

# ACT No. 800

Regular Session, 2014

HOUSE BILL NO. 929

BY REPRESENTATIVE BADON

## AN ACT

To enact Chapter 16-A of Title 32 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 32:1750.1, relative to motor vehicles; to provide relative to motor vehicles parked on private property; to provide relative to the immobilization of such vehicles by booting; to provide relative to parishes and municipalities that provide for the regulation of motor vehicle booting; to provide relative to persons who operate a booting business; to provide for minimum standards; to provide for restrictions; to provide for suspensions for certain violations; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 16-A of Title 32 of the Louisiana Revised Statutes of 1950, comprised of R.S. 32:1750.1, is hereby enacted to read as follows:

### CHAPTER 16-A. IMMOBILIZATION OF MOTOR VEHICLES BY BOOTING

#### §1750.1. Immobilization of motor vehicles by booting; private property; legislative findings

A.(1) The legislature finds and declares that the immobilization of motor vehicles by booting in the state of Louisiana vitally affects the public interest and the public welfare, and that in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate those who operate motor vehicle booting businesses in Louisiana, in order to prevent frauds, impositions, and other abuses upon its citizens.

(2) The legislature also finds that as the practice of immobilizing motor vehicles by booting on private property has become more common, complaints have surfaced regarding the conduct of some of the persons engaged in this business,

1 including complaints of employees engaging in strong-arm tactics to intimidate  
2 motorists. The legislature finds it necessary to establish minimum consumer  
3 protection standards as well as remedies for motorists who suffer property damage  
4 as a result of having their motor vehicles booted or claim to have been wrongfully  
5 booted.

6 B. As used in this Chapter, the following words and phrases shall have the  
7 meaning ascribed to them in this Section, except as otherwise may be provided or  
8 unless a different meaning is plainly required by the context:

9 (1) "Boot" or "booting" means the act of placing on a parked motor vehicle  
10 a mechanical device that is designed to be attached to the wheel or tire or other part  
11 of such vehicle so as to prohibit its usual manner of movement.

12 (2) "Persons" means any individual, partnership, corporation, association,  
13 firm, or other business entity.

14 (3) "Private property" means any privately owned parking facility at any  
15 location or any parking lot or street which is privately owned and is located near or  
16 contiguous to premises having one or more stores or business establishments which  
17 is used for the parking of motor vehicles or for vehicular travel by the owner or  
18 customers of such establishments and those having express or implied permission of  
19 the owner. Private property does not mean any parking facility, parking lot, or street  
20 which is owned by the state or any of its political subdivisions or by any  
21 postsecondary education institution.

22 C.(1) Any person engaged in the business of booting motor vehicles parked  
23 on private property in any parish or municipality in the state of Louisiana shall  
24 comply with all the requirements of this Chapter and all the licensing and other  
25 requirements of any ordinance regulating such business of the parish or municipality  
26 in which the person engages in such business.

27 (2) Any parish or municipality may levy an annual fee for licensing persons  
28 to engage in the business of booting motor vehicles parked on private property in the  
29 parish or municipality.

1                   (3) No person shall engage in the business of booting motor vehicles unless  
2                   such person shall do both of the following:

3                   (a) Maintain minimum insurance coverage in the amount of one million  
4                   dollars in general liability, one million dollars in commercial auto, one million  
5                   dollars in garage liability, fifty thousand dollars in garage keepers, one million  
6                   dollars in errors and omissions, one million dollars in umbrella coverage, and shall  
7                   have workers' compensation coverage on all employees.

8                   (b) Show proof of financial responsibility by depositing with the parish or  
9                   municipality a continuing bond with a commercial surety authorized to do business  
10                  in the state and approved by the parish or municipality in the amount of ten thousand  
11                  dollars payable to the parish or municipality, which bond shall be conditioned upon  
12                  faithful observance of all the provisions of this Chapter and any ordinances of the  
13                  parish or municipality with respect to the business of booting motor vehicles on  
14                  private property, and shall also indemnify any person who suffers any loss by reason  
15                  of a failure to observe such provisions of this Chapter or such parish or municipal  
16                  ordinance, or any person who suffers any loss, damages, and expenses by reason of  
17                  a failure to properly boot a vehicle.

18                  D.(1) No person shall boot a motor vehicle parked on private property unless  
19                  such person has a written contract with the owner of the private property, or his  
20                  authorized representative, to boot motor vehicles parked on any such property.

21                  (2) No person shall boot a motor vehicle parked on private property unless  
22                  a sign is posted at each lot entrance. In addition, each sign shall contain the  
23                  information which may be prescribed by the parish or municipality and shall include  
24                  all of the following:

25                  (a) The signs shall be at least eighteen inches wide and twenty-four inches  
26                  tall and shall be made of weather resistant material.

27                  (b) In lettering at least two inches tall in height and in a solid color that  
28                  contrasts with the background the sign shall read "Towing and Booting Enforced"  
29                  or "Booting Enforced" as is applicable to the property.

1                   (c) In lettering at least one inch in height and in a solid color that contrasts  
2                   with the background the sign shall clearly state the following:

3                   (i) The name and phone number of the booting company including the area  
4                   code and the amount of the boot removal fee and, in the case of a pay-to-park lot, a  
5                   statement that unpaid parking fees will also be collected.

6                   (ii) Statement that "Unauthorized vehicles will be towed or booted at owner's  
7                   or operator's expense."

