

By Senator Crist

12-204B-04

1 A bill to be entitled
2 An act relating to wrecker services; amending
3 s. 120.80, F.S.; exempting hearings of the
4 Division of the Florida Highway Patrol
5 concerning the wrecker allocation system from
6 requirements of ch. 120, F.S.; creating s.
7 205.1975, F.S.; prohibiting a county or
8 municipality from issuing or renewing a license
9 for a wrecker company that is not in compliance
10 with the requirements of the act; amending s.
11 316.530, F.S., relating to traffic control;
12 conforming provisions to changes made by the
13 act; reenacting s. 316.550(4), F.S., relating
14 to special wrecker permits, to incorporate the
15 amendment to s. 320.01, F.S., in references
16 thereto; amending s. 316.605, F.S.; providing
17 requirements for licensing wreckers and other
18 vehicles; amending s. 320.01, F.S.; redefining
19 the term "wrecker" for purposes of the Florida
20 Statutes; amending ss. 320.03 and 320.0706,
21 F.S., relating to motor vehicle registration
22 and license plates; conforming provisions to
23 changes made by the act; reenacting s.
24 320.08(5)(d) and (e), F.S., relating to license
25 taxes, to incorporate the amendment to s.
26 320.01, F.S., in references thereto; amending
27 s. 320.0821, F.S.; revising requirements for
28 the issuance of wrecker license plates;
29 amending s. 320.13, F.S., relating to dealer
30 license plates; conforming provisions to
31 changes made by the act; amending s. 321.051,

1 F.S.; providing definitions; requiring the
2 Division of the Florida Highway Patrol within
3 the Department of Highway Safety and Motor
4 Vehicles to establish a wrecker allocation
5 system; providing requirements for the system;
6 authorizing the division to set maximum rates
7 for towing and storage of vehicles; prohibiting
8 an unauthorized wrecker company from monitoring
9 a police radio or engaging in other activities;
10 providing penalties; providing requirements for
11 dispatching wreckers; amending s. 323.001,
12 F.S., relating to wrecker company storage
13 facilities; providing definitions; providing
14 procedures for a law enforcement agency to
15 place a hold on a stored vehicle; providing for
16 payment of towing and storage charges; amending
17 s. 323.002, F.S.; providing definitions;
18 providing requirements for a county or
19 municipality that operates a wrecker allocation
20 system; providing requirements for the system;
21 prohibiting an unauthorized wrecker company
22 from monitoring a police radio or engaging in
23 other activities; providing penalties;
24 providing requirements for dispatching
25 wreckers; creating chapter 508, F.S.; providing
26 definitions; creating the Wrecker Operator
27 Advisory Council within the Department of
28 Agriculture and Consumer Services; providing
29 for membership and terms; providing for
30 reimbursement for travel and per diem expenses;
31 requiring the council to advise the department

1 on matters relating to standards and practices
2 in the wrecker industry; authorizing the
3 department to adopt rules; requiring wrecker
4 companies to register with the department;
5 providing requirements for registration
6 renewal; providing requirements for
7 advertisements; requiring insurance coverage;
8 authorizing the department to deny registration
9 under certain circumstances; establishing a
10 certification program for wrecker operators;
11 requiring the department to approve courses and
12 organizations; providing requirements for
13 examinations; providing for certification in
14 specialized wrecker services; requiring the
15 department to adopt rules; providing for
16 certification cards to be issued to wrecker
17 operators who complete the certification course
18 and pass the examination; prohibiting the
19 performance of wrecker services after a
20 specified date unless the company is registered
21 and obtains certification as required;
22 authorizing the department to inspect
23 employment records; providing requirements for
24 continuing education; specifying prohibited
25 acts; providing administrative, civil, and
26 criminal penalties; providing for registration
27 fees; providing for deposit of fees, penalties,
28 and other funds; providing that the chapter
29 does not apply to recovery agents; authorizing
30 counties and municipalities to enact ordinances
31 governing wrecker operators; amending s.

1 713.78, F.S., relating to liens for recovering,
2 towing, or storing vehicles and vessels;
3 providing definitions; conforming provisions to
4 changes made by the act; providing for
5 attorney's fees to be awarded to the prevailing
6 party for a frivolous claim of wrongful taking
7 or claim of lien; providing immunity from
8 liability for a wrecker company, its operators,
9 and other employees or agents if services are
10 performed with reasonable care or for complying
11 with the directions of a law enforcement
12 officer; providing for the owner of a vehicle
13 or vessel to dispute a claim of lien by a
14 wrecker company based on a record of sale;
15 clarifying that the amendments made by the act
16 do not affect the validity of prior liens;
17 creating s. 713.785, F.S.; authorizing the
18 imposition of lien by a mobile home transport
19 company for recovering, towing, or storing a
20 mobile home; providing definitions; requiring a
21 mobile home transport company to provide notice
22 of recovery, towing, or storage services;
23 providing for the filing of a complaint;
24 providing procedures for the sale of an
25 unclaimed mobile home; specifying circumstances
26 under which a mobile home transport company
27 must obtain a certificate of destruction;
28 providing for fees; authorizing the department
29 to adopt rules; providing penalties; amending
30 s. 715.07, F.S., relating to the towing of
31 vehicles and vessels parked on real property

1 without permission; providing definitions;
2 providing for the towing and removal of
3 vehicles and vessels under certain
4 circumstances; conforming provisions to changes
5 made by the act; providing requirements for
6 towing and storage; prohibiting a property
7 owner from soliciting a wrecker company for a
8 rebate for the privilege of removing vehicles
9 from the owner's property; providing immunity
10 from liability for a wrecker company, its
11 operators, and other employees or agents if
12 services are performed with reasonable care;
13 providing that failure to comply with notice
14 requirements precludes a wrecker company from
15 imposing certain towing or storage charges;
16 providing penalties; repealing s. 1.01(15),
17 F.S., relating to the definition of the term
18 "wrecker operator"; providing an appropriation
19 and authorizing additional positions; providing
20 effective dates.

21
22 Be It Enacted by the Legislature of the State of Florida:
23

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

27 120.80 Exceptions and special requirements;
28 agencies.--

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

30 (b) Wrecker companies ~~operators~~.--Notwithstanding s.
31 120.57(1)(a), hearings held by the Division of the Florida

1 Highway Patrol of the Department of Highway Safety and Motor
2 Vehicles to deny, suspend, or remove a wrecker company
3 ~~operator~~ from participating in the wrecker allocation ~~rotation~~
4 system established under ~~by~~ s. 321.051 need not be conducted
5 by an administrative law judge assigned by the division. These
6 hearings shall be held by a hearing officer appointed by the
7 director of the Division of the Florida Highway Patrol.

8 Section 2. Effective January 1, 2005, section
9 205.1975, Florida Statutes, is created to read:

10 205.1975 Wrecker companies; consumer protection.--A
11 county or municipality may not issue or renew an occupational
12 license for the operation of a wrecker company under chapter
13 508 unless the wrecker company exhibits a current registration
14 from the Department of Agriculture and Consumer Services.

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

17 316.530 Towing requirements.--

18 (3) Whenever a motor vehicle becomes disabled upon the
19 highways of this state and a wrecker ~~or tow truck~~ is required
20 to remove it to a repair shop or other appropriate location,
21 if the combined weights of those two vehicles and the loads
22 thereon exceed the maximum allowable weights as established by
23 s. 316.535, no penalty shall be assessed either vehicle or
24 driver. However, this exception shall not apply to the load
25 limits for bridges and culverts established by the department
26 as provided in s. 316.555.

27 Section 4. For the purpose of incorporating the
28 amendment made by this act to section 320.01, Florida
29 Statutes, in references thereto, subsection (4) of section
30 316.550, Florida Statutes, is reenacted to read:

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1 316.550 Operations not in conformity with law; special
2 permits.--

3 (4)(a) The Department of Transportation may issue a
4 wrecker special blanket permit to authorize a wrecker as
5 defined in s. 320.01(40) to tow a disabled vehicle as defined
6 in s. 320.01(38) where the combination of the wrecker and the
7 disabled vehicle being towed exceeds the maximum weight limits
8 as established by s. 316.535.

9 (b) The Department of Transportation must supply the
10 permitted wrecker with a map showing the routes on which the
11 wrecker may safely tow disabled vehicles for all special
12 permit classifications for which the wrecker applies.

