

By Senators Crist and Bennett

12-583B-03

1 A bill to be entitled
2 An act relating to wrecker services; amending
3 s. 120.80, F.S.; exempting hearings of the
4 Division of the Florida Highway Patrol
5 concerning the wrecker allocation system from
6 requirements of ch. 120, F.S.; creating s.
7 205.1975, F.S.; prohibiting a county or
8 municipality from issuing or renewing a license
9 for a wrecker company that is not in compliance
10 with the requirements of the act; amending s.
11 316.530, F.S., relating to traffic control;
12 conforming provisions to changes made by the
13 act; reenacting s. 316.550(4), F.S., relating
14 to special wrecker permits, to incorporate the
15 amendment to s. 320.01, F.S., in references
16 thereto; amending s. 316.605, F.S.; providing
17 requirements for licensing wreckers and other
18 vehicles; amending s. 320.01, F.S.; redefining
19 the term "wrecker" for purposes of the Florida
20 Statutes; amending ss. 320.03 and 320.0706,
21 F.S., relating to motor vehicle registration
22 and license plates; conforming provisions to
23 changes made by the act; reenacting s.
24 320.08(5)(d) and (e), F.S., relating to license
25 taxes, to incorporate the amendment to s.
26 320.01, F.S., in references thereto; amending
27 s. 320.0821, F.S.; revising requirements for
28 the issuance of wrecker license plates;
29 amending s. 320.13, F.S., relating to dealer
30 license plates; conforming provisions to
31 changes made by the act; amending s. 321.051,

1 F.S.; providing definitions; requiring the
2 Division of the Florida Highway Patrol within
3 the Department of Highway Safety and Motor
4 Vehicles to establish a wrecker allocation
5 system; providing requirements for the system;
6 authorizing the division to set maximum rates
7 for towing and storage of vehicles; prohibiting
8 an unauthorized wrecker company from monitoring
9 a police radio or engaging in other activities;
10 providing penalties; providing requirements for
11 dispatching wreckers; amending s. 323.001,
12 F.S., relating to wrecker company storage
13 facilities; providing definitions; providing
14 procedures for a law enforcement agency to
15 place a hold on a stored vehicle; providing for
16 payment of towing and storage charges; amending
17 s. 323.002, F.S.; providing definitions;
18 providing requirements for a county or
19 municipality that operates a wrecker allocation
20 system; providing requirements for the system;
21 prohibiting an unauthorized wrecker company
22 from monitoring a police radio or engaging in
23 other activities; providing penalties;
24 providing requirements for dispatching
25 wreckers; creating chapter 508, F.S.; providing
26 definitions; creating the Wrecker Operator
27 Advisory Council within the Department of
28 Agriculture and Consumer Services; providing
29 for membership and terms; providing for
30 reimbursement for travel and per diem expenses;
31 requiring the council to advise the department

1 on matters relating to standards and practices
2 in the wrecker industry; authorizing the
3 department to adopt rules; requiring wrecker
4 companies to register with the department;
5 providing requirements for registration
6 renewal; providing requirements for
7 advertisements; requiring insurance coverage;
8 authorizing the department to deny registration
9 under certain circumstances; establishing a
10 certification program for wrecker operators;
11 requiring the department to approve courses and
12 organizations; providing requirements for
13 examinations; providing for certification in
14 specialized wrecker services; requiring the
15 department to adopt rules; providing for
16 certification cards to be issued to wrecker
17 operators who complete the certification course
18 and pass the examination; prohibiting the
19 performance of wrecker services after a
20 specified date unless the company is registered
21 and obtains certification as required;
22 authorizing the department to inspect
23 employment records; providing requirements for
24 continuing education; specifying prohibited
25 acts; providing administrative, civil, and
26 criminal penalties; providing for registration
27 fees; providing for deposit of fees, penalties,
28 and other funds; providing that the chapter
29 does not apply to recovery agents; authorizing
30 counties and municipalities to enact ordinances
31 governing wrecker operators; amending s.

1 713.78, F.S., relating to liens for recovering,
2 towing, or storing vehicles and vessels;
3 providing definitions; conforming provisions to
4 changes made by the act; providing for
5 attorney's fees to be awarded to the prevailing
6 party for a frivolous claim of wrongful taking
7 or claim of lien; providing immunity from
8 liability for a wrecker company, its operators,
9 and other employees or agents if services are
10 performed with reasonable care or for complying
11 with the directions of a law enforcement
12 officer; providing for the owner of a vehicle,
13 vessel, or mobile home to dispute a claim of
14 lien by a wrecker company based on a record of
15 sale; clarifying that the amendments made by
16 the act do not affect the validity of prior
17 liens; amending s. 715.07, F.S., relating to
18 the towing of vehicles and vessels parked on
19 real property without permission; providing
20 definitions; providing for the towing and
21 removal of vehicles and vessels under certain
22 circumstances; conforming provisions to changes
23 made by the act; providing requirements for
24 towing and storage; prohibiting a property
25 owner from soliciting a wrecker company for a
26 rebate for the privilege of removing vehicles
27 from the owner's property; providing immunity
28 from liability for a wrecker company, its
29 operators, and other employees or agents if
30 services are performed with reasonable care;
31 providing that failure to comply with notice

1 requirements precludes a wrecker company from
2 imposing certain towing or storage charges;
3 providing penalties; repealing s. 1.01(15),
4 F.S., relating to the definition of the term
5 "wrecker operator"; providing an appropriation
6 and authorizing additional positions; providing
7 effective dates.

8

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

10

11 Section 1. Effective January 1, 2004, paragraph (b) of
12 subsection (8) of section 120.80, Florida Statutes, is amended
13 to read:

14 120.80 Exceptions and special requirements;
15 agencies.--

16 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

17 (b) Wrecker companies ~~operators~~.--Notwithstanding s.
18 120.57(1)(a), hearings held by the Division of the Florida
19 Highway Patrol of the Department of Highway Safety and Motor
20 Vehicles to deny, suspend, or remove a wrecker company
21 ~~operator~~ from participating in the wrecker allocation ~~rotation~~
22 system established under ~~by~~ s. 321.051 need not be conducted
23 by an administrative law judge assigned by the division. These
24 hearings shall be held by a hearing officer appointed by the
25 director of the Division of the Florida Highway Patrol.

26 Section 2. Effective January 1, 2004, section
27 205.1975, Florida Statutes, is created to read:

28 205.1975 Wrecker companies; consumer protection.--A
29 county or municipality may not issue or renew an occupational
30 license for the operation of a wrecker company under chapter

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1 508 unless the wrecker company exhibits a current registration
2 from the Department of Agriculture and Consumer Services.

3 Section 3. Subsection (3) of section 316.530, Florida
4 Statutes, is amended to read:

5 316.530 Towing requirements.--

6 (3) Whenever a motor vehicle becomes disabled upon the
7 highways of this state and a wrecker ~~or tow truck~~ is required
8 to remove it to a repair shop or other appropriate location,
9 if the combined weights of those two vehicles and the loads
10 thereon exceed the maximum allowable weights as established by
11 s. 316.535, no penalty shall be assessed either vehicle or
12 driver. However, this exception shall not apply to the load
13 limits for bridges and culverts established by the department
14 as provided in s. 316.555.

15 Section 4. For the purpose of incorporating the
16 amendment made by this act to section 320.01, Florida
17 Statutes, in references thereto, subsection (4) of section
18 316.550, Florida Statutes, is reenacted to read:

19 316.550 Operations not in conformity with law; special
20 permits.--

21 (4)(a) The Department of Transportation may issue a
22 wrecker special blanket permit to authorize a wrecker as
23 defined in s. 320.01(40) to tow a disabled vehicle as defined
24 in s. 320.01(38) where the combination of the wrecker and the
25 disabled vehicle being towed exceeds the maximum weight limits
26 as established by s. 316.535.

27 (b) The Department of Transportation must supply the
28 permitted wrecker with a map showing the routes on which the
29 wrecker may safely tow disabled vehicles for all special
30 permit classifications for which the wrecker applies.

31

1 Section 5. Subsection (1) of section 316.605, Florida
2 Statutes, is amended to read:

3 316.605 Licensing of vehicles.--

4 (1) Every vehicle, at all times while driven, stopped,
5 or parked upon any highways, roads, or streets of this state,
6 shall be licensed in the name of the owner thereof in
7 accordance with the laws of this state unless such vehicle is
8 not required by the laws of this state to be licensed in this
9 state and shall, except as otherwise provided in s. 320.0706
10 for front-end registration license plates on truck tractors or
11 wreckers, display the license plate or both of the license
12 plates assigned to it by the state, one on the rear and, if
13 two, the other on the front of the vehicle, each to be
14 securely fastened to the vehicle outside the main body of the
15 vehicle in such manner as to prevent the plates from swinging,
16 with all letters, numerals, printing, writing, and other
17 identification marks upon the plates clear and distinct and
18 free from defacement, mutilation, grease, and other obscuring
19 matter, so that they will be plainly visible and legible at
20 all times 100 feet from the rear or front. In addition, if
21 only one registration plate is issued for a motor vehicle that
22 is equipped with a mechanical loading device that may damage
23 the plate, the plate may be attached to the front of the
24 vehicle. Nothing shall be placed upon the face of a Florida
25 plate except as permitted by law or by rule or regulation of a
26 governmental agency. No license plates other than those
27 furnished by the state shall be used. However, if the vehicle
28 is not required to be licensed in this state, the license
29 plates on such vehicle issued by another state, by a
30 territory, possession, or district of the United States, or by
31 a foreign country, substantially complying with the provisions

1 hereof, shall be considered as complying with this chapter. A
2 government license plate that is issued to a truck tractor or
3 heavy truck having a gross vehicle weight of 26,001 pounds or
4 more which is owned by a governmental entity may be placed on
5 the front of the vehicle and is in compliance with this
6 chapter.A violation of this subsection is a noncriminal
7 traffic infraction, punishable as a nonmoving violation as
8 provided in chapter 318.

9 Section 6. Subsection (40) of section 320.01, Florida
10 Statutes, is amended to read:

11 320.01 Definitions, general.--As used in the Florida
12 Statutes, except as otherwise provided, the term:

13 (40) "Wrecker" means a tow truck or other ~~any~~ motor
14 vehicle that is used to tow, carry, or otherwise transport
15 motor vehicles, vessels, or mobile homes upon the streets and
16 highways of this state and that is equipped for that purpose
17 with a boom, winch, car carrier, or other similar equipment.

18 Section 7. Effective January 1, 2004, subsection (8)
19 of section 320.03, Florida Statutes, is amended to read:

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

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

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

19 Section 8. Section 320.0706, Florida Statutes, is
20 amended to read:

21 320.0706 Display of license plates on trucks.--The
22 owner of any commercial truck of gross vehicle weight of
23 26,001 pounds or more shall display the registration license
24 plate on both the front and rear of the truck in conformance
25 with all the requirements of s. 316.605 that do not conflict
26 with this section. However, the owner of a truck tractor must
27 ~~shall be required to~~ display the registration license plate
28 only on the front of such vehicle, and the owner of a wrecker
29 must display the registration license plate only on the rear
30 of such vehicle.

