

1 A bill to be entitled
2 An act relating to towing and immobilizing vehicles
3 and vessels; amending ss. 125.0103 and 166.043, F.S.;
4 authorizing local governments to enact rates to tow or
5 immobilize vessels on private property and to remove
6 and store vessels under specified circumstances;
7 creating ss. 125.01047 and 166.04465, F.S.;
8 prohibiting counties or municipalities from enacting
9 certain ordinances or rules that impose fees or
10 charges on authorized wrecker operators or towing
11 businesses; defining the term "towing business";
12 providing exceptions; amending s. 323.002, F.S.;
13 prohibiting counties or municipalities from adopting
14 or maintaining in effect certain ordinances or rules
15 that impose charges, costs, expenses, fines, fees, or
16 penalties on registered owners, other legally
17 authorized persons in control, or lienholders of
18 vehicles or vessels under certain conditions;
19 providing an exception; prohibiting counties or
20 municipalities from enacting certain ordinances or
21 rules that require authorized wrecker operators to
22 accept a specified form of payment; providing
23 exceptions; providing application; amending s. 713.78,
24 F.S.; authorizing certain persons to place liens on
25 vehicles or vessels to recover specified fees or

26 | charges; amending s. 715.07, F.S.; removing a
 27 | requirement regarding notices and signs concerning the
 28 | towing or removal of vehicles or vessels; prohibiting
 29 | counties or municipalities from enacting certain
 30 | ordinances or rules that require towing businesses to
 31 | accept a specified form of payment; prohibiting
 32 | counties or municipalities from authorizing attorney
 33 | fees in connection with certain towing activities;
 34 | providing exceptions; providing application;
 35 | preempting to the state the regulation of attorney
 36 | fees in connection with certain towing activities;
 37 | removing a requirement regarding liability for
 38 | attorney fees; providing an effective date.

39 |
 40 | Be It Enacted by the Legislature of the State of Florida:

41 |
 42 | Section 1. Paragraphs (b) and (c) of subsection (1) of
 43 | section 125.0103, Florida Statutes, are amended to read:

44 | 125.0103 Ordinances and rules imposing price controls;
 45 | findings required; procedures.—

46 | (1)

47 | (b) ~~The provisions of~~ This section does ~~shall~~ not prevent
 48 | the enactment by local governments of public service rates
 49 | otherwise authorized by law, including water, sewer, solid
 50 | waste, public transportation, taxicab, or port rates, rates for

51 towing of vehicles or vessels from or immobilization of vehicles
52 or vessels on private property, or rates for removal and storage
53 of wrecked or disabled vehicles or vessels from an accident
54 scene or the removal and storage of vehicles or vessels in the
55 event the owner or operator is incapacitated, unavailable,
56 leaves the procurement of wrecker service to the law enforcement
57 officer at the scene, or otherwise does not consent to the
58 removal of the vehicle or vessel.

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

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

75 125.01047 Rules and ordinances relating to towing

76 services.-

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

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

85 (a) Levy a reasonable business tax under s. 205.0315, s.
 86 205.033, or s. 205.0535.

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

97 (3) (a) This section does not apply to a towing or
 98 immobilization licensing, regulatory, or enforcement program of
 99 a charter county in which at least 90 percent of the population
 100 resides in incorporated municipalities, or to a charter county

101 with at least 38 incorporated municipalities within its
102 territorial boundaries as of January 1, 2019. This section does
103 not affect a charter county's authorities to:

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

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

112 3. Set maximum rates for the towing or immobilization of
113 vehicles or vessels on private property, including rates based
114 on different classes of towing vehicles, research fees,
115 administrative fees, storage fees, and labor fees; rates for
116 towing services performed or directed by governmental entities;
117 road service rates; winch recovery rates; voluntary expediting
118 fees for vehicle or vessel ownership verification; and to
119 establish conditions in connection with the applicability or
120 payment of maximum rates set for towing or immobilization of
121 vehicles or vessels.

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

125 (b) A charter county may impose and collect an

126 administrative fee or charge as provided in paragraph (2) (b) but
127 may not impose such fee or charge on a towing business or an
128 authorized wrecker operator. If the charter county imposes such
129 administrative fee or charge, the charter county may authorize a
130 towing business or authorized wrecker operator to collect such
131 fee or charge and to remit the fee or charge only after the
132 towing business or authorized wrecker operator has collected the
133 fee or charge.

