

By the Committee on Transportation; and Senators Crist and Bennett

306-2274-03

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, vessels, or mobile
3 homes; providing definitions; conforming
4 provisions to changes made by the act;
5 providing for attorney's fees to be awarded to
6 the prevailing party for a frivolous claim of
7 wrongful taking or claim of lien; providing
8 immunity from liability for a wrecker company,
9 its operators, and other employees or agents if
10 services are performed with reasonable care or
11 for complying with the directions of a law
12 enforcement officer; providing for the owner of
13 a vehicle, vessel, or mobile home to dispute a
14 claim of lien by a wrecker company based on a
15 record of sale; clarifying that the amendments
16 made by the act do not affect the validity of
17 prior liens; amending s. 715.07, F.S., relating
18 to 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

31

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 or vessels upon the streets and highways of
16 this state and that is equipped for that purpose with a boom,
17 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 or a
27 wrecker must ~~shall be required to~~ display the registration
28 license plate only on the front of such vehicle.

29 Section 9. For the purpose of incorporating the
30 amendment made by this act to section 320.01, Florida
31 Statutes, in references thereto, paragraphs (d) and (e) of

1 subsection (5) of section 320.08, Florida Statutes, are
2 reenacted to read:

3 320.08 License taxes.--Except as otherwise provided
4 herein, there are hereby levied and imposed annual license
5 taxes for the operation of motor vehicles, mopeds, motorized
6 bicycles as defined in s. 316.003(2), and mobile homes, as
7 defined in s. 320.01, which shall be paid to and collected by
8 the department or its agent upon the registration or renewal
9 of registration of the following:

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

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

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

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

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

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

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

31

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

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

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

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

9 9. Gross vehicle weight of 72,000 pounds or more:
10 \$979 flat.

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

14 320.0821 Wrecker license plates.--

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

24 (5) A wrecker license plate must be displayed on the
25 front of such vehicle.

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

29 320.0821 Wrecker license plates.--

30 (1) The department shall issue one wrecker license
31 plate, regardless of gross vehicle weight, to the owner of a

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

12 Section 12. Paragraph (a) of subsection (1) of section
13 320.13, Florida Statutes, is amended to read:

14 320.13 Dealer and manufacturer license plates and
15 alternative method of registration.--

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

29 Section 13. Effective January 1, 2004, section
30 321.051, Florida Statutes, is amended to read:

31 (Substantial rewording of section. See

1 s. 321.051, F.S., for present text.)
2 321.051 Florida Highway Patrol wrecker allocation
3 system; penalties for operation outside of system.--
4 (1) As used in this section, the term:
5 (a) "Division" means the Division of the Florida
6 Highway Patrol within the Department of Highway Safety and
7 Motor Vehicles.
8 (b) "Authorized wrecker company" means a wrecker
9 company designated by the division as part of its wrecker
10 allocation system.
11 (c) "Unauthorized wrecker company" means a wrecker
12 company not designated by the division as part of its wrecker
13 allocation system.
14 (d) "Wrecker company" has the same meaning ascribed in
15 s. 508.01.
16 (e) "Wrecker operator" has the same meaning ascribed
17 in s. 508.01.
18 (f) "Wrecker services" has the same meaning ascribed
19 in s. 508.01.
20 (2)(a) The division may establish within areas
21 designated by the division a wrecker allocation system, using
22 qualified, reputable wrecker companies, for the removal from
23 crash scenes and the storage of wrecked or disabled vehicles
24 when the owner or operator is incapacitated, unavailable, or
25 leaves the procurement of wrecker services to the officer at
26 the scene and for the removal and storage of abandoned
27 vehicles.
28 (b) The wrecker allocation system may use only wrecker
29 companies registered under chapter 508. Each reputable wrecker
30 company registered under chapter 508 is eligible for use in
31 the system if its equipment and wrecker operators meet the

1 recognized safety qualifications and mechanical standards set
2 by the division's rules for the size of vehicle they are
3 designed to handle. The division may limit the number of
4 wrecker companies participating in the wrecker allocation
5 system.

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

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

22 (3)(a) An unauthorized wrecker company, its wrecker
23 operators, or its other employees or agents may not monitor a
24 police radio for communications between patrol field units and
25 the dispatcher in order to determine the location of a wrecked
26 or disabled vehicle for the purpose of dispatching its wrecker
27 operator to drive by the scene of the vehicle in a manner
28 described in paragraph (b) or paragraph (c). Any person who
29 violates this paragraph commits a noncriminal violation,
30 punishable as provided in s. 775.083.

31

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

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

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

28 (4) This section does not prohibit, or in any way
29 prevent, the owner or operator of a vehicle involved in a
30 crash or otherwise disabled from contacting any wrecker
31 company for the provision of wrecker services, regardless of

1 whether the wrecker company is an authorized wrecker company
2 or not. However, if a law enforcement officer determines that
3 the disabled vehicle or vehicle cargo is a public safety
4 hazard, the officer may, in the interest of public safety,
5 dispatch an authorized wrecker company if the officer believes
6 that the authorized wrecker company would arrive at the scene
7 before the wrecker company requested by the owner or operator
8 of the disabled vehicle or vehicle cargo.

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

25 Section 14. Effective January 1, 2004, section
26 323.001, Florida Statutes, is amended to read:

27 (Substantial rewording of section. See
28 s. 323.001, F.S., for present text.)

29 323.001 Wrecker company storage facilities; vehicle
30 holds.--

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

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

3 (b) "Wrecker company" has the same meaning ascribed in
4 s. 508.01.

5 (2) A law enforcement agency may place a hold on a
6 motor vehicle stored within a wrecker company's storage
7 facility for 5 business days, thereby preventing a motor
8 vehicle from being released to its owner.

9 (3) To extend a hold, the law enforcement agency must
10 notify the wrecker company in writing within the 5 business
11 days. If notification is not made within the 5 business days,
12 the wrecker company must release the vehicle to the designated
13 person under s. 713.78.