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

15 316.605 Licensing of vehicles.--

16 (1) Every vehicle, at all times while driven, stopped,
17 or parked upon any highways, roads, or streets of this state,
18 shall be licensed in the name of the owner thereof in
19 accordance with the laws of this state unless such vehicle is
20 not required by the laws of this state to be licensed in this
21 state and shall, except as otherwise provided in s. 320.0706
22 for front-end registration license plates on truck tractors or
23 wreckers, display the license plate or both of the license
24 plates assigned to it by the state, one on the rear and, if
25 two, the other on the front of the vehicle, each to be
26 securely fastened to the vehicle outside the main body of the
27 vehicle in such manner as to prevent the plates from swinging,
28 with all letters, numerals, printing, writing, and other
29 identification marks upon the plates clear and distinct and
30 free from defacement, mutilation, grease, and other obscuring
31 matter, so that they will be plainly visible and legible at

1 all times 100 feet from the rear or front. In addition, if
2 only one registration plate is issued for a motor vehicle that
3 is equipped with a mechanical loading device that may damage
4 the plate, the plate may be attached to the front of the
5 vehicle. Nothing shall be placed upon the face of a Florida
6 plate except as permitted by law or by rule or regulation of a
7 governmental agency. No license plates other than those
8 furnished by the state shall be used. However, if the vehicle
9 is not required to be licensed in this state, the license
10 plates on such vehicle issued by another state, by a
11 territory, possession, or district of the United States, or by
12 a foreign country, substantially complying with the provisions
13 hereof, shall be considered as complying with this chapter. A
14 government license plate that is issued to a truck tractor or
15 heavy truck having a gross vehicle weight of 26,001 pounds or
16 more which is owned by a governmental entity may be placed on
17 the front of the vehicle and is in compliance with this
18 chapter. A violation of this subsection is a noncriminal
19 traffic infraction, punishable as a nonmoving violation as
20 provided in chapter 318.

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

23 320.01 Definitions, general.--As used in the Florida
24 Statutes, except as otherwise provided, the term:

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

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

1 320.03 Registration; duties of tax collectors;
2 International Registration Plan.--

3 (8) If the applicant's name appears on the list
4 referred to in s. 316.1001(4), s. 316.1967(6), or s.
5 713.78(13), a license plate or revalidation sticker may not be
6 issued until that person's name no longer appears on the list
7 or until the person presents a receipt from the clerk showing
8 that the fines outstanding have been paid. The tax collector
9 and the clerk of the court are each entitled to receive
10 monthly, as costs for implementing and administering this
11 subsection, 10 percent of the civil penalties and fines
12 recovered from such persons. As used in this subsection, the
13 term "civil penalties and fines" does not include a wrecker
14 company's ~~operator's~~ lien as described in s. 713.78(13). If
15 the tax collector has private tag agents, such tag agents are
16 entitled to receive a pro rata share of the amount paid to the
17 tax collector, based upon the percentage of license plates and
18 revalidation stickers issued by the tag agent compared to the
19 total issued within the county. The authority of any private
20 agent to issue license plates shall be revoked, after notice
21 and a hearing as provided in chapter 120, if he or she issues
22 any license plate or revalidation sticker contrary to the
23 provisions of this subsection. This section applies only to
24 the annual renewal in the owner's birth month of a motor
25 vehicle registration and does not apply to the transfer of a
26 registration of a motor vehicle sold by a motor vehicle dealer
27 licensed under this chapter, except for the transfer of
28 registrations which is inclusive of the annual renewals. This
29 section does not affect the issuance of the title to a motor
30 vehicle, notwithstanding s. 319.23(7)(b).

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1 Section 8. Section 320.0706, Florida Statutes, is
2 amended to read:

3 320.0706 Display of license plates on trucks.--The
4 owner of any commercial truck of gross vehicle weight of
5 26,001 pounds or more shall display the registration license
6 plate on both the front and rear of the truck in conformance
7 with all the requirements of s. 316.605 that do not conflict
8 with this section. However, the owner of a truck tractor or a
9 wrecker must ~~shall be required to~~ display the registration
10 license plate only on the front of such vehicle.

11 Section 9. For the purpose of incorporating the
12 amendment made by this act to section 320.01, Florida
13 Statutes, in references thereto, paragraphs (d) and (e) of
14 subsection (5) of section 320.08, Florida Statutes, are
15 reenacted to read:

16 320.08 License taxes.--Except as otherwise provided
17 herein, there are hereby levied and imposed annual license
18 taxes for the operation of motor vehicles, mopeds, motorized
19 bicycles as defined in s. 316.003(2), and mobile homes, as
20 defined in s. 320.01, which shall be paid to and collected by
21 the department or its agent upon the registration or renewal
22 of registration of the following:

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

25 (d) A wrecker, as defined in s. 320.01(40), which is
26 used to tow a vessel as defined in s. 327.02(36), a disabled,
27 abandoned, stolen-recovered, or impounded motor vehicle as
28 defined in s. 320.01(38), or a replacement motor vehicle as
29 defined in s. 320.01(39): \$30 flat.

30 (e) A wrecker, as defined in s. 320.01(40), which is
31 used to tow any motor vehicle, regardless of whether or not

1 such motor vehicle is a disabled motor vehicle as defined in
2 s. 320.01(38), a replacement motor vehicle as defined in s.
3 320.01(39), a vessel as defined in s. 327.02(36), or any other
4 cargo, as follows:

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

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

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

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

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

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

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

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

21 9. Gross vehicle weight of 72,000 pounds or more:
22 \$979 flat.

23 Section 10. Subsection (1) of section 320.0821,
24 Florida Statutes, is amended, and subsection (5) is added to
25 that section, to read:

26 320.0821 Wrecker license plates.--

27 (1) The department shall issue one ~~a~~ wrecker license
28 plate, regardless of gross vehicle weight, to the owner of any
29 motor vehicle that is used to tow, carry, or otherwise
30 transport motor vehicles and that is equipped for that purpose
31 with a boom, winch, carrier, or other similar equipment,

1 except a motor vehicle registered under the International
2 Registration Plan, upon application and payment of the
3 appropriate license tax and fees in accordance with s.
4 320.08(5)(d) or (e).

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

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

10 320.0821 Wrecker license plates.--

11 (1) The department shall issue one wrecker license
12 plate, regardless of gross vehicle weight, to the owner of a
13 wrecker ~~any motor vehicle that is used to tow, carry, or~~
14 ~~otherwise transport motor vehicles and that is equipped for~~
15 ~~that purpose with a boom, winch, carrier, or other similar~~
16 ~~equipment, except a motor vehicle registered under the~~
17 ~~International Registration Plan,~~ upon application and payment
18 of the appropriate license tax and fees in accordance with s.
19 320.08(5)(d) or (e). However, the department may issue or
20 renew a wrecker license plate only if the owner of the wrecker
21 is a wrecker company registered under chapter 508. This
22 section does not apply to a motor vehicle registered under the
23 International Registration Plan.

24 Section 12. Paragraph (a) of subsection (1) of section
25 320.13, Florida Statutes, is amended to read:

26 320.13 Dealer and manufacturer license plates and
27 alternative method of registration.--

28 (1)(a) Any licensed motor vehicle dealer and any
29 licensed mobile home dealer may, upon payment of the license
30 tax imposed by s. 320.08(12), secure one or more dealer
31 license plates, which are valid for use on motor vehicles or

1 mobile homes owned by the dealer to whom such plates are
2 issued while the motor vehicles are in inventory and for sale,
3 or while being operated in connection with such dealer's
4 business, but are not valid for use for hire. Dealer license
5 plates may not be used on any ~~tow truck or wrecker~~ as defined
6 in s. 320.01 unless the ~~tow truck or wrecker~~ is being
7 demonstrated for sale, and the dealer license plates may not
8 be used on a vehicle used to transport another motor vehicle
9 for the motor vehicle dealer.

10 Section 13. Effective January 1, 2005, section
11 321.051, Florida Statutes, is amended to read:

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

14 321.051 Florida Highway Patrol wrecker allocation
15 system; penalties for operation outside of system.--

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

17 (a) "Division" means the Division of the Florida
18 Highway Patrol within the Department of Highway Safety and
19 Motor Vehicles.

20 (b) "Authorized wrecker company" means a wrecker
21 company designated by the division as part of its wrecker
22 allocation system.

23 (c) "Unauthorized wrecker company" means a wrecker
24 company not designated by the division as part of its wrecker
25 allocation system.

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

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

30 (f) "Wrecker services" has the same meaning ascribed
31 in s. 508.01.

1 (2)(a) The division may establish within areas
2 designated by the division a wrecker allocation system, using
3 qualified, reputable wrecker companies, for the removal from
4 crash scenes and the storage of wrecked or disabled vehicles
5 when the owner or operator is incapacitated, unavailable, or
6 leaves the procurement of wrecker services to the officer at
7 the scene and for the removal and storage of abandoned
8 vehicles.

9 (b) The wrecker allocation system may use only wrecker
10 companies registered under chapter 508. Each reputable wrecker
11 company registered under chapter 508 is eligible for use in
12 the system if its equipment and wrecker operators meet the
13 recognized safety qualifications and mechanical standards set
14 by the division's rules for the size of vehicle they are
15 designed to handle. The division may limit the number of
16 wrecker companies participating in the wrecker allocation
17 system.

18 (c) The division may establish maximum rates for the
19 towing and storage of vehicles removed at the division's
20 request if those rates are not established by a county or
21 municipality under s. 125.0103 or s. 166.043. These rates are
22 not rules for the purpose of chapter 120; however, the
23 Department of Highway Safety and Motor Vehicles shall adopt
24 rules prescribing the procedures for setting these rates.

25 (d) Notwithstanding chapter 120, a final order of the
26 department denying, suspending, or revoking a wrecker
27 company's participation in the wrecker allocation system may
28 be appealed only in the manner and within the time provided by
29 the Florida Rules of Appellate Procedure by a writ of
30 certiorari issued by the circuit court in the county in which
31 the wrecker company's primary place of business is located, as

1 evidenced by the wrecker company's registration under chapter
2 508.

