

By the Committee on Community Affairs and Representatives  
Lacasa, Constantine, Murman and Saunders

1                                   A bill to be entitled  
2           An act relating to regulation of wrecker  
3           operators and persons immobilizing vehicles;  
4           amending s. 1.01, F.S.; defining the term  
5           "wrecker operator"; providing for a law  
6           enforcement officer to place a hold order on a  
7           motor vehicle in a wrecker operator's storage  
8           facility; prescribing conditions on such acts;  
9           authorizing county and municipal wrecker  
10          operator systems; prohibiting certain acts in  
11          contravention of such systems; providing  
12          penalties; amending ss. 125.0103 and 166.043,  
13          F.S.; providing that counties must establish  
14          maximum fees which may be charged for the  
15          towing or immobilization of vehicles; amending  
16          s. 316.193, F.S.; providing for a receipt to  
17          the wrecker operator to be given at the time of  
18          release of a vehicle impounded or immobilized  
19          as a result of a charge of driving under the  
20          influence; amending s. 321.051, F.S.; revising  
21          provisions authorizing the Florida Highway  
22          Patrol to establish a wrecker operator system;  
23          prohibiting certain acts in contravention of  
24          such system; providing penalties; amending s.  
25          322.34, F.S.; revising provisions relating to  
26          impoundment or immobilization of vehicles being  
27          operated while the operator's license is  
28          suspended, revoked, canceled, or disqualified;  
29          providing for payment of accrued charges;  
30          amending s. 713.78, F.S.; providing that law  
31          allowing a lien for recovering, towing, or

1 storing a vehicle does not authorize a lien for  
2 immobilizing a vehicle; providing liability for  
3 damages or theft in connection with a towed  
4 vehicle; amending s. 319.30, F.S.; conforming a  
5 cross reference; providing an effective date.  
6

7 Be It Enacted by the Legislature of the State of Florida:  
8

9 Section 1. Subsection (15) is added to section 1.01,  
10 Florida Statutes, to read:

11 1.01 Definitions.--In construing these statutes and  
12 each and every word, phrase, or part hereof, where the context  
13 will permit:

14 (15) The term "wrecker operator" means any person or  
15 firm regularly engaged for hire in the business of towing or  
16 removing motor vehicles.

17 Section 2. Wrecker operator storage facilities;  
18 vehicle holds.--

19 (1) An investigating agency may place a hold on a  
20 motor vehicle stored within a wrecker operator's storage  
21 facility for a period not to exceed 5 days, excluding holidays  
22 and weekends, unless extended in writing.

23 (2) The investigating agency must notify the wrecker  
24 operator in writing within 5 days, excluding holidays and  
25 weekends, whether the hold is to be continued. If no  
26 notification follows this period of time the wrecker operator  
27 may release the vehicle to the designated person pursuant to  
28 s. 713.78, Florida Statutes.

29 (a) If the hold is to continue beyond 5 days,  
30 excluding holidays and weekends, the investigating agency may  
31 have the vehicle removed to a designated impound lot, in which

1 event, the vehicle will not be released by the investigating  
2 agency to the owner or lienholder of the vehicle until proof  
3 of payment of the towing and storage charges incurred by the  
4 wrecker operator is presented to the investigating agency.

5 (b) If the investigating agency chooses to have the  
6 vehicle remain at the wrecker operator's storage facility  
7 beyond 5 days, excluding holidays and weekends, pursuant to  
8 the written notification, the investigating agency shall be  
9 responsible for payment of the storage charges incurred by the  
10 wrecker operator for the requested extended period. In such an  
11 event, the owner or lienholder shall be responsible for  
12 payment of accrued towing and storage charges for the first 5  
13 days, excluding holidays and weekends, or any period less than  
14 the first 5 days, excluding holidays and weekends, when the  
15 investigating agency either moves the vehicle from the wrecker  
16 operator's storage facility to a designated impound lot or  
17 provides written notification to extend the hold on the  
18 vehicle prior to the expiration of the 5 days, excluding  
19 holidays and weekends.

20 (c) The towing and storage rates for the owner or  
21 lienholder of the held vehicle shall not exceed the rates for  
22 the investigating agency.

23 (3) If there is a judicial finding of no probable  
24 cause for having continued the immobilization or impoundment,  
25 the investigating agency ordering the hold must pay the  
26 accrued charges for any towing and storage.

