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## CHAMBER ACTION

The Committee on Transportation recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to wrecker services; amending s. 120.80, F.S.; exempting hearings of the Division of the Florida Highway Patrol concerning the wrecker allocation system from the requirements of ch. 120, F.S.; creating s. 205.1975, F.S.; prohibiting a county or municipality from issuing or renewing a license for a wrecker company that is not in compliance with the requirements of the act; amending s. 316.061, F.S.; providing for removal of vehicle or vehicle cargo without consent of the owner under certain circumstances; limiting liability of specified persons for such removal; amending s. 316.530, F.S., relating to traffic control; conforming provisions to changes made by the act; reenacting s. 316.550(4), F.S., relating to special wrecker permits, to incorporate the amendment to s. 320.01, F.S., in references thereto; amending s. 316.605, F.S.; providing requirements for licensing wreckers and other vehicles; amending s. 320.01, F.S.; redefining the term "wrecker" for purposes of the



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29 Florida Statutes; amending ss. 320.03 and 320.0706, F.S.,  
30 relating to motor vehicle registration and license plates;  
31 conforming provisions to changes made by the act;  
32 reenacting s. 320.08(5)(d) and (e), F.S., relating to  
33 license taxes, to incorporate the amendment to s. 320.01,  
34 F.S., in references thereto; amending s. 320.0821, F.S.;  
35 revising requirements for the issuance of wrecker license  
36 plates; amending s. 320.13, F.S., relating to dealer  
37 license plates; conforming provisions to changes made by  
38 the act; amending s. 321.051, F.S.; providing definitions;  
39 requiring the Division of the Florida Highway Patrol  
40 within the Department of Highway Safety and Motor Vehicles  
41 to establish a wrecker allocation system; providing  
42 requirements for the system; authorizing the division to  
43 set maximum rates for towing and storage of vehicles;  
44 prohibiting an unauthorized wrecker company from  
45 monitoring a police radio or engaging in other activities;  
46 providing penalties; providing requirements for  
47 dispatching wreckers; amending s. 323.001, F.S., relating  
48 to wrecker company storage facilities; providing  
49 definitions; providing procedures for a law enforcement  
50 agency to place a hold on a stored vehicle; providing for  
51 payment of towing and storage charges; amending s.  
52 323.002, F.S.; providing definitions; providing  
53 requirements for a county or municipality that operates a  
54 wrecker allocation system; providing requirements for the  
55 system; prohibiting an unauthorized wrecker company from  
56 monitoring a police radio or engaging in other activities;



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57 providing penalties; providing requirements for  
58 dispatching wreckers; creating ch. 508, F.S.; providing  
59 definitions; creating the Wrecker Operator Advisory  
60 Council within the Department of Agriculture and Consumer  
61 Services; providing for membership and terms; providing  
62 for reimbursement for travel and per diem expenses;  
63 requiring the council to advise the department on matters  
64 relating to standards and practices in the wrecker  
65 industry; authorizing the department to adopt rules;  
66 requiring wrecker companies to register with the  
67 department; providing requirements for registration  
68 renewal; providing requirements for advertisements;  
69 requiring insurance coverage; authorizing the department  
70 to deny registration under certain circumstances;  
71 establishing a certification program for wrecker  
72 operators; requiring the department to approve courses and  
73 organizations; providing requirements for examinations;  
74 providing for certification in specialized wrecker  
75 services; requiring the department to adopt rules;  
76 providing for certification cards to be issued to wrecker  
77 operators who complete the certification course and pass  
78 the examination; prohibiting the performance of wrecker  
79 services after a specified date unless the company is  
80 registered and obtains certification as required;  
81 authorizing the department to inspect employment records;  
82 providing requirements for continuing education;  
83 specifying prohibited acts; providing administrative,  
84 civil, and criminal penalties; providing for registration



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85 fees; providing for deposit of fees, penalties, and other  
86 funds; providing that the chapter does not apply to  
87 recovery agents; authorizing counties and municipalities  
88 to enact ordinances governing wrecker operators; amending  
89 s. 713.78, F.S., relating to liens for recovering, towing,  
90 or storing vehicles and vessels; providing definitions;  
91 conforming provisions to changes made by the act;  
92 providing for attorney's fees to be awarded to the  
93 prevailing party for a frivolous claim of wrongful taking  
94 or claim of lien; providing immunity from liability for a  
95 wrecker company, its operators, and other employees or  
96 agents if services are performed with reasonable care or  
97 for complying with the directions of a law enforcement  
98 officer; providing for the owner of a vehicle, vessel, or  
99 mobile home to dispute a claim of lien by a wrecker  
100 company based on a record of sale; clarifying that the  
101 amendments made by the act do not affect the validity of  
102 prior liens; amending s. 715.07, F.S., relating to the  
103 towing of vehicles and vessels parked on real property  
104 without permission; providing definitions; providing for  
105 the towing and removal of vehicles and vessels under  
106 certain circumstances; conforming provisions to changes  
107 made by the act; providing requirements for towing and  
108 storage; prohibiting a property owner from soliciting a  
109 wrecker company for a rebate for the privilege of removing  
110 vehicles from the owner's property; providing immunity  
111 from liability for a wrecker company, its operators, and  
112 other employees or agents if services are performed with



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113 reasonable care; providing that failure to comply with  
 114 notice requirements precludes a wrecker company from  
 115 imposing certain towing or storage charges; providing  
 116 penalties; repealing s. 1.01(15), F.S., relating to the  
 117 definition of the term "wrecker operator"; providing an  
 118 appropriation and authorizing additional positions;  
 119 providing effective dates.

120

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

122

123 Section 1. Effective January 1, 2004, paragraph (b) of  
 124 subsection (8) of section 120.80, Florida Statutes, is amended  
 125 to read:

126 120.80 Exceptions and special requirements; agencies.--

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

128 (b) Wrecker companies ~~operators~~.--Notwithstanding s.  
 129 120.57(1)(a), hearings held by the Division of the Florida  
 130 Highway Patrol of the Department of Highway Safety and Motor  
 131 Vehicles to deny, suspend, or remove a wrecker company ~~operator~~  
 132 from participating in the wrecker allocation ~~rotation~~ system  
 133 established under ~~by~~ s. 321.051 need not be conducted by an  
 134 administrative law judge assigned by the division. These  
 135 hearings shall be held by a hearing officer appointed by the  
 136 director of the Division of the Florida Highway Patrol.

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

139 205.1975 Wrecker companies; consumer protection.--A county  
 140 or municipality may not issue or renew an occupational license



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141 for the operation of a wrecker company under chapter 508 unless  
142 the wrecker company exhibits a current registration from the  
143 Department of Agriculture and Consumer Services.

144 Section 3. Subsection (3) of section 316.061, Florida  
145 Statutes, is amended to read:

146 316.061 Crashes involving damage to vehicle or property.--

147 (3)(a) Employees or authorized agents of the Department of  
148 Transportation, law enforcement with proper jurisdiction, or an  
149 expressway authority created pursuant to chapter 348, in the  
150 exercise, management, control, and maintenance of its highway  
151 system, may undertake the removal from the main traveled way of  
152 roads on its highway system of all vehicles incapacitated as a  
153 result of a motor vehicle crash and of debris caused thereby.  
154 Such removal is applicable when such a motor vehicle crash  
155 results only in damage to a vehicle or other property, and when  
156 such removal can be accomplished safely and will result in the  
157 improved safety or convenience of travel upon the road. The  
158 driver or any other person who has removed a motor vehicle from  
159 the main traveled way of the road as provided in this section  
160 shall not be considered liable or at fault regarding the cause  
161 of the accident solely by reason of moving the vehicle.

162 (b) Employees or authorized agents of an authorized or  
163 unauthorized wrecker company, as defined in s. 321.051 or s.  
164 323.002, may remove a vehicle or vehicle cargo from a public  
165 road without consent of the owner or operator of the vehicle or  
166 vehicle cargo upon request of a law enforcement officer as  
167 defined in s. 112.531, a sheriff or deputy sheriff as defined in  
168 s. 30.072, or a firefighter as defined in s. 112.81. The



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169 employee or authorized agent of the wrecker company, its wrecker  
 170 operators, and other employees or agents of the wrecker company,  
 171 the law enforcement officer, sheriff, or deputy sheriff, the  
 172 firefighters and emergency medical services providers, and other  
 173 entities identified under this subsection are not liable for any  
 174 property damages or claims of damage for the removal if the  
 175 vehicle or vehicle cargo is removed to improve safety or  
 176 convenience of travel on the road.

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

179 316.530 Towing requirements.--

180 (3) Whenever a motor vehicle becomes disabled upon the  
 181 highways of this state and a wrecker ~~or tow truck~~ is required to  
 182 remove it to a repair shop or other appropriate location, if the  
 183 combined weights of those two vehicles and the loads thereon  
 184 exceed the maximum allowable weights as established by s.  
 185 316.535, no penalty shall be assessed either vehicle or driver.  
 186 However, this exception shall not apply to the load limits for  
 187 bridges and culverts established by the department as provided  
 188 in s. 316.555.

189 Section 5. For the purpose of incorporating the amendment  
 190 made by this act to section 320.01, Florida Statutes, in  
 191 references thereto, subsection (4) of section 316.550, Florida  
 192 Statutes, is reenacted to read:

193 316.550 Operations not in conformity with law; special  
 194 permits.--

195 (4)(a) The Department of Transportation may issue a  
 196 wrecker special blanket permit to authorize a wrecker as defined



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197 in s. 320.01(40) to tow a disabled vehicle as defined in s.  
198 320.01(38) where the combination of the wrecker and the disabled  
199 vehicle being towed exceeds the maximum weight limits as  
200 established by s. 316.535.

201 (b) The Department of Transportation must supply the  
202 permitted wrecker with a map showing the routes on which the  
203 wrecker may safely tow disabled vehicles for all special permit  
204 classifications for which the wrecker applies.

205 Section 6. Subsection (1) of section 316.605, Florida  
206 Statutes, is amended to read:

207 316.605 Licensing of vehicles.--

208 (1) Every vehicle, at all times while driven, stopped, or  
209 parked upon any highways, roads, or streets of this state, shall  
210 be licensed in the name of the owner thereof in accordance with  
211 the laws of this state unless such vehicle is not required by  
212 the laws of this state to be licensed in this state and shall,  
213 except as otherwise provided in s. 320.0706 for front-end  
214 registration license plates on truck tractors or wreckers,  
215 display the license plate or both of the license plates assigned  
216 to it by the state, one on the rear and, if two, the other on  
217 the front of the vehicle, each to be securely fastened to the  
218 vehicle outside the main body of the vehicle in such manner as  
219 to prevent the plates from swinging, with all letters, numerals,  
220 printing, writing, and other identification marks upon the  
221 plates clear and distinct and free from defacement, mutilation,  
222 grease, and other obscuring matter, so that they will be plainly  
223 visible and legible at all times 100 feet from the rear or  
224 front. In addition, if only one registration plate is issued for





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225 | a motor vehicle that is equipped with a mechanical loading  
226 | device that may damage the plate, the plate may be attached to  
227 | the front of the vehicle. Nothing shall be placed upon the face  
228 | of a Florida plate except as permitted by law or by rule or  
229 | regulation of a governmental agency. No license plates other  
230 | than those furnished by the state shall be used. However, if  
231 | the vehicle is not required to be licensed in this state, the  
232 | license plates on such vehicle issued by another state, by a  
233 | territory, possession, or district of the United States, or by a  
234 | foreign country, substantially complying with the provisions  
235 | hereof, shall be considered as complying with this chapter. A  
236 | government license plate that is issued to a truck tractor or  
237 | heavy truck having a gross vehicle weight of 26,001 pounds or  
238 | more which is owned by a governmental entity may be placed on  
239 | the front of the vehicle and is in compliance with this chapter.  
240 | A violation of this subsection is a noncriminal traffic  
241 | infraction, punishable as a nonmoving violation as provided in  
242 | chapter 318.

243 | Section 7. Subsection (40) of section 320.01, Florida  
244 | Statutes, is amended to read:

245 | 320.01 Definitions, general.--As used in the Florida  
246 | Statutes, except as otherwise provided, the term:

247 | (40) "Wrecker" means a tow truck or other ~~any~~ motor  
248 | vehicle that is used to tow, carry, or otherwise transport ~~motor~~  
249 | vehicles or vessels upon the streets and highways of this state  
250 | and that is equipped for that purpose with a boom, winch, car  
251 | carrier, or other similar equipment.



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

254 320.03 Registration; duties of tax collectors;  
255 International Registration Plan.--

256 (8) If the applicant's name appears on the list referred  
257 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a  
258 license plate or revalidation sticker may not be issued until  
259 that person's name no longer appears on the list or until the  
260 person presents a receipt from the clerk showing that the fines  
261 outstanding have been paid. The tax collector and the clerk of  
262 the court are each entitled to receive monthly, as costs for  
263 implementing and administering this subsection, 10 percent of  
264 the civil penalties and fines recovered from such persons. As  
265 used in this subsection, the term "civil penalties and fines"  
266 does not include a wrecker company's ~~operator's~~ lien as  
267 described in s. 713.78(13). If the tax collector has private tag  
268 agents, such tag agents are entitled to receive a pro rata share  
269 of the amount paid to the tax collector, based upon the  
270 percentage of license plates and revalidation stickers issued by  
271 the tag agent compared to the total issued within the county.  
272 The authority of any private agent to issue license plates shall  
273 be revoked, after notice and a hearing as provided in chapter  
274 120, if he or she issues any license plate or revalidation  
275 sticker contrary to the provisions of this subsection. This  
276 section applies only to the annual renewal in the owner's birth  
277 month of a motor vehicle registration and does not apply to the  
278 transfer of a registration of a motor vehicle sold by a motor  
279 vehicle dealer licensed under this chapter, except for the



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280 transfer of registrations which is inclusive of the annual  
281 renewals. This section does not affect the issuance of the title  
282 to a motor vehicle, notwithstanding s. 319.23(7)(b).

