

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 providing that the Department of Highway Safety
8 and Motor Vehicles shall not issue a license
9 plate or revalidation sticker for certain motor
10 vehicles, vessels, or motor homes for which a
11 wrecker operator's lien has been issued;
12 providing procedures with respect to such
13 liens; providing an effective date.

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15 Be It Enacted by the Legislature of the State of Florida:
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17 Section 1. Subsection (8) of section 320.03, Florida
18 Statutes, is amended to read:

19 320.03 Registration; duties of tax collectors;
20 International Registration Plan.--

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

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. Subsections (4)(b) and (6) of section
19 713.78, Florida Statutes, is amended, and subsection (13) is
20 added to said section to read:

21 713.78 Liens for recovering, towing, or storing
22 vehicles and documented vessels.--

23 (4)(b) Notice by certified mail, return receipt
24 requested, shall be sent within 7 business days after the date
25 of storage of the vehicle or vessel to the registered owner
26 and to all persons of record claiming a lien against the
27 vehicle or vessel. It shall state the fact of possession of
28 the vehicle or vessel, that a lien as provided in subsection
29 (2) is claimed, that charges have accrued and the amount
30 thereof, that the lien is subject to enforcement pursuant to
31 law, and that the owner or lienholder, if any, has the right

1 to a hearing as set forth in subsection (5), and that any
 2 vehicle or vessel which remains unclaimed, or for which the
 3 charges for recovery, towing, or storage services remain
 4 unpaid, may be sold ~~after 35 days~~ free of all prior liens
 5 after 35 days if the vehicle or vessel is more than 3 years of
 6 age and after 50 days if the vehicle or vessel is 3 years of
 7 age or less.

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

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

20 (13)(a) Upon receipt by the Department of Highway
 21 Safety and Motor Vehicles of written notice from a wrecker
 22 operator who claims a wrecker operator's lien under paragraphs
 23 (2)(c) or (2)(d) for recovery, towing, or storage of a
 24 vehicle, vessel, or mobile home, upon instructions from any
 25 law enforcement agency, for which a certificate of destruction
 26 has been issued under subsection (11), the department shall
 27 place the name of the registered owner of that vehicle,
 28 vessel, or mobile home on the list of those persons who may
 29 not be issued a license plate or revalidation sticker for any
 30 motor vehicle under s. 320.03(8). If the vehicle, vessel, or
 31 mobile home is owned jointly by more than one person, the name

1 of each registered owner shall be placed on the list. The
2 notice of wrecker operator's lien shall be submitted on forms
3 provided by the department, which must include:

4 1. The name, address, and telephone number of the
5 wrecker operator.

6 2. The name of the registered owner of the vehicle,
7 vessel, or mobile home and the address to which the wrecker
8 operator provided notice of the lien to the registered owner
9 under subsection (4).

10 3. A general description of the vehicle, vessel, or
11 mobile home, including its color, make, model, body style, and
12 year.

13 4. The vehicle identification number (VIN);
14 registration license plate number, state, and year; validation
15 decals number, state, and year; mobile home sticker number,
16 state, and year; vessel registration number; hull
17 identification number; or other identification number, as
18 applicable.

19 5. The name of the person or the corresponding law
20 enforcement agency that requested that the vehicle, vessel, or
21 mobile home be recovered, towed, or stored.

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

24 (b) For purposes of this subsection only, the amount
25 of the wrecker operator's lien for which the department will
26 prevent issuance of a license plate or revalidation sticker
27 may not exceed the amount of the charges for recovery, towing,
28 and storage of the vehicle, vessel, or mobile home for 7 days.
29 These charges may not exceed the maximum rates imposed by the
30 ordinances of the respective county or municipality under ss.
31 125.0103(1)(c) and 166.043(1)(c). This paragraph does not

1 limit the amount of a wrecker operator's lien claimed under
2 subsection (2) or prevent a wrecker operator from seeking
3 civil remedies for enforcement of the entire amount of the
4 lien, but limits only that portion of the lien for which the
5 department will prevent issuance of a license plate or
6 revalidation sticker.

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

12 a. The registered owner presents a notarized bill of
13 sale proving that the vehicle, vessel, or mobile home was sold
14 in a private or casual sale before the vehicle, vessel, or
15 mobile home was recovered, towed, or stored.

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

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22 If the registered owner's dispute of a wrecker operator's lien
23 complies with one of these criteria, the department shall
24 immediately remove the registered owner's name from the list
25 of those persons who may not be issued a licensed plate or
26 revalidation sticker for any motor vehicle under s. 320.03(8),
27 thereby allowing issuance of a license plate or revalidation
28 sticker. If the vehicle, vessel, or mobile home is owned
29 jointly by more than one person, each registered owner must
30 dispute the wrecker operator's lien in order to be removed
31 from the list. However, the department shall deny any dispute

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

15 2. A person against whom a wrecker operator's lien has
16 been imposed may alternatively obtain a discharge of the lien
17 by filing a complaint, challenging the validity of the lien or
18 the amount thereof, in the county court of the county in which
19 the vehicle, vessel, or mobile home was ordered removed. Upon
20 filing of the complaint, the person may have her or his name
21 removed from the list of those persons who may not be issued a
22 licensed plate or revalidation sticker for any motor vehicle
23 under s. 320.03(8), thereby allowing issuance of a license
24 plate or revalidation sticker, upon posting with the court a
25 cash or surety bond or other adequate security equal to the
26 amount of the wrecker operator's lien to ensure the payment of
27 such lien in the event she or he does not prevail. Upon the
28 posting of the bond and the payment of the applicable fee set
29 forth in s. 28.24, the clerk of the court shall issue a
30 certificate notifying the department of the posting of the
31 bond and directing the department to release the wrecker

1 operator's lien. Upon determining the respective rights of
2 the parties, the court may award damages and costs in favor of
3 the prevailing party.

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

27 4. A wrecker operator's lien expires 5 years after
28 filing.

29 (d) Upon discharge of the amount of the wrecker
30 operator's lien allowed by paragraph (b), the wrecker operator
31 must issue a certificate of discharged wrecker operator's lien

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

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

25 (f) This subsection applies only to the annual renewal
 26 in the registered owner's birth month of a motor vehicle
 27 registration and does not apply to the transfer of a
 28 registration of a motor vehicle sold by a motor vehicle dealer
 29 licensed under chapter 320, except for the transfer of
 30 registrations which is inclusive of the annual renewals. This
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1 subsection does not affect the issuance of the title to a
2 motor vehicle, notwithstanding s. 319.23(7)(b).
3 (g) The Department of Highway Safety and Motor
4 Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54
5 to implement this subsection.

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

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