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**LEGISLATIVE RESEARCH COMMISSION**  
State Capitol 700 Capital Avenue Frankfort, KY 40601

502-564-8100


Capitol Fax 502-564-2922  
Annex Fax 502-564-6543  
legislature.ky.gov

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**MEMORANDUM**

**TO:** Interim Joint Committee on Transportation  
**FROM:** Jay D. Hartz, LRC Director   
**SUBJECT:** Administrative Regulations  
**DATE:** June 7, 2023.

At its May 9, 2023, meeting, the Administrative Regulation Review Subcommittee completed its review of the following administrative regulation: 601 KAR 014:050.

Pursuant to the provisions of KRS Chapter 13A, this regulation has been assigned to the Interim Joint Committee on Transportation. Pursuant to KRS Chapter 13A, the committee has ninety (90) days from the date of this assignment to review this regulation.

The Subcommittee minutes will be delivered to your committee staff upon completion. The material considered by the Subcommittee in its review is attached to the appropriate administrative regulation.

cc: Administrative Regulation Review Subcommittee  
John Snyder



**TRANSPORTATION CABINET**  
**Department of Highways**  
**Office of Highway Safety**  
**(Amendment)**

**601 KAR 14:050. Motorcycle Safety Education Program.**

RELATES TO: KRS 176.5061-176.5069, 186.401, 186.450, 186.531, 186.535

STATUTORY AUTHORITY: KRS 176.5061, 176.5062, 176.5063, 176.5064, 176.5068

NECESSITY, FUNCTION, AND CONFORMITY: KRS 176.5063 and 176.5064 authorizes the Secretary of the Transportation Cabinet to promulgate administrative regulations that are reasonable and necessary to carry out the provisions of 176.5061-176.5069. This administrative regulation establishes the criteria and procedures required for approval of instructors for motorcycle safety education training, instructor training course provider requirements and selection criteria, training course requirements, fees for enrollment in a motorcycle rider training course, and training provider requirements and selection criteria.

Section 1. Definitions.

- (1) "Cabinet" is defined by KRS 174.012.
- (2) "Commission" means the Motorcycle Safety Education Commission established pursuant to KRS 176.5067.
- (3) "Instructor" means a person recognized by the cabinet who conducts motorcycle rider training and may also be known as a rider coach.
- (4) "Instructor training course" means a process recognized by the cabinet that prepares an individual to teach a motorcycle rider training course.
- (5) "Instructor training course provider" means a person or entity recognized by the cabinet to conduct an instructor training course.
- (6) "Instructor trainer" means a person approved by the cabinet to train instructors.
- (7) "Program administrator" means the person designated or appointed by the secretary of the cabinet to administer the Motorcycle Safety Education Program.
- (8) "Range" means a paved area approved for practicing motorcycle riding skills during a training course.
- (9) "Training provider" means a person or entity approved by the cabinet to conduct a rider training course.

Section 2. Training, Approval, and Reporting Requirements of Instructors.

- (1) To request approval to be an instructor, an individual shall:
  - (a) Meet the requirements of KRS 176.5063;
  - (b) Have a current motorcycle endorsement on the individual's driver's license;
  - (c) Provide a certified copy of the applicant's driving record for the previous five (5) years in Kentucky or other ~~states~~[state] in which the applicant ~~has held~~[holds] a driver's license;
  - (d) Not have been convicted of a felony sex offense in KRS Chapter 510;
  - (e) Be able to lift the motorcycle required to be used in the training of students;
  - (f) Be able to perform the motorcycle maneuvers required in the training to be provided;
  - (g) Complete the Instructor Application in full;
  - (h) ~~Participate in at least one (1) full novice class as a coach assistant [Successfully complete a recognized instructor training course listed on the Motorcycle Safety Education Commission Web site at www.ride.ky.gov];~~

- (i) ~~Obtain a recommendation for approval from a current training provider [Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the recognized training courses];~~
  - (j) Successfully complete a recognized instructor training course listed on the Motorcycle Safety Education Commission Web site at [www.ride.ky.gov](http://www.ride.ky.gov); [Have ridden a motorcycle for at least 1,000 miles within the previous twelve (12) months; and]
  - (k) ~~Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the recognized training courses; [Submit the application with all other required documents to the program administrator by mailing to Motorcycle Safety Education Commission, Program Administrator, Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40601.]~~
  - (l) Have ridden a motorcycle for at least 1,000 miles within the previous twelve (12) months; and
  - (m) Submit the application with all other required documents to the program administrator by electronic mail to program administrator inbox, available at [www.ride.ky.gov](http://www.ride.ky.gov), or mailing to Motorcycle Safety Education Commission, Program Administrator, Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622.
- (2) If an instructor is currently approved and requests to be requalified as an instructor for another biennium~~[year]~~, the instructor shall:
- (a) Not have had his driver's license suspended or revoked at any time during the preceding two (2) years or at any time within the preceding five (5) years for any alcohol or drug related offense; and
  - (b) Provide proof of teaching a minimum of two (2) motorcycle safety courses in the previous year; or
  - (c) Provide proof of teaching one (1) motorcycle safety course in the previous year; and
  - (d) Successfully complete in the previous year an approved instructor training course listed on the Motorcycle Safety Education Commission Web site; or
  - (e) Successfully complete in the previous year a teaching skills course provided by the cabinet or its designee.
- (3) Instructor application review and processing.
- (a) After review of the application:
    - 1. If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or
    - 2. If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.
  - (b) Instructor Application Approval or Denial
    - 1. If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:
      - a. Approval as an instructor if all ~~[of]~~ the requirements in this administrative regulation have been met in the application and the required documentation received; or
      - b. Denial of approval as an instructor if all ~~[of]~~ the requirements have not been met in the application.
    - 2. Approval for an instructor shall be valid for one (1) year from the date of the approval notice.
- (4) Instructor Required Notices. The instructor shall provide written notice with specific details concerning the matter to the program administrator:
- (a) If the instructor's driver's license is suspended or revoked;
  - (b) If the instructor is convicted of a felony sex offense in KRS Chapter 510; or
  - (c) Of any change in contact information. ~~[Of teaching one (1) or two (2) motorcycle safety courses each year; and]~~

~~[(d)] [Any change in contact information.]~~

### Section 3. Instructor Training Course Provider Responsibilities.

(1) An instructor training course provider shall:

- (a) Provide training facilities and equipment required by the approved curriculum;
- (b) Provide all course materials including handouts, books, and other items required by the approved curriculum to each participant;
- (c) Obtain and maintain all certifications required to teach and certify new instructors within the curriculum being taught;
- (d) Coordinate with new and existing ~~[instructor]~~ training course providers to deliver training sessions in a specific region based on need and available instructors or candidates;
- (e) Report the following participant and course data to the program administrator:~~;~~
  1. Completion status of participants;
  2. Contact information of participants; and
  3. Instructor certification numbers, if available;
- (f) Allow quality assurance inspections of its training courses at the request of the program administrator;~~[and]~~
- (g) Conduct quality assurance visits at the request of the program administrator; ~~and~~~~;~~
- (h) Coordinate with the program administrator to provide continuing education programs for existing instructors.

