

1                                   A bill to be entitled  
2           An act relating to wrecker liens; amending s.  
3           320.03, F.S.; including a cross-reference;  
4           providing that the term "civil penalties and  
5           fines" does not include reference to a wrecker  
6           operator's lien; amending s. 713.78, F.S.;  
7           revising requirements for the sale of an  
8           unclaimed vehicle or vessel; providing that the  
9           Department of Highway Safety and Motor Vehicles  
10          shall not issue a license plate or revalidation  
11          sticker for certain motor vehicles, vessels, or  
12          motor homes for which a wrecker operator's lien  
13          has been issued; providing procedures with  
14          respect to such liens; providing an effective  
15          date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19           Section 1. Subsection (8) of section 320.03, Florida  
20 Statutes, is amended to read:

21           320.03 Registration; duties of tax collectors;  
22 International Registration Plan.--

23           (8) If the applicant's name appears on the list  
24 referred to in s. 316.1001(4), ~~or~~ s. 316.1967(6), or s.  
25 713.78(13)a license plate or revalidation sticker may not be  
26 issued until that person's name no longer appears on the list  
27 or until the person presents a receipt from the clerk showing  
28 that the fines outstanding have been paid. The tax collector  
29 and the clerk of the court are each entitled to receive  
30 monthly, as costs for implementing and administering this  
31 subsection, 10 percent of the civil penalties and fines

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

20 Section 2. Paragraph (b) of subsection (4) and  
21 subsection (6) are amended, and subsection (13) is added to  
22 section 713.78, Florida Statutes, to read:

23 713.78 Liens for recovering, towing, or storing  
24 vehicles and documented vessels.--

25 (4)

26 (b) Notice by certified mail, return receipt  
27 requested, shall be sent within 7 business days after the date  
28 of storage of the vehicle or vessel to the registered owner  
29 and to all persons of record claiming a lien against the  
30 vehicle or vessel. It shall state the fact of possession of  
31 the vehicle or vessel, that a lien as provided in subsection

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

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

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

23 (13)(a) Upon receipt by the Department of Highway  
24 Safety and Motor Vehicles of written notice from a wrecker  
25 operator who claims a wrecker operator's lien under paragraph  
26 (2)(c) or paragraph (2)(d) for recovery, towing, or storage of  
27 a vehicle, vessel, or mobile home abandoned under s. 705.103,  
28 upon instructions from any law enforcement agency, for which a  
29 certificate of destruction has been issued under subsection  
30 (11), the department shall place the name of the registered  
31 owner of that vehicle, vessel, or mobile home on the list of

1 those persons who may not be issued a license plate or  
2 revalidation sticker for any motor vehicle under s. 320.03(8).  
3 If the vehicle, vessel, or mobile home is owned jointly by  
4 more than one person, the name of each registered owner shall  
5 be placed on the list. The notice of wrecker operator's lien  
6 shall be submitted on forms provided by the department, which  
7 must include:

8 1. The name, address, and telephone number of the  
9 wrecker operator.

10 2. The name of the registered owner of the vehicle,  
11 vessel, or mobile home and the address to which the wrecker  
12 operator provided notice of the lien to the registered owner  
13 under subsection (4).

14 3. A general description of the vehicle, vessel, or  
15 mobile home, including its color, make, model, body style, and  
16 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 or the corresponding law  
24 enforcement agency that requested that the vehicle, vessel, or  
25 mobile home be recovered, towed, or stored.

26 6. The amount of the wrecker operator's lien, not to  
27 exceed the amount allowed by paragraph (b).

28 (b) For purposes of this subsection only, the amount  
29 of the wrecker operator's lien for which the department will  
30 prevent issuance of a license plate or revalidation sticker  
31 may not exceed the amount of the charges for recovery, towing,

1 and storage of the vehicle, vessel, or mobile home for 7 days.  
2 These charges may not exceed the maximum rates imposed by the  
3 ordinances of the respective county or municipality under ss.  
4 125.0103(1)(c) and 166.043(1)(c). This paragraph does not  
5 limit the amount of a wrecker operator's lien claimed under  
6 subsection (2) or prevent a wrecker operator from seeking  
7 civil remedies for enforcement of the entire amount of the  
8 lien, but limits only that portion of the lien for which the  
9 department will prevent issuance of a license plate or  
10 revalidation sticker.

11 (c)1. The registered owner of a vehicle, vessel, or  
12 mobile home may dispute a wrecker operator's lien, by  
13 notifying the department of the dispute in writing on forms  
14 provided by the department, if at least one of the following  
15 applies:

16 a. The registered owner presents a notarized bill of  
17 sale proving that the vehicle, vessel, or mobile home was sold  
18 in a private or casual sale before the vehicle, vessel, or  
19 mobile home was recovered, towed, or stored.

20 b. The registered owner presents proof that the  
21 Florida certificate of title of the vehicle, vessel, or mobile  
22 home was sold to a licensed dealer as defined in s. 319.001  
23 before the vehicle, vessel, or mobile home was recovered,  
24 towed, or stored.