283 Section 9. Section 320.0706, Florida Statutes, is amended  
284 to read:

285 320.0706 Display of license plates on trucks.--The owner  
286 of any commercial truck of gross vehicle weight of 26,001 pounds  
287 or more shall display the registration license plate on both the  
288 front and rear of the truck in conformance with all the  
289 requirements of s. 316.605 that do not conflict with this  
290 section. However, the owner of a truck tractor or a wrecker must  
291 ~~shall be required to~~ display the registration license plate only  
292 on the front of such vehicle.

293 Section 10. For the purpose of incorporating the amendment  
294 made by this act to section 320.01, Florida Statutes, in  
295 references thereto, paragraphs (d) and (e) of subsection (5) of  
296 section 320.08, Florida Statutes, are reenacted to read:

297 320.08 License taxes.--Except as otherwise provided  
298 herein, there are hereby levied and imposed annual license taxes  
299 for the operation of motor vehicles, mopeds, motorized bicycles  
300 as defined in s. 316.003(2), and mobile homes, as defined in s.  
301 320.01, which shall be paid to and collected by the department  
302 or its agent upon the registration or renewal of registration of  
303 the following:

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

306 (d) A wrecker, as defined in s. 320.01(40), which is used  
307 to tow a vessel as defined in s. 327.02(36), a disabled,



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308 abandoned, stolen-recovered, or impounded motor vehicle as  
309 defined in s. 320.01(38), or a replacement motor vehicle as  
310 defined in s. 320.01(39): \$30 flat.

311 (e) A wrecker, as defined in s. 320.01(40), which is used  
312 to tow any motor vehicle, regardless of whether or not such  
313 motor vehicle is a disabled motor vehicle as defined in s.  
314 320.01(38), a replacement motor vehicle as defined in s.  
315 320.01(39), a vessel as defined in s. 327.02(36), or any other  
316 cargo, as follows:

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

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

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

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

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

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

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

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

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



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

338 320.0821 Wrecker license plates.--

339 (1) The department shall issue one a wrecker license  
340 plate, regardless of gross vehicle weight, to the owner of any  
341 motor vehicle that is used to tow, carry, or otherwise transport  
342 motor vehicles and that is equipped for that purpose with a  
343 boom, winch, carrier, or other similar equipment, except a motor  
344 vehicle registered under the International Registration Plan,  
345 upon application and payment of the appropriate license tax and  
346 fees in accordance with s. 320.08(5)(d) or (e).

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

349 Section 12. Effective January 1, 2004, subsection (1) of  
350 section 320.0821, Florida Statutes, as amended by this act, is  
351 amended to read:

352 320.0821 Wrecker license plates.--

353 (1) The department shall issue one wrecker license plate,  
354 regardless of gross vehicle weight, to the owner of a wrecker  
355 ~~any motor vehicle that is used to tow, carry, or otherwise~~  
356 ~~transport motor vehicles and that is equipped for that purpose~~  
357 ~~with a boom, winch, carrier, or other similar equipment, except~~  
358 ~~a motor vehicle registered under the International Registration~~  
359 ~~Plan,~~ upon application and payment of the appropriate license  
360 tax and fees in accordance with s. 320.08(5)(d) or (e). However,  
361 the department may issue or renew a wrecker license plate only  
362 if the owner of the wrecker is a wrecker company registered



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363 under chapter 508. This section does not apply to a motor  
364 vehicle registered under the International Registration Plan.

365 Section 13. Paragraph (a) of subsection (1) of section  
366 320.13, Florida Statutes, is amended to read:

367 320.13 Dealer and manufacturer license plates and  
368 alternative method of registration.--

369 (1)(a) Any licensed motor vehicle dealer and any licensed  
370 mobile home dealer may, upon payment of the license tax imposed  
371 by s. 320.08(12), secure one or more dealer license plates,  
372 which are valid for use on motor vehicles or mobile homes owned  
373 by the dealer to whom such plates are issued while the motor  
374 vehicles are in inventory and for sale, or while being operated  
375 in connection with such dealer's business, but are not valid for  
376 use for hire. Dealer license plates may not be used on any ~~tow~~  
377 ~~truck or wrecker~~ as defined in s. 320.01 unless the ~~tow truck or~~  
378 wrecker is being demonstrated for sale, and the dealer license  
379 plates may not be used on a vehicle used to transport another  
380 motor vehicle for the motor vehicle dealer.

381 Section 14. Effective January 1, 2004, section 321.051,  
382 Florida Statutes, is amended to read:

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

385 321.051 Florida Highway Patrol wrecker allocation system;  
386 penalties for operation outside of system.--

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

388 (a) "Division" means the Division of the Florida Highway  
389 Patrol within the Department of Highway Safety and Motor  
390 Vehicles.



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391        (b) "Authorized wrecker company" means a wrecker company  
392 designated by the division as part of its wrecker allocation  
393 system.

394        (c) "Unauthorized wrecker company" means a wrecker company  
395 not designated by the division as part of its wrecker allocation  
396 system.

397        (d) "Wrecker company" has the same meaning ascribed in s.  
398 508.01.

399        (e) "Wrecker operator" has the same meaning ascribed in s.  
400 508.01.

401        (f) "Wrecker services" has the same meaning ascribed in s.  
402 508.01.

403        (2)(a) The division may establish within areas designated  
404 by the division a wrecker allocation system, using qualified,  
405 reputable wrecker companies, for the removal from crash scenes  
406 and the storage of wrecked or disabled vehicles when the owner  
407 or operator is incapacitated, unavailable, or leaves the  
408 procurement of wrecker services to the officer at the scene and  
409 for the removal and storage of abandoned vehicles.

410        (b) The wrecker allocation system may use only wrecker  
411 companies registered under chapter 508. Each reputable wrecker  
412 company registered under chapter 508 is eligible for use in the  
413 system if its equipment and wrecker operators meet the  
414 recognized safety qualifications and mechanical standards set by  
415 the division's rules for the size of vehicle they are designed  
416 to handle. The division may limit the number of wrecker  
417 companies participating in the wrecker allocation system.



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418        (c) The division may establish maximum rates for the  
419 towing and storage of vehicles removed at the division's request  
420 if those rates are not established by a county or municipality  
421 under s. 125.0103 or s. 166.043. These rates are not rules for  
422 the purpose of chapter 120; however, the Department of Highway  
423 Safety and Motor Vehicles shall adopt rules prescribing the  
424 procedures for setting these rates.

425        (d) Notwithstanding chapter 120, a final order of the  
426 department denying, suspending, or revoking a wrecker company's  
427 participation in the wrecker allocation system may be appealed  
428 only in the manner and within the time provided by the Florida  
429 Rules of Appellate Procedure by a writ of certiorari issued by  
430 the circuit court in the county in which the wrecker company's  
431 primary place of business is located, as evidenced by the  
432 wrecker company's registration under chapter 508.

433        (3)(a) An unauthorized wrecker company, its wrecker  
434 operators, or its other employees or agents may not monitor a  
435 police radio for communications between patrol field units and  
436 the dispatcher in order to determine the location of a wrecked  
437 or disabled vehicle for the purpose of dispatching its wrecker  
438 operator to drive by the scene of the vehicle in a manner  
439 described in paragraph (b) or paragraph (c). Any person who  
440 violates this paragraph commits a noncriminal violation,  
441 punishable as provided in s. 775.083.

442        (b) A wrecker operator dispatched by an unauthorized  
443 wrecker company may not drive by the scene of a wrecked or  
444 disabled vehicle before the arrival of the wrecker operator  
445 dispatched by the authorized wrecker company, initiate contact





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446 with the owner or operator of the vehicle by soliciting or  
447 offering wrecker services, or tow the vehicle. Any person who  
448 violates this paragraph commits a misdemeanor of the second  
449 degree, punishable as provided in s. 775.082 or s. 775.083.

450 (c) When a wrecker operator dispatched by an unauthorized  
451 wrecker company drives by the scene of a wrecked or disabled  
452 vehicle and the owner or operator initiates contact by signaling  
453 the wrecker operator to stop and provide wrecker services, the  
454 wrecker operator must disclose to the owner or operator of the  
455 vehicle that he or she was not dispatched by the authorized  
456 wrecker company designated as part of the wrecker allocation  
457 system and must disclose, in writing, what charges for towing  
458 and storage will apply before the vehicle is connected to the  
459 towing apparatus. Any person who violates this paragraph commits  
460 a misdemeanor of the second degree, punishable as provided in s.  
461 775.082 or s. 775.083.

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

468 (4) This section does not prohibit, or in any way prevent,  
469 the owner or operator of a vehicle involved in a crash or  
470 otherwise disabled from contacting any wrecker company for the  
471 provision of wrecker services, regardless of whether the wrecker  
472 company is an authorized wrecker company or not. However, if a  
473 law enforcement officer determines that the disabled vehicle or



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474 vehicle cargo is a public safety hazard, the officer may, in the  
475 interest of public safety, dispatch an authorized wrecker  
476 company if the officer believes that the authorized wrecker  
477 company would arrive at the scene before the wrecker company  
478 requested by the owner or operator of the disabled vehicle or  
479 vehicle cargo.

480 (5) A law enforcement officer may dispatch an authorized  
481 wrecker company out of rotation to the scene of a wrecked or  
482 disabled vehicle if the authorized wrecker company next on  
483 rotation is not equipped to provide the required wrecker  
484 services and the out-of-rotation authorized wrecker company is  
485 available with the required equipment. However, this subsection  
486 does not prohibit or prevent the owner or operator of a vehicle  
487 involved in a crash or otherwise disabled from contacting any  
488 wrecker company who is properly equipped to provide the required  
489 wrecker services, regardless of whether the wrecker company is  
490 an authorized wrecker company or not, unless the law enforcement  
491 officer determines that the wrecked or disabled vehicle is a  
492 public safety hazard and the officer believes that the  
493 authorized wrecker company would arrive at the scene before the  
494 wrecker company requested by the owner or operator.

495 Section 15. Effective January 1, 2004, section 323.001,  
496 Florida Statutes, is amended to read:

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

499 323.001 Wrecker company storage facilities; vehicle  
500 holds.--

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



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

504        (b) "Wrecker company" has the same meaning ascribed in s.  
505 508.01.

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

510        (3) To extend a hold, the law enforcement agency must  
511 notify the wrecker company in writing within the 5 business  
512 days. If notification is not made within the 5 business days,  
513 the wrecker company must release the vehicle to the designated  
514 person under s. 713.78.

515        (a) If the hold is extended beyond the 5 business days,  
516 the law enforcement agency may have the vehicle removed to a  
517 designated impound lot, in which event the vehicle may not be  
518 released by the law enforcement agency to the owner or  
519 lienholder of the vehicle until proof of payment of the towing  
520 and storage charges incurred by the wrecker company is presented  
521 to the law enforcement agency.

522        (b) If the law enforcement agency chooses to have the  
523 vehicle remain at the wrecker company's storage facility for  
524 more than 5 business days under the written notification, the  
525 law enforcement agency is responsible for paying the storage  
526 charges incurred by the wrecker company for the requested  
527 extended period. In such an event, the owner or lienholder is  
528 responsible for paying the accrued towing and storage charges  
529 for the first 5 business days, or any period less than the first



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530 5 business days, if the law enforcement agency moves the vehicle  
531 from the wrecker company's storage facility to a designated  
532 impound lot or provides written notification to extend the hold  
533 on the vehicle before the expiration of the 5 business days.

534 (c) The towing and storage rates for the owner or  
535 lienholder of the held vehicle may not exceed the rates for the  
536 law enforcement agency.

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

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

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

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

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

552 (d) The law enforcement officer has probable cause to  
553 believe that the vehicle is itself evidence that tends to show  
554 that a crime has been committed or that the vehicle contains  
555 evidence, which cannot readily be removed, which tends to show  
556 that a crime has been committed;



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

562 (f) The vehicle is impounded or immobilized under s.  
563 316.193 or s. 322.34; or

564 (g) The law enforcement officer is complying with a court  
565 order.

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

567 (a) The name and agency of the law enforcement officer  
568 placing the hold on the vehicle.

569 (b) The date and time the hold is placed on the vehicle.

570 (c) A general description of the vehicle, including its  
571 color, make, model, body style, and year; VIN (Vehicle  
572 Identification Number); registration license plate number,  
573 state, and year; and validation sticker number, state, and year.

574 (d) The specific reason for placing the hold.

575 (e) The condition of the vehicle.

576 (f) The location where the vehicle is being held.

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

579 (7) A wrecker company's storage facility must comply with  
580 a hold placed by a law enforcement officer, including  
581 instructions for inside or outside storage. A wrecker company's  
582 storage facility may not release a motor vehicle subject to a  
583 hold to any person except as directed by the law enforcement  
584 agency placing the hold.



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

590 Section 16. Effective January 1, 2004, section 323.002,  
591 Florida Statutes, is amended to read:

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

594 323.002 County and municipal wrecker allocation systems;  
595 penalties for operation outside of system.--

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

597 (a) "Authorized wrecker company" means a wrecker company  
598 designated as part of the wrecker allocation system established  
599 by the governmental unit having jurisdiction over the scene of a  
600 wrecked or disabled vehicle.

601 (b) "Unauthorized wrecker company" means a wrecker company  
602 not designated as part of the wrecker allocation system  
603 established by the governmental unit having jurisdiction over  
604 the scene of a wrecked or disabled vehicle.

605 (c) "Wrecker allocation system" means a system for the  
606 towing or removal of wrecked, disabled, or abandoned vehicles,  
607 similar to the Florida Highway Patrol wrecker allocation system  
608 described in s. 321.051(2), under which a county or municipality  
609 contracts with one or more wrecker companies registered under  
610 chapter 508 for the towing or removal of wrecked, disabled, or  
611 abandoned vehicles from accident scenes, streets, or highways.  
612 Each wrecker allocation system must use a method for



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613 apportioning the towing assignments among the eligible wrecker  
614 companies through the creation of geographic zones, a rotation  
615 schedule, or a combination of these methods.

616 (d) "Wrecker company" has the same meaning ascribed in s.  
617 508.01.

618 (e) "Wrecker operator" has the same meaning ascribed in s.  
619 508.01.

