

By Senator Ostalkiewicz

12-991-98

1                                   A bill to be entitled  
2           An act relating to vessels; amending s. 328.17,  
3           F.S.; revising provisions with respect to the  
4           nonjudicial sale of vessels; revising  
5           timeframes for notice of certain sales;  
6           revising certain notice timeframes; providing  
7           requirements with respect to towed vessels;  
8           providing for liens on certain vessels;  
9           providing procedures; providing for sale of  
10          certain vessels; providing for liability;  
11          providing requirements with respect to  
12          waterborne towing vessels; providing for vessel  
13          inspection; providing for certificates of  
14          destruction; providing for fees; providing for  
15          rules and penalties; requiring the satisfaction  
16          of certain liens prior to the sale or  
17          destruction of a vessel or its contents;  
18          amending s. 715.05, F.S.; providing for the  
19          reporting of unclaimed vessels; amending s.  
20          715.07, F.S.; providing for the towing of  
21          vessels docked on private property; providing  
22          an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Section 328.17, Florida Statutes, is  
27   amended to read:

28           328.17 Nonjudicial sale of vessels.--

29           (1) It is the intent of the Legislature that any  
30   nonjudicial sale of any unclaimed vessel held for unpaid costs  
31   of repairs, improvements, or other work and related storage

1 charges, or any vessel held for failure to pay removal costs  
2 pursuant to s. 327.53(7), or any undocumented vessel in  
3 default of marina storage fees be disposed of pursuant to the  
4 provisions of this section.

5 (2) The Department of Highway Safety and Motor  
6 Vehicles shall provide certification forms for the nonjudicial  
7 sale of vessels as authorized by this section.

8 (3) When a vessel is sold by a lienor in accordance  
9 with this section, a purchaser for value takes title to the  
10 vessel free and clear of all claims, liens, and encumbrances  
11 whatsoever, unless otherwise provided by court order. ~~Unless~~  
12 ~~otherwise stated, all nonjudicial sales as provided in this~~  
13 ~~section shall be subject to prior recorded liens against said~~  
14 ~~vessels.~~

15 (4) Written leases for the storage of undocumented  
16 vessels which are executed between a marina or other storage  
17 facility in this state and persons who own such undocumented  
18 vessels shall contain a provision that ~~which~~ authorizes the  
19 marina or other storage facility to sell such vessels at a  
20 nonjudicial sale in the event of nonpayment of rent for a  
21 period of 35 days ~~6 months~~. Said provision shall be set forth  
22 in bold print. Such leases are valid and enforceable under the  
23 following conditions:

24 (a) The written lease contains the address of the  
25 vessel owner and the marina or other storage facility sends  
26 written notice by certified ~~or registered~~ mail, return receipt  
27 requested, to the address of the vessel owner as set forth in  
28 the lease at least 15 ~~30~~ days prior to the proposed sale.

29 (b) The marina or other storage facility sends written  
30 notice of nonjudicial sale by certified ~~or registered~~ letter,  
31 return receipt requested, to each recorded lienholder of such

1 vessel registered with this state as shown by the records of  
2 the Department of Highway Safety and Motor Vehicles at least  
3 15 ~~30~~ days prior to the proposed sale. In the event the  
4 vessel is registered with another state, such verification and  
5 notification of lienholder interests shall be based on records  
6 maintained by the vessel registering authority of the other  
7 state.

8 (c) The marina or other storage facility publishes in  
9 a newspaper of general circulation in the county in which the  
10 marina or other storage facility is located a notice  
11 indicating the time and place of the sale; a complete  
12 description of the vessel; and a statement that the sale will  
13 be a public sale at auction to the highest bidder, provided  
14 the sale price is greater than 50 percent of the fair market  
15 value of said vessel. Fair market value shall be determined by  
16 two independent appraisals by factory representatives of the  
17 vessel's manufacturer or licensed marine surveyors. The notice  
18 shall be published at least 10 days prior to the sale.

