

## CHAMBER ACTION

1 The Committee on Transportation recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

HB 1673

2004  
CS

24 relating to license taxes, to incorporate the amendment to  
25 s. 320.01, F.S., in references thereto; amending s.  
26 320.0821, F.S.; revising requirements for the issuance of  
27 wrecker license plates; amending s. 320.13, F.S., relating  
28 to dealer license plates; conforming provisions to changes  
29 made by the act; amending s. 321.051, F.S.; providing  
30 definitions; authorizing the Division of the Florida  
31 Highway Patrol within the Department of Highway Safety and  
32 Motor Vehicles to establish a wrecker allocation system;  
33 providing requirements for the system; authorizing the  
34 division to set maximum rates for towing and storage of  
35 vehicles; prohibiting an unauthorized wrecker company from  
36 monitoring a police radio or engaging in other activities;  
37 providing penalties; providing requirements for  
38 dispatching wreckers; amending s. 323.001, F.S., relating  
39 to wrecker company storage facilities; providing  
40 definitions; providing procedures for a law enforcement  
41 agency to place a hold on a stored vehicle; providing for  
42 payment of towing and storage charges; amending s.  
43 323.002, F.S.; providing definitions; providing  
44 requirements for a county or municipality that operates a  
45 wrecker allocation system; providing requirements for the  
46 system; prohibiting an unauthorized wrecker company from  
47 monitoring a police radio or engaging in other activities;  
48 providing penalties; providing requirements for  
49 dispatching wreckers; creating chapter 508, F.S.;  
50 providing definitions; creating the Wrecker Operator  
51 Advisory Council within the Department of Agriculture and

52 | Consumer Services; providing for membership and terms;  
53 | providing for reimbursement for travel and per diem  
54 | expenses; requiring the council to advise the department  
55 | on matters relating to standards and practices in the  
56 | wrecker industry; authorizing the department to adopt  
57 | rules; requiring wrecker companies to register annually  
58 | with the department; requiring registration prior to  
59 | issuance or renewal of local occupational license;  
60 | excluding certain motor vehicle repair shops and dealers;  
61 | providing application requirements for registration and  
62 | renewal; providing for processing of fingerprints by the  
63 | Department of Law Enforcement; requiring fees for  
64 | processing; providing for issuance of registration  
65 | certificate; requiring display of the certificate;  
66 | providing requirements for advertisements; requiring  
67 | notification of changes in registration information;  
68 | requiring certain fees be paid; requiring local  
69 | occupational license of certain companies prior to  
70 | renewal; requiring insurance coverage; requiring the  
71 | department to notify the Department of Highway Safety and  
72 | Motor Vehicles when a registration has been suspended or  
73 | revoked; authorizing the department to deny registration  
74 | under certain circumstances; specifying acceptable forms  
75 | of payment; establishing a certification program for  
76 | wrecker operators; requiring the department to approve  
77 | courses and organizations; providing requirements for  
78 | examinations; providing for certification in specialized  
79 | wrecker services; requiring the department to adopt rules;

80 providing for certification cards to be issued to wrecker  
81 operators who complete the certification course and pass  
82 the examination; providing for approval by the council of  
83 out-of-state certification instructions, training, and  
84 examinations; prohibiting the performance of wrecker  
85 services after a specified date unless the company is  
86 registered and obtains certification as required;  
87 excluding service performed for certain shops and  
88 organizations; authorizing the department to inspect  
89 employment records; providing requirements for continuing  
90 education; specifying prohibited acts; providing  
91 administrative, civil, and criminal penalties; providing  
92 for registration fees; providing for deposit and use of  
93 fees, penalties, and other funds; providing that the  
94 chapter does not apply to recovery agents; authorizing  
95 counties and municipalities to enact ordinances governing  
96 wrecker operators; requiring that a wrecker company  
97 maintain records of its services for a specified time;  
98 requiring a wrecker company to keep records of its  
99 operators continuing education courses for a specified  
100 time; directing organizations that conduct continuing  
101 education courses to keep records for a specified time;  
102 authorizing inspection of records by the department;  
103 amending s. 713.78, F.S., relating to liens for  
104 recovering, towing, or storing vehicles and vessels;  
105 providing definitions; conforming provisions to changes  
106 made by the act; providing for attorney's fees to be  
107 awarded to the prevailing party for a frivolous claim of

108 wrongful taking or claim of lien; providing immunity from  
109 liability for a wrecker company, its operators, and other  
110 employees or agents if services are performed with  
111 reasonable care or for complying with the directions of a  
112 law enforcement officer or certain emergency personnel;  
113 providing for the owner of a vehicle or vessel to dispute  
114 a claim of lien by a wrecker company based on a record of  
115 sale; excluding from application vehicles registered by  
116 lessor; clarifying that the amendments made by the act do  
117 not affect the validity of prior liens; creating s.  
118 713.785, F.S.; authorizing the imposition of lien by a  
119 mobile home transport company for recovering, towing, or  
120 storing a mobile home; providing definitions; requiring a  
121 mobile home transport company to provide notice of  
122 recovery, towing, or storage services; providing that said  
123 lien is prior in dignity to all others except for unpaid  
124 purchase price or a landlord's lien for rent; providing  
125 for the filing of a complaint; providing procedures for  
126 the sale of an unclaimed mobile home; requiring certain  
127 notice; limiting liability of the transport company, the  
128 landlord and his or her agent, and any subsequent  
129 purchaser; specifying circumstances under which a mobile  
130 home transport company must obtain a certificate of  
131 destruction; limiting assignment of the certificate;  
132 requiring application to the county tax collector;  
133 authorizing the Department of Highway Safety and Motor  
134 Vehicles to adopt rules; authorizing the department to  
135 inspect records of the transport company; providing for

HB 1673

2004  
CS

136 | issuing certificates of destruction and revalidation  
137 | stickers; providing procedures for disputing a lien and  
138 | for discharge of a lien; providing for expiration of the  
139 | lien; providing for the posting and repayment of surety;  
140 | providing for award of damages and costs; providing for  
141 | collection and distribution of certain fees; amending s.  
142 | 319.30, F.S.; redefining the term "certificate of  
143 | destruction," to conform; amending s. 713.69, F.S.,  
144 | relating to circumstances in which it is unlawful to  
145 | remove property upon which a lien has accrued, to conform;  
146 | amending s. 715.07, F.S., relating to the towing of  
147 | vehicles and vessels parked on real property without  
148 | permission; providing definitions; providing for the  
149 | towing and removal of vehicles and vessels under certain  
150 | circumstances; conforming provisions to changes made by  
151 | the act; providing requirements for towing and storage;  
152 | prohibiting a property owner from soliciting a wrecker  
153 | company for a rebate for the privilege of removing  
154 | vehicles from the owner's property; providing immunity  
155 | from liability for a wrecker company, its operators, and  
156 | other employees or agents if services are performed with  
157 | reasonable care; providing that failure to comply with  
158 | notice requirements precludes a wrecker company from  
159 | imposing certain towing or storage charges; providing  
160 | penalties; repealing s. 1.01(15), F.S., relating to the  
161 | definition of the term "wrecker operator"; providing an  
162 | appropriation and authorizing additional positions;  
163 | providing effective dates.

HB 1673

2004  
CS

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

Section 1. Effective January 1, 2005, paragraph (b) of subsection (8) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.--

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

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

Section 2. Effective January 1, 2005, section 205.1975, Florida Statutes, is created to read:

205.1975 Wrecker companies; consumer protection.--A county or municipality may not issue or renew an occupational license for the operation of a wrecker company under chapter 508 unless the wrecker company exhibits a current registration from the Department of Agriculture and Consumer Services.

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

316.530 Towing requirements.--

HB 1673

2004  
CS

191 (3) Whenever a motor vehicle becomes disabled upon the  
 192 highways of this state and a wrecker ~~or tow truck~~ is required to  
 193 remove it to a repair shop or other appropriate location, if the  
 194 combined weights of those two vehicles and the loads thereon  
 195 exceed the maximum allowable weights as established by s.  
 196 316.535, no penalty shall be assessed either vehicle or driver.  
 197 However, this exception shall not apply to the load limits for  
 198 bridges and culverts established by the department as provided  
 199 in s. 316.555.

200 Section 4. For the purpose of incorporating the amendment  
 201 made by this act to section 320.01, Florida Statutes, in  
 202 references thereto, subsection (4) of section 316.550, Florida  
 203 Statutes, is reenacted to read:

204 316.550 Operations not in conformity with law; special  
 205 permits.--

206 (4)(a) The Department of Transportation may issue a  
 207 wrecker special blanket permit to authorize a wrecker as defined  
 208 in s. 320.01(40) to tow a disabled vehicle as defined in s.  
 209 320.01(38) where the combination of the wrecker and the disabled  
 210 vehicle being towed exceeds the maximum weight limits as  
 211 established by s. 316.535.

212 (b) The Department of Transportation must supply the  
 213 permitted wrecker with a map showing the routes on which the  
 214 wrecker may safely tow disabled vehicles for all special permit  
 215 classifications for which the wrecker applies.

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

218 316.605 Licensing of vehicles.--



HB 1673

2004  
CS

219 (1) Every vehicle, at all times while driven, stopped, or  
 220 parked upon any highways, roads, or streets of this state, shall  
 221 be licensed in the name of the owner thereof in accordance with  
 222 the laws of this state unless such vehicle is not required by  
 223 the laws of this state to be licensed in this state and shall,  
 224 except as otherwise provided in s. 320.0706 for front-end  
 225 registration license plates on truck tractors or wreckers,  
 226 display the license plate or both of the license plates assigned  
 227 to it by the state, one on the rear and, if two, the other on  
 228 the front of the vehicle, each to be securely fastened to the  
 229 vehicle outside the main body of the vehicle in such manner as  
 230 to prevent the plates from swinging, with all letters, numerals,  
 231 printing, writing, and other identification marks upon the  
 232 plates clear and distinct and free from defacement, mutilation,  
 233 grease, and other obscuring matter, so that they will be plainly  
 234 visible and legible at all times 100 feet from the rear or  
 235 front. In addition, if only one registration plate is issued for  
 236 a motor vehicle that is equipped with a mechanical loading  
 237 device that may damage the plate, the plate may be attached to  
 238 the front of the vehicle. Nothing shall be placed upon the face  
 239 of a Florida plate except as permitted by law or by rule or  
 240 regulation of a governmental agency. No license plates other  
 241 than those furnished by the state shall be used. However, if  
 242 the vehicle is not required to be licensed in this state, the  
 243 license plates on such vehicle issued by another state, by a  
 244 territory, possession, or district of the United States, or by a  
 245 foreign country, substantially complying with the provisions  
 246 hereof, shall be considered as complying with this chapter. A

HB 1673

2004  
CS

247 government license plate that is issued to a truck tractor or  
 248 heavy truck having a gross vehicle weight of 26,001 pounds or  
 249 more which is owned by a governmental entity may be placed on  
 250 the front of the vehicle and is in compliance with this chapter.

251 A violation of this subsection is a noncriminal traffic  
 252 infraction, punishable as a nonmoving violation as provided in  
 253 chapter 318.

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

256 320.01 Definitions, general.--As used in the Florida  
 257 Statutes, except as otherwise provided, the term:

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

263 Section 7. Effective January 1, 2005, subsection (8) of  
 264 section 320.03, Florida Statutes, is amended to read:

265 320.03 Registration; duties of tax collectors;  
 266 International Registration Plan.--

267 (8) If the applicant's name appears on the list referred  
 268 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a  
 269 license plate or revalidation sticker may not be issued until  
 270 that person's name no longer appears on the list or until the  
 271 person presents a receipt from the clerk showing that the fines  
 272 outstanding have been paid. The tax collector and the clerk of  
 273 the court are each entitled to receive monthly, as costs for  
 274 implementing and administering this subsection, 10 percent of

HB 1673

2004  
CS

275 | the civil penalties and fines recovered from such persons. As  
 276 | used in this subsection, the term "civil penalties and fines"  
 277 | does not include a wrecker company's ~~operator's~~ lien as  
 278 | described in s. 713.78(13). If the tax collector has private tag  
 279 | agents, such tag agents are entitled to receive a pro rata share  
 280 | of the amount paid to the tax collector, based upon the  
 281 | percentage of license plates and revalidation stickers issued by  
 282 | the tag agent compared to the total issued within the county.  
 283 | The authority of any private agent to issue license plates shall  
 284 | be revoked, after notice and a hearing as provided in chapter  
 285 | 120, if he or she issues any license plate or revalidation  
 286 | sticker contrary to the provisions of this subsection. This  
 287 | section applies only to the annual renewal in the owner's birth  
 288 | month of a motor vehicle registration and does not apply to the  
 289 | transfer of a registration of a motor vehicle sold by a motor  
 290 | vehicle dealer licensed under this chapter, except for the  
 291 | transfer of registrations which is inclusive of the annual  
 292 | renewals. This section does not affect the issuance of the title  
 293 | to a motor vehicle, notwithstanding s. 319.23(7)(b).

294 |       Section 8. Section 320.0706, Florida Statutes, is amended  
 295 | to read:

296 |       320.0706 Display of license plates on trucks.--The owner  
 297 | of any commercial truck of gross vehicle weight of 26,001 pounds  
 298 | or more shall display the registration license plate on both the  
 299 | front and rear of the truck in conformance with all the  
 300 | requirements of s. 316.605 that do not conflict with this  
 301 | section. However, the owner of a truck tractor or a wrecker

HB 1673

2004  
CS

302 must ~~shall be required to~~ display the registration license plate  
303 only on the front of such vehicle.

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

308 320.08 License taxes.--Except as otherwise provided  
309 herein, there are hereby levied and imposed annual license taxes  
310 for the operation of motor vehicles, mopeds, motorized bicycles  
311 as defined in s. 316.003(2), and mobile homes, as defined in s.  
312 320.01, which shall be paid to and collected by the department  
313 or its agent upon the registration or renewal of registration of  
314 the following:

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

317 (d) A wrecker, as defined in s. 320.01(40), which is used  
318 to tow a vessel as defined in s. 327.02(36), a disabled,  
319 abandoned, stolen-recovered, or impounded motor vehicle as  
320 defined in s. 320.01(38), or a replacement motor vehicle as  
321 defined in s. 320.01(39): \$30 flat.

322 (e) A wrecker, as defined in s. 320.01(40), which is used  
323 to tow any motor vehicle, regardless of whether or not such  
324 motor vehicle is a disabled motor vehicle as defined in s.  
325 320.01(38), a replacement motor vehicle as defined in s.  
326 320.01(39), a vessel as defined in s. 327.02(36), or any other  
327 cargo, as follows:

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

HB 1673

2004  
CS

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

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

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

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

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

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

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

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

346 Section 10. Subsection (1) of section 320.0821, Florida  
347 Statutes, is amended, and subsection (5) is added to that  
348 section, to read:

349 320.0821 Wrecker license plates.--

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

HB 1673

2004  
CS

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

360       Section 11. Effective January 1, 2005, subsection (1) of  
361 section 320.0821, Florida Statutes, as amended by this act, is  
362 amended to read:

363       320.0821 Wrecker license plates.--

364       (1) The department shall issue one wrecker license plate,  
365 regardless of gross vehicle weight, to the owner of a wrecker  
366 ~~any motor vehicle that is used to tow, carry, or otherwise~~  
367 ~~transport motor vehicles and that is equipped for that purpose~~  
368 ~~with a boom, winch, carrier, or other similar equipment, except~~  
369 ~~a motor vehicle registered under the International Registration~~  
370 ~~Plan,~~ upon application and payment of the appropriate license  
371 tax and fees in accordance with s. 320.08(5)(d) or (e). However,  
372 the department may issue or renew a wrecker license plate only  
373 if the owner of the wrecker is a wrecker company registered  
374 under chapter 508. This section does not apply to a motor  
375 vehicle registered under the International Registration Plan.

376       Section 12. Paragraph (a) of subsection (1) of section  
377 320.13, Florida Statutes, is amended to read:

378       320.13 Dealer and manufacturer license plates and  
379 alternative method of registration.--

380       (1)(a) Any licensed motor vehicle dealer and any licensed  
381 mobile home dealer may, upon payment of the license tax imposed  
382 by s. 320.08(12), secure one or more dealer license plates,  
383 which are valid for use on motor vehicles or mobile homes owned  
384 by the dealer to whom such plates are issued while the motor  
385 vehicles are in inventory and for sale, or while being operated

HB 1673

2004  
CS

386 | in connection with such dealer's business, but are not valid for  
 387 | use for hire. Dealer license plates may not be used on any ~~tow~~  
 388 | ~~truck or wrecker~~ as defined in s. 320.01 unless the ~~tow truck or~~  
 389 | wrecker is being demonstrated for sale, and the dealer license  
 390 | plates may not be used on a vehicle used to transport another  
 391 | motor vehicle for the motor vehicle dealer.

