

CHAMBER ACTION

1 The Committee on Agriculture 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 CS

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; providing  
 121 criteria and procedures; requiring a mobile home transport  
 122 company to provide notice; providing for the filing of a  
 123 complaint by an owner or lienholder and release of the  
 124 mobile home; providing procedures for the sale of the  
 125 mobile home; requiring certain notice; limiting liability  
 126 of the transport company, the landlord and his or her  
 127 agent, and any subsequent purchaser; specifying  
 128 circumstances under which a mobile home transport company  
 129 must obtain a certificate of destruction; limiting  
 130 assignment of the certificate; requiring application to  
 131 the county tax collector; providing for fees and service  
 132 charges; authorizing the Department of Highway Safety and  
 133 Motor Vehicles to adopt rules; authorizing inspection of  
 134 records of transport companies; providing for issuing  
 135 certificates of destruction; providing for restricting

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

HB 1673 CS

2004  
CS

163 appropriation and authorizing additional positions;  
164 providing effective dates.

165  
166 Be It Enacted by the Legislature of the State of Florida:

167  
168 Section 1. Effective January 1, 2005, paragraph (b) of  
169 subsection (8) of section 120.80, Florida Statutes, is amended  
170 to read:

171 120.80 Exceptions and special requirements; agencies.--  
172 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--  
173 (b) Wrecker companies ~~operators~~.--Notwithstanding s.  
174 120.57(1)(a), hearings held by the Division of the Florida  
175 Highway Patrol of the Department of Highway Safety and Motor  
176 Vehicles to deny, suspend, or remove a wrecker company ~~operator~~  
177 from participating in the wrecker allocation ~~rotation~~ system  
178 established under ~~by~~ s. 321.051 need not be conducted by an  
179 administrative law judge assigned by the division. These  
180 hearings shall be held by a hearing officer appointed by the  
181 director of the Division of the Florida Highway Patrol.

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

184 205.1975 Wrecker companies; consumer protection.--A county  
185 or municipality may not issue or renew an occupational license  
186 for the operation of a wrecker company under chapter 508 unless  
187 the wrecker company exhibits a current registration from the  
188 Department of Agriculture and Consumer Services.

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

HB 1673 CS

2004  
CS

191 316.530 Towing requirements.--

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

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

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

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

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

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



219           316.605 Licensing of vehicles.--

220           (1) Every vehicle, at all times while driven, stopped, or

221 parked upon any highways, roads, or streets of this state, shall

222 be licensed in the name of the owner thereof in accordance with

223 the laws of this state unless such vehicle is not required by

224 the laws of this state to be licensed in this state and shall,

225 except as otherwise provided in s. 320.0706 for front-end

226 registration license plates on truck tractors or wreckers,

227 display the license plate or both of the license plates assigned

228 to it by the state, one on the rear and, if two, the other on

229 the front of the vehicle, each to be securely fastened to the

230 vehicle outside the main body of the vehicle in such manner as

231 to prevent the plates from swinging, with all letters, numerals,

232 printing, writing, and other identification marks upon the

233 plates clear and distinct and free from defacement, mutilation,

234 grease, and other obscuring matter, so that they will be plainly

235 visible and legible at all times 100 feet from the rear or

236 front. In addition, if only one registration plate is issued for

237 a motor vehicle that is equipped with a mechanical loading

238 device that may damage the plate, the plate may be attached to

239 the front of the vehicle. Nothing shall be placed upon the face

240 of a Florida plate except as permitted by law or by rule or

241 regulation of a governmental agency. No license plates other

242 than those furnished by the state shall be used. However, if

243 the vehicle is not required to be licensed in this state, the

244 license plates on such vehicle issued by another state, by a

245 territory, possession, or district of the United States, or by a

246 foreign country, substantially complying with the provisions

HB 1673 CS

2004  
CS

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

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

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

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

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

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

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

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

HB 1673 CS

2004  
CS

275 implementing and administering this subsection, 10 percent of  
 276 the civil penalties and fines recovered from such persons. As  
 277 used in this subsection, the term "civil penalties and fines"  
 278 does not include a wrecker company's ~~operator's~~ lien as  
 279 described in s. 713.78(13). If the tax collector has private tag  
 280 agents, such tag agents are entitled to receive a pro rata share  
 281 of the amount paid to the tax collector, based upon the  
 282 percentage of license plates and revalidation stickers issued by  
 283 the tag agent compared to the total issued within the county.  
 284 The authority of any private agent to issue license plates shall  
 285 be revoked, after notice and a hearing as provided in chapter  
 286 120, if he or she issues any license plate or revalidation  
 287 sticker contrary to the provisions of this subsection. This  
 288 section applies only to the annual renewal in the owner's birth  
 289 month of a motor vehicle registration and does not apply to the  
 290 transfer of a registration of a motor vehicle sold by a motor  
 291 vehicle dealer licensed under this chapter, except for the  
 292 transfer of registrations which is inclusive of the annual  
 293 renewals. This section does not affect the issuance of the title  
 294 to a motor vehicle, notwithstanding s. 319.23(7)(b).

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

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

HB 1673 CS

2004  
CS

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

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

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

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

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

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

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

HB 1673 CS

2004  
CS

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

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

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

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

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

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

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

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

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

350 320.0821 Wrecker license plates.--

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

HB 1673 CS

2004  
CS

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

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

364            320.0821 Wrecker license plates.--

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

377            Section 12. Paragraph (a) of subsection (1) of section  
378 320.13, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

409 | (d) "Wrecker company" has the same meaning ascribed in s.  
 410 | 508.01.

411 | (e) "Wrecker operator" has the same meaning ascribed in s.  
 412 | 508.01.

413 | (f) "Wrecker services" has the same meaning ascribed in s.  
 414 | 508.01.

HB 1673 CS

2004  
CS

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

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

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

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



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

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

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

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

471 towing apparatus. Any person who violates this paragraph commits  
 472 a misdemeanor of the second degree, punishable as provided in s.  
 473 775.082 or s. 775.083.

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

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

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

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

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

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

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

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

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

516 (b) "Wrecker company" has the same meaning ascribed in s.  
 517 508.01.

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

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

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

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

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

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

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

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

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

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

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

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

574        (f) The vehicle is impounded or immobilized under s.  
 575 316.193 or s. 322.34; or

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

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

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

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

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

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

587        (e) The condition of the vehicle;

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

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

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

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

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

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

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

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

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

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

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

628        (d) "Wrecker company" has the same meaning ascribed in s.  
 629 508.01.

630        (e) "Wrecker operator" has the same meaning ascribed in s.  
 631 508.01.

632        (f) "Wrecker services" has the same meaning ascribed in s.  
 633 508.01.

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

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

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

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

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



664 towing apparatus. Any person who violates this paragraph commits  
 665 a misdemeanor of the second degree, punishable as provided in s.  
 666 775.082 or s. 775.083.

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

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

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

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

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

705 CHAPTER 508

706 WRECKER SERVICES

707 508.01 Definitions.--As used in this chapter, the term:

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

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

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

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

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

HB 1673 CS

2004  
CS

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

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

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

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

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

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

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

746 (a) Driving a wrecker.

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

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

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

756       (e) Towing, transportation, or removal of a vehicle or  
 757 vessel parked on real property without permission under s.  
 758 715.07.

759       (f) Recovery of a vehicle or vessel.

760       508.02 Wrecker Operator Advisory Council.--

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

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

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

775 appointment; and two members must be laypersons. Each member  
 776 must be a resident of this state. This paragraph expires July 1,  
 777 2010.

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

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

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

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

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

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

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

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

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

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

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

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

HB 1673 CS

2004  
CS

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

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

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

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

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

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

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

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

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

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

864 (2) Each initial and renewal application for registration  
 865 must be accompanied by the registration fee prescribed in s.  
 866 508.16.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HB 1673 CS

2004  
CS

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

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

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

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

976        508.07 Wrecker operator certification program.--

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

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

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

999       508.08 Specialized wrecker services.--

1000       (1) In addition to the minimum curricula for certification  
 1001 of wrecker operators, each approved certification course must  
 1002 offer optional instruction, training, and examination of wrecker  
 1003 operators for each of the following specialized wrecker  
 1004 services:

1005       (a) Light duty.--Towing and winching a passenger vehicle,  
 1006 and uprighting such an overturned vehicle, including the proper  
 1007 use of chains, wire rope, and straps.

1008       (b) Medium duty.--Towing and winching a medium-sized  
 1009 commercial vehicle, and uprighting such an overturned vehicle.

1010       (c) Heavy duty.--Towing and winching a standard large-  
 1011 sized commercial vehicle, and uprighting such an overturned  
 1012 vehicle.

1013       (d) Ultra-heavy duty.--Towing and winching a specialty  
 1014 large-sized commercial vehicle or another complex vehicle, and  
 1015 uprighting such an overturned vehicle.

1016       (e) Rollback wrecker.--Proper loading, securing,  
 1017 transporting, and unloading of a vehicle on a flatbed-rollback  
 1018 wrecker.

1019       (f) Hazardous materials.--Awareness of hazardous  
 1020 materials. Instruction and training for this wrecker service  
 1021 must comprise at least 8 hours in order to be approved.

1022        (g) Air cushions.--Proper use of air cushions in the  
 1023 recovery of a heavy-duty vehicle.

1024        (2) The department shall adopt rules prescribing specific  
 1025 standards to further define each of the specialized wrecker  
 1026 services described in subsection (1). The council must approve  
 1027 the instruction, training, and examination for a specialized  
 1028 wrecker service before the specialized wrecker service is  
 1029 accepted for endorsement of a wrecker operator's certification  
 1030 under this chapter.

1031        (3) Each organization conducting an approved wrecker  
 1032 operator certification course must issue on forms prescribed by  
 1033 the department a certificate to each wrecker operator who  
 1034 completes the approved instruction and training for a  
 1035 specialized wrecker service or who passes the approved  
 1036 endorsement examination for that specialized wrecker service.

1037        508.09 Certification cards.--

1038        (1) Each organization conducting an approved wrecker  
 1039 operator certification course must issue a certification card to  
 1040 each wrecker operator who completes the approved certification  
 1041 course and passes the approved certification examination. The  
 1042 department must approve the form of the certification cards  
 1043 issued by each organization. Each certification card must  
 1044 include the wrecker operator's name, a color photograph or  
 1045 digital image of the wrecker operator, and the expiration date  
 1046 of the certification card.

1047        (2) Each certification card must also include the wrecker  
 1048 operator's applicable endorsements for specialized wrecker  
 1049 services, for which the wrecker operator completed the approved

1050 instruction and training for the specialized wrecker service and  
 1051 passed the approved endorsement examination for that specialized  
 1052 wrecker service.

1053 (3) The department may adopt rules governing the issuance  
 1054 of a certification card to a wrecker operator who:

1055 (a) Completes a certification course and passes a  
 1056 certification examination in another state which are  
 1057 substantially equivalent to the approved certification courses  
 1058 and approved certification examinations in this state.

1059 (b) Completed a certification course and passed a  
 1060 certification examination in this state between January 1, 2000,  
 1061 and December 31, 2004, which are substantially equivalent to the  
 1062 approved certification courses and the approved certification  
 1063 examinations. This paragraph expires July 1, 2005.

1064 (c) Completed instruction and training for a specialized  
 1065 wrecker service and passed an endorsement examination for that  
 1066 specialized wrecker service between January 1, 2000, and  
 1067 December 31, 2004, which are substantially equivalent to the  
 1068 approved instruction and training and the approved endorsement  
 1069 examinations. This paragraph expires July 1, 2005.

1070  
 1071 For the purposes of this subsection, the council shall approve  
 1072 each certification examination in another state, and shall  
 1073 approve the instruction, training, and examination for each  
 1074 specialized wrecker service in another state, which the council  
 1075 determines are substantially equivalent to the approved  
 1076 certification courses and approved certification examinations in  
 1077 this state or to the approved instruction, training, and

HB 1673 CS

2004  
CS

1078 endorsement examinations for a specialized wrecker service in  
1079 this state.

1080 (4) Each certification card expires 5 years after the date  
1081 of issuance.

1082 (5) Certification cards shall be issued by the  
1083 organizations conducting approved wrecker operator certification  
1084 courses. The department is not responsible for issuing  
1085 certification cards or for the costs associated with the  
1086 issuance of certification cards.

1087 508.10 Wrecker operators; certification required;  
1088 inspection of employment records.--Effective January 1, 2005:

1089 (1) A person may not perform wrecker services in this  
1090 state unless he or she is an employee or ultimate equitable  
1091 owner of a wrecker company that is registered with the  
1092 department under this chapter and those wrecker services are  
1093 performed on behalf of the wrecker company.

