

2023 Regular Session

HOUSE BILL NO. 595

BY REPRESENTATIVE GAROFALO

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

MTR VEHICLE/TOWING: Provides relative to the towing industry

1 AN ACT

2 To amend and reenact R.S. 45:180.1(B), (C)(1) through (3), and (D) through (F) and to enact
3 R.S. 32:1713.1 and 1713.2, relative to motor vehicles towing services; to create the
4 Towing and Recovery Board; to provide for the powers, duties, and membership of
5 the board; to provide relative to the authority of the towing service powers of the
6 Public Service Commission; to provide for penalties; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:1713.1 and 1713.2 are hereby enacted to read as follows:

10 §1713.1. Towing and Recovery Board; creation; purpose; membership; terms;
11 duties

12 A.(1) There is hereby created the Louisiana Towing and Recovery Board
13 whose purpose shall be to regulate the towing industry and vehicle immobilization
14 industry.

15 (2) The board shall consist of nine members appointed by the governor, and
16 confirmed by the Senate, who shall serve terms of three years. These members shall
17 be appointed as follows:

18 (3)(a) Four members shall be appointed from the towing industry and shall
19 be licensed by the board to engage in nonconsent towing.

1 (b) Two members who are permitted to engage in the consent-only business
2 shall be appointed from the state at large.

3 (c) Two members shall be appointed from the Department of Public Safety
4 and Corrections.

5 (d) One member shall be appointed from the insurance industry.

6 B. The appointed board members shall be residents of the state of Louisiana
7 at the time of appointment and throughout their terms.

8 C.(1) A member appointed pursuant to Subparagraph (A)(3)(a) of this
9 Section shall remain engaged in the business of nonconsent towing.

10 (2) A member appointed pursuant to Subparagraph (A)(3)(b) of this Section
11 shall remain in the business of consent-only towing.

12 (3) A member appointed pursuant to Subparagraph (A)(3)(d) of this Section
13 shall remain actively engaged in the insurance industry.

14 (4) A member appointed pursuant to Subparagraphs (3)(a), (b), or (d) of this
15 Section who no longer satisfies the requirements for his board position under
16 Paragraphs (1) through (3) of this Subsection shall:

17 (a) Provide notification of his change of status to the governor and the
18 director of the Louisiana Towing and Recovery Board.

19 (b) Resign from the board within thirty days of the date upon which the
20 member no longer satisfies the requirement of Paragraphs (1) through (3) of this
21 Subsection.

22 D.(1) The members shall determine by majority vote of the quorum of the
23 board who shall serve as chair.

24 (2) The chair shall be elected annually from the membership of the board.

25 E.(1) The board shall meet at such times and places that the chair deems
26 necessary, but no meeting shall be held outside the state.

27 (2) Five of the members of the board shall constitute a quorum for the
28 purpose of transacting business.

29 (3) All actions of the board shall be by quorum.

1 F.(1) The board shall promulgate rules and regulations in accordance with
2 the Administrative Procedure Act to carry out the intent of this Section and shall
3 regulate the towing industry and vehicle immobilization service industry, including:

4 (a) Establishing reasonable licensing, insurance, and equipment requirements
5 for any person engaging in towing and related services for safety purposes or vehicle
6 immobilization services under this Section.

7 (b) Establishing reasonable tow truck safety requirements for any tow truck
8 as defined in this Chapter.

9 (c) Establishing a procedure to accept and investigate complaints from a
10 consumer who claims that he or she has been overcharged for fees related to
11 nonconsent towing, recovery, storage, or vehicle immobilization services.

12 (d) Determining and sanctioning excessive or unnecessary fees charged to
13 consumers related to nonconsent towing, recovery, storage, or vehicle
14 immobilization services.

15 (e) Requiring all entities permitted, licensed, or regulated under this Section
16 to provide to the board all documents in response to information requests by the
17 board pursuant to the investigation of consumer complaints or board complaints
18 against the permittee or licensee.

19 (f) Requiring all entities permitted, licensed, or regulated under this Chapter
20 to provide itemized billing for fees related to towing, storage, or vehicle
21 immobilization services that explains how the charges were calculated.

22 (g) Requiring all entities permitted, licensed, or regulated under this Chapter
23 to maintain a copy of their current maximum rate schedule or fee schedule posted in
24 a conspicuous place and readily accessible to the public.

25 (h)(i) Requiring all entities permitted, licensed, or regulated under this
26 Chapter to allow the owner or agent of the owner of a motor vehicle removed under
27 this Chapter to use any other entity permitted, licensed, or regulated under this
28 Chapter when reclaiming the motor vehicle for storage.

1 (ii) Requiring all entities permitted, licensed, or regulated under this Chapter
2 to post signs notifying customers of the consumer complaint process.

3 (iii) The sign shall be in a conspicuous and central location in the public area
4 and shall be a minimum of sixteen inches by twenty inches (16" x 20") in size.

5 (iv) The board may assess a fine of between fifty dollars and two hundred
6 fifty dollars for failure to comply with the provisions of this Subparagraph.