27 (4) The requirements for a written hold applies when  
28 the following conditions are present:

29 (a) The officer has probable cause to believe the  
30 vehicle should be seized and forfeited under the Florida  
31

1 Contraband Forfeiture Act, ss. 932.701-932.704, Florida  
2 Statutes;  
3 (b) The officer has probable cause to believe the  
4 vehicle should be seized and forfeited under s. 372.312,  
5 Florida Statutes;  
6 (c) The officer has probable cause to believe the  
7 vehicle was used as the means of committing a crime;  
8 (d) The officer has probable cause to believe that the  
9 vehicle is itself evidence that tends to show that a crime has  
10 been committed or that the vehicle contains evidence, which  
11 cannot readily be removed, which tends to show that a crime  
12 has been committed;  
13 (e) The officer has probable cause to believe the  
14 vehicle was involved in a traffic accident resulting in death  
15 or personal injury and should be sealed for investigation and  
16 collection of evidence by a vehicular homicide investigator;  
17 (f) The vehicle is impounded or immobilized pursuant  
18 to s. 316.193 or s. 322.34, Florida Statutes; or  
19 (g) The officer is complying with a court order.  
20 (4) The hold must be in writing and must specify:  
21 (a) The name and agency of the law enforcement officer  
22 placing the hold on the vehicle;  
23 (b) The date and time the hold is placed on the  
24 vehicle;  
25 (c) A general description of the vehicle including its  
26 color, make, model, body style, and year; VIN (Vehicle  
27 Identification Number); registration license plate number,  
28 state, and year; and validation sticker number, state, and  
29 year;  
30 (d) The specific reason for placing the hold;  
31 (e) The condition of the vehicle;

1       (f) The location where the vehicle is being held; and  
2       (g) The name, address, and telephone number of the  
3 wrecker operator and the storage facility.

4       (5) A wrecker operator's storage facility must comply  
5 with a hold placed by a law enforcement officer, including  
6 instructions for inside or outside storage. A wrecker  
7 operator's storage facility may not release a motor vehicle  
8 subject to a hold to any person except as directed by the law  
9 enforcement agency placing the hold.

10       (6) When a vehicle owner is found guilty of, or pleads  
11 nolo contendere to, the offense that resulted in a hold being  
12 placed on his or her vehicle, regardless of the adjudication  
13 of guilt, the owner must pay the accrued towing and storage  
14 charges assessed against the vehicle.

15       Section 3. County and municipal wrecker operator  
16 systems; penalties for operation outside of system.--

17       (1) As used in this section, the term:

18       (a) "Authorized wrecker operator" means any wrecker  
19 operator who has been designated as part of the wrecker  
20 operator system established by the governmental unit having  
21 jurisdiction over the scene of a wrecked or disabled vehicle.

22       (b) "Unauthorized wrecker operator" means any wrecker  
23 operator who has not been designated as part of the wrecker  
24 operator system established by the governmental unit having  
25 jurisdiction over the scene of a wrecked or disabled vehicle.

26       (c) "Wrecker operator system" means a system for the  
27 towing or removal of wrecked, disabled, or abandoned vehicles,  
28 similar to the Florida Highway Patrol wrecker operator system  
29 described in s. 321.051(2), Florida Statutes, under which a  
30 county or municipality contracts with one or more wrecker  
31 operators for the towing or removal of wrecked, disabled, or

1 abandoned vehicles from accident scenes, streets, or highways.  
2 A wrecker operator system shall include using a method for  
3 apportioning the towing assignments among the eligible wrecker  
4 operators through the creation of geographic zones, a rotation  
5 schedule, or a combination of these methods.

6 (2) In any county or municipality that operates a  
7 wrecker operator system:

8 (a) It is unlawful for an unauthorized wrecker  
9 operator or its employees or agents to monitor police radio  
10 for communications between patrol field units and the  
11 dispatcher in order to determine the location of a wrecked or  
12 disabled vehicle for the purpose of driving by the scene of  
13 such vehicle in a manner described in paragraph (b) or  
14 paragraph (c). Any person who violates this paragraph is  
15 guilty of a noncriminal violation, punishable as provided in  
16 s. 775.083, Florida Statutes.

17 (b) It is unlawful for an unauthorized wrecker  
18 operator to drive by the scene of a wrecked or disabled  
19 vehicle before the arrival of an authorized wrecker operator,  
20 initiate contact with the owner or operator of such vehicle by  
21 soliciting or offering towing services, and tow such vehicle.  
22 Any person who violates this paragraph is guilty of a  
23 misdemeanor of the second degree, punishable as provided in s.  
24 775.082 or s. 775.083, Florida Statutes.

25 (c) When an unauthorized wrecker operator drives by  
26 the scene of a wrecked or disabled vehicle and the owner or  
27 operator initiates contact by signaling the wrecker operator  
28 to stop and provide towing services, the unauthorized wrecker  
29 operator must disclose to the owner or operator of the vehicle  
30 that he or she is not the authorized wrecker operator who has  
31 been designated as part of the wrecker operator system and

1 must disclose, in writing, what charges for towing and storage  
2 will apply before the vehicle is connected to the towing  
3 apparatus. Any person who violates this paragraph is guilty  
4 of a misdemeanor of the second degree, punishable as provided  
5 in s. 775.082 or s. 775.083, Florida Statutes.

