

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 receipt requested; 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~~ **certified mail, return receipt requested**, to the
 4 owner of the vehicle at the owner's last known address and to the holder of any lien
 5 on the vehicle. If the department or its authorized agent sends the owner information
 6 electronically, the owner of the towing, storage, or parking facility shall send notice
 7 within five business days.

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

10 * * *

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

13 * * *

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

19 * * *

20 §1728. Disposal of a stored motor vehicle

21 A. After forty-five days from the original date of storage or adjusted storage
 22 date, if applicable, the storage or parking facility owner shall send a final notice **by**
 23 **certified mail, return receipt requested**, which shall comply with the notice
 24 requirements of R.S. 32:1720(B)(1) through (7) to the stored vehicle's owner. The
 25 final notice shall inform the stored vehicle's owner that unless he pays all outstanding
 26 charges and claims the vehicle or makes arrangements with the storage or parking
 27 facility owner for the continued storage of the vehicle, the storage or parking facility
 28 owner may apply for a permit to sell or permit to dismantle from the department after
 29 fifteen days from the date the final notice is mailed to the stored vehicle's owner. The

1 notice shall also inform the stored vehicle's owner of the provisions in R.S. 32:1730
 2 and that they may be turned over to collections for failure to pay outstanding charges
 3 and claims. The towing, storage, or parking facility shall not charge for storage past
 4 the ninetieth day from the original date of storage, or the adjusted storage date, if
 5 applicable. The storage or parking facility owner may continue to charge storage up
 6 to the ninetieth day, or until the permit to sell has been issued, if the application for
 7 the permit to sell was submitted prior to the ninetieth day from the original date of
 8 storage or the adjusted storage date, if applicable.

* * *

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

* * *

13 (3) The ~~original certificate of mailing~~ **return receipt** for both the first and
 14 final notices sent to the stored vehicle's owner and the returned unopened envelope,
 15 if applicable, for the first or final notices with postal markings indicating the post
 16 office's attempt to deliver ~~such~~ **the** notice. If these items cannot be furnished, other
 17 documented proof that the storage or parking facility owner sent notice to the stored
 18 vehicle's owner shall be submitted to the department.

* * *

20 §1728.2. Procedure for disposal of junk vehicles

* * *

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

24 ~~(1)(a)~~ **(a)** Completed physical inspection form as prepared by a Peace Officer
 25 Standards and Training (P.O.S.T.) certified law enforcement officer who has been
 26 trained and certified by the Department of Public Safety and Corrections, office of
 27 state police, to inspect vehicles to be crushed or dismantled.

28 ~~(2)(b)~~ **(b)** One appraisal showing the vehicle has a fair market value of five
 29 hundred dollars or less. The appraisal shall be based on the rough trade-in value of

1 the vehicle as determined by the most recent National Automobile Dealers
2 Association Guide. An original appraisal prepared by an independent appraiser,
3 which shall contain the year, make, model, and vehicle identification number, shall
4 be acceptable for vehicles not valued by the National Automobile Dealers
5 Association Guide.

6 ~~(3)~~**(c)** A photograph of all four sides of the vehicle prior to crushing or
7 dismantling.

8 ~~(4)~~**(d)** A copy of the original report of a stored vehicle as required in R.S.
9 32:1719.

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

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

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

22 * * *

23 §1728.3. Procedure for disposal of certain vehicles deemed abandoned by
24 municipality or parish

25 A. This Section provides a procedure for disposing of certain vehicles. The
26 procedure provided for in this Section shall be an alternative to the procedures set
27 forth in R.S. 32:1728, 1728.2, and 1728.4. When a vehicle is eligible for disposal
28 **under pursuant to** the provisions of this Section, the provisions of R.S. 32:1728,
29 1728.2, and 1728.4 shall not apply to the disposal of that vehicle.

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

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

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

13 * * *

14 (2) At the expiration of thirty days after mailing the notice, by ~~certificate of~~
15 ~~mailing,~~ **certified mail, return receipt requested**, required by R.S. 32:1720, the
16 owner-operator may crush or dismantle the vehicle.

17 * * *

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

20 * * *

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

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

1 operator.

2 * * *

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

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

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Elizabeth O'Quin.

DIGEST

SB 112 Original

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 changes the mailing requirement from certificate of mailing to certified mail, return receipt requested.

Present law requires a final notice be sent to inform the stored vehicle owner 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 the final notice be sent by certified mail, return receipt requested, 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.

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))