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1 Section 9. For the purpose of incorporating the
2 amendment made by this act to section 320.01, Florida
3 Statutes, in references thereto, paragraphs (d) and (e) of
4 subsection (5) of section 320.08, Florida Statutes, are
5 reenacted to read:

6 320.08 License taxes.--Except as otherwise provided
7 herein, there are hereby levied and imposed annual license
8 taxes for the operation of motor vehicles, mopeds, motorized
9 bicycles as defined in s. 316.003(2), and mobile homes, as
10 defined in s. 320.01, which shall be paid to and collected by
11 the department or its agent upon the registration or renewal
12 of registration of the following:

13 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE
14 WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

15 (d) A wrecker, as defined in s. 320.01(40), which is
16 used to tow a vessel as defined in s. 327.02(36), a disabled,
17 abandoned, stolen-recovered, or impounded motor vehicle as
18 defined in s. 320.01(38), or a replacement motor vehicle as
19 defined in s. 320.01(39): \$30 flat.

20 (e) A wrecker, as defined in s. 320.01(40), which is
21 used to tow any motor vehicle, regardless of whether or not
22 such motor vehicle is a disabled motor vehicle as defined in
23 s. 320.01(38), a replacement motor vehicle as defined in s.
24 320.01(39), a vessel as defined in s. 327.02(36), or any other
25 cargo, as follows:

26 1. Gross vehicle weight of 10,000 pounds or more, but
27 less than 15,000 pounds: \$87 flat.

28 2. Gross vehicle weight of 15,000 pounds or more, but
29 less than 20,000 pounds: \$131 flat.

30 3. Gross vehicle weight of 20,000 pounds or more, but
31 less than 26,000 pounds: \$186 flat.

1 4. Gross vehicle weight of 26,000 pounds or more, but
2 less than 35,000 pounds: \$240 flat.

3 5. Gross vehicle weight of 35,000 pounds or more, but
4 less than 44,000 pounds: \$300 flat.

5 6. Gross vehicle weight of 44,000 pounds or more, but
6 less than 55,000 pounds: \$572 flat.

7 7. Gross vehicle weight of 55,000 pounds or more, but
8 less than 62,000 pounds: \$678 flat.

9 8. Gross vehicle weight of 62,000 pounds or more, but
10 less than 72,000 pounds: \$800 flat.

11 9. Gross vehicle weight of 72,000 pounds or more:
12 \$979 flat.

13 Section 10. Subsection (1) of section 320.0821,
14 Florida Statutes, is amended, and a new subsection (5) is
15 added to that section, to read:

16 320.0821 Wrecker license plates.--

17 (1) The department shall issue one ~~a~~ wrecker license
18 plate, regardless of gross vehicle weight, to the owner of any
19 motor vehicle that is used to tow, carry, or otherwise
20 transport motor vehicles and that is equipped for that purpose
21 with a boom, winch, carrier, or other similar equipment,
22 except a motor vehicle registered under the International
23 Registration Plan, upon application and payment of the
24 appropriate license tax and fees in accordance with s.
25 320.08(5)(d) or (e).

26 (5) A wrecker license plate must be displayed on the
27 rear of such vehicle.

28 Section 11. Effective January 1, 2004, subsection (1)
29 of section 320.0821, Florida Statutes, as amended by this act,
30 is amended to read:

31 320.0821 Wrecker license plates.--

1 (1) The department shall issue one wrecker license
2 plate, regardless of gross vehicle weight, to the owner of a
3 wrecker ~~any motor vehicle that is used to tow, carry, or~~
4 ~~otherwise transport motor vehicles and that is equipped for~~
5 ~~that purpose with a boom, winch, carrier, or other similar~~
6 ~~equipment, except a motor vehicle registered under the~~
7 ~~International Registration Plan,~~ upon application and payment
8 of the appropriate license tax and fees in accordance with s.
9 320.08(5)(d) or (e). However, the department may issue or
10 renew a wrecker license plate only if the owner of the wrecker
11 is a wrecker company registered under chapter 508. This
12 section does not apply to a motor vehicle registered under the
13 International Registration Plan.

14 Section 12. Paragraph (a) of subsection (1) of section
15 320.13, Florida Statutes, is amended to read:

16 320.13 Dealer and manufacturer license plates and
17 alternative method of registration.--

18 (1)(a) Any licensed motor vehicle dealer and any
19 licensed mobile home dealer may, upon payment of the license
20 tax imposed by s. 320.08(12), secure one or more dealer
21 license plates, which are valid for use on motor vehicles or
22 mobile homes owned by the dealer to whom such plates are
23 issued while the motor vehicles are in inventory and for sale,
24 or while being operated in connection with such dealer's
25 business, but are not valid for use for hire. Dealer license
26 plates may not be used on any ~~tow truck or wrecker~~ as defined
27 in s. 320.01 unless the ~~tow truck or wrecker~~ is being
28 demonstrated for sale, and the dealer license plates may not
29 be used on a vehicle used to transport another motor vehicle
30 for the motor vehicle dealer.

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1 Section 13. Effective January 1, 2004, section
2 321.051, Florida Statutes, is amended to read:

3 (Substantial rewording of section. See
4 s. 321.051, F.S., for present text.)

5 321.051 Florida Highway Patrol wrecker allocation
6 system; penalties for operation outside of system.--

7 (1) As used in this section, the term:

8 (a) "Division" means the Division of the Florida
9 Highway Patrol within the Department of Highway Safety and
10 Motor Vehicles.

11 (b) "Authorized wrecker company" means a wrecker
12 company designated by the division as part of its wrecker
13 allocation system.

14 (c) "Unauthorized wrecker company" means a wrecker
15 company not designated by the division as part of its wrecker
16 allocation system.

17 (d) "Wrecker company" has the same meaning ascribed in
18 s. 508.01.

19 (e) "Wrecker operator" has the same meaning ascribed
20 in s. 508.01.

21 (f) "Wrecker services" has the same meaning ascribed
22 in s. 508.01.

23 (2)(a) The division may establish within areas
24 designated by the division a wrecker allocation system, using
25 qualified, reputable wrecker companies, for the removal from
26 crash scenes and the storage of wrecked or disabled vehicles
27 when the owner or operator is incapacitated, unavailable, or
28 leaves the procurement of wrecker services to the officer at
29 the scene and for the removal and storage of abandoned
30 vehicles.

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1 (b) The wrecker allocation system may use only wrecker
2 companies registered under chapter 508. Each reputable wrecker
3 company registered under chapter 508 is eligible for use in
4 the system if its equipment and wrecker operators meet the
5 recognized safety qualifications and mechanical standards set
6 by the division's rules for the size of vehicle they are
7 designed to handle. The division may limit the number of
8 wrecker companies participating in the wrecker allocation
9 system.

10 (c) The division may establish maximum rates for the
11 towing and storage of vehicles removed at the division's
12 request if those rates are not established by a county or
13 municipality under s. 125.0103 or s. 166.043. These rates are
14 not rules for the purpose of chapter 120; however, the
15 Department of Highway Safety and Motor Vehicles shall adopt
16 rules prescribing the procedures for setting these rates.

17 (d) Notwithstanding chapter 120, a final order of the
18 department denying, suspending, or revoking a wrecker
19 company's participation in the wrecker allocation system may
20 be appealed only in the manner and within the time provided by
21 the Florida Rules of Appellate Procedure by a writ of
22 certiorari issued by the circuit court in the county in which
23 the wrecker company's primary place of business is located, as
24 evidenced by the wrecker company's registration under chapter
25 508.

26 (3)(a) An unauthorized wrecker company, its wrecker
27 operators, or its other employees or agents may not monitor a
28 police radio for communications between patrol field units and
29 the dispatcher in order to determine the location of a wrecked
30 or disabled vehicle for the purpose of dispatching its wrecker
31 operator to drive by the scene of the vehicle in a manner

1 described in paragraph (b) or paragraph (c). Any person who
2 violates this paragraph commits a noncriminal violation,
3 punishable as provided in s. 775.083.

4 (b) A wrecker operator dispatched by an unauthorized
5 wrecker company may not drive by the scene of a wrecked or
6 disabled vehicle before the arrival of the wrecker operator
7 dispatched by the authorized wrecker company, initiate contact
8 with the owner or operator of the vehicle by soliciting or
9 offering wrecker services, or tow the vehicle. Any person who
10 violates this paragraph commits a misdemeanor of the second
11 degree, punishable as provided in s. 775.082 or s. 775.083.

12 (c) When a wrecker operator dispatched by an
13 unauthorized wrecker company drives by the scene of a wrecked
14 or disabled vehicle and the owner or operator initiates
15 contact by signaling the wrecker operator to stop and provide
16 wrecker services, the wrecker operator must disclose to the
17 owner or operator of the vehicle that he or she was not
18 dispatched by the authorized wrecker company designated as
19 part of the wrecker allocation system and must disclose, in
20 writing, what charges for towing and storage will apply before
21 the vehicle is connected to the towing apparatus. Any person
22 who violates this paragraph commits a misdemeanor of the
23 second degree, punishable as provided in s. 775.082 or s.
24 775.083.

25 (d) A wrecker operator may not falsely identify
26 himself or herself as being part of, or as being employed by a
27 wrecker company that is part of, the wrecker allocation system
28 at the scene of a wrecked or disabled vehicle. Any person who
29 violates this paragraph commits a misdemeanor of the first
30 degree, punishable as provided in s. 775.082 or s. 775.083.

31

1 (4) This section does not prohibit, or in any way
2 prevent, the owner or operator of a vehicle involved in a
3 crash or otherwise disabled from contacting any wrecker
4 company for the provision of wrecker services, regardless of
5 whether the wrecker company is an authorized wrecker company
6 or not. However, if a law enforcement officer determines that
7 the disabled vehicle or vehicle cargo is a public safety
8 hazard, the officer may, in the interest of public safety,
9 dispatch an authorized wrecker company if the officer believes
10 that the authorized wrecker company would arrive at the scene
11 before the wrecker company requested by the owner or operator
12 of the disabled vehicle or vehicle cargo.

13 (5) A law enforcement officer may dispatch an
14 authorized wrecker company out of rotation to the scene of a
15 wrecked or disabled vehicle if the authorized wrecker company
16 next on rotation is not equipped to provide the required
17 wrecker services and the out-of-rotation authorized wrecker
18 company is available with the required equipment. However,
19 this subsection does not prohibit or prevent the owner or
20 operator of a vehicle involved in a crash or otherwise
21 disabled from contacting any wrecker company who is properly
22 equipped to provide the required wrecker services, regardless
23 of whether the wrecker company is an authorized wrecker
24 company or not, unless the law enforcement officer determines
25 that the wrecked or disabled vehicle is a public safety hazard
26 and the officer believes that the authorized wrecker company
27 would arrive at the scene before the wrecker company requested
28 by the owner or operator.

29 Section 14. Effective January 1, 2004, section
30 323.001, Florida Statutes, is amended to read:

31 (Substantial rewording of section. See

1 s. 323.001, F.S., for present text.)
2 323.001 Wrecker company storage facilities; vehicle
3 holds.--
4 (1) As used in this section, the term:
5 (a) "Business day" means a day other than a Saturday,
6 Sunday, or federal or state legal holiday.
7 (b) "Wrecker company" has the same meaning ascribed in
8 s. 508.01.
9 (2) A law enforcement agency may place a hold on a
10 motor vehicle stored within a wrecker company's storage
11 facility for 5 business days, thereby preventing a motor
12 vehicle from being released to its owner.
13 (3) To extend a hold, the law enforcement agency must
14 notify the wrecker company in writing within the 5 business
15 days. If notification is not made within the 5 business days,
16 the wrecker company must release the vehicle to the designated
17 person under s. 713.78.
18 (a) If the hold is extended beyond the 5 business
19 days, the law enforcement agency may have the vehicle removed
20 to a designated impound lot, in which event the vehicle may
21 not be released by the law enforcement agency to the owner or
22 lienholder of the vehicle until proof of payment of the towing
23 and storage charges incurred by the wrecker company is
24 presented to the law enforcement agency.
25 (b) If the law enforcement agency chooses to have the
26 vehicle remain at the wrecker company's storage facility for
27 more than 5 business days under the written notification, the
28 law enforcement agency is responsible for paying the storage
29 charges incurred by the wrecker company for the requested
30 extended period. In such an event, the owner or lienholder is
31 responsible for paying the accrued towing and storage charges

1 for the first 5 business days, or any period less than the
2 first 5 business days, if the law enforcement agency moves the
3 vehicle from the wrecker company's storage facility to a
4 designated impound lot or provides written notification to
5 extend the hold on the vehicle before the expiration of the 5
6 business days.