14 (a) If the hold is extended beyond the 5 business
15 days, the law enforcement agency may have the vehicle removed
16 to a designated impound lot, in which event the vehicle may
17 not be released by the law enforcement agency to the owner or
18 lienholder of the vehicle until proof of payment of the towing
19 and storage charges incurred by the wrecker company is
20 presented to the law enforcement agency.

21 (b) If the law enforcement agency chooses to have the
22 vehicle remain at the wrecker company's storage facility for
23 more than 5 business days under the written notification, the
24 law enforcement agency is responsible for paying the storage
25 charges incurred by the wrecker company for the requested
26 extended period. In such an event, the owner or lienholder is
27 responsible for paying the accrued towing and storage charges
28 for the first 5 business days, or any period less than the
29 first 5 business days, if the law enforcement agency moves the
30 vehicle from the wrecker company's storage facility to a
31 designated impound lot or provides written notification to

1 extend the hold on the vehicle before the expiration of the 5
2 business days.

3 (c) The towing and storage rates for the owner or
4 lienholder of the held vehicle may not exceed the rates for
5 the law enforcement agency.

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

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

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

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

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

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

26 (e) The law enforcement officer has probable cause to
27 believe that the vehicle was involved in a traffic accident
28 resulting in death or personal injury and should be sealed for
29 investigation and collection of evidence by a vehicular
30 homicide investigator;

31

1 (f) The vehicle is impounded or immobilized under s.
2 316.193 or s. 322.34; or

3 (g) The law enforcement officer is complying with a
4 court order.

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

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

8 (b) The date and time the hold is placed on the
9 vehicle;

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

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

16 (e) The condition of the vehicle;

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

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

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

26 (8) When a vehicle owner is found guilty of, or pleads
27 nolo contendere to, the offense that resulted in a hold being
28 placed on his or her vehicle, regardless of the adjudication
29 of guilt, the owner must pay the accrued towing and storage
30 charges assessed against the vehicle.

31

1 Section 15. Effective January 1, 2004, section
2 323.002, Florida Statutes, is amended to read:

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

5 323.002 County and municipal wrecker allocation
6 systems; penalties for operation outside of system.--

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

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

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

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

27 (d) "Wrecker company" has the same meaning ascribed in
28 s. 508.01.

29 (e) "Wrecker operator" has the same meaning ascribed
30 in s. 508.01.

31

1 (f) "Wrecker services" has the same meaning ascribed
2 in s. 508.01.

3 (2) In a county or municipality that operates a
4 wrecker allocation system:

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

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

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

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

1 writing, what charges for towing and storage will apply before
2 the vehicle is connected to the towing apparatus. Any person
3 who violates this paragraph commits a misdemeanor of the
4 second degree, punishable as provided in s. 775.082 or s.
5 775.083.

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

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

24 (4) A law enforcement officer may dispatch an
25 authorized wrecker company out of rotation to the scene of a
26 wrecked or disabled vehicle if the authorized wrecker company
27 next on rotation is not equipped to provide the required
28 wrecker services and the out-of-rotation authorized wrecker
29 company is available with the required equipment. However,
30 this subsection does not prohibit or prevent the owner or
31 operator of a vehicle involved in a crash or otherwise

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

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

14 CHAPTER 508

15 WRECKER SERVICES

16 508.01 Definitions.--As used in this chapter, the
17 term:

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

23 (2) "Council" means the Wrecker Operator Advisory
24 Council.

25 (3) "Department" means the Department of Agriculture
26 and Consumer Services.

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

30 (5) "Ultimate equitable owner" means a natural person
31 who, directly or indirectly, owns or controls 10 percent or

1 more of an ownership interest in a wrecker company, regardless
2 of whether the natural person owns or controls the ownership
3 interest through one or more natural persons or one or more
4 proxies, powers of attorney, nominees, business entities, or
5 any combination thereof.

6 (6) "Vehicle" means any vehicle of a type that may be
7 registered under chapter 320 for operation on the roads of
8 this state, regardless of whether the vehicle is actually
9 registered. The term does not include a mobile home or
10 manufactured home as defined in s. 320.01.

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

15 (8) "Wrecker" has the same meaning ascribed in s.
16 320.01.

17 (9) "Wrecker company" means a business entity engaged
18 for hire in the business of towing, carrying, or transporting
19 vehicles or vessels by wrecker upon the streets and highways
20 of this state. The term does not include a person regularly
21 engaged in the business of transporting mobile homes.

22 (10) "Wrecker operator" means a person who performs
23 wrecker services.

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

28 (a) Driving a wrecker.

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

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 or
6 vessel 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 or vessel.

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 (3) This section does not apply to a motor vehicle
22 repair shop registered with the department under s. 559.904
23 which derives at least 80 percent of its gross sales from
24 motor vehicle repairs.

25 508.05 Registration requirements; renewal of
26 registrations.--

27 (1) Each wrecker company engaged or attempting to
28 engage for hire in the business of towing, carrying, or
29 transporting vehicles, vessels, or mobile homes by wrecker
30 upon the streets and highways of this state must annually
31 register with the department on forms prescribed by the

1 department. The application for registration must include at
2 least the following information:
3 (a) The name and federal employer identification
4 number of the wrecker company.
5 (b) The mailing address, physical address, and
6 telephone number of the wrecker company's primary place of
7 business.
8 (c) The fictitious name under which the wrecker
9 company transacts business in this state.
10 (d) The full name, residence address, business
11 address, and telephone number of the applicant. If the
12 applicant is other than a natural person, the application must
13 also contain the full name, residence address, business
14 address, telephone number, and federal employer identification
15 number, if applicable, of each ultimate equitable owner of the
16 business entity and each officer, director, partner, manager,
17 member, or managing member of the entity.
18 (e) If the applicant is other than a natural person,
19 the full name of the business entity's registered agent and
20 the address of the registered office for service of process.
21 (f) The physical address and telephone number of each
22 business location and each storage facility where the wrecker
23 company stores towed vehicles, vessels, or mobile homes.
24 (2) Each initial and renewal application for
25 registration must be accompanied by the registration fee
26 prescribed in s. 508.16.
27 (3) Each initial application for registration must be
28 accompanied by a complete set of the applicant's fingerprints
29 taken by an authorized law enforcement officer. If the
30 applicant is other than a natural person, a complete set of
31 fingerprints must also be filed for each ultimate equitable