1094 (2)(a) A person may not perform wrecker services or  
1095 specialized wrecker services for a wrecker company for more than  
1096 6 months after first being employed by, or becoming an ultimate  
1097 equitable owner of, the wrecker company without being certified  
1098 as a wrecker operator under this chapter.

1099 (b) A wrecker operator certified under this chapter may  
1100 not perform a specialized wrecker service for a wrecker company  
1101 unless the wrecker operator's certification includes an  
1102 endorsement for that specialized wrecker service.

1103 (3)(a) Notwithstanding subsections (1) and (2), a person  
1104 may perform wrecker services or specialized wrecker services in  
1105 this state if he or she is an employee or ultimate equitable



1106 owner of a motor vehicle repair shop registered with the  
 1107 department under s. 559.904 and those wrecker services or  
 1108 specialized wrecker services are performed on behalf of the  
 1109 motor vehicle repair shop.

1110 (b) Notwithstanding subsections (1) and (2), a person may  
 1111 perform wrecker services or specialized wrecker services in this  
 1112 state if those wrecker services or specialized wrecker services  
 1113 are performed on behalf of a religious organization that holds a  
 1114 current exemption from federal taxation or that is not required  
 1115 to apply for recognition of its exemption, under s. 501 of the  
 1116 Internal Revenue Code.

1117 (4) The department may, at any time during business hours,  
 1118 enter any business location of a wrecker company and examine the  
 1119 company's books or records. If the department reasonable  
 1120 believes a violation of this chapter has occurred or is  
 1121 occurring, the department may subpoena any necessary books or  
 1122 records.

1123 508.11 Renewal of certification; continuing education  
 1124 requirements.--

1125 (1) The department, in consultation with the council,  
 1126 shall establish a continuing education program for the  
 1127 recertification of wrecker operators by December 31, 2006. In  
 1128 order to renew a wrecker operator's certification card, an  
 1129 operator must complete a continuing education course. The  
 1130 council must prescribe the minimum curricula and proper  
 1131 examination for each continuing education course, each of which  
 1132 must be at least 8 hours in length. The council shall approve  
 1133 each organization, and the continuing education course it

1134 proposes to offer, before the course is approved for  
 1135 recertifying wrecker operators.

1136 (2) Each organization conducting an approved wrecker  
 1137 operator continuing education course must issue, on forms  
 1138 prescribed by the department, a certificate to each wrecker  
 1139 operator who completes the approved course or who passes an  
 1140 approved recertification examination.

1141 508.12 Prohibited acts.--It is a violation of this chapter  
 1142 for a person to:

1143 (1) Charge rates that exceed the maximum rates imposed by  
 1144 the ordinances of the respective county or municipality under  
 1145 ss. 125.0103(1)(c) and 166.043(1)(c).

1146 (2) Violate s. 321.051, relating to the Florida Highway  
 1147 Patrol wrecker allocation system.

1148 (3) Violate s. 323.002, relating to county and municipal  
 1149 wrecker allocation systems.

1150 (4) Violate s. 713.78, relating to liens for recovering,  
 1151 towing, or storing vehicles and vessels.

1152 (5) Violate s. 715.07, relating to towing or removing  
 1153 vehicles and vessels parked on real property without permission.

1154 (6) Refuse to allow a law enforcement officer to inspect a  
 1155 towing and storage facility, as required in s. 812.055.

1156 (7) Allow a person who is not certified as a wrecker  
 1157 operator under this chapter to perform wrecker services or  
 1158 specialized wrecker services for the wrecker company for more  
 1159 than 6 months after first being employed by, or becoming an  
 1160 ultimate equitable owner of, the wrecker company.

1161       (8) Allow a wrecker operator certified under this chapter  
 1162 to perform a specialized wrecker service for the wrecker company  
 1163 if the wrecker operator's certification does not include an  
 1164 endorsement for that specialized wrecker service.

1165       (9) Perform an act otherwise prohibited by this chapter or  
 1166 fail to perform an act otherwise required by this chapter.

1167       508.13 Administrative penalties; inspection of records.--

1168       (1) The department may order one or more of the following  
 1169 if the department finds that a person has violated this chapter  
 1170 or the rules or orders issued under this chapter:

1171       (a) Issue a notice of noncompliance under s. 120.695.

1172       (b) Impose an administrative fine not to exceed \$5,000 for  
 1173 each act or omission.

1174       (c) Direct the person to cease and desist specified  
 1175 activities.

1176       (d) Refuse to register the wrecker company or suspend or  
 1177 revoke the wrecker company's registration.

1178       (e) Place the wrecker company on probation for a period of  
 1179 time, subject to the conditions specified by the department.

1180       (2) Chapter 120 shall govern an administrative proceeding  
 1181 resulting from an order imposing a penalty specified in  
 1182 subsection (1).

1183       508.14 Civil penalties.--The department may bring a civil  
 1184 action in a court of competent jurisdiction to recover any  
 1185 penalties or damages allowed in this chapter and for injunctive  
 1186 relief to enforce compliance with this chapter. The department  
 1187 may seek a civil penalty of up to \$5,000 for each violation of  
 1188 this chapter and may seek restitution for and on behalf of any

1189 owner of a vehicle, vessel, or mobile home who is aggrieved or  
 1190 injured by a violation of this chapter.

1191 508.15 Criminal penalties.--Effective July 1, 2005:

1192 (1) A person who violates s. 508.04(1) by operating a  
 1193 wrecker company in this state without being registered with the  
 1194 department under this chapter commits a felony of the third  
 1195 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1196 775.084.

1197 (2) A person who violates s. 508.10(1) by performing  
 1198 wrecker services in this state without being an employee or  
 1199 ultimate equitable owner of a wrecker company that is registered  
 1200 with the department under this chapter commits a felony of the  
 1201 third degree, punishable as provided in s. 775.082, s. 775.083,  
 1202 or s. 775.084.

1203 508.16 Fees.--The department shall adopt by rule a fee  
 1204 schedule, not to exceed the following amounts:

1205 (1) Wrecker company registration fee: \$495.

1206 (2) Wrecker company registration renewal fee: \$495.

1207 508.17 General Inspection Trust Fund; payments.--All fees,  
 1208 penalties, or other funds collected by the department under this  
 1209 chapter must be deposited in the General Inspection Trust Fund  
 1210 and may only be used for the purpose of administering this  
 1211 chapter.

1212 508.18 Recovery agents; exemption.--This chapter does not  
 1213 apply to a person licensed under chapter 493 performing  
 1214 repossession services.

1215 508.19 County and municipal ordinances.--A county or  
 1216 municipality may enact ordinances governing the business of

1217 transporting vehicles or vessels by wrecker which are more  
 1218 restrictive than this chapter. This section does not limit the  
 1219 authority of a political subdivision to impose regulatory fees  
 1220 or charges or to levy occupational license taxes under chapter  
 1221 205. The department may enter into a cooperative agreement with  
 1222 any county or municipality that provides for the referral,  
 1223 investigation, and prosecution of consumer complaints alleging  
 1224 violations of this act. The department is authorized to delegate  
 1225 enforcement of this act to any county or municipality entering  
 1226 into a cooperative agreement.

1227 508.20 Records.--

1228 (1) Each wrecker company shall maintain records of its  
 1229 wrecker services for at least 12 months. These records shall be  
 1230 maintained at the wrecker company's principal place of business.

1231 (2) Each wrecker company shall maintain records on each of  
 1232 its wrecker operators sufficient to demonstrate that the  
 1233 operator has successfully completed an approved wrecker operator  
 1234 certification course or an approved wrecker operator continuing  
 1235 education course and is certified to perform wrecker services.  
 1236 These records shall be maintained at the wrecker company's  
 1237 principal place of business for as long as the operator is  
 1238 employed by the wrecker company and for at least 6 months  
 1239 thereafter.

1240 (3) Each organization approved to conduct a wrecker  
 1241 operator certification course or approved to offer a wrecker  
 1242 operator continuing education course shall maintain records on  
 1243 each person who successfully completes one of the courses. The  
 1244 records shall be maintained at the organization's principal

1245 place of business for at least 5 years. The department may, at  
 1246 any time during normal business hours, enter the organization's  
 1247 principal place of business to examine the records.

1248 Section 17. Subsection (13) of section 713.78, Florida  
 1249 Statutes, is amended to read:

1250 713.78 Liens for recovering, towing, or storing vehicles  
 1251 and vessels.--

1252 (13)(a) Upon receipt by the Department of Highway Safety  
 1253 and Motor Vehicles of written notice from a wrecker operator who  
 1254 claims a wrecker operator's lien under paragraph (2)(c) or  
 1255 paragraph (2)(d) for recovery, towing, or storage of an  
 1256 abandoned vehicle, vessel, or mobile home upon instructions from  
 1257 any law enforcement agency, for which a certificate of  
 1258 destruction has been issued under subsection (11), the  
 1259 department shall place the name of the registered owner of that  
 1260 vehicle, vessel, or mobile home on the list of those persons who  
 1261 may not be issued a license plate or revalidation sticker for  
 1262 any motor vehicle under s. 320.03(8). If the vehicle, vessel, or  
 1263 mobile home is owned jointly by more than one person, the name  
 1264 of each registered owner shall be placed on the list. The notice  
 1265 of wrecker operator's lien shall be submitted on forms provided  
 1266 by the department, which must include:

1267 1. The name, address, and telephone number of the wrecker  
 1268 operator.

1269 2. The name of the registered owner of the vehicle,  
 1270 vessel, or mobile home and the address to which the wrecker  
 1271 operator provided notice of the lien to the registered owner  
 1272 under subsection (4).

HB 1673 CS

2004  
CS

1273 |           3. A general description of the vehicle, vessel, or mobile  
1274 | home, including its color, make, model, body style, and year.

1275 |           4. The vehicle identification number (VIN); registration  
1276 | license plate number, state, and year; validation decal number,  
1277 | state, and year; mobile home sticker number, state, and year;  
1278 | vessel registration number; hull identification number; or other  
1279 | identification number, as applicable.

1280 |           5. The name of the person or the corresponding law  
1281 | enforcement agency that requested that the vehicle, vessel, or  
1282 | mobile home be recovered, towed, or stored.

1283 |           6. The amount of the wrecker operator's lien, not to  
1284 | exceed the amount allowed by paragraph (b).

1285 |           (b) For purposes of this subsection only, the amount of  
1286 | the wrecker operator's lien for which the department will  
1287 | prevent issuance of a license plate or revalidation sticker may  
1288 | not exceed the amount of the charges for recovery, towing, and  
1289 | storage of the vehicle, vessel, or mobile home for 7 days. These  
1290 | charges may not exceed the maximum rates imposed by the  
1291 | ordinances of the respective county or municipality under ss.  
1292 | 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit  
1293 | the amount of a wrecker operator's lien claimed under subsection  
1294 | (2) or prevent a wrecker operator from seeking civil remedies  
1295 | for enforcement of the entire amount of the lien, but limits  
1296 | only that portion of the lien for which the department will  
1297 | prevent issuance of a license plate or revalidation sticker.

1298 |           (c)1. The registered owner of a vehicle, vessel, or mobile  
1299 | home may dispute a wrecker operator's lien, by notifying the

HB 1673 CS

2004  
CS

1300 department of the dispute in writing on forms provided by the  
1301 department, if at least one of the following applies:

1302 a. The registered owner presents a notarized bill of sale  
1303 proving that the vehicle, vessel, or mobile home was sold in a  
1304 private or casual sale before the vehicle, vessel, or mobile  
1305 home was recovered, towed, or stored.

1306 b. The registered owner presents proof that the Florida  
1307 certificate of title of the vehicle, vessel, or mobile home was  
1308 sold to a licensed dealer as defined in s. 319.001 before the  
1309 vehicle, vessel, or mobile home was recovered, towed, or stored.

1310 c. The records of the department were marked to indicate  
1311 that the vehicle, vessel, or mobile home was sold before the  
1312 issuance of the certificate of destruction under subsection  
1313 (11).

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

1324 However, the department shall deny any dispute and maintain the  
1325 registered owner's name on the list of those persons who may not  
1326 be issued a license plate or revalidation sticker for any motor  
1327 vehicle under s. 320.03(8) if the wrecker operator has provided



1328 | the department with a certified copy of the judgment of a court  
 1329 | which orders the registered owner to pay the wrecker operator's  
 1330 | lien claimed under this section. In such a case, the amount of  
 1331 | the wrecker operator's lien allowed by paragraph (b) may be  
 1332 | increased to include no more than \$500 of the reasonable costs  
 1333 | and attorney's fees incurred in obtaining the judgment. The  
 1334 | department's action under this subparagraph is ministerial in  
 1335 | nature, shall not be considered final agency action, and may be  
 1336 | appealed ~~is appealable~~ only to the county court for the county  
 1337 | in which the vehicle, vessel, or mobile home was ordered  
 1338 | removed.

