

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 388

INTRODUCER: Senator Garcia

SUBJECT: Motor Vehicle Parking on Private Property

DATE: January 26, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Cibula	JU	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 388 amends s. 715.075, F.S., which authorizes the owners and operators of privately-owned parking facilities to establish rules and rates in connection with their use by consumers, in order to incorporate several consumer protection measures.

Specifically, under the bill, such owners and operators must:

- Post legible rules and rates at their parking facilities.
- Mail invoices for parking charges for alleged violations within 48 hours.
- Include a method of appeal with all issued invoices.
- Allow a customer to have at least 30 days after the mailing of an invoice to pay amounts due before assessing a late fee.
- Allow a customer to be in a parking lot or park, whichever occurs first, before beginning to charge the customer.
- Incorporate a mobile payment application that allows the customer to pay for parking on his or her mobile device, and notifies the customer when he or she may be violating the rules.
- Use third-party independent adjudicators to consider appeals made by customers for alleged violations of the owners' or operators' rules.

The bill also clarifies that a county or municipality may not enact an ordinance or a regulation restricting the parking rates charged by owners and operators, including parking charges for violating the owners' or operators' rules.

The bill takes effect July 1, 2024.

II. Present Situation:

Local and State Regulation of Private Parking Facilities

Over the past 5 years, some owners and operators of privately-owned parking facilities in South Florida have been accused of engaging in unscrupulous business practices, including:

- Issuing notices for fines that look like law enforcement citations.¹
- Posting lengthy “parking contracts” with terms and conditions in fine print that customers are unlikely to read before parking.²

This has prompted local governments to take a closer look at how the facilities are operated, and to enact ordinances regulating the facilities.

For example, the City of Miami passed an emergency ordinance in 2019 banning the operators of privately-owned parking facilities in the city from issuing citations for violations of facility rules, claiming that such citations caused confusion for the recipients who sometimes thought the citations were city-issued and could lead to civil or criminal penalties.³ However, 2 years later, in apparent response to lobbying from the parking industry, the city amended the ordinance to permit the issuance of private parking citations if they are not called a “violation, citation, or ticket” and to include a notice informing the recipient that “[t]his invoice is privately issued, is not issued by a governmental entity, and is not subject to civil or criminal penalties.”⁴

Likewise, in 2021, Broward County enacted an ordinance making it “unlawful for any person, including a parking facility operator or agent, to issue a private ticket to a motor vehicle or to the owner of any such vehicle.”⁵ The county commissioners originally enacted the ordinance in response to complaints similar to those cited by City of Miami commissioners in 2019.⁶

In response to these and similar ordinances, in 2022 the Legislature enacted chapter 2022-171, Laws of Fla., which among other things created s. 715.075, F.S.⁷

¹ See Local10.com, Hatzel Vela, *Consumer protection: Professional Parking Management faces another lawsuit*, May 4, 2022, <https://www.local10.com/news/local/2022/05/04/consumer-protection-professional-parking-management-faces-another-lawsuit/> (describing a class-action lawsuit filed against a parking company with a Better Business Bureau rating of “F” and 755 complaints).

² Terence Cantarella, *Sharking Lots: Private Businesses Can Now Legally Issue Parking Tickets in Miami*, Nov. 2, 2021, MIAMI NEW TIMES, <https://www.miaminewtimes.com/news/private-businesses-can-now-issue-parking-tickets-in-miami-13245504> (referencing and discussing this ordinance).

³ City of Miami, Fla., Ord. No. 13840 (enacted May 23, 2019); s. 35-292, City of Miami, Fla. Code of Ordinances; see also Terence Cantarella, *Sharking Lots: Private Businesses Can Now Legally Issue Parking Tickets in Miami*, Nov. 2, 2021, MIAMI NEW TIMES, <https://www.miaminewtimes.com/news/private-businesses-can-now-issue-parking-tickets-in-miami-13245504> (referencing and discussing this ordinance).