620 (f) "Wrecker services" has the same meaning ascribed in s.  
621 508.01.

622 (2) In a county or municipality that operates a wrecker  
623 allocation system:

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

626 (b) An unauthorized wrecker company, its wrecker  
627 operators, or its other employees or agents may not monitor a  
628 police radio for communications between patrol field units and  
629 the dispatcher in order to determine the location of a wrecked  
630 or disabled vehicle for the purpose of dispatching its wrecker  
631 operator to drive by the scene of the vehicle in a manner  
632 described in paragraph (c) or paragraph (d). Any person who  
633 violates this paragraph commits a noncriminal violation,  
634 punishable as provided in s. 775.083.

635 (c) A wrecker operator dispatched by an unauthorized  
636 wrecker company may not drive by the scene of a wrecked or  
637 disabled vehicle before the arrival of the wrecker operator  
638 dispatched by the authorized wrecker company, initiate contact  
639 with the owner or operator of the vehicle by soliciting or  
640 offering wrecker services, or tow the vehicle. Any person who



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641 violates this paragraph commits a misdemeanor of the second  
642 degree, punishable as provided in s. 775.082 or s. 775.083.

643 (d) When a wrecker operator dispatched by an unauthorized  
644 wrecker company drives by the scene of a wrecked or disabled  
645 vehicle and the owner or operator initiates contact by signaling  
646 the wrecker operator to stop and provide wrecker services, the  
647 wrecker operator must disclose to the owner or operator of the  
648 vehicle that he or she was not dispatched by the authorized  
649 wrecker company designated as part of the wrecker allocation  
650 system and must disclose, in writing, what charges for towing  
651 and storage will apply before the vehicle is connected to the  
652 towing apparatus. Any person who violates this paragraph commits  
653 a misdemeanor of the second degree, punishable as provided in s.  
654 775.082 or s. 775.083.

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

661 (3) This section does not prohibit, or in any way prevent,  
662 the owner or operator of a vehicle involved in a crash or  
663 otherwise disabled from contacting any wrecker company for the  
664 provision of wrecker services, regardless of whether the wrecker  
665 company is an authorized wrecker company or not. However, if a  
666 law enforcement officer determines that the disabled vehicle or  
667 vehicle cargo is a public safety hazard, the officer may, in the  
668 interest of public safety, dispatch an authorized wrecker





669 company if the officer believes that the authorized wrecker  
 670 company would arrive at the scene before the wrecker company  
 671 requested by the owner or operator of the disabled vehicle or  
 672 vehicle cargo.

673 (4) A law enforcement officer may dispatch an authorized  
 674 wrecker company out of rotation to the scene of a wrecked or  
 675 disabled vehicle if the authorized wrecker company next on  
 676 rotation is not equipped to provide the required wrecker  
 677 services and the out-of-rotation authorized wrecker company is  
 678 available with the required equipment. However, this subsection  
 679 does not prohibit or prevent the owner or operator of a vehicle  
 680 involved in a crash or otherwise disabled from contacting any  
 681 wrecker company that is properly equipped to provide the  
 682 required wrecker services, regardless of whether the wrecker  
 683 company is an authorized wrecker company or not, unless the law  
 684 enforcement officer determines that the wrecked or disabled  
 685 vehicle is a public safety hazard and the officer believes that  
 686 the authorized wrecker company would arrive at the scene before  
 687 the wrecker company requested by the owner or operator.

688 Section 17. Chapter 508, Florida Statutes, consisting of  
 689 sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06, 508.07,  
 690 508.08, 508.09, 508.10, 508.11, 508.12, 508.13, 508.14, 508.15,  
 691 508.16, 508.17, 508.18, and 508.19, Florida Statutes, is created  
 692 to read:

693 CHAPTER 508

694 WRECKER SERVICES

695 508.01 Definitions.--As used in this chapter, the term:



696           (1) "Business entity" means any form of corporation,  
 697 limited liability company, partnership, association,  
 698 cooperative, joint venture, business trust, sole proprietorship,  
 699 or self-employed person conducting business in this state.

700           (2) "Council" means the Wrecker Operator Advisory Council.

701           (3) "Department" means the Department of Agriculture and  
 702 Consumer Services.

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

706           (5) "Ultimate equitable owner" means a natural person who,  
 707 directly or indirectly, owns or controls 10 percent or more of  
 708 an ownership interest in a wrecker company, regardless of  
 709 whether the natural person owns or controls the ownership  
 710 interest through one or more natural persons or one or more  
 711 proxies, powers of attorney, nominees, business entities, or any  
 712 combination thereof.

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

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

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



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

728           (10) "Wrecker operator" means a person who performs  
 729 wrecker services.

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

734           (a) Driving a wrecker.

735           (b) Loading, securing, and unloading a vehicle or vessel  
 736 on a wrecker using a boom, winch, car carrier, or other similar  
 737 equipment.

738           (c) Towing or removal of a wrecked, disabled, or abandoned  
 739 vehicle under the Florida Highway Patrol wrecker allocation  
 740 system pursuant to s. 321.051 or under a county or municipal  
 741 wrecker allocation system pursuant to s. 323.002.

742           (d) Towing, recovery, or removal of a vehicle or vessel  
 743 under s. 713.78.

744           (e) Towing, transportation, or removal of a vehicle or  
 745 vessel parked on real property without permission under s.  
 746 715.07.

747           (f) Recovery of a vehicle or vessel.

748           508.02 Wrecker Operator Advisory Council.--



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749       (1) The Wrecker Operator Advisory Council is created  
750 within the department. The council shall advise and assist the  
751 department in administering this chapter.

752       (2)(a) The council shall be composed of six members  
753 appointed by the Commissioner of Agriculture. In addition, the  
754 executive director of the Professional Wrecker Operators of  
755 Florida, Inc., shall serve ex officio as a voting member of the  
756 council.

757       (b) Three members of the council must each be an ultimate  
758 equitable owner of a wrecker company who has been an ultimate  
759 equitable owner of that company for at least 5 years before his  
760 or her appointment; one member must be a wrecker operator who is  
761 not an ultimate equitable owner of a wrecker company and who has  
762 been a wrecker operator for at least 5 years before his or her  
763 appointment; and two members must be laypersons. Each member  
764 must be a resident of this state. This paragraph expires July 1,  
765 2009.

766       (c) Effective July 1, 2009, three members of the council  
767 must each be an ultimate equitable owner of a wrecker company  
768 registered under this chapter who has been an ultimate equitable  
769 owner of that company registered for at least 5 years before his  
770 or her appointment; one member must be a wrecker operator  
771 certified under this chapter who is not an ultimate equitable  
772 owner of a wrecker company and who has been a wrecker operator  
773 certified for at least 5 years before his or her appointment;  
774 and two members must be laypersons. Each member must be a  
775 resident of this state.



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776       (3) The term of each member of the council is 4 years,  
777 except, to establish staggered terms, two members who are owners  
778 of wrecker companies and one layperson shall be appointed  
779 initially for 2-year terms. Members may be reappointed for  
780 additional terms not to exceed 8 years of consecutive service. A  
781 vacancy shall be filled for the remainder of the unexpired term  
782 in the same manner as the original appointment.

783       (4)(a) From among its members, the council shall annually  
784 elect a chair, who shall preside over the meetings of the  
785 council, and a vice chair.

786       (b) In conducting its meetings, the council shall use  
787 accepted rules of procedure. The department shall keep a  
788 complete record of each meeting which must show the names of  
789 members present and the actions taken. These records and other  
790 documents about matters within the jurisdiction of the council  
791 must be kept on file with the department.

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

795       (6) The department shall provide administrative and staff  
796 support services relating to the functions of the council.

797       (7) The council shall review the rules adopted by the  
798 department to administer this chapter and shall advise the  
799 department on matters relating to industry standards and  
800 practices and other issues that require technical expertise and  
801 consultation or that promote better consumer protection in the  
802 wrecker industry.



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803           508.03 Rulemaking authority.--The department may adopt  
804 rules under ss. 120.536(1) and 120.54 to administer this  
805 chapter.

806           508.04 Wrecker companies; registration  
807 required.--Effective January 1, 2004:

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

812           (2) A person applying for or renewing a local occupational  
813 license to engage for hire in the business of a wrecker company  
814 must exhibit a current registration certificate from the  
815 department before the local occupational license may be issued  
816 or reissued under chapter 205.

817           (3) This section does not apply to a motor vehicle repair  
818 shop registered with the department under s. 559.904 that  
819 derives at least 80 percent of its gross sales from motor  
820 vehicle repairs.

821           508.05 Registration requirements; renewal of  
822 registrations.--

823           (1) Each wrecker company engaged or attempting to engage  
824 for hire in the business of towing, carrying, or transporting  
825 vehicles, vessels, or mobile homes by wrecker upon the streets  
826 and highways of this state must annually register with the  
827 department on forms prescribed by the department. The  
828 application for registration must include at least the following  
829 information:



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830        (a) The name and federal employer identification number of  
831 the wrecker company.

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

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

836        (d) The full name, residence address, business address,  
837 and telephone number of the applicant. If the applicant is other  
838 than a natural person, the application must also contain the  
839 full name, residence address, business address, telephone  
840 number, and federal employer identification number, if  
841 applicable, of each ultimate equitable owner of the business  
842 entity and each officer, director, partner, manager, member, or  
843 managing member of the entity.

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

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

850        (2) Each initial and renewal application for registration  
851 must be accompanied by the registration fee prescribed in s.  
852 508.16.

853        (3) Each initial application for registration must be  
854 accompanied by a complete set of the applicant's fingerprints  
855 taken by an authorized law enforcement officer. If the applicant  
856 is other than a natural person, a complete set of fingerprints  
857 must also be filed for each ultimate equitable owner of the



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858 business entity and each officer, director, partner, manager,  
859 member, or managing member of the entity. The department shall  
860 submit the fingerprints to the Department of Law Enforcement for  
861 state processing, and the Department of Law Enforcement shall  
862 forward the fingerprints to the Federal Bureau of Investigation  
863 for national processing. The applicant must also pay the cost of  
864 fingerprint processing. Registration renewal applications need  
865 not be accompanied by a set of fingerprints for an individual  
866 who previously submitted a set of fingerprints to the department  
867 as part of a prior year's registration application.

868 (4) The department shall review each application in  
869 accordance with s. 120.60 and shall issue a registration  
870 certificate, in the form and size prescribed by the department,  
871 to each wrecker company whose application is approved. The  
872 certificate must show at least the name and address of the  
873 wrecker company and the registration number. The registration  
874 certificate must be prominently displayed in the wrecker  
875 company's primary place of business.

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

878 (6) A registration is invalid for a wrecker company  
879 transacting business at a place other than the location  
880 designated in the registration application unless the department  
881 is first notified in writing before the change of location. A  
882 registration issued under this chapter is not transferable or  
883 assignable, and a wrecker company may not conduct business under  
884 a name other than as registered. A wrecker company desiring to  
885 change its registered name, location, or registered agent for





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886 service of process at a time other than upon renewal of  
887 registration must notify the department of the change.

888 (7)(a) Each registration must be renewed annually on or  
889 before the expiration date of the current registration. A late  
890 fee of \$25 must be paid, in addition to the registration fee or  
891 any other penalty, for a registration renewal application that  
892 is received by the department after the expiration date of the  
893 current registration. The department may not issue a  
894 registration until all fees are paid.

895 (b) A wrecker company whose primary place of business is  
896 located within a county or municipality that requires, by local  
897 ordinance, a local occupational license under chapter 205 may  
898 not renew a license under this chapter unless the wrecker  
899 company obtains the occupational license from the county or  
900 municipality.

901 (8) Each wrecker company must provide the department with  
902 a certificate of insurance for the required insurance coverage  
903 under s. 627.7415 before the department may issue the  
904 registration certificate for an initial or renewal registration.  
905 The department must be named as a certificateholder on the  
906 insurance certificate and must be notified at least 30 days  
907 before any change in insurance coverage.

908 (9) The department shall report each change in the  
909 registration status of a wrecker company, including, but not  
910 limited to, the initial registration and the renewal,  
911 revocation, cancellation, or refusal to renew a registration, to  
912 the Department of Highway Safety and Motor Vehicles within 5



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913 days after the effective date of the change in the registration  
914 status.

915 508.06 Denial of registration.--The department may deny,  
916 revoke, or refuse to renew the registration of a wrecker company  
917 based upon a determination that the applicant or, if the  
918 applicant is other than a natural person, the wrecker company or  
919 any of its ultimate equitable owners, officers, directors,  
920 partners, managers, members, or managing members has:

921 (1) Not met the requirements for registration under this  
922 chapter;

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

926 (3) Been convicted of, found guilty of, or pled guilty or  
927 nolo contendere to, regardless of the adjudication of guilt, a  
928 crime within the last 10 years involving repossession of a motor  
929 vehicle under chapter 493; repair of a motor vehicle under ss.  
930 559.901-559.9221; theft of a motor vehicle under s. 812.014;  
931 carjacking under s. 812.133; operation of a chop shop under s.  
932 812.16; failure to maintain records of motor vehicle parts and  
933 accessories under s. 860.14; airbag theft or use of fake airbags  
934 under s. 860.145 or s. 860.146; overcharging for repairs and  
935 parts under s. 860.15; or a violation of towing or storage  
936 requirements for a motor vehicle under s. 321.051, chapter 323,  
937 s. 713.78, s. 715.07, or this chapter;

938 (4) Not satisfied a civil fine or penalty arising out of  
939 an administrative or enforcement action brought by the



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940 department, another governmental agency, or a private person  
941 based upon conduct involving a violation of this chapter;

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

945 (6) A judgment entered against him or her in an action  
946 brought by the department under this chapter.

947 508.07 Wrecker operator certification program.--

948 (1) The department, in consultation with the council,  
949 shall establish a wrecker operator certification program by  
950 December 31, 2003. Under this program, the council shall approve  
951 certification courses for wrecker operators conducted by  
952 approved organizations. The council shall prescribe the minimum  
953 curricula for these courses, which must comprise at least 16  
954 hours, equally apportioned between theoretical instruction and  
955 practical training. The council must approve each organization  
956 and its certification course before the course is accepted for  
957 certification of wrecker operators under this chapter.