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

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

20 (c) When a wrecker operator dispatched by an
21 unauthorized wrecker company drives by the scene of a wrecked
22 or disabled vehicle and the owner or operator initiates
23 contact by signaling the wrecker operator to stop and provide
24 wrecker services, the wrecker operator must disclose to the
25 owner or operator of the vehicle that he or she was not
26 dispatched by the authorized wrecker company designated as
27 part of the wrecker allocation system and must disclose, in
28 writing, what charges for towing and storage will apply before
29 the vehicle is connected to the towing apparatus. Any person
30 who violates this paragraph commits a misdemeanor of the

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1 second degree, punishable as provided in s. 775.082 or s.
2 775.083.

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

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

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

1 company or not, unless the law enforcement officer determines
2 that the wrecked or disabled vehicle is a public safety hazard
3 and the officer believes that the authorized wrecker company
4 would arrive at the scene before the wrecker company requested
5 by the owner or operator.

6 Section 14. Effective January 1, 2005, section
7 323.001, Florida Statutes, is amended to read:

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

10 323.001 Wrecker company storage facilities; vehicle
11 holds.--

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

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

15 (b) "Wrecker company" has the same meaning ascribed in
16 s. 508.01.

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

21 (3) To extend a hold, the law enforcement agency must
22 notify the wrecker company in writing within the 5 business
23 days. If notification is not made within the 5 business days,
24 the wrecker company must release the vehicle to the designated
25 person under s. 713.78.

26 (a) If the hold is extended beyond the 5 business
27 days, the law enforcement agency may have the vehicle removed
28 to a designated impound lot, in which event the vehicle may
29 not be released by the law enforcement agency to the owner or
30 lienholder of the vehicle until proof of payment of the towing
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1 and storage charges incurred by the wrecker company is
2 presented to the law enforcement agency.

3 (b) If the law enforcement agency chooses to have the
4 vehicle remain at the wrecker company's storage facility for
5 more than 5 business days under the written notification, the
6 law enforcement agency is responsible for paying the storage
7 charges incurred by the wrecker company for the requested
8 extended period. In such an event, the owner or lienholder is
9 responsible for paying the accrued towing and storage charges
10 for the first 5 business days, or any period less than the
11 first 5 business days, if the law enforcement agency moves the
12 vehicle from the wrecker company's storage facility to a
13 designated impound lot or provides written notification to
14 extend the hold on the vehicle before the expiration of the 5
15 business days.

16 (c) The towing and storage rates for the owner or
17 lienholder of the held vehicle may not exceed the rates for
18 the law enforcement agency.

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

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

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

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

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

4 (d) The law enforcement officer has probable cause to
5 believe that the vehicle is itself evidence that tends to show
6 that a crime has been committed or that the vehicle contains
7 evidence, which cannot readily be removed, which tends to show
8 that a crime has been committed;

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

14 (f) The vehicle is impounded or immobilized under s.
15 316.193 or s. 322.34; or

16 (g) The law enforcement officer is complying with a
17 court order.

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

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

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

23 (c) A general description of the vehicle, including
24 its color, make, model, body style, and year; VIN (Vehicle
25 Identification Number); registration license plate number,
26 state, and year; and validation sticker number, state, and
27 year;

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

29 (e) The condition of the vehicle;

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

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

3 (7) A wrecker company's storage facility must comply
4 with a hold placed by a law enforcement officer, including
5 instructions for inside or outside storage. A wrecker
6 company's storage facility may not release a motor vehicle
7 subject to a hold to any person except as directed by the law
8 enforcement agency placing the hold.

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

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

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

18 323.002 County and municipal wrecker allocation
19 systems; penalties for operation outside of system.--

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

21 (a) "Authorized wrecker company" means a wrecker
22 company designated as part of the wrecker allocation system
23 established by the governmental unit having jurisdiction over
24 the scene of a wrecked or disabled vehicle.

25 (b) "Unauthorized wrecker company" means a wrecker
26 company not designated as part of the wrecker allocation
27 system established by the governmental unit having
28 jurisdiction over the scene of a wrecked or disabled vehicle.

29 (c) "Wrecker allocation system" means a system for the
30 towing or removal of wrecked, disabled, or abandoned vehicles,
31 similar to the Florida Highway Patrol wrecker allocation

1 system described in s. 321.051(2), under which a county or
2 municipality contracts with one or more wrecker companies
3 registered under chapter 508 for the towing or removal of
4 wrecked, disabled, or abandoned vehicles from accident scenes,
5 streets, or highways. Each wrecker allocation system must use
6 a method for apportioning the towing assignments among the
7 eligible wrecker companies through the creation of geographic
8 zones, a rotation schedule, or a combination of these methods.

9 (d) "Wrecker company" has the same meaning ascribed in
10 s. 508.01.

11 (e) "Wrecker operator" has the same meaning ascribed
12 in s. 508.01.

13 (f) "Wrecker services" has the same meaning ascribed
14 in s. 508.01.

15 (2) In a county or municipality that operates a
16 wrecker allocation system:

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

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

28 (c) A wrecker operator dispatched by an unauthorized
29 wrecker company may not drive by the scene of a wrecked or
30 disabled vehicle before the arrival of the wrecker operator
31 dispatched by the authorized wrecker company, initiate contact

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

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

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

24 (3) This section does not prohibit, or in any way
25 prevent, the owner or operator of a vehicle involved in a
26 crash or otherwise disabled from contacting any wrecker
27 company for the provision of wrecker services, regardless of
28 whether the wrecker company is an authorized wrecker company
29 or not. However, if a law enforcement officer determines that
30 the disabled vehicle or vehicle cargo is a public safety
31 hazard, the officer may, in the interest of public safety,

1 dispatch an authorized wrecker company if the officer believes
2 that the authorized wrecker company would arrive at the scene
3 before the wrecker company requested by the owner or operator
4 of the disabled vehicle or vehicle cargo.

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

21 Section 16. Chapter 508, Florida Statutes, consisting
22 of sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06,
23 508.07, 508.08, 508.09, 508.10, 508.11, 508.12, 508.13,
24 508.14, 508.15, 508.16, 508.17, 508.18, and 508.19, Florida
25 Statutes, is created to read:

26 CHAPTER 508

27 WRECKER SERVICES

28 508.01 Definitions.--As used in this chapter, the
29 term:

30 (1) "Business entity" means any form of corporation,
31 limited liability company, partnership, association,

1 cooperative, joint venture, business trust, sole
2 proprietorship, or self-employed person conducting business in
3 this state.

4 (2) "Council" means the Wrecker Operator Advisory
5 Council.

6 (3) "Department" means the Department of Agriculture
7 and Consumer Services.

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

11 (5) "Ultimate equitable owner" means a natural person
12 who, directly or indirectly, owns or controls 10 percent or
13 more of an ownership interest in a wrecker company, regardless
14 of whether the natural person owns or controls the ownership
15 interest through one or more natural persons or one or more
16 proxies, powers of attorney, nominees, business entities, or
17 any combination thereof.

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

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

27 (8) "Wrecker" has the same meaning ascribed in s.
28 320.01.

29 (9) "Wrecker company" means a business entity engaged
30 for hire in the business of towing, carrying, or transporting
31 vehicles or vessels by wrecker upon the streets and highways

1 of this state. The term does not include a person regularly
2 engaged in the business of transporting mobile homes.

3 (10) "Wrecker operator" means a person who performs
4 wrecker services.

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

9 (a) Driving a wrecker.

10 (b) Loading, securing, and unloading a vehicle or
11 vessel on a wrecker using a boom, winch, car carrier, or other
12 similar equipment.

13 (c) Towing or removal of a wrecked, disabled, or
14 abandoned vehicle under the Florida Highway Patrol wrecker
15 allocation system pursuant to s. 321.051 or under a county or
16 municipal wrecker allocation system pursuant to s. 323.002.

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

19 (e) Towing, transportation, or removal of a vehicle or
20 vessel parked on real property without permission under s.
21 715.07.

22 (f) Recovery of a vehicle or vessel.

23 508.02 Wrecker Operator Advisory Council.--

24 (1) The Wrecker Operator Advisory Council is created
25 within the department. The council shall advise and assist the
26 department in administering this chapter.

27 (2)(a) The council shall be composed of six members
28 appointed by the Commissioner of Agriculture. In addition, the
29 executive director of the Professional Wrecker Operators of
30 Florida, Inc., shall serve ex officio as a voting member of
31 the council.

