

Bill No. HB 757, 2nd Eng.

Amendment No.      Barcode 263498

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Burt moved the following amendment:

**Senate Amendment (with title amendment)**  
Delete everything after the enacting clause

and insert:

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

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

(8) If the applicant's name appears on the list referred to in s. 316.1001(4), ~~or~~ s. 316.1967(6), or s. 713.78(13) a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the clerk showing that the fines outstanding have been paid. The tax collector and the clerk of the court are each entitled to receive monthly, as costs for implementing and administering this subsection, 10 percent of the civil penalties and fines recovered from such persons. As used in this subsection, the term "civil penalties and fines" does not include a wrecker

Bill No. HB 757, 2nd Eng.

Amendment No. \_\_\_\_ Barcode 263498

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

18 Section 2. Present subsections (1) through (27) of  
19 section 713.01, Florida Statutes, are redesignated as  
20 subsections (2) through (28), respectively, and a new  
21 subsection (1) is added to that section to read:

22 713.01 Definitions.--As used in this part, the term:

23 (1) "Abandoned property" means all tangible personal  
24 property that has been disposed of on public property in a  
25 wrecked, inoperative, or partially dismantled condition.

26 Section 3. Paragraph (b) of subsection (4) and  
27 subsection (6) are amended, and subsection (13) is added to  
28 section 713.78, Florida Statutes, to read:

29 713.78 Liens for recovering, towing, or storing  
30 vehicles and documented vessels.--

31 (4)

Bill No. HB 757, 2nd Eng.

Amendment No. \_\_\_\_ Barcode 263498

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

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

Bill No. HB 757, 2nd Eng.

Amendment No. \_\_\_\_ Barcode 263498

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

29 (13)(a) Upon receipt by the Department of Highway  
30 Safety and Motor Vehicles of written notice from a wrecker  
31 operator who claims a wrecker operator's lien under paragraph

Bill No. HB 757, 2nd Eng.

Amendment No.      Barcode 263498

1 (2)(c) or paragraph (2)(d) for recovery, towing, or storage of  
2 an abandoned vehicle, vessel, or mobile home upon instructions  
3 from any law enforcement agency, for which a certificate of  
4 destruction has been issued under subsection (11), the  
5 department shall place the name of the registered owner of  
6 that vehicle, vessel, or mobile home on the list of those  
7 persons who may not be issued a license plate or revalidation  
8 sticker for any motor vehicle under s. 320.03(8). If the  
9 vehicle, vessel, or mobile home is owned jointly by more than  
10 one person, the name of each registered owner shall be placed  
11 on the list. The notice of wrecker operator's lien shall be  
12 submitted on forms provided by the department, which must  
13 include:

14 1. The name, address, and telephone number of the  
15 wrecker operator.

16 2. The name of the registered owner of the vehicle,  
17 vessel, or mobile home and the address to which the wrecker  
18 operator provided notice of the lien to the registered owner  
19 under subsection (4).

20 3. A general description of the vehicle, vessel, or  
21 mobile home, including its color, make, model, body style, and  
22 year.

23 4. The vehicle identification number (VIN);  
24 registration license plate number, state, and year; validation  
25 decal number, state, and year; mobile home sticker number,  
26 state, and year; vessel registration number; hull  
27 identification number; or other identification number, as  
28 applicable.

29 5. The name of the person or the corresponding law  
30 enforcement agency that requested that the vehicle, vessel, or  
31 mobile home be recovered, towed, or stored.

Bill No. HB 757, 2nd Eng.Amendment No.      Barcode 263498

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

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

17           (c)1. The registered owner of a vehicle, vessel, or  
18 mobile home may dispute a wrecker operator's lien, by  
19 notifying the department of the dispute in writing on forms  
20 provided by the department, if at least one of the following  
21 applies:

22           a. The registered owner presents a notarized bill of  
23 sale proving that the vehicle, vessel, or mobile home was sold  
24 in a private or casual sale before the vehicle, vessel, or  
25 mobile home was recovered, towed, or stored.