(2) Instructor Training Course Provider Required Notices. The instructor training course provider shall notify the program administrator:

- (a) If the instructor training course provider or its instructor trainer has lost certification from the appropriate curriculum governing body;
- (b) If the instructor training course provider or its instructor trainer has lost his or her driver's license due to suspension or revocation;
- (c) If the instructor training course provider or its instructor trainer is convicted of a felony sex offense in KRS Chapter 510; ~~or~~~~and]~~
- (d) Of any change in contact information.

### Section 4. Training Provider Responsibilities.

(1) A training provider shall:

- (a) Follow a curriculum in compliance with the Model National Administrative Standards for State~~[Entry-Level]~~ Motorcycle Rider Training Programs published by the National Highway Traffic Safety Administration and recognized by the commission as described in Section 9(4) ~~and 17(1)(b)~~ of this administrative regulation;
- (b) Ensure a sufficient number of courses and instructors are available to meet demand in the local geographic area;
- (c) Schedule classes and instructors as needed;
- (d) Upon request provide a schedule of classes to the program administrator and any schedule updates throughout the training season;
- (e) Not use participant data, such as contact information, for any purpose outside of the provision of the rider education course ~~[Register students and take payment using the cabinet Web site or, if the Web site is unavailable, remit student tuition payments to the program administrator made payable to the Kentucky State Treasurer];~~
- (f) Keep all participant information confidential and not share with any third parties without prior approval from the cabinet ~~[Not use participant data, such as contact information, for any purpose outside of the provision of the rider education course];~~
- (g) Obtain and maintain a training range, motorcycles, safety equipment, classroom, and other course equipment according to Sections 6 through 8 of this administrative regulation ~~[Keep all participant information confidential and not share with any third parties without prior approval from the cabinet];~~

(h) Provide classroom materials such as books, handouts, videos, and other items as needed for completion of the course [~~Obtain and maintain a training range, motoreyes, safety equipment, classroom, and other course equipment according to Sections 6 through 8 of this administrative regulation;~~];

(i) Have access to a computer or other appropriate device with internet capability and printer for student and course management [~~Provide classroom materials such as books, handouts, videos, and other items as needed for completion of the course;~~];

(j) Supervise and monitor adherence of instructors to course curriculum and course delivery. [~~Have access to a computer or other appropriate device with internet capability and printer for student and course management and printing course completion certificates;~~];

(k) Solicit student feedback and distribute course evaluations as prescribed by the cabinet [~~Supervise and monitor adherence of instructors to course curriculum and course delivery;~~];

(l) Forward student feedback to the cabinet upon request [~~Solicit student feedback and distribute course evaluations;~~];

(m) Maintain the following insurance: [~~Forward student feedback to the cabinet upon request;~~]

1. General liability insurance in an amount not less than \$1,000,000 underwritten by an insurance carrier licensed and approved by the Kentucky Department of Insurance, which shall include personal injury insurance for students and instructors;

2. Any insurance, including workers compensation and unemployment insurance, required by federal, state, or local law.

(n) Submit student information as required by contract for the purpose of reimbursement of services; [~~Maintain the following insurance:~~]

~~[1.] [General liability insurance in an amount not less than \$1,000,000 underwritten by an insurance carrier licensed and approved by the Kentucky Department of Insurance, which shall include personal injury insurance for students and instructors;]~~

~~[2.] [Any insurance, including workers compensation and unemployment insurance, required by federal, state, or local law.]~~

(o) Issue a course completion certificate as described in Section 9(5) of this administrative regulation to a student who has successfully completed the course; and [~~Submit student information in a manner prescribed by the cabinet for the purpose of reimbursement of services;~~]

(p) Establish and implement policies and procedures for delivery of instruction and maintenance of site location and equipment. The training provider shall submit its policies and procedures regarding maintenance of site locations and equipment for written approval or denial to the program administrator before it or any part of it becomes effective and enforceable. [~~Issue a course completion certificate as described in Section 9(5) of this administrative regulation to a student who has successfully completed the course; and~~]

~~[(q)] [Establish and implement policies and procedures for delivery of instruction and maintenance of site location and equipment. The training provider shall submit its policies and procedures regarding maintenance of site locations and equipment for written approval or denial to the program administrator before it or any part of it becomes effective and enforceable.]~~

(2) Training Provider Required Notices. The training provider shall notify the program administrator:

(a) If the training provider's range is no longer available or has lost certification from the appropriate curriculum governing body;

(b) Of loss or change in required insurance;

- (c) If the training provider cannot deliver services due to availability of instructors or equipment;
- (d) Of any accidents involving bodily injury that occur during course instruction;
- (e) Of proposed changes to policy and procedures regarding maintenance of equipment or delivery of instruction prior to implementation;[;]
- (f) Of any breach involving student data within seven (7) days of discovery of the breach; ~~or~~and;
- (g) Of any change in contact information.

Section 5. Student-Instructor Ratio. The instructor to student ratio shall not exceed the following:

- (1) An instructor shall not teach more than thirty-six (36) students during classroom instruction;
- (2) An instructor shall not teach more than eight (8) students during range instruction if teaching alone; and
- (3) Two instructors shall not teach more than twelve (12) students during range instruction.

Section 6. Training Course Range Requirements.

- (1) A range shall include fifty-six (56) linear feet per student at the perimeter dimension and a minimum of twenty (20) feet paved run-off area on each side.
- (2) A range shall be approved by the governing body of the recognized curriculum prior to use.
- (3) Student range capacity shall be the total linear feet of the perimeter divided by fifty-six (56) and rounded down.
- (4) A standard range shall be 120 feet by 220 feet with a minimum paved run-off area of twenty (20) feet on each side.
- (5) A modified range may be used if it meets the requirements in subsections(1) through (3) of this section.

Section 7. Training Motorcycles.

- (1) A training motorcycle shall be a 500cc motorcycle or smaller, three (3) wheel motorcycles shall be exempt from this requirement.[;]
- (2) One (1) motorcycle shall be available for each student participating in the range session, three-wheel motorcycles may be shared in accordance with the curriculum's governing body guidelines.[;]
- (3) A motorcycle shall be intended by the manufacturer for street use, but may have:
  - (a) The headlight disabled for use on the range; or
  - (b) A speed or RPM limiting device installed.~~[; and]~~
- (4) A motorcycle used in the training course shall be maintained in safe operating condition according to the manufacturer's specifications.

Section 8. Training Course Range Equipment.