7 (j)(i) The board shall set a minimum standard for the structure of the place
8 of business and storage facility utilized for the daily operation of a towing company
9 licensed and regulated under this Subsection. The place of business shall utilize:

10 (ii) A location easily accessible by the public.

11 (iii) An appropriate and secure filing system for business records.

12 (iv)(a) Clear and visible front and rear location signage that is:

13 (b) A minimum of four feet by six feet in size.

14 (c) Displaying the name, physical address, a telephone number of the towing
15 company, and hours of operation easily accessible to the public.

16 (2) The promulgation and adoption of rules or regulations shall in all
17 respects be in the manner provided by the Administrative Procedure Act.

18 (3) After the promulgation and adoption of rules or regulations, any
19 proposed change to add to, amend, repeal, or change any of the rules or regulation
20 shall not have effect until reviewed and approved in accordance with the
21 Administrative Procedure Act subject to oversight by the Joint Legislative
22 Committee on Transportation, Highways and Public Works.

23 G.(1)(a) The board shall have the authority to levy applicable towing
24 business license and vehicle immobilization service license fees not to exceed two
25 hundred dollars per license, and the board shall have the authority to levy an
26 applicable tow vehicle safety permit fee not to exceed one hundred dollars per tow
27 truck safety permit.

1 (b) A person licensed by the board to perform towing services is authorized
2 to perform vehicle immobilization services without obtaining a separate vehicle
3 immobilization service license.

4 (2) The board shall also have the authority to impose late filing fees in
5 addition to the original filing fees in an amount not to exceed the original amount of
6 the license fee or safety permit fee.

7 H.(1) The board shall have the authority to employ and discharge any
8 personnel as may be necessary to administer and enforce the provisions of this
9 Chapter and the rules and regulations promulgated hereunder.

10 (2) The board shall employ investigators to investigate consumer complaints
11 related to overcharging for nonconsent towing, recovery, storage fees, and violations
12 of the rules promulgated by the board under this Chapter.

13 I. The board shall have the authority to obtain office space, furniture,
14 stationery, and other proper supplies and conveniences reasonably necessary to carry
15 out the provisions of this Chapter.

16 J. The board shall issue a towing business license or issue a tow vehicle
17 safety permit for a tow vehicle licensed in another state to tow any vehicle in this
18 state only when the tow vehicle owner establishes to the board's satisfaction that the
19 operation of the tow vehicle in this state is in compliance with R.S. 32:1711 and
20 Chapter 19 of Part I of Title 55 of the Louisiana Administrative Code.

21 §1713.2. Penalties

22 A.(1) The following persons and entities shall be liable for all reasonable
23 costs of towing, recovery, storage, and other incidental costs related to a removal of
24 a vehicle under this Chapter:

25 (a) The owner of the vehicle.

26 (b) The person who left the unattended vehicle or abandoned vehicle before
27 removal.

28 (c) An owner or operator who waives the owner preference.

1 at times by the persons engaging in this business, that the public is not adequately
2 protected from the levy of such charges, that the irresponsible operation of this
3 business is detrimental to the general welfare and that the health, safety and welfare
4 of the public make it imperative that effective, uniform, reasonable and just
5 supervision, regulation and control be exercised over the operation of the business
6 of operating and using such vehicles to insure their responsibility in order that the
7 paramount interest of the public be protected and conserved.

8 C.(1) The ~~commission board~~ board has the power and authority necessary to
9 supervise, govern, regulate, and control the business of the operation and use of
10 wreckers and towing services, to designate classes and categories of said vehicles,
11 to fix reasonable and just rates, fares, tolls, charges for storage services, or charges
12 for the commodities furnished or services rendered by persons engaging in the
13 operation and use of said vehicles.

14 (2) The power, authority, and duties of the ~~commission board~~ board shall include
15 all matters connected with the service to be given or rendered, the records to be kept
16 by persons engaged in said business. Except as otherwise provided, the ~~commission~~
17 board shall have the power to promulgate, adopt, and enforce such reasonable rules,
18 regulations, and modes or procedure as it may deem proper for the discharge of its
19 duties, to summon and compel the attendance of witnesses, to swear witnesses, to
20 compel the production of books and papers, to take testimony under ~~commission~~
21 board and punish for contempt as fully as is provided for by law by the district
22 courts, and to prescribe and require the furnishing and filing of tariffs and schedules.

23 (3) The ~~commission board~~ board shall be charged with the duty of policing and
24 enforcing the provisions of this Section. Its duly appointed officers shall have
25 authority to make arrests for violations of any of the provisions of this Section,
26 orders, decisions, rules, and regulations of the ~~commission board~~, or any part or
27 portion thereof, and to serve any notice, order, or subpoena issued by any court, the
28 ~~commission board~~, ~~its secretary~~, or any employee authorized to issue same, and to
29 this end shall have full authority throughout the state. Such officers upon reasonable

1 belief that any motor vehicle is being operated in violation of any provisions of this
 2 Section shall be authorized to require the driver thereof to stop and exhibit the
 3 registration certificate issued for such vehicle, to submit to such officers for
 4 inspection any and all bills of lading, waybills, invoices, or other evidences of the
 5 character of the lading being transported in such vehicle and to permit such officer
 6 to inspect the contents of such vehicle for the purpose of comparing same with bills
 7 of lading, waybills, invoices, or other evidences of ownership or of transportation for
 8 compensation.

