

SENATE BILL NO. 112

BY SENATOR HENRY

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

1 AN ACT

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

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 32:1720(A) and (B)(4) and (8), 1728(A) and (D)(1) through (3),
12 1728.2(D) and (G), 1728.3(A), (B), and (C), the introductory paragraph of (D)(1), (D)(2),
13 the introductory paragraph of (F)(1), (F)(1)(f) and (g), and (G) and 1734(A), (B), and (D)
14 are hereby amended and reenacted and R.S. 32:1734(F) is hereby enacted to read as follows:

15 §1720. Owner notification of a stored vehicle; right to request administrative
16 hearing

17 A. Within ten business days from the date the department or its authorized
18 agent sends the owner information of the stored vehicle, which includes information
19 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.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____