1 owner of the business entity and each officer, director,
2 partner, manager, member, or managing member of the entity.
3 The department shall submit the fingerprints to the Department
4 of Law Enforcement for state processing, and the Department of
5 Law Enforcement shall forward the fingerprints to the Federal
6 Bureau of Investigation for national processing. The applicant
7 must also pay the cost of fingerprint processing. Registration
8 renewal applications need not be accompanied by a set of
9 fingerprints for an individual who previously submitted a set
10 of fingerprints to the department as part of a prior year's
11 registration application.

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

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

22 (6) A registration is invalid for a wrecker company
23 transacting business at a place other than the location
24 designated in the registration application unless the
25 department is first notified in writing before the change of
26 location. A registration issued under this chapter is not
27 transferable or assignable, and a wrecker company may not
28 conduct business under a name other than as registered. A
29 wrecker company desiring to change its registered name,
30 location, or registered agent for service of process at a time
31

1 other than upon renewal of registration must notify the
2 department of the change.

3 (7)(a) Each registration must be renewed annually on
4 or before the expiration date of the current registration. A
5 late fee of \$25 must be paid, in addition to the registration
6 fee or any other penalty, for a registration renewal
7 application that is received by the department after the
8 expiration date of the current registration. The department
9 may not issue a registration until all fees are paid.

10 (b) A wrecker company whose primary place of business
11 is located within a county or municipality that requires, by
12 local ordinance, a local occupational license under chapter
13 205 may not renew a license under this chapter unless the
14 wrecker company obtains the occupational license from the
15 county or municipality.

16 (8) Each wrecker company must provide the department
17 with a certificate of insurance for the required insurance
18 coverage under s. 627.7415 before the department may issue the
19 registration certificate for an initial or renewal
20 registration. The department must be named as a
21 certificateholder on the insurance certificate and must be
22 notified at least 30 days before any change in insurance
23 coverage.

24 (9) The department shall report each change in the
25 registration status of a wrecker company, including, but not
26 limited to, the initial registration and the renewal,
27 revocation, cancellation, or refusal to renew a registration,
28 to the Department of Highway Safety and Motor Vehicles within
29 5 days after the effective date of the change in the
30 registration status.

31

1 508.06 Denial of registration.--The department may
2 deny, revoke, or refuse to renew the registration of a wrecker
3 company based upon a determination that the applicant or, if
4 the applicant is other than a natural person, the wrecker
5 company or any of its ultimate equitable owners, officers,
6 directors, partners, managers, members, or managing members
7 has:

8 (1) Not met the requirements for registration under
9 this chapter;

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

13 (3) Been convicted of, found guilty of, or pled guilty
14 or nolo contendere to, regardless of the adjudication of
15 guilt, a crime within the last 10 years involving repossession
16 of a motor vehicle under chapter 493; repair of a motor
17 vehicle under ss. 559.901-559.9221; theft of a motor vehicle
18 under s. 812.014; carjacking under s. 812.133; operation of a
19 chop shop under s. 812.16; failure to maintain records of
20 motor vehicle parts and accessories under s. 860.14; airbag
21 theft or use of fake airbags under s. 860.145 or s. 860.146;
22 overcharging for repairs and parts under s. 860.15; or a
23 violation of towing or storage requirements for a motor
24 vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07,
25 or this chapter;

26 (4) Not satisfied a civil fine or penalty arising out
27 of an administrative or enforcement action brought by the
28 department, another governmental agency, or a private person
29 based upon conduct involving a violation of this chapter;
30
31

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

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

6 508.07 Wrecker operator certification program.--

7 (1) The department, in consultation with the council,
8 shall establish a wrecker operator certification program by
9 December 31, 2003. Under this program, the council shall
10 approve certification courses for wrecker operators conducted
11 by approved organizations. The council shall prescribe the
12 minimum curricula for these courses, which must comprise at
13 least 16 hours, equally apportioned between theoretical
14 instruction and practical training. The council must approve
15 each organization and its certification course before the
16 course is accepted for certification of wrecker operators
17 under this chapter.

18 (2) Each approved wrecker operator certification
19 course must include a certification examination demonstrating
20 a wrecker operator's knowledge, skills, and abilities in
21 performing wrecker services and in the instruction and
22 training of the certification course. The council must approve
23 each certification examination before the examination is
24 accepted for certification of wrecker operators under this
25 chapter.

26 (3) Each organization conducting an approved wrecker
27 operator certification course must issue on forms prescribed
28 by the department a certificate to each wrecker operator who
29 completes the approved certification course or who passes the
30 approved certification examination.

31 508.08 Specialized wrecker services.--

1 (1) In addition to the minimum curricula for
2 certification of wrecker operators, each approved
3 certification course must offer optional instruction,
4 training, and examination of wrecker operators for each of the
5 following specialized wrecker services:

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

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

11 (c) Heavy duty.--Towing and winching a standard
12 large-sized commercial vehicle, and uprighting such an
13 overturned vehicle.

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

17 (e) Rollback wrecker.--Proper loading, securing,
18 transporting, and unloading of a vehicle on a flatbed-rollback
19 wrecker.

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

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

25 (2) The department shall adopt rules prescribing
26 specific standards to further define each of the specialized
27 wrecker services described in subsection (1). The council must
28 approve the instruction, training, and examination for a
29 specialized wrecker service before the specialized wrecker
30 service is accepted for endorsement of a wrecker operator's
31 certification under this chapter.

1 (3) Each organization conducting an approved wrecker
2 operator certification course must issue on forms prescribed
3 by the department a certificate to each wrecker operator who
4 completes the approved instruction and training for a
5 specialized wrecker service or who passes the approved
6 endorsement examination for that specialized wrecker service.