- (1) Protective Equipment. A rider shall wear the following protective equipment during range instruction:
  - (a) A full face or three-quarter helmet certified by its manufacturer to meet US DOT Federal Motor Vehicle Safety Standard No. 218 in good condition;
  - (b) A face shield, goggles, or glasses;
  - (c) Leather or other abrasion-resistant, full-fingered gloves;
  - (d) A weather appropriate, long-sleeved shirt or jacket that fully covers the arms;
  - (e) Long pants that fully cover the legs; and
  - (f) Boots or other sturdy, over-the-ankle footwear.
- (2) Safety equipment. A range shall have and maintain the following equipment in close proximity to the riding area during range instruction:

- (a) Class A fire extinguisher;
- (b) First aid kit; and
- (c) An appropriate number of cones or other markers for the outline of riding exercises.

Section 9. Rider Training Courses for Novice Riders.

- (1) A rider training course for novice riders shall:
  - (a) Meet the requirements of KRS 176.5062;
  - (b) Meet or exceed the Model National Standards for Entry-Level Motorcycle Rider Training published by the National Highway Traffic Safety Administration as incorporated by reference in Section 17(1)(a) of this administrative regulation;
  - (c) Follow a curriculum recognized by the commission as described in subsection (4) of this section;
  - (d) Not be less than eight (8) hours of hands-on instruction for a novice course;
  - (e) Be provided by instructors approved by the cabinet; and
  - (f) Meet the training course requirements in this administrative regulation.
- (2) Course materials shall include the Kentucky Motorcycle Manual maintained by the Kentucky State Police <http://kentuckystatepolice.org/driver-testing/> and a diagram of the motorcycle with basic parts for driving identified. Materials may also include those specific to the curriculum being taught and required by the governing body of the curriculum.
- (3) Novice course student ~~[Student]~~ evaluation shall include~~[-a]~~:
  - (a) A written exam that addresses:
    - 1. Current traffic laws with a focus on motorcycles; and
    - 2. Best practices of motorcycle operation; and
  - (b) A skills test that demonstrates safe operation of the motorcycle in numerous situations.
- (4) Training courses for novice riders recognized by the cabinet shall be listed on the Motorcycle Safety Education Commission Web site at [www.ride.ky.gov](http://www.ride.ky.gov).
- (5) Certificate of Completion.
  - (a) Upon successful completion of a course that meets the requirements in this section ~~[of this administrative regulation]~~ and is included on the list of training courses for novice riders recognized by the cabinet, the student shall be issued a certificate of completion in physical or electronic format that shall include:
    - 1. Date of course completion;
    - 2. Provider of course taken;
    - 3. Curriculum used in course;~~[-and]~~
    - 4. Certificate number~~[-]~~; and
    - 5. Designation if completing a three (3) wheel course.
  - (b) The student shall present this certificate to the Kentucky Transportation Cabinet Driver Licensing Regional Office~~[Circuit Clerk in his county of residence]~~ to be used for an exemption of the skills portion of the motorcycle endorsement testing.

Section 10. Students.

- (1) Enrollment and Registration Requirements. A student shall:
  - (a) Have a valid Kentucky driver's license or Kentucky motor vehicle instructional permit;
  - (b) Complete and sign a liability waiver form. A student under the age of eighteen (18) shall have a liability waiver from his or her parent or legal guardian, signed on-site or notarized, authorizing the student to take the course;
  - (c) Complete the registration process; and
  - (d) Pay any required fee.
- (2) Course Completion. A student shall:
  - (a) Attend, participate in, and complete all required training sessions;~~[-and]~~



- (b) Achieve passing scores on required tests~~[-];~~ and
- (c) Upon successful completion of the program, receive a course completion certificate as prescribed in Section 9(5) of this administration regulation.

#### Section 11. Approval of Courses for Exemption from the Licensing Skill Test.

(1) ~~In order~~ For a course to be approved for exemption from the licensing skill test pursuant to KRS 176.5062(5), a course shall:

- (a) Meet the curriculum standards of and receive any approvals required by the Motorcycle Safety Foundation for motorcycle rider education or instructor training, but shall not include an online course without hands on training on a motorcycle;
- (b) Meet the curriculum standards of and receive any approvals required by Total Control Training, Inc. for motorcycle rider education, but shall not include an online course without hands on training on a motorcycle;
- (c) Be a rider education training course administered by an approved training provider in another state which is recognized for exemption from the motorcycle licensing skill test in that state; or
- (d) Be submitted to and approved by the commission for inclusion on the list based on consideration of the following:
  - 1. Compliance with National Highway Traffic Administration (NHTSA) standards;
  - 2. Reasonableness of enrollment fee for participants;
  - 3. Availability of trainers;
  - 4. Effectiveness data; and
  - 5. Other similar criteria that are relevant to determining the course's safety and effectiveness.

(2) The courses approved for exemption by the commission shall be published on the commission's Web site at www.ride.ky.gov.

#### Section 12. Data and Reporting.

(1) All reports shall be submitted electronically to the Cabinet ~~through the commission's Web site. If the program Web site is unavailable, reports shall be sent by electronic mail~~ for by mailing to Motorcycle Safety Education Program, Program Administrator, Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky ~~40622~~[40601].

(2) A training provider shall report to the program administrator:

- (a) Course schedules and updates;
- (b) Student attendance;
- (c) Student contact information;
- (d) Student driver's or permit license information;
- (e) Course completion date;
- (f) Whether student passed or failed course;
- (g) Skills waiver card number if issued;
- (h) Student feedback evaluations ~~when requested~~; and
- (i) Evaluations of instructors and the instructor training course provider.

(3) An instructor training course provider shall report to the program administrator:

- (a) Student attendance;
- (b) Results and recommendations for instructor candidates upon completion of training; and
- (c) Results of quality assurance visits for both instructors and training providers.

#### Section 13. Quality Assurance.

(1) An instructor shall:

- (a) Maintain all appropriate certifications required by the governing body of the recognized curriculum; and

- (b) Participate in all required professional development activities as prescribed by the governing body of the recognized curriculum or cabinet.
- (2) Instructor training course providers shall:
  - (a) Conduct periodic audits and provide feedback to instructors for the purpose of professional development at the request of the program administrator; and
  - (b) Maintain all appropriate certifications required by the governing body of the recognized curriculum.
- (3) Portions of student evaluation form results may be made available for professional development to the following:
  - (a) Instructors;
  - (b) Instructor training course providers; and
  - (c) Training providers.
- (4) The cabinet program administrator or designee may conduct audits as needed to review quality of instruction, range condition, equipment condition, and compliance with financial and other reporting requirements.

Section 14. Fees.