1 **(b) Three members of the council must each be an**
2 **ultimate equitable owner of a wrecker company who has been an**
3 **ultimate equitable owner of that company for at least 5 years**
4 **before his or her appointment; one member must be a wrecker**
5 **operator who is not an ultimate equitable owner of a wrecker**
6 **company and who has been a wrecker operator for at least 5**
7 **years before his or her appointment; and two members must be**
8 **laypersons. Each member must be a resident of this state. This**
9 **paragraph expires July 1, 2010.**

10 **(c) Effective July 1, 2010, three members of the**
11 **council must each be an ultimate equitable owner of a wrecker**
12 **company registered under this chapter who has been an ultimate**
13 **equitable owner of that company registered for at least 5**
14 **years before his or her appointment; one member must be a**
15 **wrecker operator certified under this chapter who is not an**
16 **ultimate equitable owner of a wrecker company and who has been**
17 **a wrecker operator certified for at least 5 years before his**
18 **or her appointment; and two members must be laypersons. Each**
19 **member must be a resident of this state.**

20 **(3) The term of each member of the council is 4 years,**
21 **except, to establish staggered terms, two members who are**
22 **owners of wrecker companies and one layperson shall be**
23 **appointed initially for a 2-year term. Members may be**
24 **reappointed for additional terms not to exceed 8 years of**
25 **consecutive service. A vacancy shall be filled for the**
26 **remainder of the unexpired term in the same manner as the**
27 **original appointment.**

28 **(4)(a) From among its members, the council shall**
29 **annually elect a chair, who shall preside over the meetings of**
30 **the council, and a vice chair.**

31

1 (b) In conducting its meetings, the council shall use
2 accepted rules of procedure. The department shall keep a
3 complete record of each meeting which must show the names of
4 members present and the actions taken. These records and other
5 documents about matters within the jurisdiction of the council
6 must be kept on file with the department.

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

10 (6) The department shall provide administrative and
11 staff support services relating to the functions of the
12 council.

13 (7) The council shall review the rules adopted by the
14 department to administer this chapter and shall advise the
15 department on matters relating to industry standards and
16 practices and other issues that require technical expertise
17 and consultation or that promote better consumer protection in
18 the wrecker industry.

19 508.03 Rulemaking authority.--The department may adopt
20 rules under ss. 120.536(1) and 120.54 to administer this
21 chapter.

22 508.04 Wrecker companies; registration
23 required.--Effective January 1, 2005:

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

28 (2) A person applying for or renewing a local
29 occupational license to engage for hire in the business of a
30 wrecker company must exhibit a current registration
31

1 certificate from the department before the local occupational
2 license may be issued or reissued under chapter 205.

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

7 508.05 Registration requirements; renewal of
8 registrations.--

9 (1) Each wrecker company engaged or attempting to
10 engage for hire in the business of towing, carrying, or
11 transporting vehicles, vessels, or mobile homes by wrecker
12 upon the streets and highways of this state must annually
13 register with the department on forms prescribed by the
14 department. The application for registration must include at
15 least the following information:

16 (a) The name and federal employer identification
17 number of the wrecker company.

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

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

23 (d) The full name, residence address, business
24 address, and telephone number of the applicant. If the
25 applicant is other than a natural person, the application must
26 also contain the full name, residence address, business
27 address, telephone number, and federal employer identification
28 number, if applicable, of each ultimate equitable owner of the
29 business entity and each officer, director, partner, manager,
30 member, or managing member of the entity.

31

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

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

7 (2) Each initial and renewal application for
8 registration must be accompanied by the registration fee
9 prescribed in s. 508.16.

10 (3) Each initial application for registration must be
11 accompanied by a complete set of the applicant's fingerprints
12 taken by an authorized law enforcement officer. If the
13 applicant is other than a natural person, a complete set of
14 fingerprints must also be filed for each ultimate equitable
15 owner of the business entity and each officer, director,
16 partner, manager, member, or managing member of the entity.
17 The department shall submit the fingerprints to the Department
18 of Law Enforcement for state processing, and the Department of
19 Law Enforcement shall forward the fingerprints to the Federal
20 Bureau of Investigation for national processing. The applicant
21 must also pay the cost of fingerprint processing. Registration
22 renewal applications need not be accompanied by a set of
23 fingerprints for an individual who previously submitted a set
24 of fingerprints to the department as part of a prior year's
25 registration application.

26 (4) The department shall review each application in
27 accordance with s. 120.60 and shall issue a registration
28 certificate, in the form and size prescribed by the
29 department, to each wrecker company whose application is
30 approved. The certificate must show at least the name and
31 address of the wrecker company and the registration number.

1 The registration certificate must be prominently displayed in
2 the wrecker company's primary place of business.

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

5 (6) A registration is invalid for a wrecker company
6 transacting business at a place other than the location
7 designated in the registration application unless the
8 department is first notified in writing before the change of
9 location. A registration issued under this chapter is not
10 transferable or assignable, and a wrecker company may not
11 conduct business under a name other than as registered. A
12 wrecker company desiring to change its registered name,
13 location, or registered agent for service of process at a time
14 other than upon renewal of registration must notify the
15 department of the change.

16 (7)(a) Each registration must be renewed annually on
17 or before the expiration date of the current registration. A
18 late fee of \$25 must be paid, in addition to the registration
19 fee or any other penalty, for a registration renewal
20 application that is received by the department after the
21 expiration date of the current registration. The department
22 may not issue a registration until all fees are paid.

23 (b) A wrecker company whose primary place of business
24 is located within a county or municipality that requires, by
25 local ordinance, a local occupational license under chapter
26 205 may not renew a license under this chapter unless the
27 wrecker company obtains the occupational license from the
28 county or municipality.

29 (8) Each wrecker company must provide the department
30 with a certificate of insurance for the required insurance
31 coverage under s. 627.7415 before the department may issue the

1 registration certificate for an initial or renewal
2 registration. The department must be named as a
3 certificateholder on the insurance certificate and must be
4 notified at least 30 days before any change in insurance
5 coverage.

6 (9) The department shall report each change in the
7 registration status of a wrecker company, including, but not
8 limited to, the initial registration and the renewal,
9 revocation, cancellation, or refusal to renew a registration,
10 to the Department of Highway Safety and Motor Vehicles within
11 5 days after the effective date of the change in the
12 registration status.

13 508.06 Denial of registration.--The department may
14 deny, revoke, or refuse to renew the registration of a wrecker
15 company based upon a determination that the applicant or, if
16 the applicant is other than a natural person, the wrecker
17 company or any of its ultimate equitable owners, officers,
18 directors, partners, managers, members, or managing members
19 has:

20 (1) Not met the requirements for registration under
21 this chapter;

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

25 (3) Been convicted of, found guilty of, or pled guilty
26 or nolo contendere to, regardless of the adjudication of
27 guilt, a crime within the last 10 years involving repossession
28 of a motor vehicle under chapter 493; repair of a motor
29 vehicle under ss. 559.901-559.9221; theft of a motor vehicle
30 under s. 812.014; carjacking under s. 812.133; operation of a
31 chop shop under s. 812.16; failure to maintain records of

1 motor vehicle parts and accessories under s. 860.14; airbag
2 theft or use of fake airbags under s. 860.145 or s. 860.146;
3 overcharging for repairs and parts under s. 860.15; or a
4 violation of towing or storage requirements for a motor
5 vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07,
6 or this chapter;

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

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

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

16 508.07 Wrecker operator certification program.--

17 (1) The department, in consultation with the council,
18 shall establish a wrecker operator certification program by
19 December 31, 2004. Under this program, the council shall
20 approve certification courses for wrecker operators conducted
21 by approved organizations. The council shall prescribe the
22 minimum curricula for these courses, which must comprise at
23 least 16 hours, equally apportioned between theoretical
24 instruction and practical training. The council must approve
25 each organization and its certification course before the
26 course is accepted for certification of wrecker operators
27 under this chapter.

28 (2) Each approved wrecker operator certification
29 course must include a certification examination demonstrating
30 a wrecker operator's knowledge, skills, and abilities in
31 performing wrecker services and in the instruction and

1 training of the certification course. The council must approve
2 each certification examination before the examination is
3 accepted for certification of wrecker operators under this
4 chapter.

5 (3) Each organization conducting an approved wrecker
6 operator certification course must issue on forms prescribed
7 by the department a certificate to each wrecker operator who
8 completes the approved certification course or who passes the
9 approved certification examination.

10 508.08 Specialized wrecker services.--

11 (1) In addition to the minimum curricula for
12 certification of wrecker operators, each approved
13 certification course must offer optional instruction,
14 training, and examination of wrecker operators for each of the
15 following specialized wrecker services:

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

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

21 (c) Heavy duty.--Towing and winching a standard
22 large-sized commercial vehicle, and uprighting such an
23 overturned vehicle.

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

27 (e) Rollback wrecker.--Proper loading, securing,
28 transporting, and unloading of a vehicle on a flatbed-rollback
29 wrecker.

30
31

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

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

6 (2) The department shall adopt rules prescribing
7 specific standards to further define each of the specialized
8 wrecker services described in subsection (1). The council must
9 approve the instruction, training, and examination for a
10 specialized wrecker service before the specialized wrecker
11 service is accepted for endorsement of a wrecker operator's
12 certification under this chapter.

13 (3) Each organization conducting an approved wrecker
14 operator certification course must issue on forms prescribed
15 by the department a certificate to each wrecker operator who
16 completes the approved instruction and training for a
17 specialized wrecker service or who passes the approved
18 endorsement examination for that specialized wrecker service.

