

By the Committee on Transportation; and Senator Diaz

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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.

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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

596-02634-22

2022990c1

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.