

By the Committee on Transportation; and Senators Crist and Bennett

306-1977-04

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 requiring the department to notify the
9 Department of Highway Safety and Motor Vehicles
10 when a registration has been suspended or
11 revoked; authorizing the department to deny
12 registration under certain circumstances;
13 specifying acceptable forms of payment;
14 establishing a certification program for
15 wrecker operators; requiring the department to
16 approve courses and organizations; providing
17 requirements for examinations; providing for
18 certification in specialized wrecker services;
19 requiring the department to adopt rules;
20 providing for certification cards to be issued
21 to wrecker operators who complete the
22 certification course and pass the examination;
23 prohibiting the performance of wrecker services
24 after a specified date unless the company is
25 registered and obtains certification as
26 required; authorizing the department to inspect
27 employment records; providing requirements for
28 continuing education; specifying prohibited
29 acts; providing administrative, civil, and
30 criminal penalties; providing for registration
31 fees; providing for deposit of fees, penalties,

1 and other funds; providing that the chapter
2 does not apply to recovery agents; authorizing
3 counties and municipalities to enact ordinances
4 governing wrecker operators; requiring that a
5 wrecker company maintain records of its
6 services for a specified time; requiring a
7 wrecker company to keep records of its
8 operators continuing education courses for a
9 specified time; directing organizations that
10 conduct continuing education courses to keep
11 records for a specified time; amending s.
12 713.78, F.S., relating to liens for recovering,
13 towing, or storing vehicles and vessels;
14 providing definitions; conforming provisions to
15 changes made by the act; providing for
16 attorney's fees to be awarded to the prevailing
17 party for a frivolous claim of wrongful taking
18 or claim of lien; providing immunity from
19 liability for a wrecker company, its operators,
20 and other employees or agents if services are
21 performed with reasonable care or for complying
22 with the directions of a law enforcement
23 officer; providing for the owner of a vehicle
24 or vessel to dispute a claim of lien by a
25 wrecker company based on a record of sale;
26 clarifying that the amendments made by the act
27 do not affect the validity of prior liens;
28 creating s. 713.785, F.S.; authorizing the
29 imposition of lien by a mobile home transport
30 company for recovering, towing, or storing a
31 mobile home; providing definitions; requiring a

1 mobile home transport company to provide notice
2 of recovery, towing, or storage services;
3 providing for the filing of a complaint;
4 providing procedures for the sale of an
5 unclaimed mobile home; specifying circumstances
6 under which a mobile home transport company
7 must obtain a certificate of destruction;
8 providing for fees; authorizing the department
9 to adopt rules; providing for fees; providing
10 for issuing certificates of destruction and
11 revalidation stickers; providing procedures for
12 disputing a lien and for discharge of a lien;
13 providing for the posting and repayment of
14 surety; amending s. 319.30, F.S.; redefining
15 the term "certificate of destruction," to
16 conform; amending s. 713.69, F.S., relating to
17 circumstances in which it is unlawful to remove
18 property upon which a lien has accrued, to
19 conform; amending s. 715.07, F.S., relating to
20 the towing of vehicles and vessels parked on
21 real property without permission; providing
22 definitions; providing for the towing and
23 removal of vehicles and vessels under certain
24 circumstances; conforming provisions to changes
25 made by the act; providing requirements for
26 towing and storage; prohibiting a property
27 owner from soliciting a wrecker company for a
28 rebate for the privilege of removing vehicles
29 from the owner's property; providing immunity
30 from liability for a wrecker company, its
31 operators, and other employees or agents if

1 services are performed with reasonable care;
2 providing that failure to comply with notice
3 requirements precludes a wrecker company from
4 imposing certain towing or storage charges;
5 providing penalties; repealing s. 1.01(15),
6 F.S., relating to the definition of the term
7 "wrecker operator"; providing an appropriation
8 and authorizing additional positions; providing
9 effective dates.

10

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

12

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

16 120.80 Exceptions and special requirements;
17 agencies.--

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

19 (b) Wrecker companies ~~operators~~.--Notwithstanding s.
20 120.57(1)(a), hearings held by the Division of the Florida
21 Highway Patrol of the Department of Highway Safety and Motor
22 Vehicles to deny, suspend, or remove a wrecker company
23 ~~operator~~ from participating in the wrecker allocation ~~rotation~~
24 system established under ~~by~~ s. 321.051 need not be conducted
25 by an administrative law judge assigned by the division. These
26 hearings shall be held by a hearing officer appointed by the
27 director of the Division of the Florida Highway Patrol.

28 Section 2. Effective January 1, 2005, section
29 205.1975, Florida Statutes, is created to read:

30 205.1975 Wrecker companies; consumer protection.--A
31 county or municipality may not issue or renew an occupational

1 license for the operation of a wrecker company under chapter
2 508 unless the wrecker company exhibits a current registration
3 from the Department of Agriculture and Consumer Services.

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

6 316.530 Towing requirements.--

7 (3) Whenever a motor vehicle becomes disabled upon the
8 highways of this state and a wrecker ~~or tow truck~~ is required
9 to remove it to a repair shop or other appropriate location,
10 if the combined weights of those two vehicles and the loads
11 thereon exceed the maximum allowable weights as established by
12 s. 316.535, no penalty shall be assessed either vehicle or
13 driver. However, this exception shall not apply to the load
14 limits for bridges and culverts established by the department
15 as provided in s. 316.555.

16 Section 4. For the purpose of incorporating the
17 amendment made by this act to section 320.01, Florida
18 Statutes, in references thereto, subsection (4) of section
19 316.550, Florida Statutes, is reenacted to read:

20 316.550 Operations not in conformity with law; special
21 permits.--

22 (4)(a) The Department of Transportation may issue a
23 wrecker special blanket permit to authorize a wrecker as
24 defined in s. 320.01(40) to tow a disabled vehicle as defined
25 in s. 320.01(38) where the combination of the wrecker and the
26 disabled vehicle being towed exceeds the maximum weight limits
27 as established by s. 316.535.

28 (b) The Department of Transportation must supply the
29 permitted wrecker with a map showing the routes on which the
30 wrecker may safely tow disabled vehicles for all special
31 permit classifications for which the wrecker applies.

