

By the Committee on Transportation and Senator Burt

306-1836-01

1 A bill to be entitled
2 An act relating to motor vehicles, vessels, and
3 mobile homes; amending s. 320.03, F.S.;
4 prohibiting the issuance of license plates or
5 revalidation stickers to persons against whom a
6 wrecker operator's lien has been filed;
7 amending s. 713.78, F.S.; revising requirements
8 for the sale of an unclaimed vehicle or vessel;
9 providing procedures for wrecker operators to
10 notify the department of the existence of a
11 wrecker operator's lien and providing
12 procedures for the discharge of such liens;
13 providing for fees and service charges;
14 requiring the department to maintain a list of
15 persons against whom such liens are filed and
16 prohibiting the issuance of license plates or
17 revalidation stickers to such persons;
18 providing guidelines and providing for the
19 adoption of rules; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Subsection (8) of section 320.03, Florida
24 Statutes, is amended to read:

25 320.03 Registration; duties of tax collectors;
26 International Registration Plan.--

27 (8) If the applicant's name appears on the list
28 referred to in s. 316.1001(4), or s. 316.1967(6), or s.
29 713.78(13), a license plate or revalidation sticker may not be
30 issued until that person's name no longer appears on the list
31 or until the person presents a receipt from the clerk showing

1 that the fines outstanding have been paid. The tax collector
2 and the clerk of the court are each entitled to receive
3 monthly, as costs for implementing and administering this
4 subsection, 10 percent of the civil penalties and fines
5 recovered from such persons, excluding wrecker operators'
6 liens under s. 713.78(13). If the tax collector has private
7 tag agents, such tag agents are entitled to receive a pro rata
8 share of the amount paid to the tax collector, based upon the
9 percentage of license plates and revalidation stickers issued
10 by the tag agent compared to the total issued within the
11 county. The authority of any private agent to issue license
12 plates shall be revoked, after notice and a hearing as
13 provided in chapter 120, if he or she issues any license plate
14 or revalidation sticker contrary to the provisions of this
15 subsection. This section applies only to the annual renewal in
16 the owner's birth month of a motor vehicle registration and
17 does not apply to the transfer of a registration of a motor
18 vehicle sold by a motor vehicle dealer licensed under this
19 chapter, except for the transfer of registrations which is
20 inclusive of the annual renewals. This section does not affect
21 the issuance of the title to a motor vehicle, notwithstanding
22 s. 319.23(7)(b).

23 Section 2. Paragraph (b) of subsection (4) and
24 subsection (6) of section 713.78, Florida Statutes, are
25 amended, and subsection (13) is added to that section, to
26 read:

27 713.78 Liens for recovering, towing, or storing
28 vehicles and documented vessels.--

29 (4)

30 (b) Notice by certified mail, return receipt
31 requested, shall be sent within 7 business days after the date

1 of storage of the vehicle or vessel to the registered owner
2 and to all persons of record claiming a lien against the
3 vehicle or vessel. It shall state the fact of possession of
4 the vehicle or vessel, that a lien as provided in subsection
5 (2) is claimed, that charges have accrued and the amount
6 thereof, that the lien is subject to enforcement pursuant to
7 law, and that the owner or lienholder, if any, has the right
8 to a hearing as set forth in subsection (5), and that any
9 vehicle or vessel which remains unclaimed, or for which the
10 charges for recovery, towing, or storage services remain
11 unpaid, may be sold ~~after 35 days~~ free of all prior liens
12 after 35 days if the vehicle or vessel is more than 3 years of
13 age or after 50 days if the vehicle or vessel is 3 years of
14 age or less.

15 (6) Any vehicle or vessel which is stored pursuant to
16 subsection (2) and which remains unclaimed, or for which
17 reasonable charges for recovery, towing, or storing remain
18 unpaid or for which a lot rental amount is due and owing to
19 the mobile home park owner, as evidenced by a judgment for
20 unpaid rent, and any contents not released pursuant to
21 subsection (10), may be sold by the owner or operator of the
22 storage space for such towing or storage charge or unpaid lot
23 rental amount after 35 days following ~~from~~ the time the
24 vehicle or vessel is stored therein if the vehicle or vessel
25 is more than 3 years of age or after 50 days following the
26 time the vehicle or vessel is stored therein if the vehicle or
27 vessel is 3 years of age or less. The sale shall be at public
28 auction for cash. If the date of the sale was not included in
29 the notice required in subsection (4), notice of the sale
30 shall be given to the person in whose name the vehicle,
31 vessel, or mobile home is registered, to the mobile home park

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

1 enforcement agency, for which a certificate of destruction has
2 been issued under subsection (11), the department shall place
3 the name of all registered owners of that property on the list
4 of those persons who may not be issued a license plate or
5 revalidation sticker for a motor vehicle under s. 320.03(8).