19 (5) In the event the proceeds from a sale conducted in  
20 conformance with the provisions of subsection (4) exceed the  
21 storage fees due and owing on the vessel as of the date of  
22 sale, together with the costs of the sale, including  
23 publication costs and appraisal costs, the balance of the  
24 proceeds shall be deposited within 72 hours after ~~of~~ the sale  
25 with the clerk of the circuit court of the county in which the  
26 sale is held, to be returned to the owner or lienholder of the  
27 vessel sold upon application within 1 year from the date of  
28 the sale by the owner or lienholder, less any fee charged by  
29 the clerk for such deposit, as allowed by law.

30 (6) In making application for transfer of title from a  
31 previous owner in default of ~~marina~~ storage fees, the new

1 owner shall establish proof of ownership by submitting with  
2 the application, which includes the applicable fees and  
3 original bill of sale executed by the marina, a certified copy  
4 of the written lease signed by the marina or other storage  
5 facility and the previous owner, a copy of each ~~registered or~~  
6 certified letter sent by the marina or other storage facility  
7 to the previous owner and lienholder, certified copies of the  
8 appraisals as required in paragraph (4)(c), a certified copy  
9 of the signed receipt from the clerk of the circuit court for  
10 any proceeds from the sale deposited with the county in which  
11 the sale was held, and a certified copy of the public notice  
12 of intent to sell published in a newspaper of general  
13 circulation in the county in which the marina or other storage  
14 facility is located. At the time the purchase price is paid,  
15 the marina or other storage facility shall provide the  
16 documentation required by this subsection to the purchaser.

17 (7) Any person who, with the consent of the owner, has  
18 physical possession of an undocumented unclaimed vessel for  
19 repairs, improvements, or other work shall have an unrecorded  
20 lien against the vessel for all reasonable costs of the  
21 completed work and associated reasonable towing and storage  
22 charges levied against the vessel. The work order shall be  
23 signed by the owner of the vessel authorizing the work to be  
24 done. If the costs which give rise to such a lien are due and  
25 unpaid 60 ~~90~~ days after the vessel owner is given written  
26 notice of the completed work, said person may sell the vessel,  
27 including its machinery, rigging, and accessories, at public  
28 auction. ~~Wrecker service in and of itself shall not~~  
29 ~~constitute repair or storage, and the charge for such service~~  
30 ~~shall not be grounds for the establishment of a lien interest~~

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1 ~~in the vessel.~~ The sale of such vessel shall be valid and  
2 enforceable under the following conditions:

3 (a) The person who intends to sell an undocumented  
4 vessel registered with the state sends written notice of  
5 nonjudicial sale and an itemized invoice of the charges owed  
6 and due to the owners and recorded lienholders of said vessel  
7 at least 45 ~~30~~ days prior to the sale. Such notice shall be  
8 considered made when certified ~~or registered~~ letters, return  
9 receipt requested, are mailed to the owners and recorded  
10 lienholders at the latest address of each as shown by the  
11 records of the Department of Highway Safety and Motor  
12 Vehicles. In the event said vessel is registered in another  
13 state, such verification and notification shall be based on  
14 ownership and lienholder interest records maintained by the  
15 vessel registering authority of the other state.

16 (b) A notice is published in a newspaper of general  
17 circulation in the county in which the repair business is  
18 located and in the county of the owner's last known address at  
19 least 20 ~~10~~ days prior to the date of the sale. Such notice  
20 shall indicate the time and place of the sale; shall contain a  
21 complete description of the vessel, including the name of any  
22 known owner; and shall contain a statement that the sale will  
23 be a public sale at auction to the highest bidder, provided  
24 the sale price is greater than 50 percent of the fair market  
25 value of said vessel. Fair market value shall be determined by  
26 two independent appraisals by factory representatives of the  
27 vessel's manufacturer or licensed marine surveyors.

