

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; providing
23 exceptions; providing applicability; amending s.
24 713.78, F.S.; authorizing certain persons to place
25 liens on vehicles or vessels to recover specified fees

26 or charges; amending s. 715.07, F.S.; removing a
 27 requirement regarding notices and signs concerning the
 28 towing or removal of vehicles or vessels; prohibiting
 29 counties or municipalities from enacting certain
 30 ordinances or rules that require towing businesses to
 31 accept a specified form of payment; prohibiting
 32 counties or municipalities from authorizing attorney
 33 fees in connection with certain towing activities;
 34 providing exceptions; providing applicability;
 35 preempting to the state the regulation of attorney
 36 fees in connection with certain towing activities;
 37 authorizing a court to award damages, attorney fees,
 38 and court costs in certain cases; providing an
 39 effective date.

40

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

42

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

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

47 (1)

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

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

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

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

76 | 125.01047 Rules and ordinances relating to towing
 77 | services.—

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

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

86 | (a) Levy a reasonable business tax under s. 205.0315, s.
 87 | 205.033, or s. 205.0535.

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

98 | (3) (a) This section does not apply to a towing or
 99 | immobilization licensing, regulatory, or enforcement program of
 100 | a charter county in which at least 90 percent of the population

101 resides in incorporated municipalities, or to a charter county
102 with at least 38 incorporated municipalities within its
103 territorial boundaries as of January 1, 2020. This section does
104 not affect a charter county's authority to:

105 1. Impose and collect towing operating license fees,
106 license renewal fees, license extension fees, expedite fees,
107 storage site inspection or reinspection fees, criminal
108 background check fees, and tow truck decal fees, including decal
109 renewal fees, expedite fees, and decal replacement fees.

110 2. Impose and collect immobilization operating license
111 fees, license extension fees, license renewal fees, expedite
112 fees, and criminal background check fees.

113 3. Set maximum rates for the towing or immobilization of
114 vehicles or vessels on private property, including rates based
115 on different classes of towing vehicles, research fees,
116 administrative fees, storage fees, and labor fees; rates for
117 towing services performed or directed by governmental entities;
118 road service rates; winch recovery rates; voluntary expediting
119 fees for vehicle or vessel ownership verification; and to
120 establish conditions in connection with the applicability or
121 payment of maximum rates set for towing or immobilization of
122 vehicles or vessels.

123 4. Impose and collect such other taxes, fees, or charges
124 otherwise authorized by general law, special law, or county
125 ordinance, resolution, or regulation.

126 (b) A charter county may impose and collect an
127 administrative fee or charge as provided in paragraph (2)(b) but
128 may not impose such fee or charge on a towing business or an
129 authorized wrecker operator. If the charter county imposes such
130 administrative fee or charge, the charter county may authorize a
131 towing business or authorized wrecker operator to impose and
132 collect such fee or charge on behalf of the county, and the
133 towing business or authorized wrecker operator shall remit such
134 fee or charge to the charter county only after it is collected.

135 (4)(a) Subsection (1) does not apply to a charter county
136 that had a towing licensing, regulatory, or enforcement program
137 in effect on January 1, 2020. However, such charter county may
138 not impose any new business tax, fee, or charge that was not in
139 effect as of January 1, 2020, on a towing business or an
140 authorized wrecker operator.

141 (b) A charter county may impose and collect an
142 administrative fee or charge as provided in paragraph (2)(b);
143 however, it may not impose that fee or charge upon a towing
144 business or an authorized wrecker operator. If such charter
145 county imposes such administrative fee or charge, such fee or
146 charge must be imposed on the registered owner or other legally
147 authorized person in control of a vehicle or vessel, or the
148 lienholder of a vehicle or vessel. The fee or charge may not
149 exceed 25 percent of the maximum towing rate to cover the cost
150 of enforcement, including parking enforcement, by the charter

151 county when the vehicle or vessel is towed from public property.
 152 The charter county may authorize an authorized wrecker operator
 153 or towing business to impose and collect the administrative fee
 154 or charge on behalf of the charter county, and the authorized
 155 wrecker operator or towing business shall remit such fee or
 156 charge to the charter county only after it is collected.

157 (c) For purposes of this subsection, the term "charter
 158 county" means a county as defined in s. 125.011(1).

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

161 166.043 Ordinances and rules imposing price controls;
 162 findings required; procedures.—

163 (1)

164 (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 165 the enactment by local governments of public service rates
 166 otherwise authorized by law, including water, sewer, solid
 167 waste, public transportation, taxicab, or port rates, rates for
 168 towing of vehicles or vessels from or immobilization of vehicles
 169 or vessels on private property, or rates for removal and storage
 170 of wrecked or disabled vehicles or vessels from an accident
 171 scene or the removal and storage of vehicles or vessels in the
 172 event the owner or operator is incapacitated, unavailable,
 173 leaves the procurement of wrecker service to the law enforcement
 174 officer at the scene, or otherwise does not consent to the
 175 removal of the vehicle or vessel.