6 (d) At the scene of a wrecked or disabled vehicle, it  
7 is unlawful for a wrecker operator to falsely identify himself  
8 or herself as being part of the wrecker operator system. Any  
9 person who violates this paragraph is guilty of a misdemeanor  
10 of the first degree, punishable as provided in s. 775.082 or  
11 s. 775.083, Florida Statutes.

12 (3) This section does not prohibit, or in any way  
13 prevent, the owner or operator of a vehicle involved in an  
14 accident or otherwise disabled from contacting any wrecker  
15 operator for the provision of towing services, whether the  
16 wrecker operator is an authorized wrecker operator or not.

17 Section 4. Paragraph (b) of subsection (1) of section  
18 125.0103, Florida Statutes, is amended, and paragraph (c) is  
19 added to said subsection, to read:

20 125.0103 Ordinances and rules imposing price controls;  
21 findings required; procedures.--

22 (1)(a) Except as hereinafter provided, no county,  
23 municipality, or other entity of local government shall adopt  
24 or maintain in effect an ordinance or a rule which has the  
25 effect of imposing price controls upon a lawful business  
26 activity which is not franchised by, owned by, or under  
27 contract with, the governmental agency, unless specifically  
28 provided by general law.

29 (b) The provisions of this section shall not prevent  
30 the enactment by local governments of public service rates  
31 otherwise authorized by law, including water, sewer, solid

1 ~~waste, public transportation, taxicab, towing of vehicles from~~  
2 ~~or immobilization of vehicles on private property, removal and~~  
3 ~~storage of wrecked or disabled vehicles from an accident scene~~  
4 ~~or for the removal and storage of vehicles, in the event the~~  
5 ~~owner or operator is incapacitated, unavailable, leaves the~~  
6 ~~procurement of wrecker service to the law enforcement officer~~  
7 ~~at the scene, or otherwise does not consent to the removal of~~  
8 ~~the vehicle, or port rates.~~

9 (c) Counties must establish maximum fees which may be  
10 charged on the towing of vehicles from or immobilization of  
11 vehicles on private property, removal and storage of wrecked  
12 or disabled vehicles from an accident scene or for the removal  
13 and storage of vehicles, in the event the owner or operator is  
14 incapacitated, unavailable, leaves the procurement of wrecker  
15 service to the law enforcement officer at the scene, or  
16 otherwise does not consent to the removal of the vehicle.

17 Section 5. Paragraph (b) of subsection (1) of section  
18 166.043, Florida Statutes, is amended, and paragraph (c) is  
19 added to said subsection, to read:

20 166.043 Ordinances and rules imposing price controls;  
21 findings required; procedures.--

22 (1)(a) Except as hereinafter provided, no county,  
23 municipality, or other entity of local government shall adopt  
24 or maintain in effect an ordinance or a rule which has the  
25 effect of imposing price controls upon a lawful business  
26 activity which is not franchised by, owned by, or under  
27 contract with, the governmental agency, unless specifically  
28 provided by general law.

29 (b) The provisions of this section shall not prevent  
30 the enactment by local governments of public service rates  
31 otherwise authorized by law, including water; sewer; solid



1 ~~waste; public transportation; taxicab; towing of vehicles from~~  
2 ~~or immobilization of vehicles on private property; removal and~~  
3 ~~storage of wrecked or disabled vehicles from an accident scene~~  
4 ~~or for the removal and storage of vehicles, in the event the~~  
5 ~~owner or operator is incapacitated, unavailable, leaves the~~  
6 ~~procurement of wrecker service to the law enforcement officer~~  
7 ~~at the scene, or otherwise does not consent to the removal of~~  
8 ~~the vehicle; or port rates.~~

9 (c) Counties must establish maximum fees which may be  
10 charged on the towing of vehicles from or immobilization of  
11 vehicles on private property, removal and storage of wrecked  
12 or disabled vehicles from an accident scene or for the removal  
13 and storage of vehicles, in the event the owner or operator is  
14 incapacitated, unavailable, leaves the procurement of wrecker  
15 service to the law enforcement officer at the scene, or  
16 otherwise does not consent to the removal of the vehicle.