392 | Section 13. Effective January 1, 2005, section 321.051,  
 393 | Florida Statutes, is amended to read:

394 | (Substantial rewording of section. See  
 395 | s. 321.051, F.S., for present text.)

396 | 321.051 Florida Highway Patrol wrecker allocation system;  
 397 | penalties for operation outside of system.--

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

399 | (a) "Authorized wrecker company" means a wrecker company  
 400 | designated by the division as part of its wrecker allocation  
 401 | system.

402 | (b) "Division" means the Division of the Florida Highway  
 403 | Patrol within the Department of Highway Safety and Motor  
 404 | Vehicles.

405 | (c) "Unauthorized wrecker company" means a wrecker company  
 406 | not designated by the division as part of its wrecker allocation  
 407 | system.

408 | (d) "Wrecker company" has the same meaning ascribed in s.  
 409 | 508.01.

410 | (e) "Wrecker operator" has the same meaning ascribed in s.  
 411 | 508.01.

412 | (f) "Wrecker services" has the same meaning ascribed in s.  
 413 | 508.01.

HB 1673

2004  
CS

414       (2)(a) The division may establish within areas designated  
415 by the division a wrecker allocation system, using qualified,  
416 reputable wrecker companies, for the removal from crash scenes  
417 and the storage of wrecked or disabled vehicles when the owner  
418 or operator is incapacitated, unavailable, or leaves the  
419 procurement of wrecker services to the officer at the scene and  
420 for the removal and storage of abandoned vehicles.

421       (b) The wrecker allocation system may use only wrecker  
422 companies registered under chapter 508. Each reputable wrecker  
423 company registered under chapter 508 is eligible for use in the  
424 system if its equipment and wrecker operators meet the  
425 recognized safety qualifications and mechanical standards set by  
426 the division's rules for the size of vehicle they are designed  
427 to handle. The division may limit the number of wrecker  
428 companies participating in the wrecker allocation system.

429       (c) The division may establish maximum rates for the  
430 towing and storage of vehicles removed at the division's request  
431 if those rates are not established by a county or municipality  
432 under s. 125.0103 or s. 166.043. These rates are not rules for  
433 the purpose of chapter 120; however, the Department of Highway  
434 Safety and Motor Vehicles shall adopt rules prescribing the  
435 procedures for setting these rates.

436       (d) Notwithstanding chapter 120, a final order of the  
437 department denying, suspending, or revoking a wrecker company's  
438 participation in the wrecker allocation system may be appealed  
439 only in the manner and within the time provided by the Florida  
440 Rules of Appellate Procedure by a writ of certiorari issued by  
441 the circuit court in the county in which the wrecker company's



HB 1673

2004  
CS

442 primary place of business is located, as evidenced by the  
443 wrecker company's registration under chapter 508.

444 (3)(a) An unauthorized wrecker company, its wrecker  
445 operators, or its other employees or agents may not monitor a  
446 police radio for communications between patrol field units and  
447 the dispatcher in order to determine the location of a wrecked  
448 or disabled vehicle for the purpose of dispatching its wrecker  
449 operator to drive by the scene of the vehicle in a manner  
450 described in paragraph (b) or paragraph (c). Any person who  
451 violates this paragraph commits a noncriminal violation,  
452 punishable as provided in s. 775.083.

453 (b) A wrecker operator dispatched by an unauthorized  
454 wrecker company may not drive by the scene of a wrecked or  
455 disabled vehicle before the arrival of the wrecker operator  
456 dispatched by the authorized wrecker company, initiate contact  
457 with the owner or operator of the vehicle by soliciting or  
458 offering wrecker services, or tow the vehicle. Any person who  
459 violates this paragraph commits a misdemeanor of the second  
460 degree, punishable as provided in s. 775.082 or s. 775.083.

461 (c) When a wrecker operator dispatched by an unauthorized  
462 wrecker company drives by the scene of a wrecked or disabled  
463 vehicle and the owner or operator initiates contact by signaling  
464 the wrecker operator to stop and provide wrecker services, the  
465 wrecker operator must disclose to the owner or operator of the  
466 vehicle that he or she was not dispatched by the authorized  
467 wrecker company designated as part of the wrecker allocation  
468 system and must disclose, in writing, what charges for towing  
469 and storage will apply before the vehicle is connected to the

470 towing apparatus. Any person who violates this paragraph commits  
 471 a misdemeanor of the second degree, punishable as provided in s.  
 472 775.082 or s. 775.083.

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

479 (4) This section does not prohibit, or in any way prevent,  
 480 the owner or operator of a vehicle involved in a crash or  
 481 otherwise disabled from contacting any wrecker company for the  
 482 provision of wrecker services, regardless of whether the wrecker  
 483 company is an authorized wrecker company or not. However, if a  
 484 law enforcement officer determines that the disabled vehicle or  
 485 vehicle cargo is a public safety hazard, the officer may, in the  
 486 interest of public safety, dispatch an authorized wrecker  
 487 company if the officer believes that the authorized wrecker  
 488 company would arrive at the scene before the wrecker company  
 489 requested by the owner or operator of the disabled vehicle or  
 490 vehicle cargo.

491 (5) A law enforcement officer may dispatch an authorized  
 492 wrecker company out of rotation to the scene of a wrecked or  
 493 disabled vehicle if the authorized wrecker company next on  
 494 rotation is not equipped to provide the required wrecker  
 495 services and the out-of-rotation authorized wrecker company is  
 496 available with the required equipment. However, this subsection  
 497 does not prohibit or prevent the owner or operator of a vehicle

HB 1673

2004  
CS

498 involved in a crash or otherwise disabled from contacting any  
 499 wrecker company who is properly equipped to provide the required  
 500 wrecker services, regardless of whether the wrecker company is  
 501 an authorized wrecker company or not, unless the law enforcement  
 502 officer determines that the wrecked or disabled vehicle is a  
 503 public safety hazard and the officer believes that the  
 504 authorized wrecker company would arrive at the scene before the  
 505 wrecker company requested by the owner or operator.

506 Section 14. Effective January 1, 2005, section 323.001,  
 507 Florida Statutes, is amended to read:

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

510 323.001 Wrecker company storage facilities; vehicle  
 511 holds.--

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

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

515 (b) "Wrecker company" has the same meaning ascribed in s.  
 516 508.01.

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

521 (3) To extend a hold, the law enforcement agency must  
 522 notify the wrecker company in writing within the 5 business  
 523 days. If notification is not made within the 5 business days,  
 524 the wrecker company must release the vehicle to the designated  
 525 person under s. 713.78.

526        (a) If the hold is extended beyond the 5 business days,  
 527 the law enforcement agency may have the vehicle removed to a  
 528 designated impound lot, in which event the vehicle may not be  
 529 released by the law enforcement agency to the owner or  
 530 lienholder of the vehicle until proof of payment of the towing  
 531 and storage charges incurred by the wrecker company is presented  
 532 to the law enforcement agency.

533        (b) If the law enforcement agency chooses to have the  
 534 vehicle remain at the wrecker company's storage facility for  
 535 more than 5 business days under the written notification, the  
 536 law enforcement agency is responsible for paying the storage  
 537 charges incurred by the wrecker company for the requested  
 538 extended period. In such an event, the owner or lienholder is  
 539 responsible for paying the accrued towing and storage charges  
 540 for the first 5 business days, or any period less than the first  
 541 5 business days, if the law enforcement agency moves the vehicle  
 542 from the wrecker company's storage facility to a designated  
 543 impound lot or provides written notification to extend the hold  
 544 on the vehicle before the expiration of the 5 business days.

545        (c) The towing and storage rates for the owner or  
 546 lienholder of the held vehicle may not exceed the rates for the  
 547 law enforcement agency.

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

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

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

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

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

563        (d) The law enforcement officer has probable cause to  
 564 believe that the vehicle is itself evidence that tends to show  
 565 that a crime has been committed or that the vehicle contains  
 566 evidence, which cannot readily be removed, which tends to show  
 567 that a crime has been committed;

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

573        (f) The vehicle is impounded or immobilized under s.  
 574 316.193 or s. 322.34; or

575        (g) The law enforcement officer is complying with a court  
 576 order.

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

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

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

HB 1673

2004  
CS

581        (c) A general description of the vehicle, including its  
 582 color, make, model, body style, and year; VIN (Vehicle  
 583 Identification Number); registration license plate number,  
 584 state, and year; and validation sticker number, state, and year;

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

586        (e) The condition of the vehicle;

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

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

590        (7) A wrecker company's storage facility must comply with  
 591 a hold placed by a law enforcement officer, including  
 592 instructions for inside or outside storage. A wrecker company's  
 593 storage facility may not release a motor vehicle subject to a  
 594 hold to any person except as directed by the law enforcement  
 595 agency placing the hold.

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

601        Section 15. Effective January 1, 2005, section 323.002,  
 602 Florida Statutes, is amended to read:

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

605        323.002 County and municipal wrecker allocation systems;  
 606 penalties for operation outside of system.--

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

HB 1673

2004  
CS

608        (a) "Authorized wrecker company" means a wrecker company  
 609 designated as part of the wrecker allocation system established  
 610 by the governmental unit having jurisdiction over the scene of a  
 611 wrecked or disabled vehicle.

612        (b) "Unauthorized wrecker company" means a wrecker company  
 613 not designated as part of the wrecker allocation system  
 614 established by the governmental unit having jurisdiction over  
 615 the scene of a wrecked or disabled vehicle.

616        (c) "Wrecker allocation system" means a system for the  
 617 towing or removal of wrecked, disabled, or abandoned vehicles,  
 618 similar to the Florida Highway Patrol wrecker allocation system  
 619 described in s. 321.051(2), under which a county or municipality  
 620 contracts with one or more wrecker companies registered under  
 621 chapter 508 for the towing or removal of wrecked, disabled, or  
 622 abandoned vehicles from accident scenes, streets, or highways.  
 623 Each wrecker allocation system must use a method for  
 624 apportioning the towing assignments among the eligible wrecker  
 625 companies through the creation of geographic zones, a rotation  
 626 schedule, or a combination of these methods.

627        (d) "Wrecker company" has the same meaning ascribed in s.  
 628 508.01.

629        (e) "Wrecker operator" has the same meaning ascribed in s.  
 630 508.01.

631        (f) "Wrecker services" has the same meaning ascribed in s.  
 632 508.01.

633        (2) In a county or municipality that operates a wrecker  
 634 allocation system:

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

637       (b) An unauthorized wrecker company, its wrecker  
 638 operators, or its other employees or agents may not monitor a  
 639 police radio for communications between patrol field units and  
 640 the dispatcher in order to determine the location of a wrecked  
 641 or disabled vehicle for the purpose of dispatching its wrecker  
 642 operator to drive by the scene of the vehicle in a manner  
 643 described in paragraph (b) or paragraph (c). Any person who  
 644 violates this paragraph commits a noncriminal violation,  
 645 punishable as provided in s. 775.083.

646       (c) A wrecker operator dispatched by an unauthorized  
 647 wrecker company may not drive by the scene of a wrecked or  
 648 disabled vehicle before the arrival of the wrecker operator  
 649 dispatched by the authorized wrecker company, initiate contact  
 650 with the owner or operator of the vehicle by soliciting or  
 651 offering wrecker services, or tow the vehicle. Any person who  
 652 violates this paragraph commits a misdemeanor of the second  
 653 degree, punishable as provided in s. 775.082 or s. 775.083.

654       (d) When a wrecker operator dispatched by an unauthorized  
 655 wrecker company drives by the scene of a wrecked or disabled  
 656 vehicle and the owner or operator initiates contact by signaling  
 657 the wrecker operator to stop and provide wrecker services, the  
 658 wrecker operator must disclose to the owner or operator of the  
 659 vehicle that he or she was not dispatched by the authorized  
 660 wrecker company designated as part of the wrecker allocation  
 661 system and must disclose, in writing, what charges for towing  
 662 and storage will apply before the vehicle is connected to the



663 towing apparatus. Any person who violates this paragraph commits  
 664 a misdemeanor of the second degree, punishable as provided in s.  
 665 775.082 or s. 775.083.

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

672 (3) This section does not prohibit, or in any way prevent,  
 673 the owner or operator of a vehicle involved in a crash or  
 674 otherwise disabled from contacting any wrecker company for the  
 675 provision of wrecker services, regardless of whether the wrecker  
 676 company is an authorized wrecker company or not. However, if a  
 677 law enforcement officer determines that the disabled vehicle or  
 678 vehicle cargo is a public safety hazard, the officer may, in the  
 679 interest of public safety, dispatch an authorized wrecker  
 680 company if the officer believes that the authorized wrecker  
 681 company would arrive at the scene before the wrecker company  
 682 requested by the owner or operator of the disabled vehicle or  
 683 vehicle cargo.

684 (4) A law enforcement officer may dispatch an authorized  
 685 wrecker company out of rotation to the scene of a wrecked or  
 686 disabled vehicle if the authorized wrecker company next on  
 687 rotation is not equipped to provide the required wrecker  
 688 services and the out-of-rotation authorized wrecker company is  
 689 available with the required equipment. However, this subsection  
 690 does not prohibit or prevent the owner or operator of a vehicle

691 involved in a crash or otherwise disabled from contacting any  
 692 wrecker company that is properly equipped to provide the  
 693 required wrecker services, regardless of whether the wrecker  
 694 company is an authorized wrecker company or not, unless the law  
 695 enforcement officer determines that the wrecked or disabled  
 696 vehicle is a public safety hazard and the officer believes that  
 697 the authorized wrecker company would arrive at the scene before  
 698 the wrecker company requested by the owner or operator.

699 Section 16. Chapter 508, Florida Statutes, consisting of  
 700 sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06,  
 701 508.061, 508.07, 508.08, 508.09, 508.10, 508.11, 508.12, 508.13,  
 702 508.14, 508.15, 508.16, 508.17, 508.18, 508.19, and 508.20,  
 703 Florida Statutes, is created to read:

704 CHAPTER 508

705 WRECKER SERVICES

706 508.01 Definitions.--As used in this chapter, the term:

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

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

712 (3) "Department" means the Department of Agriculture and  
 713 Consumer Services.

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

717 (5) "Ultimate equitable owner" means a natural person who,  
 718 directly or indirectly, owns or controls 10 percent or more of

HB 1673

2004  
CS

719 an ownership interest in a wrecker company, regardless of  
 720 whether the natural person owns or controls the ownership  
 721 interest through one or more natural persons or one or more  
 722 proxies, powers of attorney, nominees, business entities, or any  
 723 combination thereof.

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

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

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

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

739 (10) "Wrecker operator" means a person who performs  
 740 wrecker services.

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

745 (a) Driving a wrecker.

746       (b) Loading, securing, and unloading a vehicle or vessel  
 747 on a wrecker using a boom, winch, car carrier, or other similar  
 748 equipment.

749       (c) Towing or removal of a wrecked, disabled, or abandoned  
 750 vehicle under the Florida Highway Patrol wrecker allocation  
 751 system pursuant to s. 321.051 or under a county or municipal  
 752 wrecker allocation system pursuant to s. 323.002.

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

755       (e) Towing, transportation, or removal of a vehicle or  
 756 vessel parked on real property without permission under s.  
 757 715.07.

758       (f) Recovery of a vehicle or vessel.

759       508.02 Wrecker Operator Advisory Council.--

760       (1) The Wrecker Operator Advisory Council is created  
 761 within the department. The council shall advise and assist the  
 762 department in administering this chapter.

763       (2)(a) The council shall be composed of six members  
 764 appointed by the Commissioner of Agriculture. In addition, the  
 765 executive director of the Professional Wrecker Operators of  
 766 Florida, Inc., shall serve ex officio as a voting member of the  
 767 council.

