SLS 21RS-230 **ENGROSSED** 

2021 Regular Session

SENATE BILL NO. 112

BY SENATOR HENRY

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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)

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

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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. This notice applies to any vehicle that was a nonconsensual tow
6	or nonconsensual storage as defined in R.S. 32:1713. Notice relative to a
7	consensual tow or consensual storage shall be sent by certificate of mailing. If
8	the department or its authorized agent sends the owner information electronically,
9	the owner of the towing, storage, or parking facility shall send notice within five
10	business days.
11	B. The notice required in Subsection A of this Section shall include the
12	following information:
13	* * *
14	(4) The name of the person or agency which that had the vehicle towed or
15	placed in storage.
16	* * *
17	(8) Notice of the right of the owner and holder of any lien on the vehicle to
18	an administrative hearing as required in R.S. 32:1727. The notice shall contain the
19	deadline for requesting an administrative hearing and shall also contain information
20	regarding the date by which the request for an administrative hearing must shall be
21	mailed by certified letter, return receipt requested.
22	* * *
23	§1728. Disposal of a stored motor vehicle
24	A. After forty-five days from the original date of storage or adjusted storage
25	date, if applicable, the storage or parking facility owner shall send a final notice <b>by</b>
26	certified mail, return receipt requested, which shall comply with the notice
27	requirements of R.S. 32:1720(B)(1) through (7) to the stored vehicle's owner. This
28	notice applies to any vehicle that was a nonconsensual tow or nonconsensual

storage as defined in R.S. 32:1713. A notice relative to a consensual tow or

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consensual storage shall be sent by certificate of mailing. The final notice shall inform the stored vehicle's owner that unless he pays all outstanding charges and claims the vehicle or makes arrangements with the storage or parking facility owner for the continued storage of the vehicle, the storage or parking facility owner may apply for a permit to sell or permit to dismantle from the department after fifteen days from the date the final notice is mailed to the stored vehicle's owner. The notice shall also inform the stored vehicle's owner of the provisions in R.S. 32:1730 and that they may be turned over to collections for failure to pay outstanding charges and claims. The towing, storage, or parking facility shall not charge for storage past the ninetieth day from the original date of storage, or the adjusted storage date, if applicable. The storage or parking facility owner may continue to charge storage up to the ninetieth day, or until the permit to sell has been issued, if the application for the permit to sell was submitted prior to the ninetieth day from the original date of storage or the adjusted storage date, if applicable.

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

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

§1728.2. Procedure for disposal of junk vehicles

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

1	(1)(a) Completed physical inspection form as prepared by a Peace Officer
2	Standards and Training (P.O.S.T.) certified law enforcement officer who has been
3	trained and certified by the Department of Public Safety and Corrections, office of
4	state police, to inspect vehicles to be crushed or dismantled.
5	(2)(b) One appraisal showing the vehicle has a fair market value of five
6	hundred dollars or less. The appraisal shall be based on the rough trade-in value of
7	the vehicle as determined by the most recent National Automobile Dealers
8	Association Guide. An original appraisal prepared by an independent appraiser,
9	which shall contain the year, make, model, and vehicle identification number, shall
10	be acceptable for vehicles not valued by the National Automobile Dealers
11	Association Guide.
12	(3)(c) A photograph of all four sides of the vehicle prior to crushing or
13	dismantling.
14	(4)(d) A copy of the original report of a stored vehicle as required in R.S.
15	32:1719.
16	(5)(e) A copy of the notice required by R.S. 32:1720 which was sent to the
17	registered owner of the vehicle, the holder of any lien on the vehicle, and any other
18	person with an ownership interest in the vehicle.
19	(6)(f) The original certificate of mailing or return receipt for the notice sent
20	to the stored vehicle's owner and the returned unopened envelope, if applicable, with
21	the postal marking indicating attempt to deliver the letter notice required by this
22	Section R.S. 32:1720. If these items could not be furnished, other documented proof
23	that the storage or parking facility owner sent notice to the stored vehicle owner shall
24	be retained by the owner-operator.
25	(2) These records shall be open to inspection by any peace officer any time
26	the business is open. All records required by this Section shall be maintained for a
27	period of at least three years.
28	* * *
29	§1728.3. Procedure for disposal of certain vehicles deemed abandoned by

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and the same of th
municipality or parish
A. This Section provides a procedure for disposing of certain vehicles. The
procedure provided for in this Section shall be an alternative to the procedures se
forth in R.S. 32:1728, 1728.2, and 1728.4. When a vehicle is eligible for disposa
under pursuant to the provisions of this Section, the provisions of R.S. 32:1728
1728.2, and 1728.4 shall not apply to the disposal of that vehicle.
B. As used in this Section, "owner-operator" means a person or legal entity
who owns or operates a business engaged in the towing or storage of vehicles, and
has a vehicle licensed as a towing vehicle under pursuant to R.S. 32:1716.
C. In order to utilize the provisions of this Section, the owner-operator mus
shall have taken take possession of the vehicle at the request of a municipality o
parish acting under pursuant to R.S. 32:473.1 and the vehicle shall have an
appraisal with a fair market value of five hundred dollars or less. The appraisal shall
be based on the rough trade-in value of the vehicle as determined by the most recen
National Automobile Dealers Association Guide.
D.(1) Each owner-operator who possesses a vehicle which that meets the
criteria set forth in Subsection C of this Section may crush or dismantle the vehicle
provided the owner-operator satisfies each of the following requirements:
* * *
(2) At the expiration of thirty days after mailing the notice, by certificate o
mailing, or certified mail, return receipt requested, required by R.S. 32:1720, the
owner-operator may crush or dismantle the vehicle.
* * *
F.(1) The owner-operator shall maintain the following records on all vehicles
crushed or dismantled under pursuant to the provisions of this Section:
* * *

person with an ownership interest in the vehicle.

registered owner of the vehicle, the holder of any lien on the vehicle, and any other

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

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

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

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 Xavier Alexander.

DIGEST 2021 Regular Session

Henry

SB 112 Engrossed 2021 Regular Session

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

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

<u>Present law</u> 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.

<u>Proposed law</u> changes the mailing requirement <u>from</u> certificate of mailing <u>to</u> certified mail, return receipt requested, and further provides that the mailing requirement for consensual tow or consensual storage shall be sent by certificate of mailing.

<u>Present law</u> 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). <u>Present law</u> 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.

<u>Proposed law</u> 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.

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

<u>Present law</u> 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.

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

<u>Proposed law</u> 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

<u>Committee Amendments Proposed by Senate Committee on Transportation,</u> <u>Highways, and Public Works to the original bill</u>

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