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26 If the registered owner's dispute of a wrecker operator's lien  
27 complies with one of these criteria, the department shall  
28 immediately remove the registered owner's name from the list  
29 of those persons who may not be issued a licensed plate or  
30 revalidation sticker for any motor vehicle under s. 320.03(8),  
31 thereby allowing issuance of a license plate or revalidation

1 sticker. If the vehicle, vessel, or mobile home is owned  
2 jointly by more than one person, each registered owner must  
3 dispute the wrecker operator's lien in order to be removed  
4 from the list. However, the department shall deny any dispute  
5 and maintain the registered owner's name on the list of those  
6 persons who may not be issued a license plate or revalidation  
7 sticker for any motor vehicle under s. 320.03(8) if the  
8 wrecker operator has provided the department with a certified  
9 copy of the judgment of a court which orders the registered  
10 owner to pay the wrecker operator's lien claimed under this  
11 section. In such a case, the amount of the wrecker operator's  
12 lien allowed by paragraph (b) may be increased to include no  
13 more than \$500 of the reasonable costs and attorney's fees  
14 incurred in obtaining the judgment. The department's action  
15 under this subparagraph is ministerial in nature, shall not be  
16 considered final agency action, and is appealable only to the  
17 county court for the county in which the vehicle, vessel, or  
18 mobile home was ordered removed.

19 2. A person against whom a wrecker operator's lien has  
20 been imposed may alternatively obtain a discharge of the lien  
21 by filing a complaint, challenging the validity of the lien or  
22 the amount thereof, in the county court of the county in which  
23 the vehicle, vessel, or mobile home was ordered removed. Upon  
24 filing of the complaint, the person may have her or his name  
25 removed from the list of those persons who may not be issued a  
26 licensed plate or revalidation sticker for any motor vehicle  
27 under s. 320.03(8), thereby allowing issuance of a license  
28 plate or revalidation sticker, upon posting with the court a  
29 cash or surety bond or other adequate security equal to the  
30 amount of the wrecker operator's lien to ensure the payment of  
31 such lien in the event she or he does not prevail. Upon the

1 posting of the bond and the payment of the applicable fee set  
2 forth in s. 28.24, the clerk of the court shall issue a  
3 certificate notifying the department of the posting of the  
4 bond and directing the department to release the wrecker  
5 operator's lien. Upon determining the respective rights of the  
6 parties, the court may award damages and costs in favor of the  
7 prevailing party.

8 3. If a person against whom a wrecker operator's lien  
9 has been imposed does not object to the lien, but cannot  
10 discharge the lien by payment because the wrecker operator has  
11 moved or gone out of business, the person may have her or his  
12 name removed from the list of those persons who may not be  
13 issued a licensed plate or revalidation sticker for any motor  
14 vehicle under s. 320.03(8), thereby allowing issuance of a  
15 license plate or revalidation sticker, upon posting with the  
16 clerk of court in the county in which the vehicle, vessel, or  
17 mobile home was ordered removed, a cash or surety bond or  
18 other adequate security equal to the amount of the wrecker  
19 operator's lien. Upon the posting of the bond and the payment  
20 of the application fee set forth in s. 28.24, the clerk of the  
21 court shall issue a certificate notifying the department of  
22 the posting of the bond and directing the department to  
23 release the wrecker operator's lien. The department shall mail  
24 to the wrecker operator, at the address upon the lien form,  
25 notice that the wrecker operator must claim the security  
26 within 60 days, or the security will be released back to the  
27 person who posted it. At the conclusion of the 60 days, the  
28 department shall direct the clerk as to which party is  
29 entitled to payment of the security, less applicable clerk's  
30 fees.

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1           4. A wrecker operator's lien expires 5 years after  
2 filing.

3           (d) Upon discharge of the amount of the wrecker  
4 operator's lien allowed by paragraph (b), the wrecker operator  
5 must issue a certificate of discharged wrecker operator's lien  
6 on forms provided by the department to each registered owner  
7 of the vehicle, vessel, or mobile home attesting that the  
8 amount of the wrecker operator's lien allowed by paragraph (b)  
9 has been discharged. Upon presentation of the certificate of  
10 discharged wrecker operator's lien by the registered owner,  
11 the department shall immediately remove the registered owner's  
12 name from the list of those persons who may not be issued a  
13 license plate or revalidation sticker for any motor vehicle  
14 under s. 320.03(8), thereby allowing issuance of a license  
15 plate or revalidation sticker. Issuance of a certificate of  
16 discharged wrecker operator's lien under this paragraph does  
17 not discharge the entire amount of the wrecker operator's lien  
18 claimed under subsection (2), but only certifies to the  
19 department that the amount of the wrecker operator's lien  
20 allowed by paragraph (b), for which the department will  
21 prevent issuance of a license plate or revalidation sticker,  
22 has been discharged.

23           (e) When a wrecker operator files a notice of wrecker  
24 operator's lien under this subsection, the department shall  
25 charge the wrecker operator a fee of \$2, which shall be  
26 deposited into the Florida Motor Vehicle Theft Prevention  
27 Trust Fund established under s. 860.158. A service charge of  
28 \$2.50 shall be collected and retained by the tax collector who  
29 processes a notice of wrecker operator's lien.

30           (f) This subsection applies only to the annual renewal  
31 in the registered owner's birth month of a motor vehicle

1 registration and does not apply to the transfer of a  
2 registration of a motor vehicle sold by a motor vehicle dealer  
3 licensed under chapter 320, except for the transfer of  
4 registrations which is inclusive of the annual renewals. This  
5 subsection does not affect the issuance of the title to a  
6 motor vehicle, notwithstanding s. 319.23(7)(b).

7 (g) The Department of Highway Safety and Motor  
8 Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54  
9 to implement this subsection.

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

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