7 (c) The towing and storage rates for the owner or
8 lienholder of the held vehicle may not exceed the rates for
9 the law enforcement agency.

10 (4) If there is a judicial finding of no probable
11 cause for having continued the immobilization or impoundment,
12 the law enforcement agency ordering the hold must pay the
13 accrued charges for any towing and storage.

14 (5) The requirements for a written hold apply when the
15 following conditions are present:

16 (a) The law enforcement officer has probable cause to
17 believe that the vehicle should be seized and forfeited under
18 the Florida Contraband Forfeiture Act, ss. 932.701-932.707;

19 (b) The law enforcement officer has probable cause to
20 believe that the vehicle should be seized and forfeited under
21 chapter 370 or chapter 372;

22 (c) The law enforcement officer has probable cause to
23 believe that the vehicle was used as the means of committing a
24 crime;

25 (d) The law enforcement officer has probable cause to
26 believe that the vehicle is itself evidence that tends to show
27 that a crime has been committed or that the vehicle contains
28 evidence, which cannot readily be removed, which tends to show
29 that a crime has been committed;

30 (e) The law enforcement officer has probable cause to
31 believe that the vehicle was involved in a traffic accident

1 resulting in death or personal injury and should be sealed for
2 investigation and collection of evidence by a vehicular
3 homicide investigator;

4 (f) The vehicle is impounded or immobilized under s.
5 316.193 or s. 322.34; or

6 (g) The law enforcement officer is complying with a
7 court order.

8 (6) The hold must be in writing and must specify:

9 (a) The name and agency of the law enforcement officer
10 placing the hold on the vehicle;

11 (b) The date and time the hold is placed on the
12 vehicle;

13 (c) A general description of the vehicle, including
14 its color, make, model, body style, and year; VIN (Vehicle
15 Identification Number); registration license plate number,
16 state, and year; and validation sticker number, state, and
17 year;

18 (d) The specific reason for placing the hold;

19 (e) The condition of the vehicle;

20 (f) The location where the vehicle is being held; and

21 (g) The name, address, and telephone number of the
22 wrecker company and the storage facility.

23 (7) A wrecker company's storage facility must comply
24 with a hold placed by a law enforcement officer, including
25 instructions for inside or outside storage. A wrecker
26 company's storage facility may not release a motor vehicle
27 subject to a hold to any person except as directed by the law
28 enforcement agency placing the hold.

29 (8) When a vehicle owner is found guilty of, or pleads
30 nolo contendere to, the offense that resulted in a hold being
31 placed on his or her vehicle, regardless of the adjudication

1 of guilt, the owner must pay the accrued towing and storage
2 charges assessed against the vehicle.

3 Section 15. Effective January 1, 2004, section
4 323.002, Florida Statutes, is amended to read:

5 (Substantial rewording of section. See
6 s. 323.002, F.S., for present text.)

7 323.002 County and municipal wrecker allocation
8 systems; penalties for operation outside of system.--

9 (1) As used in this section, the term:

10 (a) "Authorized wrecker company" means a wrecker
11 company designated as part of the wrecker allocation system
12 established by the governmental unit having jurisdiction over
13 the scene of a wrecked or disabled vehicle.

14 (b) "Unauthorized wrecker company" means a wrecker
15 company not designated as part of the wrecker allocation
16 system established by the governmental unit having
17 jurisdiction over the scene of a wrecked or disabled vehicle.

18 (c) "Wrecker allocation system" means a system for the
19 towing or removal of wrecked, disabled, or abandoned vehicles,
20 similar to the Florida Highway Patrol wrecker allocation
21 system described in s. 321.051(2), under which a county or
22 municipality contracts with one or more wrecker companies
23 registered under chapter 508 for the towing or removal of
24 wrecked, disabled, or abandoned vehicles from accident scenes,
25 streets, or highways. Each wrecker allocation system must use
26 a method for apportioning the towing assignments among the
27 eligible wrecker companies through the creation of geographic
28 zones, a rotation schedule, or a combination of these methods.

29 (d) "Wrecker company" has the same meaning ascribed in
30 s. 508.01.

31

1 (e) "Wrecker operator" has the same meaning ascribed
2 in s. 508.01.

3 (f) "Wrecker services" has the same meaning ascribed
4 in s. 508.01.

5 (2) In a county or municipality that operates a
6 wrecker allocation system:

7 (a) The wrecker allocation system may only use wrecker
8 companies registered under chapter 508.

9 (b) An unauthorized wrecker company, its wrecker
10 operators, or its other employees or agents may not monitor a
11 police radio for communications between patrol field units and
12 the dispatcher in order to determine the location of a wrecked
13 or disabled vehicle for the purpose of dispatching its wrecker
14 operator to drive by the scene of the vehicle in a manner
15 described in paragraph (b) or paragraph (c). Any person who
16 violates this paragraph commits a noncriminal violation,
17 punishable as provided in s. 775.083.

18 (c) A wrecker operator dispatched by an unauthorized
19 wrecker company may not drive by the scene of a wrecked or
20 disabled vehicle before the arrival of the wrecker operator
21 dispatched by the authorized wrecker company, initiate contact
22 with the owner or operator of the vehicle by soliciting or
23 offering wrecker services, or tow the vehicle. Any person who
24 violates this paragraph commits a misdemeanor of the second
25 degree, punishable as provided in s. 775.082 or s. 775.083.

26 (d) When a wrecker operator dispatched by an
27 unauthorized wrecker company drives by the scene of a wrecked
28 or disabled vehicle and the owner or operator initiates
29 contact by signaling the wrecker operator to stop and provide
30 wrecker services, the wrecker operator must disclose to the
31 owner or operator of the vehicle that he or she was not

1 dispatched by the authorized wrecker company designated as
2 part of the wrecker allocation system and must disclose, in
3 writing, what charges for towing and storage will apply before
4 the vehicle is connected to the towing apparatus. Any person
5 who violates this paragraph commits a misdemeanor of the
6 second degree, punishable as provided in s. 775.082 or s.
7 775.083.

8 (e) A wrecker operator may not falsely identify
9 himself or herself as being part of, or as being employed by a
10 wrecker company that is part of, the wrecker allocation system
11 at the scene of a wrecked or disabled vehicle. Any person who
12 violates this paragraph commits a misdemeanor of the first
13 degree, punishable as provided in s. 775.082 or s. 775.083.

14 (3) This section does not prohibit, or in any way
15 prevent, the owner or operator of a vehicle involved in a
16 crash or otherwise disabled from contacting any wrecker
17 company for the provision of wrecker services, regardless of
18 whether the wrecker company is an authorized wrecker company
19 or not. However, if a law enforcement officer determines that
20 the disabled vehicle or vehicle cargo is a public safety
21 hazard, the officer may, in the interest of public safety,
22 dispatch an authorized wrecker company if the officer believes
23 that the authorized wrecker company would arrive at the scene
24 before the wrecker company requested by the owner or operator
25 of the disabled vehicle or vehicle cargo.

26 (4) A law enforcement officer may dispatch an
27 authorized wrecker company out of rotation to the scene of a
28 wrecked or disabled vehicle if the authorized wrecker company
29 next on rotation is not equipped to provide the required
30 wrecker services and the out-of-rotation authorized wrecker
31 company is available with the required equipment. However,

1 this subsection does not prohibit or prevent the owner or
2 operator of a vehicle involved in a crash or otherwise
3 disabled from contacting any wrecker company that is properly
4 equipped to provide the required wrecker services, regardless
5 of whether the wrecker company is an authorized wrecker
6 company or not, unless the law enforcement officer determines
7 that the wrecked or disabled vehicle is a public safety hazard
8 and the officer believes that the authorized wrecker company
9 would arrive at the scene before the wrecker company requested
10 by the owner or operator.

11 Section 16. Chapter 508, Florida Statutes, consisting
12 of sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06,
13 508.07, 508.08, 508.09, 508.10, 508.11, 508.12, 508.13,
14 508.14, 508.15, 508.16, 508.17, 508.18, and 508.19, Florida
15 Statutes, is created to read:

16 CHAPTER 508

17 WRECKER SERVICES

18 508.01 Definitions.--As used in this chapter, the
19 term:

20 (1) "Business entity" means any form of corporation,
21 limited liability company, partnership, association,
22 cooperative, joint venture, business trust, sole
23 proprietorship, or self-employed person conducting business in
24 this state.

25 (2) "Council" means the Wrecker Operator Advisory
26 Council.

27 (3) "Department" means the Department of Agriculture
28 and Consumer Services.

29 (4) "Specialized wrecker services" means those wrecker
30 services described in s. 508.08 for which a wrecker operator
31 must have an endorsement to perform those services.

1 (5) "Ultimate equitable owner" means a natural person
2 who, directly or indirectly, owns or controls 10 percent or
3 more of an ownership interest in a wrecker company, regardless
4 of whether the natural person owns or controls the ownership
5 interest through one or more natural persons or one or more
6 proxies, powers of attorney, nominees, business entities, or
7 any combination thereof.

8 (6) "Vehicle" means any mobile item, whether motorized
9 or not, which is mounted on wheels.

10 (7) "Vessel" means every description of watercraft,
11 barge, and air boat used or capable of being used as a means
12 of transportation on water, other than a seaplane or a
13 "documented vessel" as defined in s. 327.02.

14 (8) "Wrecker" has the same meaning ascribed in s.
15 320.01.

16 (9) "Wrecker company" means a business entity engaged
17 for hire in the business of towing, carrying, or transporting
18 vehicles, vessels, or mobile homes by wrecker upon the streets
19 and highways of this state.

20 (10) "Wrecker operator" means a person who performs
21 wrecker services.

22 (11) "Wrecker services" means towing, carrying, or
23 otherwise transporting vehicles, vessels, or mobile homes by
24 wrecker upon the streets and highways of this state for hire.
25 The term includes, but is not limited to, each of the
26 following:

27 (a) Driving a wrecker.

28 (b) Loading, securing, and unloading a vehicle,
29 vessel, or mobile home on a wrecker using a boom, winch, car
30 carrier, or other similar equipment.

31

1 (c) Towing or removal of a wrecked, disabled, or
2 abandoned vehicle under the Florida Highway Patrol wrecker
3 allocation system pursuant to s. 321.051 or under a county or
4 municipal wrecker allocation system pursuant to s. 323.002.

5 (d) Towing, recovery, or removal of a vehicle, vessel,
6 or mobile home under s. 713.78.

7 (e) Towing, transportation, or removal of a vehicle or
8 vessel parked on real property without permission under s.
9 715.07.

10 (f) Recovery of a vehicle, vessel, or mobile home.