958 (2) Each approved wrecker operator certification course  
959 must include a certification examination demonstrating a wrecker  
960 operator's knowledge, skills, and abilities in performing  
961 wrecker services and in the instruction and training of the  
962 certification course. The council must approve each  
963 certification examination before the examination is accepted for  
964 certification of wrecker operators under this chapter.

965 (3) Each organization conducting an approved wrecker  
966 operator certification course must issue on forms prescribed by  
967 the department a certificate to each wrecker operator who



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968 completes the approved certification course or who passes the  
969 approved certification examination.

970 508.08 Specialized wrecker services.--

971 (1) In addition to the minimum curricula for certification  
972 of wrecker operators, each approved certification course must  
973 offer optional instruction, training, and examination of wrecker  
974 operators for each of the following specialized wrecker  
975 services:

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

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

981 (c) Heavy duty.--Towing and winching a standard large-  
982 sized commercial vehicle, and uprighting such an overturned  
983 vehicle.

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

987 (e) Rollback wrecker.--Proper loading, securing,  
988 transporting, and unloading of a vehicle on a flatbed-rollback  
989 wrecker.

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

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



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995        (2) The department shall adopt rules prescribing specific  
996 standards to further define each of the specialized wrecker  
997 services described in subsection (1). The council must approve  
998 the instruction, training, and examination for a specialized  
999 wrecker service before the specialized wrecker service is  
1000 accepted for endorsement of a wrecker operator's certification  
1001 under this chapter.

1002        (3) Each organization conducting an approved wrecker  
1003 operator certification course must issue on forms prescribed by  
1004 the department a certificate to each wrecker operator who  
1005 completes the approved instruction and training for a  
1006 specialized wrecker service or who passes the approved  
1007 endorsement examination for that specialized wrecker service.

1008        508.09 Certification cards.--

1009        (1) Each organization conducting an approved wrecker  
1010 operator certification course must issue a certification card to  
1011 each wrecker operator who completes the approved certification  
1012 course and passes the approved certification examination. The  
1013 department must approve the form of the certification cards  
1014 issued by each organization. Each certification card must  
1015 include the wrecker operator's name, a color photograph or  
1016 digital image of the wrecker operator, and the expiration date  
1017 of the certification card.

1018        (2) Each certification card must also include the wrecker  
1019 operator's applicable endorsements for specialized wrecker  
1020 services, for which the wrecker operator completed the approved  
1021 instruction and training for the specialized wrecker service and



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1022 passed the approved endorsement examination for that specialized  
1023 wrecker service.

1024 (3) The department may adopt rules governing the issuance  
1025 of a certification card to a wrecker operator who:

1026 (a) Completes a certification course and passes a  
1027 certification examination in another state which are  
1028 substantially equivalent to the approved certification courses  
1029 and approved certification examinations in this state.

1030 (b) Completed a certification course and passed a  
1031 certification examination in this state between January 1, 1999,  
1032 and December 31, 2003, which are substantially equivalent to the  
1033 approved certification courses and approved certification  
1034 examinations in this state. This paragraph expires July 1, 2004.

1035 (c) Completed instruction and training for a specialized  
1036 wrecker service and passed an endorsement examination for  
1037 specialized wrecker service between January 1, 1999, and  
1038 December 31, 2003, which are substantially equivalent to the  
1039 approved instruction and training and the approved endorsement  
1040 examinations in this state. This paragraph expires July 1, 2004.

1041  
1042 For the purposes of this subsection, the council shall approve  
1043 each certification examination in another state and shall  
1044 approve the instruction, training, and examination for each  
1045 specialized wrecker service in another state that the council  
1046 determines are substantially equivalent to the approved  
1047 certification courses and approved certification examinations in  
1048 this state or to the approved instruction, training, and



1049 endorsement examinations for a specialized wrecker service in  
1050 this state.

1051 (4) Each certification card expires 5 years after the date  
1052 of issuance.

1053 (5) Certification cards shall be issued by the  
1054 organizations conducting approved wrecker operator certification  
1055 courses. The department is not responsible for issuing  
1056 certification cards or for the costs associated with the  
1057 issuance of certification cards.

1058 508.10 Wrecker operators; certification required;  
1059 inspection of employment records.--Effective January 1, 2004:

1060 (1) A person may not perform wrecker services in this  
1061 state unless he or she is an employee or ultimate equitable  
1062 owner of a wrecker company that is registered with the  
1063 department under this chapter and those wrecker services are  
1064 performed on behalf of the wrecker company.

1065 (2)(a) A person may not perform wrecker services or  
1066 specialized wrecker services for a wrecker company for more than  
1067 6 months after first being employed by, or becoming an ultimate  
1068 equitable owner of, the wrecker company without being certified  
1069 as a wrecker operator under this chapter.

1070 (b) A wrecker operator certified under this chapter may  
1071 not perform a specialized wrecker service for a wrecker company  
1072 unless the wrecker operator's certification includes an  
1073 endorsement for that specialized wrecker service.

1074 (3)(a) Notwithstanding subsections (1) and (2), a person  
1075 may perform wrecker services or specialized wrecker services in  
1076 this state if he or she is an employee or ultimate equitable



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1077 owner of a motor vehicle repair shop registered with the  
 1078 department under s. 559.904 and those wrecker services or  
 1079 specialized wrecker services are performed on behalf of the  
 1080 motor vehicle repair shop.

1081 (b) Notwithstanding subsections (1) and (2), a person may  
 1082 perform wrecker services or specialized wrecker services in this  
 1083 state if those wrecker services or specialized wrecker services  
 1084 are performed on behalf of a religious organization that holds a  
 1085 current exemption from federal taxation, or that is not required  
 1086 to apply for recognition of its exemption, under s. 501 of the  
 1087 Internal Revenue Code.

1088 (4) The department may, at any time during business hours,  
 1089 enter any business location of a wrecker company and examine the  
 1090 company's books or records. If the department reasonably  
 1091 believes a violation of this chapter has occurred or is  
 1092 occurring, the department may subpoena any necessary books or  
 1093 records.

1094 508.11 Renewal of certification; continuing education  
 1095 requirements.--The department may prescribe by rule continuing  
 1096 education requirements of up to 8 hours for the renewal of a  
 1097 wrecker operator's certification.

1098 508.12 Prohibited acts.--It is a violation of this chapter  
 1099 for a wrecker company, its wrecker operators, or other employees  
 1100 or agents of the wrecker company to:

1101 (1) Charge rates that exceed the maximum rates imposed by  
 1102 the ordinances of the respective county or municipality under  
 1103 ss. 125.0103(1)(c) and 166.043(1)(c).





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1104           (2) Violate s. 321.051, relating to the Florida Highway  
 1105 Patrol wrecker allocation system.

1106           (3) Violate s. 323.002, relating to county and municipal  
 1107 wrecker allocation systems.

1108           (4) Violate s. 713.78, relating to liens for recovering,  
 1109 towing, or storing vehicles and vessels.

1110           (5) Violate s. 715.07, relating to towing or removing  
 1111 vehicles and vessels parked on real property without permission.

1112           (6) Refuse to allow a law enforcement officer to inspect a  
 1113 towing and storage facility, as required in s. 812.055.

1114           (7) Allow a person who is not certified as a wrecker  
 1115 operator under this chapter to perform wrecker services or  
 1116 specialized wrecker services for the wrecker company for more  
 1117 than 6 months after first being employed by, or becoming an  
 1118 ultimate equitable owner of, the wrecker company.

1119           (8) Allow a wrecker operator certified under this chapter  
 1120 to perform a specialized wrecker service for the wrecker company  
 1121 if the wrecker operator's certification does not include an  
 1122 endorsement for that specialized wrecker service.

1123           (9) Perform an act otherwise prohibited by this chapter or  
 1124 fail to perform an act otherwise required by this chapter.

1125           508.13 Administrative penalties; inspection of records.--

1126           (1) The department may order one or more of the following  
 1127 if the department finds that a wrecker company has violated this  
 1128 chapter or the rules or orders issued under this chapter:

1129           (a) Issue a notice of noncompliance under s. 120.695.

1130           (b) Impose an administrative fine not to exceed \$5,000 for  
 1131 each act or omission.



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1132        (c) Direct the wrecker company to cease and desist  
1133 specified activities.

1134        (d) Refuse to register the wrecker company or suspend or  
1135 revoke the wrecker company's registration.

1136        (e) Place the wrecker company on probation for a period of  
1137 time, subject to the conditions specified by the department.

1138        (2) Chapter 120 shall govern an administrative proceeding  
1139 resulting from an order imposing a penalty specified in  
1140 subsection (1).

1141        508.14 Civil penalties.--The department may bring a civil  
1142 action in a court of competent jurisdiction to recover any  
1143 penalties or damages allowed in this chapter and for injunctive  
1144 relief to enforce compliance with this chapter. The department  
1145 may seek a civil penalty of up to \$5,000 for each violation of  
1146 this chapter and may seek restitution for and on behalf of any  
1147 owner of a vehicle, vessel, or mobile home who is aggrieved or  
1148 injured by a violation of this chapter.

1149        508.15 Criminal penalties.--Effective July 1, 2004:

1150        (1) A person who violates s. 508.04(1) by operating a  
1151 wrecker company in this state without being registered with the  
1152 department under this chapter commits a felony of the third  
1153 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1154 775.084.

1155        (2) A person who violates s. 508.10(1) by performing  
1156 wrecker services in this state without being an employee or  
1157 ultimate equitable owner of a wrecker company that is registered  
1158 with the department under this chapter commits a felony of the



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1159 third degree, punishable as provided in s. 775.082, s. 775.083,  
 1160 or s. 775.084.

1161 508.16 Fees.--The department shall adopt by rule a fee  
 1162 schedule not to exceed the following amounts:

1163 (1) Wrecker company registration fee: \$425.

1164 (2) Wrecker company registration renewal fee: \$425.

1165 508.17 General Inspection Trust Fund; payments.--All fees,  
 1166 penalties, or other funds collected by the department under this  
 1167 chapter must be deposited in the General Inspection Trust Fund  
 1168 and may only be used for the purpose of administering this  
 1169 chapter.

1170 508.18 Recovery agents; exemption.--This chapter does not  
 1171 apply to a person licensed under chapter 493 performing  
 1172 repossession services.

1173 508.19 County and municipal ordinances.--A county or  
 1174 municipality may enact ordinances governing the business of  
 1175 transporting vehicles or vessels by wrecker which are more  
 1176 restrictive than this chapter. This section does not limit the  
 1177 authority of a political subdivision to impose regulatory fees  
 1178 or charges or to levy occupational license taxes under chapter  
 1179 205.

1180 Section 18. Subsection (13) of section 713.78, Florida  
 1181 Statutes, is amended to read:

1182 713.78 Liens for recovering, towing, or storing vehicles  
 1183 and vessels.--

1184 (13)(a) Upon receipt by the Department of Highway Safety  
 1185 and Motor Vehicles of written notice from a wrecker operator who  
 1186 claims a wrecker operator's lien under paragraph (2)(c) or



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1187 paragraph (2)(d) for recovery, towing, or storage of an  
1188 abandoned vehicle, vessel, or mobile home upon instructions from  
1189 any law enforcement agency, for which a certificate of  
1190 destruction has been issued under subsection (11), the  
1191 department shall place the name of the registered owner of that  
1192 vehicle, vessel, or mobile home on the list of those persons who  
1193 may not be issued a license plate or revalidation sticker for  
1194 any motor vehicle under s. 320.03(8). If the vehicle, vessel, or  
1195 mobile home is owned jointly by more than one person, the name  
1196 of each registered owner shall be placed on the list. The notice  
1197 of wrecker operator's lien shall be submitted on forms provided  
1198 by the department, which must include:

1199 1. The name, address, and telephone number of the wrecker  
1200 operator.

1201 2. The name of the registered owner of the vehicle,  
1202 vessel, or mobile home and the address to which the wrecker  
1203 operator provided notice of the lien to the registered owner  
1204 under subsection (4).

1205 3. A general description of the vehicle, vessel, or mobile  
1206 home, including its color, make, model, body style, and year.

1207 4. The vehicle identification number (VIN); registration  
1208 license plate number, state, and year; validation decal number,  
1209 state, and year; mobile home sticker number, state, and year;  
1210 vessel registration number; hull identification number; or other  
1211 identification number, as applicable.

1212 5. The name of the person or the corresponding law  
1213 enforcement agency that requested that the vehicle, vessel, or  
1214 mobile home be recovered, towed, or stored.



1215           6. The amount of the wrecker operator's lien, not to  
1216 exceed the amount allowed by paragraph (b).

1217           (b) For purposes of this subsection only, the amount of  
1218 the wrecker operator's lien for which the department will  
1219 prevent issuance of a license plate or revalidation sticker may  
1220 not exceed the amount of the charges for recovery, towing, and  
1221 storage of the vehicle, vessel, or mobile home for 7 days. These  
1222 charges may not exceed the maximum rates imposed by the  
1223 ordinances of the respective county or municipality under ss.  
1224 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit  
1225 the amount of a wrecker operator's lien claimed under subsection  
1226 (2) or prevent a wrecker operator from seeking civil remedies  
1227 for enforcement of the entire amount of the lien, but limits  
1228 only that portion of the lien for which the department will  
1229 prevent issuance of a license plate or revalidation sticker.

1230           (c)1. The registered owner of a vehicle, vessel, or mobile  
1231 home may dispute a wrecker operator's lien, by notifying the  
1232 department of the dispute in writing on forms provided by the  
1233 department, if at least one of the following applies:

1234           a. The registered owner presents a notarized bill of sale  
1235 proving that the vehicle, vessel, or mobile home was sold in a  
1236 private or casual sale before the vehicle, vessel, or mobile  
1237 home was recovered, towed, or stored.

1238           b. The registered owner presents proof that the Florida  
1239 certificate of title of the vehicle, vessel, or mobile home was  
1240 sold to a licensed dealer as defined in s. 319.001 before the  
1241 vehicle, vessel, or mobile home was recovered, towed, or stored.