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

3 316.605 Licensing of vehicles.--

4 (1) Every vehicle, at all times while driven, stopped,
5 or parked upon any highways, roads, or streets of this state,
6 shall be licensed in the name of the owner thereof in
7 accordance with the laws of this state unless such vehicle is
8 not required by the laws of this state to be licensed in this
9 state and shall, except as otherwise provided in s. 320.0706
10 for front-end registration license plates on truck tractors or
11 wreckers, display the license plate or both of the license
12 plates assigned to it by the state, one on the rear and, if
13 two, the other on the front of the vehicle, each to be
14 securely fastened to the vehicle outside the main body of the
15 vehicle in such manner as to prevent the plates from swinging,
16 with all letters, numerals, printing, writing, and other
17 identification marks upon the plates clear and distinct and
18 free from defacement, mutilation, grease, and other obscuring
19 matter, so that they will be plainly visible and legible at
20 all times 100 feet from the rear or front. In addition, if
21 only one registration plate is issued for a motor vehicle that
22 is equipped with a mechanical loading device that may damage
23 the plate, the plate may be attached to the front of the
24 vehicle. Nothing shall be placed upon the face of a Florida
25 plate except as permitted by law or by rule or regulation of a
26 governmental agency. No license plates other than those
27 furnished by the state shall be used. However, if the vehicle
28 is not required to be licensed in this state, the license
29 plates on such vehicle issued by another state, by a
30 territory, possession, or district of the United States, or by
31 a foreign country, substantially complying with the provisions

1 hereof, shall be considered as complying with this chapter. A
2 government license plate that is issued to a truck tractor or
3 heavy truck having a gross vehicle weight of 26,001 pounds or
4 more which is owned by a governmental entity may be placed on
5 the front of the vehicle and is in compliance with this
6 chapter.A violation of this subsection is a noncriminal
7 traffic infraction, punishable as a nonmoving violation as
8 provided in chapter 318.

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

11 320.01 Definitions, general.--As used in the Florida
12 Statutes, except as otherwise provided, the term:

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

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

20 320.03 Registration; duties of tax collectors;
21 International Registration Plan.--

22 (8) If the applicant's name appears on the list
23 referred to in s. 316.1001(4), s. 316.1967(6), or s.
24 713.78(13), a license plate or revalidation sticker may not be
25 issued until that person's name no longer appears on the list
26 or until the person presents a receipt from the clerk showing
27 that the fines outstanding have been paid. The tax collector
28 and the clerk of the court are each entitled to receive
29 monthly, as costs for implementing and administering this
30 subsection, 10 percent of the civil penalties and fines
31 recovered from such persons. As used in this subsection, the

1 term "civil penalties and fines" does not include a wrecker
2 company's operator's lien as described in s. 713.78(13). If
3 the tax collector has private tag agents, such tag agents are
4 entitled to receive a pro rata share of the amount paid to the
5 tax collector, based upon the percentage of license plates and
6 revalidation stickers issued by the tag agent compared to the
7 total issued within the county. The authority of any private
8 agent to issue license plates shall be revoked, after notice
9 and a hearing as provided in chapter 120, if he or she issues
10 any license plate or revalidation sticker contrary to the
11 provisions of this subsection. This section applies only to
12 the annual renewal in the owner's birth month of a motor
13 vehicle registration and does not apply to the transfer of a
14 registration of a motor vehicle sold by a motor vehicle dealer
15 licensed under this chapter, except for the transfer of
16 registrations which is inclusive of the annual renewals. This
17 section does not affect the issuance of the title to a motor
18 vehicle, notwithstanding s. 319.23(7)(b).

19 Section 8. Section 320.0706, Florida Statutes, is
20 amended to read:

21 320.0706 Display of license plates on trucks.--The
22 owner of any commercial truck of gross vehicle weight of
23 26,001 pounds or more shall display the registration license
24 plate on both the front and rear of the truck in conformance
25 with all the requirements of s. 316.605 that do not conflict
26 with this section. However, the owner of a truck tractor or a
27 wrecker must ~~shall be required to~~ display the registration
28 license plate only on the front of such vehicle.

29 Section 9. For the purpose of incorporating the
30 amendment made by this act to section 320.01, Florida
31 Statutes, in references thereto, paragraphs (d) and (e) of

1 subsection (5) of section 320.08, Florida Statutes, are
2 reenacted to read:

3 320.08 License taxes.--Except as otherwise provided
4 herein, there are hereby levied and imposed annual license
5 taxes for the operation of motor vehicles, mopeds, motorized
6 bicycles as defined in s. 316.003(2), and mobile homes, as
7 defined in s. 320.01, which shall be paid to and collected by
8 the department or its agent upon the registration or renewal
9 of registration of the following:

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

12 (d) A wrecker, as defined in s. 320.01(40), which is
13 used to tow a vessel as defined in s. 327.02(36), a disabled,
14 abandoned, stolen-recovered, or impounded motor vehicle as
15 defined in s. 320.01(38), or a replacement motor vehicle as
16 defined in s. 320.01(39): \$30 flat.

17 (e) A wrecker, as defined in s. 320.01(40), which is
18 used to tow any motor vehicle, regardless of whether or not
19 such motor vehicle is a disabled motor vehicle as defined in
20 s. 320.01(38), a replacement motor vehicle as defined in s.
21 320.01(39), a vessel as defined in s. 327.02(36), or any other
22 cargo, as follows:

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

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

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

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

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

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

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

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

9 9. Gross vehicle weight of 72,000 pounds or more:
10 \$979 flat.

11 Section 10. Subsection (1) of section 320.0821,
12 Florida Statutes, is amended, and subsection (5) is added to
13 that section, to read:

14 320.0821 Wrecker license plates.--

15 (1) The department shall issue one ~~a~~ wrecker license
16 plate, regardless of gross vehicle weight, to the owner of any
17 motor vehicle that is used to tow, carry, or otherwise
18 transport motor vehicles and that is equipped for that purpose
19 with a boom, winch, carrier, or other similar equipment,
20 except a motor vehicle registered under the International
21 Registration Plan, upon application and payment of the
22 appropriate license tax and fees in accordance with s.
23 320.08(5)(d) or (e).

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

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

29 320.0821 Wrecker license plates.--

30 (1) The department shall issue one wrecker license
31 plate, regardless of gross vehicle weight, to the owner of a

1 ~~wrecker any motor vehicle that is used to tow, carry, or~~
2 ~~otherwise transport motor vehicles and that is equipped for~~
3 ~~that purpose with a boom, winch, carrier, or other similar~~
4 ~~equipment, except a motor vehicle registered under the~~
5 ~~International Registration Plan, upon application and payment~~
6 ~~of the appropriate license tax and fees in accordance with s.~~
7 ~~320.08(5)(d) or (e). However, the department may issue or~~
8 ~~renew a wrecker license plate only if the owner of the wrecker~~
9 ~~is a wrecker company registered under chapter 508. This~~
10 ~~section does not apply to a motor vehicle registered under the~~
11 ~~International Registration Plan.~~

12 Section 12. Paragraph (a) of subsection (1) of section
13 320.13, Florida Statutes, is amended to read:

14 320.13 Dealer and manufacturer license plates and
15 alternative method of registration.--

16 (1)(a) Any licensed motor vehicle dealer and any
17 licensed mobile home dealer may, upon payment of the license
18 tax imposed by s. 320.08(12), secure one or more dealer
19 license plates, which are valid for use on motor vehicles or
20 mobile homes owned by the dealer to whom such plates are
21 issued while the motor vehicles are in inventory and for sale,
22 or while being operated in connection with such dealer's
23 business, but are not valid for use for hire. Dealer license
24 plates may not be used on any ~~tow truck or wrecker~~ as defined
25 in s. 320.01 unless the ~~tow truck or wrecker~~ is being
26 demonstrated for sale, and the dealer license plates may not
27 be used on a vehicle used to transport another motor vehicle
28 for the motor vehicle dealer.

