

By the Committee on Transportation; and Senator Diaz

596-02634-22

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1                                   A bill to be entitled  
2       An act relating to towing vehicles; amending s.  
3       323.001, F.S.; providing construction; prohibiting  
4       investigating agencies from releasing motor vehicles  
5       towed to an agency's storage facility until certain  
6       proof of payment is presented to the agency;  
7       specifying that investigating agencies that do not  
8       obtain proof of payment must pay certain charges  
9       within a specified timeframe; requiring investigating  
10      agencies to pay wrecker operators charges relating to  
11      towing and storage within a specified timeframe if  
12      certain judicial findings are made; amending s.  
13      713.78, F.S.; revising the timeframe required for  
14      sending notices of lien; prohibiting towing companies  
15      from releasing vehicles owned by rental car companies,  
16      which are towed under certain circumstances, to the  
17      person who rented the vehicle unless the rental car  
18      company appoints the person as its agent; providing  
19      requirements for such appointment; revising fees  
20      relating to obtaining the release of a vehicle or  
21      vessel with a claimed lien; deleting the definition of  
22      the term "administrative fee"; specifying that proof  
23      of mailing by a third-party service is proof that a  
24      towing-storage operator made a good faith effort to  
25      comply with specified notice requirements; preempting  
26      the regulation of claiming a lien for the recovery,  
27      removal, towing, or storage of a vehicle or vessel to  
28      the state; amending s. 715.07, F.S.; prohibiting  
29      towing companies from releasing vehicles owned by

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30 rental car companies which are towed under certain  
31 circumstances, to the person who rented the vehicle  
32 unless the rental car company appoints the person as  
33 its agent; providing requirements for such  
34 appointment; providing an effective date.

35  
36 Be It Enacted by the Legislature of the State of Florida:

37  
38 Section 1. Subsection (1), paragraph (a) of subsection (2),  
39 and subsection (3) of section 323.001, Florida Statutes, are  
40 amended to read:

41 323.001 Wrecker operator storage facilities; vehicle  
42 holds.—

43 (1) An investigating agency may place a hold on a motor  
44 vehicle stored within a wrecker operator's storage facility for  
45 a period not to exceed 5 days, excluding holidays and weekends,  
46 unless extended in writing. This subsection may not be construed  
47 to prohibit an investigating agency from having a wrecker  
48 operator tow a motor vehicle directly from the scene of the tow  
49 to the investigating agency's storage facility. If a motor  
50 vehicle is towed directly from the scene of the tow to the  
51 investigating agency's storage facility, the vehicle may not be  
52 released by the investigating agency to the owner or lienholder  
53 of the vehicle until proof of payment of the towing and storage  
54 charges incurred by the wrecker operator is presented to the  
55 investigating agency. If the investigating agency releases the  
56 vehicle to the owner or lienholder of the vehicle without  
57 obtaining proof of payment, the investigating agency must pay  
58 the wrecker operator the accrued towing and storage charges

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59 within 60 days after the vehicle is released.

60 (2) The investigating agency must notify the wrecker  
61 operator in writing within 5 days, excluding holidays and  
62 weekends, whether the hold is to be continued. If no  
63 notification follows this period of time, the wrecker operator  
64 may release the vehicle to the designated person pursuant to s.  
65 713.78.

66 (a) If the hold is to continue beyond 5 days, excluding  
67 holidays and weekends, the investigating agency may have the  
68 vehicle removed to a designated impound lot, in which event the  
69 vehicle will not be released by the investigating agency to the  
70 owner or lienholder of the vehicle until proof of payment of the  
71 towing and storage charges incurred by the wrecker operator is  
72 presented to the investigating agency. If the investigating  
73 agency releases the vehicle to the owner or lienholder of the  
74 vehicle without obtaining proof of payment, the investigating  
75 agency must pay the wrecker operator the accrued towing and  
76 storage charges within 60 days after the vehicle is released.

77 (3) If there is a judicial finding of no probable cause for  
78 having continued the immobilization or impoundment, the  
79 investigating agency ordering the hold must pay the wrecker  
80 operator the accrued charges for any towing and storage within  
81 60 days after the judicial finding.

