

CHAPTER 2020-174

Committee Substitute for Committee Substitute for House Bill No. 133

An act relating to towing and immobilizing vehicles and vessels; amending ss. 125.0103 and 166.043, F.S.; authorizing local governments to enact rates to tow or immobilize vessels on private property and to remove and store vessels under specified circumstances; creating ss. 125.01047 and 166.04465, F.S.; prohibiting counties or municipalities from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; defining the term “towing business”; providing exceptions; amending s. 323.002, F.S.; prohibiting counties or municipalities from adopting or maintaining in effect certain ordinances or rules that impose charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control or the lienholder of a vehicle or vessel under certain conditions; providing applicability; amending s. 713.78, F.S.; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; revising the timeframe within which the notice of sale must be sent to certain entities; amending s. 715.07, F.S.; revising a requirement regarding notices and signs concerning the towing or removal of vehicles or vessels; providing an effective date.

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

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

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

(1)

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

(c) Counties must establish maximum rates which may be charged on the towing of vehicles or vessels from or immobilization of vehicles or vessels on private property, removal and storage of wrecked or disabled vehicles or vessels from an accident scene or for the removal and storage of vehicles or

vessels, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle or vessel. However, if a municipality chooses to enact an ordinance establishing the maximum rates fees for the towing or immobilization of vehicles or vessels as described in paragraph (b), the county's ordinance shall not apply within such municipality.

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

125.01047 Rules and ordinances relating to towing services.—

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

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

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

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

(3)(a) This section does not apply to a towing or immobilization licensing, regulatory, or enforcement program of a charter county in which at least 90 percent of the population resides in incorporated municipalities, or to a charter county with at least 38 incorporated municipalities within its territorial boundaries as of January 1, 2020. This section does not affect a charter county's authority to:

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

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

3. Set maximum rates for the towing or immobilization of vehicles or vessels on private property, including rates based on different classes of

towing vehicles, research fees, administrative fees, storage fees, and labor fees; rates for towing services performed or directed by governmental entities; road service rates; winch recovery rates; voluntary expediting fees for vehicle or vessel ownership verification; and to establish conditions in connection with the applicability or payment of maximum rates set for towing or immobilization of vehicles or vessels.

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

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

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

(b) A charter county may impose and collect an administrative fee or charge as provided in paragraph (2)(b); however, it may not impose that fee or charge upon a towing business or an authorized wrecker operator. If such charter county imposes such administrative fee or charge, such fee or charge must be imposed on the registered owner or other legally authorized person in control of a vehicle or vessel. The fee or charge may not exceed 25 percent of the maximum towing rate to cover the cost of enforcement, including parking enforcement, by the charter county when the vehicle or vessel is towed from public property. The charter county may authorize an authorized wrecker operator or towing business to impose and collect the administrative fee or charge on behalf of the charter county, and the authorized wrecker operator or towing business shall remit such fee or charge to the charter county only after it is collected.

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

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

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

(1)

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

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

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

166.04465 Rules and ordinances relating to towing services.—

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

(2) The prohibition set forth in subsection (1) does not affect a municipality's authority to:

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

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

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

323.002 County and municipal wrecker operator systems; penalties for operation outside of system.—

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

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

(5) Subsection (4) does not apply to the towing or immobilization licensing, regulatory, or enforcement program of a charter county described in s. 125.01047(3) or (4). Such charter county may impose a charge, cost, expense, fine, fee, or penalty on an authorized wrecker operator in connection with a violation of the towing or immobilization program requirements as set forth by ordinance, resolution, or regulation.

Section 6. Subsections (2) and (6) of section 713.78, Florida Statutes, are amended to read:

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

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

(a) The owner thereof;

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

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

(d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that ~~a no~~ storage fee may not ~~shall~~ be charged if the vehicle or vessel is stored for fewer ~~less~~ than 6 hours.

(6) A vehicle or vessel that is stored pursuant to subsection (2) and remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less. The sale shall be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice of the sale must be sent by certified mail. The notice must have clearly identified and printed, if the claim of lien is for a motor vehicle, the last 8 digits of the vehicle identification number of the motor vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon. The notice must be sent to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least ~~30~~ 15 days before the sale of the vehicle or vessel. The notice must state the name, physical address, and telephone number of the lienor, and the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, all of which must also appear in the return address section on the outside of the envelope containing the notice of sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days before the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk shall hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and

disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney fees, and costs in favor of the prevailing party.

Section 7. Subsection (2) of section 715.07, Florida Statutes, is amended to read:

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

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

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

1.a. Any towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in any county of 500,000 population or more, and within a 15-mile radius of the point of removal in any county of fewer less than 500,000 population. That site must be open for the purpose of redemption of vehicles on any day that the person or firm towing such vehicle or vessel is open for towing purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator shall return to the site within 1 hour or she or he will be in violation of this section.

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

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

the vehicle or description and registration number of the vessel and shall obtain the name of the person at that department to whom such information was reported and note that name on the trip record.

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

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

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

a. The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 10 ~~5~~ feet from the road, ~~as defined in s. 334.03(22) public right-of-way line~~. If there are no curbs or access barriers, the signs must be posted not fewer less than one sign for each 25 feet of lot frontage.

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

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

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

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

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

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

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

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

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

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

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

(b) These requirements are minimum standards and do not preclude enactment of additional regulations by any municipality or county including the right to regulate rates when vehicles or vessels are towed from private property.

Section 8. This act shall take effect October 1, 2020.

Approved by the Governor September 18, 2020.

Filed in Office Secretary of State September 18, 2020.