- (1) A fee shall not be required for an individual who is less than eighteen (18) years of age.~~;~~
  - ~~[(a)] [At least sixteen (16) years of age];~~
  - ~~[(b)] [Less than eighteen (18) years of age];~~
  - ~~[(c)] [A Kentucky resident; and]~~
  - ~~[(d)] [Has a valid motor vehicle instructional permit or driver's license.]~~
- (2) A fee not to exceed ~~\$200~~[\$150] may be required for an individual who is:
  - (a) At least eighteen (18) years of age; and
  - (b) Has a valid motor vehicle instructional permit or driver's license. ~~[A Kentucky resident; and]~~
  - ~~[(c)] [Eligible for a motor vehicle instruction permit.]~~
- (3) Any fee shall be paid upon registration and shall not be refundable.
- ~~[(4)] [Any fee shall be paid by check or money order made payable to the Kentucky State Treasurer or other means established through the Transportation Cabinet Web site.]~~

Section 15. Training Provider Selection Criteria.

- (1) To request to be a training provider, the applicant shall:
  - (a) Complete the Training Provider Application in full;
  - (b) Submit evidence showing the person or entity has the ability to meet the required responsibilities as prescribed in this administrative regulation. This shall include:
    - 1. Description of expertise in offering this or a similar type of program;
    - 2. Range approval certification or application for certification;
    - 3. Schedule of range availability or proposed course schedule;
    - 4. List of training motorcycles including VIN ~~[number]~~ or plan to acquire them;
    - 5. Maintenance records of owned motorcycles, if available;
    - 6. Copies of policies or quotes to obtain required insurance;
    - 7. Business plan showing anticipated costs and revenues to determine viability; and
    - 8. Policy and procedures manual for course delivery, site, and equipment maintenance.
  - (c) Submit the application with all other required documents to the program administrator by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622~~[40601]~~.
- (2) Application review and processing.
  - (a) After review of the application:

1. If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or
2. If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(b) Application approval or denial.

1. If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:
  - a. Approval as a training provider if all ~~of~~ the requirements have been met in the application and send a certificate of approval. A contract between the cabinet and training provider shall also be sent for the training provider to sign and return to the cabinet within thirty (30) days of receipt; or
  - b. Denial of approval as a training provider if all ~~of~~ the requirements have not been met in the application.
2. Approval for a training provider shall be valid for two (2) years from the date of the approval notice.

Section 16. Instructor Training Course Provider Selection Criteria.

(1) To request to be an instructor training course provider, the person or entity shall:

- (a) Complete the instructor training course provider application in full;
- (b) Provide a diploma, certificate of completion, or other similar documentation from the instructor training course to verify completion of one (1) of the approved training courses for each instructor trainer;
- (c) Submit evidence showing the person or entity has the ability to meet the required responsibilities and course requirements in this administrative regulation. This shall include:
  1. Description of expertise in offering this or a similar type of program;
  2. Copies of policies or quotes to obtain all required insurance;
  3. Business plan showing anticipated costs and revenues to determine viability;
  4. Policy and procedure manual or plan for new instructor training, quality assurance, and existing instructor professional development; and
  5. Cost schedule for each type of class including number of participants, if applicable, and quality assurance visits.
- (d) Submit the application with all other required documents to the program administrator by electronic mail or by mailing to Motorcycle Safety Education Program, Program Administrator, Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky ~~40622~~~~40601~~.

(2) Application review and processing. After review of the application:

- (a) If the application is missing information, the program administrator shall return the application to the applicant with a request for the missing information; or
- (b) If the application is missing required documentation, the program administrator shall send a request for the missing documentation to the applicant.

(3) If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of: ~~[Application approval or denial:]~~

- (a) Approval as an instructor training course provider if all ~~of~~ the requirements have been met in the application and send a certificate of approval. A contract between the cabinet and instructor training course provider shall also be sent for the instructor training course provider to sign and return to the cabinet within thirty (30) days of receipt; or ~~[If the application is complete, within thirty (30) days, the program administrator shall notify the applicant of:]~~
- (b) Denial of approval as a trainer if all ~~of~~ the requirements have not been met in the application. ~~[Approval as an instructor training course provider if all of the requirements have been met in the application and send a certificate of approval. A~~

~~contract between the cabinet and instructor training course provider shall also be sent for the instructor training course provider to sign and return to the cabinet within thirty (30) days of receipt; or~~  
~~[(e)] [Denial of approval as a trainer if all of the requirements have not been met in the application.]~~

(4) Approval for instructor training course provider shall be valid for two (2) years from the date of the approval notice.

#### Section 17. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Model National Standards for Entry-Level Motorcycle Rider Training", NHTSA, DOT HS 811 503, August 2011; ~~[-]~~

(b) "Model National Administrative Standards for State Motorcycle Rider Training Programs" NHTSA, November 2014, Report No. DOT HS 812 071; ~~[-]~~

(c) "Training Instructor Application", viewed at <https://ride.ky.gov/Pages/Instructors.aspx>; ~~[Motorcycle Safety Education Program, 2022.]~~

(d) "Instructor Training Course Provider Application", Motorcycle Safety Education Program, 2022; ~~and [-]~~

(e) "Training Provider Application", viewed at <https://ride.ky.gov/Pages/Providers.aspx>; ~~[Motorcycle Safety Education Program, 2022.]~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Motorcycle Safety Education Program, Office of the Secretary, 200 Mero Street, Frankfort, Kentucky 40622, ~~[40601]~~ phone (502) 564-1568, Monday through Friday, 8 a.m. to 4:30 p.m. The ~~standards~~ ~~applications~~ may also be obtained from the Motorcycle Safety Education Commission Web site at [www.ride.ky.gov](http://www.ride.ky.gov). The standards may also be obtained from the U.S. Department of Transportation, National Highway Traffic Safety Administration Web site in the Motorcycle Safety area at <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/811503.pdf> and [https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812071-modelnatladmin\[motorcycle\].pdf](https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/812071-modelnatladmin[motorcycle].pdf).

*JIM GRAY, Secretary*

*JAMES BALLINGER, State Highway Engineer*

APPROVED BY AGENCY: February 9, 2022

FILED WITH LRC: February 14, 2023 at 2:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on April 21, 2023, at 10:00 a.m. EST, at the Transportation Cabinet, Transportation Cabinet Building, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing, of their intent to attend. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement five working days prior to the hearing. This request does not have to be in writing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. EST on April 30, 2023. Send written

notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager/Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 782-8180, fax (502) 564-5238, email [Jon.Johnson@ky.gov](mailto:Jon.Johnson@ky.gov).

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Jon Johnson

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation changes procedural components to KRS 176.5061, 176.5062, 176.5063, 176.5064.

**(b) The necessity of this administrative regulation:**

This administrative regulation adopts changes necessitated by HB 125 from 2021 RS.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

This administrative regulation conforms to the content of the authorizing statute contained in KRS 176.5061, 176.5062, 176.5063, 176.5064.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation will streamline the process.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

This amendment will remove requirements to use a cabinet website.

**(b) The necessity of the amendment to this administrative regulation:**

This amendment is necessary because of HB 125 from 2021 RS.

