

2018 Regular Session

HOUSE BILL NO. 659

BY REPRESENTATIVE HAVARD

MTR VEHICLE/TOWING: Provides relative to rules and regulations governing towing companies

1 AN ACT

2 To amend and reenact R.S. 32:1734(E) and 1736(B), (C), (D), and (E) and to enact R.S.
3 32:1736(F) and (G), relative to the towing of motor vehicles from private property;
4 to require that a law enforcement agency authorize the nonconsensual towing of a
5 motor vehicle; to modify rules and regulations governing towing companies; to
6 require the promulgation of rules and regulations; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:1734(E) and 1736(B), (C), (D), and (E) are hereby amended and
9 reenacted and R.S. 32:1736(F) and (G) are hereby enacted to read as follows:

10 §1734. Gate fees; other fees; excessive charges; prohibitions; cause of action

11 * * *

12 E. For purposes of this Section, "normal business hours" of any towing or
13 storage company ~~shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday,~~
14 ~~exclusive of legal holidays~~ may vary, but shall include all hours that motor vehicles
15 are being towed by a towing or storage company and the towing or storage company
16 shall remain open for business for at least eight hours from the time the last motor
17 vehicle is towed.

18 * * *

19 §1736. Towing of motor vehicles from private property; definitions; billing
20 invoices; uniform fees; penalties

21 * * *

1 B.(1) No tow truck operator engaged in the nonconsensual tow of a motor
 2 vehicle from any parking area shall tow the motor vehicle unless the tow has been
 3 authorized by a law enforcement agency of competent jurisdiction or the motor
 4 vehicle has been tagged for removal by a law enforcement agency of competent
 5 jurisdiction. ~~However, if the billing invoice has been signed by the property owner~~
 6 ~~or his authorized representative prior to the unauthorized vehicle being towed or if~~
 7 ~~the provisions of Subsection C of this Section are applicable, the vehicle shall not be~~
 8 ~~required to be tagged for removal.~~ Any tow truck operator towing a vehicle from a
 9 parking area or private property shall provide a billing invoice to the owner or
 10 redeemer of the motor vehicle which invoice complies with applicable law and shall
 11 include the following information:

12 ~~(1)~~ (a) Date and time of service.

13 ~~(2)~~ (b) The tow truck operator's name and the time of departure.

14 ~~(3)~~ (c) The name of the law enforcement agency requesting the tow, ~~if~~
 15 applicable.

16 ~~(4)~~ (d) Itemization of all fees charged for service.

17 ~~(5)~~ (e) Any additional information required by the Louisiana Public Service
 18 Commission.

19 (2) The provisions of this Subsection shall not preclude any tow truck
 20 company from engaging in the consensual tow of a motor vehicle that has been
 21 authorized by the owner or operator of the motor vehicle or his insurance company.

22 C. Property owners who tow unauthorized vehicles from their property or
 23 parking areas shall place signage in clearly visible locations at the entrances and
 24 exits to such property warning motorists that unauthorized vehicles may be towed.
 25 If the property has specific parking areas or parking spaces where vehicles are
 26 subject to be towed, the specific parking area or parking space that a vehicle is
 27 subject to be towed from must also be clearly marked warning the motorist their
 28 vehicle may be towed. Such warning shall include signage in each designated
 29 parking area or the marking of the individual parking spaces in these specific parking

1 areas. A property owner or his authorized representative who enters into contracts
2 or agreements with a tow truck company to engage in tow-related services and
3 activities shall place signage in clearly visible locations at the entrances and exits to
4 such property or parking areas warning motorists that unauthorized vehicles may be
5 towed. The signage shall include the name, address, and phone number of the
6 towing company in lettering no less than two inches in height. Tow truck company
7 owners and drivers shall ensure that the property, parking areas, and spaces are
8 clearly marked prior to the removal of any vehicle. Additionally, a copy of the
9 written contract or agreement entered into between the property owner or his
10 authorized representative and the tow truck company shall be maintained at the
11 business office of the property owner and the business office of the tow truck
12 company and in the tow truck. The written contract or agreement shall define the
13 parking rules and reasons for towing. The written contract or agreement shall be
14 dated and signed by all parties and include telephone contact numbers for the
15 property owner or their authorized agent and the tow truck company owner, or their
16 authorized agent. The written contract or agreements shall indicate the starting date
17 of the towing service, and the specific date of termination of such agreement.
18 ~~Property owners meeting the requirements of this Subsection shall not be required~~
19 ~~to tag a motor vehicle for removal or sign the billing invoice prior to towing.~~

20 D.(1) During all hours that motor vehicles are being towed by a tow truck
21 company, the towing or storage facility shall be staffed and open for business. The
22 employee staffing the facility shall have authority to accept payment and release a
23 towed vehicle to the owner or redeemer. The tow truck company shall remain
24 staffed and open for business for at least eight hours from the time the last motor
25 vehicle is towed.