28 (c) The proceeds from the sale, less the costs  
29 incurred in the sale and the reasonable costs for the work  
30 done on the vessel and associated reasonable towing and  
31 storage costs, shall be deposited within 72 hours after the

1 sale with the clerk of the circuit court of the county in  
2 which the sale is held. Upon receipt of the proceeds, the  
3 clerk shall be entitled to receive 5 percent of said proceeds  
4 for the care and disbursement thereof. At any time within 1  
5 year after the sale of such vessel, the former owners or  
6 lienholders of the vessel may recover the net proceeds by  
7 filing a claim with the clerk against the county.

8 (8) Whenever a person regularly engaged in the  
9 business of transporting vessels by use of another vessel  
10 equipped for the purpose of transporting or towing a vessel,  
11 commonly known as a waterborne towing service, or by wrecker,  
12 tow truck, or similar motor vehicle, recovers, removes, or  
13 stores a vessel upon instruction from:

14 (a) The owner thereof;

15 (b) The owner or lessor, or a person authorized by the  
16 owner or lessor, of property on which such vessel is  
17 wrongfully parked or docked, and such removal is done in  
18 compliance with s. 715.07; or

19 (c) Any law enforcement agency,

20  
21 the person shall have a lien on such vessel for a reasonable  
22 towing fee and for a reasonable storage fee, except that no  
23 storage fee shall be charged if such vessel is stored for less  
24 than 6 hours.

25 (9)(a) Any person regularly engaged in the business of  
26 recovering, towing, or storing vessels who comes into  
27 possession of a vessel pursuant to subsection (8) and who  
28 claims a lien for recovery, towing, or storage services shall  
29 give notice to the registered owner and to all persons  
30 claiming a lien thereon, as disclosed by the records in the

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1 Department of Highway Safety and Motor Vehicles or of a  
2 corresponding agency in any other state.

3 (b) Notice by certified mail, return receipt  
4 requested, shall be sent within 7 business days after the date  
5 of storage of the vessel to the registered owner and to all  
6 persons of record claiming a lien against the vessel. It  
7 shall state the fact of possession of the vessel, that a lien  
8 as provided in subsection (8) is claimed, that charges have  
9 accrued and the amount thereof, that the lien is subject to  
10 enforcement pursuant to law, that the owner or lienholder, if  
11 any, has the right to a hearing as set forth in subsection  
12 (10), and that any vessel that remains unclaimed, or for which  
13 the charges for recovery, towing, or storage services remain  
14 unpaid, may be sold in 35 days free of all prior liens.

15 (c) If attempts to locate the owner or lienholder  
16 prove unsuccessful, the towing-storage operator shall, 7  
17 working days, excluding Saturday and Sunday, after the initial  
18 tow or storage, notify the public agency of jurisdiction in  
19 writing by certified mail, return receipt requested, or by  
20 acknowledged hand delivery that the towing-storage company has  
21 been unable to locate the owner or lienholder, a physical  
22 search of the vessel has disclosed no ownership information,  
23 and a good-faith best effort has been made. For purposes of  
24 this paragraph, subsection (14), and s. 715.05, "good-faith  
25 best effort" means that the following checks have been  
26 performed by the towing-storage company to establish prior  
27 state of registration or title:

28 1. Check of vessel for any registration number or hull  
29 identification number.

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1           2. Check of law enforcement report for the  
2 registration number or hull identification number if the  
3 vessel was towed at the request of a law enforcement officer.

4           3. Check of trip sheet or tow ticket of the towing  
5 operator to see if a registration number or hull  
6 identification number was on the vessel at the beginning of  
7 tow, if a private tow.

8           4. If there is no address of the owner on the impound  
9 report, check of law enforcement report to see if an  
10 out-of-state address is indicated from the operator's  
11 information.

12           5. Check of vessel for registration decals or other  
13 stickers that may indicate a state of possible registration.

14           6. Check of the interior of the vessel for any papers  
15 that may provide a state of registration.

