

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Russell offered the following:

Amendment

Remove lines 1360-1707, and insert:

(c) "Mobile home transport company" means a person regularly engaged in the business of transporting mobile homes. The term includes a mobile home dealer as defined in s. 320.77 and a mobile home installer as described in s. 320.8249 .

(d) "Property owner" has the same meaning ascribed in s. 715.07.

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

(f)(b) "Vessel" has the same meaning ascribed in s. 508.01 ~~means every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water,~~

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27 ~~other than a seaplane or a "documented vessel" as defined in s.~~
28 ~~327.02(8).~~

29 (g)(e) "Wrecker" has the same meaning ascribed in s.
30 320.01 means any truck or other vehicle which is used to tow,
31 carry, or otherwise transport motor vehicles or vessels upon the
32 streets and highways of this state and which is equipped for
33 that purpose with a boom, winch, car carrier, or other similar
34 equipment.

35 (h) "Wrecker company" has the same meaning ascribed in s.
36 508.01.

37 (i) "Wrecker operator" has the same meaning ascribed in s.
38 508.01.

39 (2) Whenever a wrecker company registered under chapter
40 508 or a mobile home transport company person regularly engaged
41 in the business of transporting vehicles or vessels by wrecker,
42 tow truck, or car carrier recovers, removes, or stores a
43 vehicle, vessel, or mobile home upon instructions from:

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

45 (b) The property owner or lessor, or a person authorized
46 by the owner or lessor, of real property on which the such
47 vehicle is wrongfully parked without permission, and the such
48 removal is done in compliance with s. 715.07; or

49 (c) A Any law enforcement agency; or

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

53
54 the wrecker company or mobile home transport company has she or
55 he shall have a lien on the such vehicle, or vessel, or mobile

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56 home for a reasonable towing fee and for a reasonable storage
57 fee; except that a no storage fee may not ~~shall~~ be charged if a
58 ~~such~~ vehicle or vessel is stored ~~for~~ less than 6 hours.

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

63 (4)(a) Any wrecker company or mobile home transport
64 company that person regularly engaged in the business of
65 ~~recovering, towing, or storing vehicles or vessels who~~ comes
66 into possession of a vehicle, ~~or vessel,~~ or mobile home under
67 ~~pursuant to~~ subsection (2), and that who claims a lien for
68 recovery, towing, or storage services, must ~~shall~~ give notice to
69 the registered owner, the insurance company insuring the vehicle
70 notwithstanding the provisions of s. 627.736, and to all persons
71 claiming a lien on the vehicle, vessel, or mobile home thereon,
72 as disclosed by the records in the Department of Highway Safety
73 and Motor Vehicles or of a corresponding agency in any other
74 state. This paragraph does not apply to a mobile home under
75 paragraph (2)(d) when the mobile home is stored on site in the
76 mobile home lot.

77 (b) Whenever a any law enforcement agency authorizes the
78 removal of a vehicle, or whenever a wrecker company any towing
79 ~~service, garage, repair shop, or automotive service, storage, or~~
80 ~~parking place~~ notifies the law enforcement agency of possession
81 of a vehicle under ~~pursuant to~~ s. 715.07(2)(a)2., the applicable
82 law enforcement agency shall contact the Department of Highway
83 Safety and Motor Vehicles, or the appropriate agency of the
84 state of registration, if known, within 24 hours through the

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85 medium of electronic communications, giving the full description
86 of the vehicle. Upon receipt of the full description of the
87 vehicle, the department shall search its files to determine the
88 owner's name, the insurance company insuring the vehicle, and
89 whether any person has filed a lien upon the vehicle as provided
90 in s. 319.27(2) and (3) and notify the applicable law
91 enforcement agency within 72 hours. The wrecker company must
92 ~~person in charge of the towing service, garage, repair shop, or~~
93 ~~automotive service, storage, or parking place shall obtain this~~
94 ~~such~~ information from the applicable law enforcement agency
95 within 5 days after ~~from~~ the date of storage and must ~~shall~~ give
96 notice under ~~pursuant to~~ paragraph (a). The department may
97 release the insurance company information to the requestor
98 notwithstanding ~~the provisions of~~ s. 627.736.

99 (c) Notice by certified mail, return receipt requested,
100 must ~~shall~~ be sent within 7 business days after the date of
101 storage of the vehicle or vessel to the registered owner, the
102 insurance company insuring the vehicle notwithstanding the
103 provisions of s. 627.736, and all persons of record claiming a
104 lien against the vehicle or vessel. The notice must ~~It shall~~
105 state the fact of possession of the vehicle or vessel, that a
106 lien as provided in subsection (2) is claimed, that charges have
107 accrued and the amount of the charges ~~thereof~~, that the lien is
108 subject to enforcement under ~~pursuant to~~ law, ~~and~~ that the owner
109 or lienholder, if any, has the right to a hearing as set forth
110 in subsection (5), and that any vehicle or vessel which remains
111 unclaimed, or for which the charges for recovery, towing, or
112 storage services remain unpaid, may be sold free of all prior
113 liens after 35 days if the vehicle or vessel is more than 3

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114 years of age or after 50 days if the vehicle or vessel is 3
115 years of age or less.