29 Section 13. Effective January 1, 2005, section
30 321.051, Florida Statutes, is amended to read:

31 (Substantial rewording of section. See

1 s. 321.051, F.S., for present text.)
2 321.051 Florida Highway Patrol wrecker allocation
3 system; penalties for operation outside of system.--
4 (1) As used in this section, the term:
5 (a) "Division" means the Division of the Florida
6 Highway Patrol within the Department of Highway Safety and
7 Motor Vehicles.
8 (b) "Authorized wrecker company" means a wrecker
9 company designated by the division as part of its wrecker
10 allocation system.
11 (c) "Unauthorized wrecker company" means a wrecker
12 company not designated by the division as part of its wrecker
13 allocation system.
14 (d) "Wrecker company" has the same meaning ascribed in
15 s. 508.01.
16 (e) "Wrecker operator" has the same meaning ascribed
17 in s. 508.01.
18 (f) "Wrecker services" has the same meaning ascribed
19 in s. 508.01.
20 (2)(a) The division may establish within areas
21 designated by the division a wrecker allocation system, using
22 qualified, reputable wrecker companies, for the removal from
23 crash scenes and the storage of wrecked or disabled vehicles
24 when the owner or operator is incapacitated, unavailable, or
25 leaves the procurement of wrecker services to the officer at
26 the scene and for the removal and storage of abandoned
27 vehicles.
28 (b) The wrecker allocation system may use only wrecker
29 companies registered under chapter 508. Each reputable wrecker
30 company registered under chapter 508 is eligible for use in
31 the system if its equipment and wrecker operators meet the

1 recognized safety qualifications and mechanical standards set
2 by the division's rules for the size of vehicle they are
3 designed to handle. The division may limit the number of
4 wrecker companies participating in the wrecker allocation
5 system.

6 (c) The division may establish maximum rates for the
7 towing and storage of vehicles removed at the division's
8 request if those rates are not established by a county or
9 municipality under s. 125.0103 or s. 166.043. These rates are
10 not rules for the purpose of chapter 120; however, the
11 Department of Highway Safety and Motor Vehicles shall adopt
12 rules prescribing the procedures for setting these rates.

13 (d) Notwithstanding chapter 120, a final order of the
14 department denying, suspending, or revoking a wrecker
15 company's participation in the wrecker allocation system may
16 be appealed only in the manner and within the time provided by
17 the Florida Rules of Appellate Procedure by a writ of
18 certiorari issued by the circuit court in the county in which
19 the wrecker company's primary place of business is located, as
20 evidenced by the wrecker company's registration under chapter
21 508.

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

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1 (b) A wrecker operator dispatched by an unauthorized
2 wrecker company may not drive by the scene of a wrecked or
3 disabled vehicle before the arrival of the wrecker operator
4 dispatched by the authorized wrecker company, initiate contact
5 with the owner or operator of the vehicle by soliciting or
6 offering wrecker services, or tow the vehicle. Any person who
7 violates this paragraph commits a misdemeanor of the second
8 degree, punishable as provided in s. 775.082 or s. 775.083.

9 (c) When a wrecker operator dispatched by an
10 unauthorized wrecker company drives by the scene of a wrecked
11 or disabled vehicle and the owner or operator initiates
12 contact by signaling the wrecker operator to stop and provide
13 wrecker services, the wrecker operator must disclose to the
14 owner or operator of the vehicle that he or she was not
15 dispatched by the authorized wrecker company designated as
16 part of the wrecker allocation system and must disclose, in
17 writing, what charges for towing and storage will apply before
18 the vehicle is connected to the towing apparatus. Any person
19 who violates this paragraph commits a misdemeanor of the
20 second degree, punishable as provided in s. 775.082 or s.
21 775.083.

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

28 (4) This section does not prohibit, or in any way
29 prevent, the owner or operator of a vehicle involved in a
30 crash or otherwise disabled from contacting any wrecker
31 company for the provision of wrecker services, regardless of

1 whether the wrecker company is an authorized wrecker company
2 or not. However, if a law enforcement officer determines that
3 the disabled vehicle or vehicle cargo is a public safety
4 hazard, the officer may, in the interest of public safety,
5 dispatch an authorized wrecker company if the officer believes
6 that the authorized wrecker company would arrive at the scene
7 before the wrecker company requested by the owner or operator
8 of the disabled vehicle or vehicle cargo.

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

25 Section 14. Effective January 1, 2005, section
26 323.001, Florida Statutes, is amended to read:

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

29 323.001 Wrecker company storage facilities; vehicle
30 holds.--

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

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

3 (b) "Wrecker company" has the same meaning ascribed in
4 s. 508.01.

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

9 (3) To extend a hold, the law enforcement agency must
10 notify the wrecker company in writing within the 5 business
11 days. If notification is not made within the 5 business days,
12 the wrecker company must release the vehicle to the designated
13 person under s. 713.78.

14 (a) If the hold is extended beyond the 5 business
15 days, the law enforcement agency may have the vehicle removed
16 to a designated impound lot, in which event the vehicle may
17 not be released by the law enforcement agency to the owner or
18 lienholder of the vehicle until proof of payment of the towing
19 and storage charges incurred by the wrecker company is
20 presented to the law enforcement agency.

21 (b) If the law enforcement agency chooses to have the
22 vehicle remain at the wrecker company's storage facility for
23 more than 5 business days under the written notification, the
24 law enforcement agency is responsible for paying the storage
25 charges incurred by the wrecker company for the requested
26 extended period. In such an event, the owner or lienholder is
27 responsible for paying the accrued towing and storage charges
28 for the first 5 business days, or any period less than the
29 first 5 business days, if the law enforcement agency moves the
30 vehicle from the wrecker company's storage facility to a
31 designated impound lot or provides written notification to

1 extend the hold on the vehicle before the expiration of the 5
2 business days.

3 (c) The towing and storage rates for the owner or
4 lienholder of the held vehicle may not exceed the rates for
5 the law enforcement agency.

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

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

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

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

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

21 (d) The law enforcement officer has probable cause to
22 believe that the vehicle is itself evidence that tends to show
23 that a crime has been committed or that the vehicle contains
24 evidence, which cannot readily be removed, which tends to show
25 that a crime has been committed;

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

31

1 (f) The vehicle is impounded or immobilized under s.
2 316.193 or s. 322.34; or

3 (g) The law enforcement officer is complying with a
4 court order.

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

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

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

10 (c) A general description of the vehicle, including
11 its color, make, model, body style, and year; VIN (Vehicle
12 Identification Number); registration license plate number,
13 state, and year; and validation sticker number, state, and
14 year;

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

16 (e) The condition of the vehicle;

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

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

20 (7) A wrecker company's storage facility must comply
21 with a hold placed by a law enforcement officer, including
22 instructions for inside or outside storage. A wrecker
23 company's storage facility may not release a motor vehicle
24 subject to a hold to any person except as directed by the law
25 enforcement agency placing the hold.