1339 |         2. A person against whom a wrecker operator's lien has  
 1340 | been imposed may alternatively obtain a discharge of the lien by  
 1341 | filing a complaint, challenging the validity of the lien or the  
 1342 | amount thereof, in the county court of the county in which the  
 1343 | vehicle, vessel, or mobile home was ordered removed. Upon filing  
 1344 | of the complaint, the person may have her or his name removed  
 1345 | from the list of those persons who may not be issued a license  
 1346 | plate or revalidation sticker for any motor vehicle under s.  
 1347 | 320.03(8), thereby allowing issuance of a license plate or  
 1348 | revalidation sticker, upon posting with the court a cash or  
 1349 | surety bond or other adequate security equal to the amount of  
 1350 | the wrecker operator's lien to ensure the payment of such lien  
 1351 | in the event she or he does not prevail. Upon the posting of the  
 1352 | bond and the payment of the applicable fee set forth in s.  
 1353 | 28.24, the clerk of the court shall issue a certificate  
 1354 | notifying the department of the posting of the bond and  
 1355 | directing the department to release the wrecker operator's lien.

HB 1673 CS

2004  
CS

1356 Upon determining the respective rights of the parties, the court  
1357 may award damages and costs in favor of the prevailing party.

1358 3. If a person against whom a wrecker operator's lien has  
1359 been imposed does not object to the lien, but cannot discharge  
1360 the lien by payment because the wrecker operator has moved or  
1361 gone out of business, the person may have her or his name  
1362 removed from the list of those persons who may not be issued a  
1363 license plate or revalidation sticker for any motor vehicle  
1364 under s. 320.03(8), thereby allowing issuance of a license plate  
1365 or revalidation sticker, upon posting with the clerk of court in  
1366 the county in which the vehicle, vessel, or mobile home was  
1367 ordered removed, a cash or surety bond or other adequate  
1368 security equal to the amount of the wrecker operator's lien.  
1369 Upon the posting of the bond and the payment of the application  
1370 fee set forth in s. 28.24, the clerk of the court shall issue a  
1371 certificate notifying the department of the posting of the bond  
1372 and directing the department to release the wrecker operator's  
1373 lien. The department shall mail to the wrecker operator, at the  
1374 address upon the lien form, notice that the wrecker operator  
1375 must claim the security within 60 days, or the security will be  
1376 released back to the person who posted it. At the conclusion of  
1377 the 60 days, the department shall direct the clerk as to which  
1378 party is entitled to payment of the security, less applicable  
1379 clerk's fees.

1380 4. A wrecker operator's lien expires 5 years after filing.

1381 (d) Upon discharge of the amount of the wrecker operator's  
1382 lien allowed by paragraph (b), the wrecker operator must issue a  
1383 certificate of discharged wrecker operator's lien on forms

1384 provided by the department to each registered owner of the  
 1385 vehicle, vessel, or mobile home attesting that the amount of the  
 1386 wrecker operator's lien allowed by paragraph (b) has been  
 1387 discharged. Upon presentation of the certificate of discharged  
 1388 wrecker operator's lien by the registered owner, the department  
 1389 shall immediately remove the registered owner's name from the  
 1390 list of those persons who may not be issued a license plate or  
 1391 revalidation sticker for any motor vehicle under s. 320.03(8),  
 1392 thereby allowing issuance of a license plate or revalidation  
 1393 sticker. Issuance of a certificate of discharged wrecker  
 1394 operator's lien under this paragraph does not discharge the  
 1395 entire amount of the wrecker operator's lien claimed under  
 1396 subsection (2), but only certifies to the department that the  
 1397 amount of the wrecker operator's lien allowed by paragraph (b),  
 1398 for which the department will prevent issuance of a license  
 1399 plate or revalidation sticker, has been discharged.

1400 (e) When a wrecker operator files a notice of wrecker  
 1401 operator's lien under this subsection, the department shall  
 1402 charge the wrecker operator a fee of \$2, which must ~~shall~~ be  
 1403 deposited into the General Revenue Fund ~~established under s.~~  
 1404 ~~860.158~~. A service charge of \$2.50 shall be collected and  
 1405 retained by the tax collector who processes a notice of wrecker  
 1406 operator's lien.

1407 (f) This subsection applies only to the annual renewal in  
 1408 the registered owner's birth month of a motor vehicle  
 1409 registration and does not apply to the transfer of a  
 1410 registration of a motor vehicle sold by a motor vehicle dealer  
 1411 licensed under chapter 320, except for the transfer of

HB 1673 CS

2004  
CS

1412 registrations which is inclusive of the annual renewals. This  
 1413 subsection does not apply to any vehicle registered in the name  
 1414 of a lessor. This subsection does not affect the issuance of the  
 1415 title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1416 (g) The Department of Highway Safety and Motor Vehicles  
 1417 may adopt rules under ~~pursuant to~~ ss. 120.536(1) and 120.54 to  
 1418 implement this subsection.

1419 Section 18. Effective January 1, 2005, section 713.78,  
 1420 Florida Statutes, as amended by this act, is amended to read:

1421 713.78 Liens for recovering, towing, or storing vehicles  
 1422 and vessels.--

1423 (1) As used in ~~For the purposes of~~ this section, the term:

1424 (a) "Business day" means a day other than a Saturday,  
 1425 Sunday, or federal or state legal holiday.

1426 (b) "Property owner" has the same meaning ascribed in s.  
 1427 715.07.

1428 (c)~~(a)~~ "Vehicle" has the same meaning ascribed in s.  
 1429 508.01 ~~means any mobile item, whether motorized or not, which is~~  
 1430 ~~mounted on wheels.~~

1431 (d)~~(b)~~ "Vessel" has the same meaning ascribed in s. 508.01  
 1432 ~~means every description of watercraft, barge, and air boat used~~  
 1433 ~~or capable of being used as a means of transportation on water,~~  
 1434 ~~other than a seaplane or a "documented vessel" as defined in s.~~  
 1435 ~~327.02(8).~~

1436 (e)~~(e)~~ "Wrecker" has the same meaning ascribed in s.  
 1437 320.01 ~~means any truck or other vehicle which is used to tow,~~  
 1438 ~~carry, or otherwise transport motor vehicles or vessels upon the~~  
 1439 ~~streets and highways of this state and which is equipped for~~

HB 1673 CS

2004  
CS

1440 ~~that purpose with a boom, winch, car carrier, or other similar~~  
1441 ~~equipment.~~

1442 (f) "Wrecker company" has the same meaning ascribed in s.  
1443 508.01.

1444 (g) "Wrecker operator" has the same meaning ascribed in s.  
1445 508.01.

1446 (2) Whenever a wrecker company registered under chapter  
1447 508 ~~person regularly engaged in the business of transporting~~  
1448 ~~vehicles or vessels by wrecker, tow truck, or car carrier~~  
1449 ~~recovers, removes, or stores a vehicle~~ or, ~~vessel, or mobile~~  
1450 ~~home~~ upon instructions from:

1451 (a) The owner of the vehicle or vessel ~~thereof; or~~

1452 (b) The property owner ~~or lessor, or a person authorized~~  
1453 ~~by the owner or lessor,~~ of real property on which the ~~such~~  
1454 vehicle is ~~wrongfully~~ parked without permission, and the ~~such~~  
1455 removal is done in compliance with s. 715.07; or

1456 (c) A ~~Any~~ law enforcement agency, ~~or~~

1457 ~~(d) A mobile home park owner as defined in s. 723.003 who~~  
1458 ~~has a current writ of possession for a mobile home lot pursuant~~  
1459 ~~to s. 723.061,~~

1460  
1461 the wrecker company has ~~she or he shall have~~ a lien on the ~~such~~  
1462 vehicle or vessel for a reasonable towing fee and for a  
1463 reasonable storage fee; except that a ~~no~~ storage fee may not  
1464 ~~shall~~ be charged if a ~~such~~ vehicle or vessel is stored ~~for~~ less  
1465 than 6 hours.

1466 (3) This section does not authorize any person to claim a  
1467 lien on a vehicle for fees or charges connected with the

HB 1673 CS

2004  
CS

1468 immobilization of a ~~such~~ vehicle using a vehicle boot or other  
1469 similar device under ~~pursuant to~~ s. 715.07.

1470 (4)(a) Any wrecker company ~~that person regularly engaged~~  
1471 ~~in the business of recovering, towing, or storing vehicles or~~  
1472 ~~vessels who~~ comes into possession of a vehicle or vessel under  
1473 ~~pursuant to~~ subsection (2), and who claims a lien for recovery,  
1474 towing, or storage services, must ~~shall~~ give notice to the  
1475 registered owner, the insurance company insuring the vehicle  
1476 notwithstanding ~~the provisions of~~ s. 627.736, and to all persons  
1477 claiming a lien on the vehicle or vessel ~~thereon~~, as disclosed  
1478 by the records in the Department of Highway Safety and Motor  
1479 Vehicles or of a corresponding agency in any other state.

1480 (b) Whenever a ~~any~~ law enforcement agency authorizes the  
1481 removal of a vehicle, or whenever a wrecker company ~~any towing~~  
1482 ~~service, garage, repair shop, or automotive service, storage, or~~  
1483 ~~parking place~~ notifies the law enforcement agency of possession  
1484 of a vehicle under ~~pursuant to~~ s. 715.07(2)(a)2., the applicable  
1485 law enforcement agency shall contact the Department of Highway  
1486 Safety and Motor Vehicles, or the appropriate agency of the  
1487 state of registration, if known, within 24 hours through the  
1488 medium of electronic communications, giving the full description  
1489 of the vehicle. Upon receipt of the full description of the  
1490 vehicle, the department shall search its files to determine the  
1491 owner's name, the insurance company insuring the vehicle, and  
1492 whether any person has filed a lien upon the vehicle as provided  
1493 in s. 319.27(2) and (3) and notify the applicable law  
1494 enforcement agency within 72 hours. The wrecker company ~~person~~  
1495 ~~in charge of the towing service, garage, repair shop, or~~

HB 1673 CS

2004  
CS

1496 ~~automotive service, storage, or parking place~~ shall obtain this  
 1497 ~~such~~ information from the applicable law enforcement agency  
 1498 within 5 days after ~~from~~ the date of storage and must ~~shall~~ give  
 1499 notice under ~~pursuant to~~ paragraph (a). The department may  
 1500 release the insurance company information to the requestor  
 1501 notwithstanding ~~the provisions of~~ s. 627.736.

1502 (c) Notice by certified mail, return receipt requested,  
 1503 must ~~shall~~ be sent within 7 business days after the date of  
 1504 storage of the vehicle or vessel to the registered owner, the  
 1505 insurance company insuring the vehicle notwithstanding ~~the~~  
 1506 ~~provisions of~~ s. 627.736, and all persons of record claiming a  
 1507 lien against the vehicle or vessel. The notice must ~~it shall~~  
 1508 state the fact of possession of the vehicle or vessel, that a  
 1509 lien as provided in subsection (2) is claimed, that charges have  
 1510 accrued and the amount of the charges ~~thereof~~, that the lien is  
 1511 subject to enforcement under ~~pursuant to~~ law, ~~and~~ that the owner  
 1512 or lienholder, if any, has the right to a hearing as set forth  
 1513 in subsection (5), and that any vehicle or vessel which remains  
 1514 unclaimed, or for which the charges for recovery, towing, or  
 1515 storage services remain unpaid, may be sold free of all prior  
 1516 liens after 35 days if the vehicle or vessel is more than 3  
 1517 years of age or after 50 days if the vehicle or vessel is 3  
 1518 years of age or less.