11 508.02 Wrecker Operator Advisory Council.--

12 (1) The Wrecker Operator Advisory Council is created
13 within the department. The council shall advise and assist the
14 department in administering this chapter.

15 (2)(a) The council shall be composed of six members
16 appointed by the Commissioner of Agriculture. In addition, the
17 executive director of the Professional Wrecker Operators of
18 Florida, Inc., shall serve ex officio as a voting member of
19 the council.

20 (b) Three members of the council must each be an
21 ultimate equitable owner of a wrecker company who has been an
22 ultimate equitable owner of that company for at least 5 years
23 before his or her appointment; one member must be a wrecker
24 operator who is not an ultimate equitable owner of a wrecker
25 company and who has been a wrecker operator for at least 5
26 years before his or her appointment; and two members must be
27 laypersons. Each member must be a resident of this state. This
28 paragraph expires July 1, 2009.

29 (c) Effective July 1, 2009, three members of the
30 council must each be an ultimate equitable owner of a wrecker
31 company registered under this chapter who has been an ultimate

1 equitable owner of that company registered for at least 5
2 years before his or her appointment; one member must be a
3 wrecker operator certified under this chapter who is not an
4 ultimate equitable owner of a wrecker company and who has been
5 a wrecker operator certified for at least 5 years before his
6 or her appointment; and two members must be laypersons. Each
7 member must be a resident of this state.

8 (3) The term of each member of the council is 4 years,
9 except, to establish staggered terms, two members who are
10 owners of wrecker companies and one layperson shall be
11 appointed initially for a 2-year term. Members may be
12 reappointed for additional terms not to exceed 8 years of
13 consecutive service. A vacancy shall be filled for the
14 remainder of the unexpired term in the same manner as the
15 original appointment.

16 (4)(a) From among its members, the council shall
17 annually elect a chair, who shall preside over the meetings of
18 the council, and a vice chair.

19 (b) In conducting its meetings, the council shall use
20 accepted rules of procedure. The department shall keep a
21 complete record of each meeting which must show the names of
22 members present and the actions taken. These records and other
23 documents about matters within the jurisdiction of the council
24 must be kept on file with the department.

25 (5) The members of the council shall serve without
26 compensation but are entitled to reimbursement of travel and
27 per diem expenses under s. 112.061.

28 (6) The department shall provide administrative and
29 staff support services relating to the functions of the
30 council.

31

1 (7) The council shall review the rules adopted by the
2 department to administer this chapter and shall advise the
3 department on matters relating to industry standards and
4 practices and other issues that require technical expertise
5 and consultation or that promote better consumer protection in
6 the wrecker industry.

7 508.03 Rulemaking authority.--The department may adopt
8 rules under ss. 120.536(1) and 120.54 to administer this
9 chapter.

10 508.04 Wrecker companies; registration
11 required.--Effective January 1, 2004:

12 (1) A person may not own, operate, solicit business,
13 advertise wrecker services, or otherwise engage for hire in
14 the business of a wrecker company in this state unless that
15 person is registered with the department under this chapter.

16 (2) A person applying for or renewing a local
17 occupational license to engage for hire in the business of a
18 wrecker company must exhibit a current registration
19 certificate from the department before the local occupational
20 license may be issued or reissued under chapter 205.

21 508.05 Registration requirements; renewal of
22 registrations.--

23 (1) Each wrecker company engaged or attempting to
24 engage for hire in the business of towing, carrying, or
25 transporting vehicles, vessels, or mobile homes by wrecker
26 upon the streets and highways of this state must annually
27 register with the department on forms prescribed by the
28 department. The application for registration must include at
29 least the following information:

30 (a) The name and federal employer identification
31 number of the wrecker company.

1 (b) The mailing address, physical address, and
2 telephone number of the wrecker company's primary place of
3 business.

4 (c) The fictitious name under which the wrecker
5 company transacts business in this state.

6 (d) The full name, residence address, business
7 address, and telephone number of the applicant. If the
8 applicant is other than a natural person, the application must
9 also contain the full name, residence address, business
10 address, telephone number, and federal employer identification
11 number, if applicable, of each ultimate equitable owner of the
12 business entity and each officer, director, partner, manager,
13 member, or managing member of the entity.

14 (e) If the applicant is other than a natural person,
15 the full name of the business entity's registered agent and
16 the address of the registered office for service of process.

17 (f) The physical address and telephone number of each
18 business location and each storage facility where the wrecker
19 company stores towed vehicles, vessels, or mobile homes.

20 (2) Each initial and renewal application for
21 registration must be accompanied by the registration fee
22 prescribed in s. 508.16.

23 (3) Each initial application for registration must be
24 accompanied by a complete set of the applicant's fingerprints
25 taken by an authorized law enforcement officer. If the
26 applicant is other than a natural person, a complete set of
27 fingerprints must also be filed for each ultimate equitable
28 owner of the business entity and each officer, director,
29 partner, manager, member, or managing member of the entity.
30 The department shall submit the fingerprints to the Department
31 of Law Enforcement for state processing, and the Department of

1 Law Enforcement shall forward the fingerprints to the Federal
2 Bureau of Investigation for national processing. The applicant
3 must also pay the cost of fingerprint processing. Registration
4 renewal applications need not be accompanied by a set of the
5 applicant's fingerprints.

6 (4) The department shall review each application in
7 accordance with s. 120.60 and shall issue a registration
8 certificate, in the form and size prescribed by the
9 department, to each wrecker company whose application is
10 approved. The certificate must show at least the name and
11 address of the wrecker company and the registration number.
12 The registration certificate must be prominently displayed in
13 the wrecker company's primary place of business.

14 (5) Each advertisement of a wrecker company must
15 include the phrase "Fla. Wrecker Co. Reg. No. ."

16 (6) A registration is invalid for a wrecker company
17 transacting business at a place other than the location
18 designated in the registration application unless the
19 department is first notified in writing before the change of
20 location. A registration issued under this chapter is not
21 transferable or assignable, and a wrecker company may not
22 conduct business under a name other than as registered. A
23 wrecker company desiring to change its registered name,
24 location, or registered agent for service of process at a time
25 other than upon renewal of registration must notify the
26 department of the change.

27 (7)(a) Each registration must be renewed annually on
28 or before the expiration date of the current registration. A
29 late fee of \$25 must be paid, in addition to the registration
30 fee or any other penalty, for a registration renewal
31 application that is received by the department after the

1 expiration date of the current registration. The department
2 may not issue a registration until all fees are paid.

3 (b) A wrecker company whose primary place of business
4 is located within a county or municipality that requires, by
5 local ordinance, a local occupational license under chapter
6 205 may not renew a license under this chapter unless the
7 wrecker company obtains the occupational license from the
8 county or municipality.

9 (8) Each wrecker company must provide the department
10 with evidence of current and valid insurance coverage required
11 under s. 627.7415 for each wrecker owned by the company.

12 508.06 Denial of registration.--The department may
13 deny or refuse to renew the registration of a wrecker company
14 based upon a determination that the applicant or, if the
15 applicant is other than a natural person, the wrecker company
16 or any of its ultimate equitable owners, officers, directors,
17 partners, managers, members, or managing members has:

18 (1) Not met the requirements for registration under
19 this chapter;

20 (2) Been convicted of, found guilty of, or pled guilty
21 or nolo contendere to, regardless of the adjudication of
22 guilt, a felony within the last 10 years;

23 (3) Been convicted of, found guilty of, or pled guilty
24 or nolo contendere to, regardless of the adjudication of
25 guilt, a crime within the last 10 years involving repossession
26 of a motor vehicle under chapter 493; repair of a motor
27 vehicle under ss. 559.901-559.9221; theft of a motor vehicle
28 under s. 812.014; carjacking under s. 812.133; operation of a
29 chop shop under s. 812.16; failure to maintain records of
30 motor vehicle parts and accessories under s. 860.14; airbag
31 theft or use of fake airbags under s. 860.145 or s. 860.146;

1 overcharging for repairs and parts under s. 860.15; or a
2 violation of towing or storage requirements for a motor
3 vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07,
4 or this chapter;

5 (4) Not satisfied a civil fine or penalty arising out
6 of an administrative or enforcement action brought by the
7 department, another governmental agency, or a private person
8 based upon conduct involving a violation of this chapter;

9 (5) Pending against him or her a criminal,
10 administrative, or enforcement proceeding in any jurisdiction
11 based upon conduct involving a violation of this chapter; or

12 (6) Have a judgment entered against him or her in an
13 action brought by the department under this chapter.

14 508.07 Wrecker operator certification program.--

15 (1) The department, in consultation with the council,
16 shall establish a wrecker operator certification program by
17 December 31, 2003. Under this program, the department shall
18 approve certification courses for wrecker operators conducted
19 by approved organizations. Subject to approval by the
20 department, the council shall prescribe the minimum curricula
21 for these courses, which must comprise at least 16 hours,
22 equally apportioned between theoretical instruction and
23 practical training. The department must approve each
24 organization and its certification course before the course is
25 accepted for certification of wrecker operators under this
26 chapter.

27 (2) Each approved wrecker operator certification
28 course must include a certification examination demonstrating
29 a wrecker operator's knowledge, skills, and abilities in
30 performing wrecker services and in the instruction and
31 training of the certification course. The department must

1 approve each certification examination before the examination
2 is accepted for certification of wrecker operators under this
3 chapter.

4 (3) Each organization conducting an approved wrecker
5 operator certification course must issue on forms prescribed
6 by the department a certificate to each wrecker operator who
7 completes the approved certification course or who passes the
8 approved certification examination.

9 508.08 Specialized wrecker services.--

10 (1) In addition to the minimum curricula for
11 certification of wrecker operators, each approved
12 certification course must offer optional instruction,
13 training, and examination of wrecker operators for each of the
14 following specialized wrecker services:

15 (a) Light duty.--Towing and winching a passenger
16 vehicle, and uprighting such an overturned vehicle, including
17 the proper use of chains, wire rope, and straps.

18 (b) Medium duty.--Towing and winching a medium-sized
19 commercial vehicle, and uprighting such an overturned vehicle.

20 (c) Heavy duty.--Towing and winching a standard
21 large-sized commercial vehicle, and uprighting such an
22 overturned vehicle.

23 (d) Ultra-heavy duty.--Towing and winching a specialty
24 large-sized commercial vehicle or another complex vehicle, and
25 uprighting such an overturned vehicle.

26 (e) Rollback wrecker.--Proper loading, securing,
27 transporting, and unloading of a vehicle on a flatbed-rollback
28 wrecker.

29 (f) Hazardous materials.--Awareness of hazardous
30 materials. Instruction and training for this wrecker service
31 must comprise at least 8 hours in order to be approved.

1 (g) Air cushions.--Proper use of air cushions in the
2 recovery of a heavy-duty vehicle.

3 (2) The department shall adopt rules prescribing
4 specific standards to further define each of the specialized
5 wrecker services described in subsection (1). The department
6 must approve the instruction, training, and examination for a
7 specialized wrecker service before the specialized wrecker
8 service is accepted for endorsement of a wrecker operator's
9 certification under this chapter.

10 (3) Each organization conducting an approved wrecker
11 operator certification course must issue on forms prescribed
12 by the department a certificate to each wrecker operator who
13 completes the approved instruction and training for a
14 specialized wrecker service or who passes the approved
15 endorsement examination for that specialized wrecker service.