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

31

1 Section 15. Effective January 1, 2005, section
2 323.002, Florida Statutes, is amended to read:

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

5 323.002 County and municipal wrecker allocation
6 systems; penalties for operation outside of system.--

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

8 (a) "Authorized wrecker company" means a wrecker
9 company designated as part of the wrecker allocation system
10 established by the governmental unit having jurisdiction over
11 the scene of a wrecked or disabled vehicle.

12 (b) "Unauthorized wrecker company" means a wrecker
13 company not designated as part of the wrecker allocation
14 system established by the governmental unit having
15 jurisdiction over the scene of a wrecked or disabled vehicle.

16 (c) "Wrecker allocation system" means a system for the
17 towing or removal of wrecked, disabled, or abandoned vehicles,
18 similar to the Florida Highway Patrol wrecker allocation
19 system described in s. 321.051(2), under which a county or
20 municipality contracts with one or more wrecker companies
21 registered under chapter 508 for the towing or removal of
22 wrecked, disabled, or abandoned vehicles from accident scenes,
23 streets, or highways. Each wrecker allocation system must use
24 a method for apportioning the towing assignments among the
25 eligible wrecker companies through the creation of geographic
26 zones, a rotation schedule, or a combination of these methods.

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

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

31

1 (f) "Wrecker services" has the same meaning ascribed
2 in s. 508.01.

3 (2) In a county or municipality that operates a
4 wrecker allocation system:

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

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

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

24 (d) When a wrecker operator dispatched by an
25 unauthorized wrecker company drives by the scene of a wrecked
26 or disabled vehicle and the owner or operator initiates
27 contact by signaling the wrecker operator to stop and provide
28 wrecker services, the wrecker operator must disclose to the
29 owner or operator of the vehicle that he or she was not
30 dispatched by the authorized wrecker company designated as
31 part of the wrecker allocation system and must disclose, in

1 writing, what charges for towing and storage will apply before
2 the vehicle is connected to the towing apparatus. Any person
3 who violates this paragraph commits a misdemeanor of the
4 second degree, punishable as provided in s. 775.082 or s.
5 775.083.

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

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

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

1 disabled from contacting any wrecker company that is properly
2 equipped to provide the required wrecker services, regardless
3 of whether the wrecker company is an authorized wrecker
4 company or not, unless the law enforcement officer determines
5 that the wrecked or disabled vehicle is a public safety hazard
6 and the officer believes that the authorized wrecker company
7 would arrive at the scene before the wrecker company requested
8 by the owner or operator.

9 Section 16. Chapter 508, Florida Statutes, consisting
10 of sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06,
11 508.061, 508.07, 508.08, 508.09, 508.10, 508.11, 508.12,
12 508.13, 508.14, 508.15, 508.16, 508.17, 508.18, 508.19, and
13 508.20, Florida Statutes, is created to read:

14 CHAPTER 508

15 WRECKER SERVICES

16 508.01 Definitions.--As used in this chapter, the
17 term:

18 (1) "Business entity" means any form of corporation,
19 limited liability company, partnership, association,
20 cooperative, joint venture, business trust, sole
21 proprietorship, or self-employed person conducting business in
22 this state.

23 (2) "Council" means the Wrecker Operator Advisory
24 Council.

25 (3) "Department" means the Department of Agriculture
26 and Consumer Services.

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

30 (5) "Ultimate equitable owner" means a natural person
31 who, directly or indirectly, owns or controls 10 percent or

1 more of an ownership interest in a wrecker company, regardless
2 of whether the natural person owns or controls the ownership
3 interest through one or more natural persons or one or more
4 proxies, powers of attorney, nominees, business entities, or
5 any combination thereof.

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

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

15 (8) "Wrecker" has the same meaning ascribed in s.
16 320.01.

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

22 (10) "Wrecker operator" means a person who performs
23 wrecker services.

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

28 (a) Driving a wrecker.

29 (b) Loading, securing, and unloading a vehicle or
30 vessel on a wrecker using a boom, winch, car carrier, or other
31 similar equipment.

1 (c) Towing or removal of a wrecked, disabled, or
2 abandoned vehicle under the Florida Highway Patrol wrecker
3 allocation system pursuant to s. 321.051 or under a county or
4 municipal wrecker allocation system pursuant to s. 323.002.

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

7 (e) Towing, transportation, or removal of a vehicle or
8 vessel parked on real property without permission under s.
9 715.07.

10 (f) Recovery of a vehicle or vessel.

11 508.02 Wrecker Operator Advisory Council.--

12 (1) The Wrecker Operator Advisory Council is created
13 within the department. The council shall advise and assist the
14 department in administering this chapter.

15 (2)(a) The council shall be composed of six members
16 appointed by the Commissioner of Agriculture. In addition, the
17 executive director of the Professional Wrecker Operators of
18 Florida, Inc., shall serve ex officio as a voting member of
19 the council.

20 (b) Three members of the council must each be an
21 ultimate equitable owner of a wrecker company who has been an
22 ultimate equitable owner of that company for at least 5 years
23 before his or her appointment; one member must be a wrecker
24 operator who is not an ultimate equitable owner of a wrecker
25 company and who has been a wrecker operator for at least 5
26 years before his or her appointment; and two members must be
27 laypersons. Each member must be a resident of this state. This
28 paragraph expires July 1, 2010.

29 (c) Effective July 1, 2010, three members of the
30 council must each be an ultimate equitable owner of a wrecker
31 company registered under this chapter who has been an ultimate

1 equitable owner of that company registered for at least 5
2 years before his or her appointment; one member must be a
3 wrecker operator certified under this chapter who is not an
4 ultimate equitable owner of a wrecker company and who has been
5 a wrecker operator certified for at least 5 years before his
6 or her appointment; and two members must be laypersons. Each
7 member must be a resident of this state.

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

16 (4)(a) From among its members, the council shall
17 annually elect a chair, who shall preside over the meetings of
18 the council, and a vice chair.

19 (b) In conducting its meetings, the council shall use
20 accepted rules of procedure. The department shall keep a
21 complete record of each meeting which must show the names of
22 members present and the actions taken. These records and other
23 documents about matters within the jurisdiction of the council
24 must be kept on file with the department.

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

28 (6) The department shall provide administrative and
29 staff support services relating to the functions of the
30 council.

31

1 (7) The council shall review the rules adopted by the
2 department to administer this chapter and shall advise the
3 department on matters relating to industry standards and
4 practices and other issues that require technical expertise
5 and consultation or that promote better consumer protection in
6 the wrecker industry.

7 508.03 Rulemaking authority.--The department may adopt
8 rules under ss. 120.536(1) and 120.54 to administer this
9 chapter.

10 508.04 Wrecker companies; registration
11 required.--Effective January 1, 2005:

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

16 (2) A person applying for or renewing a local
17 occupational license to engage for hire in the business of a
18 wrecker company must exhibit a current registration
19 certificate from the department before the local occupational
20 license may be issued or reissued under chapter 205.