16           (10)(a) The owner of a vessel removed pursuant to the  
17 provisions of subsection (8), or any person claiming a lien,  
18 other than the towing-storage operator, within 10 days after  
19 the time the owner or person claiming a lien has knowledge of  
20 the location of the vessel, may file a complaint in the county  
21 court of the county in which the vessel is stored or in which  
22 the owner resides, to determine if the property was wrongfully  
23 taken or withheld.

24           (b) Upon filing of a complaint, an owner or lienholder  
25 may have the vessel released upon posting with the court a  
26 cash or surety bond or other adequate security equal to the  
27 amount of the charges for towing or storage to ensure the  
28 payment of such charges in the event the owner or lienholder  
29 does not prevail. Upon posting of the bond and payment of the  
30 applicable fee set forth in s. 28.24, the clerk of the court  
31 shall issue a certificate notifying the lienor of the posting



1 of the bond and directing the lienor to release the vessel.  
2 At the time of such release, after reasonable inspection, the  
3 lienor shall give a receipt to the towing-storage company  
4 reciting any claim the lienor has for loss or damage to the  
5 vessel or the contents thereof.

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

13 (11) Any vessel that is stored pursuant to subsection  
14 (8) and that remains unclaimed, or for which reasonable  
15 charges for recovery, towing, or storing remain unpaid, and  
16 any contents not released pursuant to subsection (15) may be  
17 sold by the owner or operator of the storage space for such  
18 towing or storage charge after 35 days from the time the  
19 vessel is stored therein. The sale shall be at public auction  
20 for cash. If the date of the sale was not included in the  
21 notice required in subsection (9), notice of the sale shall be  
22 given to the person in whose name the vessel is registered and  
23 to all persons claiming a lien on the vessel as shown on the  
24 records of the Department of Highway Safety and Motor Vehicles  
25 or of the corresponding agency in any other state. Notice  
26 shall be sent by certified mail, return receipt requested, to  
27 the owner of the vessel and the person having the recorded  
28 lien on the vessel at the address shown on the records of the  
29 registering agency and shall be mailed not less than 15 days  
30 before the date of the sale. After diligent search and  
31 inquiry, if the name and address of the registered owner or

1 the owner of the recorded lien cannot be ascertained, the  
2 requirement of notice by mail may be dispensed with. In  
3 addition to the notice by mail, public notice of the time and  
4 place of sale shall be made by publishing a notice thereof one  
5 time, at least 10 days prior to the date of the sale, in a  
6 newspaper of general circulation in the county in which the  
7 sale is to be held. The proceeds of the sale, after payment  
8 of reasonable towing and storage charges and costs of the  
9 sale, in that order of priority, shall be deposited with the  
10 clerk of the circuit court for the county, if the owner is  
11 absent, and the clerk shall hold such proceeds subject to the  
12 claim of the person legally entitled thereto. The clerk shall  
13 be entitled to receive 5 percent of such proceeds for the care  
14 and disbursement thereof. The certificate of title issued  
15 under this law shall be discharged of all liens unless  
16 otherwise provided by court order.

17 (12) No person regularly engaged in the business of  
18 recovering, towing, or storing vessels shall be liable for  
19 damages connected with such services, provided that the  
20 services have been performed with reasonable care and  
21 provided, further, that, in the case of removal of a vessel on  
22 the request of a person purporting and reasonably appearing to  
23 be the owner or lessee of the property from which such vessel  
24 is removed, such removal has been done in compliance with s.  
25 715.07.

26 (13) A person regularly engaged in the business of  
27 recovering, towing, or storing vessels, except a person  
28 licensed under chapter 493 while engaged in repossession  
29 activities as defined in s. 493.6101, may not operate a  
30 waterborne towing vessel or a wrecker, tow truck, or similar  
31 motor vehicle unless the name, address, and telephone number

1 of the company performing the service is clearly printed in  
2 contrasting colors on both sides of the vessel or the driver  
3 and passenger sides of a vehicle. The name must be in at  
4 least 3-inch permanently affixed letters, and the address and  
5 telephone numbers must be in at least 1-inch permanently  
6 affixed letters.