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1242           c. The records of the department were marked to indicate  
 1243 that the vehicle, vessel, or mobile home was sold before the  
 1244 issuance of the certificate of destruction under subsection  
 1245 (11).

1246  
 1247 If the registered owner's dispute of a wrecker operator's lien  
 1248 complies with one of these criteria, the department shall  
 1249 immediately remove the registered owner's name from the list of  
 1250 those persons who may not be issued a license plate or  
 1251 revalidation sticker for any motor vehicle under s. 320.03(8),  
 1252 thereby allowing issuance of a license plate or revalidation  
 1253 sticker. If the vehicle, vessel, or mobile home is owned jointly  
 1254 by more than one person, each registered owner must dispute the  
 1255 wrecker operator's lien in order to be removed from the list.  
 1256 However, the department shall deny any dispute and maintain the  
 1257 registered owner's name on the list of those persons who may not  
 1258 be issued a license plate or revalidation sticker for any motor  
 1259 vehicle under s. 320.03(8) if the wrecker operator has provided  
 1260 the department with a certified copy of the judgment of a court  
 1261 which orders the registered owner to pay the wrecker operator's  
 1262 lien claimed under this section. In such a case, the amount of  
 1263 the wrecker operator's lien allowed by paragraph (b) may be  
 1264 increased to include no more than \$500 of the reasonable costs  
 1265 and attorney's fees incurred in obtaining the judgment. The  
 1266 department's action under this subparagraph is ministerial in  
 1267 nature, shall not be considered final agency action, and may be  
 1268 appealed ~~is appealable~~ only to the county court for the county



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1269 in which the vehicle, vessel, or mobile home was ordered  
1270 removed.

1271 2. A person against whom a wrecker operator's lien has  
1272 been imposed may alternatively obtain a discharge of the lien by  
1273 filing a complaint, challenging the validity of the lien or the  
1274 amount thereof, in the county court of the county in which the  
1275 vehicle, vessel, or mobile home was ordered removed. Upon filing  
1276 of the complaint, the person may have her or his name removed  
1277 from the list of those persons who may not be issued a license  
1278 plate or revalidation sticker for any motor vehicle under s.  
1279 320.03(8), thereby allowing issuance of a license plate or  
1280 revalidation sticker, upon posting with the court a cash or  
1281 surety bond or other adequate security equal to the amount of  
1282 the wrecker operator's lien to ensure the payment of such lien  
1283 in the event she or he does not prevail. Upon the posting of the  
1284 bond and the payment of the applicable fee set forth in s.  
1285 28.24, the clerk of the court shall issue a certificate  
1286 notifying the department of the posting of the bond and  
1287 directing the department to release the wrecker operator's lien.  
1288 Upon determining the respective rights of the parties, the court  
1289 may award damages and costs in favor of the prevailing party.

1290 3. If a person against whom a wrecker operator's lien has  
1291 been imposed does not object to the lien, but cannot discharge  
1292 the lien by payment because the wrecker operator has moved or  
1293 gone out of business, the person may have her or his name  
1294 removed from the list of those persons who may not be issued a  
1295 license plate or revalidation sticker for any motor vehicle  
1296 under s. 320.03(8), thereby allowing issuance of a license plate



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1297 or revalidation sticker, upon posting with the clerk of court in  
1298 the county in which the vehicle, vessel, or mobile home was  
1299 ordered removed, a cash or surety bond or other adequate  
1300 security equal to the amount of the wrecker operator's lien.  
1301 Upon the posting of the bond and the payment of the application  
1302 fee set forth in s. 28.24, the clerk of the court shall issue a  
1303 certificate notifying the department of the posting of the bond  
1304 and directing the department to release the wrecker operator's  
1305 lien. The department shall mail to the wrecker operator, at the  
1306 address upon the lien form, notice that the wrecker operator  
1307 must claim the security within 60 days, or the security will be  
1308 released back to the person who posted it. At the conclusion of  
1309 the 60 days, the department shall direct the clerk as to which  
1310 party is entitled to payment of the security, less applicable  
1311 clerk's fees.

1312 4. A wrecker operator's lien expires 5 years after filing.

1313 (d) Upon discharge of the amount of the wrecker operator's  
1314 lien allowed by paragraph (b), the wrecker operator must issue a  
1315 certificate of discharged wrecker operator's lien on forms  
1316 provided by the department to each registered owner of the  
1317 vehicle, vessel, or mobile home attesting that the amount of the  
1318 wrecker operator's lien allowed by paragraph (b) has been  
1319 discharged. Upon presentation of the certificate of discharged  
1320 wrecker operator's lien by the registered owner, the department  
1321 shall immediately remove the registered owner's name from the  
1322 list of those persons who may not be issued a license plate or  
1323 revalidation sticker for any motor vehicle under s. 320.03(8),  
1324 thereby allowing issuance of a license plate or revalidation





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1325 sticker. Issuance of a certificate of discharged wrecker  
1326 operator's lien under this paragraph does not discharge the  
1327 entire amount of the wrecker operator's lien claimed under  
1328 subsection (2), but only certifies to the department that the  
1329 amount of the wrecker operator's lien allowed by paragraph (b),  
1330 for which the department will prevent issuance of a license  
1331 plate or revalidation sticker, has been discharged.

1332 (e) When a wrecker operator files a notice of wrecker  
1333 operator's lien under this subsection, the department shall  
1334 charge the wrecker operator a fee of \$2, which must ~~shall~~ be  
1335 deposited into the Florida Motor Vehicle Theft Prevention Trust  
1336 Fund established under s. 860.158. A service charge of \$2.50  
1337 shall be collected and retained by the tax collector who  
1338 processes a notice of wrecker operator's lien.

1339 (f) This subsection applies only to the annual renewal in  
1340 the registered owner's birth month of a motor vehicle  
1341 registration and does not apply to the transfer of a  
1342 registration of a motor vehicle sold by a motor vehicle dealer  
1343 licensed under chapter 320, except for the transfer of  
1344 registrations which is inclusive of the annual renewals. This  
1345 subsection does not apply to any vehicle registered in the name  
1346 of a lessor. This subsection does not affect the issuance of the  
1347 title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1348 (g) The Department of Highway Safety and Motor Vehicles  
1349 may adopt rules under ~~pursuant to~~ ss. 120.536(1) and 120.54 to  
1350 implement this subsection.

1351 Section 19. Effective January 1, 2004, section 713.78,  
1352 Florida Statutes, as amended by this act, is amended to read:



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1353 713.78 Liens for recovering, towing, or storing vehicles  
1354 and vessels.--

1355 (1) As used in ~~For the purposes of~~ this section, the term:

1356 (a) "Business day" means a day other than a Saturday,  
1357 Sunday, or federal or state legal holiday.

1358 (b) "Mobile home" means a mobile home or manufactured home  
1359 as those terms are defined in s. 320.01.

1360 (c) "Property owner" has the same meaning ascribed in s.  
1361 715.07.

1362 (d)(a) "Vehicle" has the same meaning ascribed in s.  
1363 508.01 ~~means any mobile item, whether motorized or not, which is~~  
1364 ~~mounted on wheels.~~

1365 (e)(b) "Vessel" has the same meaning ascribed in s. 508.01  
1366 ~~means every description of watercraft, barge, and air boat used~~  
1367 ~~or capable of being used as a means of transportation on water,~~  
1368 ~~other than a seaplane or a "documented vessel" as defined in s.~~  
1369 ~~327.02(8).~~

1370 (f)(e) "Wrecker" has the same meaning ascribed in s.  
1371 320.01 ~~means any truck or other vehicle which is used to tow,~~  
1372 ~~carry, or otherwise transport motor vehicles or vessels upon the~~  
1373 ~~streets and highways of this state and which is equipped for~~  
1374 ~~that purpose with a boom, winch, car carrier, or other similar~~  
1375 ~~equipment.~~

1376 (g) "Wrecker company" has the same meaning ascribed in s.  
1377 508.01.

1378 (h) "Wrecker operator" has the same meaning ascribed in s.  
1379 508.01.



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1380           (2) Whenever a wrecker company registered under chapter  
 1381 508, or a person regularly engaged in the business of  
 1382 transporting mobile homes, ~~vehicles or vessels by wrecker, tow~~  
 1383 ~~truck, or car carrier~~ recovers, removes, or stores a vehicle,  
 1384 vessel, or mobile home upon instructions from:

1385           (a) The owner of the vehicle or vessel ~~thereof~~; or

1386           (b) The property owner ~~or lessor, or a person authorized~~  
 1387 ~~by the owner or lessor~~, of real property on which the ~~such~~  
 1388 vehicle is ~~wrongfully~~ parked without permission, and the ~~such~~  
 1389 removal is done in compliance with s. 715.07; or

1390           (c) A ~~Any~~ law enforcement agency; or

1391           (d) A mobile home park owner as defined in s. 723.003 who  
 1392 has a current writ of possession for a mobile home lot under  
 1393 ~~pursuant to~~ s. 723.061,

1394  
 1395 the wrecker company, or the person regularly engaged in the  
 1396 business of transporting mobile homes, has ~~she or he shall have~~  
 1397 a lien on the ~~such~~ vehicle, ~~or~~ vessel, or mobile home for a  
 1398 reasonable towing fee and for a reasonable storage fee; except  
 1399 that a ~~no~~ storage fee may not ~~shall~~ be charged if a ~~such~~ vehicle  
 1400 or vessel is stored ~~for~~ less than 6 hours.

1401           (3) This section does not authorize any person to claim a  
 1402 lien on a vehicle for fees or charges connected with the  
 1403 immobilization of a ~~such~~ vehicle using a vehicle boot or other  
 1404 similar device under ~~pursuant to~~ s. 715.07.

1405           (4)(a) Any wrecker company, or any person regularly  
 1406 engaged in the business of transporting mobile homes, that  
 1407 ~~recovering, towing, or storing vehicles or vessels who~~ comes



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1408 into possession of a vehicle, ~~or~~ vessel, or mobile home under  
1409 pursuant to subsection (2), and that ~~who~~ claims a lien for  
1410 recovery, towing, or storage services, must ~~shall~~ give notice to  
1411 the registered owner, the insurance company insuring the vehicle  
1412 notwithstanding the provisions of s. 627.736, and to all persons  
1413 claiming a lien on the vehicle, vessel, or mobile home ~~thereon~~,  
1414 as disclosed by the records in the Department of Highway Safety  
1415 and Motor Vehicles or of a corresponding agency in any other  
1416 state.

1417 (b) Whenever a ~~any~~ law enforcement agency authorizes the  
1418 removal of a vehicle, or whenever a wrecker company ~~any towing~~  
1419 ~~service, garage, repair shop, or automotive service, storage, or~~  
1420 ~~parking place~~ notifies the law enforcement agency of possession  
1421 of a vehicle under ~~pursuant to~~ s. 715.07(2)(a)2., the applicable  
1422 law enforcement agency shall contact the Department of Highway  
1423 Safety and Motor Vehicles, or the appropriate agency of the  
1424 state of registration, if known, within 24 hours through the  
1425 medium of electronic communications, giving the full description  
1426 of the vehicle. Upon receipt of the full description of the  
1427 vehicle, the department shall search its files to determine the  
1428 owner's name, the insurance company insuring the vehicle, and  
1429 whether any person has filed a lien upon the vehicle as provided  
1430 in s. 319.27(2) and (3) and notify the applicable law  
1431 enforcement agency within 72 hours. The wrecker company must  
1432 ~~person in charge of the towing service, garage, repair shop, or~~  
1433 ~~automotive service, storage, or parking place shall obtain this~~  
1434 ~~such~~ information from the applicable law enforcement agency  
1435 within 5 days after ~~from~~ the date of storage and must ~~shall~~ give



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1436 notice under ~~pursuant to~~ paragraph (a). The department may  
 1437 release the insurance company information to the requestor  
 1438 notwithstanding ~~the provisions of~~ s. 627.736.

1439 (c) Notice by certified mail, return receipt requested,  
 1440 must ~~shall~~ be sent within 7 business days after the date of  
 1441 storage of the vehicle or vessel to the registered owner, the  
 1442 insurance company insuring the vehicle notwithstanding the  
 1443 provisions of s. 627.736, and all persons of record claiming a  
 1444 lien against the vehicle or vessel. The notice must ~~it shall~~  
 1445 state the fact of possession of the vehicle or vessel, that a  
 1446 lien as provided in subsection (2) is claimed, that charges have  
 1447 accrued and the amount of the charges ~~thereof~~, that the lien is  
 1448 subject to enforcement under ~~pursuant to~~ law, ~~and~~ that the owner  
 1449 or lienholder, if any, has the right to a hearing as set forth  
 1450 in subsection (5), and that any vehicle or vessel which remains  
 1451 unclaimed, or for which the charges for recovery, towing, or  
 1452 storage services remain unpaid, may be sold free of all prior  
 1453 liens after 35 days if the vehicle or vessel is more than 3  
 1454 years of age or after 50 days if the vehicle or vessel is 3  
 1455 years of age or less.

