 49 findings required; procedures.—

50 (1)

51 (b) ~~The provisions of~~ This section does shall not prevent
 52 the enactment by local governments of public service rates
 53 otherwise authorized by law, including water, sewer, solid
 54 waste, public transportation, taxicab, or port rates; ; rates for
 55 towing of vehicles or vessels from, or immobilization of
 56 vehicles or vessels on, private property; ; ~~or~~ rates for removal
 57 and storage of wrecked or disabled vehicles or vessels from an
 58 accident scene; or rates for ~~the~~ removal and storage of vehicles

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59 or vessels in the event the owner or operator is incapacitated,
60 unavailable, leaves the procurement of wrecker service to the
61 law enforcement officer at the scene, or otherwise does not
62 consent to the removal of the vehicle or vessel. For purposes of
63 this subsection, the term "vessels" means only vessels that are
64 located on land.

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

79 Section 2. Section 125.01047, Florida Statutes, is created
80 to read:

81 125.01047 Rules and ordinances relating to towing
82 services.—

83 (1) A county may not enact an ordinance or rule that would
84 impose a fee or charge on an authorized wrecker operator, as
85 defined in s. 323.002(1), or on a towing business for towing,
86 impounding, or storing a vehicle or vessel. As used in this
87 section, the term "towing business" means a business that

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88 provides towing services for monetary gain.

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

91 (a) Levy a reasonable business tax under s. 205.0315, s.
92 205.033, or s. 205.0535.

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

103 (3) This section does not affect an ordinance, resolution,
104 or regulation enacted on or before January 1, 2019, by a charter
105 county with a population exceeding 1.3 million according to the
106 most recent decennial census which relates to the towing,
107 impounding, removal, or storage of vehicles or vessels,
108 including any amendment or revision made to such ordinance,
109 resolution, or regulation after July 1, 2019; however, any
110 changes to the ordinance, resolution, or regulation cannot
111 include new fees or charges to the towing operator or owner of
112 the vehicle or vessel.

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

115 166.043 Ordinances and rules imposing price controls;
116 findings required; procedures.-

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117 (1)

118 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
119 the enactment by local governments of public service rates
120 otherwise authorized by law, including water, sewer, solid
121 waste, public transportation, taxicab, or port rates; rates for
122 towing of vehicles or vessels from, or immobilization of
123 vehicles or vessels on, private property; ~~or~~ rates for removal
124 and storage of wrecked or disabled vehicles or vessels from an
125 accident scene; or rates for ~~the~~ removal and storage of vehicles
126 or vessels in the event the owner or operator is incapacitated,
127 unavailable, leaves the procurement of wrecker service to the
128 law enforcement officer at the scene, or otherwise does not
129 consent to the removal of the vehicle or vessel. For purposes of
130 this subsection, the term "vessels" means only vessels that are
131 located on land.

132 (c) Counties must establish maximum rates which may be
133 charged on the towing of vehicles or vessels from, or
134 immobilization of vehicles or vessels on, private property; ~~the~~
135 removal and storage of wrecked or disabled vehicles or vessels
136 from an accident scene; ~~for~~ the removal and storage of
137 vehicles or vessels, in the event the owner or operator is
138 incapacitated, unavailable, leaves the procurement of wrecker
139 service to the law enforcement officer at the scene, or
140 otherwise does not consent to the removal of the vehicle or
141 vessel. However, if a municipality chooses to enact an ordinance
142 establishing the maximum rates ~~fees~~ for the towing or
143 immobilization of vehicles or vessels as described in paragraph
144 (b), the county's ordinance established under s. 125.0103 shall
145 not apply within such municipality.

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146 Section 4. Section 166.04465, Florida Statutes, is created
147 to read:

148 166.04465 Rules and ordinances relating to towing
149 services.-

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

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

158 (a) Levy a reasonable business tax under s. 205.0315, s.
159 205.043, or s. 205.0535.

160 (b) Impose and collect a reasonable administrative fee or
161 charge on the registered owner or other legally authorized
162 person in control of a vehicle or vessel, or the lienholder of a
163 vehicle or vessel, not to exceed 25 percent of the maximum
164 towing rate, to cover the cost of enforcement, including parking
165 enforcement, by the municipality when the vehicle or vessel is
166 towed from public property. However, an authorized wrecker
167 operator or towing business may impose and collect the
168 administrative fee or charge on behalf of the municipality and
169 shall remit such fee or charge to the municipality only after it
170 is collected.

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

174 323.002 County and municipal wrecker operator systems;

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175 penalties for operation outside of system.-

176 (4) (a) Except as provided in paragraph (b), a county or
177 municipality may not adopt or maintain in effect an ordinance or
178 rule that imposes a charge, cost, expense, fine, fee, or penalty
179 on an authorized wrecker operator, registered owner or other
180 legally authorized person in control of a vehicle or vessel, or
181 the lienholder of a vehicle or vessel, when the vehicle or
182 vessel is towed by an authorized wrecker operator under this
183 chapter.