17 Section 6. Paragraph (d) of subsection (6) of section  
18 316.193, Florida Statutes, is amended to read:

19 316.193 Driving under the influence; penalties.--

20 (6) With respect to any person convicted of a  
21 violation of subsection (1), regardless of any penalty imposed  
22 pursuant to subsection (2), subsection (3), or subsection (4):

23 (d) In addition to the penalty imposed under paragraph  
24 (a), paragraph (b), or paragraph (c), the court shall also  
25 order the impoundment or immobilization of the vehicle that  
26 was driven by, or in the actual physical control of, the  
27 offender, unless the court finds that the family of the owner  
28 of the vehicle has no other public or private means of  
29 transportation. The period of impoundment or immobilization is  
30 10 days, or, for the second conviction within 3 years, 30  
31 days, or, for the third conviction within 5 years, 90 days and

1 may not be concurrent with probation or imprisonment. If the  
2 vehicle is leased or rented, the period of impoundment or  
3 immobilization may not extend beyond the expiration of the  
4 lease or rental agreement. Within 7 business days after the  
5 date that the court issues the order of impoundment or  
6 immobilization, the clerk of the court shall send notice by  
7 certified mail, return receipt requested, to the registered  
8 owner of the vehicle if the registered owner is a person other  
9 than the offender and to each person of record claiming a lien  
10 against the vehicle. All costs and fees for the impoundment or  
11 immobilization, including the cost of notification, must be  
12 paid by the owner of the vehicle or, if the vehicle is leased  
13 or rented, by the person leasing or renting the vehicle. The  
14 person who owns a vehicle that is impounded or immobilized  
15 under this paragraph, or a person who has a lien of record  
16 against such a vehicle, may, within 10 days after the date  
17 that person has knowledge of the location of the vehicle, file  
18 a complaint in the county in which the owner resides to  
19 determine whether the vehicle was wrongfully taken or withheld  
20 from the owner or lienholder. Upon the filing of a complaint,  
21 the owner or lienholder may have the vehicle released by  
22 posting with the court a bond or other adequate security equal  
23 to the amount of the costs and fees for impoundment or  
24 immobilization, including towing or storage, to ensure the  
25 payment of such costs and fees if the owner or lienholder does  
26 not prevail. When the bond is posted and the fee is paid as  
27 set forth in s. 28.24, the clerk of the court shall issue a  
28 certificate releasing the vehicle. At the time of release,  
29 after reasonable inspection, the owner or lienholder must give  
30 a receipt to the wrecker operator ~~towing or storage company~~  
31

1 indicating any loss or damage to the vehicle or to the  
2 contents of the vehicle.

3  
4 For the purposes of this section, any conviction for a  
5 violation of s. 327.35; a previous conviction for the  
6 violation of former s. 316.1931, former s. 860.01, or former  
7 s. 316.028; or a previous conviction outside this state for  
8 driving under the influence, driving while intoxicated,  
9 driving with an unlawful blood-alcohol level, driving with an  
10 unlawful breath-alcohol level, or any other similar  
11 alcohol-related or drug-related traffic offense, is also  
12 considered a previous conviction for violation of this  
13 section. However, in satisfaction of the fine imposed pursuant  
14 to this section, the court may, upon a finding that the  
15 defendant is financially unable to pay either all or part of  
16 the fine, order that the defendant participate for a specified  
17 additional period of time in public service or a community  
18 work project in lieu of payment of that portion of the fine  
19 which the court determines the defendant is unable to pay. In  
20 determining such additional sentence, the court shall consider  
21 the amount of the unpaid portion of the fine and the  
22 reasonable value of the services to be ordered; however, the  
23 court may not compute the reasonable value of services at a  
24 rate less than the federal minimum wage at the time of  
25 sentencing.

26 Section 7. Section 321.051, Florida Statutes, is  
27 amended to read:

28 321.051 Florida Highway Patrol ~~A wrecker operator~~  
29 ~~system; penalties for operation outside of system for removal~~  
30 ~~and storage of wrecked, disabled, or abandoned vehicles.--~~

31 (1) As used in this section, the term:

1           (a) "Authorized wrecker operator" means any wrecker  
2 operator who has been designated by the Division of Florida  
3 Highway Patrol as part of the wrecker operator system.

4           (b) "Unauthorized wrecker operator" means any wrecker  
5 operator who has not been designated by the division as part  
6 of the wrecker operator system.

7           (2) The Division of Florida Highway Patrol of the  
8 Department of Highway Safety and Motor Vehicles is authorized  
9 to establish within areas designated by the patrol a wrecker  
10 operator system using utilizing qualified, reputable wrecker  
11 operators for removal and storage of wrecked or disabled  
12 vehicles from an accident scene or for removal and storage of  
13 abandoned vehicles, in the event the owner or operator is  
14 incapacitated or unavailable or leaves the procurement of  
15 wrecker service to the officer at the scene. All reputable  
16 wrecker operators shall be eligible for use in the system  
17 provided their equipment and drivers meet recognized safety  
18 qualifications and mechanical standards set by rules of the  
19 Division of Florida Highway Patrol for the size of vehicle it  
20 is designed to handle. The division is authorized to limit the  
21 number of wrecker operators participating in the wrecker  
22 operator system, which authority shall not affect wrecker  
23 operators currently participating in the system established by  
24 this section. The division is authorized to establish maximum  
25 rates for the towing and storage of vehicles removed at the  
26 division's request, where such rates have not been set by a  
27 county or municipality pursuant to s. 125.0103 or s. 166.043.  
28 Such rates shall not be considered rules for the purpose of  
29 chapter 120; however, the department shall establish by rule a  
30 procedure for setting such rates. Any provision in chapter  
31 120 to the contrary notwithstanding, a final order of the