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

27 508.05 Registration requirements; renewal of
28 registrations.--

29 (1) Each wrecker company engaged or attempting to
30 engage for hire in the business of towing, carrying, or
31 transporting vehicles, vessels, or mobile homes by wrecker

1 upon the streets and highways of this state must annually
2 register with the department on forms prescribed by the
3 department. The application for registration must include at
4 least the following information:

5 (a) The name and federal employer identification
6 number of the wrecker company.

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

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

12 (d) The full name, residence address, business
13 address, and telephone number of the applicant. If the
14 applicant is other than a natural person, the application must
15 also contain the full name, residence address, business
16 address, telephone number, and federal employer identification
17 number, if applicable, of each ultimate equitable owner of the
18 business entity and each officer, director, partner, manager,
19 member, or managing member of the entity.

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

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

26 (2) Each initial and renewal application for
27 registration must be accompanied by the registration fee
28 prescribed in s. 508.16.

29 (3) Each initial application for registration must be
30 accompanied by a complete set of the applicant's fingerprints
31 taken by a law enforcement agency. If the applicant is other

1 than a natural person, a complete set of fingerprints must
2 also be filed for each ultimate equitable owner of the
3 business entity and each officer, director, partner, manager,
4 member, or managing member of the entity. The department shall
5 submit the fingerprints to the Department of Law Enforcement
6 for state processing, and the Department of Law Enforcement
7 shall forward the fingerprints to the Federal Bureau of
8 Investigation for national processing. The applicant must also
9 pay the Department of Law Enforcement a fingerprint processing
10 fee of \$23 for state processing, and an additional fee for
11 federal processing, for each applicant's name submitted.
12 Registration renewal applications need not be accompanied by a
13 set of fingerprints for an individual who previously submitted
14 a set of fingerprints to the department as part of a prior
15 year's registration application.

16 (4) The department shall review each application in
17 accordance with s. 120.60 and shall issue a registration
18 certificate, in the form and size prescribed by the
19 department, to each wrecker company whose application is
20 approved. The certificate must show at least the name and
21 address of the wrecker company and the registration number.
22 The registration certificate must be prominently displayed in
23 the wrecker company's primary place of business.

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

30 (6) A registration is invalid for a wrecker company
31 transacting business at a place other than the location

1 designated in the registration application unless the
2 department is first notified in writing before the change of
3 location. A registration issued under this chapter is not
4 transferable or assignable, and a wrecker company may not
5 conduct business under a name other than as registered. A
6 wrecker company desiring to change its registered name,
7 location, or registered agent for service of process at a time
8 other than upon renewal of registration must notify the
9 department of the change.

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

17 (b) A wrecker company whose primary place of business
18 is located within a county or municipality that requires, by
19 local ordinance, a local occupational license under chapter
20 205 may not renew a license under this chapter unless the
21 wrecker company obtains the occupational license from the
22 county or municipality.

23 (8) Each wrecker company must provide the department
24 with a certificate of insurance for the required insurance
25 coverage under s. 627.7415 before the department may issue the
26 registration certificate for an initial or renewal
27 registration. The department must be named as a
28 certificateholder on the insurance certificate and must be
29 notified at least 30 days before any change in insurance
30 coverage.

31

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

6 508.06 Denial of registration.--The department may
7 deny, revoke, or refuse to renew the registration of a wrecker
8 company based upon a determination that the applicant or, if
9 the applicant is other than a natural person, the wrecker
10 company or any of its ultimate equitable owners, officers,
11 directors, partners, managers, members, or managing members
12 has:

13 (1) Not met the requirements for registration under
14 this chapter;

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

18 (3) Been convicted of, found guilty of, or pled guilty
19 or nolo contendere to, regardless of the adjudication of
20 guilt, a crime within the last 10 years involving repossession
21 of a motor vehicle under chapter 493; repair of a motor
22 vehicle under ss. 559.901-559.9221; theft of a motor vehicle
23 under s. 812.014; carjacking under s. 812.133; operation of a
24 chop shop under s. 812.16; failure to maintain records of
25 motor vehicle parts and accessories under s. 860.14; airbag
26 theft or use of fake airbags under s. 860.145 or s. 860.146;
27 overcharging for repairs and parts under s. 860.15; or a
28 violation of towing or storage requirements for a motor
29 vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07,
30 or this chapter;

31

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

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

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

10 508.061 Acceptable forms of payment.--A wrecker
11 company shall accept a minimum of two of the three following
12 forms of payment:

13 (1) Cash, cashier's check, money order or traveler's
14 check;

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

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

20 508.07 Wrecker operator certification program.--

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

1 (2) Each approved wrecker operator certification
2 course must include a certification examination demonstrating
3 a wrecker operator's knowledge, skills, and abilities in
4 performing wrecker services and in the instruction and
5 training of the certification course. The council must approve
6 each certification examination before the examination is
7 accepted for certification of wrecker operators under this
8 chapter.

9 (3) Each organization conducting an approved wrecker
10 operator certification course must issue on forms prescribed
11 by the department a certificate to each wrecker operator who
12 completes the approved certification course or who passes the
13 approved certification examination.

14 508.08 Specialized wrecker services.--

15 (1) In addition to the minimum curricula for
16 certification of wrecker operators, each approved
17 certification course must offer optional instruction,
18 training, and examination of wrecker operators for each of the
19 following specialized wrecker services:

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

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

25 (c) Heavy duty.--Towing and winching a standard
26 large-sized commercial vehicle, and uprighting such an
27 overturned vehicle.

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

31

1 (e) Rollback wrecker.--Proper loading, securing,
2 transporting, and unloading of a vehicle on a flatbed-rollback
3 wrecker.

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

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

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

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

22 508.09 Certification cards.--

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

1 (2) Each certification card must also include the
2 wrecker operator's applicable endorsements for specialized
3 wrecker services, for which the wrecker operator completed the
4 approved instruction and training for the specialized wrecker
5 service and passed the approved endorsement examination for
6 that specialized wrecker service.

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

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

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

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

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

1 approved certification courses and approved certification
2 examinations in this state or to the approved instruction,
3 training, and endorsement examinations for a specialized
4 wrecker service in this state.

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

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

12 508.10 Wrecker operators; certification required;
13 inspection of employment records.--Effective January 1, 2005:

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

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

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

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

1 the department under s. 559.904 and those wrecker services or
2 specialized wrecker services are performed on behalf of the
3 motor vehicle repair shop.

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

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

17 508.11 Renewal of certification; continuing education
18 requirements.--

19 (1) The department, in consultation with the council,
20 shall establish a continuing education program for the
21 recertification of wrecker operators by December 31, 2006. In
22 order to renew a wrecker operator's certification card, an
23 operator must complete a continuing education course. The
24 council must prescribe the minimum curricula and proper
25 examination for each continuing education course, each of
26 which must be at least 8 hours in length. The council shall
27 approve each organization, and the continuing education course
28 it proposes to offer, before the course is approved for
29 recertifying wrecker operators.