7 508.09 Certification cards.--

8 (1) Each organization conducting an approved wrecker
9 operator certification course must issue a certification card
10 to each wrecker operator who completes the approved
11 certification course and passes the approved certification
12 examination. The department must approve the form of the
13 certification cards issued by each organization. Each
14 certification card must include the wrecker operator's name, a
15 color photograph or digital image of the wrecker operator, and
16 the expiration date of the certification card.

17 (2) Each certification card must also include the
18 wrecker operator's applicable endorsements for specialized
19 wrecker services, for which the wrecker operator completed the
20 approved instruction and training for the specialized wrecker
21 service and passed the approved endorsement examination for
22 that specialized wrecker service.

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

25 (a) Completes a certification course and passes a
26 certification examination in another state which are
27 substantially equivalent to the approved certification courses
28 and approved certification examinations in this state.

29 (b) Completed a certification course and passed a
30 certification examination in this state between January 1,
31 1999, and December 31, 2003, which are substantially

1 equivalent to the approved certification courses and the
2 approved certification examinations. This paragraph expires
3 July 1, 2004.

4 (c) Completed instruction and training for a
5 specialized wrecker service and passed an endorsement
6 examination for that specialized wrecker service between
7 January 1, 1999, and December 31, 2003, which are
8 substantially equivalent to the approved instruction and
9 training and the approved endorsement examinations. This
10 paragraph expires July 1, 2004.

11
12 For the purposes of this subsection, the council shall approve
13 each certification examination in another state, and shall
14 approve the instruction, training, and examination for each
15 specialized wrecker service in another state, which the
16 council determines are substantially equivalent to the
17 approved certification courses and approved certification
18 examinations in this state or to the approved instruction,
19 training, and endorsement examinations for a specialized
20 wrecker service in this state.

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

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

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

30 (1) A person may not perform wrecker services in this
31 state unless he or she is an employee or ultimate equitable

1 owner of a wrecker company that is registered with the
2 department under this chapter and those wrecker services are
3 performed on behalf of the wrecker company.

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

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

13 (3)(a) Notwithstanding subsections (1) and (2), a
14 person may perform wrecker services or specialized wrecker
15 services in this state if he or she is an employee or ultimate
16 equitable owner of a motor vehicle repair shop registered with
17 the department under s. 559.904 and those wrecker services or
18 specialized wrecker services are performed on behalf of the
19 motor vehicle repair shop.

20 (b) Notwithstanding subsections (1) and (2), a person
21 may perform wrecker services or specialized wrecker services
22 in this state if those wrecker services or specialized wrecker
23 services are performed on behalf of a religious organization
24 that holds a current exemption from federal taxation or that
25 is not required to apply for recognition of its exemption,
26 under s. 501 of the Internal Revenue Code.

27 (4) The department may, at any time during business
28 hours, enter any business location of a wrecker company and
29 examine the company's books or records. If the department
30 reasonable believes a violation of this chapter has occurred
31

1 or is occurring, the department may subpoena any necessary
2 books or records.

3 508.11 Renewal of certification; continuing education
4 requirements.--The department may prescribe by rule continuing
5 education requirements of up to 8 hours for the renewal of a
6 wrecker operator's certification.

7 508.12 Prohibited acts.--It is a violation of this
8 chapter for a wrecker company, its wrecker operators, or other
9 employees or agents of the wrecker company to:

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

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

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

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

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

22 (6) Refuse to allow a law enforcement officer to
23 inspect a towing and storage facility, as required in s.
24 812.055.

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

30 (8) Allow a wrecker operator certified under this
31 chapter to perform a specialized wrecker service for the

1 wrecker company if the wrecker operator's certification does
2 not include an endorsement for that specialized wrecker
3 service.

4 (9) Perform an act otherwise prohibited by this
5 chapter or fail to perform an act otherwise required by this
6 chapter.

7 508.13 Administrative penalties; inspection of
8 records.--

9 (1) The department may order one or more of the
10 following if the department finds that a wrecker company has
11 violated this chapter or the rules or orders issued under this
12 chapter:

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

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

16 (c) Direct the wrecker company to cease and desist
17 specified activities.

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

20 (e) Place the wrecker company on probation for a
21 period of time, subject to the conditions specified by the
22 department.

23 (2) Chapter 120 shall govern an administrative
24 proceeding resulting from an order imposing a penalty
25 specified in subsection (1).

26 508.14 Civil penalties.--The department may bring a
27 civil action in a court of competent jurisdiction to recover
28 any penalties or damages allowed in this chapter and for
29 injunctive relief to enforce compliance with this chapter. The
30 department may seek a civil penalty of up to \$5,000 for each
31 violation of this chapter and may seek restitution for and on

1 behalf of any owner of a vehicle, vessel, or mobile home who
2 is aggrieved or injured by a violation of this chapter.

3 508.15 Criminal penalties.--Effective July 1, 2004:

4 (1) A person who violates s. 508.04(1) by operating a
5 wrecker company in this state without being registered with
6 the department under this chapter commits a felony of the
7 third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084.

9 (2) A person who violates s. 508.10(1) by performing
10 wrecker services in this state without being an employee or
11 ultimate equitable owner of a wrecker company that is
12 registered with the department under this chapter commits a
13 felony of the third degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084.

15 508.16 Fees.--The department shall adopt by rule a fee
16 schedule, not to exceed the following amounts:

17 (1) Wrecker company registration fee, \$425.

18 (2) Wrecker company registration renewal fee, \$425.

19 508.17 General Inspection Trust Fund; payments.--All
20 fees, penalties, or other funds collected by the department
21 under this chapter must be deposited in the General Inspection
22 Trust Fund and may only be used for the purpose of
23 administering this chapter.

24 508.18 Recovery agents; exemption.--This chapter does
25 not apply to a person licensed under chapter 493 performing
26 repossession services.