1 department denying, suspending, or revoking a wrecker  
2 operator's participation in the system shall be reviewable in  
3 the manner and within the time provided by the Florida Rules  
4 of Appellate Procedure only by a writ of certiorari issued by  
5 the circuit court in the county wherein such wrecker operator  
6 resides ~~shall reside~~.

7 (3)(a) It is unlawful for an unauthorized wrecker  
8 operator or its employees or agents to monitor police radio  
9 for communications between patrol field units and the  
10 dispatcher in order to determine the location of a wrecked or  
11 disabled vehicle for the purpose of driving by the scene of  
12 such vehicle in a manner described in paragraph (b) or  
13 paragraph (c). Any person who violates this paragraph is  
14 guilty of a noncriminal violation, punishable as provided in  
15 s. 775.083.

16 (b) It is unlawful for an unauthorized wrecker  
17 operator to drive by the scene of a wrecked or disabled  
18 vehicle before the arrival of the authorized wrecker operator,  
19 initiate contact with the owner or operator of such vehicle by  
20 soliciting or offering towing services, and tow such vehicle.  
21 Any person who violates this paragraph is guilty of a  
22 misdemeanor of the second degree, punishable as provided in s.  
23 775.082 or s. 775.083.

24 (c) When an unauthorized wrecker operator drives by  
25 the scene of a wrecked or disabled vehicle and the owner or  
26 operator initiates contact by signaling the wrecker operator  
27 to stop and provide towing services, the unauthorized wrecker  
28 operator must disclose to the owner or operator of the vehicle  
29 that he or she is not an authorized wrecker operator who has  
30 been designated as part of the wrecker operator system and  
31 must disclose, in writing, what charges for towing and storage

1 will apply before the vehicle is connected to the towing  
2 apparatus. Any person who violates this paragraph is guilty  
3 of a misdemeanor of the second degree, punishable as provided  
4 in s. 775.082 or s. 775.083.

5 (d) At the scene of a wrecked or disabled vehicle, it  
6 is unlawful for a wrecker operator to falsely identify himself  
7 or herself as being part of the wrecker operator system. Any  
8 person who violates this paragraph is guilty of a misdemeanor  
9 of the first degree, punishable as provided in s. 775.082 or  
10 s. 775.083.

11 (4) This section does not prohibit, or in any way  
12 prevent, the owner or operator of a vehicle involved in an  
13 accident or otherwise disabled from contacting any wrecker  
14 operator for the provision of towing services, whether the  
15 wrecker operator is an authorized wrecker operator or not.

16 Section 8. Paragraphs (d) and (f) of subsection (8) of  
17 section 322.34, Florida Statutes, are amended to read:

18 322.34 Driving while license suspended, revoked,  
19 canceled, or disqualified.--

20 (8)

21 (d) Either the arresting agency or the towing service,  
22 whichever is in possession of the vehicle, shall determine  
23 whether any vehicle impounded or immobilized under this  
24 section has been leased or if there are any persons of record  
25 with a lien upon the vehicle. Either the arresting agency or  
26 the towing service, whichever is in possession of the vehicle,  
27 shall notify by certified mail, return receipt requested,  
28 within 7 business days after the date of the immobilization or  
29 impoundment of the vehicle, the registered owner and all  
30 persons having a recorded lien against the vehicle ~~telephone~~  
31 any lessor or lienholder before 5 p.m. on the business day

1 ~~after the day~~ that the vehicle has been impounded or  
2 immobilized. A lessor or lienholder may then obtain the  
3 vehicle, upon payment of any lawful towing or storage charges.  
4 If the storage facility fails to provide timely notice to a  
5 lessor or lienholder as required by this paragraph, the  
6 storage facility shall be responsible for payment of any  
7 towing or storage charges necessary to release the vehicle to  
8 a lessor or lienholder that accrue after the notice period,  
9 which charges may then be assessed against the driver of the  
10 vehicle if the vehicle was lawfully impounded or immobilized.