116 (d) If the wrecker company is unable ~~attempts~~ to identify
117 the name of ~~locate~~ the owner or lienholder ~~prove unsuccessful~~,
118 the wrecker company must ~~towing-storage operator shall~~, after 7
119 business working days following, ~~excluding Saturday and Sunday~~,
120 ~~of~~ the initial tow or storage, notify the public agency of
121 jurisdiction in writing by certified mail or acknowledged hand
122 delivery that the wrecker ~~towing-storage~~ company has been unable
123 to identify the name of ~~locate~~ the owner or lienholder and a
124 physical search of the vehicle or vessel has disclosed no
125 ownership information and a good faith effort has been made. For
126 purposes of this paragraph and subsection (9), the term "good
127 faith effort" means that the following checks have been
128 performed by the wrecker company to establish prior state of
129 registration and for title:

130 1. Check of vehicle or vessel for any type of tag, tag
131 record, temporary tag, or regular tag.

132 2. Check of law enforcement report for tag number or other
133 information identifying the vehicle or vessel, if the vehicle or
134 vessel was towed at the request of a law enforcement officer.

135 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~
136 ~~truck~~ operator to see if a tag was on vehicle at beginning of
137 tow, if private tow.

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

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141 5. Check of vehicle or vessel for inspection sticker or
142 other stickers and decals that may indicate a state of possible
143 registration.

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

147 7. Check of vehicle for vehicle identification number.

148 8. Check of vessel for vessel registration number.

149 9. Check of vessel hull for a hull identification number
150 which should be carved, burned, stamped, embossed, or otherwise
151 permanently affixed to the outboard side of the transom or, if
152 there is no transom, to the outmost seaboard side at the end of
153 the hull that bears the rudder or other steering mechanism.

154 (5)(a) The owner of a vehicle, ~~or vessel, or mobile home~~
155 removed ~~under pursuant to the provisions of~~ subsection (2), or
156 any person claiming a lien, other than the wrecker company or
157 mobile home transport company towing-storage operator, within 10
158 days after the time she or he has knowledge of the location of
159 the vehicle, ~~or vessel, or mobile home~~, may file a complaint in
160 the county court of the county in which the vehicle, ~~or vessel,~~
161 or mobile home is stored or in which the owner resides to
162 determine if her or his property was wrongfully taken or
163 withheld from her or him.

164 (b) Upon filing of a complaint, an owner or lienholder may
165 have her or his vehicle, ~~or vessel, or mobile home~~ released upon
166 posting with the court a cash or surety bond or other adequate
167 security equal to the amount of the charges for towing or
168 storage and lot rental amount to ensure the payment of ~~the such~~
169 charges in the event she or he does not prevail. Upon the

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170 posting of the bond and the payment of the applicable fee set
171 forth in s. 28.24, the clerk of the court shall issue a
172 certificate notifying the lienor of the posting of the bond and
173 directing the lienor to release the vehicle, ~~or~~ vessel, or
174 mobile home. At the time of the ~~such~~ release, after reasonable
175 inspection, she or he shall give a receipt to the wrecker
176 ~~towing-storage~~ company or mobile home transport company reciting
177 any claims she or he has for loss or damage to the vehicle, ~~or~~
178 vessel, or mobile home or to the contents of the vehicle,
179 vessel, or mobile home thereof.

180 (c) Upon determining the respective rights of the parties,
181 the court may award damages and costs to in favor of the
182 prevailing party. The court shall also award reasonable
183 attorney's fees to the prevailing party if the court finds the
184 nonprevailing party filed the complaint primarily to harass, for
185 frivolous purpose, or to needlessly increase the cost of
186 claiming a lien under this section. ~~In any event,~~ The final
187 order must require ~~shall provide for~~ immediate payment in full
188 of the recovery, towing, and storage fees by the vehicle or
189 vessel owner or lienholder; by ~~or~~ the law enforcement agency
190 ordering the tow; or by the property owner, ~~lessee, or agent~~
191 thereof of the real property from which the vehicle or vessel
192 was towed or removed under s. 715.07.