1519 (d) If the wrecker company is unable ~~attempts~~ to identify  
 1520 the name of ~~locate~~ the owner or lienholder ~~prove unsuccessful~~,  
 1521 the wrecker company must ~~towing-storage operator shall~~, after 7  
 1522 business working days following, ~~excluding Saturday and Sunday~~,  
 1523 ~~of~~ the initial tow or storage, notify the public agency of

HB 1673 CS

2004  
CS

1524 jurisdiction in writing by certified mail or acknowledged hand  
 1525 delivery that the wrecker ~~towing-storage~~ company has been unable  
 1526 to identify the name of ~~locate~~ the owner or lienholder and a  
 1527 physical search of the vehicle or vessel has disclosed no  
 1528 ownership information and a good faith effort has been made. For  
 1529 purposes of this paragraph and subsection (9), the term "good  
 1530 faith effort" means that the following checks have been  
 1531 performed by the wrecker company to establish prior state of  
 1532 registration and for title:

- 1533 1. Check of vehicle or vessel for any type of tag, tag  
 1534 record, temporary tag, or regular tag.
- 1535 2. Check of law enforcement report for tag number or other  
 1536 information identifying the vehicle or vessel, if the vehicle or  
 1537 vessel was towed at the request of a law enforcement officer.
- 1538 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~  
 1539 ~~truck~~ operator to see if a tag was on vehicle at beginning of  
 1540 tow, if private tow.
- 1541 4. If there is no address of the owner on the impound  
 1542 report, check of law enforcement report to see if an out-of-  
 1543 state address is indicated from driver license information.
- 1544 5. Check of vehicle or vessel for inspection sticker or  
 1545 other stickers and decals that may indicate a state of possible  
 1546 registration.
- 1547 6. Check of the interior of the vehicle or vessel for any  
 1548 papers that may be in the glove box, trunk, or other areas for a  
 1549 state of registration.
- 1550 7. Check of vehicle for vehicle identification number.
- 1551 8. Check of vessel for vessel registration number.



HB 1673 CS

2004  
CS

1552 9. Check of vessel hull for a hull identification number  
 1553 which should be carved, burned, stamped, embossed, or otherwise  
 1554 permanently affixed to the outboard side of the transom or, if  
 1555 there is no transom, to the outmost seaboard side at the end of  
 1556 the hull that bears the rudder or other steering mechanism.

1557 (5)(a) The owner of a vehicle or vessel removed under  
 1558 ~~pursuant to the provisions of~~ subsection (2), or any person  
 1559 claiming a lien, other than the wrecker company towing-storage  
 1560 ~~operator~~, within 10 days after the time she or he has knowledge  
 1561 of the location of the vehicle or vessel, may file a complaint  
 1562 in the county court of the county in which the vehicle or vessel  
 1563 is stored or in which the owner resides to determine if her or  
 1564 his property was wrongfully taken or withheld from her or him.

1565 (b) Upon filing of a complaint, an owner or lienholder may  
 1566 have her or his vehicle or vessel released upon posting with the  
 1567 court a cash or surety bond or other adequate security equal to  
 1568 the amount of the charges for towing or storage and lot rental  
 1569 amount to ensure the payment of the such charges in the event  
 1570 she or he does not prevail. Upon the posting of the bond and  
 1571 the payment of the applicable fee set forth in s. 28.24, the  
 1572 clerk of the court shall issue a certificate notifying the  
 1573 lienor of the posting of the bond and directing the lienor to  
 1574 release the vehicle or vessel. At the time of the such release,  
 1575 after reasonable inspection, she or he shall give a receipt to  
 1576 the wrecker towing-storage company reciting any claims she or he  
 1577 has for loss or damage to the vehicle or vessel or to the  
 1578 contents of the vehicle or vessel thereof.

HB 1673 CS

2004  
CS

1579 (c) Upon determining the respective rights of the parties,  
 1580 the court shall ~~may~~ award damages, and costs, and reasonable  
 1581 attorney's fees to in favor of the prevailing party. ~~In any~~  
 1582 ~~event,~~ The final order must require ~~shall provide for~~ immediate  
 1583 payment in full of the recovery, towing, and storage fees by the  
 1584 vehicle or vessel owner or lienholder; by ~~or~~ the law enforcement  
 1585 agency ordering the tow; or by the property owner, ~~lessee, or~~  
 1586 ~~agent thereof~~ of the real property from which the vehicle or  
 1587 vessel was towed or removed under s. 715.07.

1588 (6) Any vehicle or vessel that ~~which~~ is stored under  
 1589 ~~pursuant to~~ subsection (2) and that ~~which~~ remains unclaimed, or  
 1590 for which reasonable charges for recovery, towing, or storing  
 1591 remain unpaid ~~or for which a lot rental amount is due and owing~~  
 1592 ~~to the mobile home park owner, as evidenced by a judgment for~~  
 1593 ~~unpaid rent, and any contents not released~~ under ~~pursuant to~~  
 1594 subsection (10), may be sold by the wrecker company ~~owner or~~  
 1595 ~~operator of the storage space for~~ the ~~such~~ towing or storage  
 1596 charge or unpaid lot rental amount after 35 days after ~~from the~~  
 1597 ~~time~~ the vehicle or vessel is stored in the wrecker company's  
 1598 storage facility ~~therein~~ if the vehicle or vessel is more than 3  
 1599 years of age or after 50 days after ~~following the time the~~  
 1600 vehicle or vessel is stored in the wrecker company's storage  
 1601 facility ~~therein~~ if the vehicle or vessel is 3 years of age or  
 1602 less. The sale must ~~shall~~ be at public auction for cash. If the  
 1603 date of the sale is ~~was~~ not included in the notice required in  
 1604 subsection (4), notice of the sale must ~~shall~~ be given to the  
 1605 person in whose name the vehicle or, vessel, ~~or mobile home~~ is  
 1606 registered, ~~to the mobile home park owner,~~ and to all persons

HB 1673 CS

2004  
CS

1607 claiming a lien on the vehicle or vessel as shown on the records  
 1608 of the Department of Highway Safety and Motor Vehicles or of the  
 1609 corresponding agency in any other state. Notice must ~~shall~~ be  
 1610 sent by certified mail, return receipt requested, to the owner  
 1611 of the vehicle or vessel and the person having the recorded lien  
 1612 on the vehicle or vessel at the address shown on the records of  
 1613 the registering agency and must ~~shall~~ be mailed at least ~~not~~  
 1614 ~~less than~~ 15 days before the date of the sale. After diligent  
 1615 search and inquiry, if the name and address of the registered  
 1616 owner or the owner of the recorded lien cannot be ascertained,  
 1617 the requirements of notice by mail may be dispensed with. In  
 1618 addition to the notice by mail, public notice of the time and  
 1619 place of sale must ~~shall~~ be made by publishing a notice of the  
 1620 sale thereof one time, at least 10 days before ~~prior to~~ the date  
 1621 of the sale, in a newspaper of general circulation in the county  
 1622 in which the sale is to be held. The proceeds of the sale,  
 1623 after payment of reasonable towing and storage charges and,  
 1624 costs of the sale, ~~and the unpaid lot rental amount,~~ in that  
 1625 order of priority, must ~~shall~~ be deposited with the clerk of the  
 1626 circuit court for the county if the owner is absent, and the  
 1627 clerk shall hold the ~~such~~ proceeds subject to the claim of the  
 1628 person legally entitled to those proceeds ~~thereto~~. The clerk is  
 1629 ~~shall be~~ entitled to receive 5 percent of the ~~such~~ proceeds for  
 1630 the care and disbursement of the proceeds ~~thereof~~. The  
 1631 certificate of title issued under this section must ~~law shall~~ be  
 1632 discharged of all liens unless otherwise provided by court  
 1633 order.

1634           (7)(a) A wrecker company, its wrecker operators, and other  
 1635 employees or agents of the wrecker company ~~operator~~ recovering,  
 1636 towing, or storing vehicles or vessels are ~~is~~ not liable for  
 1637 damages connected with those such services, theft of the such  
 1638 vehicles or vessels, or theft of personal property contained in  
 1639 the such vehicles or vessels, if those ~~provided that such~~  
 1640 services are ~~have been~~ performed with reasonable care and if  
 1641 ~~provided, further, that,~~ in the case of removal of a vehicle or  
 1642 vessel upon the request of a person purporting, and reasonably  
 1643 appearing, to be the property owner ~~or lessee, or a person~~  
 1644 ~~authorized by the owner or lessee,~~ of the real property from  
 1645 which the such vehicle or vessel is removed, the such removal  
 1646 has been done in compliance with s. 715.07. Further, a wrecker  
 1647 company, its wrecker operators, and other employees or agents of  
 1648 the wrecker company ~~are operator~~ ~~is~~ not liable for damage  
 1649 connected with those such services when complying with the  
 1650 lawful directions of a law enforcement officer to remove a  
 1651 vehicle stopped, standing, or parked upon a street or highway in  
 1652 ~~such~~ a position that obstructs ~~as to obstruct~~ the normal  
 1653 movement of traffic or that creates ~~in such a condition as to~~  
 1654 ~~create~~ a hazard to other traffic upon the street or highway.

1655           (b) Employees or authorized agents of an authorized or  
 1656 unauthorized wrecker company, as defined in s. 321.051 or s.  
 1657 323.002, may remove a vehicle or vehicle cargo from a public  
 1658 road without consent of the owner or operator of the vehicle or  
 1659 vehicle cargo upon request of a law enforcement officer as  
 1660 defined in s. 112.531, a sheriff or deputy sheriff as defined in  
 1661 s. 30.072, or a firefighter as defined in s. 112.81. The

1662 employee or authorized agent of the wrecker company, its wrecker  
 1663 operators, and other employees or agents of the wrecker company,  
 1664 the law enforcement officer, sheriff, or deputy sheriff, and the  
 1665 firefighters and emergency medical services providers are not  
 1666 liable for any property damages or claims of damage for the  
 1667 removal if the vehicle or vehicle cargo is removed because it  
 1668 presents an imminent public-safety hazard.

1669 (c)(b) For the purposes of this subsection, a wrecker  
 1670 company, its wrecker operators, and other employees or agents of  
 1671 the wrecker company are ~~operator is~~ presumed to use reasonable  
 1672 care to prevent the theft of a vehicle or vessel or of any  
 1673 personal property contained in the ~~such~~ vehicle stored in the  
 1674 wrecker company's ~~operator's~~ storage facility if all of the  
 1675 following apply:

1676 1. The wrecker company ~~operator~~ surrounds the storage  
 1677 facility with a chain-link or solid-wall type fence at least 6  
 1678 feet in height;

1679 2. The wrecker company illuminates ~~operator has~~  
 1680 ~~illuminated~~ the storage facility with lighting of sufficient  
 1681 intensity to reveal persons and vehicles at a distance of at  
 1682 least 150 feet during nighttime; and

1683 3. The wrecker company ~~operator~~ uses one or more of the  
 1684 following security methods to discourage theft of vehicles or  
 1685 vessels or of any personal property contained in such vehicles  
 1686 or vessels stored in the wrecker company's ~~operator's~~ storage  
 1687 facility:

1688 a. A night dispatcher or watchman remains on duty at the  
 1689 storage facility from sunset to sunrise;

HB 1673 CS

2004  
CS

1690           b. A security dog remains at the storage facility from  
1691 sunset to sunrise;

1692           c. Security cameras or other similar surveillance devices  
1693 monitor the storage facility; or

1694           d. A security guard service examines the storage facility  
1695 at least once each hour from sunset to sunrise.

1696           (d)(e) Any law enforcement agency requesting that a motor  
1697 vehicle be removed from an accident scene, street, or highway  
1698 must conduct an inventory and prepare a written record of all  
1699 personal property found in the vehicle before the vehicle is  
1700 removed by a wrecker operator. However, if the owner or driver  
1701 of the motor vehicle is present and accompanies the vehicle, an  
1702 ~~ne~~ inventory by law enforcement is not required. A wrecker  
1703 company, its wrecker operators, and other employees or agents of  
1704 the wrecker company are operator is not liable for the loss of  
1705 personal property alleged to be contained in ~~such~~ a vehicle when  
1706 the ~~such~~ personal property was not identified on the inventory  
1707 record prepared by the law enforcement agency requesting the  
1708 removal of the vehicle.

1709           (8) A wrecker company and its wrecker operators, excluding  
1710 ~~person regularly engaged in the business of recovering, towing,~~  
1711 ~~or storing vehicles or vessels, except~~ a person licensed under  
1712 chapter 493 while engaged in "repossession" activities as  
1713 defined in s. 493.6101, may not operate a wrecker, ~~tow truck, or~~  
1714 ~~ear carrier~~ unless the name, address, and telephone number of  
1715 the wrecker company performing the wrecker services ~~service~~ is  
1716 clearly printed in contrasting colors on the driver and  
1717 passenger sides of the wrecker ~~its vehicle~~. The name must be in

HB 1673 CS

2004  
CS

1718 at least 3-inch permanently affixed letters, and the address and  
1719 telephone number must be in at least 1-inch permanently affixed  
1720 letters.