30 (2) Each organization conducting an approved wrecker
31 operator continuing education course must issue, on forms

1 prescribed by the department, a certificate to each wrecker
2 operator who completes the approved course or who passes an
3 approved recertification examination.

4 508.12 Prohibited acts.--It is a violation of this
5 chapter for a person to:

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

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

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

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

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

18 (6) Refuse to allow a law enforcement officer to
19 inspect a towing and storage facility, as required in s.
20 812.055.

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

26 (8) Allow a wrecker operator certified under this
27 chapter to perform a specialized wrecker service for the
28 wrecker company if the wrecker operator's certification does
29 not include an endorsement for that specialized wrecker
30 service.

31

1 (9) Perform an act otherwise prohibited by this
2 chapter or fail to perform an act otherwise required by this
3 chapter.

4 508.13 Administrative penalties; inspection of
5 records.--

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

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

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

12 (c) Direct the person to cease and desist specified
13 activities.

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

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

19 (2) Chapter 120 shall govern an administrative
20 proceeding resulting from an order imposing a penalty
21 specified in subsection (1).

22 508.14 Civil penalties.--The department may bring a
23 civil action in a court of competent jurisdiction to recover
24 any penalties or damages allowed in this chapter and for
25 injunctive relief to enforce compliance with this chapter. The
26 department may seek a civil penalty of up to \$5,000 for each
27 violation of this chapter and may seek restitution for and on
28 behalf of any owner of a vehicle, vessel, or mobile home who
29 is aggrieved or injured by a violation of this chapter.

30 508.15 Criminal penalties.--Effective July 1, 2005:
31

1 (1) A person who violates s. 508.04(1) by operating a
2 wrecker company in this state without being registered with
3 the department under this chapter commits a felony of the
4 third degree, punishable as provided in s. 775.082, s.
5 775.083, or s. 775.084.

6 (2) A person who violates s. 508.10(1) by performing
7 wrecker services in this state without being an employee or
8 ultimate equitable owner of a wrecker company that is
9 registered with the department under this chapter commits a
10 felony of the third degree, punishable as provided in s.
11 775.082, s. 775.083, or s. 775.084.

12 508.16 Fees.--The department shall adopt by rule a fee
13 schedule, not to exceed the following amounts:

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

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

16 508.17 General Inspection Trust Fund; payments.--All
17 fees, penalties, or other funds collected by the department
18 under this chapter must be deposited in the General Inspection
19 Trust Fund and may only be used for the purpose of
20 administering this chapter.

21 508.18 Recovery agents; exemption.--This chapter does
22 not apply to a person licensed under chapter 493 performing
23 repossession services.

24 508.19 County and municipal ordinances.--A county or
25 municipality may enact ordinances governing the business of
26 transporting vehicles or vessels by wrecker which are more
27 restrictive than this chapter. This section does not limit the
28 authority of a political subdivision to impose regulatory fees
29 or charges or to levy occupational license taxes under chapter
30 205. The department may enter into a cooperative agreement
31 with any county or municipality that provides for the

1 referral, investigation, and prosecution of consumer
2 complaints alleging violations of this act. The department is
3 authorized to delegate enforcement of this act to any county
4 or municipality entering into a cooperative agreement.

5 508.20 Records.--

6 (1) Each wrecker company shall maintain records of its
7 wrecker services for at least 12 months. These records shall
8 be maintained at the wrecker company's principal place of
9 business.

10 (2) Each wrecker company shall maintain records on
11 each of its wrecker operators sufficient to demonstrate that
12 the operator has successfully completed an approved wrecker
13 operator certification course or an approved wrecker operator
14 continuing education course and is certified to perform
15 wrecker services. These records shall be maintained at the
16 wrecker company's principal place of business for as long as
17 the operator is employed by the wrecker company and for at
18 least 6 months thereafter.

19 (3) Each organization approved to conduct a wrecker
20 operator certification course or approved to offer a wrecker
21 operator continuing education course shall maintain records on
22 each person who successfully completes one of the courses. The
23 records shall be maintained at the organization's principal
24 place of business for at least 5 years. The department may, at
25 any time during normal business hours, enter the
26 organization's principal place of business to examine the
27 records.

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

30 713.78 Liens for recovering, towing, or storing
31 vehicles and vessels.--

1 (13)(a) Upon receipt by the Department of Highway
2 Safety and Motor Vehicles of written notice from a wrecker
3 operator who claims a wrecker operator's lien under paragraph
4 (2)(c) or paragraph (2)(d) for recovery, towing, or storage of
5 an abandoned vehicle, vessel, or mobile home upon instructions
6 from any law enforcement agency, for which a certificate of
7 destruction has been issued under subsection (11), the
8 department shall place the name of the registered owner of
9 that vehicle, vessel, or mobile home on 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). If the
12 vehicle, vessel, or mobile home is owned jointly by more than
13 one person, the name of each registered owner shall be placed
14 on the list. The notice of wrecker operator's lien shall be
15 submitted on forms provided by the department, which must
16 include:

- 17 1. The name, address, and telephone number of the
18 wrecker operator.
- 19 2. The name of the registered owner of the vehicle,
20 vessel, or mobile home and the address to which the wrecker
21 operator provided notice of the lien to the registered owner
22 under subsection (4).
- 23 3. A general description of the vehicle, 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, vessel, or
3 mobile home be recovered, towed, or stored.

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

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

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

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

29 b. The registered owner presents proof that the
30 Florida certificate of title of the vehicle, vessel, or mobile
31 home was sold to a licensed dealer as defined in s. 319.001

1 before the vehicle, vessel, or mobile home was recovered,
2 towed, or stored.

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

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

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

21 3. If a person against whom a wrecker operator's lien
22 has been imposed does not object to the lien, but cannot
23 discharge the lien by payment because the wrecker operator has
24 moved or gone out of business, the person may have her or his
25 name removed from the list of those persons who may not be
26 issued a license plate or revalidation sticker for any motor
27 vehicle under s. 320.03(8), thereby allowing issuance of a
28 license plate or revalidation sticker, upon posting with the
29 clerk of court in the county in which the vehicle, vessel, or
30 mobile home was ordered removed, a cash or surety bond or
31 other adequate security equal to the amount of the wrecker

1 operator's lien. Upon the posting of the bond and the payment
2 of the application fee set forth in s. 28.24, the clerk of the
3 court shall issue a certificate notifying the department of
4 the posting of the bond and directing the department to
5 release the wrecker operator's lien. The department shall mail
6 to the wrecker operator, at the address upon the lien form,
7 notice that the wrecker operator must claim the security
8 within 60 days, or the security will be released back to the
9 person who posted it. At the conclusion of the 60 days, the
10 department shall direct the clerk as to which party is
11 entitled to payment of the security, less applicable clerk's
12 fees.

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

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

1 allowed by paragraph (b), for which the department will
2 prevent issuance of a license plate or revalidation sticker,
3 has been discharged.