16 508.09 Certification cards.--

17 (1) Each organization conducting an approved wrecker
18 operator certification course must issue a certification card
19 to each wrecker operator who completes the approved
20 certification course and passes the approved certification
21 examination. The department must approve the form of the
22 certification cards issued by each organization. Each
23 certification card must include the wrecker operator's name, a
24 color photograph or digital image of the wrecker operator, and
25 the expiration date of the certification card.

26 (2) Each certification card must also include the
27 wrecker operator's applicable endorsements for specialized
28 wrecker services, for which the wrecker operator completed the
29 approved instruction and training for the specialized wrecker
30 service and passed the approved endorsement examination for
31 that specialized wrecker service.

1 (3) The department may adopt rules governing the
2 issuance of a certification card to a wrecker operator who:

3 (a) Completes a certification course and passes a
4 certification examination in another state which are
5 substantially equivalent to the approved certification courses
6 and approved certification examinations in this state.

7 (b) Completed a certification course and passed a
8 certification examination in this state between January 1,
9 1999, and December 31, 2003, which are substantially
10 equivalent to the approved certification courses and the
11 approved certification examinations. This paragraph expires
12 July 1, 2004.

13 (c) Completed instruction and training for a
14 specialized wrecker service and passed an endorsement
15 examination for that specialized wrecker service between
16 January 1, 1999, and December 31, 2003, which are
17 substantially equivalent to the approved instruction and
18 training and the approved endorsement examinations. This
19 paragraph expires July 1, 2004.

20 (4) Each certification card expires 5 years after the
21 date of issuance.

22 (5) Certification cards shall be issued by the
23 organizations conducting approved wrecker operator
24 certification courses. The department is not responsible for
25 issuing certification cards or for the costs associated with
26 the issuance of certification cards.

27 508.10 Wrecker operators; certification required;
28 inspection of employment records.--Effective January 1, 2004:

29 (1) A person may not perform wrecker services in this
30 state unless he or she is an employee or ultimate equitable
31 owner of a wrecker company that is registered with the

1 department under this chapter and those wrecker services are
2 performed on behalf of the wrecker company.

3 (2)(a) A person may not perform wrecker services or
4 specialized wrecker services for a wrecker company for more
5 than 6 months after first being employed by, or becoming an
6 ultimate equitable owner of, the wrecker company without being
7 certified as a wrecker operator under this chapter.

8 (b) A wrecker operator certified under this chapter
9 may not perform a specialized wrecker service for a wrecker
10 company unless the wrecker operator's certification includes
11 an endorsement for that specialized wrecker service.

12 (3) The department may inspect the employment records
13 of any wrecker company in this state to ensure compliance with
14 this section. It is a violation of this chapter if a wrecker
15 company fails or refuses to maintain records or to produce
16 records when required in a reasonable manner and at a
17 reasonable time.

18 508.11 Renewal of certification; continuing education
19 requirements.--The department may prescribe by rule continuing
20 education requirements of up to 8 hours for the renewal of a
21 wrecker operator's certification.

22 508.12 Prohibited acts.--It is a violation of this
23 chapter for a wrecker company, its wrecker operators, or other
24 employees or agents of the wrecker company to:

25 (1) Charge rates that exceed the maximum rates imposed
26 by the ordinances of the respective county or municipality
27 under ss. 125.0103(1)(c) and 166.043(1)(c).

28 (2) Violate s. 321.051, relating to the Florida
29 Highway Patrol wrecker allocation system.

30 (3) Violate s. 323.002, relating to county and
31 municipal wrecker allocation systems.

1 (4) Violate s. 713.78, relating to liens for
2 recovering, towing, or storing vehicles and vessels.

3 (5) Violate s. 715.07, relating to towing or removing
4 vehicles and vessels parked on real property without
5 permission.

6 (6) Refuse to allow a law enforcement officer to
7 inspect a towing and storage facility, as required in s.
8 812.055.

9 (7) Allow a person who is not certified as a wrecker
10 operator under this chapter to perform wrecker services or
11 specialized wrecker services for the wrecker company for more
12 than 6 months after first being employed by, or becoming an
13 ultimate equitable owner of, the wrecker company.

14 (8) Allow a wrecker operator certified under this
15 chapter to perform a specialized wrecker service for the
16 wrecker company if the wrecker operator's certification does
17 not include an endorsement for that specialized wrecker
18 service.

19 (9) Perform an act otherwise prohibited by this
20 chapter or fail to perform an act otherwise required by this
21 chapter.

22 508.13 Administrative penalties; inspection of
23 records.--

24 (1) The department may order one or more of the
25 following if the department finds that a wrecker company has
26 violated this chapter or the rules or orders issued under this
27 chapter:

28 (a) Issue a notice of noncompliance under s. 120.695.

29 (b) Impose an administrative fine not to exceed \$5,000
30 for each act or omission.

31

1 (c) Direct the wrecker company to cease and desist
2 specified activities.

3 (d) Refuse to register the wrecker company or suspend
4 or revoke the wrecker company's registration.

5 (e) Place the wrecker company on probation for a
6 period of time, subject to the conditions specified by the
7 department.

8 (2) Chapter 120 shall govern an administrative
9 proceeding resulting from an order imposing a penalty
10 specified in subsection (1).

11 508.14 Civil penalties.--The department may bring a
12 civil action in a court of competent jurisdiction to recover
13 any penalties or damages allowed in this chapter and for
14 injunctive relief to enforce compliance with this chapter. The
15 department may seek a civil penalty of up to \$5,000 for each
16 violation of this chapter and may seek restitution for and on
17 behalf of any owner of a vehicle, vessel, or mobile home who
18 is aggrieved or injured by a violation of this chapter.

19 508.15 Criminal penalties.--Effective July 1, 2004:

20 (1) A person who violates s. 508.04(1) by operating a
21 wrecker company in this state without being registered with
22 the department under this chapter commits a felony of the
23 third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

25 (2) A person who violates s. 508.10(1) by performing
26 wrecker services in this state without being an employee or
27 ultimate equitable owner of a wrecker company that is
28 registered with the department under this chapter commits a
29 felony of the third degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084.

31

1 508.16 Fees.--The department shall adopt by rule a fee
2 schedule for the following fees:

3 (1) Wrecker company registration fee.

4 (2) Wrecker company registration renewal fee.

5 508.17 General Inspection Trust Fund; payments.--All
6 fees, penalties, or other funds collected by the department
7 under this chapter must be deposited in the General Inspection
8 Trust Fund and may only be used for the purpose of
9 administering this chapter.

10 508.18 Recovery agents; exemption.--This chapter does
11 not apply to a person licensed under chapter 493 performing
12 repossession services.

13 508.19 County and municipal ordinances.--A county or
14 municipality may enact ordinances governing the business of
15 transporting vehicles or vessels by wrecker which are more
16 restrictive than this chapter. This section does not limit the
17 authority of a political subdivision to impose regulatory fees
18 or charges or to levy occupational license taxes under chapter
19 205.

20 Section 17. Subsection (13) of section 713.78, Florida
21 Statutes, is amended to read:

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

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

1 that vehicle, vessel, or mobile home 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 vehicle, vessel, or mobile home is owned jointly by more than
5 one person, the name of each registered owner shall be placed
6 on the list. The notice of wrecker operator's lien shall be
7 submitted on forms provided by the department, which must
8 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 or 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

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 c. The records of the department were marked to
27 indicate that the vehicle, vessel, or mobile home was sold
28 before the issuance of the certificate of destruction under
29 subsection (11).

30
31

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 license 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 may be appealed ~~is~~
23 ~~appealable~~ only to the county court for the county in which
24 the vehicle, vessel, or 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

1 license 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 license 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

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 must ~~shall~~ be
31 deposited into the Florida Motor Vehicle Theft Prevention

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 apply to any vehicle registered in the
11 name of a lessor. This subsection does not affect the issuance
12 of the title to a motor vehicle, notwithstanding s.
13 319.23(7)(b).

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

17 Section 18. Effective January 1, 2004, section 713.78,
18 Florida Statutes, as amended by this act, is amended to read:

19 713.78 Liens for recovering, towing, or storing
20 vehicles and vessels.--

21 (1) As used in ~~For the purposes of~~ this section, the
22 term:

23 (a) "Business day" means a day other than a Saturday,
24 Sunday, or federal or state legal holiday.

25 (b) "Property owner" has the same meaning ascribed in
26 s. 715.07.

27 (c) ~~(a)~~ "Vehicle" has the same meaning ascribed in s.
28 508.01 means any mobile item, whether motorized or not, which
29 is mounted on wheels.

30 (d) ~~(b)~~ "Vessel" has the same meaning ascribed in s.
31 508.01 means every description of watercraft, barge, and air

1 ~~boat used or capable of being used as a means of~~
2 ~~transportation on water, other than a seaplane or a~~
3 ~~"documented vessel" as defined in s. 327.02(8).~~

4 (e)(c) "Wrecker" has the same meaning ascribed in s.
5 320.01 ~~means any truck or other vehicle which is used to tow,~~
6 ~~carry, or otherwise transport motor vehicles or vessels upon~~
7 ~~the streets and highways of this state and which is equipped~~
8 ~~for that purpose with a boom, winch, car carrier, or other~~
9 ~~similar equipment.~~

10 (f) "Wrecker company" has the same meaning ascribed in
11 s. 508.01.

12 (g) "Wrecker operator" has the same meaning ascribed
13 in s. 508.01.

14 (2) Whenever a wrecker company registered under
15 chapter 508 ~~person regularly engaged in the business of~~
16 ~~transporting vehicles or vessels by wrecker, tow truck, or car~~
17 ~~carrier recovers, removes, or stores a vehicle, vessel, or~~
18 ~~mobile home upon instructions from:~~

19 (a) The owner of the vehicle or vessel thereof; or

20 (b) The property owner ~~or lessor, or a person~~
21 ~~authorized by the owner or lessor, of real property on which~~
22 ~~the such~~ vehicle is wrongfully parked without permission, and
23 ~~the such~~ removal is done in compliance with s. 715.07; or

24 (c) A ~~Any~~ law enforcement agency; or

25 (d) A mobile home park owner as defined in s. 723.003
26 who has a current writ of possession for a mobile home lot
27 under ~~pursuant to~~ s. 723.061,

28
29 the wrecker company has ~~she or he shall have~~ a lien on the
30 ~~such~~ vehicle or vessel for a reasonable towing fee and for a
31 reasonable storage fee; except that a ~~no~~ storage fee may not

1 ~~shall~~ be charged if the ~~such~~ vehicle is stored ~~for~~ less than 6
2 hours.

3 (3) This section does not authorize any person to
4 claim a lien on a vehicle for fees or charges connected with
5 the immobilization of the ~~such~~ vehicle using a vehicle boot or
6 other similar device under ~~pursuant to~~ s. 715.07.

7 (4)(a) Any wrecker company that ~~person regularly~~
8 ~~engaged in the business of recovering, towing, or storing~~
9 ~~vehicles or vessels who~~ comes into possession of a vehicle or
10 vessel under ~~pursuant to~~ subsection (2), and who claims a lien
11 for recovery, towing, or storage services, must ~~shall~~ give
12 notice to the registered owner, the insurance company insuring
13 the vehicle notwithstanding the provisions of s. 627.736, and
14 to all persons claiming a lien on the vehicle or vessel
15 ~~thereon~~, as disclosed by the records in the Department of
16 Highway Safety and Motor Vehicles or of a corresponding agency
17 in any other state.

