

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. 713.01, F.S.;
7 defining the term "abandoned property";
8 amending s. 713.78, F.S.; revising requirements
9 for the sale of an unclaimed vehicle or vessel;
10 providing that the Department of Highway Safety
11 and Motor Vehicles shall not issue a license
12 plate or revalidation sticker for certain motor
13 vehicles, vessels, or motor homes for which a
14 wrecker operator's lien has been issued;
15 providing procedures with respect to such
16 liens; providing an effective date.

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

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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

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. Present subsections (1) through (27) of
 22 section 713.01, Florida Statutes, are redesignated as
 23 subsections (2) through (28), respectively, and a new
 24 subsection (1) is added to that section to read:

25 713.01 Definitions.--As used in this part, the term:

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

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

1 713.78 Liens for recovering, towing, or storing
2 vehicles and documented vessels.--

3 (4)

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

20 (6) Any vehicle or vessel which is stored pursuant to
21 subsection (2) and which remains unclaimed, or for which
22 reasonable charges for recovery, towing, or storing remain
23 unpaid or for which a lot rental amount is due and owing to
24 the mobile home park owner, as evidenced by a judgment for
25 unpaid rent, and any contents not released pursuant to
26 subsection (10), may be sold by the owner or operator of the
27 storage space for such towing or storage charge or unpaid lot
28 rental amount after 35 days from the time the vehicle or
29 vessel is stored therein if the vehicle or vessel is more than
30 3 years of age or after 50 days following the time the vehicle
31 or vessel is stored therein if the vehicle or vessel is 3

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

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

17 1. The name, address, and telephone number of the
18 wrecker operator.

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

23 3. A general description of the vehicle, vessel, or
24 mobile home, including its color, make, model, body style, and
25 year.

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

1 5. The name of the person or the corresponding law
2 enforcement agency that requested that the vehicle, vessel, or
3 mobile home be recovered, towed, or stored.

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

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

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

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

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

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

1 the vehicle, vessel, or mobile home was ordered removed. Upon
 2 filing of the complaint, the person may have her or his name
 3 removed from the list of those persons who may not be issued a
 4 licensed plate or revalidation sticker for any motor vehicle
 5 under s. 320.03(8), thereby allowing issuance of a license
 6 plate or revalidation sticker, upon posting with the court a
 7 cash or surety bond or other adequate security equal to the
 8 amount of the wrecker operator's lien to ensure the payment of
 9 such lien in the event she or he does not prevail. Upon the
 10 posting of the bond and the payment of the applicable fee set
 11 forth in s. 28.24, the clerk of the court shall issue a
 12 certificate notifying the department of the posting of the
 13 bond and directing the department to release the wrecker
 14 operator's lien. Upon determining the respective rights of the
 15 parties, the court may award damages and costs in favor of the
 16 prevailing party.

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

1 release the wrecker operator's lien. The department shall mail
2 to the wrecker operator, at the address upon the lien form,
3 notice that the wrecker operator must claim the security
4 within 60 days, or the security will be released back to the
5 person who posted it. At the conclusion of the 60 days, the
6 department shall direct the clerk as to which party is
7 entitled to payment of the security, less applicable clerk's
8 fees.

9 4. A wrecker operator's lien expires 5 years after
10 filing.

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

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1 (e) When a wrecker operator files a notice of wrecker
2 operator's lien under this subsection, the department shall
3 charge the wrecker operator a fee of \$2, which shall be
4 deposited into the Florida Motor Vehicle Theft Prevention
5 Trust Fund established under s. 860.158. A service charge of
6 \$2.50 shall be collected and retained by the tax collector who
7 processes a notice of wrecker operator's lien.

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

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

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