1721 (9) Failure to make good faith best efforts to comply with  
1722 the notice requirements of this section precludes ~~shall preclude~~  
1723 the imposition of any storage charges against the ~~such~~ vehicle  
1724 or vessel.

1725 (10) Each wrecker company that provides ~~Persons who~~  
1726 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~  
1727 permit vehicle or vessel owners or their agents, which agency is  
1728 evidenced by a writing acknowledged by the owner before a notary  
1729 public or other person empowered by law to administer oaths, to  
1730 inspect the towed vehicle or vessel and must ~~shall~~ release to  
1731 the owner or agent all personal property not affixed to the  
1732 vehicle or vessel which was in the vehicle or vessel at the time  
1733 the vehicle or vessel came into the custody of the wrecker  
1734 company ~~person~~ providing those ~~such~~ services.

1735 (11)(a) A wrecker company that ~~Any person regularly~~  
1736 ~~engaged in the business of recovering, towing, or storing~~  
1737 ~~vehicles or vessels who~~ comes into possession of a vehicle or  
1738 vessel under ~~pursuant to~~ subsection (2) and that complies ~~who~~  
1739 ~~has complied with the provisions of~~ subsections (3) and (6),  
1740 when the ~~such~~ vehicle or vessel is to be sold for purposes of  
1741 being dismantled, destroyed, or changed in a such manner that it  
1742 is not the motor vehicle or, ~~vessel, or mobile home~~ described in  
1743 the certificate of title, must ~~shall~~ apply to the county tax  
1744 collector for a certificate of destruction. A certificate of  
1745 destruction, which authorizes the dismantling or destruction of

HB 1673 CS

2004  
CS

1746 | the vehicle or vessel described on the certificate therein, is  
 1747 | ~~shall be~~ reassignable no more than twice ~~a maximum of two times~~  
 1748 | before dismantling or destruction of the vehicle is ~~shall be~~  
 1749 | required, and the certificate must ~~shall~~ accompany the vehicle  
 1750 | or vessel for which it is issued, when the ~~such~~ vehicle or  
 1751 | vessel is sold for that purpose ~~such purposes~~, in lieu of a  
 1752 | certificate of title. The application for a certificate of  
 1753 | destruction must include an affidavit from the applicant that it  
 1754 | has complied with all applicable requirements of this section  
 1755 | and, if the vehicle or vessel is not registered in this state,  
 1756 | by a statement from a law enforcement officer that the vehicle  
 1757 | or vessel is not reported stolen, and must also ~~shall~~ be  
 1758 | accompanied by any other ~~such~~ documentation ~~as may be~~ required  
 1759 | by the department.

1760 | (b) The Department of Highway Safety and Motor Vehicles  
 1761 | shall charge a fee of \$3 for each certificate of destruction. A  
 1762 | service charge of \$4.25 shall be collected and retained by the  
 1763 | tax collector who processes the application.

1764 | (c) The Department of Highway Safety and Motor Vehicles  
 1765 | may adopt ~~such~~ rules to administer ~~as it deems necessary or~~  
 1766 | ~~proper for the administration of~~ this subsection.

1767 | (12)(a) Any person who violates ~~any provision of~~  
 1768 | subsection (1), subsection (2), subsection (4), subsection (5),  
 1769 | subsection (6), or subsection (7) commits ~~is guilty of~~ a  
 1770 | misdemeanor of the first degree, punishable as provided in s.  
 1771 | 775.082 or s. 775.083.

1772 | (b) Any person who violates ~~the provisions of~~ subsections  
 1773 | (8) through (11) commits ~~is guilty of~~ a felony of the third



1774 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1775 775.084.

1776 (c) Any person who uses a false or fictitious name, gives  
1777 a false or fictitious address, or makes any false statement in  
1778 any application or affidavit required under ~~the provisions of~~  
1779 this section commits ~~is guilty of~~ a felony of the third degree,  
1780 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1781 (d) Employees of the Department of Highway Safety and  
1782 Motor Vehicles and law enforcement officers may ~~are authorized~~  
1783 ~~to~~ inspect the records of each wrecker company in this state ~~any~~  
1784 ~~person regularly engaged in the business of recovering, towing,~~  
1785 ~~or storing vehicles or vessels or transporting vehicles or~~  
1786 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure  
1787 compliance with the requirements of this section. Any person who  
1788 fails to maintain records, or fails to produce records when  
1789 required in a reasonable manner and at a reasonable time,  
1790 commits a misdemeanor of the first degree, punishable as  
1791 provided in s. 775.082 or s. 775.083.

1792 (13)(a) Upon receipt by the Department of Highway Safety  
1793 and Motor Vehicles of written notice from a wrecker company  
1794 ~~operator~~ who claims a wrecker company's ~~operator's~~ lien under  
1795 paragraph (2)(c) or paragraph (2)(d) for recovery, towing, or  
1796 storage of an abandoned vehicle or, ~~or mobile home~~ upon  
1797 instructions from any law enforcement agency, for which a  
1798 certificate of destruction has been issued under subsection  
1799 (11), the department shall place the name of the registered  
1800 owner of that vehicle or, ~~or mobile home~~ on the list of  
1801 those persons who may not be issued a license plate or

HB 1673 CS

2004  
CS

1802 revalidation sticker for any motor vehicle under s. 320.03(8).  
 1803 If the vehicle or vessel, ~~or mobile home~~ is owned jointly by  
 1804 more than one person, the name of each registered owner shall be  
 1805 placed on the list. The notice of wrecker company's ~~operator's~~  
 1806 lien shall be submitted on forms provided by the department,  
 1807 which must include:

1808 1. The name, address, and telephone number of the wrecker  
 1809 company ~~operator~~.

1810 2. The name of the registered owner of the vehicle or  
 1811 vessel, ~~or mobile home~~ and the address to which the wrecker  
 1812 company ~~operator~~ provided notice of the lien to the registered  
 1813 owner under subsection (4).

1814 3. A general description of the vehicle or vessel, ~~or~~  
 1815 ~~mobile home~~, including its color, make, model, body style, and  
 1816 year.

1817 4. The vehicle identification number (VIN); registration  
 1818 license plate number, state, and year; validation decal number,  
 1819 state, and year; ~~mobile home sticker number, state, and year;~~  
 1820 ~~vessel registration number;~~ hull identification number; or other  
 1821 identification number, as applicable.

1822 5. The name of the person or the corresponding law  
 1823 enforcement agency that requested that the vehicle or vessel,  
 1824 ~~or mobile home~~ be recovered, towed, or stored.

1825 6. The amount of the wrecker company's ~~operator's~~ lien,  
 1826 not to exceed the amount allowed by paragraph (b).

1827 (b) For purposes of this subsection only, the amount of  
 1828 the wrecker company's ~~operator's~~ lien for which the department  
 1829 will prevent issuance of a license plate or revalidation sticker

HB 1673 CS

2004  
CS

1830 may not exceed the amount of the charges for recovery, towing,  
 1831 and storage of the vehicle or, vessel, ~~or mobile home~~ for 7  
 1832 days. These charges may not exceed the maximum rates imposed by  
 1833 the ordinances of the respective county or municipality under  
 1834 ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph does not  
 1835 limit the amount of a wrecker company's ~~operator's~~ lien claimed  
 1836 under subsection (2) or prevent a wrecker company ~~operator~~ from  
 1837 seeking civil remedies for enforcement of the entire amount of  
 1838 the lien, but limits only that portion of the lien for which the  
 1839 department will prevent issuance of a license plate or  
 1840 revalidation sticker.

1841 (c)1. The registered owner of a vehicle, vessel, or mobile  
 1842 home may dispute a wrecker company's ~~operator's~~ lien, by  
 1843 notifying the department of the dispute in writing on forms  
 1844 provided by the department, if at least one of the following  
 1845 applies:

1846 a. The registered owner presents a notarized bill of sale  
 1847 proving that the vehicle or, vessel, ~~or mobile home~~ was sold in  
 1848 a private or casual sale before the vehicle or, vessel, ~~or~~  
 1849 ~~mobile home~~ was recovered, towed, or stored.

1850 b. The registered owner presents proof that the Florida  
 1851 certificate of title of the vehicle or, vessel, ~~or mobile home~~  
 1852 was sold to a licensed dealer as defined in s. 319.001 before  
 1853 the vehicle or, vessel, ~~or mobile home~~ was recovered, towed, or  
 1854 stored.

1855 c. The records of the department were marked to indicate  
 1856 that the vehicle or, vessel, ~~or mobile home~~ was sold before the

HB 1673 CS

2004  
CS

1857 issuance of the certificate of destruction under subsection  
1858 (11).

1859  
1860 If the registered owner's dispute of a wrecker company's  
1861 ~~operator's~~ lien complies with one of these criteria, the  
1862 department shall immediately remove the registered owner's name  
1863 from the list of those persons who may not be issued a license  
1864 plate or revalidation sticker for any motor vehicle under s.  
1865 320.03(8), thereby allowing issuance of a license plate or  
1866 revalidation sticker. If the vehicle or, vessel, ~~or mobile home~~  
1867 is owned jointly by more than one person, each registered owner  
1868 must dispute the wrecker company's ~~operator's~~ lien in order to  
1869 be removed from the list. However, the department shall deny any  
1870 dispute and maintain the registered owner's name on the list of  
1871 those persons who may not be issued a license plate or  
1872 revalidation sticker for any motor vehicle under s. 320.03(8) if  
1873 the wrecker company ~~operator~~ has provided the department with a  
1874 certified copy of the judgment of a court which orders the  
1875 registered owner to pay the wrecker company's ~~operator's~~ lien  
1876 claimed under this section. In such a case, the amount of the  
1877 wrecker company's ~~operator's~~ lien allowed by paragraph (b) may  
1878 be increased to include no more than \$500 of the reasonable  
1879 costs and attorney's fees incurred in obtaining the judgment.  
1880 The department's action under this subparagraph is ministerial  
1881 in nature, shall not be considered final agency action, and may  
1882 be appealed only to the county court for the county in which the  
1883 vehicle or, vessel, ~~or mobile home~~ was ordered removed.

1884           2. A person against whom a wrecker company's ~~operator's~~  
 1885   lien has been imposed may alternatively obtain a discharge of  
 1886   the lien by filing a complaint, challenging the validity of the  
 1887   lien or the amount thereof, in the county court of the county in  
 1888   which the vehicle or, ~~vessel, or mobile home~~ was ordered  
 1889   removed. Upon filing of the complaint, the person may have her  
 1890   or his name removed from the list of those persons who may not  
 1891   be issued a license plate or revalidation sticker for any motor  
 1892   vehicle under s. 320.03(8), thereby allowing issuance of a  
 1893   license plate or revalidation sticker, upon posting with the  
 1894   court a cash or surety bond or other adequate security equal to  
 1895   the amount of the wrecker company's ~~operator's~~ lien to ensure  
 1896   the payment of such lien in the event she or he does not  
 1897   prevail. Upon the posting of the bond and the payment of the  
 1898   applicable fee set forth in s. 28.24, the clerk of the court  
 1899   shall issue a certificate notifying the department of the  
 1900   posting of the bond and directing the department to release the  
 1901   wrecker company's ~~operator's~~ lien. Upon determining the  
 1902   respective rights of the parties, the court may award damages  
 1903   and costs in favor of the prevailing party.

1904           3. If a person against whom a wrecker company's ~~operator's~~  
 1905   lien has been imposed does not object to the lien, but cannot  
 1906   discharge the lien by payment because the wrecker company  
 1907   ~~operator~~ has moved or gone out of business, the person may have  
 1908   her or his name removed from the list of those persons who may  
 1909   not be issued a license plate or revalidation sticker for any  
 1910   motor vehicle under s. 320.03(8), thereby allowing issuance of a  
 1911   license plate or revalidation sticker, upon posting with the

HB 1673 CS

2004  
CS

1912 clerk of court in the county in which the vehicle or, vessel, ~~or~~  
 1913 ~~mobile home~~ was ordered removed, a cash or surety bond or other  
 1914 adequate security equal to the amount of the wrecker company's  
 1915 ~~operator's~~ lien. Upon the posting of the bond and the payment of  
 1916 the application fee set forth in s. 28.24, the clerk of the  
 1917 court shall issue a certificate notifying the department of the  
 1918 posting of the bond and directing the department to release the  
 1919 wrecker company's ~~operator's~~ lien. The department shall mail to  
 1920 the wrecker company ~~operator~~, at the address upon the lien form,  
 1921 notice that the wrecker company ~~operator~~ must claim the security  
 1922 within 60 days, or the security will be released back to the  
 1923 person who posted it. At the conclusion of the 60 days, the  
 1924 department shall direct the clerk as to which party is entitled  
 1925 to payment of the security, less applicable clerk's fees.