1456 (d) If the wrecker company is unable ~~attempts to~~ identify  
 1457 the name of ~~locate~~ the owner or lienholder ~~prove unsuccessful~~,  
 1458 the wrecker company must ~~towing-storage operator shall~~, after 7  
 1459 business working days following, ~~excluding Saturday and Sunday~~,  
 1460 ~~of~~ the initial tow or storage, notify the public agency of  
 1461 jurisdiction in writing by certified mail or acknowledged hand  
 1462 delivery that the wrecker ~~towing-storage~~ company has been unable  
 1463 to identify the name of ~~locate~~ the owner or lienholder and a



1464 physical search of the vehicle or vessel has disclosed no  
 1465 ownership information and a good faith effort has been made. For  
 1466 purposes of this paragraph and subsection (9), the term "good  
 1467 faith effort" means that the following checks have been  
 1468 performed by the wrecker company to establish prior state of  
 1469 registration and for title:

- 1470 1. Check of vehicle or vessel for any type of tag, tag  
 1471 record, temporary tag, or regular tag.
- 1472 2. Check of law enforcement report for tag number or other  
 1473 information identifying the vehicle or vessel, if the vehicle or  
 1474 vessel was towed at the request of a law enforcement officer.
- 1475 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~  
 1476 ~~truck~~ operator to see if a tag was on vehicle at beginning of  
 1477 tow, if private tow.
- 1478 4. If there is no address of the owner on the impound  
 1479 report, check of law enforcement report to see if an out-of-  
 1480 state address is indicated from driver license information.
- 1481 5. Check of vehicle or vessel for inspection sticker or  
 1482 other stickers and decals that may indicate a state of possible  
 1483 registration.
- 1484 6. Check of the interior of the vehicle or vessel for any  
 1485 papers that may be in the glove box, trunk, or other areas for a  
 1486 state of registration.
- 1487 7. Check of vehicle for vehicle identification number.
- 1488 8. Check of vessel for vessel registration number.
- 1489 9. Check of vessel hull for a hull identification number  
 1490 which should be carved, burned, stamped, embossed, or otherwise  
 1491 permanently affixed to the outboard side of the transom or, if



1492 there is no transom, to the outmost seaboard side at the end of  
1493 the hull that bears the rudder or other steering mechanism.

1494 (5)(a) The owner of a vehicle, ~~or vessel,~~ or mobile home  
1495 removed under ~~pursuant to the provisions of~~ subsection (2), or  
1496 any person claiming a lien, other than the wrecker company, or  
1497 the person regularly engaged in the business of transporting  
1498 mobile homes ~~towing-storage operator,~~ within 10 days after the  
1499 time she or he has knowledge of the location of the vehicle, ~~or~~  
1500 vessel, or mobile home, may file a complaint in the county court  
1501 of the county in which the vehicle, ~~or vessel,~~ or mobile home is  
1502 stored or in which the owner resides to determine if her or his  
1503 property was wrongfully taken or withheld from her or him.

1504 (b) Upon filing of a complaint, an owner or lienholder may  
1505 have her or his vehicle, ~~or vessel,~~ or mobile home released upon  
1506 posting with the court a cash or surety bond or other adequate  
1507 security equal to the amount of the charges for towing or  
1508 storage and lot rental amount to ensure the payment of the such  
1509 charges in the event she or he does not prevail. Upon the  
1510 posting of the bond and the payment of the applicable fee set  
1511 forth in s. 28.24, the clerk of the court shall issue a  
1512 certificate notifying the lienor of the posting of the bond and  
1513 directing the lienor to release the vehicle, ~~or vessel,~~ or  
1514 mobile home. At the time of the such release, after reasonable  
1515 inspection, she or he shall give a receipt to the wrecker  
1516 ~~towing-storage~~ company, or to the mobile home transport company,  
1517 reciting any claims she or he has for loss or damage to the  
1518 vehicle, ~~or vessel,~~ or mobile home or to the contents of the  
1519 vehicle, vessel, or mobile home ~~thereof.~~



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1520 (c) Upon determining the respective rights of the parties,  
 1521 the court may award damages and costs to in favor of the  
 1522 prevailing party. The court shall also award reasonable  
 1523 attorney's fees to the prevailing party if the court finds the  
 1524 nonprevailing party filed the complaint primarily to harass, for  
 1525 frivolous purpose, or to needlessly increase the cost of  
 1526 claiming a lien under this section. In any event, The final  
 1527 order must require ~~shall provide for~~ immediate payment in full  
 1528 of the recovery, towing, and storage fees by the vehicle or  
 1529 vessel owner or lienholder; by ~~or~~ the law enforcement agency  
 1530 ordering the tow; or by the property owner, ~~lessee, or agent~~  
 1531 ~~thereof~~ of the real property from which the vehicle or vessel  
 1532 was towed or removed under s. 715.07.

1533 (6) Any vehicle, ~~or vessel,~~ or mobile home that ~~which~~ is  
 1534 stored under ~~pursuant to~~ subsection (2) and that ~~which~~ remains  
 1535 unclaimed, or for which reasonable charges for recovery, towing,  
 1536 or storing remain unpaid or for which a lot rental amount is due  
 1537 and owing to the mobile home park owner, as evidenced by a  
 1538 judgment for unpaid rent, and any contents not released under  
 1539 ~~pursuant to~~ subsection (10), may be sold by the wrecker company,  
 1540 or the person regularly engaged in the business of transporting  
 1541 mobile homes, ~~owner or operator of the storage space for the~~  
 1542 ~~such~~ towing or storage charge or unpaid lot rental amount ~~after~~  
 1543 35 days after ~~from the time~~ the vehicle, ~~or vessel,~~ or mobile  
 1544 home is stored in the wrecker company's storage facility, or is  
 1545 stored on site by a mobile home transport company, ~~therein~~ if  
 1546 the vehicle or vessel is more than 3 years of age or ~~after~~ 50  
 1547 days after ~~following the time~~ the vehicle or vessel is stored in





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1548 | the wrecker company's storage facility ~~therein~~ if the vehicle or  
1549 | vessel is 3 years of age or less. The sale must ~~shall~~ be at  
1550 | public auction for cash. If the date of the sale is ~~was~~ not  
1551 | included in the notice required in subsection (4), notice of the  
1552 | sale must ~~shall~~ be given to the person in whose name the  
1553 | vehicle, vessel, or mobile home is registered, to the mobile  
1554 | home park owner, and to all persons claiming a lien on the  
1555 | vehicle or vessel as shown on the records of the Department of  
1556 | Highway Safety and Motor Vehicles or of the corresponding agency  
1557 | in any other state. Notice must ~~shall~~ be sent by certified mail,  
1558 | return receipt requested, to the owner of the vehicle or vessel  
1559 | and the person having the recorded lien on the vehicle or vessel  
1560 | at the address shown on the records of the registering agency  
1561 | and must ~~shall~~ be mailed at least ~~not less than~~ 15 days before  
1562 | the date of the sale. After diligent search and inquiry, if the  
1563 | name and address of the registered owner or the owner of the  
1564 | recorded lien cannot be ascertained, the requirements of notice  
1565 | by mail may be dispensed with. In addition to the notice by  
1566 | mail, public notice of the time and place of sale must ~~shall~~ be  
1567 | made by publishing a notice of the sale ~~thereof~~ one time, at  
1568 | least 10 days before ~~prior to~~ the date of the sale, in a  
1569 | newspaper of general circulation in the county in which the sale  
1570 | is to be held. The proceeds of the sale, after payment of  
1571 | reasonable towing and storage charges, costs of the sale, and  
1572 | the unpaid lot rental amount, in that order of priority, must  
1573 | ~~shall~~ be deposited with the clerk of the circuit court for the  
1574 | county if the owner is absent, and the clerk shall hold the ~~such~~  
1575 | proceeds subject to the claim of the person legally entitled to



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1576 those proceeds thereto. The clerk is ~~shall be~~ entitled to  
 1577 receive 5 percent of the ~~such~~ proceeds for the care and  
 1578 disbursement of the proceeds thereof. The certificate of title  
 1579 issued under this section must ~~law shall~~ be discharged of all  
 1580 liens unless otherwise provided by court order.

1581 (7)(a) A wrecker company, its wrecker operators, and other  
 1582 employees or agents of the wrecker company ~~operator~~ recovering,  
 1583 towing, or storing vehicles or vessels are ~~is~~ not liable for  
 1584 damages connected with those ~~such~~ services, theft of the ~~such~~  
 1585 vehicles or vessels, or theft of personal property contained in  
 1586 the ~~such~~ vehicles or vessels, if those ~~provided that such~~  
 1587 services are ~~have been~~ performed with reasonable care and if  
 1588 ~~provided, further, that,~~ in the case of removal of a vehicle or  
 1589 vessel upon the request of a person purporting, and reasonably  
 1590 appearing, to be the property owner ~~or lessee, or a person~~  
 1591 ~~authorized by the owner or lessee,~~ of the real property from  
 1592 which the ~~such~~ vehicle or vessel is removed, the ~~such~~ removal  
 1593 has been done in compliance with s. 715.07. Further, a wrecker  
 1594 company, its wrecker operators, and other employees or agents of  
 1595 the wrecker company ~~operator is~~ not liable for damage  
 1596 connected with those ~~such~~ services when complying with the  
 1597 lawful directions of a law enforcement officer to remove a  
 1598 vehicle stopped, standing, or parked upon a street or highway in  
 1599 ~~such~~ a position that obstructs ~~as to obstruct~~ the normal  
 1600 movement of traffic or that creates ~~in such a condition as to~~  
 1601 ~~create~~ a hazard to other traffic upon the street or highway.

1602 (b) Employees or authorized agents of the Department of  
 1603 Transportation or an authorized or unauthorized wrecker company,



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1604 as defined in s. 321.051 or s. 323.002, may remove a vehicle or  
 1605 vehicle cargo from a public road without consent of the owner or  
 1606 operator of the vehicle or vehicle cargo upon request of a law  
 1607 enforcement officer as defined in s. 112.531, a sheriff or  
 1608 deputy sheriff as defined in s. 30.072, or a firefighter as  
 1609 defined in s. 112.81. The employee or authorized agent of the  
 1610 Department of Transportation, the wrecker company, its wrecker  
 1611 operators, and other employees or agents of the wrecker company,  
 1612 the law enforcement officer, sheriff, or deputy sheriff, and the  
 1613 firefighters and emergency medical services providers are not  
 1614 liable for any property damages or claims of damage for the  
 1615 removal if the vehicle or vehicle cargo is removed because it  
 1616 presents an imminent public safety hazard.

1617 (c)(b) For the purposes of this subsection, a wrecker  
 1618 company, its wrecker operators, and other employees or agents of  
 1619 the wrecker company are ~~operator is~~ presumed to use reasonable  
 1620 care to prevent the theft of a vehicle or vessel or of any  
 1621 personal property contained in the ~~such~~ vehicle stored in the  
 1622 wrecker company's ~~operator's~~ storage facility if all of the  
 1623 following apply:

1624 1. The wrecker company ~~operator~~ surrounds the storage  
 1625 facility with a chain-link or solid-wall type fence at least 6  
 1626 feet in height;

1627 2. The wrecker company illuminates ~~operator has~~  
 1628 ~~illuminated~~ the storage facility with lighting of sufficient  
 1629 intensity to reveal persons and vehicles at a distance of at  
 1630 least 150 feet during nighttime; and



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1631           3. The wrecker company ~~operator~~ uses one or more of the  
1632 following security methods to discourage theft of vehicles or  
1633 vessels or of any personal property contained in such vehicles  
1634 or vessels stored in the wrecker company's ~~operator's~~ storage  
1635 facility:

1636           a. A night dispatcher or watchman remains on duty at the  
1637 storage facility from sunset to sunrise;

1638           b. A security dog remains at the storage facility from  
1639 sunset to sunrise;

1640           c. Security cameras or other similar surveillance devices  
1641 monitor the storage facility; or

1642           d. A security guard service examines the storage facility  
1643 at least once each hour from sunset to sunrise.

1644           ~~(d)(e)~~ Any law enforcement agency requesting that a motor  
1645 vehicle be removed from an accident scene, street, or highway  
1646 must conduct an inventory and prepare a written record of all  
1647 personal property found in the vehicle before the vehicle is  
1648 removed by a wrecker operator. However, if the owner or driver  
1649 of the motor vehicle is present and accompanies the vehicle, an  
1650 ~~ne~~ inventory by law enforcement is not required. A wrecker  
1651 company, its wrecker operators, and other employees or agents of  
1652 the wrecker company are ~~operator is~~ not liable for the loss of  
1653 personal property alleged to be contained in ~~such~~ a vehicle when  
1654 the ~~such~~ personal property was not identified on the inventory  
1655 record prepared by the law enforcement agency requesting the  
1656 removal of the vehicle.

1657           (8) A wrecker company and its wrecker operators, excluding  
1658 ~~person regularly engaged in the business of recovering, towing,~~



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1659 ~~or storing vehicles or vessels, except~~ a person licensed under  
 1660 chapter 493 while engaged in "repossession" activities as  
 1661 defined in s. 493.6101, may not operate a wrecker, ~~tow truck, or~~  
 1662 ~~ear carrier~~ unless the name, address, and telephone number of  
 1663 the wrecker company performing the wrecker services ~~service~~ is  
 1664 clearly printed in contrasting colors on the driver and  
 1665 passenger sides of the wrecker ~~its vehicle~~. The name must be in  
 1666 at least 3-inch permanently affixed letters, and the address and  
 1667 telephone number must be in at least 1-inch permanently affixed  
 1668 letters.

1669 (9) Failure to make good faith best efforts to comply with  
 1670 the notice requirements of this section precludes ~~shall preclude~~  
 1671 the imposition of any storage charges against the ~~such~~ vehicle  
 1672 or vessel.

1673 (10) Each wrecker company that provides ~~Persons who~~  
 1674 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~  
 1675 permit vehicle or vessel owners or their agents, which agency is  
 1676 evidenced by a writing acknowledged by the owner before a notary  
 1677 public or other person empowered by law to administer oaths, to  
 1678 inspect the towed vehicle or vessel and must ~~shall~~ release to  
 1679 the owner or agent all personal property not affixed to the  
 1680 vehicle or vessel which was in the vehicle or vessel at the time  
 1681 the vehicle or vessel came into the custody of the wrecker  
 1682 company ~~person~~ providing those ~~such~~ services.