768       (b) Three members of the council must each be an ultimate  
 769 equitable owner of a wrecker company who has been an ultimate  
 770 equitable owner of that company for at least 5 years before his  
 771 or her appointment; one member must be a wrecker operator who is  
 772 not an ultimate equitable owner of a wrecker company and who has  
 773 been a wrecker operator for at least 5 years before his or her

HB 1673

2004  
CS

774 appointment; and two members must be laypersons. Each member  
 775 must be a resident of this state. This paragraph expires July 1,  
 776 2010.

777 (c) Effective July 1, 2010, three members of the council  
 778 must each be an ultimate equitable owner of a wrecker company  
 779 registered under this chapter who has been an ultimate equitable  
 780 owner of that company registered for at least 5 years before his  
 781 or her appointment; one member must be a wrecker operator  
 782 certified under this chapter who is not an ultimate equitable  
 783 owner of a wrecker company and who has been a wrecker operator  
 784 certified for at least 5 years before his or her appointment;  
 785 and two members must be laypersons. Each member must be a  
 786 resident of this state.

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

794 (4)(a) From among its members, the council shall annually  
 795 elect a chair, who shall preside over the meetings of the  
 796 council, and a vice chair.

797 (b) In conducting its meetings, the council shall use  
 798 accepted rules of procedure. The department shall keep a  
 799 complete record of each meeting which must show the names of  
 800 members present and the actions taken. These records and other

HB 1673

2004  
CS

801 documents about matters within the jurisdiction of the council  
802 must be kept on file with the department.

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

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

808 (7) The council shall review the rules adopted by the  
809 department to administer this chapter and shall advise the  
810 department on matters relating to industry standards and  
811 practices and other issues that require technical expertise and  
812 consultation or that promote better consumer protection in the  
813 wrecker industry.

814 508.03 Rulemaking authority.--The department may adopt  
815 rules under ss. 120.536(1) and 120.54 to administer this  
816 chapter.

817 508.04 Wrecker companies; registration  
818 required.--Effective January 1, 2005:

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

823 (2) A person applying for or renewing a local occupational  
824 license to engage for hire in the business of a wrecker company  
825 must exhibit a current registration certificate from the  
826 department before the local occupational license may be issued  
827 or reissued under chapter 205.

HB 1673

2004  
CS

828        (3) This section does not apply to a motor vehicle repair  
 829 shop registered with the department under s. 559.904 which  
 830 derives at least 80 percent of its gross sales from motor  
 831 vehicle repairs, or to any franchised motor vehicle dealers  
 832 licensed pursuant to s. 320.27 when wrecker services are  
 833 incidental to the operation of the franchise.

834        508.05 Registration requirements; renewal of  
 835 registrations.--

836        (1) Each wrecker company engaged or attempting to engage  
 837 for hire in the business of towing, carrying, or transporting  
 838 vehicles, vessels, or mobile homes by wrecker upon the streets  
 839 and highways of this state must annually register with the  
 840 department on forms prescribed by the department. The  
 841 application for registration must include at least the following  
 842 information:

843        (a) The name and federal employer identification number of  
 844 the wrecker company.

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

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

849        (d) The full name, residence address, business address,  
 850 and telephone number of the applicant. If the applicant is other  
 851 than a natural person, the application must also contain the  
 852 full name, residence address, business address, telephone  
 853 number, and federal employer identification number, if  
 854 applicable, of each ultimate equitable owner of the business

HB 1673

2004  
CS

855 entity and each officer, director, partner, manager, member, or  
856 managing member of the entity.

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

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

863 (2) Each initial and renewal application for registration  
864 must be accompanied by the registration fee prescribed in s.  
865 508.16.

866 (3) Each initial application for registration must be  
867 accompanied by a complete set of the applicant's fingerprints  
868 taken by a law enforcement agency. If the applicant is other  
869 than a natural person, a complete set of fingerprints must also  
870 be filed for each ultimate equitable owner of the business  
871 entity and each officer, director, partner, manager, member, or  
872 managing member of the entity. The department shall submit the  
873 fingerprints to the Department of Law Enforcement for state  
874 processing, and the Department of Law Enforcement shall forward  
875 the fingerprints to the Federal Bureau of Investigation for  
876 national processing. The applicant must also pay the Department  
877 of Law Enforcement a fingerprint processing fee of \$23 for state  
878 processing, and an additional fee for federal processing, for  
879 each applicant's name submitted. Registration renewal  
880 applications need not be accompanied by a set of fingerprints  
881 for an individual who previously submitted a set of fingerprints



882 to the department as part of a prior year's registration  
 883 application.

884 (4) The department shall review each application in  
 885 accordance with s. 120.60 and shall issue a registration  
 886 certificate, in the form and size prescribed by the department,  
 887 to each wrecker company whose application is approved. The  
 888 certificate must show at least the name and address of the  
 889 wrecker company and the registration number. The registration  
 890 certificate must be prominently displayed in the wrecker  
 891 company's primary place of business.

892 (5) Each advertisement of a wrecker company must include  
 893 the phrase "Fla. Wrecker Co. Reg. No. ." For the purpose of  
 894 this subsection, the term "advertisement" means a printed or  
 895 graphic statement made in a newspaper or other publication or  
 896 contained in any notice, handbill, or sign, including signage on  
 897 a vehicle, flyer, catalog, or letter.

898 (6) A registration is invalid for a wrecker company  
 899 transacting business at a place other than the location  
 900 designated in the registration application unless the department  
 901 is first notified in writing before the change of location. A  
 902 registration issued under this chapter is not transferable or  
 903 assignable, and a wrecker company may not conduct business under  
 904 a name other than as registered. A wrecker company desiring to  
 905 change its registered name, location, or registered agent for  
 906 service of process at a time other than upon renewal of  
 907 registration must notify the department of the change.

908 (7)(a) Each registration must be renewed annually on or  
 909 before the expiration date of the current registration. A late

HB 1673

2004  
CS

910 fee of \$25 must be paid, in addition to the registration fee or  
 911 any other penalty, for a registration renewal application that  
 912 is received by the department after the expiration date of the  
 913 current registration. The department may not issue a  
 914 registration until all fees are paid.

915 (b) A wrecker company whose primary place of business is  
 916 located within a county or municipality that requires, by local  
 917 ordinance, a local occupational license under chapter 205 may  
 918 not renew a license under this chapter unless the wrecker  
 919 company obtains the occupational license from the county or  
 920 municipality.

921 (8) Each wrecker company must provide the department with  
 922 a certificate of insurance for the required insurance coverage  
 923 under s. 627.7415 before the department may issue the  
 924 registration certificate for an initial or renewal registration.  
 925 The department must be named as a certificateholder on the  
 926 insurance certificate and must be notified at least 30 days  
 927 before any change in insurance coverage.

928 (9) The department shall notify the Department of Highway  
 929 Safety and Motor Vehicles when a registration issued under this  
 930 chapter has been suspended or revoked by order of the  
 931 department. Notification must be sent within 10 days after the  
 932 department issues the suspension or revocation order.

933 508.06 Denial of registration.--The department may deny,  
 934 revoke, or refuse to renew the registration of a wrecker company  
 935 based upon a determination that the applicant or, if the  
 936 applicant is other than a natural person, the wrecker company or

HB 1673

2004  
CS

937 any of its ultimate equitable owners, officers, directors,  
938 partners, managers, members, or managing members has:

939 (1) Not met the requirements for registration under this  
940 chapter;

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

944 (3) Been convicted of, found guilty of, or pled guilty or  
945 nolo contendere to, regardless of the adjudication of guilt, a  
946 crime within the last 10 years involving repossession of a motor  
947 vehicle under chapter 493; repair of a motor vehicle under ss.  
948 559.901-559.9221; theft of a motor vehicle under s. 812.014;  
949 carjacking under s. 812.133; operation of a chop shop under s.  
950 812.16; failure to maintain records of motor vehicle parts and  
951 accessories under s. 860.14; airbag theft or use of fake airbags  
952 under s. 860.145 or s. 860.146; overcharging for repairs and  
953 parts under s. 860.15; or a violation of towing or storage  
954 requirements for a motor vehicle under s. 321.051, chapter 323,  
955 s. 713.78, s. 715.07, or this chapter;

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

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

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

HB 1673

2004  
CS

965       508.061 Acceptable forms of payment.--A wrecker company  
 966 shall accept a minimum of two of the three following forms of  
 967 payment:

968       (1) Cash, cashier's check, money order, or traveler's  
 969 check;

970       (2) Valid personal check, showing upon its face the name  
 971 and address of the vehicle/vessel owner or authorized  
 972 representative; or

973       (3) Valid credit card, which shall include, but not be  
 974 limited to, Visa or MasterCard.

975       508.07 Wrecker operator certification program.--

976       (1) The department, in consultation with the council,  
 977 shall establish a wrecker operator certification program by  
 978 December 31, 2004. Under this program, the council shall approve  
 979 certification courses for wrecker operators conducted by  
 980 approved organizations. The council shall prescribe the minimum  
 981 curricula for these courses, which must comprise at least 16  
 982 hours, equally apportioned between theoretical instruction and  
 983 practical training. The council must approve each organization  
 984 and its certification course before the course is accepted for  
 985 certification of wrecker operators under this chapter.

986       (2) Each approved wrecker operator certification course  
 987 must include a certification examination demonstrating a wrecker  
 988 operator's knowledge, skills, and abilities in performing  
 989 wrecker services and in the instruction and training of the  
 990 certification course. The council must approve each  
 991 certification examination before the examination is accepted for  
 992 certification of wrecker operators under this chapter.

993       (3) Each organization conducting an approved wrecker  
 994 operator certification course must issue on forms prescribed by  
 995 the department a certificate to each wrecker operator who  
 996 completes the approved certification course or who passes the  
 997 approved certification examination.

998       508.08 Specialized wrecker services.--

999       (1) In addition to the minimum curricula for certification  
 1000 of wrecker operators, each approved certification course must  
 1001 offer optional instruction, training, and examination of wrecker  
 1002 operators for each of the following specialized wrecker  
 1003 services:

1004       (a) Light duty.--Towing and winching a passenger vehicle,  
 1005 and uprighting such an overturned vehicle, including the proper  
 1006 use of chains, wire rope, and straps.

1007       (b) Medium duty.--Towing and winching a medium-sized  
 1008 commercial vehicle, and uprighting such an overturned vehicle.

1009       (c) Heavy duty.--Towing and winching a standard large-  
 1010 sized commercial vehicle, and uprighting such an overturned  
 1011 vehicle.

1012       (d) Ultra-heavy duty.--Towing and winching a specialty  
 1013 large-sized commercial vehicle or another complex vehicle, and  
 1014 uprighting such an overturned vehicle.

1015       (e) Rollback wrecker.--Proper loading, securing,  
 1016 transporting, and unloading of a vehicle on a flatbed-rollback  
 1017 wrecker.

1018       (f) Hazardous materials.--Awareness of hazardous  
 1019 materials. Instruction and training for this wrecker service  
 1020 must comprise at least 8 hours in order to be approved.

HB 1673

2004  
CS

1021 (g) Air cushions.--Proper use of air cushions in the  
1022 recovery of a heavy-duty vehicle.

1023 (2) The department shall adopt rules prescribing specific  
1024 standards to further define each of the specialized wrecker  
1025 services described in subsection (1). The council must approve  
1026 the instruction, training, and examination for a specialized  
1027 wrecker service before the specialized wrecker service is  
1028 accepted for endorsement of a wrecker operator's certification  
1029 under this chapter.

1030 (3) Each organization conducting an approved wrecker  
1031 operator certification course must issue on forms prescribed by  
1032 the department a certificate to each wrecker operator who  
1033 completes the approved instruction and training for a  
1034 specialized wrecker service or who passes the approved  
1035 endorsement examination for that specialized wrecker service.

1036 508.09 Certification cards.--

1037 (1) Each organization conducting an approved wrecker  
1038 operator certification course must issue a certification card to  
1039 each wrecker operator who completes the approved certification  
1040 course and passes the approved certification examination. The  
1041 department must approve the form of the certification cards  
1042 issued by each organization. Each certification card must  
1043 include the wrecker operator's name, a color photograph or  
1044 digital image of the wrecker operator, and the expiration date  
1045 of the certification card.

1046 (2) Each certification card must also include the wrecker  
1047 operator's applicable endorsements for specialized wrecker  
1048 services, for which the wrecker operator completed the approved

HB 1673

2004  
CS

1049 instruction and training for the specialized wrecker service and  
 1050 passed the approved endorsement examination for that specialized  
 1051 wrecker service.

1052 (3) The department may adopt rules governing the issuance  
 1053 of a certification card to a wrecker operator who:

1054 (a) Completes a certification course and passes a  
 1055 certification examination in another state which are  
 1056 substantially equivalent to the approved certification courses  
 1057 and approved certification examinations in this state.

1058 (b) Completed a certification course and passed a  
 1059 certification examination in this state between January 1, 2000,  
 1060 and December 31, 2004, which are substantially equivalent to the  
 1061 approved certification courses and the approved certification  
 1062 examinations. This paragraph expires July 1, 2005.

1063 (c) Completed instruction and training for a specialized  
 1064 wrecker service and passed an endorsement examination for that  
 1065 specialized wrecker service between January 1, 2000, and  
 1066 December 31, 2004, which are substantially equivalent to the  
 1067 approved instruction and training and the approved endorsement  
 1068 examinations. This paragraph expires July 1, 2005.

1069  
 1070 For the purposes of this subsection, the council shall approve  
 1071 each certification examination in another state, and shall  
 1072 approve the instruction, training, and examination for each  
 1073 specialized wrecker service in another state, which the council  
 1074 determines are substantially equivalent to the approved  
 1075 certification courses and approved certification examinations in  
 1076 this state or to the approved instruction, training, and

HB 1673

2004  
CS

1077 endorsement examinations for a specialized wrecker service in  
1078 this state.

1079 (4) Each certification card expires 5 years after the date  
1080 of issuance.

1081 (5) Certification cards shall be issued by the  
1082 organizations conducting approved wrecker operator certification  
1083 courses. The department is not responsible for issuing  
1084 certification cards or for the costs associated with the  
1085 issuance of certification cards.

1086 508.10 Wrecker operators; certification required;  
1087 inspection of employment records.--Effective January 1, 2005:

1088 (1) A person may not perform wrecker services in this  
1089 state unless he or she is an employee or ultimate equitable  
1090 owner of a wrecker company that is registered with the  
1091 department under this chapter and those wrecker services are  
1092 performed on behalf of the wrecker company.

1093 (2)(a) A person may not perform wrecker services or  
1094 specialized wrecker services for a wrecker company for more than  
1095 6 months after first being employed by, or becoming an ultimate  
1096 equitable owner of, the wrecker company without being certified  
1097 as a wrecker operator under this chapter.

1098 (b) A wrecker operator certified under this chapter may  
1099 not perform a specialized wrecker service for a wrecker company  
1100 unless the wrecker operator's certification includes an  
1101 endorsement for that specialized wrecker service.

1102 (3)(a) Notwithstanding subsections (1) and (2), a person  
1103 may perform wrecker services or specialized wrecker services in  
1104 this state if he or she is an employee or ultimate equitable



HB 1673

2004  
CS

1105 owner of a motor vehicle repair shop registered with the  
 1106 department under s. 559.904 and those wrecker services or  
 1107 specialized wrecker services are performed on behalf of the  
 1108 motor vehicle repair shop.

1109 (b) Notwithstanding subsections (1) and (2), a person may  
 1110 perform wrecker services or specialized wrecker services in this  
 1111 state if those wrecker services or specialized wrecker services  
 1112 are performed on behalf of a religious organization that holds a  
 1113 current exemption from federal taxation or that is not required  
 1114 to apply for recognition of its exemption, under s. 501 of the  
 1115 Internal Revenue Code.

1116 (4) The department may, at any time during business hours,  
 1117 enter any business location of a wrecker company and examine the  
 1118 company's books or records. If the department reasonable  
 1119 believes a violation of this chapter has occurred or is  
 1120 occurring, the department may subpoena any necessary books or  
 1121 records.

1122 508.11 Renewal of certification; continuing education  
 1123 requirements.--

1124 (1) The department, in consultation with the council,  
 1125 shall establish a continuing education program for the  
 1126 recertification of wrecker operators by December 31, 2006. In  
 1127 order to renew a wrecker operator's certification card, an  
 1128 operator must complete a continuing education course. The  
 1129 council must prescribe the minimum curricula and proper  
 1130 examination for each continuing education course, each of which  
 1131 must be at least 8 hours in length. The council shall approve  
 1132 each organization, and the continuing education course it

HB 1673

2004  
CS

1133 | proposes to offer, before the course is approved for  
 1134 | recertifying wrecker operators.