1926 4. A wrecker company's ~~operator's~~ lien expires 5 years  
 1927 after filing.

1928 (d) Upon discharge of the amount of the wrecker company's  
 1929 ~~operator's~~ lien allowed by paragraph (b), the wrecker company  
 1930 ~~operator~~ must issue a certificate of discharged wrecker  
 1931 company's ~~operator's~~ lien on forms provided by the department to  
 1932 each registered owner of the vehicle, vessel, or mobile home  
 1933 attesting that the amount of the wrecker company's ~~operator's~~  
 1934 lien allowed by paragraph (b) has been discharged. Upon  
 1935 presentation of the certificate of discharged wrecker company's  
 1936 ~~operator's~~ lien by the registered owner, the department shall  
 1937 immediately remove the registered owner's name from the list of  
 1938 those persons who may not be issued a license plate or  
 1939 revalidation sticker for any motor vehicle under s. 320.03(8),

HB 1673 CS

2004  
CS

1940 | thereby allowing issuance of a license plate or revalidation  
 1941 | sticker. Issuance of a certificate of discharged wrecker  
 1942 | company's ~~operator's~~ lien under this paragraph does not  
 1943 | discharge the entire amount of the wrecker company's ~~operator's~~  
 1944 | lien claimed under subsection (2), but only certifies to the  
 1945 | department that the amount of the wrecker company's ~~operator's~~  
 1946 | lien allowed by paragraph (b), for which the department will  
 1947 | prevent issuance of a license plate or revalidation sticker, has  
 1948 | been discharged.

1949 |         (e) When a wrecker company ~~operator~~ files a notice of  
 1950 | wrecker operator's lien under this subsection, the department  
 1951 | shall charge the wrecker company ~~operator~~ a fee of \$2, which  
 1952 | must be deposited into the General Revenue Fund. A service  
 1953 | charge of \$2.50 shall be collected and retained by the tax  
 1954 | collector who processes a notice of wrecker company's ~~operator's~~  
 1955 | lien.

1956 |         (f) This subsection applies only to the annual renewal in  
 1957 | the registered owner's birth month of a motor vehicle  
 1958 | registration and does not apply to the transfer of a  
 1959 | registration of a motor vehicle sold by a motor vehicle dealer  
 1960 | licensed under chapter 320, except for the transfer of  
 1961 | registrations which is inclusive of the annual renewals. This  
 1962 | subsection does not apply to any vehicle registered in the name  
 1963 | of a lessor. This subsection does not affect the issuance of the  
 1964 | title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1965 |         (g) The Department of Highway Safety and Motor Vehicles  
 1966 | may adopt rules under ss. 120.536(1) and 120.54 to implement  
 1967 | this subsection.

1968           (14) The amendments to this section made by this act do  
 1969 not affect the validity of liens established under this section  
 1970 before January 1, 2005.

1971           Section 19. Effective January 1, 2005, section 713.785,  
 1972 Florida Statutes, is created to read:

1973           713.785 Liens for recovering, towing, or storing mobile  
 1974 homes.--

1975           (1) As used in this section, the term:

1976           (a) "Mobile home transport company" means a person  
 1977 regularly engaged in the business of transporting mobile homes.

1978           (b) "Store" means a mobile home transport company that has  
 1979 legal possession of a mobile home either on the mobile home  
 1980 transport company's property or on any other property.

1981           (c) "Unpaid lot rental amount" or "unpaid rent" means any  
 1982 unpaid financial obligations of the mobile home owner or tenant  
 1983 to the mobile home park owner consisting of "lot rental amount"  
 1984 as defined in s. 723.003 or "rent" as defined in part II of  
 1985 chapter 83, and includes any amount of storage charges as  
 1986 defined in s. 723.084.

1987           (2) If the mobile home transport company recovers,  
 1988 removes, or stores a mobile home upon instructions from:

1989           (a) The owner of the mobile home;

1990           (b) Any law enforcement agency; or

1991           (c) A mobile home park owner as defined in s. 723.003 who  
 1992 has a current writ of possession for a mobile home lot under s.  
 1993 723.062 or s. 83.62,

1994



HB 1673 CS

2004  
CS

1995 | the mobile home transport company shall have a lien on the  
 1996 | mobile home for a reasonable towing fee and for a reasonable  
 1997 | storage fee.

1998 |       (3)(a) A mobile home transport company that comes into  
 1999 | possession of a mobile home under subsection (2) and that claims  
 2000 | a lien for recovery, towing, or storage services must give  
 2001 | notice to the registered owner and to all persons claiming a  
 2002 | lien on the mobile home, as disclosed by the records of the  
 2003 | Department of Highway Safety and Motor Vehicles or of a  
 2004 | corresponding agency in any other state.

2005 |       (b) Notice by certified mail, return receipt requested,  
 2006 | shall be sent within 7 business days after the date of storage  
 2007 | of the mobile home to the registered owner at the registered  
 2008 | owner's last known address and to all persons of record claiming  
 2009 | a lien against the mobile home. The notice shall state the fact  
 2010 | of possession of the mobile home, that a lien as provided in  
 2011 | subsection (2) is claimed, that charges have accrued and the  
 2012 | amount thereof, that the lien is subject to enforcement pursuant  
 2013 | to law, that the owner or lienholder, if any, has the right to a  
 2014 | hearing as set forth in subsection (4), and that any mobile home  
 2015 | which remains unclaimed or for which charges remain unpaid may  
 2016 | be sold free of all prior liens after 35 days.

2017 |       (4)(a) The owner of a mobile home stored pursuant to the  
 2018 | provisions of subsection (2) or any person other than the mobile  
 2019 | home transport company claiming a lien of record may, within 10  
 2020 | days after the time she or he has knowledge of the location of  
 2021 | the mobile home, file a complaint in the court of the county in

2022 which the mobile home is stored to determine if her or his  
 2023 property was wrongfully taken or withheld from her or him.

2024 (b) Upon filing of a complaint, an owner or lienholder may  
 2025 have the mobile home released upon posting with the court a cash  
 2026 or surety bond or other adequate security equal to the amount of  
 2027 the charges for towing or storage, and lot rental amount, due  
 2028 and owing at that time to ensure the payment of such charges in  
 2029 the event she or he does not prevail. Upon the posting of the  
 2030 bond and the payment of the applicable fee set forth in s.  
 2031 28.24, the clerk of the circuit court shall issue a certificate  
 2032 notifying the mobile home transport company of the posting of  
 2033 the bond and directing the mobile home transport company to  
 2034 release the mobile home. At the time of such release and after  
 2035 reasonable inspection, the owner or lienholder shall give a  
 2036 receipt to the mobile home transport company reciting any claims  
 2037 she or he has for loss or damage to the mobile home or the  
 2038 contents thereof.

2039 (c) Upon determining the respective rights of the parties,  
 2040 the court may award damages and costs in favor of the prevailing  
 2041 party. In any event, the final order shall provide for immediate  
 2042 payment in full by the mobile home owner or lienholder, or the  
 2043 owner or lessee, or agent thereof, of the property from which  
 2044 the mobile home was removed, of any lien for recovery, towing,  
 2045 and storage fees and any unpaid lot rental amount accruing until  
 2046 the time the mobile home is removed from the property.

2047 (5) A mobile home that is stored pursuant to subsection  
 2048 (2) and which remains unclaimed, or for which reasonable charges  
 2049 for recovery, towing, or storing remain unpaid or for which a

HB 1673 CS

2004  
CS

2050 lot rental amount is due and owing to the mobile home park owner  
 2051 as evidenced by a judgment for unpaid rent and any contents of  
 2052 the mobile home not released pursuant to subsection (9), may be  
 2053 sold by the mobile home transport company for the towing or  
 2054 storage charge and any unpaid lot rental amount 35 days after  
 2055 the mobile home is stored by a mobile home transport company.  
 2056 The sale shall be at public auction for cash. If the date of the  
 2057 sale was not included in the notice required by subsection (3),  
 2058 notice of the sale shall be given to the person in whose name  
 2059 the mobile home is registered at her or his last known address,  
 2060 to the mobile home park owner, and to all persons claiming a  
 2061 lien on the mobile home as shown on the records of the  
 2062 Department of Highway Safety and Motor Vehicles or the  
 2063 corresponding agency in any other state. Notice must be sent by  
 2064 certified mail, return receipt requested, at least 15 days  
 2065 before the date of the sale. After diligent search and inquiry,  
 2066 if the name and address of the registered owner or the owner of  
 2067 the recorded lien cannot be ascertained, the requirements of  
 2068 notice by mail may be dispensed with. In addition to the notice  
 2069 by mail, public notice of the time and place of sale must be  
 2070 made by publishing a notice of the sale one time, at least 10  
 2071 days before the date of the sale, in a newspaper of general  
 2072 circulation in the county in which the sale is to be held. The  
 2073 proceeds of the sale, after payment of reasonable towing and  
 2074 storage charges, costs of the sale, and the unpaid lot rental  
 2075 amount as evidenced by an affidavit executed by the mobile home  
 2076 park owner or the owner's agent establishing the amount of  
 2077 unpaid lot rental amount through the date of the sale, in that

2078 order of priority, must be deposited with the clerk of the  
 2079 circuit court for the county, if the owner is absent, and the  
 2080 clerk shall hold such proceeds subject to the claim of the  
 2081 person legally entitled to those proceeds. The clerk is entitled  
 2082 to receive 5 percent of the proceeds for the care and  
 2083 disbursement of the proceeds. The certificate of title issued  
 2084 under this section shall be discharged of all liens unless  
 2085 otherwise provided by court order.

2086 (6) Neither the mobile home transport company, the  
 2087 landlord or her or his agent, nor any subsequent purchaser for  
 2088 value is responsible to the tenant or any other party for loss,  
 2089 destruction, or damage to the mobile home or other personal  
 2090 property after coming into possession of the mobile home  
 2091 pursuant to this section, provided the mobile home transport  
 2092 company and the landlord, or their agents, use reasonable care  
 2093 in storing the mobile home. For purposes of this section,  
 2094 "reasonable care" means securing the mobile home by changing  
 2095 door locks, or any similar methods for securing the mobile home,  
 2096 in place in the mobile home park or in a separate storage area.

2097 (7)(a) A mobile home transport company that comes into  
 2098 possession of a mobile home under subsection (2) and that  
 2099 complies with subsection (3), if the mobile home is to be sold  
 2100 for purposes of being dismantled, destroyed, or changed so that  
 2101 it is not the mobile home described in the certificate of title,  
 2102 must apply to the county tax collector for a certificate of  
 2103 destruction. A certificate of destruction, which authorizes the  
 2104 dismantling or destruction of the mobile home described in the  
 2105 certificate, is reassignable no more than twice before

HB 1673 CS

2004  
CS

2106 dismantling or destruction of the mobile home is to be required,  
 2107 and the certificate must accompany the mobile home for which it  
 2108 is issued when the mobile home is sold for that purpose, in lieu  
 2109 of a certificate of title. The application for a certificate of  
 2110 destruction must:

2111 1. Include an affidavit from the applicant that it has  
 2112 complied with all applicable requirements of this section;

2113 2. If the mobile home is not registered in this state,  
 2114 include a statement from a law enforcement officer that the  
 2115 mobile home is not reported stolen; and

2116 3. Be accompanied by any other documentation as may be  
 2117 required by the department.

2118 (b) The Department of Highway Safety and Motor Vehicles  
 2119 shall charge a fee of \$3 for each certificate of destruction.  
 2120 The tax collector who processes the application shall collect  
 2121 and retain a service charge of \$4.25.

2122 (c) The Department of Highway Safety and Motor Vehicles is  
 2123 authorized to adopt rules pursuant to ss. 120.536(1) and 120.54  
 2124 to administer this subsection.

2125 (d) Employees of the Department of Highway Safety and  
 2126 Motor Vehicles and law enforcement officers may inspect the  
 2127 records of each mobile home transport company in this state to  
 2128 ensure compliance with this section.

2129 (8)(a) Upon receipt by the Department of Highway Safety  
 2130 and Motor Vehicles of written notice from a mobile home  
 2131 transport company that claims a lien under paragraph (2)(b) or  
 2132 paragraph (2)(c) for recovery, towing, or storage of a mobile  
 2133 home for which a certificate of destruction has been issued

2134 under this section, the department shall place the name of the  
 2135 registered owner of that mobile home on the list of those  
 2136 persons who may not be issued a revalidation sticker under s.  
 2137 320.03. If the mobile home is owned jointly by more than one  
 2138 person, the name of each registered owner must be placed on the  
 2139 list. The notice of mobile home transport company's lien must be  
 2140 submitted on forms provided by the department, which must  
 2141 include:

2142 1. The name, address, and telephone number of the mobile  
 2143 home transport company.