134 (4) (a) Subsection (1) does not apply to a charter county
135 that had a towing licensing, regulatory, or enforcement program
136 in effect on January 1, 2019. However, such charter county may
137 not impose any new business tax, fee, or charge that was not in
138 effect as of January 1, 2019, on a towing business or an
139 authorized wrecker operator.

140 (b) A charter county as defined may impose and collect an
141 administrative fee or charge as provided in paragraph (2) (b);
142 however, it may not impose that fee or charge upon a towing
143 business or an authorized wrecker operator. If such charter
144 county imposes such administrative fee or charge, such fee or
145 charge must be imposed on the registered owner or other legally
146 authorized person in control of a vehicle or vessel, or the
147 lienholder of a vehicle or vessel. The fee or charge may not
148 exceed 25 percent of the maximum towing rate to cover the cost
149 of enforcement, including parking enforcement, by the charter
150 county when the vehicle or vessel is towed from public property.

151 The charter county may authorize an authorized wrecker operator
 152 or towing business to impose and collect the administrative fee
 153 or charge on behalf of the charter county, and the authorized
 154 wrecker operator or towing business shall remit such fee or
 155 charge to the charter county only after it is collected.

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

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

160 166.043 Ordinances and rules imposing price controls;
 161 findings required; procedures.—

162 (1)

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

175 (c) Counties must establish maximum rates which may be

176 | charged on the towing of vehicles or vessels from or
177 | immobilization of vehicles or vessels on private property,
178 | removal and storage of wrecked or disabled vehicles or vessels
179 | from an accident scene or for the removal and storage of
180 | vehicles or vessels, in the event the owner or operator is
181 | incapacitated, unavailable, leaves the procurement of wrecker
182 | service to the law enforcement officer at the scene, or
183 | otherwise does not consent to the removal of the vehicle or
184 | vessel. However, if a municipality chooses to enact an ordinance
185 | establishing the maximum rates ~~fees~~ for the towing or
186 | immobilization of vehicles or vessels as described in paragraph
187 | (b), the county's ordinance established under s. 125.0103 shall
188 | not apply within such municipality.

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

191 | 166.04465 Rules and ordinances relating to towing
192 | services.-

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

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

201 (a) Levy a reasonable business tax under s. 205.0315, s.
 202 205.043, or s. 205.0535.

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

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

217 323.002 County and municipal wrecker operator systems;
 218 penalties for operation outside of system.—

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

226 chapter.

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

240 (c) A county or municipality may not enact an ordinance or
241 rule that requires an authorized wrecker operator to accept a
242 credit card as a form of payment. However, if an authorized
243 wrecker operator does not accept a credit card as a form of
244 payment, the wrecker operator must maintain an operable
245 automatic teller machine for the use of the public at its place
246 of business. This paragraph does not apply to a county or
247 municipality that adopted an ordinance or rule before January 1,
248 2019, requiring an authorized wrecker operator to accept a
249 credit card as a form of payment.

250 (5) Subsection (4) does not apply to the towing or

251 immobilization licensing, regulatory, or enforcement program of
 252 a charter county described in s. 125.01047(3) or (4). Such
 253 charter county may impose a charge, cost, expense, fine, fee, or
 254 penalty on an authorized wrecker operator in connection with a
 255 violation of the towing or immobilization program requirements
 256 as set forth by ordinance, resolution, or regulation.

257 Section 6. Subsection (2) of section 713.78, Florida
 258 Statutes, is amended to read:

259 713.78 Liens for recovering, towing, or storing vehicles
 260 and vessels.—

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

265 (a) The owner thereof;

266 (b) The owner or lessor, or a person authorized by the
 267 owner or lessor, of property on which such vehicle or vessel is
 268 wrongfully parked, and the removal is done in compliance with s.
 269 715.07;

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

274 (d) Any law enforcement agency,
 275

276 she or he shall have a lien on the vehicle or vessel for a
277 reasonable towing fee, for a reasonable administrative fee or
278 charge imposed by a county or municipality, and for a reasonable
279 storage fee; except that no storage fee shall be charged if the
280 vehicle or vessel is stored for less than 6 hours.