176 (c) Counties must establish maximum rates which may be
 177 charged on the towing of vehicles or vessels from or
 178 immobilization of vehicles or vessels on private property,
 179 removal and storage of wrecked or disabled vehicles or vessels
 180 from an accident scene or for the removal and storage of
 181 vehicles or vessels, in the event the owner or operator is
 182 incapacitated, unavailable, leaves the procurement of wrecker
 183 service to the law enforcement officer at the scene, or
 184 otherwise does not consent to the removal of the vehicle or
 185 vessel. However, if a municipality chooses to enact an ordinance
 186 establishing the maximum rates ~~fees~~ for the towing or
 187 immobilization of vehicles or vessels as described in paragraph
 188 (b), the county's ordinance established under s. 125.0103 shall
 189 not apply within such municipality.

190 Section 4. Section 166.04465, Florida Statutes, is created
 191 to read:

192 166.04465 Rules and ordinances relating to towing
 193 services.-

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

200 (2) The prohibition set forth in subsection (1) does not

201 affect a municipality's authority to:

202 (a) Levy a reasonable business tax under s. 205.0315, s.
 203 205.043, or s. 205.0535.

204 (b) Impose and collect a reasonable administrative fee or
 205 charge on the registered owner or other legally authorized
 206 person in control of a vehicle or vessel, or the lienholder of a
 207 vehicle or vessel, not to exceed 25 percent of the maximum
 208 towing rate, to cover the cost of enforcement, including parking
 209 enforcement, by the municipality when the vehicle or vessel is
 210 towed from public property. An authorized wrecker operator or
 211 towing business may impose and collect the administrative fee or
 212 charge on behalf of the municipality and shall remit such fee or
 213 charge to the municipality only after it is collected.

214 Section 5. Subsection (4) of section 323.002, Florida
 215 Statutes, is renumbered as subsection (6), and new subsections
 216 (4) and (5) are added to that section to read:

217 323.002 County and municipal wrecker operator systems;
 218 penalties for operation outside of system.-

219 (4) (a) Except as provided in paragraph (b), a county or
 220 municipality may not adopt or maintain in effect an ordinance or
 221 rule that imposes a charge, cost, expense, fine, fee, or penalty
 222 on an authorized wrecker operator, the registered owner or other
 223 legally authorized person in control of a vehicle or vessel, or
 224 the lienholder of a vehicle or vessel when the vehicle or vessel
 225 is towed by an authorized wrecker operator under this chapter.

226 (b) A county or municipality may adopt or maintain an
227 ordinance or rule that imposes a reasonable administrative fee
228 or charge on the registered owner or other legally authorized
229 person in control of a vehicle or vessel, or the lienholder of a
230 vehicle or vessel, that is towed by an authorized wrecker
231 operator, not to exceed 25 percent of the maximum towing rate,
232 to cover the cost of enforcement, including parking enforcement,
233 by the county or municipality when the vehicle or vessel is
234 towed from public property. An authorized wrecker operator or
235 towing business may impose and collect the administrative fee or
236 charge on behalf of the county or municipality and shall remit
237 such fee or charge to the county or municipality only after it
238 is collected.

239 (c) A county or municipality may not enact an ordinance or
240 rule that requires an authorized wrecker operator to accept a
241 credit card as a form of payment. However, if an authorized
242 wrecker operator does not accept a credit card, the wrecker
243 operator must maintain an operable automatic teller machine for
244 use by the public at its place of business. This paragraph does
245 not apply to a county or municipality that adopted an ordinance
246 or rule before January 1, 2020, requiring an authorized wrecker
247 operator to accept a credit card as a form of payment.

248 (5) Subsection (4) does not apply to the towing or
249 immobilization licensing, regulatory, or enforcement program of
250 a charter county described in s. 125.01047(3) or (4). Such

251 charter county may impose a charge, cost, expense, fine, fee, or
252 penalty on an authorized wrecker operator in connection with a
253 violation of the towing or immobilization program requirements
254 as set forth by ordinance, resolution, or regulation.

