

2021 Regular Session

SENATE BILL NO. 112

BY SENATOR HENRY

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

MOTOR CARRIERS. Requires certain parties be notified when a vehicle is stored pursuant to the Louisiana Towing and Storage Act. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 32:1720(A) and (B)(4) and (8), 1728(A) and (D)(3), 1728.2(G),

3 1728.3(A), (B), and (C), the introductory paragraph of (D)(1), (D)(2), the

4 introductory paragraph of (F)(1), (F)(1)(f) and (g), and (G), relative to the Louisiana

5 Towing and Storage Act; to require certain notices be sent by certified mail, return

6 signature electronic; to require the retention of certain records by the owner of a

7 towing, storage, or parking facility; to provide certain terms and procedures; and to

8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 32:1720(A) and (B)(4) and (8), 1728(A) and (D)(3), 1728.2(G),

11 1728.3(A), (B), and (C), the introductory paragraph of (D)(1), (D)(2), the introductory

12 paragraph of (F)(1), (F)(1)(f) and (g), and (G) are hereby amended and reenacted to read as

13 follows:

14 §1720. Owner notification of a stored vehicle; right to request administrative

15 hearing

16 A. Within ten business days from the date the department or its authorized

17 agent sends the owner information of the stored vehicle, which includes information

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

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

9 \* \* \*

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

12 \* \* \*

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

18 \* \* \*

19 §1728. Disposal of a stored motor vehicle

20 A.(1) After forty-five days from the original date of storage or adjusted  
 21 storage date, if applicable, the storage or parking facility owner shall send a final  
 22 notice by certified mail, return signature electronic, which shall comply with the  
 23 notice requirements of R.S. 32:1720(B)(1) through ~~(7)~~ (8) to the stored vehicle's  
 24 owner. This notice shall apply to any vehicle that is three years old or newer.

25 (2) After forty-five days from the original date of storage or adjusted  
 26 storage date, if applicable, the storage or parking facility owner shall send a  
 27 final notice by certificate of mailing which shall comply with the notice  
 28 requirements of R.S. 32:1720(B)(1) through (7) to the stored vehicle's owner.

29 This notice shall apply to any vehicle that is over three years old.

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

\* \* \*

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

\* \* \*

18           (3) The original certificate of mailing for ~~both~~ the first **notice** and **the**  
 19          **certified mail, return signature electronic, if applicable, for the** final notices  
 20          **notice** sent to the stored vehicle's owner and the returned unopened envelope, if  
 21          applicable, for the first ~~or~~ **and** final notices with postal markings indicating the post  
 22          office's attempt to deliver ~~such~~ **the notice notices**. If these items cannot be furnished,  
 23          other documented proof that the storage or parking facility owner sent notice to the  
 24          stored vehicle's owner shall be submitted to the department.

\* \* \*

§1728.2. Procedure for disposal of junk vehicles

\* \* \*

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



1 municipality or parish

2 A. This Section provides a procedure for disposing of certain vehicles. The  
3 procedure provided for in this Section shall be an alternative to the procedures set  
4 forth in R.S. 32:1728, 1728.2, and 1728.4. When a vehicle is eligible for disposal  
5 ~~under~~ **pursuant to** the provisions of this Section, the provisions of R.S. 32:1728,  
6 1728.2, and 1728.4 shall not apply to the disposal of that vehicle.

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

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

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

19 \* \* \*

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

23 \* \* \*

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

26 \* \* \*

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

1 (g) The original signed post office receipt of delivery if the ~~letter~~ **notice**  
 2 required to be sent by this Section has been delivered; or the returned unopened  
 3 envelope with the postal marking indicating attempt to deliver the ~~letter~~ **notice**  
 4 required by ~~this Section~~ **R.S. 32:1720**. If either of these items could not be furnished,  
 5 other documented proof that the storage or parking facility owner sent notice to the  
 6 stored vehicle owner shall be retained by the owner-operator.

7 \* \* \*

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

10 Section 2. This Act shall become effective upon signature by the governor  
 11 or, if not signed by the governor, upon expiration of the time for bills to become law  
 12 without signature by the governor, as provided by Article III, Section 18 of the  
 13 Constitution of Louisiana. If vetoed by the governor and subsequently approved by  
 14 the legislature, this Act shall become effective on the day following such approval.

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The original instrument was prepared by Beth O'Quin. The following digest,  
 which does not constitute a part of the legislative instrument, was prepared  
 by Jeanne C. Johnston.

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#### DIGEST

SB 112 Reengrossed

2021 Regular Session

Henry

Present law provides relative to the Louisiana Towing and Storage Act.

Present law requires certain persons to be notified when a vehicle is stored pursuant to the Louisiana Towing and Storage Act.

Present law provides that when a vehicle is stored by the owner of a towing, storage, or parking facility, the owner of the facility shall send notice by certificate of mailing to the owner of the vehicle at the owner's last known address and to the holder of any lien on the vehicle.

Proposed law retains present law.

Present law requires that, after 45 days from the original or adjusted date of storage, a final notice be sent to inform the owner of the stored vehicle that unless all outstanding charges are paid and the vehicle is claimed or arrangements are made for continued storage, the owner of the storage or parking facility may apply for a permit to sell or a permit to dismantle the vehicle from the Department of Public Safety and Corrections (department). Present law requires the storage or parking facility owner to submit certain evidence, including the original certificate of mailing for the first and final notices, to the department prior to the issuance of a permit to sell or a permit to dismantle.

Proposed law requires that, for a vehicle three years old or newer, the final notice be sent by

certified mail, return signature electronic, and requires the storage or parking facility owner to submit the return receipts for the first and final notices to the department prior to the issuance of a permit to sell or a permit to dismantle. Proposed law further provides that, for a vehicle over three years old, the final notice be sent by certificate of mailing.

Present law provides for the procedure for the disposal of junk vehicles and certain vehicles considered abandoned by a parish or municipality.

Present law requires certain criteria be met, including notice sent to the vehicle owner prior to the disposal of junk vehicles and vehicles considered abandoned by a parish or municipality.

Present law requires the owner-operator to maintain certain records, including proof of mailing required notice.

Proposed law requires notice be mailed by certified mail, return receipt requested, and that the returned receipt be maintained by the owner-operator as provided by present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 32:1720(A) and (B)(4) and (8), 1728(A) and (D)(3), 1728.2(G), 1728.3(A), (B), (C), (D)(1) (intro para), (D)(2), (F)(1)(intro para), (F)(1)(f) and (g), and (G))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Transportation, Highways, and Public Works to the original bill

1. Clarifies that notice for consensual tow and storage shall be by certificate of mail.

##### Senate Floor Amendments to engrossed bill

1. Changes terminology "return receipt requested" to "return signature electronic".
2. Provides that the final notice before disposal of a stored vehicle be by certificate of mailing rather than certified mail.
3. Removes provisions relative to nonconsensual towing and storage.