82 Section 2. Paragraph (c) of subsection (4), subsection  
83 (10), and paragraph (a) of subsection (15) of section 713.78,  
84 Florida Statutes, are amended, paragraph (g) is added to  
85 subsection (16) of that section, and subsection (18) is added to  
86 that section, to read:

87 713.78 Liens for recovering, towing, or storing vehicles

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88 and vessels.—

89 (4)

90 (c) The notice of lien must be sent by certified mail to  
91 the registered owner, the insurance company insuring the vehicle  
92 notwithstanding s. 627.736, and all other persons claiming a  
93 lien thereon no earlier than 6 hours before and no later than  
94 ~~within~~ 7 business days, excluding Saturday and Sunday, after the  
95 date of storage of the vehicle or vessel. However, in no event  
96 shall the notice of lien be sent less than 30 days before the  
97 sale of the vehicle or vessel. The notice must state:

98 1. If the claim of lien is for a vehicle, the last 8 digits  
99 of the vehicle identification number of the vehicle subject to  
100 the lien, or, if the claim of lien is for a vessel, the hull  
101 identification number of the vessel subject to the lien, clearly  
102 printed in the delivery address box and on the outside of the  
103 envelope sent to the registered owner and all other persons  
104 claiming an interest therein or lien thereon.

105 2. The name, physical address, and telephone number of the  
106 lienor, and the entity name, as registered with the Division of  
107 Corporations, of the business where the towing and storage  
108 occurred, which must also appear on the outside of the envelope  
109 sent to the registered owner and all other persons claiming an  
110 interest in or lien on the vehicle or vessel.

111 3. The fact of possession of the vehicle or vessel.

112 4. The name of the person or entity that authorized the  
113 lienor to take possession of the vehicle or vessel.

114 5. That a lien as provided in subsection (2) is claimed.

115 6. That charges have accrued and include an itemized  
116 statement of the amount thereof.

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117           7. That the lien is subject to enforcement under law and  
118 that the owner or lienholder, if any, has the right to a hearing  
119 as set forth in subsection (5).

120           8. That any vehicle or vessel that remains unclaimed, or  
121 for which the charges for recovery, towing, or storage services  
122 remain unpaid, may be sold free of all prior liens 35 days after  
123 the vehicle or vessel is stored by the lienor if the vehicle or  
124 vessel is more than 3 years of age or 50 days after the vehicle  
125 or vessel is stored by the lienor if the vehicle or vessel is 3  
126 years of age or less.

127           9. The address at which the vehicle or vessel is physically  
128 located.

129           (10) Persons who provide services pursuant to this section  
130 shall permit vehicle or vessel owners, lienholders, insurance  
131 company representatives, or their agents, which agency is  
132 evidenced by an original writing acknowledged by the owner  
133 before a notary public or other person empowered by law to  
134 administer oaths, to inspect the towed vehicle or vessel and  
135 shall release only to the owner, lienholder, or agent the  
136 vehicle, vessel, or all personal property not affixed to the  
137 vehicle or vessel which was in the vehicle or vessel at the time  
138 the vehicle or vessel came into the custody of the person  
139 providing such services. For the purposes of this subsection, a  
140 rental car agreement does not constitute evidence that the  
141 person who rented a vehicle is an agent of the owner of the  
142 vehicle, and a towing company may not release a vehicle owned by  
143 a rental car company to the person who rented the vehicle unless  
144 the rental car company appoints the person who rented the  
145 vehicle as its agent. Such appointment must be evidenced in an

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146 original writing acknowledged by the rental car company before a  
147 notary public or other person empowered by law to administer  
148 oaths and must authorize the person to inspect and redeem the  
149 towed vehicle.

150 (15) (a) A lienor or the lienor's agent may charge a \$75  
151 notification ~~an administrative~~ fee plus the actual costs of  
152 complying with the requirements of this section to the  
153 registered owner or a person claiming a lien against the vehicle  
154 or vessel to obtain release of the vehicle or vessel from the  
155 claim of lien imposed under this section. Such notification  
156 ~~administrative~~ fee plus the actual costs of complying with the  
157 requirements of this section may not exceed \$250. ~~For purposes~~  
158 ~~of this paragraph, the term "administrative fee" means a lien~~  
159 ~~fee or any fee imposed by the lienor or the lienor's agent for~~  
160 ~~administrative costs added to the amount due for towing and~~  
161 ~~storing the vehicle or vessel.~~

162 (16) A towing-storage operator must use a third-party  
163 service approved by the Department of Highway Safety and Motor  
164 Vehicles to transmit all notices required by this section. If  
165 there is no third-party service approved by the department, the  
166 towing-storage operator may mail the notices and provide  
167 evidence of compliance with this section upon submission of an  
168 application for certificate of title or certificate of  
169 destruction.