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

257 713.78 Liens for recovering, towing, or storing vehicles
258 and vessels.—

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

263 (a) The owner thereof;

264 (b) The owner or lessor, or a person authorized by the
265 owner or lessor, of property on which such vehicle or vessel is
266 wrongfully parked, and the removal is done in compliance with s.
267 715.07;

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

272 (d) Any law enforcement agency,

273
274 she or he shall have a lien on the vehicle or vessel for a
275 reasonable towing fee, for a reasonable administrative fee or

276 | charge imposed by a county or municipality, and for a reasonable
277 | storage fee; except that a ~~no~~ storage fee may not ~~shall~~ be
278 | charged if the vehicle or vessel is stored for fewer ~~less~~ than 6
279 | hours.

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

282 | 715.07 Vehicles or vessels parked on private property;
283 | towing.—

284 | (2) The owner or lessee of real property, or any person
285 | authorized by the owner or lessee, which person may be the
286 | designated representative of the condominium association if the
287 | real property is a condominium, may cause any vehicle or vessel
288 | parked on such property without her or his permission to be
289 | removed by a person regularly engaged in the business of towing
290 | vehicles or vessels, without liability for the costs of removal,
291 | transportation, or storage or damages caused by such removal,
292 | transportation, or storage, under any of the following
293 | circumstances:

294 | (a) The towing or removal of any vehicle or vessel from
295 | private property without the consent of the registered owner or
296 | other legally authorized person in control of that vehicle or
297 | vessel is subject to substantial ~~strict~~ compliance with the
298 | following conditions and restrictions:

299 | 1.a. Any towed or removed vehicle or vessel must be stored
300 | at a site within a 10-mile radius of the point of removal in any

301 county of 500,000 population or more, and within a 15-mile
302 radius of the point of removal in any county of fewer ~~less~~ than
303 500,000 population. That site must be open for the purpose of
304 redemption of vehicles on any day that the person or firm towing
305 such vehicle or vessel is open for towing purposes, from 8:00
306 a.m. to 6:00 p.m., and, when closed, shall have prominently
307 posted a sign indicating a telephone number where the operator
308 of the site can be reached at all times. Upon receipt of a
309 telephoned request to open the site to redeem a vehicle or
310 vessel, the operator shall return to the site within 1 hour or
311 she or he will be in violation of this section.

312 b. If no towing business providing such service is located
313 within the area of towing limitations set forth in sub-
314 subparagraph a., the following limitations apply: any towed or
315 removed vehicle or vessel must be stored at a site within a 20-
316 mile radius of the point of removal in any county of 500,000
317 population or more, and within a 30-mile radius of the point of
318 removal in any county of fewer ~~less~~ than 500,000 population.

319 2. The person or firm towing or removing the vehicle or
320 vessel shall, within 30 minutes after completion of such towing
321 or removal, notify the municipal police department or, in an
322 unincorporated area, the sheriff, of such towing or removal, the
323 storage site, the time the vehicle or vessel was towed or
324 removed, and the make, model, color, and license plate number of
325 the vehicle or description and registration number of the vessel

326 and shall obtain the name of the person at that department to
327 whom such information was reported and note that name on the
328 trip record.

329 3. A person in the process of towing or removing a vehicle
330 or vessel from the premises or parking lot in which the vehicle
331 or vessel is not lawfully parked must stop when a person seeks
332 the return of the vehicle or vessel. The vehicle or vessel must
333 be returned upon the payment of a reasonable service fee of not
334 more than one-half of the posted rate for the towing or removal
335 service as provided in subparagraph 6. The vehicle or vessel may
336 be towed or removed if, after a reasonable opportunity, the
337 owner or legally authorized person in control of the vehicle or
338 vessel is unable to pay the service fee. If the vehicle or
339 vessel is redeemed, a detailed signed receipt must be given to
340 the person redeeming the vehicle or vessel.

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

344 5. Except for property appurtenant to and obviously a part
345 of a single-family residence, and except for instances when
346 notice is personally given to the owner or other legally
347 authorized person in control of the vehicle or vessel that the
348 area in which that vehicle or vessel is parked is reserved or
349 otherwise unavailable for unauthorized vehicles or vessels and
350 that the vehicle or vessel is subject to being removed at the

351 owner's or operator's expense, any property owner or lessee, or
352 person authorized by the property owner or lessee, before ~~prior~~
353 ~~to~~ towing or removing any vehicle or vessel from private
354 property without the consent of the owner or other legally
355 authorized person in control of that vehicle or vessel, must
356 post a notice meeting the following requirements:

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

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

367 c. The notice must also provide the name and current
368 telephone number of the person or firm towing or removing the
369 vehicles or vessels.

370 d. The sign structure containing the required notices must
371 be permanently installed with the words "tow-away zone" ~~not less~~
372 ~~than 3 feet and not more than 6 feet above ground level~~ and must
373 be continuously maintained on the property for not fewer ~~less~~
374 than 24 hours before ~~prior to~~ the towing or removal of any
375 vehicles or vessels.