1135 |       (2) Each organization conducting an approved wrecker  
 1136 | operator continuing education course must issue, on forms  
 1137 | prescribed by the department, a certificate to each wrecker  
 1138 | operator who completes the approved course or who passes an  
 1139 | approved recertification examination.

1140 |       508.12 Prohibited acts.--It is a violation of this chapter  
 1141 | for a person to:

1142 |       (1) Charge rates that exceed the maximum rates imposed by  
 1143 | the ordinances of the respective county or municipality under  
 1144 | ss. 125.0103(1)(c) and 166.043(1)(c).

1145 |       (2) Violate s. 321.051, relating to the Florida Highway  
 1146 | Patrol wrecker allocation system.

1147 |       (3) Violate s. 323.002, relating to county and municipal  
 1148 | wrecker allocation systems.

1149 |       (4) Violate s. 713.78, relating to liens for recovering,  
 1150 | towing, or storing vehicles and vessels.

1151 |       (5) Violate s. 715.07, relating to towing or removing  
 1152 | vehicles and vessels parked on real property without permission.

1153 |       (6) Refuse to allow a law enforcement officer to inspect a  
 1154 | towing and storage facility, as required in s. 812.055.

1155 |       (7) Allow a person who is not certified as a wrecker  
 1156 | operator under this chapter to perform wrecker services or  
 1157 | specialized wrecker services for the wrecker company for more  
 1158 | than 6 months after first being employed by, or becoming an  
 1159 | ultimate equitable owner of, the wrecker company.

1160       (8) Allow a wrecker operator certified under this chapter  
 1161 to perform a specialized wrecker service for the wrecker company  
 1162 if the wrecker operator's certification does not include an  
 1163 endorsement for that specialized wrecker service.

1164       (9) Perform an act otherwise prohibited by this chapter or  
 1165 fail to perform an act otherwise required by this chapter.

1166       508.13 Administrative penalties; inspection of records.--

1167       (1) The department may order one or more of the following  
 1168 if the department finds that a person has violated this chapter  
 1169 or the rules or orders issued under this chapter:

1170           (a) Issue a notice of noncompliance under s. 120.695.

1171           (b) Impose an administrative fine not to exceed \$5,000 for  
 1172 each act or omission.

1173           (c) Direct the person to cease and desist specified  
 1174 activities.

1175           (d) Refuse to register the wrecker company or suspend or  
 1176 revoke the wrecker company's registration.

1177           (e) Place the wrecker company on probation for a period of  
 1178 time, subject to the conditions specified by the department.

1179       (2) Chapter 120 shall govern an administrative proceeding  
 1180 resulting from an order imposing a penalty specified in  
 1181 subsection (1).

1182       508.14 Civil penalties.--The department may bring a civil  
 1183 action in a court of competent jurisdiction to recover any  
 1184 penalties or damages allowed in this chapter and for injunctive  
 1185 relief to enforce compliance with this chapter. The department  
 1186 may seek a civil penalty of up to \$5,000 for each violation of  
 1187 this chapter and may seek restitution for and on behalf of any

HB 1673

2004  
CS

1188 owner of a vehicle, vessel, or mobile home who is aggrieved or  
 1189 injured by a violation of this chapter.

1190 508.15 Criminal penalties.--Effective July 1, 2005:

1191 (1) A person who violates s. 508.04(1) by operating a  
 1192 wrecker company in this state without being registered with the  
 1193 department under this chapter commits a felony of the third  
 1194 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1195 775.084.

1196 (2) A person who violates s. 508.10(1) by performing  
 1197 wrecker services in this state without being an employee or  
 1198 ultimate equitable owner of a wrecker company that is registered  
 1199 with the department under this chapter commits a felony of the  
 1200 third degree, punishable as provided in s. 775.082, s. 775.083,  
 1201 or s. 775.084.

1202 508.16 Fees.--The department shall adopt by rule a fee  
 1203 schedule, not to exceed the following amounts:

1204 (1) Wrecker company registration fee: \$425.

1205 (2) Wrecker company registration renewal fee: \$425.

1206 508.17 General Inspection Trust Fund; payments.--All fees,  
 1207 penalties, or other funds collected by the department under this  
 1208 chapter must be deposited in the General Inspection Trust Fund  
 1209 and may only be used for the purpose of administering this  
 1210 chapter.

1211 508.18 Recovery agents; exemption.--This chapter does not  
 1212 apply to a person licensed under chapter 493 performing  
 1213 repossession services.

1214 508.19 County and municipal ordinances.--A county or  
 1215 municipality may enact ordinances governing the business of

1216 transporting vehicles or vessels by wrecker which are more  
 1217 restrictive than this chapter. This section does not limit the  
 1218 authority of a political subdivision to impose regulatory fees  
 1219 or charges or to levy occupational license taxes under chapter  
 1220 205. The department may enter into a cooperative agreement with  
 1221 any county or municipality that provides for the referral,  
 1222 investigation, and prosecution of consumer complaints alleging  
 1223 violations of this act. The department is authorized to delegate  
 1224 enforcement of this act to any county or municipality entering  
 1225 into a cooperative agreement.

1226 508.20 Records.--

1227 (1) Each wrecker company shall maintain records of its  
 1228 wrecker services for at least 12 months. These records shall be  
 1229 maintained at the wrecker company's principal place of business.

1230 (2) Each wrecker company shall maintain records on each of  
 1231 its wrecker operators sufficient to demonstrate that the  
 1232 operator has successfully completed an approved wrecker operator  
 1233 certification course or an approved wrecker operator continuing  
 1234 education course and is certified to perform wrecker services.  
 1235 These records shall be maintained at the wrecker company's  
 1236 principal place of business for as long as the operator is  
 1237 employed by the wrecker company and for at least 6 months  
 1238 thereafter.

1239 (3) Each organization approved to conduct a wrecker  
 1240 operator certification course or approved to offer a wrecker  
 1241 operator continuing education course shall maintain records on  
 1242 each person who successfully completes one of the courses. The  
 1243 records shall be maintained at the organization's principal

HB 1673

2004  
CS

1244 place of business for at least 5 years. The department may, at  
 1245 any time during normal business hours, enter the organization's  
 1246 principal place of business to examine the records.

1247 Section 17. Subsection (13) of section 713.78, Florida  
 1248 Statutes, is amended to read:

1249 713.78 Liens for recovering, towing, or storing vehicles  
 1250 and vessels.--

1251 (13)(a) Upon receipt by the Department of Highway Safety  
 1252 and Motor Vehicles of written notice from a wrecker operator who  
 1253 claims a wrecker operator's lien under paragraph (2)(c) or  
 1254 paragraph (2)(d) for recovery, towing, or storage of an  
 1255 abandoned vehicle, vessel, or mobile home upon instructions from  
 1256 any law enforcement agency, for which a certificate of  
 1257 destruction has been issued under subsection (11), the  
 1258 department shall place the name of the registered owner of that  
 1259 vehicle, vessel, or mobile home on the list of those persons who  
 1260 may not be issued a license plate or revalidation sticker for  
 1261 any motor vehicle under s. 320.03(8). If the vehicle, vessel, or  
 1262 mobile home is owned jointly by more than one person, the name  
 1263 of each registered owner shall be placed on the list. The notice  
 1264 of wrecker operator's lien shall be submitted on forms provided  
 1265 by the department, which must include:

1266 1. The name, address, and telephone number of the wrecker  
 1267 operator.

1268 2. The name of the registered owner of the vehicle,  
 1269 vessel, or mobile home and the address to which the wrecker  
 1270 operator provided notice of the lien to the registered owner  
 1271 under subsection (4).

HB 1673

2004  
CS

1272           3. A general description of the vehicle, vessel, or mobile  
1273 home, including its color, make, model, body style, and year.

1274           4. The vehicle identification number (VIN); registration  
1275 license plate number, state, and year; validation decal number,  
1276 state, and year; mobile home sticker number, state, and year;  
1277 vessel registration number; hull identification number; or other  
1278 identification number, as applicable.

1279           5. The name of the person or the corresponding law  
1280 enforcement agency that requested that the vehicle, vessel, or  
1281 mobile home be recovered, towed, or stored.

1282           6. The amount of the wrecker operator's lien, not to  
1283 exceed the amount allowed by paragraph (b).

1284           (b) For purposes of this subsection only, the amount of  
1285 the wrecker operator's lien for which the department will  
1286 prevent issuance of a license plate or revalidation sticker may  
1287 not exceed the amount of the charges for recovery, towing, and  
1288 storage of the vehicle, vessel, or mobile home for 7 days. These  
1289 charges may not exceed the maximum rates imposed by the  
1290 ordinances of the respective county or municipality under ss.  
1291 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit  
1292 the amount of a wrecker operator's lien claimed under subsection  
1293 (2) or prevent a wrecker operator from seeking civil remedies  
1294 for enforcement of the entire amount of the lien, but limits  
1295 only that portion of the lien for which the department will  
1296 prevent issuance of a license plate or revalidation sticker.

1297           (c)1. The registered owner of a vehicle, vessel, or mobile  
1298 home may dispute a wrecker operator's lien, by notifying the

HB 1673

2004  
CS

1299 department of the dispute in writing on forms provided by the  
1300 department, if at least one of the following applies:

1301 a. The registered owner presents a notarized bill of sale  
1302 proving that the vehicle, vessel, or mobile home was sold in a  
1303 private or casual sale before the vehicle, vessel, or mobile  
1304 home was recovered, towed, or stored.

1305 b. The registered owner presents proof that the Florida  
1306 certificate of title of the vehicle, vessel, or mobile home was  
1307 sold to a licensed dealer as defined in s. 319.001 before the  
1308 vehicle, vessel, or mobile home was recovered, towed, or stored.

1309 c. The records of the department were marked to indicate  
1310 that the vehicle, vessel, or mobile home was sold before the  
1311 issuance of the certificate of destruction under subsection  
1312 (11).

1313  
1314 If the registered owner's dispute of a wrecker operator's lien  
1315 complies with one of these criteria, the department shall  
1316 immediately remove the registered owner's name from the list of  
1317 those persons who may not be issued a license plate or  
1318 revalidation sticker for any motor vehicle under s. 320.03(8),  
1319 thereby allowing issuance of a license plate or revalidation  
1320 sticker. If the vehicle, vessel, or mobile home is owned jointly  
1321 by more than one person, each registered owner must dispute the  
1322 wrecker operator's lien in order to be removed from the list.  
1323 However, the department shall deny any dispute and maintain the  
1324 registered owner's name on the list of those persons who may not  
1325 be issued a license plate or revalidation sticker for any motor  
1326 vehicle under s. 320.03(8) if the wrecker operator has provided



HB 1673

2004  
CS

1327 | the department with a certified copy of the judgment of a court  
 1328 | which orders the registered owner to pay the wrecker operator's  
 1329 | lien claimed under this section. In such a case, the amount of  
 1330 | the wrecker operator's lien allowed by paragraph (b) may be  
 1331 | increased to include no more than \$500 of the reasonable costs  
 1332 | and attorney's fees incurred in obtaining the judgment. The  
 1333 | department's action under this subparagraph is ministerial in  
 1334 | nature, shall not be considered final agency action, and may be  
 1335 | appealed ~~is appealable~~ only to the county court for the county  
 1336 | in which the vehicle, vessel, or mobile home was ordered  
 1337 | removed.

1338 |         2. A person against whom a wrecker operator's lien has  
 1339 | been imposed may alternatively obtain a discharge of the lien by  
 1340 | filing a complaint, challenging the validity of the lien or the  
 1341 | amount thereof, in the county court of the county in which the  
 1342 | vehicle, vessel, or mobile home was ordered removed. Upon filing  
 1343 | of the complaint, the person may have her or his name removed  
 1344 | from the list of those persons who may not be issued a license  
 1345 | plate or revalidation sticker for any motor vehicle under s.  
 1346 | 320.03(8), thereby allowing issuance of a license plate or  
 1347 | revalidation sticker, upon posting with the court a cash or  
 1348 | surety bond or other adequate security equal to the amount of  
 1349 | the wrecker operator's lien to ensure the payment of such lien  
 1350 | in the event she or he does not prevail. Upon the posting of the  
 1351 | bond and the payment of the applicable fee set forth in s.  
 1352 | 28.24, the clerk of the court shall issue a certificate  
 1353 | notifying the department of the posting of the bond and  
 1354 | directing the department to release the wrecker operator's lien.

HB 1673

2004  
CS

1355 Upon determining the respective rights of the parties, the court  
1356 may award damages and costs in favor of the prevailing party.

1357 3. If a person against whom a wrecker operator's lien has  
1358 been imposed does not object to the lien, but cannot discharge  
1359 the lien by payment because the wrecker operator has moved or  
1360 gone out of business, the person may have her or his name  
1361 removed from the list of those persons who may not be issued a  
1362 license plate or revalidation sticker for any motor vehicle  
1363 under s. 320.03(8), thereby allowing issuance of a license plate  
1364 or revalidation sticker, upon posting with the clerk of court in  
1365 the county in which the vehicle, vessel, or mobile home was  
1366 ordered removed, a cash or surety bond or other adequate  
1367 security equal to the amount of the wrecker operator's lien.

1368 Upon the posting of the bond and the payment of the application  
1369 fee set forth in s. 28.24, the clerk of the court shall issue a  
1370 certificate notifying the department of the posting of the bond  
1371 and directing the department to release the wrecker operator's  
1372 lien. The department shall mail to the wrecker operator, at the  
1373 address upon the lien form, notice that the wrecker operator  
1374 must claim the security within 60 days, or the security will be  
1375 released back to the person who posted it. At the conclusion of  
1376 the 60 days, the department shall direct the clerk as to which  
1377 party is entitled to payment of the security, less applicable  
1378 clerk's fees.

1379 4. A wrecker operator's lien expires 5 years after filing.

1380 (d) Upon discharge of the amount of the wrecker operator's  
1381 lien allowed by paragraph (b), the wrecker operator must issue a  
1382 certificate of discharged wrecker operator's lien on forms

HB 1673

2004  
CS

1383 provided by the department to each registered owner of the  
 1384 vehicle, vessel, or mobile home attesting that the amount of the  
 1385 wrecker operator's lien allowed by paragraph (b) has been  
 1386 discharged. Upon presentation of the certificate of discharged  
 1387 wrecker operator's lien by the registered owner, the department  
 1388 shall immediately remove the registered owner's name from the  
 1389 list of those persons who may not be issued a license plate or  
 1390 revalidation sticker for any motor vehicle under s. 320.03(8),  
 1391 thereby allowing issuance of a license plate or revalidation  
 1392 sticker. Issuance of a certificate of discharged wrecker  
 1393 operator's lien under this paragraph does not discharge the  
 1394 entire amount of the wrecker operator's lien claimed under  
 1395 subsection (2), but only certifies to the department that the  
 1396 amount of the wrecker operator's lien allowed by paragraph (b),  
 1397 for which the department will prevent issuance of a license  
 1398 plate or revalidation sticker, has been discharged.

1399 (e) When a wrecker operator files a notice of wrecker  
 1400 operator's lien under this subsection, the department shall  
 1401 charge the wrecker operator a fee of \$2, which must ~~shall~~ be  
 1402 deposited into the General Revenue Fund ~~established under s.~~  
 1403 ~~860.158~~. A service charge of \$2.50 shall be collected and  
 1404 retained by the tax collector who processes a notice of wrecker  
 1405 operator's lien.

1406 (f) This subsection applies only to the annual renewal in  
 1407 the registered owner's birth month of a motor vehicle  
 1408 registration and does not apply to the transfer of a  
 1409 registration of a motor vehicle sold by a motor vehicle dealer  
 1410 licensed under chapter 320, except for the transfer of

HB 1673

2004  
CS

1411 registrations which is inclusive of the annual renewals. This  
 1412 subsection does not apply to any vehicle registered in the name  
 1413 of a lessor. This subsection does not affect the issuance of the  
 1414 title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1415 (g) The Department of Highway Safety and Motor Vehicles  
 1416 may adopt rules under ~~pursuant to~~ ss. 120.536(1) and 120.54 to  
 1417 implement this subsection.

