

By Senator Silver

38-821-98

See HB 3345

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 s. 316.193, F.S.; providing
13 for payment of charges when a vehicle is
14 impounded or immobilized as a result of a
15 charge of driving under the influence; amending
16 s. 321.051, F.S.; revising provisions
17 authorizing the Florida Highway Patrol to
18 establish a wrecker operator system;
19 prohibiting certain acts in contravention of
20 such system; providing penalties; amending s.
21 322.34, F.S.; revising provisions relating to
22 impoundment or immobilization of vehicles being
23 operated while the operator's license is
24 suspended, revoked, canceled, or disqualified;
25 providing for payment of accrued charges;
26 amending s. 713.78, F.S.; providing that law
27 allowing a lien for recovering, towing, or
28 storing a vehicle does not authorize a lien for
29 immobilizing a vehicle; providing liability for
30 damages or theft in connection with a towed
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1 vehicle; amending s. 319.30, F.S.; conforming a
2 cross-reference; providing an effective date.

3
4 Be It Enacted by the Legislature of the State of Florida:

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

8 1.01 Definitions.--In construing these statutes and
9 each and every word, phrase, or part hereof, where the context
10 will permit:

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

14 Section 2. Wrecker operator storage facilities; hold
15 orders.--

16 (1) Unless extended by court order, a law enforcement
17 officer may place a hold order on a motor vehicle stored
18 within a wrecker operator's storage facility for a period not
19 to exceed 72 hours when:

20 (a) The officer has probable cause to believe the
21 vehicle should be seized and forfeited under the Florida
22 Contraband Forfeiture Act, sections 932.701-932.704, Florida
23 Statutes;

24 (b) The officer has probable cause to believe the
25 vehicle should be seized and forfeited under section 372.312,
26 Florida Statutes;

27 (c) The officer has probable cause to believe the
28 vehicle was used as the means of committing a crime;

29 (d) The officer has probable cause to believe that the
30 vehicle is itself evidence that tends to show that a crime has
31 been committed or that the vehicle contains evidence that

1 cannot readily be removed which tends to show that a crime has
2 been committed;
3 (e) The officer has probable cause to believe the
4 vehicle was involved in a traffic accident resulting in death
5 or personal injury and should be sealed for investigation and
6 collection of evidence by a vehicular homicide investigator;
7 (f) The vehicle is impounded or immobilized pursuant
8 to section 316.193 or section 322.34, Florida Statutes; or
9 (g) The officer is complying with a court order.
10 (2) The hold order must be in writing and must
11 specify:
12 (a) The name and agency of the law enforcement officer
13 placing the hold order on the vehicle;
14 (b) The date and time the hold order is placed on the
15 vehicle;
16 (c) A general description of the vehicle including its
17 color, make, model, body style, and year; VIN (Vehicle
18 Identification Number); registration license plate number,
19 state, and year; and validation sticker number, state, and
20 year;
21 (d) The specific reason for placing the hold order;
22 (e) The condition of the vehicle;
23 (f) The location where the vehicle is being held; and
24 (g) The name, address, and telephone number of the
25 wrecker operator and the storage facility.
26 (3) A wrecker operator's storage facility must comply
27 with a hold order placed by a law enforcement officer,
28 including instructions for inside or outside storage. A
29 wrecker operator's storage facility may not release a motor
30 vehicle subject to a hold order to any person except as
31 directed by the law enforcement agency placing the hold order.

1 (4) When a vehicle owner is found guilty of, or pleads
2 nolo contendere to, the offense that resulted in a hold order
3 being placed on his or her vehicle, regardless of the
4 adjudication of guilt, the owner must pay the accrued towing
5 and storage charges assessed against the vehicle. When the
6 vehicle owner is found not guilty, the law enforcement agency
7 placing the hold order must pay the accrued towing and storage
8 charges.

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

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

12 (a) "Authorized wrecker operator" means any wrecker
13 operator who has been designated as part of the wrecker
14 operator system established by the governmental unit having
15 jurisdiction over the scene of a wrecked or disabled vehicle.