19 508.09 Certification cards.--

20 (1) Each organization conducting an approved wrecker
21 operator certification course must issue a certification card
22 to each wrecker operator who completes the approved
23 certification course and passes the approved certification
24 examination. The department must approve the form of the
25 certification cards issued by each organization. Each
26 certification card must include the wrecker operator's name, a
27 color photograph or digital image of the wrecker operator, and
28 the expiration date of the certification card.

29 (2) Each certification card must also include the
30 wrecker operator's applicable endorsements for specialized
31 wrecker services, for which the wrecker operator completed the

1 approved instruction and training for the specialized wrecker
2 service and passed the approved endorsement examination for
3 that specialized wrecker service.

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

6 (a) Completes a certification course and passes a
7 certification examination in another state which are
8 substantially equivalent to the approved certification courses
9 and approved certification examinations in this state.

10 (b) Completed a certification course and passed a
11 certification examination in this state between January 1,
12 2000, and December 31, 2004, which are substantially
13 equivalent to the approved certification courses and the
14 approved certification examinations. This paragraph expires
15 July 1, 2005.

16 (c) Completed instruction and training for a
17 specialized wrecker service and passed an endorsement
18 examination for that specialized wrecker service between
19 January 1, 2000, and December 31, 2004, which are
20 substantially equivalent to the approved instruction and
21 training and the approved endorsement examinations. This
22 paragraph expires July 1, 2005.

23
24 For the purposes of this subsection, the council shall approve
25 each certification examination in another state, and shall
26 approve the instruction, training, and examination for each
27 specialized wrecker service in another state, which the
28 council determines are substantially equivalent to the
29 approved certification courses and approved certification
30 examinations in this state or to the approved instruction,

31

1 training, and endorsement examinations for a specialized
2 wrecker service in this state.

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

5 (5) Certification cards shall be issued by the
6 organizations conducting approved wrecker operator
7 certification courses. The department is not responsible for
8 issuing certification cards or for the costs associated with
9 the issuance of certification cards.

10 508.10 Wrecker operators; certification required;
11 inspection of employment records.--Effective January 1, 2005:

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

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

22 (b) A wrecker operator certified under this chapter
23 may not perform a specialized wrecker service for a wrecker
24 company unless the wrecker operator's certification includes
25 an endorsement for that specialized wrecker service.

26 (3)(a) Notwithstanding subsections (1) and (2), a
27 person may perform wrecker services or specialized wrecker
28 services in this state if he or she is an employee or ultimate
29 equitable owner of a motor vehicle repair shop registered with
30 the department under s. 559.904 and those wrecker services or
31

1 specialized wrecker services are performed on behalf of the
2 motor vehicle repair shop.

3 (b) Notwithstanding subsections (1) and (2), a person
4 may perform wrecker services or specialized wrecker services
5 in this state if those wrecker services or specialized wrecker
6 services are performed on behalf of a religious organization
7 that holds a current exemption from federal taxation or that
8 is not required to apply for recognition of its exemption,
9 under s. 501 of the Internal Revenue Code.

10 (4) The department may, at any time during business
11 hours, enter any business location of a wrecker company and
12 examine the company's books or records. If the department
13 reasonable believes a violation of this chapter has occurred
14 or is occurring, the department may subpoena any necessary
15 books or records.

16 508.11 Renewal of certification; continuing education
17 requirements.--The department may prescribe by rule continuing
18 education requirements of up to 8 hours for the renewal of a
19 wrecker operator's certification.

20 508.12 Prohibited acts.--It is a violation of this
21 chapter for a wrecker company, its wrecker operators, or other
22 employees or agents of the wrecker company to:

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

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

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

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

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

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

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

12 (8) Allow a wrecker operator certified under this
13 chapter to perform a specialized wrecker service for the
14 wrecker company if the wrecker operator's certification does
15 not include an endorsement for that specialized wrecker
16 service.

17 (9) Perform an act otherwise prohibited by this
18 chapter or fail to perform an act otherwise required by this
19 chapter.

20 508.13 Administrative penalties; inspection of
21 records.--

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

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

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

29 (c) Direct the wrecker company to cease and desist
30 specified activities.

31

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

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

6 (2) Chapter 120 shall govern an administrative
7 proceeding resulting from an order imposing a penalty
8 specified in subsection (1).

9 508.14 Civil penalties.--The department may bring a
10 civil action in a court of competent jurisdiction to recover
11 any penalties or damages allowed in this chapter and for
12 injunctive relief to enforce compliance with this chapter. The
13 department may seek a civil penalty of up to \$5,000 for each
14 violation of this chapter and may seek restitution for and on
15 behalf of any owner of a vehicle, vessel, or mobile home who
16 is aggrieved or injured by a violation of this chapter.

17 508.15 Criminal penalties.--Effective July 1, 2005:

18 (1) A person who violates s. 508.04(1) by operating a
19 wrecker company in this state without being registered with
20 the department under this chapter commits a felony of the
21 third degree, punishable as provided in s. 775.082, s.
22 775.083, or s. 775.084.

23 (2) A person who violates s. 508.10(1) by performing
24 wrecker services in this state without being an employee or
25 ultimate equitable owner of a wrecker company that is
26 registered with the department under this chapter commits a
27 felony of the third degree, punishable as provided in s.
28 775.082, s. 775.083, or s. 775.084.

29 508.16 Fees.--The department shall adopt by rule a fee
30 schedule, not to exceed the following amounts:

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

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

2 508.17 General Inspection Trust Fund; payments.--All
3 fees, penalties, or other funds collected by the department
4 under this chapter must be deposited in the General Inspection
5 Trust Fund and may only be used for the purpose of
6 administering this chapter.

7 508.18 Recovery agents; exemption.--This chapter does
8 not apply to a person licensed under chapter 493 performing
9 repossession services.

10 508.19 County and municipal ordinances.--A county or
11 municipality may enact ordinances governing the business of
12 transporting vehicles or vessels by wrecker which are more
13 restrictive than this chapter. This section does not limit the
14 authority of a political subdivision to impose regulatory fees
15 or charges or to levy occupational license taxes under chapter
16 205.

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

19 713.78 Liens for recovering, towing, or storing
20 vehicles and vessels.--

21 (13)(a) Upon receipt by the Department of Highway
22 Safety and Motor Vehicles of written notice from a wrecker
23 operator who claims a wrecker operator's lien under paragraph
24 (2)(c) or paragraph (2)(d) for recovery, towing, or storage of
25 an abandoned vehicle, vessel, or mobile home upon instructions
26 from any law enforcement agency, for which a certificate of
27 destruction has been issued under subsection (11), the
28 department shall place the name of the registered owner of
29 that vehicle, vessel, or mobile home on the list of those
30 persons who may not be issued a license plate or revalidation
31 sticker for any motor vehicle under s. 320.03(8). If the

1 vehicle, vessel, or mobile home is owned jointly by more than
2 one person, the name of each registered owner shall be placed
3 on the list. The notice of wrecker operator's lien shall be
4 submitted on forms provided by the department, which must
5 include:

6 1. The name, address, and telephone number of the
7 wrecker operator.

8 2. The name of the registered owner of the vehicle,
9 vessel, or mobile home and the address to which the wrecker
10 operator provided notice of the lien to the registered owner
11 under subsection (4).

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

15 4. The vehicle identification number (VIN);
16 registration license plate number, state, and year; validation
17 decal number, state, and year; mobile home sticker number,
18 state, and year; vessel registration number; hull
19 identification number; or other identification number, as
20 applicable.

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

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

26 (b) For purposes of this subsection only, the amount
27 of the wrecker operator's lien for which the department will
28 prevent issuance of a license plate or revalidation sticker
29 may not exceed the amount of the charges for recovery, towing,
30 and storage of the vehicle, vessel, or mobile home for 7 days.
31 These charges may not exceed the maximum rates imposed by the

1 ordinances of the respective county or municipality under ss.
2 125.0103(1)(c) and 166.043(1)(c). This paragraph does not
3 limit the amount of a wrecker operator's lien claimed under
4 subsection (2) or prevent a wrecker operator from seeking
5 civil remedies for enforcement of the entire amount of the
6 lien, but limits only that portion of the lien for which the
7 department will prevent issuance of a license plate or
8 revalidation sticker.

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

14 a. The registered owner presents a notarized bill of
15 sale proving that the vehicle, vessel, or mobile home was sold
16 in a private or casual sale before the vehicle, vessel, or
17 mobile home was recovered, towed, or stored.

18 b. The registered owner presents proof that the
19 Florida certificate of title of the vehicle, vessel, or mobile
20 home was sold to a licensed dealer as defined in s. 319.001
21 before the vehicle, vessel, or mobile home was recovered,
22 towed, or stored.

23 c. The records of the department were marked to
24 indicate that the vehicle, vessel, or mobile home was sold
25 before the issuance of the certificate of destruction under
26 subsection (11).