376 e. The local government may require permitting and
 377 inspection of these signs before ~~prior to~~ any towing or removal
 378 of vehicles or vessels being authorized.

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

385 g. A property owner towing or removing vessels from real
 386 property must post notice, consistent with the requirements in
 387 sub-subparagraphs a.-f., which apply to vehicles, that
 388 unauthorized vehicles or vessels will be towed away at the
 389 owner's expense.

390
 391 A business owner or lessee may authorize the removal of a
 392 vehicle or vessel by a towing company when the vehicle or vessel
 393 is parked in such a manner that restricts the normal operation
 394 of business; and if a vehicle or vessel parked on a public
 395 right-of-way obstructs access to a private driveway the owner,
 396 lessee, or agent may have the vehicle or vessel removed by a
 397 towing company upon signing an order that the vehicle or vessel
 398 be removed without a posted tow-away zone sign.

399 6. Any person or firm that tows or removes vehicles or
 400 vessels and proposes to require an owner, operator, or person in

401 control or custody of a vehicle or vessel to pay the costs of
402 towing and storage before ~~prior to~~ redemption of the vehicle or
403 vessel must file and keep on record with the local law
404 enforcement agency a complete copy of the current rates to be
405 charged for such services and post at the storage site an
406 identical rate schedule and any written contracts with property
407 owners, lessees, or persons in control of property which
408 authorize such person or firm to remove vehicles or vessels as
409 provided in this section.

410 7. Any person or firm towing or removing any vehicles or
411 vessels from private property without the consent of the owner
412 or other legally authorized person in control or custody of the
413 vehicles or vessels shall, on any trucks, wreckers as defined in
414 s. 713.78(1)(c), or other vehicles used in the towing or
415 removal, have the name, address, and telephone number of the
416 company performing such service clearly printed in contrasting
417 colors on the driver and passenger sides of the vehicle. The
418 name shall be in at least 3-inch permanently affixed letters,
419 and the address and telephone number shall be in at least 1-inch
420 permanently affixed letters.

421 8. Vehicle entry for the purpose of removing the vehicle
422 or vessel shall be allowed with reasonable care on the part of
423 the person or firm towing the vehicle or vessel. Such person or
424 firm shall be liable for any damage occasioned to the vehicle or
425 vessel if such entry is not in accordance with the standard of

426 reasonable care.

427 9. When a vehicle or vessel has been towed or removed
428 pursuant to this section, it must be released to its owner or
429 person in control or custody ~~custodian~~ within 1 ~~one~~ hour after
430 requested. Any vehicle or vessel owner or person in control or
431 custody ~~has agent shall have~~ the right to inspect the vehicle or
432 vessel before accepting its return, and no release or waiver of
433 any kind which would release the person or firm towing the
434 vehicle or vessel from liability for damages noted by the owner
435 or person in control or custody ~~other legally authorized person~~
436 at the time of the redemption may be required from any vehicle
437 or vessel owner or person in control or custody ~~, custodian, or~~
438 ~~agent~~ as a condition of release of the vehicle or vessel to its
439 owner or person in control or custody. A detailed, ~~signed~~
440 receipt showing the legal name of the company or person towing
441 or removing the vehicle or vessel must be given to the person
442 paying towing or storage charges at the time of payment, whether
443 requested or not.

444 (b) These requirements are minimum standards and do not
445 preclude enactment of additional regulations by any municipality
446 or county including the right to regulate rates when vehicles or
447 vessels are towed from private property, except that a county or
448 municipality may not enact an ordinance or rule that requires a
449 towing business to accept a credit card as a form of payment.
450 However, if a towing business does not accept a credit card, the

451 towing business must maintain an operable automatic teller
452 machine for use by the public at its place of business. This
453 paragraph does not apply to a county or municipality that
454 adopted an ordinance or rule before January 1, 2020, requiring a
455 towing business to accept a credit card as a form of payment.
456 Additionally, a municipality or county may not authorize
457 attorney fees in connection with the towing of vehicles or
458 vessels from private property. The regulation of attorney fees
459 in connection with the towing of vehicles or vessels from
460 private property is expressly preempted to the state and any
461 municipal or county ordinance on the subject is void.

462 (4) When a person improperly causes a vehicle or vessel to
463 be removed, such person shall be liable to the owner or lessee
464 of the vehicle or vessel for the cost of removal,
465 transportation, and storage ~~and~~ any damages resulting from the
466 removal, transportation, or storage of the vehicle or vessel; ~~attorney's fees; and court costs.~~ If an action is filed, the
467 court may award damages, attorney fees, and court costs in favor
468 of the prevailing party after determining the respective rights
469 of the parties.

471 Section 8. This act shall take effect July 1, 2020.