184 (b) A county or municipality may adopt or maintain an
185 ordinance or rule that imposes a reasonable administrative fee
186 or charge on the registered owner or other legally authorized
187 person in control of a vehicle or vessel, or the lienholder of a
188 vehicle or vessel, that is towed by an authorized wrecker
189 operator, not to exceed 25 percent of the maximum towing rate,
190 to cover the cost of enforcement, including parking enforcement,
191 by the county or municipality when the vehicle or vessel is
192 towed from public property. However, an authorized wrecker
193 operator or towing business may impose and collect the
194 administrative fee or charge on behalf of the county or
195 municipality and shall remit such fee or charge to the county or
196 municipality only after it is collected.

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

200 (5) This section does not affect an ordinance, resolution,
201 or regulation enacted on or before January 1, 2019, by a charter
202 county with a population exceeding 1.3 million according to the
203 most recent decennial census which relates to the towing,

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204 impounding, removal, or storage of vehicles or vessels,
205 including any amendment or revision made to such ordinance,
206 resolution, or regulation after July 1, 2019; however, any
207 changes to the ordinance, resolution, or regulation may not
208 include new fees or charges to the towing operator or owner of
209 the vehicle or vessel.

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

212 713.78 Liens for recovering, towing, or storing vehicles
213 and vessels.—

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

218 (a) The owner thereof;

219 (b) The owner or lessor, or a person authorized by the
220 owner or lessor, of property on which such vehicle or vessel is
221 wrongfully parked, and the removal is done in compliance with s.
222 715.07;

223 (c) The landlord or a person authorized by the landlord,
224 when such motor vehicle or vessel remained on the premises after
225 the tenancy terminated and the removal is done in compliance
226 with s. 83.806 or s. 715.104; or

227 (d) Any law enforcement agency,

228

229 she or he shall have a lien on the vehicle or vessel for a
230 reasonable towing fee, for a reasonable administrative fee or
231 charge imposed by a county or municipality, and for a reasonable
232 storage fee; except that no storage fee shall be charged if the

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233 vehicle or vessel is stored for less than 6 hours.

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

236 715.07 Vehicles or vessels parked on private property;
237 towing.—

238 (2) The owner or lessee of real property, or any person
239 authorized by the owner or lessee, which person may be the
240 designated representative of the condominium association if the
241 real property is a condominium, may cause any vehicle or vessel
242 parked on such property without her or his permission to be
243 removed by a person regularly engaged in the business of towing
244 vehicles or vessels, without liability for the costs of removal,
245 transportation, or storage or damages caused by such removal,
246 transportation, or storage, under any of the following
247 circumstances:

248 (a) The towing or removal of any vehicle or vessel from
249 private property without the consent of the registered owner or
250 other legally authorized person in control of that vehicle or
251 vessel is subject to strict compliance with the following
252 conditions and restrictions:

253 1.a. Any towed or removed vehicle or vessel must be stored
254 at a site within a 10-mile radius of the point of removal in any
255 county of 500,000 population or more, and within a 15-mile
256 radius of the point of removal in any county of less than
257 500,000 population. That site must be open for the purpose of
258 redemption of vehicles on any day that the person or firm towing
259 such vehicle or vessel is open for towing purposes, from 8:00
260 a.m. to 6:00 p.m., and, when closed, shall have prominently
261 posted a sign indicating a telephone number where the operator

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262 of the site can be reached at all times. Upon receipt of a
263 telephoned request to open the site to redeem a vehicle or
264 vessel, the operator shall return to the site within 1 hour or
265 she or he will be in violation of this section.

266 b. If no towing business providing such service is located
267 within the area of towing limitations set forth in sub-
268 subparagraph a., the following limitations apply: any towed or
269 removed vehicle or vessel must be stored at a site within a 20-
270 mile radius of the point of removal in any county of 500,000
271 population or more, and within a 30-mile radius of the point of
272 removal in any county of less than 500,000 population.

273 2. The person or firm towing or removing the vehicle or
274 vessel shall, within 30 minutes after completion of such towing
275 or removal, notify the municipal police department or, in an
276 unincorporated area, the sheriff, of such towing or removal, the
277 storage site, the time the vehicle or vessel was towed or
278 removed, and the make, model, color, and license plate number of
279 the vehicle or description and registration number of the vessel
280 and shall obtain the name of the person at that department to
281 whom such information was reported and note that name on the
282 trip record.

283 3. A person in the process of towing or removing a vehicle
284 or vessel from the premises or parking lot in which the vehicle
285 or vessel is not lawfully parked must stop when a person seeks
286 the return of the vehicle or vessel. The vehicle or vessel must
287 be returned upon the payment of a reasonable service fee of not
288 more than one-half of the posted rate for the towing or removal
289 service as provided in subparagraph 6. The vehicle or vessel may
290 be towed or removed if, after a reasonable opportunity, the

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291 owner or legally authorized person in control of the vehicle or
292 vessel is unable to pay the service fee. If the vehicle or
293 vessel is redeemed, a detailed signed receipt must be given to
294 the person redeeming the vehicle or vessel.