27 508.19 County and municipal ordinances.--A county or
28 municipality may enact ordinances governing the business of
29 transporting vehicles or vessels by wrecker which are more
30 restrictive than this chapter. This section does not limit the
31 authority of a political subdivision to impose regulatory fees

1 or charges or to levy occupational license taxes under chapter
2 205.

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

5 713.78 Liens for recovering, towing, or storing
6 vehicles and vessels.--

7 (13)(a) Upon receipt by the Department of Highway
8 Safety and Motor Vehicles of written notice from a wrecker
9 operator who claims a wrecker operator's lien under paragraph
10 (2)(c) or paragraph (2)(d) for recovery, towing, or storage of
11 an abandoned vehicle, vessel, or mobile home upon instructions
12 from any law enforcement agency, for which a certificate of
13 destruction has been issued under subsection (11), the
14 department shall place the name of the registered owner of
15 that vehicle, vessel, or mobile home on 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). If the
18 vehicle, vessel, or mobile home is owned jointly by more than
19 one person, the name of each registered owner shall be placed
20 on the list. The notice of wrecker operator's lien shall be
21 submitted on forms provided by the department, which must
22 include:

23 1. The name, address, and telephone number of the
24 wrecker 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 operator provided notice of the lien to the registered owner
28 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 operator's lien, not to
11 exceed the amount allowed by paragraph (b).

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

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

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

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

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

28 | 3. If a person against whom a wrecker operator's lien
29 | has been imposed does not object to the lien, but cannot
30 | discharge the lien by payment because the wrecker operator has
31 | moved or gone out of business, the person may have her or his

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

20 4. A wrecker operator's lien expires 5 years after
21 filing.

22 (d) Upon discharge of the amount of the wrecker
23 operator's lien allowed by paragraph (b), the wrecker operator
24 must issue a certificate of discharged wrecker operator's lien
25 on forms provided by the department to each registered owner
26 of the vehicle, vessel, or mobile home attesting that the
27 amount of the wrecker operator's lien allowed by paragraph (b)
28 has been discharged. Upon presentation of the certificate of
29 discharged wrecker operator's lien by the registered owner,
30 the department shall immediately remove the registered owner's
31 name 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. Issuance of a certificate of
4 discharged wrecker operator's lien under this paragraph does
5 not discharge the entire amount of the wrecker operator's lien
6 claimed under subsection (2), but only certifies to the
7 department that the amount of the wrecker operator's lien
8 allowed by paragraph (b), for which the department will
9 prevent issuance of a license plate or revalidation sticker,
10 has been discharged.

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

18 (f) This subsection applies only to the annual renewal
19 in the registered owner's birth month of a motor vehicle
20 registration and does not apply to the transfer of a
21 registration of a motor vehicle sold by a motor vehicle dealer
22 licensed under chapter 320, except for the transfer of
23 registrations which is inclusive of the annual renewals. This
24 subsection does not apply to any vehicle registered in the
25 name of a lessor. This subsection does not affect the issuance
26 of the title to a motor vehicle, notwithstanding s.
27 319.23(7)(b).

28 (g) The Department of Highway Safety and Motor
29 Vehicles may adopt rules under ~~pursuant to~~ ss. 120.536(1) and
30 120.54 to implement this subsection.

31

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

3 713.78 Liens for recovering, towing, or storing
4 vehicles and vessels.--

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

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

9 (b) "Mobile home" means a mobile home or manufactured
10 home as those terms are defined in s. 320.01.

11 (c) "Property owner" has the same meaning ascribed in
12 s. 715.07.

13 (d)~~(a)~~ "Vehicle" has the same meaning ascribed in s.
14 508.01 ~~means any mobile item, whether motorized or not, which~~
15 ~~is mounted on wheels.~~

16 (e)~~(b)~~ "Vessel" has the same meaning ascribed in s.
17 508.01 ~~means every description of watercraft, barge, and air~~
18 ~~boat used or capable of being used as a means of~~
19 ~~transportation on water, other than a seaplane or a~~
20 ~~"documented vessel" as defined in s. 327.02(8).~~

21 (f)~~(c)~~ "Wrecker" has the same meaning ascribed in s.
22 320.01 ~~means any truck or other vehicle which is used to tow,~~
23 ~~carry, or otherwise transport motor vehicles or vessels upon~~
24 ~~the streets and highways of this state and which is equipped~~
25 ~~for that purpose with a boom, winch, car carrier, or other~~
26 ~~similar equipment.~~

27 (g) "Wrecker company" has the same meaning ascribed in
28 s. 508.01.

29 (h) "Wrecker operator" has the same meaning ascribed
30 in s. 508.01.

31

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

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

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

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

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

15
16 the wrecker company, or the person regularly engaged in the
17 business of transporting mobile homes, has ~~she or he shall~~
18 ~~have~~ a lien on the such vehicle, ~~or~~ vessel, or mobile home for
19 a reasonable towing fee and for a reasonable storage fee;
20 except that a no storage fee may not ~~shall~~ be charged if a
21 ~~such~~ vehicle or vessel is stored ~~for~~ less than 6 hours.

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

26 (4)(a) Any wrecker company, or any person regularly
27 engaged in the business of transporting mobile homes, that
28 ~~recovering, towing, or storing vehicles or vessels who~~ comes
29 into possession of a vehicle, ~~or~~ vessel, or mobile home under
30 ~~pursuant to~~ subsection (2), and who claims a lien for
31 recovery, towing, or storage services, must ~~shall~~ give notice

1 to the registered owner, the insurance company insuring the
2 vehicle notwithstanding the provisions of s. 627.736, and to
3 all persons claiming a lien on the vehicle, vessel, or mobile
4 home ~~thereon~~, as disclosed by the records in the Department of
5 Highway Safety and Motor Vehicles or of a corresponding agency
6 in any other state.

7 (b) Whenever a ~~any~~ law enforcement agency authorizes
8 the removal of a vehicle, or whenever a wrecker company ~~any~~
9 ~~towing service, garage, repair shop, or automotive service,~~
10 ~~storage, or parking place~~ notifies the law enforcement agency
11 of possession of a vehicle under ~~pursuant to~~ s.