8                   (iii) A statement describing who may park in the parking facility or the  
9                   private property, such as "Paid Customer Parking Only", "Permit Parking Only",  
10                  "Resident Parking Only", or similar statement.

11                  (iv) In the case of pay-to-park lots, the sign shall state how to pay.

12                  (3) No charge in excess of the amount contained on the signs required by this  
13                  Subsection shall be imposed to release a booted motor vehicle. In addition, no boot  
14                  removal fee or any other amount shall be charged therefor if personnel responsible  
15                  for removing the boot do not arrive within ninety minutes of the call or other  
16                  notification that the owner or operator of the vehicle requests removal of the boot.

17                  (4) The phone number required to be stated on the signs required by  
18                  Paragraph (2)(c)(i) of this Subsection shall be in operation twenty-four hours a day  
19                  and shall be manned by a live operator.

20                  (5) No person shall boot a motor vehicle parked on private property or a pay-  
21                  to-park lot because the motor vehicle is improperly parked in a marked space on such  
22                  private property or a pay-to-park lot unless the person booting the vehicle obtains  
23                  photographic proof sufficient to clearly show the improper parking, whether by cell  
24                  phone photograph or otherwise.

25                  E.(1) It shall be unlawful for any person, either as principal, agent, or  
26                  employee, to operate any vehicle to engage in or operate, or assist in the engagement  
27                  or operation of, a business engaged in booting motor vehicles on private property  
28                  unless the vehicle shall have displayed on each side in plain view the name of the  
29                  business, the address from which the business is operating, and a phone number with  
30                  area code of the business. The lettering shall be at least two inches in height and

1            shall be in a contrasting color to the vehicle. Information may be on a removable  
2            magnet, so it can be removed when the vehicle is not in service.

3            (2) Business identification shall be visibly worn by vehicle booting agents  
4            at all times while booting and accepting payment.

5            F.(1) Any person who has booted a vehicle shall immediately affix at the  
6            rear-most portion of the window adjacent to the driver's seat of such vehicle a sticker  
7            containing a warning that any attempt to move the vehicle may result in damage to  
8            the vehicle, the fee to remove the boot, and the time the vehicle was booted.

9            (2) The sticker shall also contain the name, address, and Parish or Municipal  
10           Occupational License Number of the motor vehicle booting business as well as the  
11           same twenty-four hour business telephone number required by Paragraph (D)(2)(i)  
12           and (4) which shall facilitate the dispatch of personnel responsible for removing the  
13           boot and a statement that no fee shall be due if personnel responsible for removing  
14           the boot do not arrive within ninety minutes of the call or other notification that the  
15           driver requests removal of the boot.

16           G.(1) Upon payment of all fees to remove a boot, the person who booted the  
17           motor vehicle, or his authorized representative, shall remove the boot and the  
18           window sticker immediately at no additional charge. The personnel responsible for  
19           removing the boot shall be capable of accepting payment by credit or debit card as  
20           well as cash. However, no boot removal fee or other charge therefor shall be due if  
21           personnel responsible for removing the boot do not arrive within ninety minutes of  
22           the call or other notification that the driver requests removal of the boot. No release  
23           or waiver of any kind purporting to limit or avoid liability for damages to a motor  
24           vehicle that has been booted shall be valid.

25           (2) Any person who boots a motor vehicle, or any other person authorized  
26           to accept payment of any booting fees, shall provide a signed receipt to the person  
27           paying the booting fees at the time such fees are paid. The receipt shall contain the  
28           name, business address, Parish or Municipal Occupational License Number, and  
29           business telephone number of the person who booted the motor vehicle, as such

1 information appears on the Parish or Municipal Occupational License granted to the  
2 person by the parish or municipality.

3 (3) The receipt shall also include any telephone number which has been  
4 designated by the parish or municipality as the office within the parish or  
5 municipality responsible for receiving complaints with respect to booting, if any.

6 H. The owner of a motor vehicle that has been booted shall have such right  
7 to an administrative hearing in the parish or municipality in which the motor vehicle  
8 was booted as may be granted by ordinance of the parish or municipality. The  
9 purpose of the hearing is to determine the validity of the booting and the fees  
10 imposed. The owner shall make a written request for a hearing within ten calendar  
11 days from the date the motor vehicle was booted. The receipt provided for in  
12 Paragraphs (2) and (3) of this Subsection shall advise the owner or operator of a  
13 booted vehicle of his right under parish or municipal ordinance to ask for and receive  
14 such hearing.

15 I. A parking facility operation company, valet company, or a general  
16 manager of a parking facility may not have a direct or indirect monetary or  
17 ownership interest in a business engaged in booting motor vehicles on private  
18 property which, for compensation, boots unauthorized vehicles in a parking facility.  
19 A parking facility operating company, valet company, or general manager of a  
20 parking facility in which vehicles are booted may not accept any rebate,  
21 compensation, or other valuable consideration, directly or indirectly, from the owner  
22 or operator of a business engaged in booting motor vehicles on private property in  
23 connection with the booting of vehicles, other than the collected unpaid parking fees.

24 J. A first violation of this Chapter by a person engaged in the business of  
25 booting motor vehicles parked on private property shall subject such person to a  
26 warning, a subsequent violation shall subject such person to a suspension of the  
27 violator's right to engage in the business of booting motor vehicles on private  
28 property.

1                    K. Nothing in this Chapter shall be construed to prohibit any parish or  
2                    municipality from enacting ordinances that impose more restrictive requirements or  
3                    regulations than those provided in this Chapter.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

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