281 Section 7. Subsections (2) and (4) of section 715.07,
282 Florida Statutes, are amended to read:

283 715.07 Vehicles or vessels parked on private property;
284 towing.—

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

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

300 1.a. Any towed or removed vehicle or vessel must be stored

301 at a site within a 10-mile radius of the point of removal in any
302 county of 500,000 population or more, and within a 15-mile
303 radius of the point of removal in any county of less than
304 500,000 population. That site must be open for the purpose of
305 redemption of vehicles on any day that the person or firm towing
306 such vehicle or vessel is open for towing purposes, from 8:00
307 a.m. to 6:00 p.m., and, when closed, shall have prominently
308 posted a sign indicating a telephone number where the operator
309 of the site can be reached at all times. Upon receipt of a
310 telephoned request to open the site to redeem a vehicle or
311 vessel, the operator shall return to the site within 1 hour or
312 she or he will be in violation of this section.

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

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

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

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

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

345 | 5. Except for property appurtenant to and obviously a part
346 | of a single-family residence, and except for instances when
347 | notice is personally given to the owner or other legally
348 | authorized person in control of the vehicle or vessel that the
349 | area in which that vehicle or vessel is parked is reserved or
350 | otherwise unavailable for unauthorized vehicles or vessels and

351 that the vehicle or vessel is subject to being removed at the
352 owner's or operator's expense, any property owner or lessee, or
353 person authorized by the property owner or lessee, prior to
354 towing or removing any vehicle or vessel from private property
355 without the consent of the owner or other legally authorized
356 person in control of that vehicle or vessel, must post a notice
357 meeting the following requirements:

358 a. The notice must be prominently placed at each driveway
359 access or curb cut allowing vehicular access to the property,
360 ~~within 5 feet from the public right-of-way line.~~ If there are no
361 curbs or access barriers, the signs must be posted not less than
362 one sign for each 25 feet of lot frontage.

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

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

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

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

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

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

390
 391 A business owner or lessee may authorize the removal of a
 392 vehicle or vessel by a towing company when the vehicle or vessel
 393 is parked in such a manner that restricts the normal operation
 394 of business; and if a vehicle or vessel parked on a public
 395 right-of-way obstructs access to a private driveway the owner,
 396 lessee, or agent may have the vehicle or vessel removed by a
 397 towing company upon signing an order that the vehicle or vessel
 398 be removed without a posted tow-away zone sign.

399 6. Any person or firm that tows or removes vehicles or
 400 vessels and proposes to require an owner, operator, or person in

401 control or custody of a vehicle or vessel to pay the costs of
402 towing and storage prior to redemption of the vehicle or vessel
403 must file and keep on record with the local law enforcement
404 agency a complete copy of the current rates to be charged for
405 such services and post at the storage site an identical rate
406 schedule and any written contracts with property owners,
407 lessees, or persons in control of property which authorize such
408 person or firm to remove vehicles or vessels as provided in this
409 section.

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

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

426 reasonable care.

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

444 (b) These requirements are minimum standards and do not
445 preclude enactment of additional regulations by any municipality
446 or county including the right to regulate rates when vehicles or
447 vessels are towed from private property, except that a county or
448 municipality may not enact an ordinance or rule that requires a
449 towing business to accept a credit card as a form of payment. If
450 a towing business does not accept a credit card as a form of

451 payment, the towing business must maintain an operable automatic
452 teller machine for use by the public at its place of business.
453 This paragraph does not apply to a county or municipality that
454 adopted an ordinance or rule before January 1, 2019, requiring a
455 towing business to accept a credit card as a form of payment.
456 Additionally, a municipality or county may not authorize
457 attorney fees in connection with the towing of vehicles or
458 vessels from private property. The regulation of attorney fees
459 in connection with the towing of vehicles or vessels from
460 private property is expressly preempted to the state and any
461 municipal or county ordinance on the subject is void.

462 (4) When a person improperly causes a vehicle or vessel to
463 be removed, such person shall be liable to the owner or lessee
464 of the vehicle or vessel for the cost of removal,
465 transportation, and storage; any damages resulting from the
466 removal, transportation, or storage of the vehicle or vessel;
467 ~~attorney's fees;~~ and court costs.

468 Section 8. This act shall take effect July 1, 2019.