

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 381 Towing of Vehicles & Vessels

**SPONSOR(S):** Wood

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 786

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	12 Y, 0 N	Whittaker	Smith
2) Civil Justice Subcommittee		Robinson	Bond
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

Current law provides that the owner or lessee of real property, or their agent, may have any unauthorized vehicle or vessel parked on such property removed by towing without incurring any liability for the cost, storage, damage, or transportation associated with such towing if the owner or lessee has complied with strict posted notice requirements. These requirements include the location of the notice, the graphics of the notice, and the length of the time the notice is posted. An exception to the posted notice requirements exist if the property is a single-family residence, the owner, lessee, or agent provides personal notice to the owner or operator of the vehicle or vessel that it is subject to towing, or the vehicle or vessel restricts the normal operation of a business or obstructs a private driveway.

The bill provides an additional exception for towing a vehicle or vessel without the posted notice requirements. The owner or lessee of real property may have a vehicle or vessel that has been parked or stored on private property for a period exceeding 5 days removed by a towing company upon signing an order that the vehicle or vessel be removed. The 5 day period does not begin to run until a notice that the vehicle or vessel will be removed from the property is attached to the vehicle or vessel and law enforcement verifies the sufficiency of the notice.

The bill further specifies that an agent of an owner or lessee of real property who may cause the removal of unauthorized vehicles by towing includes the designated representative of the cooperative association if the real property is a cooperative, or the designated representative of the homeowners' association if the real property is owned by a homeowners' association.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill provides that the act shall take effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

##### *Posting Requirements for Towing*

Section 715.07, F.S. provides that the owner or lessee of real property, or their agent, may have any unauthorized vehicle or vessel parked on such property removed by towing without incurring any liability for the cost, storage, damage, or transportation associated with such towing if the owner or lessee has complied with strict posted notice requirements.

Prior to causing the removal of an unauthorized vehicle or vessel from real property without the consent of the owner, the owner or lessee of the property must post a notice meeting the following requirements<sup>1</sup>:

- The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.
- The notice must clearly indicate, in not 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 less than 4-inch high letters.
- The notice must provide the name and current telephone number of the person or firm towing or removing the vehicles or vessels.
- The sign structure containing the required notice must be permanently installed with the words "tow-away zone" not less than 3 feet and not more than 6 feet above ground level and must be continuously maintained on the property for at least 24 hours prior to the towing or removal of any vehicles or vessels.

A business with 20 or fewer parking spaces satisfies the notice requirements 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 less than 4-inch high, light-reflective letters on a contrasting background.<sup>2</sup>

##### *Exceptions to Posting Requirements*

Lawful towing or removal of any vehicle or vessel without posted notice or the consent of the registered owner may be effected when:<sup>3</sup>

- The property belongs to and is obviously a part of a single-family residence;
- 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;
- The vehicle or vessel is parked in such a manner that restricts the normal operation of a business; or
- If a vehicle or vessel parked on a public right-of way obstructs access to a private driveway.

---

<sup>1</sup> Section 715.07(2)(a)5., F.S.

<sup>2</sup> Section 715.07(2)(a)5.f., F.S.

<sup>3</sup> Section 715.07(2)(a)5., F.S.

## Effect of Proposed Changes

The bill provides an additional exception for towing a vehicle or vessel without the posted notice requirements. It provides that the owner, lessee, or agent of the owner or lessee of real property, may have a vehicle or vessel that has been parked without permission on private property for a period exceeding 5 days removed by a towing company. The owner must provide the towing company with a signed order that the vehicle or vessel be removed without a posted tow-away zone sign. The 5-day period does not begin to run until both of the following conditions are met:

- A notice that the vehicle or vessel will be removed from the property is attached to the vehicle or vessel with adhesive material. The notice must:
  - Be at least 8 1/2 by 11 inches in size and weatherproofed to withstand normal exposure to the elements;
  - Be attached to the vehicle's windshield or, in the case of a vessel, to the registration number on the left side;
  - Provide the name and phone number of the proposed towing company;
  - Clearly indicate the date posted; and clearly indicate in bold letters that the vehicle or vessel will be towed or removed 5 days from the date local law enforcement verifies and documents that the notice complies with all legal requirements.
- The property owner or lessee, or the agent thereof, notifies the local law enforcement agency of the notice being posted and the local law enforcement agency verifies and documents the sufficiency of the notice in a police report that must be provided to the property owner and the towing company.

The bill further specifies that an agent of an owner or lessee of real property who may cause the removal of unauthorized vehicles or vessels by towing pursuant to s. 715.07, F.S. includes the designated representative of the cooperative association if the real property is a cooperative, or the designated representative of the homeowners' association if the real property is owned by a homeowners' association.

## Other Changes

A person or firm that tows or removes a vehicle or vessel from real property at the direction of the property owner or lessee, or agent of the owner or lessee, pursuant to s. 715.07, F.S. must notify local law enforcement within 30 minutes after completion of the tow or removal and provide information regarding the location of the tow or removal, vehicle or vessel identifiers, and the vehicle or vessel storage location.<sup>4</sup> Current law requires the person or firm to obtain the name of the person at the law enforcement agency to whom such information was reported and record the name on the trip record.<sup>5</sup>

The bill provides that as an alternative to recording the name of such person on the trip record, the person or firm may:

- Record the person's badge number on the trip record;
- Record any case number provided by such person on the trip record; or
- If the notification was made by an electronic notification process approved by the police department or sheriff's office, attach the electronic receipt received from the department or office to the trip record.

The bill also makes technical and grammatical changes to the statute.

## B. SECTION DIRECTORY:

---

<sup>4</sup> Section 715.07(2)(a)2., F.S.

<sup>5</sup> *Id.*

Section 1 amends s. 715.07, F.S., relating to vehicles or vessels parked on private property; towing.

Section 2 provides that the act shall take effect upon becoming a law.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill does not appear to have any impact on state revenues.

#### **2. Expenditures:**

The bill does not appear to have any impact on state expenditures.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The bill does not appear to have any impact on local government revenues.

#### **2. Expenditures:**

The bill does not appear to have any impact on local government expenditures.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill does not appear to have any direct economic impact on the private sector.

### **D. FISCAL COMMENTS:**

The added exemption may provide private property owners with greater ease in having abandoned vehicles towed from their properties. Owners and lessees of real property could avoid the cost of posting tow-away zone signage when a vehicle or vessel has been parked or stored on the property for more than 5 days.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

#### **1. Applicability of Municipality/County Mandates Provision:**

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

#### **2. Other:**

None.

### **B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

Line 190 of the bill only specifies that a copy of the police report documenting the sufficiency of the notice posted on an unauthorized vessel or vehicle be provided to the property owner. However, current law and the bill also allow a lessee, or an agent of an owner or lessee, to cause the removal of an unauthorized vehicle or vessel from private property and to post such a notice.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

n/a