

By the Committee on Transportation and Senator Silver

306-2007-98

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.

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

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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
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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 that subsection, to read:

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

22 (1)

23 (b) The provisions of this section shall not prevent
24 the enactment by local governments of public service rates
25 otherwise authorized by law, including water, sewer, solid
26 waste, public transportation, taxicab, ~~towing of vehicles from~~
27 ~~or immobilization of vehicles on private property, removal and~~
28 ~~storage of wrecked or disabled vehicles from an accident scene~~
29 ~~or for the removal and storage of vehicles, in the event the~~
30 ~~owner or operator is incapacitated, unavailable, leaves the~~
31 ~~procurement of wrecker service to the law enforcement officer~~

1 ~~at the scene, or otherwise does not consent to the removal of~~
2 ~~the vehicle, or port rates.~~

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

11 Section 5. Paragraph (b) of subsection (1) of section
12 166.043, Florida Statutes, is amended, and paragraph (c) is
13 added to that subsection, to read:

14 166.043 Ordinances and rules imposing price controls;
15 findings required; procedures.--

16 (1)

17 (b) The provisions of this section shall not prevent
18 the enactment by local governments of public service rates
19 otherwise authorized by law, including water; sewer; solid
20 waste; public transportation; taxicab; ~~towing of vehicles from~~
21 ~~or immobilization of vehicles on private property; removal and~~
22 ~~storage of wrecked or disabled vehicles from an accident scene~~
23 ~~or for the removal and storage of vehicles, in the event the~~
24 ~~owner or operator is incapacitated, unavailable, leaves the~~
25 ~~procurement of wrecker service to the law enforcement officer~~
26 ~~at the scene, or otherwise does not consent to the removal of~~
27 ~~the vehicle, or port rates.~~

28 (c) Counties must establish maximum fees which may be
29 charged on the towing of vehicles from or immobilization of
30 vehicles on private property, removal and storage of wrecked
31 or disabled vehicles from an accident scene or for the removal

1 and storage of vehicles, in the event the owner or operator is
2 incapacitated, unavailable, leaves the procurement of wrecker
3 service to the law enforcement officer at the scene, or
4 otherwise does not consent to the removal of the vehicle.

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

7 316.193 Driving under the influence; penalties.--

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

11 (d) In addition to the penalty imposed under paragraph
12 (a), paragraph (b), or paragraph (c), the court shall also
13 order the impoundment or immobilization of the vehicle that
14 was driven by, or in the actual physical control of, the
15 offender, unless the court finds that the family of the owner
16 of the vehicle has no other public or private means of
17 transportation. The period of impoundment or immobilization is
18 10 days, or, for the second conviction within 3 years, 30
19 days, or, for the third conviction within 5 years, 90 days and
20 may not be concurrent with probation or imprisonment. If the
21 vehicle is leased or rented, the period of impoundment or
22 immobilization may not extend beyond the expiration of the
23 lease or rental agreement. Within 7 business days after the
24 date that the court issues the order of impoundment or
25 immobilization, the clerk of the court shall send notice by
26 certified mail, return receipt requested, to the registered
27 owner of the vehicle if the registered owner is a person other
28 than the offender and to each person of record claiming a lien
29 against the vehicle. All costs and fees for the impoundment or
30 immobilization, including the cost of notification, must be
31 paid by the owner of the vehicle or, if the vehicle is leased

1 or rented, by the person leasing or renting the vehicle. The
2 person who owns a vehicle that is impounded or immobilized
3 under this paragraph, or a person who has a lien of record
4 against such a vehicle, may, within 10 days after the date
5 that person has knowledge of the location of the vehicle, file
6 a complaint in the county in which the owner resides to
7 determine whether the vehicle was wrongfully taken or withheld
8 from the owner or lienholder. Upon the filing of a complaint,
9 the owner or lienholder may have the vehicle released by
10 posting with the court a bond or other adequate security equal
11 to the amount of the costs and fees for impoundment or
12 immobilization, including towing or storage, to ensure the
13 payment of such costs and fees if the owner or lienholder does
14 not prevail. When the bond is posted and the fee is paid as
15 set forth in s. 28.24, the clerk of the court shall issue a
16 certificate releasing the vehicle. At the time of release,
17 after reasonable inspection, the owner or lienholder must give
18 a receipt to the wrecker operator ~~towing or storage company~~
19 indicating any loss or damage to the vehicle or to the
20 contents of the vehicle.