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

298 5. Except for property appurtenant to and obviously a part
299 of a single-family residence, and except for instances when
300 notice is personally given to the owner or other legally
301 authorized person in control of the vehicle or vessel that the
302 area in which that vehicle or vessel is parked is reserved or
303 otherwise unavailable for unauthorized vehicles or vessels and
304 that the vehicle or vessel is subject to being removed at the
305 owner's or operator's expense, any property owner or lessee, or
306 person authorized by the property owner or lessee, prior to
307 towing or removing any vehicle or vessel from private property
308 without the consent of the owner or other legally authorized
309 person in control of that vehicle or vessel, must post a notice
310 meeting the following requirements:

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

316 b. The notice must ~~e~~clearly indicate, in not less than 2-
317 inch high, light-reflective letters on a contrasting background,
318 that unauthorized vehicles will be towed away at the owner's
319 expense. The words "tow-away zone" must be included on the sign

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320 in not less than 4-inch high letters.

321 c. The notice must also provide the name and current
322 telephone number of the person or firm towing or removing the
323 vehicles or vessels.

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

329 e. The local government may require permitting and
330 inspection of these signs prior to any towing or removal of
331 vehicles or vessels being authorized.

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

338 g. A property owner towing or removing vessels from real
339 property must post notice, consistent with the requirements in
340 sub-subparagraphs a.-f., which apply to vehicles, that
341 unauthorized vehicles or vessels will be towed away at the
342 owner's expense.

343

344 A business owner or lessee may authorize the removal of a
345 vehicle or vessel by a towing company when the vehicle or vessel
346 is parked in such a manner that restricts the normal operation
347 of business; and if a vehicle or vessel parked on a public
348 right-of-way obstructs access to a private driveway the owner,

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349 lessee, or agent may have the vehicle or vessel removed by a
350 towing company upon signing an order that the vehicle or vessel
351 be removed without a posted tow-away zone sign.

352 6. Any person or firm that tows or removes vehicles or
353 vessels and proposes to require an owner, operator, or person in
354 control or custody of a vehicle or vessel to pay the costs of
355 towing and storage prior to redemption of the vehicle or vessel
356 must file and keep on record with the local law enforcement
357 agency a complete copy of the current rates to be charged for
358 such services and post at the storage site an identical rate
359 schedule and any written contracts with property owners,
360 lessees, or persons in control of property which authorize such
361 person or firm to remove vehicles or vessels as provided in this
362 section.

363 7. Any person or firm towing or removing any vehicles or
364 vessels from private property without the consent of the owner
365 or other legally authorized person in control or custody of the
366 vehicles or vessels shall, on any trucks, wreckers as defined in
367 s. 713.78(1)(c), or other vehicles used in the towing or
368 removal, have the name, address, and telephone number of the
369 company performing such service clearly printed in contrasting
370 colors on the driver and passenger sides of the vehicle. The
371 name shall be in at least 3-inch permanently affixed letters,
372 and the address and telephone number shall be in at least 1-inch
373 permanently affixed letters.

374 8. Vehicle entry for the purpose of removing the vehicle or
375 vessel shall be allowed with reasonable care on the part of the
376 person or firm towing the vehicle or vessel. Such person or firm
377 shall be liable for any damage occasioned to the vehicle or

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378 vessel if such entry is not in accordance with the standard of
379 reasonable care.

380 9. When a vehicle or vessel has been towed or removed
381 pursuant to this section, it must be released to its owner or
382 person in control or custody ~~custodian~~ within one hour after
383 requested. Any vehicle or vessel owner or person in control or
384 custody has ~~agent shall have~~ the right to inspect the vehicle or
385 vessel before accepting its return, and no release or waiver of
386 any kind which would release the person or firm towing the
387 vehicle or vessel from liability for damages noted by the owner
388 or the person in control or custody ~~other legally authorized~~
389 ~~person~~ at the time of the redemption may be required from any
390 vehicle or vessel owner or person in control or custody,
391 ~~custodian, or agent~~ as a condition of release of the vehicle or
392 vessel to its owner. A detailed, signed receipt showing the
393 legal name of the company or person towing or removing the
394 vehicle or vessel must be given to the person paying towing or
395 storage charges at the time of payment, whether requested or
396 not.

397 (b) These requirements are minimum standards and do not
398 preclude enactment of additional regulations by any municipality
399 or county including the right to regulate rates when vehicles or
400 vessels are towed from private property. However, a municipality
401 or county may not enact an ordinance or rule requiring a towing
402 business to accept checks as a form of payment. Additionally, a
403 municipality or county may not authorize attorney fees or court
404 costs in connection with the towing of vehicles or vessels from
405 private property. The regulation of attorney fees and court
406 costs in connection with the towing of vehicles or vessels from

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407 private property is expressly preempted to the state and any
408 municipal or county ordinance on the subject is void.

409 ~~(4) When a person improperly causes a vehicle or vessel to~~
410 ~~be removed, such person shall be liable to the owner or lessee~~
411 ~~of the vehicle or vessel for the cost of removal,~~
412 ~~transportation, and storage; any damages resulting from the~~
413 ~~removal, transportation, or storage of the vehicle or vessel;~~
414 ~~attorney's fees; and court costs.~~

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