9 * * *

10 D. No person shall engage in the business of the operation and use of
 11 wreckers and towing services without first having obtained from the ~~commission~~
 12 board a wrecker license, the number of which shall be displayed on both sides of
 13 every wrecking vehicle he operates. The fee for such license shall not exceed ten
 14 dollars.

15 E. In addition to any other penalties imposed by this Chapter, no person shall
 16 violate any of the provisions of this Section or any of the rules, regulations, orders,
 17 or decrees ~~of the commission~~ promulgated pursuant to this Section, or engage in the
 18 business of the operation and use of wreckers and towing services without first
 19 having obtained a common carrier certificate or a contract carrier permit from the
 20 ~~commission~~ board. Whoever violates the provisions of this Section shall be fined
 21 by the commission at open hearing not less than one hundred dollars nor more than
 22 one thousand dollars for each violation.

23 F. Municipalities and parishes may, by ordinance, regulate, control,
 24 supervise and govern the business of operation and use of wreckers and towing
 25 devices in the manner provided under this section until such time as the ~~public~~
 26 ~~service commission~~ board shall pass uniform regulations applicable throughout the
 27 state; provided that the authority herein granted to parishes shall not extend to such
 28 businesses within the corporate limits within any municipality lying within the

1 parish. The penalty for violation of such ordinances shall be no more severe than
2 those contained in Subsection (E) of this Section.

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 595 Original

2023 Regular Session

Garofalo

Abstract: Creates the La. Towing and Recovery Board to govern the motor vehicle towing industry.

Present law authorizes the Public Service Commission (PSC) and the office of state police to regulate the towing industry.

Proposed law retains the authority of the office of state police and removes the authority of the PSC, replacing the commission with a new Towing and Recovery Board.

Proposed law provides that the board members will be residents of the state, appointed by the governor, confirmed by the Senate, serve three year terms, and comprised of the following:

- (1) Four members from the towing industry, licensed by the board to engage in nonconsent towing.
- (2) Two members permitted to engage in the consent-only business.
- (3) Two members from the Department of Public Safety and Corrections.
- (4) One member from the insurance industry.

Proposed law further provides for the employment of board members, resignation of board members, election of officers, and quorum.

Proposed law authorizes the board to promulgate rules regarding the towing industry, including the following:

- (1) Establishing reasonable licensing, insurance, and equipment requirements for any person engaging in towing and related services for safety purposes or vehicle immobilization services under this proposed law.
- (2) Establishing reasonable tow truck safety requirements for any tow truck as defined in this present law.
- (3) Establishing a procedure to accept and investigate complaints from a consumer who claims that he has been overcharged for fees related to nonconsent towing, recovery, storage, or vehicle immobilization services;
- (4) Determining and sanctioning excessive or unnecessary fees charged to consumers related to nonconsent towing, recovery, storage, or vehicle immobilization services;
- (5) Requiring all entities permitted, licensed, or regulated under this Section to provide to the board all documents in response to information requests by the board pursuant to the investigation of consumer complaints or board complaints against the permittee or licensee;
- (6) Requiring all entities permitted, licensed, or regulated under this present or proposed law to provide itemized billing for fees related to towing, storage, or vehicle immobilization services that explains how the charges were calculated;
- (7) Requiring all entities permitted, licensed, or regulated under this present or proposed law to maintain a copy of their current maximum rate schedule or fee schedule posted in a conspicuous place and readily accessible to the public;

- (8) Requiring all entities permitted, licensed, or regulated under this present law to allow the owner or agent of the owner of a motor vehicle removed under this present law to use any other entity permitted, licensed, or regulated under this present law when reclaiming the motor vehicle for storage.
- (9) Requiring all entities permitted, licensed, or regulated under this proposed law to post signs notifying customers of the consumer complaint process.
- (10) The sign shall be in a conspicuous and central location in the public area and shall be a minimum of sixteen inches by twenty inches (16" x 20") in size.
- (11) The board may assess a fine of between \$50 and \$250 for failure to comply with the provisions of proposed law.

Proposed law requires the board to set a minimum standard for facilities used for daily operations of towing companies.

Proposed law further authorizes the board to levy license fees, tow vehicle safety fees, and late filing fees.

Proposed law requires the board to employ investigators to investigate consumer complaints related to overcharging for nonconsent towing, recovery, storage fees, and violations of the rules promulgated by the board under this proposed law.

Proposed law provides for reciprocity with other states.

Proposed law provides for penalties, parties liable for towing costs, and process due for penalties and costs.

(Amends R.S. 45:180.1(B), (C)(1) through (3), and (D) through (F); Adds R.S. 32:1713.1 and 1713.2)