2144 2. The name of the registered owner of the mobile home and  
 2145 the address at which the mobile home transport company provided  
 2146 notice of the lien to the registered owner under subsection (3).

2147 3. A general description of the mobile home, including its  
 2148 color, make, model, body style, and year.

2149 4. The mobile home sticker number, state, and year or  
 2150 other identification number, as applicable.

2151 5. The name of the person or the corresponding law  
 2152 enforcement agency that requested that the mobile home be  
 2153 recovered, towed, or stored.

2154 6. The amount of the lien, not to exceed the amount  
 2155 allowed by paragraph (b).

2156 (b) For purposes of this subsection only, the amount of  
 2157 the mobile home transport company's lien for which the  
 2158 department will prevent issuance of a revalidation sticker may  
 2159 not exceed the amount of the charges for recovery, towing, and  
 2160 storage of the mobile home for 7 days. These charges may not  
 2161 exceed the maximum rates imposed by the ordinances of the

2162 respective county or municipality under ss. 125.0103(1)(c) and  
 2163 166.043(1)(c). This paragraph does not limit the amount of a  
 2164 mobile home transport company's lien claimed under subsection  
 2165 (2) or prevent a mobile home transport company from seeking  
 2166 civil remedies for enforcement of the entire amount of the lien,  
 2167 but limits only that portion of the lien for which the  
 2168 department will prevent issuance of a revalidation sticker.

2169 (c)1. The registered owner of the mobile home may dispute  
 2170 the mobile home transport company's lien by notifying the  
 2171 department of the dispute in writing on forms provided by the  
 2172 department, if at least one of the following applies:

2173 a. The registered owner presents a notarized bill of sale  
 2174 proving that the mobile home was sold in a private or casual  
 2175 sale before the mobile home was recovered, towed, or stored.

2176 b. The registered owner presents proof that the Florida  
 2177 certificate of title of mobile home was sold to a licensed  
 2178 dealer as defined in s. 319.001 before the mobile home was  
 2179 recovered, towed, or stored.

2180 c. The records of the department were marked to indicate  
 2181 that the mobile home was sold before the issuance of the  
 2182 certificate of destruction under subsection (7).

2183  
 2184 If the registered owner's dispute of a mobile home transport  
 2185 company's lien complies with one of these criteria, the  
 2186 department shall immediately remove the registered owner's name  
 2187 from the list of those persons who may not be issued a  
 2188 revalidation sticker under s. 320.03. If the mobile home is  
 2189 owned jointly by more than one person, each registered owner

HB 1673 CS

2004  
CS

2190 must dispute the mobile home transport company's lien in order  
 2191 to be removed from the list. However, the department shall deny  
 2192 any dispute and maintain the registered owner's name on the list  
 2193 of those persons who may not be issued a revalidation sticker if  
 2194 the mobile home transport company has provided the department  
 2195 with a certified copy of the judgment of a court which orders  
 2196 the registered owner to pay the mobile home transport company's  
 2197 lien claimed under this section. In such a case, the amount of  
 2198 the mobile home transport company's lien allowed by paragraph  
 2199 (b) may be increased to include no more than \$500 of the  
 2200 reasonable costs and attorney's fees incurred in obtaining the  
 2201 judgment. The department's action under this subparagraph is  
 2202 ministerial in nature, is not final agency action, and is  
 2203 appealable only to the county court for the county in which the  
 2204 mobile home was ordered removed.

2205 2. A person against whom a mobile home transport company's  
 2206 lien has been imposed may alternatively obtain a discharge of  
 2207 the lien by filing a complaint challenging the validity of the  
 2208 lien or the amount thereof in the county court of the county in  
 2209 which the mobile home was ordered removed. Upon filing of the  
 2210 complaint, the person may have her or his name removed from the  
 2211 list of those persons who may not be issued a revalidation  
 2212 sticker under s. 320.03 upon posting with the court a cash or  
 2213 surety bond or other adequate security equal to the amount of  
 2214 the mobile home transport company's lien to ensure the payment  
 2215 of such lien in the event she or he does not prevail. Upon the  
 2216 posting of the bond and the payment of the applicable fee set  
 2217 forth in s. 28.24, the clerk of the circuit court shall issue a



HB 1673 CS

2004  
CS

2218 certificate notifying the department of the posting of the bond  
 2219 and directing the department to release the mobile home  
 2220 transport company's lien. Upon determining the respective rights  
 2221 of the parties, the court may award damages and costs in favor  
 2222 of the prevailing party.

2223 3. If a person against whom a mobile home transport  
 2224 company's lien has been imposed does not object to the lien, but  
 2225 cannot discharge the lien by payment because the mobile home  
 2226 transport company has moved or gone out of business, the person  
 2227 may have her or his name removed from the list of those persons  
 2228 who may not be issued a revalidation sticker under s. 320.03,  
 2229 upon posting with the clerk of court in the county in which the  
 2230 mobile home was ordered removed, a cash or surety bond or other  
 2231 adequate security equal to the amount of the mobile home  
 2232 transport company's lien. Upon the posting of the bond and the  
 2233 payment of the application fee set forth in s. 28.24, the clerk  
 2234 of the circuit court shall issue a certificate notifying the  
 2235 department of the posting of the bond and directing the  
 2236 department to release the mobile home transport company's lien.  
 2237 The department shall mail to the mobile home transport company,  
 2238 at the address upon the lien form, notice that the mobile home  
 2239 transport company must claim the security within 60 days or the  
 2240 security will be released to the person who posted it. At the  
 2241 conclusion of the 60-day period, the department shall direct the  
 2242 clerk as to which party is entitled to payment of the security,  
 2243 less applicable clerk's fees.

2244 4. A mobile home transport company's lien expires 5 years  
 2245 after filing.

HB 1673 CS

2004  
CS

2246        (d) Upon discharge of the amount of the mobile home  
2247 transport company's lien allowed under paragraph (b), the mobile  
2248 home transport company must issue a certificate of discharged  
2249 lien on a form provided by the department to each registered  
2250 owner of the mobile home attesting that the amount of the mobile  
2251 home transport company's lien allowed under paragraph (b) has  
2252 been discharged. Upon presentation of the certificate of  
2253 discharged lien by the registered owner, the department shall  
2254 immediately remove the registered owner's name from the list of  
2255 those persons who may not be issued a revalidation sticker under  
2256 s. 320.03. Issuance of a certificate of discharged lien under  
2257 this paragraph does not discharge the entire amount of the  
2258 mobile home transport company's lien claimed under subsection  
2259 (2), but certifies to the department only that the amount of the  
2260 mobile home transport company's lien allowed by paragraph (b),  
2261 for which the department will prevent issuance of revalidation  
2262 sticker, has been discharged.

2263        (e) When a mobile home transport company files a notice of  
2264 lien under this subsection, the department shall charge the  
2265 mobile home transport company a fee of \$2, which must be  
2266 deposited into the General Revenue Fund. The tax collector who  
2267 processes a notice of lien shall collect and retain a service  
2268 charge of \$2.50.

2269        (f) The Department of Highway Safety and Motor Vehicles  
2270 may adopt rules pursuant to ss. 120.536(1) and 120.54 to  
2271 implement this subsection.

2272        (9) Persons who provide services pursuant to this section  
2273 shall permit mobile home owners or their agents, which agency is

HB 1673 CS

2004  
CS

2274 evidenced by a writing acknowledged by the owner before a notary  
 2275 public or other person empowered by law to administer oaths, to  
 2276 inspect the mobile home and shall release to the owner or agent  
 2277 all personal property not affixed to the mobile home, provided  
 2278 there exists no landlord's lien for rent pursuant to s. 713.691  
 2279 or s. 713.77.

2280 (10) Any person who violates any provision of subsection  
 2281 (3), subsection (5), subsection (6), subsection (7), or  
 2282 subsection (9) commits a misdemeanor of the first degree,  
 2283 punishable as provided in s. 775.082 or s. 775.083.

2284 Section 20. Paragraph (a) of subsection (1) of section  
 2285 319.30, Florida Statutes, is amended to read:

2286 319.30 Definitions; dismantling, destruction, change of  
 2287 identity of motor vehicle or mobile home; salvage.--

2288 (1) As used in this section, the term:

2289 (a) "Certificate of destruction" means the certificate  
 2290 issued pursuant to s. 713.78(11) or s. 713.785(7)(a).

2291 Section 21. Section 713.69, Florida Statutes, is amended  
 2292 to read:

2293 713.69 Unlawful to remove property upon which lien has  
 2294 accrued.--It is unlawful for any person to remove any property  
 2295 upon which a lien has accrued under the provisions of s. 713.68,  
 2296 s. 713.77, or s. 713.785 from any mobile home park, hotel,  
 2297 apartment house, roominghouse, lodginghouse, boardinghouse or  
 2298 tenement house without first making full payment to the person  
 2299 operating or conducting the same of all sums due and payable for  
 2300 such occupancy or without first having the written consent of  
 2301 such person so conducting or operating such place to so remove

HB 1673 CS

2004  
CS

2302 such property. Any person violating the provisions of this  
 2303 section shall, if the property removed in violation hereof be of  
 2304 the value of \$50 or less, be guilty of a misdemeanor of the  
 2305 second degree, punishable as provided in s. 775.082 or s.  
 2306 775.083; and if the property so removed should be of greater  
 2307 value than \$50 then such person shall be guilty of a felony of  
 2308 the third degree, punishable as provided in s. 775.082, s.  
 2309 775.083, or s. 775.084.

2310 Section 22. Effective January 1, 2005, section 715.07,  
 2311 Florida Statutes, is amended to read:

2312 715.07 Vehicles and vessels parked on real ~~private~~  
 2313 property without permission; towing.--

2314 (1) As used in this section, the term:

2315 (a) "Property owner" means an owner or lessee of real  
 2316 property, or a person authorized by the owner or lessee, which  
 2317 person may be the designated representative of the condominium  
 2318 association if the real property is a condominium.

2319 (b) "Vehicle" has the same meaning ascribed in s. 508.01  
 2320 ~~means any mobile item which normally uses wheels, whether~~  
 2321 ~~motorized or not.~~

2322 (c) "Vessel" has the same meaning ascribed in s. 508.01.

2323 (d) "Wrecker company" has the same meaning ascribed in s.  
 2324 508.01.

2325 (e) "Wrecker operator" has the same meaning ascribed in s.  
 2326 508.01.

2327 (2) A property owner ~~The owner or lessee of real property,~~  
 2328 ~~or any person authorized by the owner or lessee, which person~~  
 2329 ~~may be the designated representative of the condominium~~

HB 1673 CS

2004  
CS

2330 ~~association if the real property is a condominium,~~ may cause a  
 2331 ~~any~~ vehicle or vessel parked on her or his ~~such~~ property without  
 2332 her or his permission to be removed by a wrecker company  
 2333 registered under chapter 508 ~~person regularly engaged in the~~  
 2334 ~~business of towing vehicles,~~ without liability for the costs of  
 2335 removal, transportation, or storage or damages caused by the  
 2336 ~~such~~ removal, transportation, or storage, under any of the  
 2337 following circumstances:

2338 (a) The towing or removal of any vehicle or vessel from  
 2339 real ~~private~~ property without the consent of the registered  
 2340 owner or other legally authorized person in control of that  
 2341 vehicle or vessel is subject to strict compliance with the  
 2342 following conditions and restrictions:

2343 1.a. Any towed or removed vehicle or vessel must be stored  
 2344 at a storage facility site within a 10-mile radius ~~10 miles~~ of  
 2345 the point of removal in any county of 500,000 population or  
 2346 more, and within a 15-mile radius ~~15 miles~~ of the point of  
 2347 removal in any county of less than 500,000 population. The  
 2348 wrecker company's storage facility ~~That site~~ must be open for  
 2349 the purpose of redemption of vehicles and vessels on any day  
 2350 that the wrecker company ~~person or firm~~ towing the ~~such~~ vehicle  
 2351 or vessel is open for towing purposes, from 8 ~~8:00~~ a.m. to 6  
 2352 ~~6:00~~ p.m., and, when closed, must ~~shall~~ have prominently posted  
 2353 a sign indicating a telephone number where the operator of the  
 2354 storage facility site can be reached at all times. Upon receipt  
 2355 of a telephoned request to open the storage facility site to  
 2356 redeem a vehicle or vessel, the operator shall return to the

2357 storage facility site within 1 hour or she or he ~~is will be~~ in  
2358 violation of this section.