4 (e) When a wrecker operator files a notice of wrecker
5 operator's lien under this subsection, the department shall
6 charge the wrecker operator a fee of \$2, which must ~~shall~~ be
7 deposited into the General Revenue Fund ~~established under s.~~
8 ~~860.158~~. A service charge of \$2.50 shall be collected and
9 retained by the tax collector who processes a notice of
10 wrecker operator's lien.

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

21 (g) The Department of Highway Safety and Motor
22 Vehicles may adopt rules under ~~pursuant to~~ ss. 120.536(1) and
23 120.54 to implement this subsection.

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

26 713.78 Liens for recovering, towing, or storing
27 vehicles and vessels.--

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

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

1 **(b) "Property owner" has the same meaning ascribed in**
2 **s. 715.07.**

3 ~~(c)(a) "Vehicle" has the same meaning ascribed in s.~~
4 ~~508.01 means any mobile item, whether motorized or not, which~~
5 ~~is mounted on wheels.~~

6 ~~(d)(b) "Vessel" has the same meaning ascribed in s.~~
7 ~~508.01 means every description of watercraft, barge, and air~~
8 ~~boat used or capable of being used as a means of~~
9 ~~transportation on water, other than a seaplane or a~~
10 ~~"documented vessel" as defined in s. 327.02(8).~~

11 ~~(e)(c) "Wrecker" has the same meaning ascribed in s.~~
12 ~~320.01 means any truck or other vehicle which is used to tow,~~
13 ~~carry, or otherwise transport motor vehicles or vessels upon~~
14 ~~the streets and highways of this state and which is equipped~~
15 ~~for that purpose with a boom, winch, car carrier, or other~~
16 ~~similar equipment.~~

17 **(f) "Wrecker company" has the same meaning ascribed in**
18 **s. 508.01.**

19 **(g) "Wrecker operator" has the same meaning ascribed**
20 **in s. 508.01.**

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

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

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

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

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

4
5 the wrecker company has ~~she or he shall have~~ a lien on the
6 ~~such~~ vehicle or vessel for a reasonable towing fee and for a
7 reasonable storage fee; except that a no storage fee may not
8 ~~shall~~ be charged if a such vehicle or vessel is stored for
9 less than 6 hours.

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

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

25 (b) Whenever a any law enforcement agency authorizes
26 the removal of a vehicle, or whenever a wrecker company ~~any~~
27 ~~towing service, garage, repair shop, or automotive service,~~
28 ~~storage, or parking place~~ notifies the law enforcement agency
29 of possession of a vehicle under ~~pursuant to~~ s.
30 715.07(2)(a)2., the applicable law enforcement agency shall
31 contact the Department of Highway Safety and Motor Vehicles,

1 or the appropriate agency of the state of registration, if
2 known, within 24 hours through the medium of electronic
3 communications, giving the full description of the vehicle.
4 Upon receipt of the full description of the vehicle, the
5 department shall search its files to determine the owner's
6 name, the insurance company insuring the vehicle, and whether
7 any person has filed a lien upon the vehicle as provided in s.
8 319.27(2) and (3) and notify the applicable law enforcement
9 agency within 72 hours. The wrecker company ~~person in charge~~
10 ~~of the towing service, garage, repair shop, or automotive~~
11 ~~service, storage, or parking place~~ shall obtain this such
12 information from the applicable law enforcement agency within
13 5 days after ~~from~~ the date of storage and must ~~shall~~ give
14 notice under ~~pursuant to~~ paragraph (a). The department may
15 release the insurance company information to the requestor
16 notwithstanding ~~the provisions of~~ s. 627.736.

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

1 days if the vehicle or vessel is more than 3 years of age or
2 after 50 days if the vehicle or vessel is 3 years of age or
3 less.

4 (d) If the wrecker company is unable ~~attempts~~ to
5 identify the name of ~~locate~~ the owner or lienholder ~~prove~~
6 ~~unsuccessful~~, the wrecker company must ~~towing-storage operator~~
7 ~~shall~~, after 7 business ~~working~~ days following, ~~excluding~~
8 ~~Saturday and Sunday~~, of the initial tow or storage, notify the
9 public agency of jurisdiction in writing by certified mail or
10 acknowledged hand delivery that the wrecker ~~towing-storage~~
11 company has been unable to identify the name of ~~locate~~ the
12 owner or lienholder and a physical search of the vehicle or
13 vessel has disclosed no ownership information and a good faith
14 effort has been made. For purposes of this paragraph and
15 subsection (9), the term "good faith effort" means that the
16 following checks have been performed by the wrecker company to
17 establish prior state of registration and for title:

18 1. Check of vehicle or vessel for any type of tag, tag
19 record, temporary tag, or regular tag.

20 2. Check of law enforcement report for tag number or
21 other information identifying the vehicle or vessel, if the
22 vehicle or vessel was towed at the request of a law
23 enforcement officer.

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

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

31

1 5. Check of vehicle or vessel for inspection sticker
2 or other stickers and decals that may indicate a state of
3 possible registration.

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

7 7. Check of vehicle for vehicle identification number.

8 8. Check of vessel for vessel registration number.

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

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

24 (b) Upon filing of a complaint, an owner or lienholder
25 may have her or his vehicle or vessel released upon posting
26 with the court a cash or surety bond or other adequate
27 security equal to the amount of the charges for towing or
28 storage and lot rental amount to ensure the payment of the
29 ~~such~~ charges in the event she or he does not prevail. Upon
30 the posting of the bond and the payment of the applicable fee
31 set forth in s. 28.24, the clerk of the court shall issue a

1 certificate notifying the lienor of the posting of the bond
2 and directing the lienor to release the vehicle or vessel. At
3 the time of the ~~such~~ release, after reasonable inspection, she
4 or he shall give a receipt to the wrecker ~~towing-storage~~
5 company reciting any claims she or he has for loss or damage
6 to the vehicle or vessel or to the contents of the vehicle or
7 vessel thereof.

8 (c) Upon determining the respective rights of the
9 parties, the court shall ~~may~~ award damages, and costs, and
10 reasonable attorney's fees to ~~in favor of~~ the prevailing
11 party. ~~In any event,~~ The final order must require ~~shall~~
12 ~~provide for~~ immediate payment in full of the recovery, towing,
13 and storage fees by the vehicle or vessel owner or lienholder;
14 by or the law enforcement agency ordering the tow; or by the
15 property owner, lessee, or agent thereof of the real property
16 from which the vehicle or vessel was towed or removed under s.
17 715.07.