193 (6) Any vehicle, ~~or~~ vessel, or mobile home that ~~which~~ is
194 stored under ~~pursuant to~~ subsection (2) and that ~~which~~ remains
195 unclaimed, or for which reasonable charges for recovery, towing,
196 or storing remain unpaid or for which a lot rental amount is due
197 and owing to the mobile home park owner, as evidenced by a
198 judgment for unpaid rent, and any contents not released under

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199 ~~pursuant to~~ subsection (10), may be sold by the wrecker company
200 or mobile home transport company ~~owner or operator of the~~
201 ~~storage space~~ for the ~~such~~ towing or storage charge or unpaid
202 lot rental amount ~~after~~ 35 days after ~~from the time~~ the vehicle,
203 ~~or~~ vessel, or mobile home is stored in the wrecker company's
204 storage facility, or is stored on site by a mobile home
205 transport company, therein if the vehicle, ~~or~~ vessel, or mobile
206 home is more than 3 years of age or ~~after~~ 50 days after
207 ~~following the time~~ the vehicle, ~~or~~ vessel, or mobile home is
208 stored ~~therein~~ if the vehicle, ~~or~~ vessel, or mobile home is 3
209 years of age or less. The sale must ~~shall~~ be at public auction
210 for cash. If the date of the sale is ~~was~~ not included in the
211 notice required in subsection (4), notice of the sale must ~~shall~~
212 be given to the person in whose name the vehicle, vessel, or
213 mobile home is registered, to the mobile home park owner, and to
214 all persons claiming a lien on the vehicle or vessel as shown on
215 the records of the Department of Highway Safety and Motor
216 Vehicles or of the corresponding agency in any other state.
217 Notice must ~~shall~~ be sent by certified mail, return receipt
218 requested, to the owner of the vehicle or vessel and the person
219 having the recorded lien on the vehicle or vessel at the address
220 shown on the records of the registering agency and must ~~shall~~ be
221 mailed at least ~~not less than~~ 15 days before the date of the
222 sale. After diligent search and inquiry, if the name and address
223 of the registered owner or the owner of the recorded lien cannot
224 be ascertained, the requirements of notice by mail may be
225 dispensed with. In addition to the notice by mail, public
226 notice of the time and place of sale must ~~shall~~ be made by
227 publishing a notice of the sale ~~thereof~~ one time, at least 10

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228 days before ~~prior to~~ the date of the sale, in a newspaper of
229 general circulation in the county in which the sale is to be
230 held. The proceeds of the sale, after payment of reasonable
231 towing and storage charges, costs of the sale, and the unpaid
232 lot rental amount, in that order of priority, must ~~shall~~ be
233 deposited with the clerk of the circuit court for the county if
234 the owner is absent, and the clerk shall hold the such proceeds
235 subject to the claim of the person legally entitled to those
236 proceeds ~~thereto~~. The clerk is ~~shall be~~ entitled to receive 5
237 percent of the such proceeds for the care and disbursement of
238 the proceeds ~~thereof~~. The certificate of title issued under this
239 section must ~~law shall~~ be discharged of all liens unless
240 otherwise provided by court order.

241 (7)(a) A wrecker company, its wrecker operators, and other
242 employees or agents of the wrecker company ~~operator~~ recovering,
243 towing, or storing vehicles, or vessels, or mobile homes ~~are is~~
244 not liable for damages connected with those such services, theft
245 of the such vehicles, or vessels, or mobile homes, or theft of
246 personal property contained in the such vehicles, or vessels, or
247 mobile homes, if those ~~provided that such~~ services are ~~have been~~
248 performed with reasonable care and if ~~provided, further, that,~~
249 in the case of removal of a vehicle, or vessel, or mobile home
250 upon the request of a person purporting, and reasonably
251 appearing, to be the property owner ~~or lessee, or a person~~
252 ~~authorized by the owner or lessee,~~ of the real property from
253 which the such vehicle, or vessel, or mobile home is removed,
254 the such removal has been done in compliance with s. 715.07.
255 Further, a wrecker company, its wrecker operators, and other
256 employees or agents of the wrecker company ~~operator is~~ not

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257 liable for damage connected with those ~~such~~ services when
258 complying with the lawful directions of a law enforcement
259 officer to remove a vehicle stopped, standing, or parked upon a
260 street or highway in ~~such~~ a position that obstructs as to
261 ~~obstruct~~ the normal movement of traffic or that creates in such
262 ~~a condition as to create~~ a hazard to other traffic upon the
263 street or highway.

264 (b) Employees or authorized agents of the Department of
265 Transportation or an authorized or unauthorized wrecker company,
266 as defined in s. 321.051 or s. 323.002, may remove a vehicle or
267 vehicle cargo from a public road without consent of the owner or
268 operator of the vehicle or vehicle cargo upon request of a law
269 enforcement officer as defined in s. 112.531, a sheriff or
270 deputy sheriff as defined in s. 30.072, or a firefighter as
271 defined in s. 112.81. The employee or authorized agent of the
272 Department of Transportation, the wrecker company, its wrecker
273 operators, and other employees or agents of the wrecker company,
274 the law enforcement officer, sheriff, or deputy sheriff, and the
275 firefighters and emergency medical services providers are not
276 liable for any property damages or claims of damage for the
277 removal if the vehicle or vehicle cargo is removed because it
278 presents an imminent public safety hazard.