**(c) How the amendment conforms to the content of the authorizing statutes:**

The establishment will remove requirements to use a cabinet website and streamline procedures.

**(d) How the amendment will assist in the effective administration of the statutes:**

The establishment will remove requirements to use a cabinet website and streamline procedures.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

It may impact motorcycle riders, site providers, training providers, and instructors. (4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

Training Providers will provide notice of taking a 3-wheel course in order to comply with the restrictions adopted under HB 125 of 2021 RS.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

There are no costs or fees associated with this regulation.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

This amendment will streamline the safety training process.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

There are no costs associated with these amendments.

**(b) On a continuing basis:**

There are no continuing costs associated with these amendments.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

No funding is necessary.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

No new fees or funding will be necessary to implement this amendment.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

Yes. Due to increased costs associated with the program, ie: fuel, tires, motor fuel, parts for maintenance, etc., the amendment will allow the safety training providers to charge up to \$200 instead of \$150.

**(9) TIERING: Is tiering applied?**

No tiering is applied to this amendment.

## FISCAL NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

The Office of Highway Safety in the Kentucky Transportation Cabinet.

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 176.5061, 176.5062, 176.5063, 176.5064.

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

This amendment should not have any effect on expenditures and revenues of a state or local government agency.

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

Revenue will not be generated by this regulation for state or local government for the first year.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

Revenue will not be generated by this regulation for state or local government for subsequent years.

**(c) How much will it cost to administer this program for the first year?**

There is no cost to administer this regulation in the first year.

**(d) How much will it cost to administer this program for subsequent years?**

There is no cost to administer this regulation in subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

Revenues (+/-):n/a

Expenditures (+/-):n/a

**Other Explanation:**

n/a

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

The effect of expenditures and costs savings for the first full year is negligible.

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

Cost savings for the first year will be negligible.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

Cost savings for subsequent years will be negligible.



**(c) How much will it cost the regulated entities for the first year?**

No additional costs are expected for the first year.

**(d) How much will it cost the regulated entities for subsequent years?**

No additional costs are expected for subsequent years.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):**n/a

**Expenditures (+/-):**n/a

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]. This amendment should not have a major economic impact.

## FEDERAL MANDATE ANALYSIS COMPARISON

**(1) Federal statute or regulation constituting the federal mandate.**

n/a

**(2) State compliance standards.**

n/a

**(3) Minimum or uniform standards contained in the federal mandate.**

n/a

**(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?**

n/a

**(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.**

n/a

## The 2022 Florida Statutes (including 2022 Special Session A and 2023 Special Session B)

[Title XL](#)

## REAL AND PERSONAL PROPERTY

[Chapter 713](#)

## LIENS, GENERALLY

[View Entire Chapter](#)**713.78 Liens for recovering, towing, or storing vehicles and vessels.—**

(1) For the purposes of this section, the term:

(a) "Vehicle" means any mobile item, whether motorized or not, which is mounted on wheels.

(b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. [327.02](#).

(c) "Wrecker" means any truck or other vehicle which is used to tow, carry, or otherwise transport motor vehicles or vessels upon the streets and highways of this state and which is equipped for that purpose with a boom, winch, car carrier, or other similar equipment.

(d) "National Motor Vehicle Title Information System" means the federally authorized electronic National Motor Vehicle Title Information System.

(e) "Equivalent commercially available system" means a service that charges a fee to provide vehicle information and that at a minimum maintains records from those states participating in data sharing with the National Motor Vehicle Title Information System.

(2) Whenever a person regularly engaged in the business of transporting vehicles or vessels by wrecker, tow truck, or car carrier recovers, removes, or stores a vehicle or vessel upon instructions from:

(a) The owner thereof;

(b) The owner or lessor, or a person authorized by the owner or lessor, of property on which such vehicle or vessel is wrongfully parked, and the removal is done in compliance with s. [715.07](#);

(c) The landlord or a person authorized by the landlord, when such motor vehicle or vessel remained on the premises after the tenancy terminated and the removal is done in compliance with s. [83.806](#) or s. [715.104](#); or

(d) Any law enforcement agency,

she or he shall have a lien on the vehicle or vessel for a reasonable towing fee, for a reasonable administrative fee or charge imposed by a county or municipality, and for a reasonable storage fee; except that a storage fee may not be charged if the vehicle or vessel is stored for fewer than 6 hours.

(3) This section does not authorize any person to claim a lien on a vehicle for fees or charges connected with the immobilization of such vehicle using a vehicle boot or other similar device pursuant to s. [715.07](#).

(4)(a) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle notwithstanding s. [627.736](#), and all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

(b) Whenever a law enforcement agency authorizes the removal of a vehicle or vessel or whenever a towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle or vessel pursuant to s.

[715.07\(2\)\(a\)2.](#), the law enforcement agency of the jurisdiction where the vehicle or vessel is stored shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the vehicle or vessel, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. [319.27\(2\)](#) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor notwithstanding s. [627.736](#).

(c) The notice of lien must be sent by certified mail to the registered owner, the insurance company insuring the vehicle notwithstanding s. [627.736](#), and all other persons claiming a lien thereon within 7 business days, excluding Saturday and Sunday, after the date of storage of the vehicle or vessel. However, in no event shall the notice of lien be sent less than 30 days before the sale of the vehicle or vessel. The notice must state:

1. If the claim of lien is for a vehicle, the last 8 digits of the vehicle identification number of the vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, clearly printed in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon.

2. The name, physical address, and telephone number of the lienor, and the entity name, as registered with the Division of Corporations, of the business where the towing and storage occurred, which must also appear on the outside of the envelope sent to the registered owner and all other persons claiming an interest in or lien on the vehicle or vessel.

3. The fact of possession of the vehicle or vessel.

4. The name of the person or entity that authorized the lienor to take possession of the vehicle or vessel.

5. That a lien as provided in subsection (2) is claimed.

6. That charges have accrued and include an itemized statement of the amount thereof.

7. That the lien is subject to enforcement under law and that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (5).

8. That any vehicle or vessel that remains unclaimed, or for which the charges for recovery, towing, or storage services remain unpaid, may be sold free of all prior liens 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less.

9. The address at which the vehicle or vessel is physically located.

(d) The notice of lien may not be sent to the registered owner, the insurance company insuring the vehicle or vessel, and all other persons claiming a lien thereon less than 30 days before the sale of the vehicle or vessel.

(e) If attempts to locate the name and address of the owner or lienholder prove unsuccessful, the towing-storage operator shall, after 7 business days, excluding Saturday and Sunday, after the initial tow or storage, notify the public agency of jurisdiction where the vehicle or vessel is stored in writing by certified mail or acknowledged hand delivery that the towing-storage company has been unable to locate the name and address of the owner or lienholder and a physical search of the vehicle or vessel has disclosed no ownership information and a good faith effort has been made, including records checks of the Department of Highway Safety and Motor Vehicles database and the National Motor Vehicle Title Information System or an equivalent commercially available system. For purposes of this paragraph and subsection (9), the term "good faith effort" means that the following checks have been performed by the company to establish the prior state of registration and for title:

1. A check of the department's database for the owner and any lienholder.

2. A check of the electronic National Motor Vehicle Title Information System or an equivalent commercially available system to determine the state of registration when there is not a current registration record for the vehicle or vessel on file with the department.