⁴ City of Miami, Fla., Ord. No. 13990 (enacted Apr. 22, 2021); s. 35-292, City of Miami, Fla. Code of Ordinances; see also Cantarella, *supra* note 1 (referencing and discussing this ordinance).

⁵ Broward County, Fla., Ord. No. 2021-43 (enacted Sept. 21, 2021); s. 20-164.2, Broward County, Fla. Code of Ordinances; see also Local10.com, Hatzel Vela, *‘It’s a scam’: Broward commissioners make private parking citations unlawful*, Sept. 21, 2021, <https://www.local10.com/news/local/2021/09/21/its-a-scam-broward-commissioners-make-private-parkings-citations-unlawful/> (referencing and discussing this ordinance).

⁶ See Local10.com, *‘It’s a scam’*, *supra* note 4 (citing, among other things, the confusion created by private owners’ giving out “citations that look like they’re from law enforcement”).

⁷ Chapter 2022-171, s. 4, Laws of Fla., codifying s. 715.075, F.S.

That statute creates a state preemption, which prohibits any county or municipal government from enacting an ordinance or regulation restricting or prohibiting the right of a private property owner or operator to establish rules, rates, and fines governing parking on the privately-owned property. Under the statute, any such ordinance or regulation is a violation of the statute, and is null and void.⁸

The statute also provides that the owner or operator of a privately-owned parking facility may establish rules and rates that govern private persons parking motor vehicles on such property.⁹ These rules and rates, which may include parking charges for violating the property owner's or operator's rules, must be posted and be clearly visible to persons parking motor vehicles on such private property.¹⁰ Moreover, any invoice for parking charges issued under the statute must include the following statement in uppercase type:

THIS INVOICE IS PRIVATELY ISSUED, IS NOT ISSUED BY A
GOVERNMENTAL AUTHORITY, AND IS NOT SUBJECT TO CRIMINAL
PENALTIES.¹¹

Following enactment of the statute in 2022, Broward County repealed its ordinance due to the state preemption.¹²

III. Effect of Proposed Changes:

SB 388 amends s. 715.075, F.S., which authorizes the owners and operators of privately-owned parking facilities to establish rules and rates in connection with their use by consumers, in order to incorporate several consumer protection measures.

The bill:

- Clarifies that owners and operators must post legible rules and rates at their parking facilities.
- Requires owners and operators to:
 - Mail an invoice for parking charges within 48 hours after any alleged violation of the owners' or operators' rules.
 - Include a method of appeal with all issued invoices.
- Prohibits owners and operators from assessing a late fee for at least 30 days after the postmarked date of any mailed invoice.
- Clarifies that a county or municipality may not enact an ordinance or a regulation restricting in any manner the parking rates charged by owners and operators, including parking charges for violating the owners' or operators' rules.

⁸ Section 715.075(2), F.S.

⁹ Section 715.075(1), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² See Local10.com, *Consumer protection*, *supra* note 1 (noting that if Gov. Ron DeSantis signed the legislation, "Broward County would have to repeal the ordinance"); see also Broward County, Fla., Ord. No. 2022-33 (enacted Jun. 15, 2022) and s. 20-164.2, Broward County Code of Ordinances (repealing Ord. No. 2021-43 in response to ch. 2022-171, s. 4, Laws of Fla.).

- Provides that owners and operators may only begin charging a customer 10 minutes after he or she enters the property or parks his or her motor vehicle, whichever occurs first.
- Requires owners or operators to incorporate a mobile payment application that:
 - Allows a customer to pay for parking services on his or her mobile device.
 - Notifies the customer when he or she is leaving the property without making payment, or when his or her parking is about to expire.
- Requires owners or operators to use third-party independent adjudicators to consider appeals made by customers for alleged violations of the owners' or operators' rules.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The owners and operators of privately-owned parking facilities may incur additional costs to comply with the bill, including new signage, revised invoicing procedures, a mobile payment application, and a third-party appeals process. They may also experience a decrease in revenue associated with fewer identifiable violations of their parking rules by customers. Conversely, consumers who use privately-owned parking facilities may face fewer unscrupulous charges.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 715.075 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.