2359 b. If a wrecker company ~~no towing business providing such~~  
2360 ~~service~~ is not located within the area of towing limitations ~~set~~  
2361 ~~forth~~ in sub-subparagraph a., the following limitations apply:  
2362 any towed or removed vehicle or vessel must be stored at a  
2363 storage facility site within a 20-mile radius ~~20 miles~~ of the  
2364 point of removal in any county of 500,000 population or more,  
2365 and within a 30-mile radius ~~30 miles~~ of the point of removal in  
2366 any county of less than 500,000 population.

2367 2. The wrecker company ~~person or firm~~ towing or removing  
2368 the vehicle or vessel must ~~shall~~, within 30 minutes after ~~of~~  
2369 completion of that ~~such~~ towing or removal, notify the municipal  
2370 police department or, in an unincorporated area, the sheriff of  
2371 that ~~such~~ towing or removal; the location of the storage  
2372 facility; site, the time the vehicle or vessel was towed or  
2373 removed; and the make, model, color, and license plate number  
2374 of the vehicle or the make, model, color, and registration  
2375 number of the vessel. The wrecker company must also ~~and shall~~  
2376 obtain the name of the person at that department to whom this  
2377 ~~such~~ information is ~~was~~ reported and note that name on the trip  
2378 record.

2379 3. If the registered owner or other legally authorized  
2380 person in control of the vehicle or vessel arrives at the scene  
2381 before ~~prior to removal or towing~~ of the vehicle or vessel is  
2382 towed or removed, the wrecker company must disconnect the  
2383 vehicle or vessel ~~shall be disconnected~~ from the wrecker towing  
2384 ~~or removal apparatus~~, and must allow that person ~~shall be~~

2385 ~~allowed~~ to remove the vehicle or vessel without interference  
 2386 upon the payment of a reasonable service fee of not more than  
 2387 one-half of the posted rate for those services ~~such towing~~  
 2388 ~~service~~ as provided in subparagraph 6., for which a receipt  
 2389 shall be given, unless that person refuses to remove the vehicle  
 2390 or vessel that ~~which~~ is otherwise unlawfully parked or located.

2391 4. A wrecker company, a wrecker operator, or another  
 2392 employee or agent of a wrecker company may not give a ~~The~~ rebate  
 2393 or pay ~~payment of~~ money or ~~any~~ other valuable consideration ~~from~~  
 2394 ~~the individual or firm towing or removing vehicles to the~~  
 2395 property owner ~~owners or operators~~ of the premises from which a  
 2396 vehicle or vessel is ~~the vehicles are~~ towed or removed, for the  
 2397 privilege of removing or towing the vehicle or vessel ~~those~~  
 2398 ~~vehicles, is prohibited.~~ A property owner may not solicit a  
 2399 wrecker company, a wrecker operator, or another employee or  
 2400 agent of a wrecker company to give him or her a rebate or the  
 2401 payment of money or other valuable consideration for the  
 2402 privilege of removing or towing a vehicle from his or her  
 2403 premises.

2404 5. Except for property appurtenant to and obviously a part  
 2405 of a single-family residence, and except for instances when  
 2406 notice is personally given to the owner or other legally  
 2407 authorized person in control of the vehicle or vessel that the  
 2408 area in which that vehicle or vessel is parked is reserved or  
 2409 otherwise unavailable for unauthorized vehicles or vessels and  
 2410 subject to being removed at the owner's or operator's expense,  
 2411 any property owner ~~or lessee, or person authorized by the~~  
 2412 ~~property owner or lessee,~~ before ~~prior to~~ towing or removing any

HB 1673 CS

2004  
CS

2413 | vehicle or vessel from real ~~private~~ property without the consent  
 2414 | of the owner or other legally authorized person in control of  
 2415 | that vehicle or vessel, must post a notice meeting the following  
 2416 | requirements:

2417 |       a. The notice must be prominently placed at each driveway  
 2418 | access or curb cut allowing vehicular access to the property,  
 2419 | within 5 feet from the public right-of-way line. If there are  
 2420 | no curbs or access barriers, the signs must be posted not less  
 2421 | than one sign for each 25 feet of lot frontage.

2422 |       b. The notice must clearly indicate, in not less than 2-  
 2423 | inch high, light-reflective letters on a contrasting background,  
 2424 | that unauthorized vehicles will be towed away at the owner's  
 2425 | expense. The words "tow-away zone" must be included on the sign  
 2426 | in not less than 4-inch high letters.

2427 |       c. The notice must also provide the name and current  
 2428 | telephone number of the wrecker company ~~person or firm~~ towing or  
 2429 | removing the vehicles, if the property owner, ~~lessee, or person~~  
 2430 | ~~in control~~ of the real property has a written contract with the  
 2431 | wrecker towing company.

2432 |       d. The sign structure containing the required notices must  
 2433 | be permanently installed with the words "tow-away zone" not less  
 2434 | than 3 feet and not more than 6 feet above ground level and must  
 2435 | be continuously maintained on the property for not less than 24  
 2436 | hours prior to the towing or removal of any vehicles.

2437 |       e. The local government may require permitting and  
 2438 | inspection of these signs prior to any towing or removal of  
 2439 | vehicles being authorized.



2440 f. A business with 20 or fewer parking spaces satisfies  
 2441 the notice requirements of this subparagraph by prominently  
 2442 displaying a sign stating "Reserved Parking for Customers Only  
 2443 Unauthorized Vehicles Will be Towed Away At the Owner's Expense"  
 2444 in not less than 4-inch high, light-reflective letters on a  
 2445 contrasting background.

2446 g. A property owner towing or removing vessels from real  
 2447 property must post notice, consistent with the requirements in  
 2448 sub-subparagraphs a.-f. which apply to vehicles, that  
 2449 unauthorized vehicles or vessels will be towed away at the  
 2450 owner's expense.

2451  
 2452 A business owner or lessee may authorize the removal of a  
 2453 vehicle or vessel by a wrecker towing company registered under  
 2454 chapter 508 when the vehicle or vessel is parked in ~~such~~ a  
 2455 manner that restricts the normal operation of business; and if a  
 2456 vehicle or vessel parked on a public right-of-way obstructs  
 2457 access to a private driveway the owner, lessee, or agent may  
 2458 have the vehicle or vessel removed by a wrecker towing company  
 2459 registered under chapter 508 upon signing an order that the  
 2460 vehicle or vessel be removed without a posted tow-away zone  
 2461 sign.

2462 6. Each wrecker company ~~Any person or firm~~ that tows or  
 2463 removes vehicles or vessels and proposes to require an owner,  
 2464 operator, or person in control of a vehicle or vessel to pay the  
 2465 costs of towing and storage prior to redemption of the vehicle  
 2466 or vessel must file and keep on record with the local law  
 2467 enforcement agency a complete copy of the current rates to be

2468 | charged for those ~~such~~ services and post at the wrecker  
 2469 | company's storage facility ~~site~~ an identical rate schedule and  
 2470 | any written contracts with property owners, lessees, or persons  
 2471 | in control of real property which authorize the wrecker company  
 2472 | ~~such person or firm~~ to remove vehicles or vessels as provided in  
 2473 | this section.

2474 |         7. Each wrecker company ~~Any person or firm~~ towing or  
 2475 | removing any vehicles or vessels from real ~~private~~ property  
 2476 | without the consent of the owner or other legally authorized  
 2477 | person in control of the vehicles must ~~shall~~, on each wrecker  
 2478 | ~~any trucks, wreckers~~ as defined in s. 320.01, s. 713.78(1)(c),  
 2479 | ~~or other vehicles~~ used in the towing or removal, have the name,  
 2480 | address, and telephone number of the wrecker company ~~performing~~  
 2481 | ~~such service~~ clearly printed in contrasting colors on the driver  
 2482 | and passenger sides of the wrecker ~~vehicle~~. The name must ~~shall~~  
 2483 | be in at least 3-inch permanently affixed letters, and the  
 2484 | address and telephone number must ~~shall~~ be in at least 1-inch  
 2485 | permanently affixed letters.

2486 |         8. Vehicle or vessel entry for the purpose of towing or  
 2487 | removing the vehicle or vessel ~~is shall be~~ allowed with  
 2488 | reasonable care by ~~on the part of~~ the wrecker company and the  
 2489 | wrecker operators ~~person or firm~~ towing the vehicle or vessel  
 2490 | for the wrecker company. A wrecker company, its wrecker  
 2491 | operators, and other employees or agents of the wrecker company  
 2492 | are not ~~Such person or firm shall be~~ liable for any damage  
 2493 | occasioned to the vehicle or vessel if ~~such~~ entry to the vehicle  
 2494 | or vessel is performed ~~not in accordance with the standard of~~  
 2495 | reasonable care.

2496           9. When a vehicle or vessel is ~~has been~~ towed or removed  
 2497 under pursuant to this section, the wrecker company ~~it~~ must  
 2498 release the vehicle or vessel ~~be released~~ to its owner or  
 2499 custodian within one hour after requested. Any vehicle or vessel  
 2500 owner, custodian, or agent has ~~shall have~~ the right to inspect  
 2501 the vehicle or vessel before accepting its return. A wrecker  
 2502 company may not require any vehicle or vessel owner, custodian,  
 2503 or agent to, ~~and no release the wrecker company or waiver of any~~  
 2504 ~~kind which would release the person or firm~~ towing the vehicle  
 2505 or vessel from liability for damages noted by the owner or other  
 2506 legally authorized person at the time of the redemption ~~may be~~  
 2507 ~~required from any vehicle owner, custodian, or agent~~ as a  
 2508 condition of release of the vehicle or vessel to its owner. A  
 2509 wrecker company must give a person paying towing and storage  
 2510 charges under this section a detailed, signed receipt showing  
 2511 the legal name of the wrecker company ~~or person towing or~~  
 2512 ~~removing the vehicle must be given to the person paying towing~~  
 2513 ~~or storage charges~~ at the time of payment, whether requested or  
 2514 not.

2515           (b) These requirements are ~~shall be the~~ minimum standards  
 2516 and do shall not preclude enactment of additional regulations by  
 2517 any municipality or county, including the regulation of ~~right to~~  
 2518 ~~regulate~~ rates when vehicles or vessels are towed from real  
 2519 ~~private~~ property.

2520           (3) This section does not apply to vehicles or vessels  
 2521 that are reasonably identifiable from markings as law  
 2522 enforcement, firefighting, rescue squad, ambulance, or other

HB 1673 CS

2004  
CS

2523 emergency vehicles or vessels ~~which are marked as such~~ or to  
2524 property owned by any governmental entity.

2525 (4) When a person improperly causes a vehicle or vessel to  
2526 be removed, ~~that such person is~~ shall be liable to the owner or  
2527 lessee of the vehicle or vessel for the cost of removal,  
2528 transportation, and storage; any damages resulting from the  
2529 removal, transportation, or storage of the vehicle or vessel;  
2530 attorneys' fees; and court costs.

2531 (5) Failure to make good-faith efforts to comply with the  
2532 notice requirements in subparagraph (2)(a)5. precludes the  
2533 imposition of any towing or storage charges against the vehicle  
2534 or vessel.

2535 (6)(5)(a) Any person who violates ~~the provisions of~~  
2536 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is guilty  
2537 ~~of~~ a misdemeanor of the first degree, punishable as provided in  
2538 s. 775.082 or s. 775.083.

2539 (b) Any person who violates ~~the provisions of~~ subparagraph  
2540 (2)(a)1., subparagraph (2)(a)3., subparagraph (2)(a)4.,  
2541 subparagraph (2)(a)7., or subparagraph (2)(a)9. commits is  
2542 ~~guilty of~~ a felony of the third degree, punishable as provided  
2543 in s. 775.082, s. 775.083, or s. 775.084.

2544 Section 23. Effective January 1, 2005, subsection (15) of  
2545 section 1.01, Florida Statutes, is repealed.

2546 Section 24. The sum of \$693,000 is appropriated from the  
2547 General Inspection Trust Fund to the Department of Agriculture  
2548 and Consumer Services, and nine additional full-time-equivalent  
2549 positions are authorized, for the purpose of implementing this  
2550 act during the 2004-2005 fiscal year.

HB 1673 CS

2004  
CS

2551           Section 25. Except as otherwise expressly provided in this  
2552 act, this act shall take effect July 1, 2004.