11 (f) The owner of a vehicle that is impounded or  
12 immobilized under this subsection may, within 10 days after  
13 the date the owner has knowledge of the location of the  
14 vehicle, file a complaint in the county in which the owner  
15 resides to determine whether the vehicle was wrongfully taken  
16 or withheld. Upon the filing of a complaint, the owner may  
17 have the vehicle released by posting with the court a bond or  
18 other adequate security equal to the amount of the costs and  
19 fees for impoundment or immobilization, including towing or  
20 storage, to ensure the payment of such costs and fees if the  
21 owner does not prevail. When the vehicle owner does not  
22 prevail on a complaint that the vehicle was wrongfully taken  
23 or withheld, he or she must pay the accrued charges for the  
24 immobilization or impoundment, including any towing and  
25 storage charges assessed against the vehicle.When the bond is  
26 posted and the fee is paid as set forth in s. 28.24, the clerk  
27 of the court shall issue a certificate releasing the vehicle.  
28 At the time of release, after reasonable inspection, the owner  
29 must give a receipt to the towing or storage company  
30 indicating any loss or damage to the vehicle or to the  
31 contents of the vehicle.

1           Section 9. Section 713.78, Florida Statutes, is  
2 amended to read:  
3           713.78 Liens for recovering, towing, or storing  
4 vehicles.--  
5           (1) For the purposes of this section, the term:  
6           (a) "Vehicle" means any mobile item, whether motorized  
7 or not, which is mounted on wheels.  
8           (b) "Wrecker" means any truck or other vehicle which  
9 is used to tow, carry, or otherwise transport motor vehicles  
10 and which is equipped for that purpose with a boom, winch, car  
11 carrier, or other similar equipment.  
12           (2) Whenever a person regularly engaged in the  
13 business of transporting vehicles by wrecker, tow truck, or  
14 car carrier recovers, removes, or stores a vehicle or mobile  
15 home upon instructions from:  
16           (a) The owner thereof; or  
17           (b) The owner or lessor, or a person authorized by the  
18 owner or lessor, of property on which such vehicle is  
19 wrongfully parked, and such removal is done in compliance with  
20 s. 715.07; or  
21           (c) Any law enforcement agency; or  
22           (d) A mobile home park owner as defined in s. 723.003  
23 who has a current writ of possession for a mobile home lot  
24 pursuant to s. 723.061,  
25  
26 she or he shall have a lien on such vehicle for a reasonable  
27 towing fee and for a reasonable storage fee; except that no  
28 storage fee shall be charged if such vehicle is stored for  
29 less than 6 hours.  
30           (3) This section does not authorize any person to  
31 claim a lien on a vehicle for fees or charges connected with



1 the immobilization of such vehicle using a vehicle boot or  
2 other similar device pursuant to s. 715.07.

3 (4)(a)(3)(a) Any person regularly engaged in the  
4 business of recovering, towing, or storing vehicles who comes  
5 into possession of a vehicle pursuant to subsection (2), and  
6 who claims a lien for recovery, towing, or storage services,  
7 shall give notice to the registered owner and to all persons  
8 claiming a lien thereon, as disclosed by the records in the  
9 Department of Highway Safety and Motor Vehicles or of a  
10 corresponding agency in any other state.

11 (b) Notice by certified mail, return receipt  
12 requested, shall be sent within 7 business days after the date  
13 of storage of the vehicle to the registered owner and to all  
14 persons of record claiming a lien against the vehicle. It  
15 shall state the fact of possession of the vehicle, that a lien  
16 as provided in subsection (2) is claimed, that charges have  
17 accrued and the amount thereof, that the lien is subject to  
18 enforcement pursuant to law, and that the owner or lienholder,  
19 if any, has the right to a hearing as set forth in subsection  
20 (5)(4), and that any vehicle which remains unclaimed, or for  
21 which the charges for recovery, towing, or storage services  
22 remain unpaid, may be sold in 35 days free of all prior liens.

23 (c) If attempts to locate the owner or lienholder  
24 prove unsuccessful, the towing-storage operator shall, after 7  
25 working days, excluding Saturday and Sunday, of the initial  
26 tow or storage, notify the public agency of jurisdiction in  
27 writing by certified mail or acknowledged hand delivery that  
28 the towing-storage company has been unable to locate the owner  
29 or lienholder and a physical search of the vehicle has  
30 disclosed no ownership information and a good faith effort has  
31 been made. For purposes of this paragraph, subsection(9)