1683 (11)(a) A wrecker company that ~~Any person regularly~~  
 1684 ~~engaged in the business of recovering, towing, or storing~~  
 1685 ~~vehicles or vessels who~~ comes into possession of a vehicle or  
 1686 vessel under ~~pursuant to~~ subsection (2) and that complies ~~who~~



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1687 ~~has complied with the provisions of~~ subsections (3) and (6),  
 1688 when the ~~such~~ vehicle or vessel is to be sold for purposes of  
 1689 being dismantled, destroyed, or changed in a ~~such~~ manner that it  
 1690 is not the motor vehicle, vessel, or mobile home described in  
 1691 the certificate of title, must ~~shall~~ apply to the county tax  
 1692 collector for a certificate of destruction. A certificate of  
 1693 destruction, which authorizes the dismantling or destruction of  
 1694 the vehicle or vessel described on the certificate therein, is  
 1695 ~~shall be~~ reassignable no more than twice ~~a maximum of two times~~  
 1696 before dismantling or destruction of the vehicle is ~~shall be~~  
 1697 required, and the certificate must ~~shall~~ accompany the vehicle  
 1698 or vessel for which it is issued, when the ~~such~~ vehicle or  
 1699 vessel is sold for that purpose ~~such purposes~~, in lieu of a  
 1700 certificate of title. The application for a certificate of  
 1701 destruction must include an affidavit from the applicant that it  
 1702 has complied with all applicable requirements of this section  
 1703 and, if the vehicle or vessel is not registered in this state,  
 1704 by a statement from a law enforcement officer that the vehicle  
 1705 or vessel is not reported stolen, and must also ~~shall~~ be  
 1706 accompanied by any other ~~such~~ documentation ~~as may be~~ required  
 1707 by the department.

1708 (b) The Department of Highway Safety and Motor Vehicles  
 1709 shall charge a fee of \$3 for each certificate of destruction. A  
 1710 service charge of \$4.25 shall be collected and retained by the  
 1711 tax collector who processes the application.

1712 (c) The Department of Highway Safety and Motor Vehicles  
 1713 may adopt ~~such~~ rules to administer ~~as it deems necessary or~~  
 1714 ~~proper for the administration of~~ this subsection.



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1715           (12)(a) Any person who violates ~~any provision of~~  
 1716 subsection (1), subsection (2), subsection (4), subsection (5),  
 1717 subsection (6), or subsection (7) commits ~~is guilty of~~ a  
 1718 misdemeanor of the first degree, punishable as provided in s.  
 1719 775.082 or s. 775.083.

1720           (b) Any person who violates ~~the provisions of~~ subsections  
 1721 (8) through (11) commits ~~is guilty of~~ a felony of the third  
 1722 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1723 775.084.

1724           (c) Any person who uses a false or fictitious name, gives  
 1725 a false or fictitious address, or makes any false statement in  
 1726 any application or affidavit required under ~~the provisions of~~  
 1727 this section commits ~~is guilty of~~ a felony of the third degree,  
 1728 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1729           (d) Employees of the Department of Highway Safety and  
 1730 Motor Vehicles and law enforcement officers may ~~are authorized~~  
 1731 ~~to~~ inspect the records of each wrecker company in this state ~~any~~  
 1732 ~~person regularly engaged in the business of recovering, towing,~~  
 1733 ~~or storing vehicles or vessels or transporting vehicles or~~  
 1734 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure  
 1735 compliance with the requirements of this section. Any person who  
 1736 fails to maintain records, or fails to produce records when  
 1737 required in a reasonable manner and at a reasonable time,  
 1738 commits a misdemeanor of the first degree, punishable as  
 1739 provided in s. 775.082 or s. 775.083.

1740           (13)(a) Upon receipt by the Department of Highway Safety  
 1741 and Motor Vehicles of written notice from a wrecker company  
 1742 ~~operator~~ who claims a wrecker company's ~~operator's~~ lien under



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1743 paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or  
1744 storage of an abandoned vehicle, vessel, or mobile home upon  
1745 instructions from any law enforcement agency, for which a  
1746 certificate of destruction has been issued under subsection  
1747 (11), the department shall place the name of the registered  
1748 owner of that vehicle, vessel, or mobile home on the list of  
1749 those persons who may not be issued a license plate or  
1750 revalidation sticker for any motor vehicle under s. 320.03(8).  
1751 If the vehicle, vessel, or mobile home is owned jointly by more  
1752 than one person, the name of each registered owner shall be  
1753 placed on the list. The notice of the wrecker company's  
1754 ~~operator's~~ lien shall be submitted on forms provided by the  
1755 department, which must include:

1756 1. The name, address, and telephone number of the wrecker  
1757 company ~~operator~~.

1758 2. The name of the registered owner of the vehicle,  
1759 vessel, or mobile home and the address to which the wrecker  
1760 company ~~operator~~ provided notice of the lien to the registered  
1761 owner under subsection (4).

1762 3. A general description of the vehicle, vessel, or mobile  
1763 home, including its color, make, model, body style, and year.

1764 4. The vehicle identification number (VIN); registration  
1765 license plate number, state, and year; validation decal number,  
1766 state, and year; mobile home sticker number, state, and year;  
1767 vessel registration number; hull identification number; or other  
1768 identification number, as applicable.





1769           5. The name of the person or the corresponding law  
1770 enforcement agency that requested that the vehicle, vessel, or  
1771 mobile home be recovered, towed, or stored.

1772           6. The amount of the wrecker company's ~~operator's~~ lien,  
1773 not to exceed the amount allowed by paragraph (b).

1774           (b) For purposes of this subsection only, the amount of  
1775 the wrecker company's ~~operator's~~ lien for which the department  
1776 will prevent issuance of a license plate or revalidation sticker  
1777 may not exceed the amount of the charges for recovery, towing,  
1778 and storage of the vehicle, vessel, or mobile home for 7 days.  
1779 These charges may not exceed the maximum rates imposed by the  
1780 ordinances of the respective county or municipality under ss.  
1781 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit  
1782 the amount of a wrecker company's ~~operator's~~ lien claimed under  
1783 subsection (2) or prevent a wrecker company ~~operator~~ from  
1784 seeking civil remedies for enforcement of the entire amount of  
1785 the lien, but limits only that portion of the lien for which the  
1786 department will prevent issuance of a license plate or  
1787 revalidation sticker.

1788           (c)1. The registered owner of a vehicle, vessel, or mobile  
1789 home may dispute a wrecker company's or a mobile home transport  
1790 company's ~~operator's~~ lien, by notifying the department of the  
1791 dispute in writing on forms provided by the department, if at  
1792 least one of the following applies:

1793           a. The registered owner presents a notarized bill of sale  
1794 proving that the vehicle, vessel, or mobile home was sold in a  
1795 private or casual sale before the vehicle, vessel, or mobile  
1796 home was recovered, towed, or stored.



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1797           b. The registered owner presents proof that the Florida  
1798 certificate of title of the vehicle, vessel, or mobile home was  
1799 sold to a licensed dealer as defined in s. 319.001 before the  
1800 vehicle, vessel, or mobile home was recovered, towed, or stored.

1801           c. The records of the department were marked to indicate  
1802 that the vehicle, vessel, or mobile home was sold before the  
1803 issuance of the certificate of destruction under subsection  
1804 (11).

1805

1806 If the registered owner's dispute of a wrecker company's or a  
1807 mobile home transport company's ~~operator's~~ lien complies with  
1808 one of these criteria, the department shall immediately remove  
1809 the registered owner's name from the list of those persons who  
1810 may not be issued a license plate or revalidation sticker for  
1811 any motor vehicle under s. 320.03(8), thereby allowing issuance  
1812 of a license plate or revalidation sticker. If the vehicle,  
1813 vessel, or mobile home is owned jointly by more than one person,  
1814 each registered owner must dispute the wrecker company's or the  
1815 mobile home transport company's ~~operator's~~ lien in order to be  
1816 removed from the list. However, the department shall deny any  
1817 dispute and maintain the registered owner's name on the list of  
1818 those persons who may not be issued a license plate or  
1819 revalidation sticker for any motor vehicle under s. 320.03(8) if  
1820 the wrecker company ~~operator~~ has provided the department with a  
1821 certified copy of the judgment of a court which orders the  
1822 registered owner to pay the wrecker company's ~~operator's~~ lien  
1823 claimed under this section. In such a case, the amount of the  
1824 wrecker company's ~~operator's~~ lien allowed by paragraph (b) may



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1825 be increased to include no more than \$500 of the reasonable  
1826 costs and attorney's fees incurred in obtaining the judgment.  
1827 The department's action under this subparagraph is ministerial  
1828 in nature, shall not be considered final agency action, and may  
1829 be appealed only to the county court for the county in which the  
1830 vehicle, vessel, or mobile home was ordered removed.

1831 2. A person against whom a wrecker company's ~~operator's~~  
1832 lien has been imposed may alternatively obtain a discharge of  
1833 the lien by filing a complaint, challenging the validity of the  
1834 lien or the amount thereof, in the county court of the county in  
1835 which the vehicle, vessel, or mobile home was ordered removed.  
1836 Upon filing of the complaint, the person may have her or his  
1837 name removed from the list of those persons who may not be  
1838 issued a license plate or revalidation sticker for any motor  
1839 vehicle under s. 320.03(8), thereby allowing issuance of a  
1840 license plate or revalidation sticker, upon posting with the  
1841 court a cash or surety bond or other adequate security equal to  
1842 the amount of the wrecker company's ~~operator's~~ lien to ensure  
1843 the payment of such lien in the event she or he does not  
1844 prevail. Upon the posting of the bond and the payment of the  
1845 applicable fee set forth in s. 28.24, the clerk of the court  
1846 shall issue a certificate notifying the department of the  
1847 posting of the bond and directing the department to release the  
1848 wrecker company's ~~operator's~~ lien. Upon determining the  
1849 respective rights of the parties, the court may award damages  
1850 and costs in favor of the prevailing party.

1851 3. If a person against whom a wrecker company's ~~operator's~~  
1852 lien has been imposed does not object to the lien, but cannot



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1853 discharge the lien by payment because the wrecker company  
1854 ~~operator~~ has moved or gone out of business, the person may have  
1855 her or his name removed from the list of those persons who may  
1856 not be issued a license plate or revalidation sticker for any  
1857 motor vehicle under s. 320.03(8), thereby allowing issuance of a  
1858 license plate or revalidation sticker, upon posting with the  
1859 clerk of court in the county in which the vehicle, vessel, or  
1860 mobile home was ordered removed, a cash or surety bond or other  
1861 adequate security equal to the amount of the wrecker company's  
1862 ~~operator's~~ lien. Upon the posting of the bond and the payment of  
1863 the application fee set forth in s. 28.24, the clerk of the  
1864 court shall issue a certificate notifying the department of the  
1865 posting of the bond and directing the department to release the  
1866 wrecker company's ~~operator's~~ lien. The department shall mail to  
1867 the wrecker company ~~operator~~, at the address upon the lien form,  
1868 notice that the wrecker company ~~operator~~ must claim the security  
1869 within 60 days, or the security will be released back to the  
1870 person who posted it. At the conclusion of the 60 days, the  
1871 department shall direct the clerk as to which party is entitled  
1872 to payment of the security, less applicable clerk's fees.

1873 4. A wrecker company's ~~operator's~~ lien expires 5 years  
1874 after filing.

1875 (d) Upon discharge of the amount of the wrecker company's  
1876 ~~operator's~~ lien allowed by paragraph (b), the wrecker company  
1877 ~~operator~~ must issue a certificate of discharged wrecker  
1878 company's ~~operator's~~ lien on forms provided by the department to  
1879 each registered owner of the vehicle, vessel, or mobile home  
1880 attesting that the amount of the wrecker company's ~~operator's~~



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1881 | lien allowed by paragraph (b) has been discharged. Upon  
1882 | presentation of the certificate of discharged wrecker company's  
1883 | ~~operator's~~ lien by the registered owner, the department shall  
1884 | immediately remove the registered owner's name from the list of  
1885 | those persons who may not be issued a license plate or  
1886 | revalidation sticker for any motor vehicle under s. 320.03(8),  
1887 | thereby allowing issuance of a license plate or revalidation  
1888 | sticker. Issuance of a certificate of discharged wrecker  
1889 | company's ~~operator's~~ lien under this paragraph does not  
1890 | discharge the entire amount of the wrecker company's ~~operator's~~  
1891 | lien claimed under subsection (2), but only certifies to the  
1892 | department that the amount of the wrecker company's ~~operator's~~  
1893 | lien allowed by paragraph (b), for which the department will  
1894 | prevent issuance of a license plate or revalidation sticker, has  
1895 | been discharged.

1896 |       (e) When a wrecker company ~~operator~~ files a notice of the  
1897 | wrecker company's ~~operator's~~ lien under this subsection, the  
1898 | department shall charge the wrecker company ~~operator~~ a fee of  
1899 | \$2, which must be deposited into the Florida Motor Vehicle Theft  
1900 | Prevention Trust Fund established under s. 860.158. A service  
1901 | charge of \$2.50 shall be collected and retained by the tax  
1902 | collector who processes a notice of the wrecker company's  
1903 | ~~operator's~~ lien.

1904 |       (f) This subsection applies only to the annual renewal in  
1905 | the registered owner's birth month of a motor vehicle  
1906 | registration and does not apply to the transfer of a  
1907 | registration of a motor vehicle sold by a motor vehicle dealer  
1908 | licensed under chapter 320, except for the transfer of



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1909 | registrations which is inclusive of the annual renewals. This  
 1910 | subsection does not apply to any vehicle registered in the name  
 1911 | of a lessor. This subsection does not affect the issuance of the  
 1912 | title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1913 | (g) The Department of Highway Safety and Motor Vehicles  
 1914 | may adopt rules under ss. 120.536(1) and 120.54 to implement  
 1915 | this subsection.

1916 | (14) The amendments to this section made by this act do  
 1917 | not affect the validity of liens established under this section  
 1918 | before January 1, 2004.

1919 | Section 20. Effective January 1, 2004, section 715.07,  
 1920 | Florida Statutes, is amended to read:

1921 | 715.07 Vehicles and vessels parked on real ~~private~~  
 1922 | property without permission; towing.--

1923 | (1) As used in this section, the term:

1924 | (a) "Property owner" means an owner or lessee of real  
 1925 | property, or a person authorized by the owner or lessee, which  
 1926 | person may be the designated representative of the condominium  
 1927 | association if the real property is a condominium.

1928 | (b) "Vehicle" has the same meaning ascribed in s. 508.01  
 1929 | ~~means any mobile item which normally uses wheels, whether~~  
 1930 | ~~motorized or not.~~

1931 | (c) "Vessel" has the same meaning ascribed in s. 508.01.