3. A check of the vehicle or vessel for any type of tag, tag record, temporary tag, or regular tag.

4. A check of the law enforcement report for a tag number or other information identifying the vehicle or vessel, if the vehicle or vessel was towed at the request of a law enforcement officer.

5. A check of the trip sheet or tow ticket of the tow truck operator to determine whether a tag was on the vehicle or vessel at the beginning of the tow, if a private tow.

6. If there is no address of the owner on the impound report, a check of the law enforcement report to determine whether an out-of-state address is indicated from driver license information.

7. A check of the vehicle or vessel for an inspection sticker or other stickers and decals that may indicate a state of possible registration.

8. A check of the interior of the vehicle or vessel for any papers that may be in the glove box, trunk, or other areas for a state of registration.

9. A check of the vehicle for a vehicle identification number.

10. A check of the vessel for a vessel registration number.

11. A check of the vessel hull for a hull identification number which should be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outmost seaboard side at the end of the hull that bears the rudder or other steering mechanism.

(5)(a) The owner of a vehicle or vessel removed pursuant to subsection (2), or any person claiming a lien, other than the towing-storage operator, within 10 days after the time she or he has knowledge of the location of the vehicle or vessel, may file a complaint in the county court of the county in which the vehicle or vessel is stored to determine whether her or his property was wrongfully taken or withheld.

(b) At any time before the sale of the vehicle or vessel, an owner or lienholder may have her or his vehicle or vessel released upon posting with the court a cash or surety bond or other adequate security equal to the amount of the charges for towing or storage and lot rental amount to ensure the payment of such charges in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the lienor of the posting of the bond and directing the lienor to release the vehicle or vessel. At the time of such release, after reasonable inspection, she or he shall give a receipt to the towing-storage company reciting any claims she or he has for loss or damage to the vehicle or vessel or the contents thereof.

(c) Upon determining the respective rights of the parties, the court may award damages, attorney's fees, and costs in favor of the prevailing party. In any event, the final order shall provide for immediate payment in full of recovery, towing, and storage fees by the vehicle or vessel owner or lienholder; or the agency ordering the tow; or the owner, lessee, or agent thereof of the property from which the vehicle or vessel was removed.

(6) A vehicle or vessel that is stored pursuant to subsection (2) and remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid, and any contents not released pursuant to subsection (10), may be sold by the owner or operator of the storage space for such towing or storage charge 35 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is more than 3 years of age or 50 days after the vehicle or vessel is stored by the lienor if the vehicle or vessel is 3 years of age or less. The sale shall be at public sale for cash. If the date of the sale was not included in the notice required in subsection (4), notice of the sale shall be given to the

person in whose name the vehicle or vessel is registered and to all persons claiming a lien on the vehicle or vessel as shown on the records of the Department of Highway Safety and Motor Vehicles or of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled. Notice of the sale must be sent by certified mail. The notice must have clearly identified and printed, if the claim of lien is for a motor vehicle, the last 8 digits of the vehicle identification number of the motor vehicle subject to the lien, or, if the claim of lien is for a vessel, the hull identification number of the vessel subject to the lien, in the delivery address box and on the outside of the envelope sent to the registered owner and all other persons claiming an interest therein or lien thereon. The notice must be sent to the owner of the vehicle or vessel and the person having the recorded lien on the vehicle or vessel at the address shown on the records of the registering agency at least 30 days before the sale of the vehicle or vessel. The notice must state the name, physical address, and telephone number of the lienor, and the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, all of which must also appear in the return address section on the outside of the envelope containing the notice of sale. After diligent search and inquiry, if the name and address of the registered owner or the owner of the recorded lien cannot be ascertained, the requirements of notice by mail may be dispensed with. In addition to the notice by mail, public notice of the time and place of sale shall be made by publishing a notice thereof one time, at least 10 days before the date of the sale, in a newspaper of general circulation in the county in which the sale is to be held. The proceeds of the sale, after payment of reasonable towing and storage charges, and costs of the sale, in that order of priority, shall be deposited with the clerk of the circuit court for the county if the owner or lienholder is absent, and the clerk shall hold such proceeds subject to the claim of the owner or lienholder legally entitled thereto. The clerk shall be entitled to receive 5 percent of such proceeds for the care and disbursement thereof. The certificate of title issued under this law shall be discharged of all liens unless otherwise provided by court order. The owner or lienholder may file a complaint after the vehicle or vessel has been sold in the county court of the county in which it is stored. Upon determining the respective rights of the parties, the court may award damages, attorney fees, and costs in favor of the prevailing party.

(7)(a) A wrecker operator recovering, towing, or storing vehicles or vessels is not liable for damages connected with such services, theft of such vehicles or vessels, or theft of personal property contained in such vehicles or vessels, provided that such services have been performed with reasonable care and provided, further, that, in the case of removal of a vehicle or vessel upon the request of a person purporting, and reasonably appearing, to be the owner or lessee, or a person authorized by the owner or lessee, of the property from which such vehicle or vessel is removed, such removal has been done in compliance with s. 715.07. Further, a wrecker operator is not liable for damage to a vehicle, vessel, or cargo that obstructs the normal movement of traffic or creates a hazard to traffic and is removed in compliance with the request of a law enforcement officer.

(b) For the purposes of this subsection, a wrecker operator is presumed to use reasonable care to prevent the theft of a vehicle or vessel or of any personal property contained in such vehicle stored in the wrecker operator's storage facility if all of the following apply:

1. The wrecker operator surrounds the storage facility with a chain-link or solid-wall type fence at least 6 feet in height;
2. The wrecker operator has illuminated the storage facility with lighting of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet during nighttime; and
3. The wrecker operator uses one or more of the following security methods to discourage theft of vehicles or vessels or of any personal property contained in such vehicles or vessels stored in the wrecker operator's storage facility:
  - a. A night dispatcher or watchman remains on duty at the storage facility from sunset to sunrise;
  - b. A security dog remains at the storage facility from sunset to sunrise;
  - c. Security cameras or other similar surveillance devices monitor the storage facility; or
  - d. A security guard service examines the storage facility at least once each hour from sunset to sunrise.

(c) Any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. However, if the owner or driver of the motor vehicle is present and accompanies the vehicle, no inventory by law enforcement is required. A wrecker operator is not liable for the loss of personal property alleged to be contained in such a vehicle when such personal property was not identified on the inventory record prepared by the law enforcement agency requesting the removal of the vehicle.

