

SENATE BILL NO. 112

BY SENATOR HENRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 32:1720(A) and (B)(4) and (8), 1728(A) and (D)(1) through (3), 1728.2(D) and (G), 1728.3(A), (B), and (C), the introductory paragraph of (D)(1), (D)(2), the introductory paragraph of (F)(1), (F)(1)(f) and (g), and (G), and 1734 (A), (B), and (D), and to enact R.S. 32:1734(F), relative to the Louisiana Towing and Storage Act; to require certain notices be sent by certified mail, electronic return receipt; to require the retention of certain records by the owner of a towing, storage, or parking facility; to provide certain terms and procedures; to provide for fees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1720(A) and (B)(4) and (8), 1728(A) and (D)(1) through (3), 1728.2(D) and (G), 1728.3(A), (B), and (C), the introductory paragraph of (D)(1), (D)(2), the introductory paragraph of (F)(1), (F)(1)(f) and (g), and (G) and 1734(A), (B), and (D) are hereby amended and reenacted and R.S. 32:1734(F) is hereby enacted to read as follows:

§1720. Owner notification of a stored vehicle; right to request administrative hearing

A. Within ten business days from the date the department or its authorized agent sends the owner information of the stored vehicle, which includes information regarding the holder of any lien on the vehicle, to the owner of the towing, storage,

1 or parking facility, to the owner of the towing, storage, or parking facility shall send  
2 notice ~~by~~ **with a** certificate of mailing to the owner of the vehicle at the owner's last  
3 known address and to the holder of any lien on the vehicle. If the department or its  
4 authorized agent sends the owner information electronically, the owner of the  
5 towing, storage, or parking facility shall send notice within five business days.

6 B. The notice required in Subsection A of this Section shall include the  
7 following information:

8 \* \* \*

9 (4) The name of the person or agency ~~which~~ **that** had the vehicle towed or  
10 placed in storage.

11 \* \* \*

12 (8) Notice of the right of the owner and holder of any lien on the vehicle to  
13 an administrative hearing as required in R.S. 32:1727. The notice shall contain the  
14 deadline for requesting an administrative hearing and shall ~~also~~ contain information  
15 regarding the date by which the request for an administrative hearing ~~must~~ **shall** be  
16 mailed by certified ~~letter~~ **mail**, return receipt requested.

17 \* \* \*

18 §1728. Disposal of a stored motor vehicle

19 A.**(1)** After forty-five days from the original date of storage or adjusted  
20 storage date, if applicable, the storage or parking facility owner shall send a final  
21 notice **by certified mail, electronic return receipt**, which shall comply with the  
22 notice requirements of ~~R.S. 32:1720(B)(1) through (7)~~ **R.S. 32:1720** to the stored  
23 vehicle's owner **and to the holder of any lien on the stored vehicle. This notice**  
24 **shall apply to any vehicle that is five years old or newer and shall apply only to**  
25 **a vehicle that was a non-consensual tow or non-consensual storage as defined**  
26 **in R.S. 32:1713. Any notice relating to a consensual tow or consensual storage**  
27 **shall require a certificate of mailing as evidence the notice was sent.**

28 **(2) After forty-five days from the original date of storage or adjusted**  
29 **storage date, if applicable, the storage or parking facility owner shall send a**  
30 **final notice by mail with a certificate of mailing which shall comply with the**

1 notice requirements of R.S. 32:1720 to the stored vehicle's owner and to the  
2 holder of any lien on the stored vehicle. This notice shall apply to any vehicle  
3 that is over five years old.

4 (3) The final notice shall inform the stored vehicle's owner that unless he  
5 pays all outstanding charges and claims the vehicle or makes arrangements with the  
6 storage or parking facility owner for the continued storage of the vehicle, the storage  
7 or parking facility owner may apply for a permit to sell or permit to dismantle from  
8 the department after fifteen days from the date the final notice is mailed to the stored  
9 vehicle's owner. The notice shall also inform the stored vehicle's owner of the  
10 provisions in R.S. 32:1730 and that they may be turned over to collections for failure  
11 to pay outstanding charges and claims. The towing, storage, or parking facility shall  
12 not charge for storage past the ninetieth day from the original date of storage, or the  
13 adjusted storage date, if applicable. The storage or parking facility owner may  
14 continue to charge storage up to the ninetieth day, or until the permit to sell has been  
15 issued, if the application for the permit to sell was submitted prior to the ninetieth  
16 day from the original date of storage or the adjusted storage date, if applicable.