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

20 (c) "Wrecker operator system" means a system for the
21 towing or removal of wrecked, disabled, or abandoned vehicles,
22 similar to the Florida Highway Patrol wrecker operator system
23 described in section 321.051(2), Florida Statutes, under which
24 a county or municipality contracts with one or more wrecker
25 operators for the towing or removal of wrecked, disabled, or
26 abandoned vehicles from accident scenes, streets, or highways.
27 A wrecker operator system normally uses a method for
28 apportioning the towing assignments among the eligible wrecker
29 operators through the creation of geographic zones, a rotation
30 schedule, or a combination of these methods.

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

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

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

20 (c) When an unauthorized wrecker operator drives by
21 the scene of a wrecked or disabled vehicle and the owner or
22 operator initiates contact by signaling the wrecker operator
23 to stop and provide towing services, the unauthorized wrecker
24 operator must disclose to the owner or operator of the vehicle
25 that he or she is not the authorized wrecker operator who has
26 been designated as part of the wrecker operator system and
27 must disclose what charges for towing and storage will apply
28 before the vehicle is connected to the towing apparatus. Any
29 person who violates this paragraph is guilty of a misdemeanor
30 of the second degree, punishable as provided in section
31 775.082 or section 775.083, Florida Statutes.

1 (d) At the scene of a wrecked or disabled vehicle, it
2 is unlawful for a wrecker operator to falsely identify himself
3 or herself as being part of the wrecker operator system. Any
4 person who violates this paragraph is guilty of a misdemeanor
5 of the first degree, punishable as provided in section 775.082
6 or section 775.083, Florida Statutes.

7 (3) This section does not prohibit, or in any way
8 prevent, the owner or operator of a vehicle involved in an
9 accident or otherwise disabled from contacting any wrecker
10 operator for the provision of towing services, whether the
11 wrecker operator is an authorized wrecker operator or not.

12 Section 4. Paragraph (d) of subsection (6) of section
13 316.193, Florida Statutes, is amended to read:

14 316.193 Driving under the influence; penalties.--

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

18 (d) In addition to the penalty imposed under paragraph
19 (a), paragraph (b), or paragraph (c), the court shall also
20 order the impoundment or immobilization of the vehicle that
21 was driven by, or in the actual physical control of, the
22 offender, unless the court finds that the family of the owner
23 of the vehicle has no other public or private means of
24 transportation. The period of impoundment or immobilization is
25 10 days, or, for the second conviction within 3 years, 30
26 days, or, for the third conviction within 5 years, 90 days and
27 may not be concurrent with probation or imprisonment. If the
28 vehicle is leased or rented, the period of impoundment or
29 immobilization may not extend beyond the expiration of the
30 lease or rental agreement. Within 7 business days after the
31 date that the court issues the order of impoundment or

1 immobilization, the clerk of the court shall send notice by
2 certified mail, return receipt requested, to the registered
3 owner of the vehicle if the registered owner is a person other
4 than the offender and to each person of record claiming a lien
5 against the vehicle. All costs and fees for the impoundment or
6 immobilization, including the cost of notification, must be
7 paid by the owner of the vehicle or, if the vehicle is leased
8 or rented, by the person leasing or renting the vehicle. The
9 person who owns a vehicle that is impounded or immobilized
10 under this paragraph, or a person who has a lien of record
11 against such a vehicle, may, within 10 days after the date
12 that person has knowledge of the location of the vehicle, file
13 a complaint in the county in which the owner resides to
14 determine whether the vehicle was wrongfully taken or withheld
15 from the owner or lienholder. Upon the filing of a complaint,
16 the owner or lienholder may have the vehicle released by
17 posting with the court a bond or other adequate security equal
18 to the amount of the costs and fees for impoundment or
19 immobilization, including towing or storage, to ensure the
20 payment of such costs and fees if the owner or lienholder does
21 not prevail. When the vehicle owner or lienholder 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 a law
26 enforcement agency that has the duty to immobilize or impound
27 a motor vehicle pursuant to a court order issued under this
28 subsection has contracted with a wrecker operator to perform
29 the immobilization or impoundment procedure and the vehicle
30 owner or lienholder does prevail, the law enforcement agency
31 must pay the accrued charges for the immobilization or