(8) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels, except a person licensed under chapter 493 while engaged in "repossession" activities as defined in s. 493.6101, may not operate a wrecker, tow truck, or car carrier unless the name, address, and telephone number of the company performing the service is clearly printed in contrasting colors on the driver and passenger sides of its vehicle. The name must be in at least 3-inch permanently affixed letters, and the address and telephone number must be in at least 1-inch permanently affixed letters.

(9) Failure to make good faith efforts to comply with the notice requirements of this section precludes the imposition of any storage charges against the vehicle or vessel. If a lienor fails to provide notice to a person claiming a lien on a vehicle or vessel in accordance with subsection (4), the lienor may not charge the person for more than 7 days of storage, but such failure does not affect charges made for towing the vehicle or vessel or the priority of liens on the vehicle or vessel.

(10) Persons who provide services pursuant to this section shall permit vehicle or vessel owners, lienholders, insurance company representatives, or their agents, which agency is evidenced by an original writing acknowledged by the owner before a notary public or other person empowered by law to administer oaths, to inspect the towed vehicle or vessel and shall release to the owner, lienholder, or agent the vehicle, vessel, or all personal property not affixed to the vehicle or vessel which was in the vehicle or vessel at the time the vehicle or vessel came into the custody of the person providing such services.

(11)(a) Any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2) and who has complied with the provisions of subsections (3) and (6), when such vehicle or vessel is to be sold for purposes of being dismantled, destroyed, or changed in such manner that it is not the motor vehicle or vessel described in the certificate of title, shall report the vehicle to the National Motor Vehicle Title Information System and apply to the Department of Highway Safety and Motor Vehicles for a certificate of destruction. A certificate of destruction, which authorizes the dismantling or destruction of the vehicle or vessel described therein, shall be reassignable a maximum of two times before dismantling or destruction of the vehicle shall be required, and shall accompany the vehicle or vessel for which it is issued, when such vehicle or vessel is sold for such purposes, in lieu of a certificate of title. The application for a certificate of destruction must include proof of reporting to the National Motor Vehicle Title Information System and an affidavit from the applicant that it has complied with all applicable requirements of this section and, if the vehicle or vessel is not registered in this state or any other state, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen, and shall be accompanied by such documentation as may be required by the department.

(b) The Department of Highway Safety and Motor Vehicles shall charge a fee of \$3 for each certificate of destruction. A service charge of \$4.25 shall be collected and retained by the tax collector who processes the application.

(12)(a) Any person who violates any provision of subsection (1), subsection (2), subsection (4), subsection (5), subsection (6), or subsection (7) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who violates the provisions of subsections (8) through (11) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who uses a false or fictitious name, gives a false or fictitious address, or makes any false statement in any application or affidavit required under the provisions of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Employees of the Department of Highway Safety and Motor Vehicles and law enforcement officers are authorized to inspect the records of any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels or transporting vehicles or vessels by wrecker, tow truck, or car carrier, to ensure compliance with the requirements of this section. Any person who fails to maintain records, or fails to produce records when required in a reasonable manner and at a reasonable time, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(13)(a) Upon receipt by the Department of Highway Safety and Motor Vehicles of written notice from a wrecker operator who claims a wrecker operator's lien under paragraph (2)(d) for recovery, towing, or storage of an abandoned vehicle or vessel upon instructions from any law enforcement agency, for which a certificate of destruction has been issued under subsection (11) and the vehicle has been reported to the National Motor Vehicle Title Information System, the department shall place the name of the registered owner of that vehicle or vessel on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8). If the vehicle or vessel is owned jointly by more than one person, the name of each registered owner shall be placed on the list. The notice of wrecker operator's lien shall be submitted on forms provided by the department, which must include:

1. The name, address, and telephone number of the wrecker operator.
2. The name of the registered owner of the vehicle or vessel and the address to which the wrecker operator provided notice of the lien to the registered owner under subsection (4).
3. A general description of the vehicle or vessel, including its color, make, model, body style, and year.
4. The vehicle identification number (VIN); registration license plate number, state, and year; validation decal number, state, and year; vessel registration number; hull identification number; or other identification number, as applicable.
5. The name of the person or the corresponding law enforcement agency that requested that the vehicle or vessel be recovered, towed, or stored.
6. The amount of the wrecker operator's lien, not to exceed the amount allowed by paragraph (b).

(b) For purposes of this subsection only, the amount of the wrecker operator's lien for which the department will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle or vessel for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit the amount of a wrecker operator's lien claimed under subsection (2) or prevent a wrecker operator from seeking civil remedies for enforcement of the entire amount of the lien, but limits only that portion of the lien for which the department will prevent issuance of a license plate or revalidation sticker.

(c)1. The registered owner of a vehicle or vessel may dispute a wrecker operator's lien, by notifying the department of the dispute in writing on forms provided by the department, if at least one of the following applies:

- a. The registered owner presents a notarized bill of sale proving that the vehicle or vessel was sold in a private or casual sale before the vehicle or vessel was recovered, towed, or stored.
- b. The registered owner presents proof that the Florida certificate of title of the vehicle or vessel was sold to a licensed dealer as defined in s. 319.001 before the vehicle or vessel was recovered, towed, or stored.
- c. The records of the department were marked "sold" prior to the date of the tow.

If the registered owner's dispute of a wrecker operator's lien complies with one of these criteria, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. If the vehicle or vessel is owned jointly by more than one person, each registered owner must dispute the wrecker operator's lien in order to be removed from the list. However, the

department shall deny any dispute and maintain the registered owner's name on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8) if the wrecker operator has provided the department with a certified copy of the judgment of a court which orders the registered owner to pay the wrecker operator's lien claimed under this section. In such a case, the amount of the wrecker operator's lien allowed by paragraph (b) may be increased to include no more than \$500 of the reasonable costs and attorney's fees incurred in obtaining the judgment. The department's action under this subparagraph is ministerial in nature, shall not be considered final agency action, and is appealable only to the county court for the county in which the vehicle or vessel was ordered removed.

2. A person against whom a wrecker operator's lien has been imposed may alternatively obtain a discharge of the lien by filing a complaint, challenging the validity of the lien or the amount thereof, in the county court of the county in which the vehicle or vessel was ordered removed. Upon filing of the complaint, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the court a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien to ensure the payment of such lien in the event she or he does not prevail. Upon the posting of the bond and the payment of the applicable fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. Upon determining the respective rights of the parties, the court may award damages and costs in favor of the prevailing party.