7 (14) Failure to make good-faith best efforts to comply  
8 with the notice requirements of this section shall preclude  
9 the imposition of any storage charges against such vessel.

10 (15) Persons who provide services pursuant to this  
11 section shall permit vessel owners or their agents, which  
12 agency is evidenced by a writing acknowledged by the owner  
13 before a notary public or other person empowered by law to  
14 administer oaths, to inspect the towed vessel and shall  
15 release to the owner or agent all personal property not  
16 affixed to the vessel which was in the vessel at the time the  
17 vessel came into the custody of the person providing such  
18 services.

19 (16)(a) Any person regularly engaged in the business  
20 of recovering, towing, or storing vessels who comes into  
21 possession of a vessel pursuant to subsection (8) and who has  
22 complied with the provisions of subsection (9), when such  
23 vessel is to be sold for the purpose of being dismantled,  
24 destroyed, or changed in such a manner that it is not the  
25 vessel described in the certificate of title, shall apply to  
26 the county tax collector for a certificate of destruction. A  
27 certificate of destruction, which authorizes the dismantling  
28 or destruction of the vessel described therein, shall be  
29 reassignable and shall accompany the vessel for which it is  
30 issued, when such vessel is sold for such purposes, in lieu of  
31 a certificate of title. The application for a certificate of

1 destruction shall include an affidavit from the applicant that  
2 the applicant has complied with all applicable requirements of  
3 this section and, if the vessel is not registered in this  
4 state, by a statement from a law enforcement officer that the  
5 vessel is not reported stolen, and shall be accompanied by  
6 such documentation as may be required by the department.

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

11 (c) The Department of Highway Safety and Motor  
12 Vehicles may adopt such rules as it deems necessary or proper  
13 for the administration of this subsection.

14 (17)(a) Any person who violates any provision of  
15 subsections (4) through (9) is guilty of a misdemeanor of the  
16 first degree, punishable as provided in s. 775.082 or s.  
17 775.083.

18 (b) Any person who violates the provisions of  
19 subsections (12) through (15) is guilty of a felony of the  
20 third degree, punishable as provided in s. 775.082, s.  
21 775.083, or s. 775.084.

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

28 (18)(8) When any vessel is sold pursuant to subsection  
29 (7), the person selling the vessel, at the time the purchase  
30 price is paid, shall deliver to the purchaser an executed bill  
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1 of sale and certified copies of the documentation required by  
2 subsection (7).

3 (19)~~(9)~~ In making application for transfer of title  
4 from a previous owner whose vessel is sold pursuant to  
5 subsection (7), the new owner shall establish proof of  
6 ownership by submitting with the application, which includes  
7 the applicable fees and sales tax, the original bill of sale  
8 executed by the repair business, certified copies of the  
9 documentation required by subsection (7), and a certified copy  
10 of the signed receipt from the clerk of the circuit court for  
11 any proceeds from the sale deposited with the county in which  
12 the sale was held.

13 (20) All maritime liens claimed against a vessel under  
14 46 U.S.C. ss. 31301-31343 must be satisfied prior to the sale  
15 or destruction of a vessel or its contents by any lienholder  
16 established pursuant to this section.

17 Section 2. Section 715.05, Florida Statutes, is  
18 amended to read:

19 715.05 Reporting of unclaimed motor vehicles or  
20 vessels.--

21 (1) Whenever any law enforcement agency authorizes the  
22 removal of a vehicle or vessel or whenever any towing service,  
23 garage, repair shop, or automotive service, storage, or  
24 parking or docking place notifies the law enforcement agency  
25 of possession of a vehicle or vessel pursuant to s.  
26 715.07(2)(a)2., the applicable law enforcement agency shall  
27 contact the Department of Highway Safety and Motor Vehicles,  
28 or the appropriate agency of the state of registration, if  
29 known, within 24 hours by telephone or fax or through the  
30 medium of electronic communications giving the full  
31 description of the vehicle or vessel. Upon receipt of the