1 impoundment, including any towing and storage charges. When
2 the bond is posted and the fee is paid as set forth in s.
3 28.24, the clerk of the court shall issue a certificate
4 releasing the vehicle. At the time of release, after
5 reasonable inspection, the owner or lienholder must give a
6 receipt to the wrecker operator ~~towing or storage company~~
7 indicating any loss or damage to the vehicle or to the
8 contents of the vehicle.
9
10 For the purposes of this section, any conviction for a
11 violation of s. 327.35; a previous conviction for the
12 violation of former s. 316.1931, former s. 860.01, or former
13 s. 316.028; or a previous conviction outside this state for
14 driving under the influence, driving while intoxicated,
15 driving with an unlawful blood-alcohol level, driving with an
16 unlawful breath-alcohol level, or any other similar
17 alcohol-related or drug-related traffic offense, is also
18 considered a previous conviction for violation of this
19 section. However, in satisfaction of the fine imposed pursuant
20 to this section, the court may, upon a finding that the
21 defendant is financially unable to pay either all or part of
22 the fine, order that the defendant participate for a specified
23 additional period of time in public service or a community
24 work project in lieu of payment of that portion of the fine
25 which the court determines the defendant is unable to pay. In
26 determining such additional sentence, the court shall consider
27 the amount of the unpaid portion of the fine and the
28 reasonable value of the services to be ordered; however, the
29 court may not compute the reasonable value of services at a
30 rate less than the federal minimum wage at the time of
31 sentencing.

1 Section 5. Section 321.051, Florida Statutes, is
2 amended to read:

3 321.051 Florida Highway Patrol ~~A wrecker operator~~
4 ~~system; penalties for operation outside of system for removal~~
5 ~~and storage of wrecked, disabled, or abandoned vehicles.--~~

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

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

10 (b) "Unauthorized wrecker operator" means any wrecker
11 operator who has not been designated by the division as part
12 of the wrecker operator system.

13 (2) The Division of Florida Highway Patrol of the
14 Department of Highway Safety and Motor Vehicles is authorized
15 to establish within areas designated by the patrol a wrecker
16 operator system using ~~utilizing~~ qualified, reputable wrecker
17 operators for removal and storage of wrecked or disabled
18 vehicles from an accident scene or for removal and storage of
19 abandoned vehicles, in the event the owner or operator is
20 incapacitated or unavailable or leaves the procurement of
21 wrecker service to the officer at the scene. All reputable
22 wrecker operators shall be eligible for use in the system
23 provided their equipment and drivers meet recognized safety
24 qualifications and mechanical standards set by rules of the
25 Division of Florida Highway Patrol for the size of vehicle it
26 is designed to handle. The division is authorized to limit the
27 number of wrecker operators participating in the wrecker
28 operator system, which authority shall not affect wrecker
29 operators currently participating in the system established by
30 this section. The division is authorized to establish maximum
31 rates for the towing and storage of vehicles removed at the

1 division's request, where such rates have not been set by a
2 county or municipality pursuant to s. 125.0103 or s. 166.043.
3 Such rates shall not be considered rules for the purpose of
4 chapter 120; however, the department shall establish by rule a
5 procedure for setting such rates. Any provision in chapter
6 120 to the contrary notwithstanding, a final order of the
7 department denying, suspending, or revoking a wrecker
8 operator's participation in the system shall be reviewable in
9 the manner and within the time provided by the Florida Rules
10 of Appellate Procedure only by a writ of certiorari issued by
11 the circuit court in the county wherein such wrecker operator
12 resides ~~shall reside~~.

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

22 (b) It is unlawful for an unauthorized wrecker
23 operator to drive by the scene of a wrecked or disabled
24 vehicle before the arrival of the authorized wrecker operator,
25 initiate contact with the owner or operator of such vehicle by
26 soliciting or offering towing services, and tow such vehicle.
27 Any person who violates this paragraph is guilty of a
28 misdemeanor of the second degree, punishable as provided in s.
29 775.082 or s. 775.083.