1 ~~(8)~~, and s. 715.05, "good faith effort" means that the  
2 following checks have been performed by the company to  
3 establish prior state of registration and for title:  
4       1. Check of vehicle for any type of tag, tag record,  
5 temporary tag, or regular tag.  
6       2. Check of law enforcement report for tag number, if  
7 the vehicle was towed at the request of a law enforcement  
8 officer.  
9       3. Check of trip sheet or tow ticket of tow truck  
10 operator to see if a tag was on vehicle at beginning of tow,  
11 if private tow.  
12       4. If there is no address of the owner on the impound  
13 report, check of law enforcement report to see if an  
14 out-of-state address is indicated from driver license  
15 information.  
16       5. Check of vehicle for inspection sticker or other  
17 stickers and decals that may indicate a state of possible  
18 registration.  
19       6. Check of the interior of the vehicle for any papers  
20 that may be in the glove box, trunk, or other areas for a  
21 state of registration.  
22       (5)(a)~~(4)(a)~~ The owner of a vehicle removed pursuant  
23 to the provisions of subsection (2), or any person claiming a  
24 lien, other than the towing-storage operator, within 10 days  
25 after the time she or he has knowledge of the location of the  
26 vehicle, may file a complaint in the county court of the  
27 county in which the vehicle is stored or in which the owner  
28 resides to determine if her or his property was wrongfully  
29 taken or withheld from her or him.  
30       (b) Upon filing of a complaint, an owner or lienholder  
31 may have her or his vehicle released upon posting with the

1 court a cash or surety bond or other adequate security equal  
2 to the amount of the charges for towing or storage and lot  
3 rental amount to ensure the payment of such charges in the  
4 event she or he does not prevail. Upon the posting of the  
5 bond and the payment of the applicable fee set forth in s.  
6 28.24, the clerk of the court shall issue a certificate  
7 notifying the lienor of the posting of the bond and directing  
8 the lienor to release the vehicle. At the time of such  
9 release, after reasonable inspection, she or he shall give a  
10 receipt to the towing-storage company reciting any claims she  
11 or he has for loss or damage to the vehicle or the contents  
12 thereof.

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

20 (6)~~(5)~~ Any vehicle which is stored pursuant to  
21 subsection (2) and which remains unclaimed, or for which  
22 reasonable charges for recovery, towing, or storing remain  
23 unpaid or for which a lot rental amount is due and owing to  
24 the mobile home park owner, as evidenced by a judgment for  
25 unpaid rent, and any contents not released pursuant to  
26 subsection(10)~~(9)~~, may be sold by the owner or operator of  
27 the storage space for such towing or storage charge or unpaid  
28 lot rental amount after 35 days from the time the vehicle is  
29 stored therein. The sale shall be at public auction for cash.  
30 If the date of the sale was not included in the notice  
31 required in subsection(4)~~(3)~~, notice of the sale shall be

1 given to the person in whose name the vehicle or mobile home  
2 is registered, to the mobile home park owner, and to all  
3 persons claiming a lien on the vehicle as shown on the records  
4 of the Department of Highway Safety and Motor Vehicles or of  
5 the corresponding agency in any other state. Notice shall be  
6 sent by certified mail, return receipt requested, to the owner  
7 of the vehicle and the person having the recorded lien on the  
8 vehicle at the address shown on the records of the registering  
9 agency and shall be mailed not less than 15 days before the  
10 date of the sale. After diligent search and inquiry, if the  
11 name and address of the registered owner or the owner of the  
12 recorded lien cannot be ascertained, the requirements of  
13 notice by mail may be dispensed with. In addition to the  
14 notice by mail, public notice of the time and place of sale  
15 shall be made by publishing a notice thereof one time, at  
16 least 10 days prior to the date of the sale, in a newspaper of  
17 general circulation in the county in which the sale is to be  
18 held. The proceeds of the sale, after payment of reasonable  
19 towing and storage charges, costs of the sale, and the unpaid  
20 lot rental amount, in that order of priority, shall be  
21 deposited with the clerk of the circuit court for the county  
22 if the owner is absent, and the clerk shall hold such proceeds  
23 subject to the claim of the person legally entitled thereto.  
24 The clerk shall be entitled to receive 5 percent of such  
25 proceeds for the care and disbursement thereof. The  
26 certificate of title issued under this law shall be discharged  
27 of all liens unless otherwise provided by court order.

28 (7)(a)(6) A wrecker operator ~~No person regularly~~  
29 ~~engaged in the business of~~ recovering, towing, or storing  
30 vehicles is not ~~shall be~~ liable for damages connected with  
31 such services, theft of such vehicles, or theft of personal

1 property contained in such vehicles, provided that such  
2 services they have been performed with reasonable care and  
3 provided, further, that, in the case of removal of a vehicle  
4 upon the request of a person purporting, and reasonably  
5 appearing, to be the owner or lessee, or a person authorized  
6 by the owner or lessee, of the property from which such  
7 vehicle is removed, such removal has been done in compliance  
8 with s. 715.07. Further, a wrecker operator is not liable for  
9 damage connected with such services when complying with the  
10 lawful directions of a law enforcement officer to remove a  
11 vehicle stopped, standing, or parked upon a street or highway  
12 in such a position as to obstruct the normal movement of  
13 traffic or in such a condition as to create a hazard to other  
14 traffic upon the street or highway.