18 (b) Whenever a ~~any~~ law enforcement agency authorizes
19 the removal of a vehicle, or ~~whenever a wrecker company any~~
20 ~~towing service, garage, repair shop, or automotive service,~~
21 ~~storage, or parking place~~ notifies the law enforcement agency
22 of possession of a vehicle under ~~pursuant to~~ s.
23 715.07(2)(a)2., the applicable law enforcement agency shall
24 contact the Department of Highway Safety and Motor Vehicles,
25 or the appropriate agency of the state of registration, if
26 known, within 24 hours through the medium of electronic
27 communications, giving the full description of the vehicle.
28 Upon receipt of the full description of the vehicle, the
29 department shall search its files to determine the owner's
30 name, the insurance company insuring the vehicle, and whether
31 any person has filed a lien upon the vehicle as provided in s.

1 319.27(2) and (3) and notify the applicable law enforcement
2 agency within 72 hours. The wrecker company must ~~person in~~
3 ~~charge of the towing service, garage, repair shop, or~~
4 ~~automotive service, storage, or parking place shall~~ obtain
5 this ~~such~~ information from the applicable law enforcement
6 agency within 5 days after ~~from~~ the date of storage and must
7 ~~shall~~ give notice under ~~pursuant to~~ paragraph (a). The
8 department may release the insurance company information to
9 the requestor notwithstanding ~~the provisions of~~ s. 627.736.

10 (c) Notice by certified mail, return receipt
11 requested, must ~~shall~~ be sent within 7 business days after the
12 date of storage of the vehicle or vessel to the registered
13 owner, the insurance company insuring the vehicle
14 notwithstanding the provisions of s. 627.736, and all persons
15 of record claiming a lien against the vehicle or vessel. The
16 notice must ~~it shall~~ state the fact of possession of the
17 vehicle or vessel, that a lien as provided in subsection (2)
18 is claimed, that charges have accrued and the amount of the
19 charges thereof, that the lien is subject to enforcement under
20 ~~pursuant to~~ law, ~~and~~ that the owner or lienholder, if any, has
21 the right to a hearing as set forth in subsection (5), and
22 that any vehicle or vessel which remains unclaimed, or for
23 which the charges for recovery, towing, or storage services
24 remain unpaid, may be sold free of all prior liens after 35
25 days if the vehicle or vessel is more than 3 years of age or
26 after 50 days if the vehicle or vessel is 3 years of age or
27 less.

28 (d) If the wrecker company is unable ~~attempts~~ to
29 identify the name of ~~locate~~ the owner or lienholder ~~prove~~
30 ~~unsuccessful~~, the wrecker company must ~~towing-storage operator~~
31 ~~shall~~, after 7 business ~~working~~ days following, ~~excluding~~

1 ~~Saturday and Sunday,~~ of the initial tow or storage, notify the
2 public agency of jurisdiction in writing by certified mail or
3 acknowledged hand delivery that the wrecker ~~towing-storage~~
4 company has been unable to identify the name of ~~locate~~ the
5 owner or lienholder and a physical search of the vehicle or
6 vessel has disclosed no ownership information and a good faith
7 effort has been made. For purposes of this paragraph and
8 subsection (9), the term "good faith effort" means that the
9 following checks have been performed by the wrecker company to
10 establish prior state of registration and for title:

11 1. Check of vehicle or vessel for any type of tag, tag
12 record, temporary tag, or regular tag.

13 2. Check of law enforcement report for tag number or
14 other information identifying the vehicle or vessel, if the
15 vehicle or vessel was towed at the request of a law
16 enforcement officer.

17 3. Check of trip sheet or tow ticket of the wrecker
18 ~~tow-truck~~ operator to see if a tag was on vehicle at beginning
19 of tow, if private tow.

20 4. If there is no address of the owner on the impound
21 report, check of law enforcement report to see if an
22 out-of-state address is indicated from driver license
23 information.

24 5. Check of vehicle or vessel for inspection sticker
25 or other stickers and decals that may indicate a state of
26 possible registration.

27 6. Check of the interior of the vehicle or vessel for
28 any papers that may be in the glove box, trunk, or other areas
29 for a state of registration.

30 7. Check of vehicle for vehicle identification number.

31 8. Check of vessel for vessel registration number.

1 9. Check of vessel hull for a hull identification
2 number which should be carved, burned, stamped, embossed, or
3 otherwise permanently affixed to the outboard side of the
4 transom or, if there is no transom, to the outmost seaboard
5 side at the end of the hull that bears the rudder or other
6 steering mechanism.

7 (5)(a) The owner of a vehicle or vessel removed under
8 ~~pursuant to the provisions of~~ subsection (2), or any person
9 claiming a lien, other than the wrecker company ~~towing-storage~~
10 ~~operator~~, within 10 days after the time she or he has
11 knowledge of the location of the vehicle or vessel, may file a
12 complaint in the county court of the county in which the
13 vehicle or vessel is stored or in which the owner resides to
14 determine if her or his property was wrongfully taken or
15 withheld from her or him.

16 (b) Upon filing of a complaint, an owner or lienholder
17 may have her or his vehicle or vessel released upon posting
18 with the court a cash or surety bond or other adequate
19 security equal to the amount of the charges for towing or
20 storage and lot rental amount to ensure the payment of the
21 ~~such~~ charges in the event she or he does not prevail. Upon
22 the posting of the bond and the payment of the applicable fee
23 set forth in s. 28.24, the clerk of the court shall issue a
24 certificate notifying the lienor of the posting of the bond
25 and directing the lienor to release the vehicle or vessel. At
26 the time of the ~~such~~ release, after reasonable inspection, she
27 or he shall give a receipt to the wrecker ~~towing-storage~~
28 company reciting any claims she or he has for loss or damage
29 to the vehicle or vessel or the contents of the vehicle or
30 vessel thereof.

31

1 (c) Upon determining the respective rights of the
2 parties, the court may award damages and costs to in favor of
3 the prevailing party. The court shall also award reasonable
4 attorney's fees to the prevailing party if the court finds the
5 nonprevailing party filed the complaint primarily to harass,
6 for frivolous purpose, or to needlessly increase the cost of
7 claiming a lien under this section.~~In any event,~~The final
8 order must require ~~shall provide for~~ immediate payment in full
9 of the recovery, towing, and storage fees by the vehicle or
10 vessel owner or lienholder; by or the law enforcement agency
11 ordering the tow; or by the property owner, lessee, or agent
12 thereof of the real property from which the vehicle or vessel
13 was towed or removed under s. 715.07.

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

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

30 (7)(a) A wrecker company, its wrecker operators, and
31 other employees or agents of the wrecker company operator

1 recovering, towing, or storing vehicles or vessels are ~~is~~ not
2 liable for damages connected with those ~~such~~ services, theft
3 of the ~~such~~ vehicles or vessels, or theft of personal property
4 contained in the ~~such~~ vehicles or vessels, if those ~~provided~~
5 ~~that such services are~~ have been performed with reasonable
6 care and if provided, ~~further, that,~~ in the case of removal of
7 a vehicle or vessel upon the request of a person purporting,
8 and reasonably appearing, to be the property owner ~~or lessee,~~
9 ~~or a person authorized by the owner or lessee,~~ of the real
10 property from which the ~~such~~ vehicle or vessel is removed, the
11 ~~such~~ removal has been done in compliance with s. 715.07.
12 Further, a wrecker company, its wrecker operators, and other
13 employees or agents of the wrecker company are ~~operator is~~ not
14 liable for damage connected with those ~~such~~ services when
15 complying with the lawful directions of a law enforcement
16 officer to remove a vehicle stopped, standing, or parked upon
17 a street or highway in ~~such~~ a position that obstructs ~~as to~~
18 ~~obstruct~~ the normal movement of traffic or that creates in
19 ~~such a condition as to create~~ a hazard to other traffic upon
20 the street or highway.

21 (b) Employees or authorized agents of the Department
22 of Transportation or an authorized or unauthorized wrecker
23 company, as defined in s. 321.051 or s. 323.002, may remove a
24 vehicle or vehicle cargo from a public road without consent of
25 the owner or operator of the vehicle or vehicle cargo upon
26 request of a law enforcement officer as defined in s. 112.531,
27 a sheriff or deputy sheriff as defined in s. 30.072, or a
28 firefighter as defined in s. 112.81. The employee or
29 authorized agent of the Department of Transportation, the
30 wrecker company, its wrecker operators, and other employees or
31 agents of the wrecker company, the law enforcement officer,

1 sheriff, or deputy sheriff, and the firefighters and emergency
2 medical services providers are not liable for any property
3 damages or claims of damage for the removal if the vehicle or
4 vehicle cargo is removed because it presents an imminent
5 public-safety hazard.

6 (c)~~(b)~~ For the purposes of this subsection, a wrecker
7 company, its wrecker operators, and other employees or agents
8 of the wrecker company are ~~operator is~~ presumed to use
9 reasonable care to prevent the theft of a vehicle or vessel or
10 of any personal property contained in the ~~such~~ vehicle stored
11 in the wrecker company's ~~operator's~~ storage facility if all of
12 the following apply:

13 1. The wrecker company ~~operator~~ surrounds the storage
14 facility with a chain-link or solid-wall type fence at least 6
15 feet in height;

16 2. The wrecker company ~~illuminates~~ ~~operator has~~
17 ~~illuminated~~ the storage facility with lighting of sufficient
18 intensity to reveal persons and vehicles at a distance of at
19 least 150 feet during nighttime; and

20 3. The wrecker company ~~operator~~ uses one or more of
21 the following security methods to discourage theft of vehicles
22 or vessels or of any personal property contained in such
23 vehicles or vessels stored in the wrecker company's ~~operator's~~
24 storage facility:

25 a. A night dispatcher or watchman remains on duty at
26 the storage facility from sunset to sunrise;

27 b. A security dog remains at the storage facility from
28 sunset to sunrise;

29 c. Security cameras or other similar surveillance
30 devices monitor the storage facility; or

31

1 d. A security guard service examines the storage
2 facility at least once each hour from sunset to sunrise.

3 ~~(d)(c)~~ Any law enforcement agency requesting that a
4 motor vehicle be removed from an accident scene, street, or
5 highway must conduct an inventory and prepare a written record
6 of all personal property found in the vehicle before the
7 vehicle is removed by a wrecker operator. However, if the
8 owner or driver of the motor vehicle is present and
9 accompanies the vehicle, an ~~no~~ inventory by law enforcement is
10 not required. A wrecker company, its wrecker operators, and
11 other employees or agents of the wrecker company are ~~operator~~
12 ~~is~~ not liable for the loss of personal property alleged to be
13 contained in ~~such~~ a vehicle when the ~~such~~ personal property
14 was not identified on the inventory record prepared by the law
15 enforcement agency requesting the removal of the vehicle.

16 (8) A wrecker company and its wrecker operators,
17 ~~excluding person regularly engaged in the business of~~
18 ~~recovering, towing, or storing vehicles or vessels, except a~~
19 person licensed under chapter 493 while engaged in
20 "repossession" activities as defined in s. 493.6101, may not
21 operate a wrecker, ~~tow truck, or car carrier~~ unless the name,
22 address, and telephone number of the wrecker company
23 performing the wrecker services ~~service~~ is clearly printed in
24 contrasting colors on the driver and passenger sides of the
25 wrecker ~~its vehicle~~. The name must be in at least 3-inch
26 permanently affixed letters, and the address and telephone
27 number must be in at least 1-inch permanently affixed letters.

28 (9) Failure to make good faith best efforts to comply
29 with the notice requirements of this section precludes ~~shall~~
30 ~~preclude~~ the imposition of any storage charges against the
31 ~~such~~ vehicle or vessel.