30 (c) When an unauthorized wrecker operator drives by
31 the scene of a wrecked or disabled vehicle and the owner or

1 operator initiates contact by signaling the wrecker operator
2 to stop and provide towing services, the unauthorized wrecker
3 operator must disclose to the owner or operator of the vehicle
4 that he or she is not an authorized wrecker operator and must
5 disclose what charges for towing and storage will apply before
6 the vehicle is connected to the towing apparatus. Any person
7 who violates this paragraph is guilty of a misdemeanor of the
8 second degree, punishable as provided in s. 775.082 or s.
9 775.083.

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

16 (4) This section does not prohibit, or in any way
17 prevent, the owner or operator of a vehicle involved in an
18 accident or otherwise disabled from contacting any wrecker
19 operator for the provision of towing services, whether the
20 wrecker operator is an authorized wrecker operator or not.

21 Section 6. Paragraphs (d) and (f) of subsection (8) of
22 section 322.34, Florida Statutes, are amended to read:

23 322.34 Driving while license suspended, revoked,
24 canceled, or disqualified.--

25 (8)

26 (d) Either the arresting agency or the towing service,
27 whichever is in possession of the vehicle, shall determine
28 whether any vehicle impounded or immobilized under this
29 section has been leased or if there are any persons of record
30 with a lien upon the vehicle. Either the arresting agency or
31 the towing service, whichever is in possession of the vehicle,

1 shall notify by certified mail, return receipt requested,
2 within 7 business days after the date of the immobilization or
3 impoundment of the vehicle, the registered owner and all
4 persons having a recorded lien against the vehicle ~~telephone~~
5 ~~any lessor or lienholder before 5 p.m. on the business day~~
6 ~~after the day~~ that the vehicle has been impounded or
7 immobilized. A lessor or lienholder may then obtain the
8 vehicle, upon payment of any lawful towing or storage charges.
9 If the storage facility fails to provide timely notice to a
10 lessor or lienholder as required by this paragraph, the
11 storage facility shall be responsible for payment of any
12 towing or storage charges necessary to release the vehicle to
13 a lessor or lienholder that accrue after the notice period,
14 which charges may then be assessed against the driver of the
15 vehicle if the vehicle was lawfully impounded or immobilized.
16 (f) The owner of a vehicle that is impounded or
17 immobilized under this subsection may, within 10 days after
18 the date the owner has knowledge of the location of the
19 vehicle, file a complaint in the county in which the owner
20 resides to determine whether the vehicle was wrongfully taken
21 or withheld. Upon the filing of a complaint, the owner may
22 have the vehicle released by posting with the court a bond or
23 other adequate security equal to the amount of the costs and
24 fees for impoundment or immobilization, including towing or
25 storage, to ensure the payment of such costs and fees if the
26 owner does not prevail. When the vehicle owner does not
27 prevail on a complaint that the vehicle was wrongfully taken
28 or withheld, he or she must pay the accrued charges for the
29 immobilization or impoundment, including any towing and
30 storage charges assessed against the vehicle. When the
31 arresting agency has contracted with a wrecker operator to

1 perform the immobilization or impoundment procedure, and the
2 vehicle owner does prevail, the arresting agency must pay the
3 accrued charges for the immobilization or impoundment,
4 including any towing and storage charges.When the bond is
5 posted and the fee is paid as set forth in s. 28.24, the clerk
6 of the court shall issue a certificate releasing the vehicle.
7 At the time of release, after reasonable inspection, the owner
8 must give a receipt to the towing or storage company
9 indicating any loss or damage to the vehicle or to the
10 contents of the vehicle.

11 Section 7. Section 713.78, Florida Statutes, is
12 amended to read:

13 713.78 Liens for recovering, towing, or storing
14 vehicles.--

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

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

18 (b) "Wrecker" means any truck or other vehicle which
19 is used to tow, carry, or otherwise transport motor vehicles
20 and which is equipped for that purpose with a boom, winch, car
21 carrier, or other similar equipment.

22 (2) Whenever a person regularly engaged in the
23 business of transporting vehicles by wrecker, tow truck, or
24 car carrier recovers, removes, or stores a vehicle or mobile
25 home upon instructions from:

26 (a) The owner thereof; or

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

31 (c) Any law enforcement agency; or

1 (d) A mobile home park owner as defined in s. 723.003
2 who has a current writ of possession for a mobile home lot
3 pursuant to s. 723.061,

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5 she or he shall have a lien on such vehicle for a reasonable
6 towing fee and for a reasonable storage fee; except that no
7 storage fee shall be charged if such vehicle is stored for
8 less than 6 hours.