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

20 1. The wrecker operator surrounds the storage facility  
21 with a chain-link or solid-wall type fence at least 6 feet in  
22 height;

23 2. The wrecker operator has illuminated the storage  
24 facility with lighting of sufficient intensity to reveal  
25 persons and vehicles at a distance of at least 150 feet during  
26 nighttime; and

27 3. The wrecker operator uses one or more of the  
28 following security methods to discourage theft of vehicles or  
29 of any personal property contained in such vehicles stored in  
30 the wrecker operator's storage facility:

31

1           a. A night dispatcher or watchman remains on duty at  
2 the storage facility from sunset to sunrise;

3           b. A security dog remains at the storage facility from  
4 sunset to sunrise;

5           c. Security cameras or other similar surveillance  
6 devices monitor the storage facility; or

7           d. A security guard service examines the storage  
8 facility at least once each hour from sunset to sunrise.

9           (c) Any law enforcement agency requesting that a motor  
10 vehicle be removed from an accident scene, street, or highway  
11 must conduct an inventory and prepare a written record of all  
12 personal property found in the vehicle before the vehicle is  
13 removed by a wrecker operator. A wrecker operator is not  
14 liable for the loss of personal property alleged to be  
15 contained in such a vehicle when such personal property was  
16 not identified on the inventory record prepared by the law  
17 enforcement agency requesting the removal of the vehicle.

18           ~~(8)(7)~~ A person regularly engaged in the business of  
19 recovering, towing, or storing vehicles, except a person  
20 licensed under chapter 493 while engaged in "repossession"  
21 activities as defined in s. 493.6101, may not operate a  
22 wrecker, tow truck, or car carrier unless the name, address,  
23 and telephone number of the company performing the service is  
24 clearly printed in contrasting colors on the driver and  
25 passenger sides of its vehicle. The name must be in at least  
26 3-inch permanently affixed letters, and the address and  
27 telephone number must be in at least 1-inch permanently  
28 affixed letters.

29           ~~(9)(8)~~ Failure to make good faith best efforts to  
30 comply with the notice requirements of this section shall  
31

1 preclude the imposition of any storage charges against such  
2 vehicle.

3 (10)~~(9)~~ Persons who provide services pursuant to this  
4 section shall permit vehicle owners or their agents, which  
5 agency is evidenced by a writing acknowledged by the owner  
6 before a notary public or other person empowered by law to  
7 administer oaths, to inspect the towed vehicle and shall  
8 release to the owner or agent all personal property not  
9 affixed to the vehicle which was in the vehicle at the time  
10 the vehicle came into the custody of the person providing such  
11 services.

12 (11)(a)~~(10)(a)~~ Any person regularly engaged in the  
13 business of recovering, towing, or storing vehicles who comes  
14 into possession of a vehicle pursuant to subsection (2) and  
15 who has complied with the provisions of subsections (3) and  
16 (6)~~(5)~~, when such vehicle is to be sold for purposes of being  
17 dismantled, destroyed, or changed in such manner that it is  
18 not the motor vehicle or mobile home described in the  
19 certificate of title, shall apply to the county tax collector  
20 for a certificate of destruction. A certificate of  
21 destruction, which authorizes the dismantling or destruction  
22 of the vehicle described therein, shall be reassignable and  
23 shall accompany the vehicle for which it is issued, when such  
24 vehicle is sold for such purposes, in lieu of a certificate of  
25 title. The application for a certificate of destruction shall  
26 include an affidavit from the applicant that it has complied  
27 with all applicable requirements of this section and, if the  
28 vehicle is not registered in this state, by a statement from a  
29 law enforcement officer that the vehicle is not reported  
30 stolen, and shall be accompanied by such documentation as may  
31 be required by the department.

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

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

8 (12)(a)~~(11)(a)~~ Any person who violates any provision  
9 of subsection ~~subsections~~ (1), subsection (2), subsection (4),  
10 subsection (5), subsection (6), or subsection (7)~~through (6)~~  
11 is guilty of a misdemeanor of the first degree, punishable as  
12 provided in s. 775.082 or s. 775.083.

13 (b) Any person who violates the provisions of  
14 subsections(8)~~(7)~~through(11)~~(10)~~is guilty of a felony of  
15 the third degree, punishable as provided in s. 775.082, s.  
16 775.083, or s. 775.084.

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

23 Section 10. Paragraph (a) of subsection (1) of section  
24 319.30, Florida Statutes, is amended to read:

25 319.30 Definitions; dismantling, destruction, change  
26 of identity of motor vehicle or mobile home; salvage.--

27 (1) As used in this section, the term:

28 (a) "Certificate of destruction" means the certificate  
29 issued pursuant to s. 713.78(11)~~s. 713.78(10)~~.

30 Section 11. This act shall take effect October 1 of  
31 the year in which enacted.