26           b. The registered owner presents proof that the  
27 Florida certificate of title of the vehicle, vessel, or mobile  
28 home was sold to a licensed dealer as defined in s. 319.001  
29 before the vehicle, vessel, or mobile home was recovered,  
30 towed, or stored.

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Bill No. HB 757, 2nd Eng.Amendment No.      Barcode 263498

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

25 2. A person against whom a wrecker operator's lien has  
26 been imposed may alternatively obtain a discharge of the lien  
27 by filing a complaint, challenging the validity of the lien or  
28 the amount thereof, in the county court of the county in which  
29 the vehicle, vessel, or mobile home was ordered removed. Upon  
30 filing of the complaint, the person may have her or his name  
31 removed from the list of those persons who may not be issued a

Bill No. HB 757, 2nd Eng.Amendment No.      Barcode 263498

1 licensed plate or revalidation sticker for any motor vehicle  
2 under s. 320.03(8), thereby allowing issuance of a license  
3 plate or revalidation sticker, upon posting with the court a  
4 cash or surety bond or other adequate security equal to the  
5 amount of the wrecker operator's lien to ensure the payment of  
6 such lien in the event she or he does not prevail. Upon the  
7 posting of the bond and the payment of the applicable fee set  
8 forth in s. 28.24, the clerk of the court shall issue a  
9 certificate notifying the department of the posting of the  
10 bond and directing the department to release the wrecker  
11 operator's lien. Upon determining the respective rights of the  
12 parties, the court may award damages and costs in favor of the  
13 prevailing party.

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



Bill No. HB 757, 2nd Eng.Amendment No.      Barcode 263498

1 within 60 days, or the security will be released back to the  
2 person who posted it. At the conclusion of the 60 days, the  
3 department shall direct the clerk as to which party is  
4 entitled to payment of the security, less applicable clerk's  
5 fees.

6 4. A wrecker operator's lien expires 5 years after  
7 filing.

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

28 (e) When a wrecker operator files a notice of wrecker  
29 operator's lien under this subsection, the department shall  
30 charge the wrecker operator a fee of \$2, which shall be  
31 deposited into the Florida Motor Vehicle Theft Prevention

Bill No. HB 757, 2nd Eng.

Amendment No.      Barcode 263498

1 Trust Fund established under s. 860.158. A service charge of  
2 \$2.50 shall be collected and retained by the tax collector who  
3 processes a notice of wrecker operator's lien.

4 (f) This subsection applies only to the annual renewal  
5 in the registered owner's birth month of a motor vehicle  
6 registration and does not apply to the transfer of a  
7 registration of a motor vehicle sold by a motor vehicle dealer  
8 licensed under chapter 320, except for the transfer of  
9 registrations which is inclusive of the annual renewals. This  
10 subsection does not affect the issuance of the title to a  
11 motor vehicle, notwithstanding s. 319.23(7)(b).

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

15 Section 4. This act shall take effect July 1, 2001.

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18 ===== T I T L E A M E N D M E N T =====

19 And the title is amended as follows:

20 Delete everything before the enacting clause

21

22 and insert:

23 A bill to be entitled  
24 An act relating to wrecker liens; amending s.  
25 320.03, F.S.; including a cross-reference;  
26 providing that the term "civil penalties and  
27 fines" does not include reference to a wrecker  
28 operator's lien; amending s. 713.01, F.S.;  
29 defining the term "abandoned property";  
30 amending s. 713.78, F.S.; revising requirements  
31 for the sale of an unclaimed vehicle or vessel;

Bill No. HB 757, 2nd Eng.

Amendment No. \_\_\_\_ Barcode 263498

1 providing that the Department of Highway Safety  
2 and Motor Vehicles shall not issue a license  
3 plate or revalidation sticker for certain motor  
4 vehicles, vessels, or motor homes for which a  
5 wrecker operator's lien has been issued;  
6 providing procedures with respect to such  
7 liens; providing an effective date.

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