170 (g) If a towing-storage operator uses a third-party service  
171 approved by the department to provide notice required by this  
172 section, proof of mailing by the third-party service is proof  
173 that the towing-storage operator made a good faith effort to  
174 comply with such notice requirement, regardless of whether the

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175 recipient accepts delivery or otherwise receives notice.

176 (18) The regulation of claiming a lien for the recovery,  
177 removal, towing, or storage of a vehicle or vessel, including,  
178 but not limited to, notification fees, is preempted to the  
179 state, and this section supersedes any county or municipal  
180 ordinance, resolution, rule, regulation, or otherwise to the  
181 contrary.

182 Section 3. Paragraph (a) of subsection (2) of section  
183 715.07, Florida Statutes, is amended to read:

184 715.07 Vehicles or vessels parked on private property;  
185 towing.-

186 (2) The owner or lessee of real property, or any person  
187 authorized by the owner or lessee, which person may be the  
188 designated representative of the condominium association if the  
189 real property is a condominium, may cause any vehicle or vessel  
190 parked on such property without her or his permission to be  
191 removed by a person regularly engaged in the business of towing  
192 vehicles or vessels, without liability for the costs of removal,  
193 transportation, or storage or damages caused by such removal,  
194 transportation, or storage, under any of the following  
195 circumstances:

196 (a) The towing or removal of any vehicle or vessel from  
197 private property without the consent of the registered owner or  
198 other legally authorized person in control of that vehicle or  
199 vessel is subject to substantial compliance with the following  
200 conditions and restrictions:

201 1.a. Any towed or removed vehicle or vessel must be stored  
202 at a site within a 10-mile radius of the point of removal in any  
203 county of 500,000 population or more, and within a 15-mile

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204 radius of the point of removal in any county of fewer than  
205 500,000 population. That site must be open for the purpose of  
206 redemption of vehicles on any day that the person or firm towing  
207 such vehicle or vessel is open for towing purposes, from 8:00  
208 a.m. to 6:00 p.m., and, when closed, shall have prominently  
209 posted a sign indicating a telephone number where the operator  
210 of the site can be reached at all times. Upon receipt of a  
211 telephoned request to open the site to redeem a vehicle or  
212 vessel, the operator shall return to the site within 1 hour or  
213 she or he will be in violation of this section.

214 b. If no towing business providing such service is located  
215 within the area of towing limitations set forth in sub-  
216 subparagraph a., the following limitations apply: any towed or  
217 removed vehicle or vessel must be stored at a site within a 20-  
218 mile radius of the point of removal in any county of 500,000  
219 population or more, and within a 30-mile radius of the point of  
220 removal in any county of fewer than 500,000 population.

221 2. The person or firm towing or removing the vehicle or  
222 vessel shall, within 30 minutes after completion of such towing  
223 or removal, notify the municipal police department or, in an  
224 unincorporated area, the sheriff, of such towing or removal, the  
225 storage site, the time the vehicle or vessel was towed or  
226 removed, and the make, model, color, and license plate number of  
227 the vehicle or description and registration number of the vessel  
228 and shall obtain the name of the person at that department to  
229 whom such information was reported and note that name on the  
230 trip record.

231 3. A person in the process of towing or removing a vehicle  
232 or vessel from the premises or parking lot in which the vehicle



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233 or vessel is not lawfully parked must stop when a person seeks  
234 the return of the vehicle or vessel. The vehicle or vessel must  
235 be returned upon the payment of a reasonable service fee of not  
236 more than one-half of the posted rate for the towing or removal  
237 service as provided in subparagraph 6. The vehicle or vessel may  
238 be towed or removed if, after a reasonable opportunity, the  
239 owner or legally authorized person in control of the vehicle or  
240 vessel is unable to pay the service fee. If the vehicle or  
241 vessel is redeemed, a detailed signed receipt must be given to  
242 the person redeeming the vehicle or vessel.

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

246 5. Except for property appurtenant to and obviously a part  
247 of a single-family residence, and except for instances when  
248 notice is personally given to the owner or other legally  
249 authorized person in control of the vehicle or vessel that the  
250 area in which that vehicle or vessel is parked is reserved or  
251 otherwise unavailable for unauthorized vehicles or vessels and  
252 that the vehicle or vessel is subject to being removed at the  
253 owner's or operator's expense, any property owner or lessee, or  
254 person authorized by the property owner or lessee, before towing  
255 or removing any vehicle or vessel from private property without  
256 the consent of the owner or other legally authorized person in  
257 control of that vehicle or vessel, must post a notice meeting  
258 the following requirements:

259 a. The notice must be prominently placed at each driveway  
260 access or curb cut allowing vehicular access to the property  
261 within 10 feet from the road, as defined in s. 334.03(22). If

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262 there are no curbs or access barriers, the signs must be posted  
263 not fewer than one sign for each 25 feet of lot frontage.