27
28 If the registered owner's dispute of a wrecker operator's lien
29 complies with one of these criteria, the department shall
30 immediately remove the registered owner's name from the list
31 of those persons who may not be issued a license plate or

1 revalidation sticker for any motor vehicle under s. 320.03(8),
2 thereby allowing issuance of a license plate or revalidation
3 sticker. If the vehicle, vessel, or mobile home is owned
4 jointly by more than one person, each registered owner must
5 dispute the wrecker operator's lien in order to be removed
6 from the list. However, the department shall deny any dispute
7 and maintain the registered owner's name on the list of those
8 persons who may not be issued a license plate or revalidation
9 sticker for any motor vehicle under s. 320.03(8) if the
10 wrecker operator has provided the department with a certified
11 copy of the judgment of a court which orders the registered
12 owner to pay the wrecker operator's lien claimed under this
13 section. In such a case, the amount of the wrecker operator's
14 lien allowed by paragraph (b) may be increased to include no
15 more than \$500 of the reasonable costs and attorney's fees
16 incurred in obtaining the judgment. The department's action
17 under this subparagraph is ministerial in nature, shall not be
18 considered final agency action, and may be appealed ~~is~~
19 ~~appealable~~ only to the county court for the county in which
20 the vehicle, vessel, or mobile home was ordered removed.

21 2. A person against whom a wrecker operator's lien has
22 been imposed may alternatively obtain a discharge of the lien
23 by filing a complaint, challenging the validity of the lien or
24 the amount thereof, in the county court of the county in which
25 the vehicle, vessel, or mobile home was ordered removed. Upon
26 filing of the complaint, the person may have her or his name
27 removed from the list of those persons who may not be issued a
28 license plate or revalidation sticker for any motor vehicle
29 under s. 320.03(8), thereby allowing issuance of a license
30 plate or revalidation sticker, upon posting with the court a
31 cash or surety bond or other adequate security equal to the

1 amount of the wrecker operator's lien to ensure the payment of
2 such lien in the event she or he does not prevail. Upon the
3 posting of the bond and the payment of the applicable fee set
4 forth in s. 28.24, the clerk of the court shall issue a
5 certificate notifying the department of the posting of the
6 bond and directing the department to release the wrecker
7 operator's lien. Upon determining the respective rights of the
8 parties, the court may award damages and costs in favor of the
9 prevailing party.

10 3. If a person against whom a wrecker operator's lien
11 has been imposed does not object to the lien, but cannot
12 discharge the lien by payment because the wrecker operator has
13 moved or gone out of business, the person may have her or his
14 name removed from the list of those persons who may not be
15 issued a license plate or revalidation sticker for any motor
16 vehicle under s. 320.03(8), thereby allowing issuance of a
17 license plate or revalidation sticker, upon posting with the
18 clerk of court in the county in which the vehicle, vessel, or
19 mobile home was ordered removed, a cash or surety bond or
20 other adequate security equal to the amount of the wrecker
21 operator's lien. Upon the posting of the bond and the payment
22 of the application fee set forth in s. 28.24, the clerk of the
23 court shall issue a certificate notifying the department of
24 the posting of the bond and directing the department to
25 release the wrecker operator's lien. The department shall mail
26 to the wrecker operator, at the address upon the lien form,
27 notice that the wrecker operator must claim the security
28 within 60 days, or the security will be released back to the
29 person who posted it. At the conclusion of the 60 days, the
30 department shall direct the clerk as to which party is

31

1 entitled to payment of the security, less applicable clerk's
2 fees.

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

5 (d) Upon discharge of the amount of the wrecker
6 operator's lien allowed by paragraph (b), the wrecker operator
7 must issue a certificate of discharged wrecker operator's lien
8 on forms provided by the department to each registered owner
9 of the vehicle, vessel, or mobile home attesting that the
10 amount of the wrecker operator's lien allowed by paragraph (b)
11 has been discharged. Upon presentation of the certificate of
12 discharged wrecker operator's lien by the registered owner,
13 the department shall immediately remove the registered owner's
14 name from the list of those persons who may not be issued a
15 license plate or revalidation sticker for any motor vehicle
16 under s. 320.03(8), thereby allowing issuance of a license
17 plate or revalidation sticker. Issuance of a certificate of
18 discharged wrecker operator's lien under this paragraph does
19 not discharge the entire amount of the wrecker operator's lien
20 claimed under subsection (2), but only certifies to the
21 department that the amount of the wrecker operator's lien
22 allowed by paragraph (b), for which the department will
23 prevent issuance of a license plate or revalidation sticker,
24 has been discharged.

25 (e) When a wrecker operator files a notice of wrecker
26 operator's lien under this subsection, the department shall
27 charge the wrecker operator a fee of \$2, which must ~~shall~~ be
28 deposited into the General Revenue Fund ~~established under s.~~
29 ~~860.158~~. A service charge of \$2.50 shall be collected and
30 retained by the tax collector who processes a notice of
31 wrecker operator's lien.

1 (f) This subsection applies only to the annual renewal
2 in the registered owner's birth month of a motor vehicle
3 registration and does not apply to the transfer of a
4 registration of a motor vehicle sold by a motor vehicle dealer
5 licensed under chapter 320, except for the transfer of
6 registrations which is inclusive of the annual renewals. This
7 subsection does not apply to any vehicle registered in the
8 name of a lessor. This subsection does not affect the issuance
9 of the title to a motor vehicle, notwithstanding s.
10 319.23(7)(b).

11 (g) The Department of Highway Safety and Motor
12 Vehicles may adopt rules under ~~pursuant to~~ ss. 120.536(1) and
13 120.54 to implement this subsection.

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

16 713.78 Liens for recovering, towing, or storing
17 vehicles and vessels.--

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

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

22 (b) "Property owner" has the same meaning ascribed in
23 s. 715.07.

24 (c) ~~(a)~~ "Vehicle" has the same meaning ascribed in s.
25 508.01 ~~means any mobile item, whether motorized or not, which~~
26 ~~is mounted on wheels.~~

27 (d) ~~(b)~~ "Vessel" has the same meaning ascribed in s.
28 508.01 ~~means every description of watercraft, barge, and air~~
29 ~~boat used or capable of being used as a means of~~
30 ~~transportation on water, other than a seaplane or a~~
31 ~~"documented vessel" as defined in s. 327.02(8).~~

1 ~~(e)~~ (e) "Wrecker" has the same meaning ascribed in s.
2 320.01 means any truck or other vehicle which is used to tow,
3 carry, or otherwise transport motor vehicles or vessels upon
4 the streets and highways of this state and which is equipped
5 for that purpose with a boom, winch, car carrier, or other
6 similar equipment.

7 (f) "Wrecker company" has the same meaning ascribed in
8 s. 508.01.

9 (g) "Wrecker operator" has the same meaning ascribed
10 in s. 508.01.

11 (2) Whenever a wrecker company registered under
12 chapter 508 person regularly engaged in the business of
13 transporting vehicles or vessels by wrecker, tow truck, or car
14 carrier recovers, removes, or stores a vehicle or, vessel, or
15 mobile home upon instructions from:

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

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

21 (c) A Any law enforcement agency, or

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

25
26 the wrecker company has ~~she or he shall have~~ a lien on the
27 ~~such~~ vehicle or vessel for a reasonable towing fee and for a
28 reasonable storage fee; except that a no storage fee may not
29 ~~shall~~ be charged if a ~~such~~ vehicle or vessel is stored for
30 less than 6 hours.

31

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

5 (4)(a) Any wrecker company that ~~person~~ regularly
6 ~~engaged in the business of recovering, towing, or storing~~
7 ~~vehicles or vessels~~ who comes into possession of a vehicle or
8 vessel under ~~pursuant to~~ subsection (2), and who claims a lien
9 for recovery, towing, or storage services, must ~~shall~~ give
10 notice to the registered owner, the insurance company insuring
11 the vehicle notwithstanding ~~the provisions of~~ s. 627.736, and
12 to all persons claiming a lien on the vehicle or vessel
13 ~~thereon~~, as disclosed by the records in the Department of
14 Highway Safety and Motor Vehicles or of a corresponding agency
15 in any other state.

16 (b) Whenever a ~~any~~ law enforcement agency authorizes
17 the removal of a vehicle, or whenever a wrecker company ~~any~~
18 ~~towing service, garage, repair shop, or automotive service,~~
19 ~~storage, or parking place~~ notifies the law enforcement agency
20 of possession of a vehicle under ~~pursuant to~~ s.
21 715.07(2)(a)2., the applicable law enforcement agency shall
22 contact the Department of Highway Safety and Motor Vehicles,
23 or the appropriate agency of the state of registration, if
24 known, within 24 hours through the medium of electronic
25 communications, giving the full description of the vehicle.
26 Upon receipt of the full description of the vehicle, the
27 department shall search its files to determine the owner's
28 name, the insurance company insuring the vehicle, and whether
29 any person has filed a lien upon the vehicle as provided in s.
30 319.27(2) and (3) and notify the applicable law enforcement
31 agency within 72 hours. The wrecker company ~~person in charge~~

1 ~~of the towing service, garage, repair shop, or automotive~~
2 ~~service, storage, or parking place~~ shall obtain this such
3 information from the applicable law enforcement agency within
4 5 days after ~~from~~ the date of storage and must ~~shall~~ give
5 notice under ~~pursuant to~~ paragraph (a). The department may
6 release the insurance company information to the requestor
7 notwithstanding ~~the provisions of~~ s. 627.736.