1 full description of the vehicle or vessel, the department  
2 shall search its files to determine the owner's name and  
3 whether any person has filed a lien upon the vehicle or vessel  
4 as provided in s. 319.27(2) and (3) and notify the applicable  
5 law enforcement agency within 72 hours. The person in charge  
6 of the towing service, garage, repair shop, or automotive  
7 service, storage, or parking or docking place shall obtain  
8 such information from the applicable law enforcement agency  
9 within 5 days from the date of storage and shall, by certified  
10 mail, return receipt requested, notify the owner and all  
11 lienholders of the location of the vehicle or vessel and of  
12 the fact that it is unclaimed. Such notice shall be given  
13 within 7 days, excluding Saturday and Sunday, from the date of  
14 storage and shall be complete upon mailing; however, if the  
15 state of registration is unknown, the person in charge of the  
16 towing service, garage, repair shop, or automotive service,  
17 storage, or parking or docking place shall make a good faith  
18 best effort in so notifying the owner and any lienholders, and  
19 such notice shall be given within a reasonable period of time  
20 from the date of storage.

21 (2) Nothing herein contained shall apply to any  
22 licensed public lodging establishment.

23 (3) Failure to make good faith best efforts to comply  
24 with the notice requirement of this section or of s.  
25 715.07(2)(a)2., as appropriate, shall preclude the imposition  
26 of any storage charges against such vehicle or vessel.

27 Section 3. Section 715.07, Florida Statutes, is  
28 amended to read:

29 715.07 Vehicles and vessels parked or docked on  
30 private property; towing.--

31 (1) As used in this section:7

1           (a) The term "vehicle" means any mobile item that  
2 ~~which~~ normally uses wheels, whether motorized or not.

3           (b) The term "vessel" is synonymous with the term  
4 "boat" as used in s. 1(b), Art. VII of the State Constitution  
5 and includes every description of watercraft, barge, and air  
6 boat, other than a seaplane on the water, used or capable of  
7 being used as a means of transportation on water.

8           (c) The term "property" includes a private dock, as  
9 the context requires.

10           (2) The owner or lessee of real property or a private  
11 dock, or any person authorized by the owner or lessee, which  
12 person may be the designated representative of the condominium  
13 association if the real property is a condominium, may cause  
14 any vehicle parked on such property or vessel moored at the  
15 dock without her or his permission to be removed by a person  
16 regularly engaged in the business of towing vehicles or  
17 vessels, without liability for the costs of removal,  
18 transportation, or storage or damages caused by such removal,  
19 transportation, or storage, under any of the following  
20 circumstances:

21           (a) The towing or removal of any vehicle or vessel  
22 from private property without the consent of the registered  
23 owner or other legally authorized person in control of that  
24 vehicle is subject to strict compliance with the following  
25 conditions and restrictions:

26           1.a. Any towed or removed vehicle or vessel must be  
27 stored at a site within 10 miles of the point of removal in  
28 any county of 500,000 population or more, and within 15 miles  
29 of the point of removal in any county of less than 500,000  
30 population. That site must be open for the purpose of  
31 redemption of vehicles or vessels on any day that the person

1 or firm towing such vehicle or vessel is open for towing  
2 purposes, from 8:00 a.m. to 6:00 p.m., and, when closed, shall  
3 have prominently posted a sign indicating a telephone number  
4 where the operator of the site can be reached at all times.  
5 Upon receipt of a telephoned request to open the site to  
6 redeem a vehicle or vessel, the operator shall return to the  
7 site within 1 hour or she or he will be in violation of this  
8 section.

9 b. If no towing business providing such service is  
10 located within the area of towing limitations set forth in  
11 sub-subparagraph a., the following limitations apply: any  
12 towed or removed vehicle or vessel must be stored at a site  
13 within 20 miles of the point of removal in any county of  
14 500,000 population or more, and within 30 miles of the point  
15 of removal in any county of less than 500,000 population.