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

13 (4)~~(3)~~(a) Any person regularly engaged in the business
14 of recovering, towing, or storing vehicles who comes into
15 possession of a vehicle pursuant to subsection (2), and who
16 claims a lien for recovery, towing, or storage services, shall
17 give notice to the registered owner and to all persons
18 claiming a lien thereon, as disclosed by the records in the
19 Department of Highway Safety and Motor Vehicles or of a
20 corresponding agency in any other state.

21 (b) Notice by certified mail, return receipt
22 requested, shall be sent within 7 business days after the date
23 of storage of the vehicle to the registered owner and to all
24 persons of record claiming a lien against the vehicle. It
25 shall state the fact of possession of the vehicle, that a lien
26 as provided in subsection (2) is claimed, that charges have
27 accrued and the amount thereof, that the lien is subject to
28 enforcement pursuant to law, and that the owner or lienholder,
29 if any, has the right to a hearing as set forth in subsection
30 (5)~~(4)~~, and that any vehicle which remains unclaimed, or for

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1 which the charges for recovery, towing, or storage services
2 remain unpaid, may be sold in 35 days free of all prior liens.

3 (c) If attempts to locate the owner or lienholder
4 prove unsuccessful, the towing-storage operator shall, after 7
5 working days, excluding Saturday and Sunday, of the initial
6 tow or storage, notify the public agency of jurisdiction in
7 writing by certified mail or acknowledged hand delivery that
8 the towing-storage company has been unable to locate the owner
9 or lienholder and a physical search of the vehicle has
10 disclosed no ownership information and a good faith effort has
11 been made. For purposes of this paragraph, subsection (9)
12 ~~(8)~~, and s. 715.05, "good faith effort" means that the
13 following checks have been performed by the company to
14 establish prior state of registration and for title:

15 1. Check of vehicle for any type of tag, tag record,
16 temporary tag, or regular tag.

17 2. Check of law enforcement report for tag number, if
18 the vehicle was towed at the request of a law enforcement
19 officer.

20 3. Check of trip sheet or tow ticket of tow truck
21 operator to see if a tag was on vehicle at beginning of tow,
22 if private tow.

23 4. If there is no address of the owner on the impound
24 report, check of law enforcement report to see if an
25 out-of-state address is indicated from driver license
26 information.

27 5. Check of vehicle for inspection sticker or other
28 stickers and decals that may indicate a state of possible
29 registration.

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1 6. Check of the interior of the vehicle for any papers
2 that may be in the glove box, trunk, or other areas for a
3 state of registration.

4 (5)~~(4)~~(a) The owner of a vehicle removed pursuant to
5 the provisions of subsection (2), or any person claiming a
6 lien, other than the towing-storage operator, within 10 days
7 after the time she or he has knowledge of the location of the
8 vehicle, may file a complaint in the county court of the
9 county in which the vehicle is stored or in which the owner
10 resides to determine if her or his property was wrongfully
11 taken or withheld from her or him.

12 (b) Upon filing of a complaint, an owner or lienholder
13 may have her or his vehicle released upon posting with the
14 court a cash or surety bond or other adequate security equal
15 to the amount of the charges for towing or storage and lot
16 rental amount to ensure the payment of such charges in the
17 event she or he does not prevail. Upon the posting of the
18 bond and the payment of the applicable fee set forth in s.
19 28.24, the clerk of the court shall issue a certificate
20 notifying the lienor of the posting of the bond and directing
21 the lienor to release the vehicle. At the time of such
22 release, after reasonable inspection, she or he shall give a
23 receipt to the towing-storage company reciting any claims she
24 or he has for loss or damage to the vehicle or the contents
25 thereof.