6 The notice of wrecker operator's lien must be submitted on
7 forms provided by the department, which must include the
8 following information concerning the vehicle, vessel, or
9 mobile home:

10 1. The name, address, and telephone number of the
11 wrecker operator.

12 2. The name of all registered owners of the property
13 and the address to which the wrecker operator provided notice
14 pursuant to subsection (4).

15 3. A general description of the property, including
16 the color, make, model, body style, and year.

17 4. The vehicle identification number (VIN);
18 registration license plate number, state, and year; validation
19 decal number, state, and year; mobile home sticker number,
20 state, and year; vessel registration number; hull
21 identification number; or other identification number, as
22 applicable.

23 5. The name of the person and the corresponding law
24 enforcement agency that requested the property to be
25 recovered, towed, or stored.

26 6. The amount of the wrecker operator's lien.

27 (b) The amount of the wrecker operator's lien that
28 will prevent the issuance of a license plate or revalidation
29 sticker may not exceed the amount of the charges for recovery,
30 towing, and storage of the property for 7 days. The charges
31 may not exceed the maximum rates imposed by ordinance of the

1 respective county or municipality under ss. 125.0103(1)(c) and
2 166.043(1)(c). This paragraph does not limit the amount of a
3 wrecker operator's lien claimed under subsection (2) or
4 prevent a wrecker operator from from seeking civil remedies
5 for enforcement of the entire amount of the lien.

6 (c)1. The registered owner of the property may dispute
7 a wrecker operator's lien, by notifying the department on
8 departmental forms and attaching:

9 a. A notarized bill of sale providing that the
10 vehicle, vessel, or mobile home was sold in a private or
11 casual sale before it was recovered, towed, or stored;

12 b. Proof that the Florida certificate of title was
13 sold to a licensed dealer as defined in s. 319.001 before the
14 vehicle, vessel, or mobile home was recovered, towed, or
15 stored.

16 c. Proof that the registered owner submitted to the
17 department a notice of transfer of the certificate of title
18 under s. 319.227 or s. 328.25 before the vehicle, vessel, or
19 mobile home was recovered, towed, or stored.

20 2. If the owner's proof is satisfactory, the
21 department shall immediately allow the issuance of a license
22 plate or revalidation sticker.

23 3. If the wrecker operator submits a certified copy of
24 a court order that requires the owner to pay the wrecker
25 operator's lien, the license plate or revalidation sticker may
26 not be issued. However, the wrecker operator's lien may be
27 increased to include no more than \$500 of reasonable costs and
28 attorney's fees incurred in obtaining the judgment.

29 (d) Upon discharge of the lien, the wrecker operator
30 must issue a certificate of discharged wrecker operator's lien
31 on departmental forms to each registered owner of the vehicle,

1 vessel, or mobile home attesting that the lien has been
2 discharged. Upon receipt of the certificate of discharged
3 lien, the department shall issue a license plate or
4 revalidation sticker to the owner upon request.

5 (e) The department shall charge a fee of \$2 to file a
6 notice of wrecker operator's lien, \$1 of which shall be
7 deposited into the Florida Motor Vehicle Theft Prevention
8 Trust Fund and \$1 of which shall be retained by the department
9 to defray the operating costs of implementing this section. A
10 service charge of \$2.50 shall be charged by the tax collector
11 who processes the notice.

12 (f) This subsection applies only to the annual renewal
13 in the registered owner's birth month and does not apply to
14 the transfer of a registration of a motor vehicle sold by a
15 motor vehicle dealer, except for the transfer of registrations
16 which is inclusive of the annual renewals. This subsection
17 does not affect the issuance of the title to a motor vehicle,
18 notwithstanding s. 319.23(7)(b).

19 (g) The Department of Highway Safety and Motor
20 Vehicles may adopt rules necessary to administer this
21 subsection.

22 Section 3. This act shall take effect July 1, 2001.

23
24 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
25 COMMITTEE SUBSTITUTE FOR
26 SB 2044

27 The CS provides after proper notification, an unclaimed
28 vehicle may be sold after 35 days if the vehicle is 3 years of
29 age or older, or after 50 days if the vehicle is 3 years of
30 age or less.

31 The CS deletes a provision requiring sellers of vessels to
file a form entitled "notice of transfer" with the Department
of Highway Safety and Motor Vehicles.