21
22 For the purposes of this section, any conviction for a
23 violation of s. 327.35; a previous conviction for the
24 violation of former s. 316.1931, former s. 860.01, or former
25 s. 316.028; or a previous conviction outside this state for
26 driving under the influence, driving while intoxicated,
27 driving with an unlawful blood-alcohol level, driving with an
28 unlawful breath-alcohol level, or any other similar
29 alcohol-related or drug-related traffic offense, is also
30 considered a previous conviction for violation of this
31 section. However, in satisfaction of the fine imposed pursuant

1 to this section, the court may, upon a finding that the
2 defendant is financially unable to pay either all or part of
3 the fine, order that the defendant participate for a specified
4 additional period of time in public service or a community
5 work project in lieu of payment of that portion of the fine
6 which the court determines the defendant is unable to pay. In
7 determining such additional sentence, the court shall consider
8 the amount of the unpaid portion of the fine and the
9 reasonable value of the services to be ordered; however, the
10 court may not compute the reasonable value of services at a
11 rate less than the federal minimum wage at the time of
12 sentencing.

13 Section 7. Paragraphs (d) and (e) of subsection (5) of
14 section 320.08, Florida Statutes, are amended to read:

15 320.08 License taxes.--Except as otherwise provided
16 herein, there are hereby levied and imposed annual license
17 taxes for the operation of motor vehicles, mopeds, motorized
18 bicycles as defined in s. 316.003(2), and mobile homes, as
19 defined in s. 320.01, which shall be paid to and collected by
20 the department or its agent upon the registration or renewal
21 of registration of the following:

22 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE
23 WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

24 (d) A wrecker, as defined in s. 320.01(40), which is
25 used to tow a vessel as defined in s. 327.02(36), a disabled,
26 abandoned, stolen-recovered, or impounded motor vehicle as
27 defined in s. 320.01(38), or a replacement motor vehicle as
28 defined in s. 320.01(39): \$30 flat.

29 (e) A wrecker, as defined in s. 320.01(40), which is
30 used to tow any motor vehicle, regardless of whether or not
31 such motor vehicle is a disabled motor vehicle as defined in

1 s. 320.01(38), ~~or~~ a replacement motor vehicle as defined in s.
2 320.01(39), a vessel as defined in s. 327.02(36), or any other
3 cargo, as follows:

4 1. Gross vehicle weight of 10,000 pounds or more, but
5 less than 15,000 pounds: \$87 flat.

6 2. Gross vehicle weight of 15,000 pounds or more, but
7 less than 20,000 pounds: \$131 flat.

8 3. Gross vehicle weight of 20,000 pounds or more, but
9 less than 26,000 pounds: \$186 flat.

10 4. Gross vehicle weight of 26,000 pounds or more, but
11 less than 35,000 pounds: \$240 flat.

12 5. Gross vehicle weight of 35,000 pounds or more, but
13 less than 44,000 pounds: \$300 flat.

14 6. Gross vehicle weight of 44,000 pounds or more, but
15 less than 55,000 pounds: \$572 flat.

16 7. Gross vehicle weight of 55,000 pounds or more, but
17 less than 62,000 pounds: \$678 flat.

18 8. Gross vehicle weight of 62,000 pounds or more, but
19 less than 72,000 pounds: \$800 flat.

20 9. Gross vehicle weight of 72,000 pounds or more:
21 \$979 flat.

22 Section 8. Section 321.051, Florida Statutes, is
23 amended to read:

24 321.051 Florida Highway Patrol ~~A wrecker operator~~
25 system; penalties for operation outside of system for removal
26 ~~and storage of wrecked, disabled, or abandoned vehicles.--~~

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

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

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1 (b) "Unauthorized wrecker operator" means any wrecker
2 operator who has not been designated by the division as part
3 of the wrecker operator system.

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

1 of Appellate Procedure only by a writ of certiorari issued by
2 the circuit court in the county wherein such wrecker operator
3 resides ~~shall reside~~.

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

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

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

1 of a misdemeanor of the second degree, punishable as provided
2 in s. 775.082 or s. 775.083.

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

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

14 Section 9. Paragraphs (d) and (f) of subsection (8) of
15 section 322.34, Florida Statutes, are amended to read:

16 322.34 Driving while license suspended, revoked,
17 canceled, or disqualified.--

18 (8)

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

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

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

30 Section 10. Section 713.78, Florida Statutes, is
31 amended to read:

1 713.78 Liens for recovering, towing, or storing
2 vehicles.--

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

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

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

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

14 (a) The owner thereof; or

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

19 (c) Any law enforcement agency; or

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

23
24 she or he shall have a lien on such vehicle for a reasonable
25 towing fee and for a reasonable storage fee; except that no
26 storage fee shall be charged if such vehicle is stored for
27 less than 6 hours.