3. If a person against whom a wrecker operator's lien has been imposed does not object to the lien, but cannot discharge the lien by payment because the wrecker operator has moved or gone out of business, the person may have her or his name removed from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker, upon posting with the clerk of court in the county in which the vehicle or vessel was ordered removed, a cash or surety bond or other adequate security equal to the amount of the wrecker operator's lien. Upon the posting of the bond and the payment of the application fee set forth in s. 28.24, the clerk of the court shall issue a certificate notifying the department of the posting of the bond and directing the department to release the wrecker operator's lien. The department shall mail to the wrecker operator, at the address upon the lien form, notice that the wrecker operator must claim the security within 60 days, or the security will be released back to the person who posted it. At the conclusion of the 60 days, the department shall direct the clerk as to which party is entitled to payment of the security, less applicable clerk's fees.

4. A wrecker operator's lien expires 5 years after filing.

(d) Upon discharge of the amount of the wrecker operator's lien allowed by paragraph (b), the wrecker operator must issue a certificate of discharged wrecker operator's lien on forms provided by the department to each registered owner of the vehicle or vessel attesting that the amount of the wrecker operator's lien allowed by paragraph (b) has been discharged. Upon presentation of the certificate of discharged wrecker operator's lien by the registered owner, the department shall immediately remove the registered owner's name from the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle under s. 320.03(8), thereby allowing issuance of a license plate or revalidation sticker. Issuance of a certificate of discharged wrecker operator's lien under this paragraph does not discharge the entire amount of the wrecker operator's lien claimed under subsection (2), but only certifies to the department that the amount of the wrecker operator's lien allowed by paragraph (b), for which the department will prevent issuance of a license plate or revalidation sticker, has been discharged.

(e) When a wrecker operator files a notice of wrecker operator's lien under this subsection, the department shall charge the wrecker operator a fee of \$2, which shall be deposited into the General Revenue Fund. A service charge of \$2.50 shall be collected and retained by the tax collector who processes a notice of wrecker operator's lien.

(f) This subsection applies only to the annual renewal in the registered owner's birth month of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a motor vehicle dealer licensed under chapter 320, except for the transfer of registrations which includes the annual renewals. This subsection does not apply to any vehicle registered in the name of the lessor. This subsection does not affect the issuance of the title to a motor vehicle, notwithstanding s. 319.23(8)(b).

(14)(a) A copy of the notice of lien required by subsection (4) and the notice of sale required by subsection (6), which must include the vehicle identification number if the claim of lien is for a vehicle or the hull identification number if the claim of lien is for a vessel, and proof of the required check of the National Motor Vehicle Title Information System or an equivalent commercially available system shall constitute satisfactory proof for application to the Department of Highway Safety and Motor Vehicles for transfer of title, together with any other proof required by any rules and regulations of the department.

(b) The Department of Highway Safety and Motor Vehicles may not approve an application for transfer of title if the application fails to include a copy of the notice of lien required by subsection (4) and the notice of sale required by subsection (6). The vehicle or hull identification number on the notice of lien must match the vehicle or hull identification number of the vehicle or vessel that is the subject of the transfer of title.

(15)(a) A lienor or the lienor's agent may charge an administrative fee to the registered owner or a person claiming a lien against the vehicle or vessel to obtain release of the vehicle or vessel from the claim of lien imposed under this section. Such administrative fee may not exceed \$250. For purposes of this paragraph, the term "administrative fee" means a lien fee or any fee imposed by the lienor or the lienor's agent for administrative costs added to the amount due for towing and storing the vehicle or vessel.

(b) A lienor or the lienor's agent may not charge fees or costs, other than those authorized in this section or ss. 125.0103 and 166.043, that exceed \$250.

(16) A towing-storage operator must use a third-party service approved by the Department of Highway Safety and Motor Vehicles to transmit all notices required by this section. If there is no third-party service approved by the department, the towing-storage operator may mail the notices and provide evidence of compliance with this section upon submission of an application for certificate of title or certificate of destruction.

(a) For purposes of this subsection, the term “third-party service” means a qualified business entity that, upon a request submitted through a website by a towing-storage operator:

1. Accesses the National Motor Vehicle Title Information System records to obtain the last state of record of the vehicle.
2. Accesses the owner, lienholder, and insurer information, as applicable, for a vehicle or vessel from the department.
3. Electronically generates the notices required of a towing-storage operator by this section through the website.
4. Prints and sends the notices required under this section to each owner, lienholder, and insurer of record by certified mail.
5. Electronically returns tracking information or other proof of mailing and delivery of the notices to the towing-storage operator.
6. Electronically reports to the department, via an electronic data exchange process using a web interface, the following information

related to the towing and storage notice:

- a. The vehicle identification number or vessel hull identification number.
- b. The license plate number.
- c. The name and address of the towing-storage operator or lienor.
- d. The physical location of the vehicle or vessel.
- e. The date on which the vehicle or vessel was towed.
- f. The amount of storage fees owed at the time of the notice.
- g. The date of assessment of storage charges.
- h. The dates on which the notice was mailed and delivered.
- i. Other information required by the department.

(b) A third-party service must apply to and be approved by the department in order to provide notices under this section. The department shall prescribe the format for the application. The department may approve the applicant as qualified to perform the services provided in paragraph (a) if the applicant:

1. Provides the department with a \$1 million bond.
2. Submits an acceptable internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant.
3. Successfully demonstrates the ability to electronically provide required data to the department via an electronic data exchange process using a web interface.

(c) The department may deny, suspend, or revoke approval of a third-party service if the department determines that the third-party service has committed an act of fraud or misrepresentation related to a notice required by this section.

(d) A third-party service must maintain all records related to providing notices under this section for 5 years and allow the department to inspect and copy such records upon request. The records may be maintained in an electronic format.

(e) A third-party service must annually provide the department with evidence that it maintains a \$1 million bond and must annually submit an internal control and data security audit (Level 2) or its equivalent performed by a licensed certified public accountant to continue its approved status each year.

(f) A third-party service must maintain a publicly available website that allows owners, registrants, lienholders, insurance companies, or their agents to search for notices sent pursuant to this section. The search results must exclude personal identifying information but provide the same information provided to the department.

(17) A lienor must accept either a copy of an electronic title or a paper title as evidence of a person's interest in a vehicle or vessel.

History.—s. 2, ch. 76-83; s. 1, ch. 79-206; s. 1, ch. 79-244; s. 1, ch. 79-410; s. 7, ch. 90-283; s. 2, ch. 92-148; s. 10, ch. 93-49; s. 830, ch. 97-102; s. 11, ch. 98-324; s. 64, ch. 99-248; s. 41, ch. 2000-362; s. 3, ch. 2001-164; s. 36, ch. 2001-196; s. 17, ch. 2002-235; s. 16, ch. 2003-179; s. 3, ch. 2005-137; s. 94, ch. 2005-164; s. 10, ch. 2006-172; s. 6, ch. 2009-206; s. 2, ch. 2012-103; s. 71, ch. 2012-181; s. 105, ch. 2013-18; s. 75, ch. 2013-160; s. 164, ch. 2014-17; s. 9, ch. 2014-70; s. 3, ch. 2017-82; s. 4, ch. 2019-73; s. 6, ch. 2020-174.