16 2. The person or firm towing or removing the vehicle  
17 or vessel shall, within 30 minutes of completion of such  
18 towing or removal, notify the municipal police department or,  
19 in an unincorporated area, the sheriff of such towing or  
20 removal, the storage site, the time the vehicle or vessel was  
21 towed or removed, and the make, model, color, and license  
22 plate number of the vehicle or the registration number and  
23 full identification number of a vessel and shall obtain the  
24 name of the person at that department to whom such information  
25 was reported and note that name on the trip record.

26 3. If the registered owner or other legally authorized  
27 person in control of the vehicle or vessel arrives at the  
28 scene prior to removal or towing of the vehicle or vessel, the  
29 vehicle or vessel shall be disconnected from the towing or  
30 removal apparatus, and that person shall be allowed to remove  
31 the vehicle or vessel without interference upon the payment of



1 a reasonable service fee of not more than one-half of the  
2 posted rate for such towing service as provided in  
3 subparagraph 6., for which a receipt shall be given, unless  
4 that person refuses to remove the vehicle or vessel which is  
5 otherwise unlawfully parked.

6 4. The rebate or payment of money or any other  
7 valuable consideration from the individual or firm towing or  
8 removing vehicles or vessels to the owners or operators of the  
9 premises from which the vehicles or vessels are towed or  
10 removed, for the privilege of removing or towing those  
11 vehicles or vessels, is prohibited.

12 5. Except for property or a private dock appurtenant  
13 to and obviously a part of a single-family residence, and  
14 except for instances when notice is personally given to the  
15 owner or other legally authorized person in control of the  
16 vehicle or vessel that the area in which that vehicle or  
17 vessel is parked or docked is reserved or otherwise  
18 unavailable for unauthorized vehicles or vessels and subject  
19 to being removed at the owner's or operator's expense, any  
20 property owner or lessee, or person authorized by the ~~property~~  
21 owner or lessee, prior to towing or removing any vehicle or  
22 vessel from private property without the consent of the owner  
23 or other legally authorized person in control of that vehicle  
24 or vessel, must post a notice meeting the following  
25 requirements:

26 a. The notice must be prominently placed at each  
27 driveway access or curb cut allowing vehicular access to the  
28 property, within 5 feet from the public right-of-way line or  
29 at the end of the dock, so that it is visible to a person on  
30 an approaching vessel. If there are no curbs or access  
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1 barriers, the signs must be posted not less than one sign for  
2 each 25 feet of lot frontage.

3           b. The notice must clearly indicate, in not less than  
4 2-inch high, light-reflective letters on a contrasting  
5 background, that unauthorized vehicles or vessels will be  
6 towed away at the owner's expense. The words "tow-away zone"  
7 must be included on the sign in not less than 4-inch high  
8 letters.

9           c. The notice must also provide the name and current  
10 telephone number of the person or firm towing or removing the  
11 vehicles or vessels, if the property owner, lessee, or person  
12 in control of the property has a written contract with the  
13 towing company.

14           d. The sign structure containing the required notices  
15 must be permanently installed with the words "tow-away zone"  
16 not less than 3 feet and not more than 6 feet above ground  
17 level and must be continuously maintained on the property for  
18 not less than 24 hours prior to the towing or removal of any  
19 vehicles.

20           e. The local government may require permitting and  
21 inspection of these signs prior to any towing or removal of  
22 vehicles or vessels being authorized.

23           f. A business with 20 or fewer parking or docking  
24 spaces satisfies the notice requirements of this subparagraph  
25 by prominently displaying a sign stating "Reserved Parking(or  
26 Docking)for Customers Only Unauthorized Vehicles(or Vessels)  
27 Will be Towed Away At the Owner's Expense" in not less than  
28 4-inch high, light-reflective letters on a contrasting  
29 background.

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1 A business owner or lessee may authorize the removal of a  
2 vehicle or vessel by a towing company when the vehicle is  
3 parked or docked in such a manner that restricts the normal  
4 operation of business; and if a vehicle or vessel ~~parked~~ on a  
5 public right-of-way obstructs access to a private driveway the  
6 owner, lessee, or agent may have the vehicle or vessel removed  
7 by a towing company upon signing an order that the vehicle or  
8 vessel be removed without a posted tow-away zone sign.