1 (10) Each wrecker company that provides ~~Persons who~~
2 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~
3 permit vehicle or vessel owners or their agents, which agency
4 is evidenced by a writing acknowledged by the owner before a
5 notary public or other person empowered by law to administer
6 oaths, to inspect the towed vehicle or vessel and must ~~shall~~
7 release to the owner or agent all personal property not
8 affixed to the vehicle or vessel which was in the vehicle or
9 vessel at the time the vehicle or vessel came into the custody
10 of the wrecker company ~~person~~ providing those ~~such~~ services.

11 (11)(a) A wrecker company that ~~Any person regularly~~
12 ~~engaged in the business of recovering, towing, or storing~~
13 ~~vehicles or vessels who~~ comes into possession of a vehicle or
14 vessel under ~~pursuant to~~ subsection (2) and that complies ~~who~~
15 ~~has complied~~ with ~~the provisions of~~ subsections (3) and (6),
16 when the ~~such~~ vehicle or vessel is to be sold for purposes of
17 being dismantled, destroyed, or changed in a such manner that
18 it is not the motor vehicle, vessel, or mobile home described
19 in the certificate of title, must ~~shall~~ apply to the county
20 tax collector for a certificate of destruction. A certificate
21 of destruction, which authorizes the dismantling or
22 destruction of the vehicle or vessel described on the
23 certificate therein, is ~~shall be~~ reassignable no more than
24 twice ~~a maximum of two times~~ before dismantling or destruction
25 of the vehicle is ~~shall be~~ required, and the certificate must
26 ~~shall~~ accompany the vehicle or vessel for which it is issued,
27 when the ~~such~~ vehicle or vessel is sold for that purpose ~~such~~
28 ~~purposes~~, in lieu of a certificate of title. The application
29 for a certificate of destruction must include an affidavit
30 from the applicant that it has complied with all applicable
31 requirements of this section and, if the vehicle or vessel is

1 not registered in this state, by a statement from a law
2 enforcement officer that the vehicle or vessel is not reported
3 stolen, and must also ~~shall~~ be accompanied by any other ~~such~~
4 documentation ~~as may be~~ required by the department.

5 (b) The Department of Highway Safety and Motor
6 Vehicles shall charge a fee of \$3 for each certificate of
7 destruction. A service charge of \$4.25 shall be collected and
8 retained by the tax collector who processes the application.

9 (c) The Department of Highway Safety and Motor
10 Vehicles may adopt ~~such~~ rules to administer ~~as it deems~~
11 ~~necessary or proper for the administration of~~ this subsection.

12 (12)(a) Any person who violates ~~any provision of~~
13 subsection (1), subsection (2), subsection (4), subsection
14 (5), subsection (6), or subsection (7) commits ~~is guilty of~~ a
15 misdemeanor of the first degree, punishable as provided in s.
16 775.082 or s. 775.083.

17 (b) Any person who violates ~~the provisions of~~
18 subsections (8) through (11) commits ~~is guilty of~~ a felony of
19 the third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084.

21 (c) Any person who uses a false or fictitious name,
22 gives a false or fictitious address, or makes any false
23 statement in any application or affidavit required under ~~the~~
24 ~~provisions of this section~~ commits ~~is guilty of~~ a felony of
25 the third degree, punishable as provided in s. 775.082, s.
26 775.083, or s. 775.084.

27 (d) Employees of the Department of Highway Safety and
28 Motor Vehicles and law enforcement officers may ~~are authorized~~
29 ~~to~~ inspect the records of each wrecker company in this state
30 ~~any person regularly engaged in the business of recovering,~~
31 ~~towing, or storing vehicles or vessels or transporting~~

1 ~~vehicles or vessels by wrecker, tow truck, or car carrier, to~~
2 ensure compliance with the requirements of this section. Any
3 person who fails to maintain records, or fails to produce
4 records when required in a reasonable manner and at a
5 reasonable time, commits a misdemeanor of the first degree,
6 punishable as provided in s. 775.082 or s. 775.083.

7 (13)(a) Upon receipt by the Department of Highway
8 Safety and Motor Vehicles of written notice from a wrecker
9 company operator who claims a wrecker company's operator's
10 lien under paragraph (2)(c) or paragraph (2)(d) for recovery,
11 towing, or storage of an abandoned vehicle, vessel, or mobile
12 home upon instructions from any law enforcement agency, for
13 which a certificate of destruction has been issued under
14 subsection (11), the department shall place the name of the
15 registered owner of that vehicle, vessel, or mobile home on
16 the list of those persons who may not be issued a license
17 plate or revalidation sticker for any motor vehicle under s.
18 320.03(8). If the vehicle, vessel, or mobile home is owned
19 jointly by more than one person, the name of each registered
20 owner shall be placed on the list. The notice of wrecker
21 company's operator's lien shall be submitted on forms provided
22 by the department, which must include:

23 1. The name, address, and telephone number of the
24 wrecker company operator.

25 2. The name of the registered owner of the vehicle,
26 vessel, or mobile home and the address to which the wrecker
27 company operator provided notice of the lien to the registered
28 owner under subsection (4).

29 3. A general description of the vehicle, vessel, or
30 mobile home, including its color, make, model, body style, and
31 year.

1 4. The vehicle identification number (VIN);
2 registration license plate number, state, and year; validation
3 decal number, state, and year; mobile home sticker number,
4 state, and year; vessel registration number; hull
5 identification number; or other identification number, as
6 applicable.

7 5. The name of the person or the corresponding law
8 enforcement agency that requested that the vehicle, vessel, or
9 mobile home be recovered, towed, or stored.

10 6. The amount of the wrecker company's ~~operator's~~
11 lien, not to exceed the amount allowed by paragraph (b).

12 (b) For purposes of this subsection only, the amount
13 of the wrecker company's ~~operator's~~ lien for which the
14 department will prevent issuance of a license plate or
15 revalidation sticker may not exceed the amount of the charges
16 for recovery, towing, and storage of the vehicle, vessel, or
17 mobile home for 7 days. These charges may not exceed the
18 maximum rates imposed by the ordinances of the respective
19 county or municipality under ss. 125.0103(1)(c) and
20 166.043(1)(c). This paragraph does not limit the amount of a
21 wrecker company's ~~operator's~~ lien claimed under subsection (2)
22 or prevent a wrecker company ~~operator~~ from seeking civil
23 remedies for enforcement of the entire amount of the lien, but
24 limits only that portion of the lien for which the department
25 will prevent issuance of a license plate or revalidation
26 sticker.

27 (c)1. The registered owner of a vehicle, vessel, or
28 mobile home may dispute a wrecker company's ~~operator's~~ lien,
29 by notifying the department of the dispute in writing on forms
30 provided by the department, if at least one of the following
31 applies:

1 a. The registered owner presents a notarized bill of
2 sale proving that the vehicle, vessel, or mobile home was sold
3 in a private or casual sale before the vehicle, vessel, or
4 mobile home was recovered, towed, or stored.

5 b. The registered owner presents proof that the
6 Florida certificate of title of the vehicle, vessel, or mobile
7 home was sold to a licensed dealer as defined in s. 319.001
8 before the vehicle, vessel, or mobile home was recovered,
9 towed, or stored.

10 c. The records of the department were marked to
11 indicate that the vehicle, vessel, or mobile home was sold
12 before the issuance of the certificate of destruction under
13 subsection (11).

14
15 If the registered owner's dispute of a wrecker company's
16 ~~operator's~~ lien complies with one of these criteria, the
17 department shall immediately remove the registered owner's
18 name from the list of those persons who may not be issued a
19 license plate or revalidation sticker for any motor vehicle
20 under s. 320.03(8), thereby allowing issuance of a license
21 plate or revalidation sticker. If the vehicle, vessel, or
22 mobile home is owned jointly by more than one person, each
23 registered owner must dispute the wrecker company's ~~operator's~~
24 lien in order to be removed from the list. However, the
25 department shall deny any dispute and maintain the registered
26 owner's name on the list of those persons who may not be
27 issued a license plate or revalidation sticker for any motor
28 vehicle under s. 320.03(8) if the wrecker company ~~operator~~ has
29 provided the department with a certified copy of the judgment
30 of a court which orders the registered owner to pay the
31 wrecker company's ~~operator's~~ lien claimed under this section.

1 In such a case, the amount of the wrecker company's ~~operator's~~
2 lien allowed by paragraph (b) may be increased to include no
3 more than \$500 of the reasonable costs and attorney's fees
4 incurred in obtaining the judgment. The department's action
5 under this subparagraph is ministerial in nature, shall not be
6 considered final agency action, and may be appealed only to
7 the county court for the county in which the vehicle, vessel,
8 or mobile home was ordered removed.

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

30 3. If a person against whom a wrecker company's
31 ~~operator's~~ lien has been imposed does not object to the lien,

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

23 4. A wrecker company's operator's lien expires 5 years
24 after filing.

25 (d) Upon discharge of the amount of the wrecker
26 company's operator's lien allowed by paragraph (b), the
27 wrecker company operator must issue a certificate of
28 discharged wrecker company's operator's lien on forms provided
29 by the department to each registered owner of the vehicle,
30 vessel, or mobile home attesting that the amount of the
31 wrecker company's operator's lien allowed by paragraph (b) has

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

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

23 | (f) This subsection applies only to the annual renewal
24 | in the registered owner's birth month of a motor vehicle
25 | registration and does not apply to the transfer of a
26 | registration of a motor vehicle sold by a motor vehicle dealer
27 | licensed under chapter 320, except for the transfer of
28 | registrations which is inclusive of the annual renewals. This
29 | subsection does not apply to any vehicle registered in the
30 | name of a lessor. This subsection does not affect the issuance
31 |

1 of the title to a motor vehicle, notwithstanding s.
2 319.23(7)(b).

3 (g) The Department of Highway Safety and Motor
4 Vehicles may adopt rules under ss. 120.536(1) and 120.54 to
5 implement this subsection.

6 (14) The amendments to this section made by this act
7 do not affect the validity of liens established under this
8 section before January 1, 2004.

9 Section 19. Effective January 1, 2004, section 715.07,
10 Florida Statutes, is amended to read:

11 715.07 Vehicles and vessels parked on real ~~private~~
12 property without permission; towing.--

13 (1) As used in this section, the term:

14 (a) "Property owner" means an owner or lessee of real
15 property, or a person authorized by the owner or lessee, which
16 person may be the designated representative of the condominium
17 association if the real property is a condominium.

18 (b) "Vehicle" has the same meaning ascribed in s.
19 508.01 ~~means any mobile item which normally uses wheels,~~
20 ~~whether motorized or not.~~

21 (c) "Vessel" has the same meaning ascribed in s.
22 508.01.

23 (d) "Wrecker company" has the same meaning ascribed in
24 s. 508.01.

25 (e) "Wrecker operator" has the same meaning ascribed
26 in s. 508.01.

