

Regular Session, 2012  
HOUSE BILL NO. 839  
BY REPRESENTATIVE HENRY

# ACT No. 806

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AN ACT

To amend and reenact R.S. 32:1713(3) and (5), 1717(A)(1), 1717.1(A), 1718(A)(introductory paragraph), (1), (2), and (3), 1719(A), 1720(A), 1728(A) and (D)(4), 1728.2(D)(4) and (G)(2), and 1736(A)(2), (C), and (D), to enact R.S. 32:1713(7) and (8), 1717(A)(4), and 1735(D), and to repeal R.S. 32:1714(6), relative to the Louisiana Towing and Storage Act; to provide for certain qualifications; to provide for the licensing of towing and storage facilities; to provide for notification of a towed vehicle to law enforcement; to provide for notification of a towed or stored vehicle to the Department of Transportation and Development; to provide for notification of a towed or stored vehicle to the vehicle owner and lienholder; to provide for the disposal of a stored vehicle; to provide for the waiver of fees when disposing a vehicle; to provide for gate fees; to provide for the towing of vehicles from private property; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 32:1713(3) and (5), 1717(A)(1), 1717.1(A), 1718(A)(introductory paragraph), (1), (2), and (3), 1719(A), 1720(A), 1728(A) and (D)(4), 1728.2(D)(4) and (G)(2), and 1736(A)(2), (C), and (D) are hereby amended and reenacted and R.S. 32:1713(7) and (8), 1717(A)(4), and 1735(D) are hereby enacted to read as follows:

§1713. Definitions

For the purposes of this Chapter, the following terms shall have the following meaning:

\* \* \*

(3) "Owner" means the last registered owner of a vehicle, the holder of any lien on a vehicle, and any other person with an documented proof of ownership

1 ~~interest in~~ of a vehicle. Documented proof of ownership shall include a title, current  
2 registration, or a notarized bill of sale.

3 \* \* \*

4 (5) "Tow truck" means any motor vehicle equipped with a boom or booms,  
5 winches, slings, tilt beds, semi-trailers, and/or similar equipment designed for the  
6 towing and/or recovery of vehicles and other objects which cannot operate under  
7 their own power or for some reason must be transported by means of towing.

8 \* \* \*

9 (7) "Non-consensual storage" means the storage or possession of a vehicle  
10 by an individual or storage facility operator without prior consent or authorization  
11 of the vehicle's owner or operator for the purpose of charging fees or obtaining  
12 ownership. Prior consent or authorization shall be documented by the storage  
13 facility by providing a written storage contract as outlined in R.S. 32:1722(C).

14 (8) "Non-consensual towing" means the movement or transportation of a  
15 vehicle by a tow truck without the prior consent or authorization of the owner or  
16 operator of the vehicle. This includes private property tows conducted in accordance  
17 with the provisions of R.S. 32:1736 and tows by law enforcement or other public  
18 agencies. Whenever an owner or operator of a vehicle requests a law enforcement  
19 officer or other public agency to initiate a tow, such tow shall be considered non-  
20 consensual and subject to Louisiana Public Service Commission tow rates.

21 \* \* \*

22 §1717. Qualifications of licensee; proof of financial responsibility in lieu of  
23 insurance

24 A. A tow truck license plate shall not be issued to a tow truck owner unless:

25 (1) The applicant and employees who operate tow trucks have ~~has~~ never  
26 been convicted of a felony relating to vehicle thefts.

27 \* \* \*

28 (4) The applicant and employees that operate tow trucks are not required to  
29 be registered as a sex offender or child predator as required in R.S. 15:542.

30 \* \* \*

1 §1717.1. Licensing; storage facility inspection; fee

2 A. Each towing company or storage facility which conducts non-consensual  
3 tows or non-consensual storage, or stores vehicles under the provisions of this  
4 Chapter shall pay an annual fee of one hundred dollars for a storage inspection  
5 license to the Department of Public Safety and Corrections, office of state police.

6 \* \* \*

7 §1718. Law enforcement notification of a vehicle towed to a storage facility;  
8 outdoor storage facility

9 A. Whenever any vehicle has been towed to a storage facility ~~where fees are~~  
10 ~~charged for such storage or parking,~~ as a result of a non-consensual tow from  
11 private property, the owner or operator of the storage facility shall, within  
12 twenty-four hours of the time such vehicle is towed to a storage facility, notify the  
13 office of the sheriff or the municipal police or their assigned designees from whose  
14 jurisdiction the vehicle is towed that the vehicle has been towed for storage. Except  
15 when the vehicle is stored by or upon request from a law enforcement agency, the  
16 storage operator shall provide to the law enforcement authorities or their designees:

17 (1) The name and address of the location from which the vehicle was towed.