17 \* \* \*

18 D. Prior to issuance of the permit to sell or permit to dismantle, the storage  
19 or parking facility owner shall provide the department with the following evidence:

20 (1) A copy of the original report of the stored vehicle including owner **and**  
21 **lienholder** information furnished by the department or its authorized agent.

22 (2) A copy of the first and final notices sent to the owner of the stored vehicle  
23 **and to the holder of any lien on the stored vehicle.**

24 (3) The original certificate of mailing for ~~both~~ the first **notice** and **the**  
25 **certified mail, electronic return receipt, if applicable, for the final notices notice**  
26 sent to the stored vehicle's owner **and to the holder of any lien on the stored**  
27 **vehicle** and the returned unopened envelope, if applicable, for the first ~~or~~ **and** final  
28 notices with postal markings indicating the post office's attempt to deliver ~~such~~ **the**  
29 **notice notices**. If these items cannot be furnished, other documented proof that the  
30 storage or parking facility owner sent notice to the stored vehicle's owner shall be

1 submitted to the department.

2 \* \* \*

3 §1728.2. Procedure for disposal of junk vehicles

4 \* \* \*

5 D. Each owner-operator who possesses a vehicle which meets the criteria set  
6 forth in Paragraph (C)(2) of this Section may make application for crushing of the  
7 vehicle at the expiration of thirty days or make application for dismantling of the  
8 vehicle at the expiration of thirty days from mailing of the notice. The application  
9 shall be made in a format authorized by the department upon satisfaction and  
10 submission of each of the following requirements:

11 (1) The owner-operator has complied with the provisions of R.S. 32:1719 and  
12 1720.

13 ~~(2) The owner-operator has the vehicle physically inspected by a Peace  
14 Officer Standards and Training (P.O.S.T.) certified law enforcement officer, who has  
15 been trained and certified by the Department of Public Safety and Corrections, office  
16 of state police, to inspect vehicles to be crushed or dismantled.~~

17 ~~(4)~~**(2)** The owner-operator obtains an appraisal showing the vehicle has a fair  
18 market value of five hundred dollars or less. The appraisal shall be based on the  
19 rough trade-in value of the vehicle as determined by the most recent National  
20 Automobile Dealers Association Guide. An original appraisal prepared by an  
21 independent appraiser, which shall contain the year, make, model, and vehicle  
22 identification number, shall be acceptable for vehicles not valued by the National  
23 Automobile Dealers Association Guide.

24 ~~(5)~~**(3)** The owner-operator shall take photographs of all four sides of the  
25 vehicle prior to making application for permission to crush or dismantle.

26 \* \* \*

27 G.**(1)** The owner-operator shall maintain copies of the following records on  
28 all vehicles crushed or dismantled under pursuant to the provisions of this Section:

29 ~~(1) Completed physical inspection form as prepared by a Peace Officer  
30 Standards and Training (P.O.S.T.) certified law enforcement officer who has been~~

1 ~~trained and certified by the Department of Public Safety and Corrections, office of~~  
 2 ~~state police, to inspect vehicles to be crushed or dismantled.~~

3 ~~(2)~~**(a)** One appraisal showing the vehicle has a fair market value of five  
 4 hundred dollars or less. The appraisal shall be based on the rough trade-in value of  
 5 the vehicle as determined by the most recent National Automobile Dealers  
 6 Association Guide. An original appraisal prepared by an independent appraiser,  
 7 which shall contain the year, make, model, and vehicle identification number, shall  
 8 be acceptable for vehicles not valued by the National Automobile Dealers  
 9 Association Guide.

10 ~~(3)~~**(b)** A photograph of all four sides of the vehicle prior to crushing or  
 11 dismantling.

12 ~~(4)~~**(c)** A copy of the original report of a stored vehicle as required in R.S.  
 13 32:1719.

14 ~~(5)~~**(d)** A copy of the notice required by R.S. 32:1720 which was sent to the  
 15 registered owner of the vehicle, the holder of any lien on the vehicle, and any other  
 16 person with an ownership interest in the vehicle.

17 ~~(6)~~**(e)** The original certificate of mailing for the notice sent to the stored  
 18 vehicle's owner and the returned unopened envelope, if applicable, with the postal  
 19 marking indicating attempt to deliver the **letter notice** required by ~~this Section~~ **R.S.**  
 20 **32:1720**. If these items could not be furnished, other documented proof that the  
 21 storage or parking facility owner sent notice to the stored vehicle owner shall be  
 22 retained by the owner-operator.

23 **(2)** These records shall be open to inspection by any peace officer any time  
 24 the business is open. All records required by this Section shall be maintained for a  
 25 period of at least three years.