1418 Section 18. Effective January 1, 2005, section 713.78,  
 1419 Florida Statutes, as amended by this act, is amended to read:

1420 713.78 Liens for recovering, towing, or storing vehicles  
 1421 and vessels.--

1422 (1) As used in ~~For the purposes of~~ this section, the term:

1423 (a) "Business day" means a day other than a Saturday,  
 1424 Sunday, or federal or state legal holiday.

1425 (b) "Property owner" has the same meaning ascribed in s.  
 1426 715.07.

1427 (c)~~(a)~~ "Vehicle" has the same meaning ascribed in s.  
 1428 508.01 ~~means any mobile item, whether motorized or not, which is~~  
 1429 ~~mounted on wheels.~~

1430 (d)~~(b)~~ "Vessel" has the same meaning ascribed in s. 508.01  
 1431 ~~means every description of watercraft, barge, and air boat used~~  
 1432 ~~or capable of being used as a means of transportation on water,~~  
 1433 ~~other than a seaplane or a "documented vessel" as defined in s.~~  
 1434 ~~327.02(8).~~

1435 (e)~~(e)~~ "Wrecker" has the same meaning ascribed in s.  
 1436 320.01 ~~means any truck or other vehicle which is used to tow,~~  
 1437 ~~carry, or otherwise transport motor vehicles or vessels upon the~~  
 1438 ~~streets and highways of this state and which is equipped for~~

HB 1673

2004  
CS

1439 ~~that purpose with a boom, winch, car carrier, or other similar~~  
1440 ~~equipment.~~

1441 (f) "Wrecker company" has the same meaning ascribed in s.  
1442 508.01.

1443 (g) "Wrecker operator" has the same meaning ascribed in s.  
1444 508.01.

1445 (2) Whenever a wrecker company registered under chapter  
1446 508 ~~person regularly engaged in the business of transporting~~  
1447 ~~vehicles or vessels by wrecker, tow truck, or car carrier~~  
1448 ~~recovers, removes, or stores a vehicle~~ or, ~~vessel, or mobile~~  
1449 ~~home~~ upon instructions from:

1450 (a) The owner of the vehicle or vessel ~~thereof; or~~

1451 (b) The property owner ~~or lessor, or a person authorized~~  
1452 ~~by the owner or lessor,~~ of real property on which the ~~such~~  
1453 vehicle is ~~wrongfully~~ parked without permission, and the ~~such~~  
1454 removal is done in compliance with s. 715.07; or

1455 (c) A ~~Any~~ law enforcement agency, ~~or~~

1456 ~~(d) A mobile home park owner as defined in s. 723.003 who~~  
1457 ~~has a current writ of possession for a mobile home lot pursuant~~  
1458 ~~to s. 723.061,~~

1459  
1460 the wrecker company has ~~she or he shall have~~ a lien on the ~~such~~  
1461 vehicle or vessel for a reasonable towing fee and for a  
1462 reasonable storage fee; except that a ~~no~~ storage fee may not  
1463 ~~shall~~ be charged if a ~~such~~ vehicle or vessel is stored ~~for~~ less  
1464 than 6 hours.

1465 (3) This section does not authorize any person to claim a  
1466 lien on a vehicle for fees or charges connected with the

HB 1673

2004  
CS

1467 immobilization of a ~~such~~ vehicle using a vehicle boot or other  
1468 similar device under ~~pursuant to~~ s. 715.07.

1469 (4)(a) Any wrecker company ~~that person~~ ~~regularly engaged~~  
1470 ~~in the business of recovering, towing, or storing vehicles or~~  
1471 ~~vessels who~~ comes into possession of a vehicle or vessel under  
1472 ~~pursuant to~~ subsection (2), and who claims a lien for recovery,  
1473 towing, or storage services, must ~~shall~~ give notice to the  
1474 registered owner, the insurance company insuring the vehicle  
1475 notwithstanding ~~the provisions of~~ s. 627.736, and to all persons  
1476 claiming a lien on the vehicle or vessel ~~thereon~~, as disclosed  
1477 by the records in the Department of Highway Safety and Motor  
1478 Vehicles or of a corresponding agency in any other state.

1479 (b) Whenever a ~~any~~ law enforcement agency authorizes the  
1480 removal of a vehicle, or whenever a wrecker company ~~any towing~~  
1481 ~~service, garage, repair shop, or automotive service, storage, or~~  
1482 ~~parking place~~ notifies the law enforcement agency of possession  
1483 of a vehicle under ~~pursuant to~~ s. 715.07(2)(a)2., the applicable  
1484 law enforcement agency shall contact the Department of Highway  
1485 Safety and Motor Vehicles, or the appropriate agency of the  
1486 state of registration, if known, within 24 hours through the  
1487 medium of electronic communications, giving the full description  
1488 of the vehicle. Upon receipt of the full description of the  
1489 vehicle, the department shall search its files to determine the  
1490 owner's name, the insurance company insuring the vehicle, and  
1491 whether any person has filed a lien upon the vehicle as provided  
1492 in s. 319.27(2) and (3) and notify the applicable law  
1493 enforcement agency within 72 hours. The wrecker company ~~person~~  
1494 ~~in charge of the towing service, garage, repair shop, or~~

HB 1673

2004  
CS

1495 ~~automotive service, storage, or parking place~~ shall obtain this  
 1496 ~~such~~ information from the applicable law enforcement agency  
 1497 within 5 days after ~~from~~ the date of storage and must ~~shall~~ give  
 1498 notice under ~~pursuant to~~ paragraph (a). The department may  
 1499 release the insurance company information to the requestor  
 1500 notwithstanding ~~the provisions of~~ s. 627.736.

1501 (c) Notice by certified mail, return receipt requested,  
 1502 must ~~shall~~ be sent within 7 business days after the date of  
 1503 storage of the vehicle or vessel to the registered owner, the  
 1504 insurance company insuring the vehicle notwithstanding ~~the~~  
 1505 ~~provisions of~~ s. 627.736, and all persons of record claiming a  
 1506 lien against the vehicle or vessel. The notice must ~~it shall~~  
 1507 state the fact of possession of the vehicle or vessel, that a  
 1508 lien as provided in subsection (2) is claimed, that charges have  
 1509 accrued and the amount of the charges ~~thereof~~, that the lien is  
 1510 subject to enforcement under ~~pursuant to~~ law, ~~and~~ that the owner  
 1511 or lienholder, if any, has the right to a hearing as set forth  
 1512 in subsection (5), and that any vehicle or vessel which remains  
 1513 unclaimed, or for which the charges for recovery, towing, or  
 1514 storage services remain unpaid, may be sold free of all prior  
 1515 liens after 35 days if the vehicle or vessel is more than 3  
 1516 years of age or after 50 days if the vehicle or vessel is 3  
 1517 years of age or less.

1518 (d) If the wrecker company is unable ~~attempts~~ to identify  
 1519 the name of ~~locate~~ the owner or lienholder ~~prove unsuccessful~~,  
 1520 the wrecker company must ~~towing-storage operator shall~~, after 7  
 1521 business working days following, ~~excluding Saturday and Sunday~~,  
 1522 ~~of~~ the initial tow or storage, notify the public agency of

HB 1673

2004  
CS

1523 jurisdiction in writing by certified mail or acknowledged hand  
 1524 delivery that the wrecker ~~towing-storage~~ company has been unable  
 1525 to identify the name of ~~locate~~ the owner or lienholder and a  
 1526 physical search of the vehicle or vessel has disclosed no  
 1527 ownership information and a good faith effort has been made. For  
 1528 purposes of this paragraph and subsection (9), the term "good  
 1529 faith effort" means that the following checks have been  
 1530 performed by the wrecker company to establish prior state of  
 1531 registration and for title:

- 1532 1. Check of vehicle or vessel for any type of tag, tag  
 1533 record, temporary tag, or regular tag.
- 1534 2. Check of law enforcement report for tag number or other  
 1535 information identifying the vehicle or vessel, if the vehicle or  
 1536 vessel was towed at the request of a law enforcement officer.
- 1537 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~  
 1538 ~~truck~~ operator to see if a tag was on vehicle at beginning of  
 1539 tow, if private tow.
- 1540 4. If there is no address of the owner on the impound  
 1541 report, check of law enforcement report to see if an out-of-  
 1542 state address is indicated from driver license information.
- 1543 5. Check of vehicle or vessel for inspection sticker or  
 1544 other stickers and decals that may indicate a state of possible  
 1545 registration.
- 1546 6. Check of the interior of the vehicle or vessel for any  
 1547 papers that may be in the glove box, trunk, or other areas for a  
 1548 state of registration.
- 1549 7. Check of vehicle for vehicle identification number.
- 1550 8. Check of vessel for vessel registration number.



HB 1673

2004  
CS

1551           9. Check of vessel hull for a hull identification number  
1552 which should be carved, burned, stamped, embossed, or otherwise  
1553 permanently affixed to the outboard side of the transom or, if  
1554 there is no transom, to the outmost seaboard side at the end of  
1555 the hull that bears the rudder or other steering mechanism.

1556           (5)(a) The owner of a vehicle or vessel removed under  
1557 ~~pursuant to the provisions of~~ subsection (2), or any person  
1558 claiming a lien, other than the wrecker company towing-storage  
1559 ~~operator~~, within 10 days after the time she or he has knowledge  
1560 of the location of the vehicle or vessel, may file a complaint  
1561 in the county court of the county in which the vehicle or vessel  
1562 is stored or in which the owner resides to determine if her or  
1563 his property was wrongfully taken or withheld from her or him.

1564           (b) Upon filing of a complaint, an owner or lienholder may  
1565 have her or his vehicle or vessel released upon posting with the  
1566 court a cash or surety bond or other adequate security equal to  
1567 the amount of the charges for towing or storage and lot rental  
1568 amount to ensure the payment of the ~~such~~ charges in the event  
1569 she or he does not prevail. Upon the posting of the bond and  
1570 the payment of the applicable fee set forth in s. 28.24, the  
1571 clerk of the court shall issue a certificate notifying the  
1572 lienor of the posting of the bond and directing the lienor to  
1573 release the vehicle or vessel. At the time of the ~~such~~ release,  
1574 after reasonable inspection, she or he shall give a receipt to  
1575 the wrecker ~~towing-storage~~ company reciting any claims she or he  
1576 has for loss or damage to the vehicle or vessel or to the  
1577 contents of the vehicle or vessel thereof.

HB 1673

2004  
CS

1578 (c) Upon determining the respective rights of the parties,  
 1579 the court shall ~~may~~ award damages, and costs, and reasonable  
 1580 attorney's fees to in favor of the prevailing party. ~~In any~~  
 1581 ~~event,~~ The final order must require ~~shall provide for~~ immediate  
 1582 payment in full of the recovery, towing, and storage fees by the  
 1583 vehicle or vessel owner or lienholder; by ~~or~~ the law enforcement  
 1584 agency ordering the tow; or by the property owner, ~~lessee, or~~  
 1585 ~~agent thereof~~ of the real property from which the vehicle or  
 1586 vessel was towed or removed under s. 715.07.

1587 (6) Any vehicle or vessel that ~~which~~ is stored under  
 1588 ~~pursuant to~~ subsection (2) and that ~~which~~ remains unclaimed, or  
 1589 for which reasonable charges for recovery, towing, or storing  
 1590 remain unpaid ~~or for which a lot rental amount is due and owing~~  
 1591 ~~to the mobile home park owner, as evidenced by a judgment for~~  
 1592 ~~unpaid rent, and any contents not released~~ under ~~pursuant to~~  
 1593 subsection (10), may be sold by the wrecker company ~~owner or~~  
 1594 ~~operator of the storage space~~ for the ~~such~~ towing or storage  
 1595 charge or unpaid lot rental amount ~~after~~ 35 days after ~~from the~~  
 1596 ~~time~~ the vehicle or vessel is stored in the wrecker company's  
 1597 storage facility ~~therein~~ if the vehicle or vessel is more than 3  
 1598 years of age or ~~after~~ 50 days after ~~following the time the~~  
 1599 vehicle or vessel is stored in the wrecker company's storage  
 1600 facility ~~therein~~ if the vehicle or vessel is 3 years of age or  
 1601 less. The sale must ~~shall~~ be at public auction for cash. If the  
 1602 date of the sale is ~~was~~ not included in the notice required in  
 1603 subsection (4), notice of the sale must ~~shall~~ be given to the  
 1604 person in whose name the vehicle or, vessel, ~~or mobile home~~ is  
 1605 registered, ~~to the mobile home park owner,~~ and to all persons

HB 1673

2004  
CS

1606 | claiming a lien on the vehicle or vessel as shown on the records  
 1607 | of the Department of Highway Safety and Motor Vehicles or of the  
 1608 | corresponding agency in any other state. Notice must ~~shall~~ be  
 1609 | sent by certified mail, return receipt requested, to the owner  
 1610 | of the vehicle or vessel and the person having the recorded lien  
 1611 | on the vehicle or vessel at the address shown on the records of  
 1612 | the registering agency and must ~~shall~~ be mailed at least ~~not~~  
 1613 | ~~less than~~ 15 days before the date of the sale. After diligent  
 1614 | search and inquiry, if the name and address of the registered  
 1615 | owner or the owner of the recorded lien cannot be ascertained,  
 1616 | the requirements of notice by mail may be dispensed with. In  
 1617 | addition to the notice by mail, public notice of the time and  
 1618 | place of sale must ~~shall~~ be made by publishing a notice of the  
 1619 | sale thereof one time, at least 10 days before ~~prior to~~ the date  
 1620 | of the sale, in a newspaper of general circulation in the county  
 1621 | in which the sale is to be held. The proceeds of the sale,  
 1622 | after payment of reasonable towing and storage charges and,  
 1623 | costs of the sale, ~~and the unpaid lot rental amount,~~ in that  
 1624 | order of priority, must ~~shall~~ be deposited with the clerk of the  
 1625 | circuit court for the county if the owner is absent, and the  
 1626 | clerk shall hold the ~~such~~ proceeds subject to the claim of the  
 1627 | person legally entitled to those proceeds ~~thereto~~. The clerk is  
 1628 | ~~shall be~~ entitled to receive 5 percent of the ~~such~~ proceeds for  
 1629 | the care and disbursement of the proceeds ~~thereof~~. The  
 1630 | certificate of title issued under this section must ~~law shall~~ be  
 1631 | discharged of all liens unless otherwise provided by court  
 1632 | order.

HB 1673

2004  
CS

1633           (7)(a) A wrecker company, its wrecker operators, and other  
 1634 employees or agents of the wrecker company ~~operator~~ recovering,  
 1635 towing, or storing vehicles or vessels are ~~is~~ not liable for  
 1636 damages connected with those such services, theft of the such  
 1637 vehicles or vessels, or theft of personal property contained in  
 1638 the such vehicles or vessels, if those ~~provided that such~~  
 1639 services are ~~have been~~ performed with reasonable care and if  
 1640 ~~provided, further, that,~~ in the case of removal of a vehicle or  
 1641 vessel upon the request of a person purporting, and reasonably  
 1642 appearing, to be the property owner ~~or lessee, or a person~~  
 1643 ~~authorized by the owner or lessee,~~ of the real property from  
 1644 which the such vehicle or vessel is removed, the such removal  
 1645 has been done in compliance with s. 715.07. Further, a wrecker  
 1646 company, its wrecker operators, and other employees or agents of  
 1647 the wrecker company ~~are operator~~ ~~is~~ not liable for damage  
 1648 connected with those such services when complying with the  
 1649 lawful directions of a law enforcement officer to remove a  
 1650 vehicle stopped, standing, or parked upon a street or highway in  
 1651 ~~such~~ a position that obstructs ~~as to obstruct~~ the normal  
 1652 movement of traffic or that creates ~~in such a condition as to~~  
 1653 ~~create~~ a hazard to other traffic upon the street or highway.

1654           (b) Employees or authorized agents of an authorized or  
 1655 unauthorized wrecker company, as defined in s. 321.051 or s.  
 1656 323.002, may remove a vehicle or vehicle cargo from a public  
 1657 road without consent of the owner or operator of the vehicle or  
 1658 vehicle cargo upon request of a law enforcement officer as  
 1659 defined in s. 112.531, a sheriff or deputy sheriff as defined in  
 1660 s. 30.072, or a firefighter as defined in s. 112.81. The

HB 1673

2004  
CS

1661 employee or authorized agent of the wrecker company, its wrecker  
 1662 operators, and other employees or agents of the wrecker company,  
 1663 the law enforcement officer, sheriff, or deputy sheriff, and the  
 1664 firefighters and emergency medical services providers are not  
 1665 liable for any property damages or claims of damage for the  
 1666 removal if the vehicle or vehicle cargo is removed because it  
 1667 presents an imminent public-safety hazard.