18 (2) ~~A description of the vehicle~~ The year, make, model, and manufacturer's  
19 vehicle identification number.

20 (3) The license plate number and state of issuance of the vehicle.

21 \* \* \*

22 §1719. Notification to Department of Public Safety and Corrections

23 A. Whenever any vehicle subject to registration in this state has been stored,  
24 parked, or left in a garage, or any type of public storage or parking lot, where fees  
25 are charged for storage or parking or when a vehicle has been towed or stored as a  
26 result of a non-consensual tow or non-consensual storage, the owner of the storage  
27 or parking facility shall, within three business days of the date the vehicle has been  
28 towed, stored, or parked, report ~~in writing~~ to the department, or the department's  
29 authorized agent, the make, model, vehicle identification number, license plate  
30 number, state of issuance, and expiration date, if known, and the date of storage of

1 such vehicle ~~on a form furnished~~ in a manner provided by the department or its  
 2 authorized agent. The department, or the department's authorized agent, shall  
 3 provide the owner of the towing, storage, or parking facility with the most current  
 4 owner and lienholder information available on the stored vehicle. If the department  
 5 reports that a stored vehicle is or has been registered in another state, that report shall  
 6 indicate that the department has used due diligence in obtaining information from  
 7 nationwide databases available to the department.

\* \* \*

8 §1720. Owner notification of a stored vehicle; right to request administrative  
 9 hearing

10 A. Within ten business days from the date the department or its authorized  
 11 agent sends the owner information of the stored vehicle, which includes information  
 12 regarding the holder of any lien on the vehicle, to the owner of the towing, storage,  
 13 or parking facility, the owner of the towing, storage, or parking facility shall send  
 14 notice by certificate of mailing to the owner of the vehicle at the owner's last known  
 15 address and to the holder of any lien on the vehicle. If the department or its  
 16 authorized agent sends the owner information electronically, the owner of the  
 17 towing, storage, or parking facility shall send notice within five business days.

\* \* \*

18 §1728. Disposal of a stored motor vehicle

19 A. After forty-five days from the original date of storage or adjusted storage  
 20 date, if applicable, the storage or parking facility owner shall send a final notice  
 21 which shall comply with the notice requirements of R.S. 32:1720(B)(1) through (7)  
 22 to the stored vehicle's owner. The final notice shall inform the stored vehicle's owner  
 23 that unless he pays all outstanding charges and claims the vehicle or makes  
 24 arrangements with the storage or parking facility owner for the continued storage of  
 25 the vehicle, the storage or parking facility owner may apply for a permit to sell or  
 26 permit to dismantle from the department ~~within~~ after fifteen days ~~of~~ from the date  
 27 the final notice is ~~received by~~ mailed to the stored vehicle's owner. The notice shall  
 28 also inform the stored vehicle's owner of the provisions in R.S. 32:1730 and that they  
 29  
 30

1           may be turned over to collections for failure to pay outstanding charges and claims.  
 2           The towing, storage, or parking facility shall not charge for storage past the ninetieth  
 3           day from the original date of storage, or the adjusted storage date, if applicable. The  
 4           storage or parking facility owner may continue to charge storage up to the ninetieth  
 5           day, or until the permit to sell has been issued, if the application for the permit to sell  
 6           was submitted prior to the ninetieth day from the original date of storage or the  
 7           adjusted storage date, if applicable.

8   \*           \*           \*

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

11   \*           \*           \*

12                           (4) An appraisal based on the most recent National Automobile Dealers  
 13                          Association Guide. An original appraisal prepared by an independent appraiser,  
 14                          which shall contain the year, make, model, and vehicle identification number, shall  
 15                          be acceptable for vehicles not valued by the National Automobile Dealers  
 16                          Association Guide.