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

26 (d) If the wrecker company is unable ~~attempts~~ to
27 identify the name of ~~locate~~ the owner or lienholder prove
28 unsuccessful, the wrecker company must ~~towing-storage operator~~
29 ~~shall~~, after 7 business working days following, ~~excluding~~
30 ~~Saturday and Sunday~~, of the initial tow or storage, notify the
31 public agency of jurisdiction in writing by certified mail or

1 acknowledged hand delivery that the wrecker ~~towing-storage~~
2 company has been unable to identify the name of ~~locate~~ the
3 owner or lienholder and a physical search of the vehicle or
4 vessel has disclosed no ownership information and a good faith
5 effort has been made. For purposes of this paragraph and
6 subsection (9), the term "good faith effort" means that the
7 following checks have been performed by the wrecker company to
8 establish prior state of registration and for title:

9 1. Check of vehicle or vessel for any type of tag, tag
10 record, temporary tag, or regular tag.

11 2. Check of law enforcement report for tag number or
12 other information identifying the vehicle or vessel, if the
13 vehicle or vessel was towed at the request of a law
14 enforcement officer.

15 3. Check of trip sheet or tow ticket of the wrecker
16 ~~tow-truck~~ operator to see if a tag was on vehicle at beginning
17 of tow, if private tow.

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

22 5. Check of vehicle or vessel for inspection sticker
23 or other stickers and decals that may indicate a state of
24 possible registration.

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

28 7. Check of vehicle for vehicle identification number.

29 8. Check of vessel for vessel registration number.

30 9. Check of vessel hull for a hull identification
31 number which should be carved, burned, stamped, embossed, or

1 otherwise permanently affixed to the outboard side of the
2 transom or, if there is no transom, to the outmost seaboard
3 side at the end of the hull that bears the rudder or other
4 steering mechanism.

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

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

29 (c) Upon determining the respective rights of the
30 parties, the court shall ~~may~~ award damages, and costs, and
31 reasonable attorney's fees to ~~in favor of~~ the prevailing

1 party. ~~In any event,~~The final order must require shall
2 ~~provide for~~ immediate payment in full of the recovery, towing,
3 and storage fees by the vehicle or vessel owner or lienholder;
4 ~~by or~~ the law enforcement agency ordering the tow; or ~~by~~ the
5 property owner, ~~lessee, or agent thereof~~ of the real property
6 from which the vehicle or vessel was towed or removed under s.
7 715.07.

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

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

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

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

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

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

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

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

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

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

22 b. A security dog remains at the storage facility from
23 sunset to sunrise;

24 c. Security cameras or other similar surveillance
25 devices monitor the storage facility; or

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

28 ~~(d)(c)~~ Any law enforcement agency requesting that a
29 motor vehicle be removed from an accident scene, street, or
30 highway must conduct an inventory and prepare a written record
31 of all personal property found in the vehicle before the

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

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

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

26 (10) Each wrecker company that provides ~~Persons who~~
27 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~
28 permit vehicle or vessel owners or their agents, which agency
29 is evidenced by a writing acknowledged by the owner before a
30 notary public or other person empowered by law to administer
31 oaths, to inspect the towed vehicle or vessel and must ~~shall~~

1 release to the owner or agent all personal property not
2 affixed to the vehicle or vessel which was in the vehicle or
3 vessel at the time the vehicle or vessel came into the custody
4 of the wrecker company person providing those such services.

5 (11)(a) A wrecker company that ~~Any person regularly~~
6 ~~engaged in the business of recovering, towing, or storing~~
7 ~~vehicles or vessels who~~ comes into possession of a vehicle or
8 vessel under pursuant to subsection (2) and that complies who
9 ~~has complied with the provisions of~~ subsections (3) and (6),
10 when the such vehicle or vessel is to be sold for purposes of
11 being dismantled, destroyed, or changed in a such manner that
12 it is not the motor vehicle ~~or vessel, or mobile home~~
13 described in the certificate of title, must shall apply to the
14 county tax collector for a certificate of destruction. A
15 certificate of destruction, which authorizes the dismantling
16 or destruction of the vehicle or vessel described on the
17 certificate therein, is shall be reassignable no more than
18 twice a maximum of two times before dismantling or destruction
19 of the vehicle is shall be required, and the certificate must
20 ~~shall~~ accompany the vehicle or vessel for which it is issued,
21 when the such vehicle or vessel is sold for that purpose such
22 ~~purposes~~, in lieu of a certificate of title. The application
23 for a certificate of destruction must include an affidavit
24 from the applicant that it has complied with all applicable
25 requirements of this section and, if the vehicle or vessel is
26 not registered in this state, by a statement from a law
27 enforcement officer that the vehicle or vessel is not reported
28 stolen, and must also shall be accompanied by any other such
29 documentation ~~as may be~~ required by the department.

30 (b) The Department of Highway Safety and Motor
31 Vehicles shall charge a fee of \$3 for each certificate of

1 destruction. A service charge of \$4.25 shall be collected and
2 retained by the tax collector who processes the application.

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

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

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

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

21 (d) Employees of the Department of Highway Safety and
22 Motor Vehicles and law enforcement officers may ~~are authorized~~
23 ~~to~~ inspect the records of each wrecker company in this state
24 ~~any person regularly engaged in the business of recovering,~~
25 ~~towing, or storing vehicles or vessels or transporting~~
26 ~~vehicles or vessels by wrecker, tow truck, or car carrier,~~ to
27 ensure compliance with the requirements of this section. Any
28 person who fails to maintain records, or fails to produce
29 records when required in a reasonable manner and at a
30 reasonable time, commits a misdemeanor of the first degree,
31 punishable as provided in s. 775.082 or s. 775.083.

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

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

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

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

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

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

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

30 b. The registered owner presents proof that the
31 Florida certificate of title of the vehicle or, vessel, ~~or~~

1 ~~mobile home~~ was sold to a licensed dealer as defined in s.
2 319.001 before the vehicle or, vessel, ~~or mobile home~~ was
3 recovered, towed, or stored.

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

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

1 the county court for the county in which the vehicle or
2 vessel, ~~or mobile home~~ was ordered removed.

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

24 3. If a person against whom a wrecker company's
25 ~~operator's~~ lien has been imposed does not object to the lien,
26 but cannot discharge the lien by payment because the wrecker
27 company operator has moved or gone out of business, the person
28 may have her or his name removed from the list of those
29 persons who may not be issued a license plate or revalidation
30 sticker for any motor vehicle under s. 320.03(8), thereby
31 allowing issuance of a license plate or revalidation sticker,

1 upon posting with the clerk of court in the county in which
2 the vehicle or vessel, ~~or mobile home~~ was ordered removed, a
3 cash or surety bond or other adequate security equal to the
4 amount of the wrecker company's ~~operator's~~ lien. Upon the
5 posting of the bond and the payment of the application fee set
6 forth in s. 28.24, the clerk of the court shall issue a
7 certificate notifying the department of the posting of the
8 bond and directing the department to release the wrecker
9 company's ~~operator's~~ lien. The department shall mail to the
10 wrecker company ~~operator~~, at the address upon the lien form,
11 notice that the wrecker company ~~operator~~ must claim the
12 security within 60 days, or the security will be released back
13 to the person who posted it. At the conclusion of the 60 days,
14 the department shall direct the clerk as to which party is
15 entitled to payment of the security, less applicable clerk's
16 fees.

17 4. A wrecker company's ~~operator's~~ lien expires 5 years
18 after filing.

19 (d) Upon discharge of the amount of the wrecker
20 company's ~~operator's~~ lien allowed by paragraph (b), the
21 wrecker company ~~operator~~ must issue a certificate of
22 discharged wrecker company's ~~operator's~~ lien on forms provided
23 by the department to each registered owner of the vehicle,
24 vessel, or mobile home attesting that the amount of the
25 wrecker company's ~~operator's~~ lien allowed by paragraph (b) has
26 been discharged. Upon presentation of the certificate of
27 discharged wrecker company's ~~operator's~~ lien by the registered
28 owner, the department shall immediately remove the registered
29 owner's name from the list of those persons who may not be
30 issued a license plate or revalidation sticker for any motor
31 vehicle under s. 320.03(8), thereby allowing issuance of a

1 license plate or revalidation sticker. Issuance of a
2 certificate of discharged wrecker company's ~~operator's~~ lien
3 under this paragraph does not discharge the entire amount of
4 the wrecker company's ~~operator's~~ lien claimed under subsection
5 (2), but only certifies to the department that the amount of
6 the wrecker company's ~~operator's~~ lien allowed by paragraph
7 (b), for which the department will prevent issuance of a
8 license plate or revalidation sticker, has been discharged.

9 (e) When a wrecker company ~~operator~~ files a notice of
10 wrecker operator's lien under this subsection, the department
11 shall charge the wrecker company ~~operator~~ a fee of \$2, which
12 must be deposited into the General Revenue Fund. A service
13 charge of \$2.50 shall be collected and retained by the tax
14 collector who processes a notice of wrecker company's
15 ~~operator's~~ lien.

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

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

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

1 Section 19. Effective January 1, 2005, section
2 713.785, Florida Statutes, is created to read:

3 713.785 Liens for recovering, towing, or storing
4 mobile homes.--

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

6 (a) "Mobile home" means a mobile home or manufactured
7 home as those terms are defined in s. 320.01.