1668 (c)(b) For the purposes of this subsection, a wrecker  
 1669 company, its wrecker operators, and other employees or agents of  
 1670 the wrecker company are ~~operator is~~ presumed to use reasonable  
 1671 care to prevent the theft of a vehicle or vessel or of any  
 1672 personal property contained in the ~~such~~ vehicle stored in the  
 1673 wrecker company's ~~operator's~~ storage facility if all of the  
 1674 following apply:

1675 1. The wrecker company ~~operator~~ surrounds the storage  
 1676 facility with a chain-link or solid-wall type fence at least 6  
 1677 feet in height;

1678 2. The wrecker company illuminates ~~operator has~~  
 1679 ~~illuminated~~ the storage facility with lighting of sufficient  
 1680 intensity to reveal persons and vehicles at a distance of at  
 1681 least 150 feet during nighttime; and

1682 3. The wrecker company ~~operator~~ uses one or more of the  
 1683 following security methods to discourage theft of vehicles or  
 1684 vessels or of any personal property contained in such vehicles  
 1685 or vessels stored in the wrecker company's ~~operator's~~ storage  
 1686 facility:

1687 a. A night dispatcher or watchman remains on duty at the  
 1688 storage facility from sunset to sunrise;

HB 1673

2004  
CS

1689           b. A security dog remains at the storage facility from  
1690 sunset to sunrise;

1691           c. Security cameras or other similar surveillance devices  
1692 monitor the storage facility; or

1693           d. A security guard service examines the storage facility  
1694 at least once each hour from sunset to sunrise.

1695           (d)(e) Any law enforcement agency requesting that a motor  
1696 vehicle be removed from an accident scene, street, or highway  
1697 must conduct an inventory and prepare a written record of all  
1698 personal property found in the vehicle before the vehicle is  
1699 removed by a wrecker operator. However, if the owner or driver  
1700 of the motor vehicle is present and accompanies the vehicle, an  
1701 ~~ne~~ inventory by law enforcement is not required. A wrecker  
1702 company, its wrecker operators, and other employees or agents of  
1703 the wrecker company are ~~operator is~~ not liable for the loss of  
1704 personal property alleged to be contained in ~~such~~ a vehicle when  
1705 the ~~such~~ personal property was not identified on the inventory  
1706 record prepared by the law enforcement agency requesting the  
1707 removal of the vehicle.

1708           (8) A wrecker company and its wrecker operators, excluding  
1709 ~~person regularly engaged in the business of recovering, towing,~~  
1710 ~~or storing vehicles or vessels, except~~ a person licensed under  
1711 chapter 493 while engaged in "repossession" activities as  
1712 defined in s. 493.6101, may not operate a wrecker, ~~tow truck, or~~  
1713 ~~ear carrier~~ unless the name, address, and telephone number of  
1714 the wrecker company performing the wrecker services ~~service~~ is  
1715 clearly printed in contrasting colors on the driver and  
1716 passenger sides of the wrecker ~~its vehicle~~. The name must be in

HB 1673

2004  
CS

1717 at least 3-inch permanently affixed letters, and the address and  
1718 telephone number must be in at least 1-inch permanently affixed  
1719 letters.

1720 (9) Failure to make good faith best efforts to comply with  
1721 the notice requirements of this section precludes ~~shall preclude~~  
1722 the imposition of any storage charges against the ~~such~~ vehicle  
1723 or vessel.

1724 (10) Each wrecker company that provides ~~Persons who~~  
1725 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~  
1726 permit vehicle or vessel owners or their agents, which agency is  
1727 evidenced by a writing acknowledged by the owner before a notary  
1728 public or other person empowered by law to administer oaths, to  
1729 inspect the towed vehicle or vessel and must ~~shall~~ release to  
1730 the owner or agent all personal property not affixed to the  
1731 vehicle or vessel which was in the vehicle or vessel at the time  
1732 the vehicle or vessel came into the custody of the wrecker  
1733 company ~~person~~ providing those ~~such~~ services.

1734 (11)(a) A wrecker company that ~~Any person regularly~~  
1735 ~~engaged in the business of recovering, towing, or storing~~  
1736 ~~vehicles or vessels who~~ comes into possession of a vehicle or  
1737 vessel under ~~pursuant to~~ subsection (2) and that complies ~~who~~  
1738 ~~has complied with the provisions of~~ subsections (3) and (6),  
1739 when the ~~such~~ vehicle or vessel is to be sold for purposes of  
1740 being dismantled, destroyed, or changed in a such manner that it  
1741 is not the motor vehicle or, ~~vessel, or mobile home~~ described in  
1742 the certificate of title, must ~~shall~~ apply to the county tax  
1743 collector for a certificate of destruction. A certificate of  
1744 destruction, which authorizes the dismantling or destruction of

HB 1673

2004  
CS

1745 | the vehicle or vessel described on the certificate ~~therein~~, is  
 1746 | ~~shall be~~ reassignable no more than twice ~~a maximum of two times~~  
 1747 | before dismantling or destruction of the vehicle is ~~shall be~~  
 1748 | required, and the certificate must ~~shall~~ accompany the vehicle  
 1749 | or vessel for which it is issued, when the ~~such~~ vehicle or  
 1750 | vessel is sold for that purpose ~~such purposes~~, in lieu of a  
 1751 | certificate of title. The application for a certificate of  
 1752 | destruction must include an affidavit from the applicant that it  
 1753 | has complied with all applicable requirements of this section  
 1754 | and, if the vehicle or vessel is not registered in this state,  
 1755 | by a statement from a law enforcement officer that the vehicle  
 1756 | or vessel is not reported stolen, and must also ~~shall~~ be  
 1757 | accompanied by any other ~~such~~ documentation ~~as may be~~ required  
 1758 | by the department.

1759 | (b) The Department of Highway Safety and Motor Vehicles  
 1760 | shall charge a fee of \$3 for each certificate of destruction. A  
 1761 | service charge of \$4.25 shall be collected and retained by the  
 1762 | tax collector who processes the application.

1763 | (c) The Department of Highway Safety and Motor Vehicles  
 1764 | may adopt ~~such~~ rules to administer ~~as it deems necessary or~~  
 1765 | ~~proper for the administration of~~ this subsection.

1766 | (12)(a) Any person who violates ~~any provision of~~  
 1767 | subsection (1), subsection (2), subsection (4), subsection (5),  
 1768 | subsection (6), or subsection (7) commits ~~is guilty of~~ a  
 1769 | misdemeanor of the first degree, punishable as provided in s.  
 1770 | 775.082 or s. 775.083.

1771 | (b) Any person who violates ~~the provisions of~~ subsections  
 1772 | (8) through (11) commits ~~is guilty of~~ a felony of the third



HB 1673

2004  
CS

1773 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1774 775.084.

1775 (c) Any person who uses a false or fictitious name, gives  
1776 a false or fictitious address, or makes any false statement in  
1777 any application or affidavit required under ~~the provisions of~~  
1778 this section commits ~~is guilty of~~ a felony of the third degree,  
1779 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1780 (d) Employees of the Department of Highway Safety and  
1781 Motor Vehicles and law enforcement officers may ~~are authorized~~  
1782 ~~to~~ inspect the records of each wrecker company in this state ~~any~~  
1783 ~~person regularly engaged in the business of recovering, towing,~~  
1784 ~~or storing vehicles or vessels or transporting vehicles or~~  
1785 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure  
1786 compliance with the requirements of this section. Any person who  
1787 fails to maintain records, or fails to produce records when  
1788 required in a reasonable manner and at a reasonable time,  
1789 commits a misdemeanor of the first degree, punishable as  
1790 provided in s. 775.082 or s. 775.083.

1791 (13)(a) Upon receipt by the Department of Highway Safety  
1792 and Motor Vehicles of written notice from a wrecker company  
1793 ~~operator~~ who claims a wrecker company's ~~operator's~~ lien under  
1794 paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or  
1795 storage of an abandoned vehicle or, ~~or mobile home~~ upon  
1796 instructions from any law enforcement agency, for which a  
1797 certificate of destruction has been issued under subsection  
1798 (11), the department shall place the name of the registered  
1799 owner of that vehicle or, ~~or mobile home~~ on the list of  
1800 those persons who may not be issued a license plate or

HB 1673

2004  
CS

1801 revalidation sticker for any motor vehicle under s. 320.03(8).  
 1802 If the vehicle or vessel, ~~or mobile home~~ is owned jointly by  
 1803 more than one person, the name of each registered owner shall be  
 1804 placed on the list. The notice of wrecker company's ~~operator's~~  
 1805 lien shall be submitted on forms provided by the department,  
 1806 which must include:

1807 1. The name, address, and telephone number of the wrecker  
 1808 company ~~operator~~.

1809 2. The name of the registered owner of the vehicle or  
 1810 vessel, ~~or mobile home~~ and the address to which the wrecker  
 1811 company ~~operator~~ provided notice of the lien to the registered  
 1812 owner under subsection (4).

1813 3. A general description of the vehicle or vessel, ~~or~~  
 1814 ~~mobile home~~, including its color, make, model, body style, and  
 1815 year.

1816 4. The vehicle identification number (VIN); registration  
 1817 license plate number, state, and year; validation decal number,  
 1818 state, and year; ~~mobile home sticker number, state, and year;~~  
 1819 ~~vessel registration number;~~ hull identification number; or other  
 1820 identification number, as applicable.

1821 5. The name of the person or the corresponding law  
 1822 enforcement agency that requested that the vehicle or vessel,  
 1823 ~~or mobile home~~ be recovered, towed, or stored.

1824 6. The amount of the wrecker company's ~~operator's~~ lien,  
 1825 not to exceed the amount allowed by paragraph (b).

1826 (b) For purposes of this subsection only, the amount of  
 1827 the wrecker company's ~~operator's~~ lien for which the department  
 1828 will prevent issuance of a license plate or revalidation sticker

HB 1673

2004  
CS

1829 | may not exceed the amount of the charges for recovery, towing,  
 1830 | and storage of the vehicle or, vessel, ~~or mobile home~~ for 7  
 1831 | days. These charges may not exceed the maximum rates imposed by  
 1832 | the ordinances of the respective county or municipality under  
 1833 | ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not  
 1834 | limit the amount of a wrecker company's ~~operator's~~ lien claimed  
 1835 | under subsection (2) or prevent a wrecker company ~~operator~~ from  
 1836 | seeking civil remedies for enforcement of the entire amount of  
 1837 | the lien, but limits only that portion of the lien for which the  
 1838 | department will prevent issuance of a license plate or  
 1839 | revalidation sticker.

1840 |         (c)1. The registered owner of a vehicle, vessel, or mobile  
 1841 | home may dispute a wrecker company's ~~operator's~~ lien, by  
 1842 | notifying the department of the dispute in writing on forms  
 1843 | provided by the department, if at least one of the following  
 1844 | applies:

1845 |         a. The registered owner presents a notarized bill of sale  
 1846 | proving that the vehicle or, vessel, ~~or mobile home~~ was sold in  
 1847 | a private or casual sale before the vehicle or, vessel, ~~or~~  
 1848 | ~~mobile home~~ was recovered, towed, or stored.

1849 |         b. The registered owner presents proof that the Florida  
 1850 | certificate of title of the vehicle or, vessel, ~~or mobile home~~  
 1851 | was sold to a licensed dealer as defined in s. 319.001 before  
 1852 | the vehicle or, vessel, ~~or mobile home~~ was recovered, towed, or  
 1853 | stored.

1854 |         c. The records of the department were marked to indicate  
 1855 | that the vehicle or, vessel, ~~or mobile home~~ was sold before the

HB 1673

2004  
CS

1856 issuance of the certificate of destruction under subsection  
 1857 (11).  
 1858  
 1859 If the registered owner's dispute of a wrecker company's  
 1860 ~~operator's~~ lien complies with one of these criteria, the  
 1861 department shall immediately remove the registered owner's name  
 1862 from the list of those persons who may not be issued a license  
 1863 plate or revalidation sticker for any motor vehicle under s.  
 1864 320.03(8), thereby allowing issuance of a license plate or  
 1865 revalidation sticker. If the vehicle or, vessel, ~~or mobile home~~  
 1866 is owned jointly by more than one person, each registered owner  
 1867 must dispute the wrecker company's ~~operator's~~ lien in order to  
 1868 be removed from the list. However, the department shall deny any  
 1869 dispute and maintain the registered owner's name on the list of  
 1870 those persons who may not be issued a license plate or  
 1871 revalidation sticker for any motor vehicle under s. 320.03(8) if  
 1872 the wrecker company ~~operator~~ has provided the department with a  
 1873 certified copy of the judgment of a court which orders the  
 1874 registered owner to pay the wrecker company's ~~operator's~~ lien  
 1875 claimed under this section. In such a case, the amount of the  
 1876 wrecker company's ~~operator's~~ lien allowed by paragraph (b) may  
 1877 be increased to include no more than \$500 of the reasonable  
 1878 costs and attorney's fees incurred in obtaining the judgment.  
 1879 The department's action under this subparagraph is ministerial  
 1880 in nature, shall not be considered final agency action, and may  
 1881 be appealed only to the county court for the county in which the  
 1882 vehicle or, vessel, ~~or mobile home~~ was ordered removed.

HB 1673

2004  
CS

1883           2. A person against whom a wrecker company's ~~operator's~~  
 1884   lien has been imposed may alternatively obtain a discharge of  
 1885   the lien by filing a complaint, challenging the validity of the  
 1886   lien or the amount thereof, in the county court of the county in  
 1887   which the vehicle or, ~~vessel, or mobile home~~ was ordered  
 1888   removed. Upon filing of the complaint, the person may have her  
 1889   or his name removed from the list of those persons who may not  
 1890   be issued a license plate or revalidation sticker for any motor  
 1891   vehicle under s. 320.03(8), thereby allowing issuance of a  
 1892   license plate or revalidation sticker, upon posting with the  
 1893   court a cash or surety bond or other adequate security equal to  
 1894   the amount of the wrecker company's ~~operator's~~ lien to ensure  
 1895   the payment of such lien in the event she or he does not  
 1896   prevail. Upon the posting of the bond and the payment of the  
 1897   applicable fee set forth in s. 28.24, the clerk of the court  
 1898   shall issue a certificate notifying the department of the  
 1899   posting of the bond and directing the department to release the  
 1900   wrecker company's ~~operator's~~ lien. Upon determining the  
 1901   respective rights of the parties, the court may award damages  
 1902   and costs in favor of the prevailing party.

1903           3. If a person against whom a wrecker company's ~~operator's~~  
 1904   lien has been imposed does not object to the lien, but cannot  
 1905   discharge the lien by payment because the wrecker company  
 1906   ~~operator~~ has moved or gone out of business, the person may have  
 1907   her or his name removed from the list of those persons who may  
 1908   not be issued a license plate or revalidation sticker for any  
 1909   motor vehicle under s. 320.03(8), thereby allowing issuance of a  
 1910   license plate or revalidation sticker, upon posting with the

HB 1673

2004  
CS

1911 clerk of court in the county in which the vehicle or, vessel, ~~or~~  
 1912 ~~mobile home~~ was ordered removed, a cash or surety bond or other  
 1913 adequate security equal to the amount of the wrecker company's  
 1914 ~~operator's~~ lien. Upon the posting of the bond and the payment of  
 1915 the application fee set forth in s. 28.24, the clerk of the  
 1916 court shall issue a certificate notifying the department of the  
 1917 posting of the bond and directing the department to release the  
 1918 wrecker company's ~~operator's~~ lien. The department shall mail to  
 1919 the wrecker company ~~operator~~, at the address upon the lien form,  
 1920 notice that the wrecker company ~~operator~~ must claim the security  
 1921 within 60 days, or the security will be released back to the  
 1922 person who posted it. At the conclusion of the 60 days, the  
 1923 department shall direct the clerk as to which party is entitled  
 1924 to payment of the security, less applicable clerk's fees.

1925 4. A wrecker company's ~~operator's~~ lien expires 5 years  
 1926 after filing.