9           6. Any person or firm that tows or removes vehicles or  
10 vessels and proposes to require an owner, operator, or person  
11 in control of a vehicle or vessel to pay the costs of towing  
12 and storage prior to redemption of the vehicle or vessel must  
13 file and keep on record with the local law enforcement agency  
14 a complete copy of the current rates to be charged for such  
15 services and post at the storage site an identical rate  
16 schedule and any written contracts with property owners,  
17 lessees, or persons in control of property which authorize  
18 such person or firm to remove vehicles or vessels as provided  
19 in this section.

20           7. Any person or firm towing or removing any vehicles  
21 or vessels from private property without the consent of the  
22 owner or other legally authorized person in control of the  
23 vehicles or vessels shall, on any trucks, wreckers as defined  
24 in s. 713.78(1)(b), or other vehicles or vessels used in the  
25 towing or removal, have the name, address, and telephone  
26 number of the company performing such service clearly printed  
27 in contrasting colors on the driver and passenger sides of the  
28 vehicle or vessel. The name shall be in at least 3-inch  
29 permanently affixed letters, and the address and telephone  
30 number shall be in at least 1-inch permanently affixed  
31 letters.

1           8. Vehicle or vessel entry for the purpose of removing  
2 the vehicle or vessel shall be allowed with reasonable care on  
3 the part of the person or firm towing the vehicle or vessel.  
4 Such person or firm shall be liable for any damage occasioned  
5 to the vehicle or vessel if such entry is not in accordance  
6 with the standard of reasonable care.

7           9. When a vehicle or vessel has been towed or removed  
8 pursuant to this section, it must be released to its owner or  
9 custodian within one hour after requested. Any vehicle or  
10 vessel owner, custodian, or agent ~~may shall have the right to~~  
11 inspect the vehicle or vessel before accepting its return, and  
12 no release or waiver of any kind which would release the  
13 person or firm towing the vehicle or vessel from liability for  
14 damages noted by the owner or other legally authorized person  
15 at the time of the redemption may be required from any vehicle  
16 or vessel owner, custodian, or agent as a condition of release  
17 of the vehicle or vessel to its owner. A detailed, signed  
18 receipt showing the legal name of the company or person towing  
19 or removing the vehicle or vessel must be given to the person  
20 paying towing or storage charges at the time of payment,  
21 whether requested or not.

22           (b) These requirements shall be the minimum standards  
23 and shall not preclude enactment of additional regulations by  
24 any municipality or county including the right to regulate  
25 rates when vehicles or vessels are towed from private  
26 property.

27           (3) This section does not apply to law enforcement,  
28 firefighting, rescue squad, ambulance, or other emergency  
29 vehicles or vessels which are marked as such or to property  
30 owned by any governmental entity.

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1           (4) When a person improperly causes a vehicle or  
2 vessel to be removed, such person shall be liable to the owner  
3 or lessee of the vehicle or vessel for the cost of removal,  
4 transportation, and storage; any damages resulting from the  
5 removal, transportation, or storage of the vehicle or vessel;  
6 attorneys' fees; and court costs.

7           (5)(a) Any person who violates the provisions of  
8 subparagraph (2)(a)2. or subparagraph (2)(a)6. is guilty of a  
9 misdemeanor of the first degree, punishable as provided in s.  
10 775.082 or s. 775.083.

11           (b) Any person who violates the provisions of  
12 subparagraph (2)(a)7. is guilty of a felony of the third  
13 degree, punishable as provided in s. 775.082, s. 775.083, or  
14 s. 775.084.

15           Section 4. This act shall take effect October 1, 1998.

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18           SENATE SUMMARY

19           Provides a procedure for the towing of vessels and for  
20 the attachment of liens to such vessels for towing  
21 services in a manner similar to current provisions with  
22 respect to motor vehicles. (See bill for details.)  
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