12 715.07(2)(a)2., the applicable law enforcement agency shall
13 contact the Department of Highway Safety and Motor Vehicles,
14 or the appropriate agency of the state of registration, if
15 known, within 24 hours through the medium of electronic
16 communications, giving the full description of the vehicle.
17 Upon receipt of the full description of the vehicle, the
18 department shall search its files to determine the owner's
19 name, the insurance company insuring the vehicle, and whether
20 any person has filed a lien upon the vehicle as provided in s.
21 319.27(2) and (3) and notify the applicable law enforcement
22 agency within 72 hours. The wrecker company ~~must~~ ~~person in~~
23 ~~charge of the towing service, garage, repair shop, or~~
24 ~~automotive service, storage, or parking place~~ shall obtain
25 this ~~such~~ information from the applicable law enforcement
26 agency within 5 days after ~~from~~ the date of storage and must
27 ~~shall~~ give notice under ~~pursuant to~~ paragraph (a). The
28 department may release the insurance company information to
29 the requestor notwithstanding ~~the provisions of~~ s. 627.736.

30 (c) Notice by certified mail, return receipt
31 requested, must ~~shall~~ be sent within 7 business days after the

1 date of storage of the vehicle or vessel to the registered
2 owner, the insurance company insuring the vehicle
3 notwithstanding the provisions of s. 627.736, and all persons
4 of record claiming a lien against the vehicle or vessel. The
5 notice must ~~it shall~~ state the fact of possession of the
6 vehicle or vessel, that a lien as provided in subsection (2)
7 is claimed, that charges have accrued and the amount of the
8 charges thereof, that the lien is subject to enforcement under
9 ~~pursuant to law, and~~ that the owner or lienholder, if any, has
10 the right to a hearing as set forth in subsection (5), and
11 that any vehicle or vessel which remains unclaimed, or for
12 which the charges for recovery, towing, or storage services
13 remain unpaid, may be sold free of all prior liens after 35
14 days if the vehicle or vessel is more than 3 years of age or
15 after 50 days if the vehicle or vessel is 3 years of age or
16 less.

17 (d) If the wrecker company is unable ~~attempts~~ to
18 identify the name of locate the owner or lienholder ~~prove~~
19 ~~unsuccessful~~, the wrecker company must ~~towing-storage operator~~
20 ~~shall~~, after 7 business working days following, ~~excluding~~
21 ~~Saturday and Sunday~~, of the initial tow or storage, notify the
22 public agency of jurisdiction in writing by certified mail or
23 acknowledged hand delivery that the wrecker ~~towing-storage~~
24 company has been unable to identify the name of locate the
25 owner or lienholder and a physical search of the vehicle or
26 vessel has disclosed no ownership information and a good faith
27 effort has been made. For purposes of this paragraph and
28 subsection (9), the term "good faith effort" means that the
29 following checks have been performed by the wrecker company to
30 establish prior state of registration and for title:

31

- 1 1. Check of vehicle or vessel for any type of tag, tag
2 record, temporary tag, or regular tag.
- 3 2. Check of law enforcement report for tag number or
4 other information identifying the vehicle or vessel, if the
5 vehicle or vessel was towed at the request of a law
6 enforcement officer.
- 7 3. Check of trip sheet or tow ticket of the wrecker
8 ~~tow truck~~ operator to see if a tag was on vehicle at beginning
9 of tow, if private tow.
- 10 4. If there is no address of the owner on the impound
11 report, check of law enforcement report to see if an
12 out-of-state address is indicated from driver license
13 information.
- 14 5. Check of vehicle or vessel for inspection sticker
15 or other stickers and decals that may indicate a state of
16 possible registration.
- 17 6. Check of the interior of the vehicle or vessel for
18 any papers that may be in the glove box, trunk, or other areas
19 for a state of registration.
- 20 7. Check of vehicle for vehicle identification number.
- 21 8. Check of vessel for vessel registration number.
- 22 9. Check of vessel hull for a hull identification
23 number which should be carved, burned, stamped, embossed, or
24 otherwise permanently affixed to the outboard side of the
25 transom or, if there is no transom, to the outmost seaboard
26 side at the end of the hull that bears the rudder or other
27 steering mechanism.
- 28 (5)(a) The owner of a vehicle, or vessel, or mobile
29 home removed under ~~pursuant to the provisions of~~ subsection
30 (2), or any person claiming a lien, other than the wrecker
31 company or the person regularly engaged in the business of

1 transporting mobile homes ~~towing-storage operator~~, within 10
2 days after the time she or he has knowledge of the location of
3 the vehicle or vessel, may file a complaint in the county
4 court of the county in which the vehicle,or vessel, or mobile
5 home is stored or in which the owner resides to determine if
6 her or his property was wrongfully taken or withheld from her
7 or him.

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

24 (c) Upon determining the respective rights of the
25 parties, the court may award damages and costs to in favor of
26 the prevailing party. The court shall also award reasonable
27 attorney's fees to the prevailing party if the court finds the
28 nonprevailing party filed the complaint primarily to harass,
29 for frivolous purpose, or to needlessly increase the cost of
30 claiming a lien under this section.~~In any event,~~The final
31 order must require ~~shall provide for~~ immediate payment in full

1 of the recovery, towing, and storage fees by the vehicle or
2 vessel owner or lienholder; by ~~or~~ the law enforcement agency
3 ordering the tow; or by the property owner, ~~lessee, or agent~~
4 ~~thereof~~ of the real property from which the vehicle or vessel
5 was towed or removed under s. 715.07.