17   \*           \*           \*

18                          §1728.2. Procedure for disposal of junk vehicles

19   \*           \*           \*

20                           D. Each owner-operator who possesses a vehicle which meets the criteria  
 21                          set forth in Paragraph (C)(2) of this Section may make application for crushing of  
 22                          the vehicle at the expiration of thirty days or make application for dismantling of the  
 23                          vehicle at the expiration of thirty days from mailing of the notice. The application  
 24                          shall be made in a format authorized by the department upon satisfaction and  
 25                          submission of each of the following requirements:

26   \*           \*           \*

27                           (4) The owner-operator obtains an appraisal showing the vehicle has a fair  
 28                          market value of five hundred dollars or less. The appraisal shall be based on the  
 29                          rough trade-in value of the vehicle as determined by the most recent National  
 30                          Automobile Dealers Association Guide. An original appraisal prepared by an

1           independent appraiser, which shall contain the year, make, model, and vehicle  
 2           identification number, shall be acceptable for vehicles not valued by the National  
 3           Automobile Dealers Association Guide.

4                           \*       \*       \*

5                       G. The owner-operator shall maintain copies of the following records on all  
 6           vehicles crushed or dismantled under the provisions of this Section:

7                           \*       \*       \*

8                       (2) One appraisal showing the vehicle has a fair market value of five hundred  
 9           dollars or less. The appraisal shall be based on the rough trade-in value of the  
 10          vehicle as determined by the most recent National Automobile Dealers Association  
 11          Guide. An original appraisal prepared by an independent appraiser, which shall  
 12          contain the year, make, model, and vehicle identification number, shall be acceptable  
 13          for vehicles not valued by the National Automobile Dealers Association Guide.

14                           \*       \*       \*

15          §1735. Driver's selection of licensed tow company; law enforcement rotation list;  
 16          minimum requirements; removal from rotation list

17                           \*       \*       \*

18                       D. No law enforcement officer shall recommend to the vehicle owner or  
 19          operator a specific tow company to conduct a tow. All tows shall be referred to the  
 20          law enforcement rotation list or the authorized contractor for the law enforcement  
 21          agency. When the owner or operator exercises their option to select the tow  
 22          company, such selection shall be duly noted on the tow invoice or the law  
 23          enforcement record of the incident.

24                           \*       \*       \*

25          §1736. Towing of motor vehicles from private property; definitions; billing  
 26          invoices; uniform fees; penalties

27                       A. For purposes of this Section, the following terms shall have the meaning  
 28          indicated unless the context clearly indicates otherwise:

29                           \*       \*       \*

1 (2) "~~Nonconsensual tow~~" shall mean the towing of a motor vehicle without  
 2 the prior consent or authorization of the motor vehicle owner or operator. "Parking  
 3 space" shall mean the designated location in a parking area for the parking of a single  
 4 vehicle.

5 \* \* \*

6 C. Property owners who tow unauthorized vehicles from their property or  
 7 parking areas shall place signage in clearly visible locations at the entrances and  
 8 exits to such property warning motorists that unauthorized vehicles may be towed.  
 9 If the property has specific parking areas or parking spaces where vehicles are  
 10 subject to be towed, the specific parking area or parking space that a vehicle is  
 11 subject to be towed from must also be clearly marked warning the motorist their  
 12 vehicle may be towed. Such warning shall include signage in each designated  
 13 parking area or the marking of the individual parking spaces in these specific parking  
 14 areas. A property owner or his authorized representative who enters into contracts  
 15 or agreements with a tow truck company to engage in tow-related services and  
 16 activities shall place signage in clearly visible locations at the entrances and exits to  
 17 such property or parking areas warning motorists that unauthorized vehicles may be  
 18 towed. The signage shall include the name, address, and phone number of the  
 19 towing company, ~~and the uniform towing fee~~ in lettering no less than two inches in  
 20 height. Tow truck company owners and drivers shall ensure that the property,  
 21 parking areas, and spaces are clearly marked prior to the removal of any vehicle.  
 22 Additionally, a copy of the written contract or agreement entered into between the  
 23 property owner or his authorized representative and the tow truck company shall be  
 24 maintained at the business office of the property owner and the business office of the  
 25 tow truck company and in the tow truck. The written contract or agreement shall  
 26 define the parking rules and reasons for towing. The written contract or agreement  
 27 shall be dated and signed by all parties and include telephone contact numbers for  
 28 the property owner or their authorized agent and the tow truck company owner, or  
 29 their authorized agent. The written contract or agreements shall indicate the starting  
 30 date of the towing service, and the specific date of termination of such agreement.

1           Property owners meeting the requirements of this Subsection shall not be required  
2           to tag a motor vehicle for removal or sign the billing invoice prior to towing.

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

17   \*       \*       \*

18          Section 2. R.S. 32:1714(6) is hereby repealed in its entirety.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_