27 (2) A property owner ~~The owner or lessee of real~~
28 ~~property, or any person authorized by the owner or lessee,~~
29 ~~which person may be the designated representative of the~~
30 ~~condominium association if the real property is a condominium,~~
31 may cause a any vehicle or vessel parked on her or his ~~such~~

1 property without her or his permission to be removed by a
2 wrecker company registered under chapter 508 ~~person regularly~~
3 ~~engaged in the business of towing vehicles,~~ without liability
4 for the costs of removal, transportation, or storage or
5 damages caused by the ~~such~~ removal, transportation, or
6 storage, under any of the following circumstances:

7 (a) The towing or removal of any vehicle or vessel
8 from real ~~private~~ property without the consent of the
9 registered owner or other legally authorized person in control
10 of that vehicle or vessel is subject to strict compliance with
11 the following conditions and restrictions:

12 1.a. Any towed or removed vehicle or vessel must be
13 stored at a storage facility ~~site~~ within 10 miles of the point
14 of removal in any county of 500,000 population or more, and
15 within 15 miles of the point of removal in any county of less
16 than 500,000 population. The wrecker company's storage
17 facility ~~That site~~ must be open for the purpose of redemption
18 of vehicles and vessels on any day that the wrecker company
19 ~~person or firm~~ towing the ~~such~~ vehicle or vessel is open for
20 towing purposes, from 8 ~~8+00~~ a.m. to 6 ~~6+00~~ p.m., and, when
21 closed, must ~~shall~~ have prominently posted a sign indicating a
22 telephone number where the operator of the storage facility
23 ~~site~~ can be reached at all times. Upon receipt of a
24 telephoned request to open the storage facility ~~site~~ to redeem
25 a vehicle or vessel, the operator shall return to the storage
26 facility ~~site~~ within 1 hour or she or he is ~~will be~~ in
27 violation of this section.

28 b. If a wrecker company ~~no towing business providing~~
29 ~~such service~~ is not located within the area of towing
30 limitations ~~set forth~~ in sub-subparagraph a., the following
31 limitations apply: any towed or removed vehicle or vessel

1 must be stored at a storage facility ~~site~~ within 20 miles of
2 the point of removal in any county of 500,000 population or
3 more, and within 30 miles of the point of removal in any
4 county of less than 500,000 population.

5 2. The wrecker company ~~person or firm~~ towing or
6 removing the vehicle or vessel ~~must~~ shall, within 30 minutes
7 after ~~of~~ completion of that ~~such~~ towing or removal, notify the
8 municipal police department or, in an unincorporated area, the
9 sheriff of that ~~such~~ towing or removal; the location of the
10 storage facility; ~~site~~; the time the vehicle or vessel was
11 towed or removed; and the make, model, color, and license
12 plate number of the vehicle or the make, model, color, and
13 registration number of the vessel. The wrecker company must
14 also ~~and shall~~ obtain the name of the person at that
15 department to whom this ~~such~~ information is ~~was~~ reported and
16 note that name on the trip record.

17 3. If the registered owner or other legally authorized
18 person in control of the vehicle or vessel arrives at the
19 scene before ~~prior to removal or towing of~~ the vehicle or
20 vessel is towed or removed, the wrecker company must
21 disconnect the vehicle or vessel ~~shall be disconnected~~ from
22 the wrecker towing or removal apparatus; and must allow that
23 person ~~shall be allowed~~ to remove the vehicle or vessel
24 without interference upon the payment of a reasonable service
25 fee of not more than one-half of the posted rate for those
26 services ~~such towing service~~ as provided in subparagraph 6.,
27 for which a receipt shall be given, unless that person refuses
28 to remove the vehicle or vessel that ~~which~~ is otherwise
29 unlawfully parked or located.

30 4. A wrecker company, a wrecker operator, or another
31 employee or agent of a wrecker company may not give a ~~The~~

1 rebate or pay ~~payment~~ of money or ~~any~~ other valuable
2 consideration ~~from the individual or firm towing or removing~~
3 ~~vehicles~~ to the property owner ~~owners or operators~~ of the
4 premises from which a vehicle or vessel is ~~the vehicles are~~
5 towed or removed, for the privilege of removing or towing the
6 vehicle or vessel ~~those vehicles~~, is prohibited. A property
7 owner may not solicit a wrecker company, a wrecker operator,
8 or another employee or agent of a wrecker company to give him
9 or her a rebate or the payment of money or other valuable
10 consideration for the privilege of removing or towing a
11 vehicle from his or her premises.

12 5. Except for property appurtenant to and obviously a
13 part of a single-family residence, and except for instances
14 when notice is personally given to the owner or other legally
15 authorized person in control of the vehicle or vessel that the
16 area in which that vehicle or vessel is parked is reserved or
17 otherwise unavailable for unauthorized vehicles or vessels and
18 subject to being removed at the owner's or operator's expense,
19 any property owner ~~or lessee, or person authorized by the~~
20 ~~property owner or lessee, before~~ prior to towing or removing
21 any vehicle or vessel from real ~~private~~ property without the
22 consent of the owner or other legally authorized person in
23 control of that vehicle or vessel, must post a notice meeting
24 the following requirements:

25 a. The notice must be prominently placed at each
26 driveway access or curb cut allowing vehicular access to the
27 property, within 5 feet from the public right-of-way line. If
28 there are no curbs or access barriers, the signs must be
29 posted not less than one sign for each 25 feet of lot
30 frontage.

31

1 b. The notice must clearly indicate, in not less than
2 2-inch high, light-reflective letters on a contrasting
3 background, that unauthorized vehicles will be towed away at
4 the owner's expense. The words "tow-away zone" must be
5 included on the sign in not less than 4-inch high letters.

6 c. The notice must also provide the name and current
7 telephone number of the wrecker company ~~person or firm~~ towing
8 or removing the vehicles, if the property owner, ~~lessee, or~~
9 ~~person in control~~ of the real property has a written contract
10 with the wrecker ~~towing~~ company.

11 d. The sign structure containing the required notices
12 must be permanently installed with the words "tow-away zone"
13 not less than 3 feet and not more than 6 feet above ground
14 level and must be continuously maintained on the property for
15 not less than 24 hours prior to the towing or removal of any
16 vehicles.

17 e. The local government may require permitting and
18 inspection of these signs prior to any towing or removal of
19 vehicles being authorized.

20 f. A business with 20 or fewer parking spaces
21 satisfies the notice requirements of this subparagraph by
22 prominently displaying a sign stating "Reserved Parking for
23 Customers Only Unauthorized Vehicles Will be Towed Away At the
24 Owner's Expense" in not less than 4-inch high,
25 light-reflective letters on a contrasting background.

26 g. A property owner towing or removing vessels from
27 real property must post notice, consistent with the
28 requirements in sub-subparagraphs a.-f. which apply to
29 vehicles, that unauthorized vehicles or vessels will be towed
30 away at the owner's expense.

31

1 A business owner or lessee may authorize the removal of a
2 vehicle or vessel by a wrecker towing company registered under
3 chapter 508 when the vehicle or vessel is parked in ~~such~~ a
4 manner that restricts the normal operation of business; and if
5 a vehicle or vessel parked on a public right-of-way obstructs
6 access to a private driveway the owner, lessee, or agent may
7 have the vehicle or vessel removed by a wrecker towing company
8 registered under chapter 508 upon signing an order that the
9 vehicle or vessel be removed without a posted tow-away zone
10 sign.

11 6. Each wrecker company ~~Any person or firm~~ that tows
12 or removes vehicles or vessels and proposes to require an
13 owner, operator, or person in control of a vehicle or vessel
14 to pay the costs of towing and storage prior to redemption of
15 the vehicle or vessel must file and keep on record with the
16 local law enforcement agency a complete copy of the current
17 rates to be charged for those ~~such~~ services and post at the
18 wrecker company's storage facility ~~site~~ an identical rate
19 schedule and any written contracts with property owners,
20 lessees, or persons in control of real property which
21 authorize the wrecker company ~~such person or firm~~ to remove
22 vehicles or vessels as provided in this section.

23 7. Each wrecker company ~~Any person or firm~~ towing or
24 removing any vehicles or vessels from real ~~private~~ property
25 without the consent of the owner or other legally authorized
26 person in control of the vehicles must ~~shall~~, on each wrecker
27 ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s. 713.78(1)(c)~~,
28 ~~or other vehicles~~ used in the towing or removal, have the
29 name, address, and telephone number of the wrecker company
30 ~~performing such service~~ clearly printed in contrasting colors
31 on the driver and passenger sides of the wrecker vehicle. The

1 name must ~~shall~~ be in at least 3-inch permanently affixed
2 letters, and the address and telephone number must ~~shall~~ be in
3 at least 1-inch permanently affixed letters.

4 8. Vehicle or vessel entry for the purpose of towing
5 or removing the vehicle or vessel is ~~shall be~~ allowed with
6 reasonable care by on the part of the wrecker company and the
7 wrecker operators person or firm towing the vehicle or vessel
8 for the wrecker company. A wrecker company, its wrecker
9 operators, and other employees or agents of the wrecker
10 company are not ~~Such person or firm shall be~~ liable for any
11 damage occasioned to the vehicle or vessel if ~~such~~ entry to
12 the vehicle or vessel is performed ~~not in accordance~~ with the
13 ~~standard of~~ reasonable care.

14 9. When a vehicle or vessel is ~~has been~~ towed or
15 removed under ~~pursuant to~~ this section, the wrecker company it
16 must release the vehicle or vessel ~~be released~~ to its owner or
17 custodian within one hour after requested. Any vehicle or
18 vessel owner, custodian, or agent ~~has~~ ~~shall have~~ the right to
19 inspect the vehicle or vessel before accepting its return. A
20 wrecker company may not require any vehicle or vessel owner,
21 custodian, or agent to, and no release the wrecker company or
22 waiver of any kind which would release the person or firm
23 towing the vehicle or vessel from liability for damages noted
24 by the owner or other legally authorized person at the time of
25 the redemption ~~may be required from any vehicle owner,~~
26 ~~custodian, or agent~~ as a condition of release of the vehicle
27 or vessel to its owner. A wrecker company must give a person
28 paying towing and storage charges under this section a
29 detailed, signed receipt showing the legal name of the wrecker
30 company or person towing or removing the vehicle must be given
31

1 ~~to the person paying towing or storage charges~~ at the time of
2 payment, whether requested or not.

3 (b) These requirements are ~~shall be the~~ minimum
4 standards and do ~~shall~~ not preclude enactment of additional
5 regulations by any municipality or county, including the
6 regulation of right to regulate rates when vehicles or vessels
7 are towed from real ~~private~~ property.

8 (3) This section does not apply to vehicles or vessels
9 that are reasonably identifiable from markings as law
10 enforcement, firefighting, rescue squad, ambulance, or other
11 emergency vehicles or vessels ~~which are marked as such~~ or to
12 property owned by any governmental entity.

13 (4) When a person improperly causes a vehicle or
14 vessel to be removed, that ~~such~~ person is ~~shall be~~ liable to
15 the owner or lessee of the vehicle or vessel for the cost of
16 removal, transportation, and storage; any damages resulting
17 from the removal, transportation, or storage of the vehicle or
18 vessel; attorneys' fees; and court costs.

19 (5) Failure to make good-faith efforts to comply with
20 the notice requirements in subparagraph (2)(a)5. precludes the
21 imposition of any towing or storage charges against the
22 vehicle or vessel.

23 (6)(5)(a) Any person who violates ~~the provisions of~~
24 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is
25 ~~guilty of~~ a misdemeanor of the first degree, punishable as
26 provided in s. 775.082 or s. 775.083.

27 (b) Any person who violates ~~the provisions of~~
28 subparagraph (2)(a)1., subparagraph (2)(a)3., subparagraph
29 (2)(a)4., subparagraph (2)(a)7., or subparagraph (2)(a)9.
30 commits is ~~guilty of~~ a felony of the third degree, punishable
31 as provided in s. 775.082, s. 775.083, or s. 775.084.