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

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

26 (7)(a) A wrecker company, its wrecker operators, and
27 other employees or agents of the wrecker company ~~operator~~
28 recovering, towing, or storing vehicles or vessels are ~~is~~ not
29 liable for damages connected with those ~~such~~ services, theft
30 of the ~~such~~ vehicles or vessels, or theft of personal property
31 contained in the ~~such~~ vehicles or vessels, if those ~~provided~~

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

17 (b) Employees or authorized agents of the Department
18 of Transportation or an authorized or unauthorized wrecker
19 company, as defined in s. 321.051 or s. 323.002, may remove a
20 vehicle or vehicle cargo from a public road without consent of
21 the owner or operator of the vehicle or vehicle cargo upon
22 request of a law enforcement officer as defined in s. 112.531,
23 a sheriff or deputy sheriff as defined in s. 30.072, or a
24 firefighter as defined in s. 112.81. The employee or
25 authorized agent of the Department of Transportation, the
26 wrecker company, its wrecker operators, and other employees or
27 agents of the wrecker company, the law enforcement officer,
28 sheriff, or deputy sheriff, and the firefighters and emergency
29 medical services providers are not liable for any property
30 damages or claims of damage for the removal if the vehicle or

31

1 vehicle cargo is removed because it presents an imminent
2 public-safety hazard.

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

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

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

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

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

24 b. A security dog remains at the storage facility from
25 sunset to sunrise;

26 c. Security cameras or other similar surveillance
27 devices monitor the storage facility; or

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

30 (d)(c) Any law enforcement agency requesting that a
31 motor vehicle be removed from an accident scene, street, or

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

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

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

28 (10) Each wrecker company that provides ~~Persons who~~
29 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~
30 permit vehicle or vessel owners or their agents, which agency
31 is evidenced by a writing acknowledged by the owner before a

1 notary public or other person empowered by law to administer
2 oaths, to inspect the towed vehicle or vessel and ~~must shall~~
3 release to the owner or agent all personal property not
4 affixed to the vehicle or vessel which was in the vehicle or
5 vessel at the time the vehicle or vessel came into the custody
6 of the wrecker company person providing those ~~such~~ services.
7 (11)(a) A wrecker company that ~~Any 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 that complies who
11 ~~has complied with the provisions of~~ subsections (3) and (6),
12 when the such vehicle or vessel is to be sold for purposes of
13 being dismantled, destroyed, or changed in a such manner that
14 it is not the motor vehicle, vessel, or mobile home described
15 in the certificate of title, ~~must shall~~ apply to the county
16 tax collector for a certificate of destruction. A certificate
17 of destruction, which authorizes the dismantling or
18 destruction of the vehicle or vessel described on the
19 certificate therein, is shall be reassignable no more than
20 twice a maximum of two times before dismantling or destruction
21 of the vehicle is shall be required, and the certificate must
22 ~~shall~~ accompany the vehicle or vessel for which it is issued,
23 when the such vehicle or vessel is sold for that purpose such
24 ~~purposes~~, in lieu of a certificate of title. The application
25 for a certificate of destruction must include an affidavit
26 from the applicant that it has complied with all applicable
27 requirements of this section and, if the vehicle or vessel is
28 not registered in this state, by a statement from a law
29 enforcement officer that the vehicle or vessel is not reported
30 stolen, and must also shall be accompanied by any other such
31 documentation ~~as may be~~ required by the department.

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

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

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

13 (b) Any person who violates ~~the provisions of~~
14 subsections (8) through (11) commits ~~is guilty of~~ a felony of
15 the third degree, punishable as provided in s. 775.082, s.
16 775.083, or s. 775.084.

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

23 (d) Employees of the Department of Highway Safety and
24 Motor Vehicles and law enforcement officers may ~~are authorized~~
25 ~~to~~ inspect the records of each wrecker company in this state
26 ~~any person regularly engaged in the business of recovering,~~
27 ~~towing, or storing vehicles or vessels or transporting~~
28 ~~vehicles or vessels by wrecker, tow truck, or car carrier,~~ to
29 ensure compliance with the requirements of this section. Any
30 person who fails to maintain records, or fails to produce
31 records when required in a reasonable manner and at a

1 reasonable time, commits a misdemeanor of the first degree,
2 punishable as provided in s. 775.082 or s. 775.083.

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

- 19 1. The name, address, and telephone number of the
20 wrecker company operator.
- 21 2. The name of the registered owner of the vehicle,
22 vessel, or mobile home and the address to which the wrecker
23 company operator provided notice of the lien to the registered
24 owner under subsection (4).
- 25 3. A general description of the vehicle, vessel, or
26 mobile home, including its color, make, model, body style, and
27 year.
- 28 4. The vehicle identification number (VIN);
29 registration license plate number, state, and year; validation
30 decal number, state, and year; mobile home sticker number,
31 state, and year; vessel registration number; hull

1 identification number; or other identification number, as
2 applicable.

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

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

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

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

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

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

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

10
11 If the registered owner's dispute of a wrecker company's or a
12 mobile home transport company's ~~operator's~~ lien complies with
13 one of these criteria, the department shall immediately remove
14 the registered owner's name from the list of those persons who
15 may not be issued a license plate or revalidation sticker for
16 any motor vehicle under s. 320.03(8), thereby allowing
17 issuance of a license plate or revalidation sticker. If the
18 vehicle, vessel, or mobile home is owned jointly by more than
19 one person, each registered owner must dispute the wrecker
20 company's or the mobile home transport company's ~~operator's~~
21 lien in order to be removed from the list. However, the
22 department shall deny any dispute and maintain the registered
23 owner's name on the list of those persons who may not be
24 issued a license plate or revalidation sticker for any motor
25 vehicle under s. 320.03(8) if the wrecker company ~~operator~~ has
26 provided the department with a certified copy of the judgment
27 of a court which orders the registered owner to pay the
28 wrecker company's ~~operator's~~ lien claimed under this section.
29 In such a case, the amount of the wrecker company's ~~operator's~~
30 lien allowed by paragraph (b) may be increased to include no
31 more than \$500 of the reasonable costs and attorney's fees

1 incurred in obtaining the judgment. The department's action
2 under this subparagraph is ministerial in nature, shall not be
3 considered final agency action, and may be appealed only to
4 the county court for the county in which the vehicle, vessel,
5 or mobile home was ordered removed.