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

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

13 (2) Whenever a mobile home transport company recovers,
14 removes, or stores a mobile home upon instructions from:

15 (a) The owner of the mobile home;

16 (b) The property owner of real property on which the
17 mobile home is parked without permission;

18 (c) A law enforcement agency; or

19 (d) A mobile home park owner as defined in s. 723.003
20 who has a current writ of possession for a mobile home lot
21 under s. 723.061,

22
23 the mobile home transport company has a lien on the mobile
24 home for a reasonable towing fee and for a reasonable storage
25 fee, except that a storage fee may not be charged if a mobile
26 home is stored less than 6 hours.

27 (3) Any mobile home transport company that comes into
28 possession of a mobile home under subsection (2), and who
29 claims a lien for recovery, towing, or storage services, must
30 give notice to the registered owner and to all persons
31 claiming a lien on the mobile home, as disclosed by the

1 records in the Department of Highway Safety and Motor Vehicles
2 or of a corresponding agency in any other state.

3 (4)(a) The owner of a mobile home removed or stored on
4 site under subsection (2), or any person claiming a lien,
5 other than the mobile home transport company, within 10 days
6 after the time she or he has knowledge of the location of the
7 mobile home may file a complaint in the county court of the
8 county in which the mobile home is stored or in which the
9 owner resides to determine if her or his property was
10 wrongfully taken or withheld from her or him.

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

25 (c) Upon determining the respective rights of the
26 parties, the court may award damages and costs to the
27 prevailing party. The final order must require immediate
28 payment in full of the recovery, towing, and storage fees by
29 the mobile home owner or lienholder, by the law enforcement
30 agency ordering the tow, or by the property owner of the real
31

1 property from which the mobile home was removed or stored on
2 site.
3 (5) Any mobile home that is stored under subsection
4 (2) and that remains unclaimed, or for which reasonable
5 charges for recovery, towing, or storing remain unpaid or for
6 which a lot rental amount is due and owing to the mobile home
7 park owner, as evidenced by a judgment for unpaid rent, and
8 any contents not released under subsection (6), may be sold by
9 the mobile home transport company for the towing or storage
10 charge or unpaid lot rental amount 35 days after the mobile
11 home is stored on site by a mobile home transport company, if
12 the mobile home is more than 3 years of age, or 50 days after
13 the mobile home is stored on site by a mobile home transport
14 company if the mobile home is 3 years of age or less. The sale
15 must be at public auction for cash. If the date of the sale is
16 not included in the notice required in subsection (3), notice
17 of the sale must be given to the person in whose name the
18 mobile home is registered, to the mobile home park owner, and
19 to all persons claiming a lien on the mobile home as shown on
20 the records of the Department of Highway Safety and Motor
21 Vehicles or of the corresponding agency in any other state.
22 Notice must be sent by certified mail, return receipt
23 requested, at least 15 days before the date of the sale. After
24 diligent search and inquiry, if the name and address of the
25 registered owner or the owner of the recorded lien cannot be
26 ascertained, the requirements of notice by mail may be
27 dispensed with. In addition to the notice by mail, public
28 notice of the time and place of sale must be made by
29 publishing a notice of the sale one time, at least 10 days
30 before the date of the sale, in a newspaper of general
31 circulation in the county in which the sale is to be held. The

1 proceeds of the sale, after payment of reasonable towing and
2 storage charges, costs of the sale, and the unpaid lot rental
3 amount, in that order of priority, must be deposited with the
4 clerk of the circuit court for the county if the owner is
5 absent, and the clerk shall hold the proceeds subject to the
6 claim of the person legally entitled to those proceeds. The
7 clerk is entitled to receive 5 percent of the proceeds for the
8 care and disbursement of the proceeds. The certificate of
9 title issued under this section must be discharged of all
10 liens unless otherwise provided by court order.

11 (6) Each mobile home transport company that provides
12 services under this section must permit the owner of a mobile
13 home or the owner's agent, if the agency is evidenced in
14 writing by the owner before a notary public or other person
15 authorized by law to administer oaths, to inspect the mobile
16 home, and must release to the owner or agent all personal
17 property not affixed to the mobile home which was in the
18 mobile home at the time the mobile home came into possession
19 of the mobile home transport company.

20 (7)(a) A mobile home transport company that comes into
21 possession of a mobile home under subsection (2) and that
22 complies with subsection (3), when the mobile home is to be
23 sold for purposes of being dismantled, destroyed, or changed
24 in a manner that it is not the mobile home described in the
25 certificate of title, must apply to the county tax collector
26 for a certificate of destruction. A certificate of
27 destruction, which authorizes the dismantling or destruction
28 of the mobile home on the certificate is reassignable no more
29 than twice before dismantling or destruction of the mobile
30 home is required, and the certificate must accompany the
31 mobile home for which it is issued when the mobile home is

1 sold for that purpose, in lieu of a certificate of title. The
2 application for a certificate of destruction must include an
3 affidavit from the applicant that it has complied with all
4 applicable requirements of this section and, if the mobile
5 home is not registered in this state, must include a statement
6 from a law enforcement officer that the mobile home is not
7 reported stolen, and must also be accompanied by any other
8 documentation required by the department.

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

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

15 (8)(a) Any person who violates subsection (2),
16 subsection (3), subsection (4), subsection (5), or subsection
17 (6) commits a misdemeanor of the first degree, punishable as
18 provided in s. 775.082 or s. 775.083.

19 (b) Any person who violates subsection (7) commits a
20 felony of the third degree, punishable as provided in s.
21 775.082, s. 775.083, or s. 775.084.

22 (c) Any person who uses a false or fictitious name,
23 gives a false or fictitious address, or makes any false
24 statement in any application or affidavit required under this
25 section commits a felony of the third degree, punishable as
26 provided in s. 775.082, s. 775.083, or s. 775.084.

27 (d) Employees of the Department of Highway Safety and
28 Motor Vehicles and law enforcement officers may inspect the
29 records of each mobile home transport company in this state to
30 ensure compliance with the requirements of this section. Any
31 person who fails to maintain records, or fails to produce

1 records when required in a reasonable manner and at a
2 reasonable time, commits a misdemeanor of the first degree,
3 punishable as provided in s. 775.082 or s. 775.083.

4 Section 20. Effective January 1, 2005, section 715.07,
5 Florida Statutes, is amended to read:

6 715.07 Vehicles and vessels parked on real private
7 property without permission; towing.--

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

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

13 (b) "Vehicle" has the same meaning ascribed in s.
14 508.01 means any mobile item which normally uses wheels,
15 whether motorized or not.

16 (c) "Vessel" has the same meaning ascribed in s.
17 508.01.

18 (d) "Wrecker company" has the same meaning ascribed in
19 s. 508.01.

20 (e) "Wrecker operator" has the same meaning ascribed
21 in s. 508.01.

22 (2) A property owner ~~The owner or lessee of real~~
23 ~~property, or any person authorized by the owner or lessee,~~
24 ~~which person may be the designated representative of the~~
25 ~~condominium association if the real property is a condominium,~~
26 may cause a any vehicle or vessel parked on her or his ~~such~~
27 ~~property without her or his permission to be removed by a~~
28 wrecker company registered under chapter 508 ~~person regularly~~
29 ~~engaged in the business of towing vehicles, without liability~~
30 ~~for the costs of removal, transportation, or storage or~~
31

1 damages caused by the ~~such~~ removal, transportation, or
2 storage, under any of the following circumstances:

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

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

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

1 ~~miles~~ of the point of removal in any county of less than
2 500,000 population.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Section 21. Effective January 1, 2005, subsection (15)
29 of section 1.01, Florida Statutes, is repealed.

30 Section 22. The sum of \$595,000 is appropriated from
31 the General Inspection Trust Fund to the Department of

1 Agriculture and Consumer Services, and 9 additional
2 full-time-equivalent positions are authorized, for the purpose
3 of implementing this act during the 2004-2005 fiscal year.

4 Section 23. Except as otherwise expressly provided in
5 this act, this act shall take effect July 1, 2004.

6
7 *****

8 SENATE SUMMARY

9 Revises the wrecker allocation system of the Florida
10 Highway Patrol. Provides for maximum rates for towing and
11 storing vehicles under the allocation system. Prohibits
12 an unauthorized wrecker company from monitoring a police
13 radio or engaging in certain other activities. Provides
14 requirements for dispatching wreckers under the
15 allocation system. Creates ch. 508, F.S., which provides
16 for the Department of Agriculture and Consumer Services
17 to regulate wrecker companies. Creates the Wrecker
18 Operator Advisory Council to advise the department on
19 matters relating to standards and practices in the
20 wrecker industry. Provides rulemaking authority. Requires
21 wrecker companies to register with the department and
22 obtain certification. Exempts certain motor vehicle
23 repair shops from registration requirements. Requires
24 examinations and continuing education for wrecker
25 operators. Authorizes the department to inspect
26 employment records. Provides penalties. Revises
27 provisions governing the recovery, towing, and storing of
28 vehicles, vessels, and mobile homes to conform those
29 provisions to the changes made by the act. (See bill for
30 details.)
31