26 \* \* \*

27 §1728.3. Procedure for disposal of certain vehicles deemed abandoned by  
 28 municipality or parish

29 A. This Section provides a procedure for disposing of certain vehicles. The  
 30 procedure provided for in this Section shall be an alternative to the procedures set

1           forth in R.S. 32:1728, 1728.2, and 1728.4. When a vehicle is eligible for disposal  
2           ~~under~~ **pursuant to** the provisions of this Section, the provisions of R.S. 32:1728,  
3           1728.2, and 1728.4 shall not apply to the disposal of that vehicle.

4                   B. As used in this Section, "owner-operator" means a person or legal entity  
5           who owns or operates a business engaged in the towing or storage of vehicles, and  
6           has a vehicle licensed as a towing vehicle ~~under~~ **pursuant to** R.S. 32:1716.

7                   C. In order to utilize the provisions of this Section, the owner-operator ~~must~~  
8           **shall have taken take** possession of the vehicle at the request of a municipality or  
9           parish acting ~~under~~ **pursuant to** R.S. 32:473.1 and the vehicle shall have an  
10           appraisal with a fair market value of five hundred dollars or less. The appraisal shall  
11           be based on the rough trade-in value of the vehicle as determined by the most recent  
12           National Automobile Dealers Association Guide.

13                   D.(1) Each owner-operator who possesses a vehicle ~~which~~ **that** meets the  
14           criteria set forth in Subsection C of this Section may crush or dismantle the vehicle  
15           provided the owner-operator satisfies each of the following requirements:

16   \*       \*       \*

17   (2) At the expiration of thirty days after mailing the notice, by certificate of  
18           mailing, required by R.S. 32:1720, the owner-operator may crush or dismantle the  
19           vehicle.

20   \*       \*       \*

21                   F.(1) The owner-operator shall maintain the following records on all vehicles  
22           crushed or dismantled ~~under~~ **pursuant to** the provisions of this Section:

23   \*       \*       \*

24   (f) A copy of the notice required by R.S. 32:1720 ~~which~~ **that** was sent to the  
25           registered owner of the vehicle, the holder of any lien on the vehicle, and any other  
26           person with an ownership interest in the vehicle.

27   (g) The original signed post office receipt of delivery if the ~~letter~~ **notice**  
28           required to be sent by this Section has been delivered; or the returned unopened  
29           envelope with the postal marking indicating attempt to deliver the ~~letter~~ **notice**  
30           required by ~~this Section~~ **R.S. 32:1720**. If either of these items could not be furnished,

1 other documented proof that the storage or parking facility owner sent notice to the  
2 stored vehicle owner shall be retained by the owner-operator.

3 \* \* \*

4 G. The municipality or parish shall not incur any liability as a result of the  
5 disposal of a vehicle ~~under~~ **pursuant to** these provisions.

6 \* \* \*

7 §1734. Gate fees; other fees; excessive charges; prohibitions; cause of action

8 A. A towing or storage company that assesses gate fees shall ~~not assess such~~  
9 ~~fee in an amount in excess of forty-five dollars~~ **assess a fixed fee in an amount**  
10 **determined by the Public Service Commission.**

11 B. If the towing or storage company charges a gate fee in excess of ~~forty-five~~  
12 ~~dollars~~ **the amount fixed by the Public Service Commission**, the owner of the  
13 vehicle shall have a right and cause of action to recover the amount of the excess fee,  
14 plus reasonable attorney fees, and all costs of court.

15 \* \* \*

16 D. No towing or storage company shall charge a fee for the retrieval of  
17 contents from a stored or towed vehicle during normal business hours. However, a  
18 towing or storage company may charge a fee, ~~not to exceed forty-five dollars~~, **in an**  
19 **amount determined by the Public Service Commission** for the retrieval of  
20 contents from a stored or towed vehicle at a time other than during normal business  
21 hours. If the towing or storage company charges a fee in violation of this Subsection,  
22 the owner of the vehicle shall have a right and cause of action to recover the amount  
23 of the excess fee, plus reasonable attorney fees and all costs of court.

24 \* \* \*

25 **F. The administrative and mailing fees for filing the Official Report of**  
26 **Stored Vehicles for in-state and out-of-state notifications shall be determined**  
27 **by the Public Service Commission.**

28 Section 2. This Act shall become effective upon signature by the governor  
29 or, if not signed by the governor, upon expiration of the time for bills to become law  
30 without signature by the governor, as provided by Article III, Section 18 of the

1 Constitution of Louisiana. If vetoed by the governor and subsequently approved by  
2 the legislature, this Act shall become effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_