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

27 3. If a person against whom a wrecker company's
28 ~~operator's~~ lien has been imposed does not object to the lien,
29 but cannot discharge the lien by payment because the wrecker
30 company ~~operator~~ has moved or gone out of business, the person
31 may have her or his name removed from the list of those

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

20 4. A wrecker company's ~~operator's~~ lien expires 5 years
21 after filing.

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

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

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

20 (f) This subsection applies only to the annual renewal
21 in the registered owner's birth month of a motor vehicle
22 registration and does not apply to the transfer of a
23 registration of a motor vehicle sold by a motor vehicle dealer
24 licensed under chapter 320, except for the transfer of
25 registrations which is inclusive of the annual renewals. This
26 subsection does not apply to any vehicle registered in the
27 name of a lessor. This subsection does not affect the issuance
28 of the title to a motor vehicle, notwithstanding s.
29 319.23(7)(b).

30
31

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

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

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

9 715.07 Vehicles and vessels parked on real private
10 property without permission; towing.--

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

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

16 (b) "Vehicle" has the same meaning ascribed in s.
17 508.01 means any mobile item which normally uses wheels,
18 whether motorized or not.

19 (c) "Vessel" has the same meaning ascribed in s.
20 508.01.

21 (d) "Wrecker company" has the same meaning ascribed in
22 s. 508.01.

23 (e) "Wrecker operator" has the same meaning ascribed
24 in s. 508.01.

25 (2) A property owner ~~The owner or lessee of real~~
26 ~~property, or any person authorized by the owner or lessee,~~
27 ~~which person may be the designated representative of the~~
28 ~~condominium association if the real property is a condominium,~~
29 ~~may cause a~~ any vehicle or vessel parked on her or his ~~such~~
30 ~~property without her or his permission to be removed by a~~
31 wrecker company registered under chapter 508 ~~person regularly~~

1 ~~engaged in the business of towing vehicles~~, without liability
2 for the costs of removal, transportation, or storage or
3 damages caused by the ~~such~~ removal, transportation, or
4 storage, under any of the following circumstances:

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

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

26 b. If a wrecker company ~~no towing business providing~~
27 ~~such service~~ is not located within the area of towing
28 limitations ~~set forth~~ in sub-subparagraph a., the following
29 limitations apply: any towed or removed vehicle or vessel
30 must be stored at a storage facility ~~site~~ within 20 miles of
31 the point of removal in any county of 500,000 population or

1 more, and within 30 miles of the point of removal in any
2 county of less than 500,000 population.

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

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

28 4. A wrecker company, a wrecker operator, or another
29 employee or agent of a wrecker company may not give a ~~The~~
30 rebate or pay ~~payment of~~ money or ~~any~~ other valuable
31 consideration ~~from the individual or firm towing or removing~~

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

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

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

29 b. The notice must clearly indicate, in not less than
30 2-inch high, light-reflective letters on a contrasting
31 background, that unauthorized vehicles will be towed away at

1 the owner's expense. The words "tow-away zone" must be
2 included on the sign in not less than 4-inch high letters.

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

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

14 e. The local government may require permitting and
15 inspection of these signs prior to any towing or removal of
16 vehicles being authorized.

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

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

28
29 A business owner or lessee may authorize the removal of a
30 vehicle or vessel by a wrecker towing company registered under
31 chapter 508 when the vehicle or vessel is parked in ~~such~~ a

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

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

20 7. Each wrecker company ~~Any person or firm~~ towing or
21 removing any vehicles or vessels from real ~~private~~ property
22 without the consent of the owner or other legally authorized
23 person in control of the vehicles must ~~shall~~, on each wrecker
24 ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s. 713.78(1)(c)~~,
25 ~~or other vehicles~~ used in ~~the~~ towing or removal, have the
26 name, address, and telephone number of the wrecker company
27 ~~performing such service~~ clearly printed in contrasting colors
28 on the driver and passenger sides of the wrecker ~~vehicle~~. The
29 name must ~~shall~~ be in at least 3-inch permanently affixed
30 letters, and the address and telephone number must ~~shall~~ be in
31 at least 1-inch permanently affixed letters.

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

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

30 (b) These requirements ~~are shall be the~~ minimum
31 standards and do ~~shall~~ not preclude enactment of additional

1 regulations by any municipality or county, including the
2 regulation of right to regulate rates when vehicles or vessels
3 are towed from real private property.

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

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

15 (5) Failure to make good-faith efforts to comply with
16 the notice requirements in subparagraph (2)(a)5. precludes the
17 imposition of any towing or storage charges against the
18 vehicle or vessel.

19 ~~(6)(5)(a)~~ Any person who violates ~~the provisions of~~
20 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is
21 ~~guilty of~~ a misdemeanor of the first degree, punishable as
22 provided in s. 775.082 or s. 775.083.

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

28 Section 20. Effective January 1, 2004, subsection (15)
29 of section 1.01, Florida Statutes, is repealed.

30 Section 21. The sum of \$555,000 is appropriated from
31 the General Inspection Trust Fund to the Department of

1 Agriculture and Consumer Services, and 9 additional
2 full-time-equivalent positions are authorized, for the purpose
3 of implementing this act during the 2003-2004 fiscal year.

4 Section 22. Except as otherwise expressly provided in
5 this act, this act shall take effect July 1, 2003.

6
7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 2128

10 The CS:

11 1. Removes the towing of mobile homes from the definition of
12 a wrecker and wrecker company.

13 2. Clarifies wrecker license plates must be displayed in the
14 front of the vehicle.

15 3. Exempts a motor vehicle repair shop that derives at least
16 80 percent of its gross sales from motor vehicle repairs from
17 wrecker registration requirements.

18 4. Provides the Wrecker Operator Advisory Council will
19 approve certification courses and the certification exam, and
20 prescribe minimum curricula for certification courses.

21 5. Differentiates between wrecker companies and mobile home
22 transport companies.
23
24
25
26
27
28
29
30
31