26 (c) Upon determining the respective rights of the
27 parties, the court may award damages and costs in favor of the
28 prevailing party. In any event, the final order shall provide
29 for immediate payment in full of recovery, towing, and storage
30 fees by the vehicle owner or lienholder; or the agency
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1 ordering the tow; or the owner, lessee, or agent thereof of
2 the property from which the vehicle was removed.
3 (6)~~(5)~~ Any vehicle which is stored pursuant to
4 subsection (2) and which remains unclaimed, or for which
5 reasonable charges for recovery, towing, or storing remain
6 unpaid or for which a lot rental amount is due and owing to
7 the mobile home park owner, as evidenced by a judgment for
8 unpaid rent, and any contents not released pursuant to
9 subsection~~(10)~~(9), may be sold by the owner or operator of
10 the storage space for such towing or storage charge or unpaid
11 lot rental amount after 35 days from the time the vehicle is
12 stored therein. The sale shall be at public auction for cash.
13 If the date of the sale was not included in the notice
14 required in subsection~~(4)~~(3), notice of the sale shall be
15 given to the person in whose name the vehicle or mobile home
16 is registered, to the mobile home park owner, and to all
17 persons claiming a lien on the vehicle as shown on the records
18 of the Department of Highway Safety and Motor Vehicles or of
19 the corresponding agency in any other state. Notice shall be
20 sent by certified mail, return receipt requested, to the owner
21 of the vehicle and the person having the recorded lien on the
22 vehicle at the address shown on the records of the registering
23 agency and shall be mailed not less than 15 days before the
24 date of the sale. After diligent search and inquiry, if the
25 name and address of the registered owner or the owner of the
26 recorded lien cannot be ascertained, the requirements of
27 notice by mail may be dispensed with. In addition to the
28 notice by mail, public notice of the time and place of sale
29 shall be made by publishing a notice thereof one time, at
30 least 10 days prior to the date of the sale, in a newspaper of
31 general circulation in the county in which the sale is to be

1 held. The proceeds of the sale, after payment of reasonable
2 towing and storage charges, costs of the sale, and the unpaid
3 lot rental amount, in that order of priority, shall be
4 deposited with the clerk of the circuit court for the county
5 if the owner is absent, and the clerk shall hold such proceeds
6 subject to the claim of the person legally entitled thereto.
7 The clerk shall be entitled to receive 5 percent of such
8 proceeds for the care and disbursement thereof. The
9 certificate of title issued under this law shall be discharged
10 of all liens unless otherwise provided by court order.

11 (7)(a)(6) A wrecker operator ~~No person regularly~~
12 ~~engaged in the business of recovering, towing, or storing~~
13 vehicles is not shall be liable for damages connected with
14 such services, theft of such vehicles, or theft of personal
15 property contained in such vehicles, provided that such
16 services they have been performed with reasonable care and
17 provided, further, that, in the case of removal of a vehicle
18 upon the request of a person purporting, and reasonably
19 appearing, to be the owner or lessee, or a person authorized
20 by the owner or lessee, of the property from which such
21 vehicle is removed, such removal has been done in compliance
22 with s. 715.07. Further, a wrecker operator is not liable for
23 damage connected with such services when complying with the
24 lawful directions of a law enforcement officer to remove a
25 vehicle stopped, standing, or parked upon a street or highway
26 in such a position as to obstruct the normal movement of
27 traffic or in such a condition as to create a hazard to other
28 traffic upon the street or highway.

29 (b) For the purposes of this subsection, a wrecker
30 operator is presumed to use reasonable care to prevent the
31 theft of a vehicle or of any personal property contained in

1 such vehicle stored in the wrecker operator's storage facility
2 if all of the following apply:
3 1. The wrecker operator surrounds the storage facility
4 with a chain-link or solid-wall type fence at least 6 feet in
5 height;
6 2. The wrecker operator has illuminated the storage
7 facility with lighting of sufficient intensity to reveal
8 persons and vehicles at a distance of at least 150 feet during
9 nighttime; and
10 3. The wrecker operator uses one or more of the
11 following security methods to discourage theft of vehicles or
12 of any personal property contained in such vehicles stored in
13 the wrecker operator's storage facility:
14 a. A night dispatcher or watchman remains on duty at
15 the storage facility from sunset to sunrise;
16 b. A security dog remains at the storage facility from
17 sunset to sunrise;
18 c. Security cameras or other similar surveillance
19 devices monitor the storage facility; or
20 d. A security guard service examines the storage
21 facility at least once each hour from sunset to sunrise.
22 (c) Any law enforcement agency requesting that a motor
23 vehicle be removed from an accident scene, street, or highway
24 must conduct an inventory and prepare a written record of all
25 personal property found in the vehicle before the vehicle is
26 removed by a wrecker operator. A wrecker operator is not
27 liable for the loss of personal property alleged to be
28 contained in such a vehicle when such personal property was
29 not identified on the inventory record prepared by the law
30 enforcement agency requesting the removal of the vehicle.
31

