

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

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11 The Committee on Judicial Oversight offered the following:

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13 **Amendment (with title amendment)**

14 Remove from the bill: Everything after the enacting clause
15
16 and insert in lieu thereof:

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

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

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

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

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

21 Section 2. Subsection (13) is added to section 713.78,
22 Florida Statutes, to read:

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

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

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

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

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

15 3. A general description of the vehicle, vessel, or
16 mobile home, including its color, make, model, body style, and
17 year.

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

24 5. The name of the person and the corresponding law
25 enforcement agency that requested that the vehicle, vessel, or
26 mobile home be recovered, towed, or stored.

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

29 (b) For purposes of this subsection only, the amount
30 of the wrecker operator's lien for which the department will
31 prevent issuance of a license plate or revalidation sticker

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

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

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

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

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

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

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

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1 such lien in the event she or he does not prevail. Upon the
2 posting of the bond and the payment of the applicable fee set
3 forth in s. 28.24, the clerk of the court shall issue a
4 certificate notifying the department of the posting of the
5 bond and directing the department to release the wrecker
6 operator's lien. Upon determining the respective rights of
7 the parties, the court may award damages and costs in favor of
8 the prevailing party.

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

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

15 And the title is amended as follows:

16 On page 1, line 2 after "liens;" through line 17,
17 remove from the title of the bill: all of said lines

18

19 and insert in lieu thereof:

20 amending s. 320.03, F.S.; including a cross
21 reference; providing that the term "civil
22 penalties and fines" does not include reference
23 to a wrecker operator's lien; amending s.
24 713.78, F.S.; providing that the Department of
25 Highway Safety and Motor Vehicles shall not
26 issue a license plate or revalidation sticker
27 for certain motor vehicles, vessels, or motor
28 homes for which a wrecker operator's lien has
29 been issued; providing procedures with respect
30 to such liens; providing an effective date.

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