264 b. The notice must clearly indicate, in not fewer than 2-  
265 inch high, light-reflective letters on a contrasting background,  
266 that unauthorized vehicles will be towed away at the owner's  
267 expense. The words "tow-away zone" must be included on the sign  
268 in not fewer than 4-inch high letters.

269 c. The notice must also provide the name and current  
270 telephone number of the person or firm towing or removing the  
271 vehicles or vessels.

272 d. The sign structure containing the required notices must  
273 be permanently installed with the words "tow-away zone" not  
274 fewer than 3 feet and not more than 6 feet above ground level  
275 and must be continuously maintained on the property for not  
276 fewer than 24 hours before the towing or removal of any vehicles  
277 or vessels.

278 e. The local government may require permitting and  
279 inspection of these signs before any towing or removal of  
280 vehicles or vessels being authorized.

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

287 g. A property owner towing or removing vessels from real  
288 property must post notice, consistent with the requirements in  
289 sub-subparagraphs a.-f., which apply to vehicles, that  
290 unauthorized vehicles or vessels will be towed away at the

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291 owner's expense.

292

293 A business owner or lessee may authorize the removal of a  
294 vehicle or vessel by a towing company when the vehicle or vessel  
295 is parked in such a manner that restricts the normal operation  
296 of business; and if a vehicle or vessel parked on a public  
297 right-of-way obstructs access to a private driveway the owner,  
298 lessee, or agent may have the vehicle or vessel removed by a  
299 towing company upon signing an order that the vehicle or vessel  
300 be removed without a posted tow-away zone sign.

301 6. Any person or firm that tows or removes vehicles or  
302 vessels and proposes to require an owner, operator, or person in  
303 control or custody of a vehicle or vessel to pay the costs of  
304 towing and storage before redemption of the vehicle or vessel  
305 must file and keep on record with the local law enforcement  
306 agency a complete copy of the current rates to be charged for  
307 such services and post at the storage site an identical rate  
308 schedule and any written contracts with property owners,  
309 lessees, or persons in control of property which authorize such  
310 person or firm to remove vehicles or vessels as provided in this  
311 section.

312 7. Any person or firm towing or removing any vehicles or  
313 vessels from private property without the consent of the owner  
314 or other legally authorized person in control or custody of the  
315 vehicles or vessels shall, on any trucks, wreckers as defined in  
316 s. 713.78(1)(c), or other vehicles used in the towing or  
317 removal, have the name, address, and telephone number of the  
318 company performing such service clearly printed in contrasting  
319 colors on the driver and passenger sides of the vehicle. The

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320 name shall be in at least 3-inch permanently affixed letters,  
321 and the address and telephone number shall be in at least 1-inch  
322 permanently affixed letters.

323 8. Vehicle entry for the purpose of removing the vehicle or  
324 vessel shall be allowed with reasonable care on the part of the  
325 person or firm towing the vehicle or vessel. Such person or firm  
326 shall be liable for any damage occasioned to the vehicle or  
327 vessel if such entry is not in accordance with the standard of  
328 reasonable care.

329 9. When a vehicle or vessel has been towed or removed  
330 pursuant to this section, it must be released to its owner or  
331 person in control or custody within 1 hour after requested. Any  
332 vehicle or vessel owner or person in control or custody has the  
333 right to inspect the vehicle or vessel before accepting its  
334 return, and no release or waiver of any kind which would release  
335 the person or firm towing the vehicle or vessel from liability  
336 for damages noted by the owner or person in control or custody  
337 at the time of the redemption may be required from any vehicle  
338 or vessel owner or person in control or custody as a condition  
339 of release of the vehicle or vessel to its owner or person in  
340 control or custody. A detailed receipt showing the legal name of  
341 the company or person towing or removing the vehicle or vessel  
342 must be given to the person paying towing or storage charges at  
343 the time of payment, whether requested or not. A towing company  
344 may not release a vehicle owned by a rental car company to the  
345 person who rented the vehicle unless the rental car company  
346 appoints the person who rented the vehicle as its agent. Such  
347 appointment must be evidenced in an original writing  
348 acknowledged by the rental car company before a notary public or

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349 other person empowered by law to administer oaths and must  
350 authorize the person to inspect and redeem the towed vehicle.

351 Section 4. This act shall take effect July 1, 2022.