

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 Rules

BILL: CS/CS/SB 388

INTRODUCER: Rules Committee; Judiciary Committee; and Senator Garcia

SUBJECT: Motor Vehicle Parking on Private Property

DATE: February 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u>Collazo</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/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.

Under the bill, such owners and operators must place signage that is legible and clearly visible to persons entering the area used for motor vehicle parking. The signage must state that the property is not operated by a governmental entity; list the rates for parking charges for violating the rules of the property owner or operator; provide a working phone number and an e-mail address to receive inquiries and complaints; and provide notice of the grace period and appeal process provided by the bill.

Invoices for parking violations must be placed on the motor vehicle in a prominent location or be mailed within 5 business days after any violation. Owners or operators may not assess late fees until expiration of the 15-day period following the denial of any appeal filed or for at least 30 days after the invoice is placed on the vehicle or the postmarked date of any mailed invoice, whichever is later. Invoices must include a method to dispute and appeal the invoice. The dispute must be filed within 15 days after the invoice is placed on the vehicle or the postmarked date of any mailed invoice; the parking lot owner or operator then has 5 business days to render a decision on the dispute. The consumer can then appeal the decision to a neutral third-party adjudicator within 10 days after receipt.

The bill exempts the owners and operators of theme parks and entertainment complexes, as defined under state law, from most of the invoicing requirements in the bill. It also provides that owners or operators must allow a grace period of at least 15 minutes upon entrance before any parking charges may be incurred, provided the vehicle does not park during that time.

The bill does not apply to owners or operators of lodging parks, mobile home parks, or recreational vehicle parks as those terms are defined under state law, provided certain criteria in the bill are met. It also prohibits the owner or operator of a private property used for motor vehicle parking from selling, offering to sell, or transferring to another person for sale, any personal information obtained from a party using the property's parking services.

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

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).

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

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:

The bill 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.

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.

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.).

The bill:

- Provides that the owner or operator of a private property used for motor vehicle parking must place signage that is legible and clearly visible to persons entering the area used for motor vehicle parking.
- Requires the signage to:
 - State that the property is not operated by a governmental entity.
 - List the rates for parking charges for violating the rules of the property owner or operator.
 - Provide a working phone number and an e-mail address to receive inquiries and complaints.
 - Provide notice of the grace period and appeal process provided by the bill.
- Provides that the signage used may be regulated by the county or municipality in which the property is located.
- Provides that invoices for parking charges issued for violating the rules of the property owner or operator of a private property used for motor vehicle parking must be placed on the motor vehicle in a prominent location or mailed within 5 business days of the violation.
- Prohibits owners and operators from assessing a late fee until expiration of the 15-day period following the denial of any appeal filed or for a period of at least 30 days after the invoice is placed on the motor vehicle or the postmarked date of any mailed invoice, whichever is later.
- Provides that:
 - Invoices for parking charges issued under the bill must include a method to dispute and appeal the invoice by a party who believes that they have received the invoice in error.
 - Any dispute must be filed with the parking lot owner or operator within 15 days after the invoice is placed on the motor vehicle or after the postmarked date of the mailing of the invoice.
 - The parking lot owner or operator has 5 business days to render a decision on the filed dispute. The party may then, within 10 days after receipt of the owner's or operator's decision, appeal the decision.
 - The appeal must be determined by a neutral third-party adjudicator with the authority to review and approve or deny the appeal.
 - If the appeal is approved, the invoice must be dismissed. If the appeal is denied, the party must pay the original invoice within 15 days after the decision of the adjudicator.
- Provides that owners or operators must allow a grace period of at least 15 minutes upon entrance to such property before any parking charges may be incurred, provided that the motor vehicle does not park during that time.

The bill does not apply to owners or operators of lodging parks, mobile home parks, or recreational vehicle parks as those terms are defined in state law,¹³ provided that the terms of

¹³ See generally s. 513.01, F.S. A "mobile home park" means a place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more mobile homes. Section 513.01(4), F.S. A "lodging park" means a place set aside and offered by a person, for either direct or indirect remuneration of the operator of the place, in which 75 percent of the mobile homes or recreational vehicles or combination thereof are owned by the operator and offered for rent to the public and which is not licensed under ch. 509, F.S. (regulating lodging and food service establishments, and membership campgrounds). Section 513.01(2), F.S. A "recreational vehicle park" means a place set aside and offered by a person, for either direct or indirect remuneration of the owner, lessor, or operator of such place, for the parking, accommodation, or rental of five or more recreational vehicles or tents; the term also includes buildings and sites set aside for group camping and similar recreational facilities. Section 513.01(11), F.S.

tenancy and parking within such parks are established by rules and regulations of the park pursuant to state law¹⁴ or within a rental agreement between the owner or operator of the park and the operator of the motor vehicle.

The bill prohibits the owner or operator of a private property used for motor vehicle parking from selling, offering to sell, or transferring to another person for sale, any personal information obtained from a party using the property's parking services.

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, 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.

¹⁴ See s. 513.117, F.S. (regarding park rules and regulations).

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

CS/CS by Rules on February 21, 2024:

The committee substitute is substantially the same as the original bill, except it:

- Requires posted signage to include a working phone number and an e-mail address to receive inquiries and complaints.
- Shortens the timeframe to file disputes with owners and operators from 30 to 15 days and establishes other specific timeframes for resolving disputes about alleged rules violations.
- Exempts owners and operators of theme parks and entertainment complexes, as defined under state law, from most of the invoicing requirements in the bill.
- Expands the grace period for customers from 10 to 15 minutes after entry.
- Clarifies that owners and operators may use the personal information they collect from their customers.

CS by Judiciary on January 29, 2024:

The committee substitute is substantially the same as the original bill, except it:

- Requires owners or operators of private property used for parking to place signage where it is clearly visible to people entering the parking lot.
- Requires the signage to state that the property is not operated by a governmental entity, provide parking rates and charges for violating parking rules, and provide notice of the grace period and appeal process provided by the bill.
- Provides that the signage may be regulated by the county or municipality in which the property is located.
- Requires owners or operators to place invoices on cars in a prominent location or mail them within 5 days after a violation, instead of within 48 hours as provided in the original bill.

- Provides that no late fees may be assessed until the denial of the appeal or for at least 30 days after the invoice is placed on the car or the postmarked date of mailing, whichever is later.
- Requires invoices to include a method of appeal, and all appeals must be filed within 30 days after the invoice is placed on the car or the postmarked date of mailing.
- Requires the appeal process to use a neutral third-party adjudicator with the authority to review and approve or deny the appeal.
- Provides that the 10-minute grace period in the original bill only applies if the car does not park during that time.
- Provides that the bill does not apply to owners or operators of mobile home parks, lodging parks, and RV parks, so long as the terms of tenancy and parking are established in the rules and regulations of those parks or within a separate rental agreement.
- Prohibits owners or operators of private parking lots from using, selling, or offering to sell or transfer any personal information obtained from their customers.
- Eliminates the need to develop mobile payment applications to notify customers that they are leaving the parking lot without making payment or that their parking is about to expire.

B. Amendments:

None.