279 (c)(b) For the purposes of this subsection, a wrecker
280 company, its wrecker operators, and other employees or agents of
281 the wrecker company are operator is presumed to use reasonable
282 care to prevent the theft of a vehicle or vessel or of any
283 personal property contained in the ~~such~~ vehicle stored in the
284 wrecker company's ~~operator's~~ storage facility if all of the
285 following apply:

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

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

293 3. The wrecker company ~~operator~~ uses one or more of the
294 following security methods to discourage theft of vehicles or
295 vessels or of any personal property contained in such vehicles
296 or vessels stored in the wrecker company's ~~operator's~~ storage
297 facility:

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

300 b. A security dog remains at the storage facility from
301 sunset to sunrise;

302 c. Security cameras or other similar surveillance devices
303 monitor the storage facility; or

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

306 ~~(d)(e)~~ Any law enforcement agency requesting that a motor
307 vehicle be removed from an accident scene, street, or highway
308 must conduct an inventory and prepare a written record of all
309 personal property found in the vehicle before the vehicle is
310 removed by a wrecker operator. However, if the owner or driver
311 of the motor vehicle is present and accompanies the vehicle, an
312 ~~no~~ inventory by law enforcement is not required. A wrecker
313 company, its wrecker operators, and other employees or agents of
314 the wrecker company ~~are operator is~~ not liable for the loss of

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315 personal property alleged to be contained in ~~such~~ a vehicle when
316 the ~~such~~ personal property was not identified on the inventory
317 record prepared by the law enforcement agency requesting the
318 removal of the vehicle.

319 (8) A wrecker company and its wrecker operators, excluding
320 ~~person regularly engaged in the business of recovering, towing,~~
321 ~~or storing vehicles or vessels, except~~ a person licensed under
322 chapter 493 while engaged in "repossession" activities as
323 defined in s. 493.6101, may not operate a wrecker, ~~tow truck, or~~
324 ~~ear carrier~~ unless the name, address, and telephone number of
325 the wrecker company performing the wrecker services ~~service~~ is
326 clearly printed in contrasting colors on the driver and
327 passenger sides of the wrecker ~~its vehicle~~. The name must be in
328 at least 3-inch permanently affixed letters, and the address and
329 telephone number must be in at least 1-inch permanently affixed
330 letters.

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

335 (10) Each wrecker company that provides ~~Persons who~~
336 ~~provide services under pursuant to~~ this section must ~~shall~~
337 permit vehicle or vessel owners or their agents, which agency is
338 evidenced by a writing acknowledged by the owner before a notary
339 public or other person empowered by law to administer oaths, to
340 inspect the towed vehicle or vessel and must ~~shall~~ release to
341 the owner or agent all personal property not affixed to the
342 vehicle or vessel which was in the vehicle or vessel at the time

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343 the vehicle or vessel came into the custody of the wrecker
344 company person providing those such services.

345 (11)(a) A wrecker company or mobile home transport company
346 that Any person regularly engaged in the business of recovering,
347 towing, or storing vehicles or vessels who comes into possession
348 of a vehicle, or vessel, or mobile home under pursuant to
349 subsection (2) and that complies who has complied with the
350 provisions of subsections (3) and (6), when the such vehicle, or
351 vessel, or mobile home is to be sold for purposes of being
352 dismantled, destroyed, or changed in a such manner that it is
353 not the motor vehicle, vessel, or mobile home described in the
354 certificate of title, must shall apply to the county tax
355 collector for a certificate of destruction. A certificate of
356 destruction, which authorizes the dismantling or destruction of
357 the vehicle, or vessel, or mobile home described on the
358 certificate therein, is shall be reassignable no more than twice
359 a maximum of two times before dismantling or destruction of the
360 vehicle is shall be required, and the certificate must shall
361 accompany the vehicle, or vessel, or mobile home for which it is
362 issued, when the such vehicle, or vessel, or mobile home is sold
363 for that purpose such purposes, in lieu of a certificate of
364 title. The application for a certificate of destruction must
365 include an affidavit from the applicant that it has complied
366 with all applicable requirements of this section and, if the
367 vehicle, or vessel, or mobile home is not registered in this
368 state, by a statement from a law enforcement officer that the
369 vehicle, or vessel, or mobile home is not reported stolen, and
370 must also shall be accompanied by any other such documentation
371 as may be required by the department.

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