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

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

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

21 (c) If attempts to locate the owner or lienholder
22 prove unsuccessful, the towing-storage operator shall, after 7
23 working days, excluding Saturday and Sunday, of the initial
24 tow or storage, notify the public agency of jurisdiction in
25 writing by certified mail or acknowledged hand delivery that
26 the towing-storage company has been unable to locate the owner
27 or lienholder and a physical search of the vehicle has
28 disclosed no ownership information and a good faith effort has
29 been made. For purposes of this paragraph, subsection(9)
30 ~~(8)~~, and s. 715.05, "good faith effort" means that the
31

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

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

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

19 (6)~~(5)~~ Any vehicle which is stored pursuant to
20 subsection (2) and which remains unclaimed, or for which
21 reasonable charges for recovery, towing, or storing remain
22 unpaid or for which a lot rental amount is due and owing to
23 the mobile home park owner, as evidenced by a judgment for
24 unpaid rent, and any contents not released pursuant to
25 subsection~~(10)~~~~(9)~~, may be sold by the owner or operator of
26 the storage space for such towing or storage charge or unpaid
27 lot rental amount after 35 days from the time the vehicle is
28 stored therein. The sale shall be at public auction for cash.
29 If the date of the sale was not included in the notice
30 required in subsection~~(4)~~~~(3)~~, notice of the sale shall be
31 given to the person in whose name the vehicle or mobile home

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

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

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

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

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

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

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

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

1 b. A security dog remains at the storage facility from
2 sunset to sunrise;

3 c. Security cameras or other similar surveillance
4 devices monitor the storage facility; or

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

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

16 ~~(8)(7)~~ A person regularly engaged in the business of
17 recovering, towing, or storing vehicles, except a person
18 licensed under chapter 493 while engaged in "repossession"
19 activities as defined in s. 493.6101, may not operate a
20 wrecker, tow truck, or car carrier unless the name, address,
21 and telephone number of the company performing the service is
22 clearly printed in contrasting colors on the driver and
23 passenger sides of its vehicle. The name must be in at least
24 3-inch permanently affixed letters, and the address and
25 telephone number must be in at least 1-inch permanently
26 affixed letters.

27 ~~(9)(8)~~ Failure to make good faith best efforts to
28 comply with the notice requirements of this section shall
29 preclude the imposition of any storage charges against such
30 vehicle.

31

1 (10)~~(9)~~ Persons who provide services pursuant to this
2 section shall permit vehicle owners or their agents, which
3 agency is evidenced by a writing acknowledged by the owner
4 before a notary public or other person empowered by law to
5 administer oaths, to inspect the towed vehicle and shall
6 release to the owner or agent all personal property not
7 affixed to the vehicle which was in the vehicle at the time
8 the vehicle came into the custody of the person providing such
9 services.

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

30 (b) The Department of Highway Safety and Motor
31 Vehicles shall charge a fee of \$3 for each certificate of

1 destruction. A service charge of \$4.25 shall be collected and
2 retained by the tax collector who processes the application.

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

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

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

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

21 Section 11. Paragraph (a) of subsection (1) of section
22 319.30, Florida Statutes, is amended to read:

23 319.30 Definitions; dismantling, destruction, change
24 of identity of motor vehicle or mobile home; salvage.--

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

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

28 Section 12. This act shall take effect October 1,
29 1998.

30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 SB 710

4 The CS increases the amount of time that a law enforcement
5 agency may put a hold order on a vehicle from 72 hours to five
6 days. If the law enforcement agency wishes to continue to
7 hold the vehicle beyond five days they may move the vehicle to
8 another lot, but must hold the vehicle until the owner pays
9 the wrecker operator for all accrued towing and storage
10 charges. If the law enforcement agency chooses to hold the
11 vehicle at the wrecker's storage facility beyond five days,
12 the agency will be responsible for payment of the storage fees
13 for the extended period, and the owner of the vehicle is
14 responsible for payment for the first five days. However, the
15 law enforcement agency will be responsible for all towing and
16 storage charges if a court finds that the agency did not have
17 probable cause to impound or put a hold order on the vehicle,
18 and the vehicle owner will be responsible for all towing and
19 storage charges if found guilty of, or pleads nolo contendere
20 to, the offense that resulted in a hold being placed on their
21 vehicle.

22 The CS removes the provisions in the bill requiring law
23 enforcement agencies to pay towing and storage costs if the
24 vehicle owner is found not guilty of the offense for which the
25 vehicle was impounded or prevails in their complaint that the
26 vehicle was wrongfully taken. The CS provides that the law
27 enforcement agency will only pay towing and storage costs if a
28 court finds that the agency did not have probable cause to
29 impound the vehicle. This provision would significantly lower
30 the fiscal impact of this bill on law enforcement agencies.

31 The CS amends ss. 125.0103 and 166.043 to require local
governments to enact ordinances to establish maximum fees
which may be charged for: the towing of vehicles from or
immobilization of vehicles on private property; the removal
and storage of wrecked or disabled vehicles from an accident
scene; or for the removal and storage of vehicles, in the
event the owner or operator is incapacitated, unavailable,
leaves the procurement of the wrecker service to the law
enforcement officer at the scene, or otherwise does not
consent to the removal of the vehicle.

The CS amends s. 320.08, F.S., to clarify that wreckers which
register at a flat rate of \$30 may also tow vessels as well as
abandoned, stolen-recovered, or impounded motor vehicles, and
wreckers which register by GVW may tow vessels and any other
cargo.