1927 (d) Upon discharge of the amount of the wrecker company's  
 1928 ~~operator's~~ lien allowed by paragraph (b), the wrecker company  
 1929 ~~operator~~ must issue a certificate of discharged wrecker  
 1930 company's ~~operator's~~ lien on forms provided by the department to  
 1931 each registered owner of the vehicle, vessel, or mobile home  
 1932 attesting that the amount of the wrecker company's ~~operator's~~  
 1933 lien allowed by paragraph (b) has been discharged. Upon  
 1934 presentation of the certificate of discharged wrecker company's  
 1935 ~~operator's~~ lien by the registered owner, the department shall  
 1936 immediately remove the registered owner's name from the list of  
 1937 those persons who may not be issued a license plate or  
 1938 revalidation sticker for any motor vehicle under s. 320.03(8),

HB 1673

2004  
CS

1939 | thereby allowing issuance of a license plate or revalidation  
 1940 | sticker. Issuance of a certificate of discharged wrecker  
 1941 | company's ~~operator's~~ lien under this paragraph does not  
 1942 | discharge the entire amount of the wrecker company's ~~operator's~~  
 1943 | lien claimed under subsection (2), but only certifies to the  
 1944 | department that the amount of the wrecker company's ~~operator's~~  
 1945 | lien allowed by paragraph (b), for which the department will  
 1946 | prevent issuance of a license plate or revalidation sticker, has  
 1947 | been discharged.

1948 |         (e) When a wrecker company ~~operator~~ files a notice of  
 1949 | wrecker operator's lien under this subsection, the department  
 1950 | shall charge the wrecker company ~~operator~~ a fee of \$2, which  
 1951 | must be deposited into the General Revenue Fund. A service  
 1952 | charge of \$2.50 shall be collected and retained by the tax  
 1953 | collector who processes a notice of wrecker company's ~~operator's~~  
 1954 | lien.

1955 |         (f) This subsection applies only to the annual renewal in  
 1956 | the registered owner's birth month of a motor vehicle  
 1957 | registration and does not apply to the transfer of a  
 1958 | registration of a motor vehicle sold by a motor vehicle dealer  
 1959 | licensed under chapter 320, except for the transfer of  
 1960 | registrations which is inclusive of the annual renewals. This  
 1961 | subsection does not apply to any vehicle registered in the name  
 1962 | of a lessor. This subsection does not affect the issuance of the  
 1963 | title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1964 |         (g) The Department of Highway Safety and Motor Vehicles  
 1965 | may adopt rules under ss. 120.536(1) and 120.54 to implement  
 1966 | this subsection.

HB 1673

2004  
CS

1967           (14) The amendments to this section made by this act do  
 1968 not affect the validity of liens established under this section  
 1969 before January 1, 2005.

1970           Section 19. Effective January 1, 2005, section 713.785,  
 1971 Florida Statutes, is created to read:

1972           713.785 Liens for recovering, towing, or storing mobile  
 1973 homes.--

1974           (1) As used in this section, the term:

1975           (a) "Mobile home" means a mobile home or manufactured home  
 1976 as those terms are defined in s. 320.01 and any contents and  
 1977 appurtenances thereof.

1978           (b) "Mobile home transport company" means a person  
 1979 regularly engaged in the business of transporting mobile homes.

1980           (c) "Property owner" has the same meaning ascribed in s.  
 1981 715.07.

1982           (d) "Store" means a mobile home transport company has  
 1983 legal possession of a mobile home either on the mobile home  
 1984 transport company's property or on any other property.

1985           (e) "Unpaid lot rental amount" means any unpaid financial  
 1986 obligations of the mobile home owner or tenant to the mobile  
 1987 home park owner.

1988           (2) If a mobile home transport company recovers, removes,  
 1989 or stores a mobile home upon instructions from:

1990           (a) The owner of the mobile home;

1991           (b) A law enforcement agency; or

1992           (c) A mobile home park owner as defined in s. 723.003 who  
 1993 has a current writ of possession for a mobile home lot under s.  
 1994 723.062 or s. 83.062,



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the mobile home transport company has a lien on the mobile home for a reasonable towing fee and for a reasonable storage fee.

(3) A mobile home transport company that comes into possession of a mobile home under subsection (2) and that claims a lien for recovery, towing, or storage services must give notice to the registered owner and to all persons claiming a lien on the mobile home, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or of a corresponding agency in any other state.

(4) The lien created under subsection (2) is prior in dignity to all others except a lien for unpaid purchase price or a landlord's lien for rent.

(5) A mobile home that is stored under subsection (2) and that remains unclaimed, or for which reasonable charges for recovery, towing, or storing remain unpaid or for which a lot rental amount is due and owing to the mobile home park owner, may be sold by the mobile home transport company for the towing or storage charge and any unpaid lot rental amount 35 days after the mobile home is stored by a mobile home transport company. The sale must be at public auction for cash. Notice of the sale must be given to the person in whose name the mobile home is registered, to the mobile home park owner, and to all persons claiming a lien on the mobile home as shown on the records of the Department of Highway Safety and Motor Vehicles or of the corresponding agency in any other state. Notice must be sent by certified mail, return receipt requested, at least 15 days before the date of the sale. After diligent search and inquiry,

HB 1673

2004  
CS

2023 if the name and address of the registered owner or the owner of  
 2024 the recorded lien cannot be ascertained, the requirements of  
 2025 notice by mail may be dispensed with. In addition to the notice  
 2026 by mail, public notice of the time and place of sale must be  
 2027 made by publishing a notice of the sale one time, at least 10  
 2028 days before the date of the sale, in a newspaper of general  
 2029 circulation in the county in which the sale is to be held. The  
 2030 proceeds of the sale, after payment of reasonable towing and  
 2031 storage charges, costs of the sale, and the unpaid lot rental  
 2032 amount, as evidenced by an affidavit executed by the mobile home  
 2033 park owner or the owner's agent, in that order of priority, must  
 2034 be deposited with the clerk of the circuit court for the county  
 2035 if the owner is absent, and the clerk shall hold the proceeds  
 2036 subject to the claim of the person legally entitled to those  
 2037 proceeds. The clerk is entitled to receive 5 percent of the  
 2038 proceeds for the care and disbursement of the proceeds.

2039 (6) Neither the mobile home transport company, the  
 2040 landlord or his or her agent, nor any subsequent purchaser for  
 2041 value is responsible to the tenant or any other party for loss,  
 2042 destruction, or damage to the mobile home or other personal  
 2043 property after coming into possession of the mobile home  
 2044 pursuant to this section.

2045 (7)(a) A mobile home transport company that comes into  
 2046 possession of a mobile home under subsection (2) and that  
 2047 complies with subsection (3), if the mobile home is to be sold  
 2048 for purposes of being dismantled, destroyed, or changed so that  
 2049 it is not the mobile home described in the certificate of title,  
 2050 must apply to the county tax collector for a certificate of

2051 destruction. A certificate of destruction, which authorizes the  
 2052 dismantling or destruction of the mobile home described in the  
 2053 certificate, is reassignable no more than twice before  
 2054 dismantling or destruction of the mobile home is required, and  
 2055 the certificate must accompany the mobile home for which it is  
 2056 issued when the mobile home is sold for that purpose, in lieu of  
 2057 a certificate of title. The application for a certificate of  
 2058 destruction must include an affidavit from the applicant that it  
 2059 has complied with all applicable requirements of this section;  
 2060 must, if the mobile home is not registered in this state,  
 2061 include a statement from a law enforcement officer that the  
 2062 mobile home is not reported stolen; and must be accompanied by  
 2063 any other documentation required by the department.

2064 (b) The Department of Highway Safety and Motor Vehicles  
 2065 shall charge a fee of \$3 for each certificate of destruction.  
 2066 The tax collector who processes the application shall collect  
 2067 and retain a service charge of \$4.25.

2068 (c) The Department of Highway Safety and Motor Vehicles  
 2069 may adopt rules to administer this subsection.

2070 (d) Employees of the Department of Highway Safety and  
 2071 Motor Vehicles and law enforcement officers may inspect the  
 2072 records of each mobile home transport company in this state to  
 2073 ensure compliance with this section.

2074 (8)(a) Upon receipt by the Department of Highway Safety  
 2075 and Motor Vehicles of written notice from a mobile home  
 2076 transport company that claims a lien under paragraph (2)(c) or  
 2077 paragraph (2)(d) for recovery, towing, or storage, upon  
 2078 instructions from any law enforcement agency, of a mobile home

HB 1673

2004  
CS

2079 for which a certificate of destruction has been issued under  
 2080 subsection (7), the department shall place the name of the  
 2081 registered owner of that mobile home on the list of those  
 2082 persons who may not be issued a revalidation sticker under s.  
 2083 320.03. If the mobile home is owned jointly by more than one  
 2084 person, the name of each registered owner must be placed on the  
 2085 list. The notice of lien must be submitted on forms provided by  
 2086 the department, which must include:

- 2087 1. The name, address, and telephone number of the mobile  
 2088 home transport company.
- 2089 2. The name of the registered owner of the mobile home and  
 2090 the address to which the mobile home transport company provided  
 2091 notice of the lien to the registered owner under subsection (3).
- 2092 3. A general description of the mobile home, including its  
 2093 color, make, model, and year.
- 2094 4. The mobile home sticker number, state, and year or  
 2095 other identification number, as applicable.
- 2096 5. The name of the person or the corresponding law  
 2097 enforcement agency that requested that the mobile home be  
 2098 recovered, towed, or stored.
- 2099 6. The amount of the lien, which may not exceed the amount  
 2100 allowed by paragraph (b).

2101 (b) For purposes of this subsection only, the amount of  
 2102 the mobile home transport company's lien for which the  
 2103 department will prevent issuance of a revalidation sticker may  
 2104 not exceed the amount of the charges for recovery, towing, and  
 2105 storage of the mobile home for 7 days. These charges may not  
 2106 exceed the maximum rates imposed by the ordinances of the

HB 1673

2004  
CS

2107 respective county or municipality under ss. 125.0103(1)(c) and  
 2108 166.043(1)(c). This paragraph does not limit the amount of a  
 2109 mobile home transport company's lien claimed under subsection  
 2110 (2) or prevent a mobile home transport company from seeking  
 2111 civil remedies for enforcement of the entire amount of the lien,  
 2112 but limits only that portion of the lien for which the  
 2113 department will prevent issuance of a revalidation sticker.

2114 (c)1. The registered owner of the mobile home may dispute  
 2115 a mobile home transport company's lien by notifying the  
 2116 department of the dispute in writing on forms provided by the  
 2117 department, if at least one of the following applies:

2118 a. The registered owner presents a notarized bill of sale  
 2119 proving that the mobile home was sold in a private or casual  
 2120 sale before the mobile home was recovered, towed, or stored.

2121 b. The registered owner presents proof that the Florida  
 2122 certificate of title of the mobile home was sold to a licensed  
 2123 dealer as defined in s. 319.001 before the mobile home was  
 2124 recovered, towed, or stored.

2125 c. The records of the department were marked to indicate  
 2126 that the mobile home was sold before the issuance of the  
 2127 certificate of destruction under subsection (7).

2128  
 2129 If the registered owner's dispute of a mobile home transport  
 2130 company's lien complies with one of these criteria, the  
 2131 department shall immediately remove the registered owner's name  
 2132 from the list of those persons who may not be issued a  
 2133 revalidation sticker under s. 320.03. If the mobile home is  
 2134 owned jointly by more than one person, each registered owner

HB 1673

2004  
CS

2135 must dispute the mobile home transport company's lien in order  
 2136 to be removed from the list. However, the department shall deny  
 2137 any dispute and maintain the registered owner's name on the list  
 2138 of those persons who may not be issued a revalidation sticker if  
 2139 the motor home transport company has provided the department  
 2140 with a certified copy of the judgment of a court which orders  
 2141 the registered owner to pay the mobile home transport company's  
 2142 lien claimed under this section. In such a case, the amount of  
 2143 the mobile home transport company's lien allowed under paragraph  
 2144 (b) may be increased to include no more than \$500 of the  
 2145 reasonable costs and attorney's fees incurred in obtaining the  
 2146 judgment. The department's action under this subparagraph is  
 2147 ministerial in nature, is not final agency action, and may be  
 2148 appealed only to the county court for the county in which the  
 2149 mobile home was ordered removed.

2150 2. A person against whom a mobile home transport company's  
 2151 lien has been imposed may alternatively obtain a discharge of  
 2152 the lien by filing a complaint challenging the validity of the  
 2153 lien, or the amount thereof, in the county court of the county  
 2154 in which the mobile home was ordered removed. Upon filing the  
 2155 complaint, the person may have her or his name removed from the  
 2156 list of those persons who may not be issued a revalidation  
 2157 sticker under s. 320.03 upon posting with the court a cash or  
 2158 surety bond or other adequate security equal to the amount of  
 2159 the mobile home transport company's lien to ensure the payment  
 2160 of the lien if she or he does not prevail. Upon the posting of  
 2161 the bond and the payment of the applicable fee set forth in s.  
 2162 28.24, the clerk of the court shall issue a certificate

HB 1673

2004  
CS

2163 notifying the department of the posting of the bond and  
 2164 directing the department to release the mobile home transport  
 2165 company's lien. Upon determining the respective rights of the  
 2166 parties, the court may award damages and costs in favor of the  
 2167 prevailing party.

2168 3. If a person against whom a mobile home transport  
 2169 company's lien has been imposed does not object to the lien but  
 2170 cannot discharge the lien by payment because the mobile home  
 2171 transport company has moved or gone out of business, the person  
 2172 may have her or his name removed from the list of those persons  
 2173 who may not be issued a revalidation sticker under s. 320.03  
 2174 upon posting with the clerk of the court in the county in which  
 2175 the mobile home was ordered removed a cash or surety bond or  
 2176 other adequate security equal to the amount of the mobile home  
 2177 transport company's lien. Upon the posting of the bond and the  
 2178 payment of the application fee set forth in s. 28.24, the clerk  
 2179 of the court shall issue a certificate notifying the department  
 2180 of the posting of the bond and directing the department to  
 2181 release the mobile home transport company's lien. The department  
 2182 shall mail to the mobile home transport company, at the address  
 2183 on the lien form, notice that the mobile home transport company  
 2184 must claim the security within 60 days or the security will be  
 2185 released to the person who posted it. At the conclusion of the  
 2186 60 days, the department shall direct the clerk as to which party  
 2187 is entitled to payment of the security, less applicable clerk's  
 2188 fees.

2189 4. A mobile home transport company's lien expires 5 years  
 2190 after filing.

HB 1673

2004  
CS

2191        (d) Upon discharge of the amount of the mobile home  
 2192 transport company's lien allowed under paragraph (b), the mobile  
 2193 home transport company must issue a certificate of discharged  
 2194 lien on a form provided by the department to each registered  
 2195 owner of the mobile home, attesting that the amount of the  
 2196 mobile home transport company's lien allowed under paragraph (b)  
 2197 has been discharged. Upon presentation of the certificate of  
 2198 discharged lien by the registered owner, the department shall  
 2199 immediately remove the registered owner's name from the list of  
 2200 those persons who may not be issued a revalidation sticker under  
 2201 s. 320.03. Issuance of a certificate of discharged lien under  
 2202 this paragraph does not discharge the entire amount of the  
 2203 mobile home transport company's lien claimed under subsection  
 2204 (2), but certifies to the department only that the amount of the  
 2205 mobile home transport company's lien allowed under paragraph  
 2206 (b), for which the department will prevent issuance of a  
 2207 revalidation sticker, has been discharged.

2208        (e) When a mobile home transport company files a notice of  
 2209 lien under this subsection, the department shall charge the  
 2210 mobile home transport company a fee of \$2, which must be  
 2211 deposited into the General Revenue Fund. The tax collector who  
 2212 processes a notice of lien shall collect and retain a service  
 2213 charge of \$2.50.

2214        (f) The Department of Highway Safety and Motor Vehicles  
 2215 may adopt rules under ss. 120.536(1) and 120.54 to administer  
 2216 this subsection.

2217        Section 20. Paragraph (a) of subsection (1) of section  
 2218 319.30, Florida Statutes, is amended to read:



HB 1673

2004  
CS

2219 319.30 Definitions; dismantling, destruction, change of  
2220 identity of motor vehicle or mobile home; salvage.--

2221 (1) As used in this section, the term:

2222 (a) "Certificate of destruction" means the certificate  
2223 issued pursuant to s. 713.78(11) or s. 713.785(7)(a).