26 (2) Every tow truck company shall accept cash, checks, debit cards, and
27 credit cards as acceptable forms of payment to release a towed vehicle to the owner
28 or redeemer. The tow truck company shall furnish the correct change to the owner

1 or redeemer of the towed motor vehicle who pays the fees owed to the towing
2 company using cash.

3 ~~D.~~ E. All fees charged by a tow truck operator for the nonconsensual towing
4 of a vehicle from private property or parking areas shall be uniform and shall be set
5 in accordance with rules and regulations promulgated by the Louisiana Public
6 Service Commission. If the tow truck operator charges any fee in excess of the
7 uniform fee, the owner of the motor vehicle shall have a right and cause of action to
8 recover the amount of the excess fee, storage costs, if applicable, reasonable attorney
9 fees, and all court costs. The provisions of this Section shall be enforced by all state
10 and local law enforcement officers and duly appointed officers of the Louisiana
11 Public Service Commission. Tow truck operators shall make billing invoices
12 available for inspection upon request by any law enforcement officer or duly
13 appointed officer of the Louisiana Public Service Commission and shall provide such
14 officers with a copy of any billing invoice, any contract for services, or the name,
15 address, and phone number of any property owner or authorized representative.

16 ~~E.~~ F. Any tow truck operator who fails to comply with the provisions of this
17 Section, who fails to provide a billing invoice which contains the information
18 required by this Section to the redeemer of the motor vehicle, or who tows a vehicle
19 in violation of this Section shall be in violation of the provisions of R.S. 14:68.4 and
20 shall be subject to any applicable penalty prescribed by law, including but not limited
21 to the revocation of the towing license. Lack of knowledge of the conduct of a tow
22 truck company employee shall not be a defense for the tow truck company owner.

23 G. The Department of Public Safety and Corrections shall promulgate rules
24 and regulations as are necessary to implement the provisions of this Section. A copy
25 of all rules and regulations adopted by the department shall be published in the
26 Louisiana Administrative Code.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 659 Original

2018 Regular Session

Havard

Abstract: Requires towing and storage companies remain open for business during all hours of towing and at least eight hours after the last motor vehicle is towed. Requires law enforcement authorization prior to towing.

Present law defines the "normal business hours" of any towing or storage company as Monday through Friday from 8:00 a.m. to 5:00 p.m., exclusive of legal holidays.

Proposed law removes present law and instead provides that "normal business hours" may vary and requires any towing and storage company to remain open for business during all hours that such towing and storage company is towing motor vehicles and requires the towing and storage company remain open for business for at least eight hours from the time the last motor vehicle is towed.

Present law prohibits a tow truck operator engaged in the nonconsensual tow of a motor vehicle from towing the motor vehicle unless the tow is authorized by a law enforcement agency of competent jurisdiction or the motor vehicle is tagged for removal.

Proposed law modifies present law by requiring a motor vehicle be tagged for removal by a law enforcement agency of competent jurisdiction when a tow truck operator engages in the nonconsensual tow of a motor vehicle.

Present law exempts a vehicle from being be tagged for removal if the billing invoice has been signed by the property owner or his authorized representative prior to the unauthorized vehicle being towed or if the provisions of present law are applicable.

Proposed law removes present law.

Present law requires the billing invoice provided to the owner or redeemer of the motor vehicle by any tow truck operator towing a vehicle from a parking area or private property include the name of the law enforcement agency requesting the tow, if applicable.

Proposed law requires the billing invoice required in present law include the name of the law enforcement agency requesting the tow in all circumstances.

Present law exempts property owners that meet the requirements of present law from tagging a motor vehicle for removal or signing the billing invoice prior to towing.

Proposed law removes present law.

Proposed law clarifies that the provisions of present law and proposed law do not preclude any tow truck company from engaging in the consensual tow of a motor vehicle that has been authorized by the owner or operator of the motor vehicle or his insurance company.

Proposed law requires the towing or storage facility be staffed and open for business during all hours that motor vehicles are being towed and remain staffed and open for business for at least eight hours from the time the last motor vehicle is towed.

Proposed law requires that the employee staffing the facility have authority to accept payment and release a towed vehicle to the owner or redeemer.

Proposed law requires that every tow truck company accept cash, checks, debit cards, and credit cards as acceptable forms of payment to release a towed vehicle to the owner or redeemer and requires the company furnish the correct change to an owner or redeemer who pays the fees owed using cash.

Proposed law requires the Dept. of Public Safety and Corrections promulgate rules and regulations necessary to implement the provisions of proposed law and requires the department publish the rules and regulations adopted in the La. Administrative Code.

(Amends R.S. 32:1734(E) and 1736(B), (C), (D), and (E); Adds R.S. 32:1736(F) and (G))