1932 | (d) "Wrecker company" has the same meaning ascribed in s.  
 1933 | 508.01.

1934 | (e) "Wrecker operator" has the same meaning ascribed in s.  
 1935 | 508.01.



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1936           (2) A property owner ~~The owner or lessee of real property,~~  
 1937 ~~or any person authorized by the owner or lessee, which person~~  
 1938 ~~may be the designated representative of the condominium~~  
 1939 ~~association if the real property is a condominium,~~ may cause a  
 1940 any vehicle or vessel parked on her or his ~~such~~ property without  
 1941 her or his permission to be removed by a wrecker company  
 1942 registered under chapter 508 ~~person regularly engaged in the~~  
 1943 ~~business of towing vehicles,~~ without liability for the costs of  
 1944 removal, transportation, or storage or damages caused by the  
 1945 ~~such~~ removal, transportation, or storage, under any of the  
 1946 following circumstances:

1947           (a) The towing or removal of any vehicle or vessel from  
 1948 real private property without the consent of the registered  
 1949 owner or other legally authorized person in control of that  
 1950 vehicle or vessel is subject to strict compliance with the  
 1951 following conditions and restrictions:

1952           1.a. Any towed or removed vehicle or vessel must be stored  
 1953 at a storage facility ~~site~~ within 10 miles of the point of  
 1954 removal in any county of 500,000 population or more, and within  
 1955 15 miles of the point of removal in any county of less than  
 1956 500,000 population. The wrecker company's storage facility ~~That~~  
 1957 ~~site~~ must be open for the purpose of redemption of vehicles and  
 1958 vessels on any day that the wrecker company ~~person or firm~~  
 1959 towing the ~~such~~ vehicle or vessel is open for towing purposes,  
 1960 from 8 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when closed, must ~~shall~~  
 1961 have prominently posted a sign indicating a telephone number  
 1962 where the operator of the storage facility ~~site~~ can be reached  
 1963 at all times. Upon receipt of a telephoned request to open the



1964 storage facility site to redeem a vehicle or vessel, the  
 1965 operator shall return to the storage facility site within 1 hour  
 1966 or she or he ~~is~~ will be in violation of this section.

1967 b. If a wrecker company ~~no towing business providing such~~  
 1968 ~~service~~ is not located within the area of towing limitations ~~set~~  
 1969 ~~forth~~ in sub-subparagraph a., the following limitations apply:  
 1970 any towed or removed vehicle or vessel must be stored at a  
 1971 storage facility site within 20 miles of the point of removal in  
 1972 any county of 500,000 population or more, and within 30 miles of  
 1973 the point of removal in any county of less than 500,000  
 1974 population.

1975 2. The wrecker company ~~person or firm~~ towing or removing  
 1976 the vehicle or vessel ~~must~~ shall, within 30 minutes after ~~of~~  
 1977 completion of that ~~such~~ towing or removal, notify the municipal  
 1978 police department or, in an unincorporated area, the sheriff of  
 1979 that ~~such~~ towing or removal; the location of the storage  
 1980 facility; site; ~~the time the vehicle or vessel was towed or~~  
 1981 ~~removed;~~ and the make, model, color, and license plate number  
 1982 of the vehicle or the make, model, color, and registration  
 1983 number of the vessel. The wrecker company must also ~~and shall~~  
 1984 obtain the name of the person at that department to whom this  
 1985 ~~such~~ information is ~~was~~ reported and note that name on the trip  
 1986 record.

1987 3. If the registered owner or other legally authorized  
 1988 person in control of the vehicle or vessel arrives at the scene  
 1989 before ~~prior to removal or towing of the vehicle or vessel is~~  
 1990 towed or removed, the wrecker company must disconnect the  
 1991 vehicle or vessel ~~shall be disconnected~~ from the wrecker towing





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1992 ~~er removal apparatus,~~ and must allow that person ~~shall be~~  
 1993 ~~allowed~~ to remove the vehicle or vessel without interference  
 1994 upon the payment of a reasonable service fee of not more than  
 1995 one-half of the posted rate for those services ~~such towing~~  
 1996 ~~service~~ as provided in subparagraph 6., for which a receipt  
 1997 shall be given, unless that person refuses to remove the vehicle  
 1998 or vessel that ~~which~~ is otherwise unlawfully parked or located.

1999 4. A wrecker company, a wrecker operator, or another  
 2000 employee or agent of a wrecker company may not give a ~~The~~ rebate  
 2001 or pay ~~payment of~~ money or ~~any~~ other valuable consideration ~~from~~  
 2002 ~~the individual or firm towing or removing vehicles~~ to the  
 2003 property owner ~~owners or operators~~ of the premises from which a  
 2004 vehicle or vessel is ~~the vehicles are~~ towed or removed, for the  
 2005 privilege of removing or towing the vehicle or vessel ~~these~~  
 2006 ~~vehicles,~~ is prohibited. A property owner may not solicit a  
 2007 wrecker company, a wrecker operator, or another employee or  
 2008 agent of a wrecker company to give her or him a rebate or the  
 2009 payment of money or other valuable consideration for the  
 2010 privilege of removing or towing a vehicle from her or his  
 2011 premises.

2012 5. Except for property appurtenant to and obviously a part  
 2013 of a single-family residence, and except for instances when  
 2014 notice is personally given to the owner or other legally  
 2015 authorized person in control of the vehicle or vessel that the  
 2016 area in which that vehicle or vessel is parked is reserved or  
 2017 otherwise unavailable for unauthorized vehicles or vessels and  
 2018 subject to being removed at the owner's or operator's expense,  
 2019 any property owner ~~or lessee, or person authorized by the~~



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2020 ~~property owner or lessee, before~~ prior to towing or removing any  
 2021 vehicle or vessel from real ~~private~~ property without the consent  
 2022 of the owner or other legally authorized person in control of  
 2023 that vehicle or vessel, must post a notice meeting the following  
 2024 requirements:

2025       a. The notice must be prominently placed at each driveway  
 2026 access or curb cut allowing vehicular access to the property,  
 2027 within 5 feet from the public right-of-way line. If there are  
 2028 no curbs or access barriers, the signs must be posted not less  
 2029 than one sign for each 25 feet of lot frontage.

2030       b. The notice must clearly indicate, in not less than 2-  
 2031 inch high, light-reflective letters on a contrasting background,  
 2032 that unauthorized vehicles will be towed away at the owner's  
 2033 expense. The words "tow-away zone" must be included on the sign  
 2034 in not less than 4-inch high letters.

2035       c. The notice must also provide the name and current  
 2036 telephone number of the wrecker company ~~person or firm~~ towing or  
 2037 removing the vehicles, if the property owner, ~~lessee, or person~~  
 2038 ~~in control~~ of the real property has a written contract with the  
 2039 wrecker ~~towing~~ company.

2040       d. The sign structure containing the required notices must  
 2041 be permanently installed with the words "tow-away zone" not less  
 2042 than 3 feet and not more than 6 feet above ground level and must  
 2043 be continuously maintained on the property for not less than 24  
 2044 hours prior to the towing or removal of any vehicles.

2045       e. The local government may require permitting and  
 2046 inspection of these signs prior to any towing or removal of  
 2047 vehicles being authorized.



2048 f. A business with 20 or fewer parking spaces satisfies  
 2049 the notice requirements of this subparagraph by prominently  
 2050 displaying a sign stating "Reserved Parking for Customers Only  
 2051 Unauthorized Vehicles Will be Towed Away At the Owner's Expense"  
 2052 in not less than 4-inch high, light-reflective letters on a  
 2053 contrasting background.

2054 g. A property owner towing or removing vessels from real  
 2055 property must post notice, consistent with the requirements in  
 2056 sub-subparagraphs a.-f. which apply to vehicles, that  
 2057 unauthorized vehicles or vessels will be towed away at the  
 2058 owner's expense.

2059  
 2060 A business owner or lessee may authorize the removal of a  
 2061 vehicle or vessel by a wrecker towing company registered under  
 2062 chapter 508 when the vehicle or vessel is parked in ~~such~~ a  
 2063 manner that restricts the normal operation of business; and, if  
 2064 a vehicle or vessel parked on a public right-of-way obstructs  
 2065 access to a private driveway, the owner, lessee, or agent may  
 2066 have the vehicle or vessel removed by a wrecker towing company  
 2067 registered under chapter 508 upon signing an order that the  
 2068 vehicle or vessel be removed without a posted tow-away zone  
 2069 sign.

2070 6. Each wrecker company ~~Any person or firm~~ that tows or  
 2071 removes vehicles or vessels and proposes to require an owner,  
 2072 operator, or person in control of a vehicle or vessel to pay the  
 2073 costs of towing and storage prior to redemption of the vehicle  
 2074 or vessel must file and keep on record with the local law  
 2075 enforcement agency a complete copy of the current rates to be



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2076 charged for those ~~such~~ services and post at the wrecker  
 2077 company's storage facility ~~site~~ an identical rate schedule and  
 2078 any written contracts with property owners, lessees, or persons  
 2079 in control of real property which authorize the wrecker company  
 2080 ~~such person or firm~~ to remove vehicles or vessels as provided in  
 2081 this section.

2082 7. Each wrecker company ~~Any person or firm~~ towing or  
 2083 removing any vehicles or vessels from real ~~private~~ property  
 2084 without the consent of the owner or other legally authorized  
 2085 person in control of the vehicles must ~~shall~~, on each wrecker  
 2086 ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s. 713.78(1)(c)~~, or  
 2087 ~~other vehicles~~ used in the towing or removal, have the name,  
 2088 address, and telephone number of the wrecker company ~~performing~~  
 2089 ~~such service~~ clearly printed in contrasting colors on the driver  
 2090 and passenger sides of the wrecker ~~vehiele~~. The name must ~~shall~~  
 2091 be in at least 3-inch permanently affixed letters, and the  
 2092 address and telephone number must ~~shall~~ be in at least 1-inch  
 2093 permanently affixed letters.

2094 8. Vehicle or vessel entry for the purpose of towing or  
 2095 removing the vehicle or vessel ~~is~~ ~~shall be~~ allowed with  
 2096 reasonable care ~~by on the part of~~ the wrecker company and the  
 2097 wrecker operators ~~person or firm~~ towing the vehicle or vessel  
 2098 for the wrecker company. A wrecker company, its wrecker  
 2099 operators, and other employees or agents of the wrecker company  
 2100 are not ~~Such person or firm~~ shall be liable for any damage  
 2101 occasioned to the vehicle or vessel if ~~such~~ entry to the vehicle  
 2102 or vessel is performed ~~not in accordance with the standard of~~  
 2103 reasonable care.



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2104           9. When a vehicle or vessel is ~~has been~~ towed or removed  
 2105 under pursuant to this section, the wrecker company ~~it~~ must  
 2106 release the vehicle or vessel ~~be released~~ to its owner or  
 2107 custodian within one hour after requested. Any vehicle or vessel  
 2108 owner, custodian, or agent has ~~shall have~~ the right to inspect  
 2109 the vehicle or vessel before accepting its return. A wrecker  
 2110 company may not require any vehicle or vessel owner, custodian,  
 2111 or agent to, ~~and no release the wrecker company or waiver of any~~  
 2112 ~~kind which would release the person or firm~~ towing the vehicle  
 2113 or vessel from liability for damages noted by the owner or other  
 2114 legally authorized person at the time of the redemption ~~may be~~  
 2115 ~~required from any vehicle owner, custodian, or agent~~ as a  
 2116 condition of release of the vehicle or vessel to its owner. A  
 2117 wrecker company must give a person paying towing and storage  
 2118 charges under this section a detailed, signed receipt showing  
 2119 the legal name of the wrecker company ~~or person towing or~~  
 2120 ~~removing the vehicle must be given to the person paying towing~~  
 2121 ~~or storage charges~~ at the time of payment, whether requested or  
 2122 not.

2123           (b) These requirements are ~~shall be the~~ minimum standards  
 2124 and do shall not preclude enactment of additional regulations by  
 2125 any municipality or county, including the regulation of ~~right to~~  
 2126 ~~regulate~~ rates when vehicles or vessels are towed from real  
 2127 ~~private~~ property.

2128           (3) This section does not apply to vehicles or vessels  
 2129 that are reasonably identifiable from markings as law  
 2130 enforcement, firefighting, rescue squad, ambulance, or other



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2131 emergency vehicles or vessels ~~which are marked as such~~ or to  
2132 property owned by any governmental entity.

2133 (4) When a person improperly causes a vehicle or vessel to  
2134 be removed, ~~that such person is~~ shall be liable to the owner or  
2135 lessee of the vehicle or vessel for the cost of removal,  
2136 transportation, and storage; any damages resulting from the  
2137 removal, transportation, or storage of the vehicle or vessel;  
2138 attorneys' fees; and court costs.

2139 (6) ~~(5)~~ Failure to make good faith efforts to comply with the  
2140 notice requirements in subparagraph (2)(a)5. precludes the  
2141 imposition of any towing or storage charges against the vehicle  
2142 or vessel.

2143 (6)~~(5)~~(a) Any person who violates ~~the provisions of~~  
2144 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is guilty  
2145 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
2146 s. 775.082 or s. 775.083.

2147 (b) Any person who violates ~~the provisions of~~ subparagraph  
2148 (2)(a)1., subparagraph (2)(a)3., subparagraph (2)(a)4.,  
2149 subparagraph (2)(a)7., or subparagraph (2)(a)9. commits is  
2150 ~~guilty of~~ a felony of the third degree, punishable as provided  
2151 in s. 775.082, s. 775.083, or s. 775.084.

2152 Section 21. Effective January 1, 2004, subsection (15) of  
2153 section 1.01, Florida Statutes, is repealed.

2154 Section 22. The sum of \$595,000 is appropriated from the  
2155 General Inspection Trust Fund to the Department of Agriculture  
2156 and Consumer Services, and nine additional full-time-equivalent  
2157 positions are authorized, for the purpose of implementing this  
2158 act during the 2003-2004 fiscal year.



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2159 |           Section 23. Except as otherwise expressly provided in this  
2160 | act, this act shall take effect July 1, 2003.