2224 Section 21. Section 713.69, Florida Statutes, is amended  
2225 to read:

2226 713.69 Unlawful to remove property upon which lien has  
2227 accrued.--It is unlawful for any person to remove any property  
2228 upon which a lien has accrued under the provisions of s. 713.68,  
2229 s. 713.77, or s. 713.785 from any mobile home park, hotel,  
2230 apartment house, roominghouse, lodginghouse, boardinghouse or  
2231 tenement house without first making full payment to the person  
2232 operating or conducting the same of all sums due and payable for  
2233 such occupancy or without first having the written consent of  
2234 such person so conducting or operating such place to so remove  
2235 such property. Any person violating the provisions of this  
2236 section shall, if the property removed in violation hereof be of  
2237 the value of \$50 or less, be guilty of a misdemeanor of the  
2238 second degree, punishable as provided in s. 775.082 or s.  
2239 775.083; and if the property so removed should be of greater  
2240 value than \$50 then such person shall be guilty of a felony of  
2241 the third degree, punishable as provided in s. 775.082, s.  
2242 775.083, or s. 775.084.

2243 Section 22. Effective January 1, 2005, section 715.07,  
2244 Florida Statutes, is amended to read:

2245 715.07 Vehicles and vessels parked on real ~~private~~  
2246 property without permission; towing.--

HB 1673

2004  
CS

2247 (1) As used in this section, the term:

2248 (a) "Property owner" means an owner or lessee of real

2249 property, or a person authorized by the owner or lessee, which

2250 person may be the designated representative of the condominium

2251 association if the real property is a condominium.

2252 (b) "Vehicle" has the same meaning ascribed in s. 508.01

2253 ~~means any mobile item which normally uses wheels, whether~~

2254 ~~motorized or not.~~

2255 (c) "Vessel" has the same meaning ascribed in s. 508.01.

2256 (d) "Wrecker company" has the same meaning ascribed in s.

2257 508.01.

2258 (e) "Wrecker operator" has the same meaning ascribed in s.

2259 508.01.

2260 (2) A property owner ~~The owner or lessee of real property,~~

2261 ~~or any person authorized by the owner or lessee, which person~~

2262 ~~may be the designated representative of the condominium~~

2263 ~~association if the real property is a condominium,~~ may cause a

2264 any vehicle or vessel parked on her or his ~~such~~ property without

2265 her or his permission to be removed by a wrecker company

2266 registered under chapter 508 ~~person regularly engaged in the~~

2267 ~~business of towing vehicles,~~ without liability for the costs of

2268 removal, transportation, or storage or damages caused by the

2269 ~~such~~ removal, transportation, or storage, under any of the

2270 following circumstances:

2271 (a) The towing or removal of any vehicle or vessel from

2272 real ~~private~~ property without the consent of the registered

2273 owner or other legally authorized person in control of that

HB 1673

2004  
CS

2274 | vehicle or vessel is subject to strict compliance with the  
 2275 | following conditions and restrictions:

2276 |       1.a. Any towed or removed vehicle or vessel must be stored  
 2277 | at a storage facility site within a 10-mile radius ~~10 miles~~ of  
 2278 | the point of removal in any county of 500,000 population or  
 2279 | more, and within a 15-mile radius ~~15 miles~~ of the point of  
 2280 | removal in any county of less than 500,000 population. The  
 2281 | wrecker company's storage facility ~~That site~~ must be open for  
 2282 | the purpose of redemption of vehicles and vessels on any day  
 2283 | that the wrecker company ~~person or firm~~ towing the ~~such~~ vehicle  
 2284 | or vessel is open for towing purposes, from 8 ~~8:00~~ a.m. to 6  
 2285 | ~~6:00~~ p.m., and, when closed, must ~~shall~~ have prominently posted  
 2286 | a sign indicating a telephone number where the operator of the  
 2287 | storage facility site can be reached at all times. Upon receipt  
 2288 | of a telephoned request to open the storage facility site to  
 2289 | redeem a vehicle or vessel, the operator shall return to the  
 2290 | storage facility site within 1 hour or she or he is ~~will be~~ in  
 2291 | violation of this section.

2292 |       b. If a wrecker company ~~no towing business providing such~~  
 2293 | ~~service~~ is not located within the area of towing limitations ~~set~~  
 2294 | ~~forth~~ in sub-subparagraph a., the following limitations apply:  
 2295 | any towed or removed vehicle or vessel must be stored at a  
 2296 | storage facility site within a 20-mile radius ~~20 miles~~ of the  
 2297 | point of removal in any county of 500,000 population or more,  
 2298 | and within a 30-mile radius ~~30 miles~~ of the point of removal in  
 2299 | any county of less than 500,000 population.

2300 |       2. The wrecker company ~~person or firm~~ towing or removing  
 2301 | the vehicle or vessel must ~~shall~~, within 30 minutes after ~~of~~

HB 1673

2004  
CS

2302 completion of that ~~such~~ towing or removal, notify the municipal  
 2303 police department or, in an unincorporated area, the sheriff of  
 2304 that ~~such~~ towing or removal; the location of the storage  
 2305 facility; site, the time the vehicle or vessel was towed or  
 2306 removed; and the make, model, color, and license plate number  
 2307 of the vehicle or the make, model, color, and registration  
 2308 number of the vessel. The wrecker company must also ~~and shall~~  
 2309 obtain the name of the person at that department to whom this  
 2310 ~~such~~ information is ~~was~~ reported and note that name on the trip  
 2311 record.

2312 3. If the registered owner or other legally authorized  
 2313 person in control of the vehicle or vessel arrives at the scene  
 2314 before ~~prior to removal or towing of the vehicle or vessel is~~  
 2315 towed or removed, the wrecker company must disconnect the  
 2316 vehicle or vessel ~~shall be disconnected~~ from the wrecker towing  
 2317 ~~or removal apparatus~~, and must allow that person ~~shall be~~  
 2318 ~~allowed~~ to remove the vehicle or vessel without interference  
 2319 upon the payment of a reasonable service fee of not more than  
 2320 one-half of the posted rate for those services ~~such towing~~  
 2321 ~~service~~ as provided in subparagraph 6., for which a receipt  
 2322 shall be given, unless that person refuses to remove the vehicle  
 2323 or vessel that ~~which~~ is otherwise unlawfully parked or located.

2324 4. A wrecker company, a wrecker operator, or another  
 2325 employee or agent of a wrecker company may not give a ~~The~~ rebate  
 2326 or pay ~~payment of~~ money or ~~any~~ other valuable consideration ~~from~~  
 2327 ~~the individual or firm towing or removing vehicles to the~~  
 2328 property owner ~~owners or operators~~ of the premises from which a  
 2329 vehicle or vessel is ~~the vehicles are~~ towed or removed, for the

HB 1673

2004  
CS

2330 | privilege of removing or towing the vehicle or vessel ~~these~~  
 2331 | ~~vehicles, is prohibited.~~ A property owner may not solicit a  
 2332 | wrecker company, a wrecker operator, or another employee or  
 2333 | agent of a wrecker company to give him or her a rebate or the  
 2334 | payment of money or other valuable consideration for the  
 2335 | privilege of removing or towing a vehicle from his or her  
 2336 | premises.

2337 |         5. Except for property appurtenant to and obviously a part  
 2338 | of a single-family residence, and except for instances when  
 2339 | notice is personally given to the owner or other legally  
 2340 | authorized person in control of the vehicle or vessel that the  
 2341 | area in which that vehicle or vessel is parked is reserved or  
 2342 | otherwise unavailable for unauthorized vehicles or vessels and  
 2343 | subject to being removed at the owner's or operator's expense,  
 2344 | any property owner ~~or lessee, or person authorized by the~~  
 2345 | ~~property owner or lessee,~~ before ~~prior to~~ towing or removing any  
 2346 | vehicle or vessel from real ~~private~~ property without the consent  
 2347 | of the owner or other legally authorized person in control of  
 2348 | that vehicle or vessel, must post a notice meeting the following  
 2349 | requirements:

2350 |             a. The notice must be prominently placed at each driveway  
 2351 | access or curb cut allowing vehicular access to the property,  
 2352 | within 5 feet from the public right-of-way line. If there are  
 2353 | no curbs or access barriers, the signs must be posted not less  
 2354 | than one sign for each 25 feet of lot frontage.

2355 |             b. The notice must clearly indicate, in not less than 2-  
 2356 | inch high, light-reflective letters on a contrasting background,  
 2357 | that unauthorized vehicles will be towed away at the owner's

HB 1673

2004  
CS

2358 expense. The words "tow-away zone" must be included on the sign  
2359 in not less than 4-inch high letters.

2360 c. The notice must also provide the name and current  
2361 telephone number of the wrecker company ~~person or firm~~ towing or  
2362 removing the vehicles, if the property owner, ~~lessee, or person~~  
2363 ~~in control~~ of the real property has a written contract with the  
2364 wrecker towing company.

2365 d. The sign structure containing the required notices must  
2366 be permanently installed with the words "tow-away zone" not less  
2367 than 3 feet and not more than 6 feet above ground level and must  
2368 be continuously maintained on the property for not less than 24  
2369 hours prior to the towing or removal of any vehicles.

2370 e. The local government may require permitting and  
2371 inspection of these signs prior to any towing or removal of  
2372 vehicles being authorized.

2373 f. A business with 20 or fewer parking spaces satisfies  
2374 the notice requirements of this subparagraph by prominently  
2375 displaying a sign stating "Reserved Parking for Customers Only  
2376 Unauthorized Vehicles Will be Towed Away At the Owner's Expense"  
2377 in not less than 4-inch high, light-reflective letters on a  
2378 contrasting background.

2379 g. A property owner towing or removing vessels from real  
2380 property must post notice, consistent with the requirements in  
2381 sub-subparagraphs a.-f. which apply to vehicles, that  
2382 unauthorized vehicles or vessels will be towed away at the  
2383 owner's expense.

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HB 1673

2004  
CS

2385 A business owner or lessee may authorize the removal of a  
 2386 vehicle or vessel by a wrecker ~~towing~~ company registered under  
 2387 chapter 508 when the vehicle or vessel is parked in ~~such~~ a  
 2388 manner that restricts the normal operation of business; and if a  
 2389 vehicle or vessel parked on a public right-of-way obstructs  
 2390 access to a private driveway the owner, lessee, or agent may  
 2391 have the vehicle or vessel removed by a wrecker ~~towing~~ company  
 2392 registered under chapter 508 upon signing an order that the  
 2393 vehicle or vessel be removed without a posted tow-away zone  
 2394 sign.

2395 6. Each wrecker company ~~Any person or firm~~ that tows or  
 2396 removes vehicles or vessels and proposes to require an owner,  
 2397 operator, or person in control of a vehicle or vessel to pay the  
 2398 costs of towing and storage prior to redemption of the vehicle  
 2399 or vessel must file and keep on record with the local law  
 2400 enforcement agency a complete copy of the current rates to be  
 2401 charged for those ~~such~~ services and post at the wrecker  
 2402 company's storage facility ~~site~~ an identical rate schedule and  
 2403 any written contracts with property owners, lessees, or persons  
 2404 in control of real property which authorize the wrecker company  
 2405 ~~such person or firm~~ to remove vehicles or vessels as provided in  
 2406 this section.

2407 7. Each wrecker company ~~Any person or firm~~ towing or  
 2408 removing any vehicles or vessels from real ~~private~~ property  
 2409 without the consent of the owner or other legally authorized  
 2410 person in control of the vehicles must ~~shall~~, on each wrecker  
 2411 ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s. 713.78(1)(c)~~, or  
 2412 ~~other vehicles~~ used in the towing or removal, have the name,

HB 1673

2004  
CS

2413 address, and telephone number of the wrecker company ~~performing~~  
 2414 ~~such service~~ clearly printed in contrasting colors on the driver  
 2415 and passenger sides of the wrecker ~~vehicle~~. The name must ~~shall~~  
 2416 be in at least 3-inch permanently affixed letters, and the  
 2417 address and telephone number must ~~shall~~ be in at least 1-inch  
 2418 permanently affixed letters.

2419 8. Vehicle or vessel entry for the purpose of towing or  
 2420 removing the vehicle or vessel ~~is shall be~~ allowed with  
 2421 reasonable care by on the part of the wrecker company and the  
 2422 wrecker operators ~~person or firm~~ towing the vehicle or vessel  
 2423 for the wrecker company. A wrecker company, its wrecker  
 2424 operators, and other employees or agents of the wrecker company  
 2425 are not ~~Such person or firm shall be~~ liable for any damage  
 2426 occasioned to the vehicle or vessel if ~~such~~ entry to the vehicle  
 2427 or vessel is performed ~~not in accordance with the standard of~~  
 2428 reasonable care.

2429 9. When a vehicle or vessel ~~is has been~~ towed or removed  
 2430 under pursuant to this section, the wrecker company ~~it~~ must  
 2431 release the vehicle or vessel ~~be released~~ to its owner or  
 2432 custodian within one hour after requested. Any vehicle or vessel  
 2433 owner, custodian, or agent has ~~shall have~~ the right to inspect  
 2434 the vehicle or vessel before accepting its return. A wrecker  
 2435 company may not require any vehicle or vessel owner, custodian,  
 2436 or agent to, and no release the wrecker company or waiver of any  
 2437 kind which would release the person or firm towing the vehicle  
 2438 or vessel from liability for damages noted by the owner or other  
 2439 legally authorized person at the time of the redemption ~~may be~~  
 2440 ~~required from any vehicle owner, custodian, or agent as a~~



HB 1673

2004  
CS

2441 condition of release of the vehicle or vessel to its owner. A  
 2442 wrecker company must give a person paying towing and storage  
 2443 charges under this section a detailed, signed receipt showing  
 2444 the legal name of the wrecker company ~~or person towing or~~  
 2445 ~~removing the vehicle must be given to the person paying towing~~  
 2446 ~~or storage charges~~ at the time of payment, whether requested or  
 2447 not.

2448 (b) These requirements are ~~shall be~~ the minimum standards  
 2449 and do ~~shall~~ not preclude enactment of additional regulations by  
 2450 any municipality or county, including the regulation of ~~right to~~  
 2451 ~~regulate~~ rates when vehicles or vessels are towed from real  
 2452 private property.

2453 (3) This section does not apply to vehicles or vessels  
 2454 that are reasonably identifiable from markings as law  
 2455 enforcement, firefighting, rescue squad, ambulance, or other  
 2456 emergency vehicles or vessels ~~which are marked as such~~ or to  
 2457 property owned by any governmental entity.

2458 (4) When a person improperly causes a vehicle or vessel to  
 2459 be removed, that ~~such~~ person is ~~shall be~~ liable to the owner or  
 2460 lessee of the vehicle or vessel for the cost of removal,  
 2461 transportation, and storage; any damages resulting from the  
 2462 removal, transportation, or storage of the vehicle or vessel;  
 2463 attorneys' fees; and court costs.

2464 (5) Failure to make good-faith efforts to comply with the  
 2465 notice requirements in subparagraph (2)(a)5. precludes the  
 2466 imposition of any towing or storage charges against the vehicle  
 2467 or vessel.

HB 1673

2004  
CS

2468            ~~(6)(5)~~(a) Any person who violates ~~the provisions of~~  
 2469            subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is guilty  
 2470            ~~of~~ a misdemeanor of the first degree, punishable as provided in  
 2471            s. 775.082 or s. 775.083.

2472            (b) Any person who violates ~~the provisions of~~ subparagraph  
 2473            (2)(a)1., subparagraph (2)(a)3., subparagraph (2)(a)4.,  
 2474            subparagraph (2)(a)7., or subparagraph (2)(a)9. commits is  
 2475            ~~guilty of~~ a felony of the third degree, punishable as provided  
 2476            in s. 775.082, s. 775.083, or s. 775.084.

2477            Section 23. Effective January 1, 2005, subsection (15) of  
 2478            section 1.01, Florida Statutes, is repealed.

2479            Section 24. The sum of \$687,000 is appropriated from the  
 2480            General Inspection Trust Fund to the Department of Agriculture  
 2481            and Consumer Services, and nine additional full-time-equivalent  
 2482            positions are authorized, for the purpose of implementing this  
 2483            act during the 2004-2005 fiscal year.

2484            Section 25. Except as otherwise expressly provided in this  
 2485            act, this act shall take effect July 1, 2004.