1 (8)~~(7)~~ A person regularly engaged in the business of
2 recovering, towing, or storing vehicles, except a person
3 licensed under chapter 493 while engaged in "repossession"
4 activities as defined in s. 493.6101, may not operate a
5 wrecker, tow truck, or car carrier unless the name, address,
6 and telephone number of the company performing the service is
7 clearly printed in contrasting colors on the driver and
8 passenger sides of its vehicle. The name must be in at least
9 3-inch permanently affixed letters, and the address and
10 telephone number must be in at least 1-inch permanently
11 affixed letters.

12 (9)~~(8)~~ Failure to make good faith best efforts to
13 comply with the notice requirements of this section shall
14 preclude the imposition of any storage charges against such
15 vehicle.

16 (10)~~(9)~~ Persons who provide services pursuant to this
17 section shall permit vehicle owners or their agents, which
18 agency is evidenced by a writing acknowledged by the owner
19 before a notary public or other person empowered by law to
20 administer oaths, to inspect the towed vehicle and shall
21 release to the owner or agent all personal property not
22 affixed to the vehicle which was in the vehicle at the time
23 the vehicle came into the custody of the person providing such
24 services.

25 (11)~~(10)~~(a) Any person regularly engaged in the
26 business of recovering, towing, or storing vehicles who comes
27 into possession of a vehicle pursuant to subsection (2) and
28 who has complied with the provisions of subsections (3) and
29 (6)~~(5)~~, when such vehicle is to be sold for purposes of being
30 dismantled, destroyed, or changed in such manner that it is
31 not the motor vehicle or mobile home described in the

1 certificate of title, shall apply to the county tax collector
2 for a certificate of destruction. A certificate of
3 destruction, which authorizes the dismantling or destruction
4 of the vehicle described therein, shall be reassignable and
5 shall accompany the vehicle for which it is issued, when such
6 vehicle is sold for such purposes, in lieu of a certificate of
7 title. The application for a certificate of destruction shall
8 include an affidavit from the applicant that it has complied
9 with all applicable requirements of this section and, if the
10 vehicle is not registered in this state, by a statement from a
11 law enforcement officer that the vehicle is not reported
12 stolen, and shall be accompanied by such documentation as may
13 be required by the department.

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

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

21 (12)~~(11)~~(a) Any person who violates any provision of
22 subsection ~~subsections~~ (1) subsection (2), subsection (4),
23 subsection (5), subsection (6), or subsection (7)~~through (6)~~
24 is guilty of a misdemeanor of the first degree, punishable as
25 provided in s. 775.082 or s. 775.083.

26 (b) Any person who violates the provisions of
27 subsections~~(8)~~~~(7)~~through~~(11)~~~~(10)~~ is guilty of a felony of
28 the third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 (c) Any person who uses a false or fictitious name,
31 gives a false or fictitious address, or makes any false

1 statement in any application or affidavit required under the
2 provisions of this section is guilty of a felony of the third
3 degree, punishable as provided in s. 775.082, s. 775.083, or
4 s. 775.084.

5 Section 8. Paragraph (a) of subsection (1) of section
6 319.30, Florida Statutes, is amended to read:

7 319.30 Definitions; dismantling, destruction, change
8 of identity of motor vehicle or mobile home; salvage.--

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

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

12 Section 9. This act shall take effect October 1 of the
13 year in which enacted.

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LEGISLATIVE SUMMARY

17

18 Defines the term "wrecker operator" for use in the
19 Florida Statutes. Authorizes counties and
20 municipalities, and revises the authority of the Florida
21 Highway Patrol, to establish wrecker operator systems,
22 and prohibits certain acts by wrecker operators in
23 contravention of such systems. Prescribes liability for
24 payment of charges in various circumstances.

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