18 (6) Any vehicle or vessel that ~~which~~ is stored under
19 ~~pursuant to~~ subsection (2) and that ~~which~~ remains unclaimed,
20 or for which reasonable charges for recovery, towing, or
21 storing remain unpaid ~~or for which a lot rental amount is due~~
22 ~~and owing to the mobile home park owner, as evidenced by a~~
23 ~~judgment for unpaid rent, and any contents not released under~~
24 ~~pursuant to~~ subsection (10), may be sold by the wrecker
25 company owner or operator of the storage space for the such
26 towing or storage charge or unpaid lot rental amount ~~after~~ 35
27 days after ~~from the time~~ the vehicle or vessel is stored in
28 the wrecker company's storage facility therein if the vehicle
29 or vessel is more than 3 years of age or ~~after~~ 50 days after
30 ~~following the time~~ the vehicle or vessel is stored in the
31 wrecker company's storage facility therein if the vehicle or

1 vessel is 3 years of age or less. The sale must ~~shall~~ be at
2 public auction for cash. If the date of the sale is ~~was~~ not
3 included in the notice required in subsection (4), notice of
4 the sale must ~~shall~~ be given to the person in whose name the
5 vehicle or, ~~vessel, or mobile home~~ is registered, ~~to the~~
6 ~~mobile home park owner,~~ and to all persons claiming a lien on
7 the vehicle or vessel as shown on the records of the
8 Department of Highway Safety and Motor Vehicles or of the
9 corresponding agency in any other state. Notice must ~~shall~~ be
10 sent by certified mail, return receipt requested, to the owner
11 of the vehicle or vessel and the person having the recorded
12 lien on the vehicle or vessel at the address shown on the
13 records of the registering agency and must ~~shall~~ be mailed at
14 least ~~not less than~~ 15 days before the date of the sale. After
15 diligent search and inquiry, if the name and address of the
16 registered owner or the owner of the recorded lien cannot be
17 ascertained, the requirements of notice by mail may be
18 dispensed with. In addition to the notice by mail, public
19 notice of the time and place of sale must ~~shall~~ be made by
20 publishing a notice of the sale ~~thereof~~ one time, at least 10
21 days before ~~prior to~~ the date of the sale, in a newspaper of
22 general circulation in the county in which the sale is to be
23 held. The proceeds of the sale, after payment of reasonable
24 towing and storage charges and, costs of the sale, ~~and the~~
25 ~~unpaid lot rental amount,~~ in that order of priority, must
26 ~~shall~~ be deposited with the clerk of the circuit court for the
27 county if the owner is absent, and the clerk shall hold the
28 ~~such~~ proceeds subject to the claim of the person legally
29 entitled to those proceeds ~~thereto~~. The clerk is ~~shall be~~
30 entitled to receive 5 percent of the ~~such~~ proceeds for the
31 care and disbursement of the proceeds ~~thereof~~. The

1 certificate of title issued under this section must ~~law shall~~
2 be discharged of all liens unless otherwise provided by court
3 order.

4 (7)(a) A wrecker company, its wrecker operators, and
5 other employees or agents of the wrecker company ~~operator~~
6 recovering, towing, or storing vehicles or vessels are ~~is~~ not
7 liable for damages connected with those ~~such~~ services, theft
8 of the ~~such~~ vehicles or vessels, or theft of personal property
9 contained in the ~~such~~ vehicles or vessels, if those ~~provided~~
10 ~~that such~~ services are ~~have been~~ performed with reasonable
11 care and if provided, further, that, in the case of removal of
12 a vehicle or vessel upon the request of a person purporting,
13 and reasonably appearing, to be the property owner ~~or lessee,~~
14 ~~or a person authorized by the owner or lessee,~~ of the real
15 property from which the ~~such~~ vehicle or vessel is removed, the
16 ~~such~~ removal has been done in compliance with s. 715.07.
17 Further, a wrecker company, its wrecker operators, and other
18 employees or agents of the wrecker company are ~~operator is~~ not
19 liable for damage connected with those ~~such~~ services when
20 complying with the lawful directions of a law enforcement
21 officer to remove a vehicle stopped, standing, or parked upon
22 a street or highway in ~~such~~ a position that obstructs as to
23 ~~obstruct~~ the normal movement of traffic or that creates in
24 ~~such a condition as to create~~ a hazard to other traffic upon
25 the street or highway.

26 (b) Employees or authorized agents of an authorized or
27 unauthorized wrecker company, as defined in s. 321.051 or s.
28 323.002, may remove a vehicle or vehicle cargo from a public
29 road without consent of the owner or operator of the vehicle
30 or vehicle cargo upon request of a law enforcement officer as
31 defined in s. 112.531, a sheriff or deputy sheriff as defined

1 in s. 30.072, or a firefighter as defined in s. 112.81. The
2 employee or authorized agent of the wrecker company, its
3 wrecker operators, and other employees or agents of the
4 wrecker company, the law enforcement officer, sheriff, or
5 deputy sheriff, and the firefighters and emergency medical
6 services providers are not liable for any property damages or
7 claims of damage for the removal if the vehicle or vehicle
8 cargo is removed because it presents an imminent public-safety
9 hazard.

10 (c)~~(b)~~ For the purposes of this subsection, a wrecker
11 company, its wrecker operators, and other employees or agents
12 of the wrecker company are ~~operator is~~ presumed to use
13 reasonable care to prevent the theft of a vehicle or vessel or
14 of any personal property contained in the ~~such~~ vehicle stored
15 in the wrecker company's ~~operator's~~ storage facility if all of
16 the following apply:

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

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

24 3. The wrecker company ~~operator~~ uses one or more of
25 the following security methods to discourage theft of vehicles
26 or vessels or of any personal property contained in such
27 vehicles or vessels stored in the wrecker company's ~~operator's~~
28 storage facility:

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

31

1 b. A security dog remains at the storage facility from
2 sunset to sunrise;

3 c. Security cameras or other similar surveillance
4 devices monitor the storage facility; or

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

7 (d)(c) Any law enforcement agency requesting that a
8 motor vehicle be removed from an accident scene, street, or
9 highway must conduct an inventory and prepare a written record
10 of all personal property found in the vehicle before the
11 vehicle is removed by a wrecker operator. However, if the
12 owner or driver of the motor vehicle is present and
13 accompanies the vehicle, an ~~no~~ inventory by law enforcement is
14 not required. A wrecker company, its wrecker operators, and
15 other employees or agents of the wrecker company are ~~operator~~
16 ~~is~~ not liable for the loss of personal property alleged to be
17 contained in ~~such~~ a vehicle when the ~~such~~ personal property
18 was not identified on the inventory record prepared by the law
19 enforcement agency requesting the removal of the vehicle.

20 (8) A wrecker company and its wrecker operators,
21 excluding ~~person regularly engaged in the business of~~
22 ~~recovering, towing, or storing vehicles or vessels, except a~~
23 person licensed under chapter 493 while engaged in
24 "repossession" activities as defined in s. 493.6101, may not
25 operate a wrecker, ~~tow truck, or car carrier~~ unless the name,
26 address, and telephone number of the wrecker company
27 performing the wrecker services ~~service~~ is clearly printed in
28 contrasting colors on the driver and passenger sides of the
29 wrecker ~~its vehicle~~. The name must be in at least 3-inch
30 permanently affixed letters, and the address and telephone
31 number must be in at least 1-inch permanently affixed letters.

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

5 (10) Each wrecker company that provides ~~Persons who~~
6 ~~provide~~ services under ~~pursuant to~~ this section must ~~shall~~
7 permit vehicle or vessel owners or their agents, which agency
8 is evidenced by a writing acknowledged by the owner before a
9 notary public or other person empowered by law to administer
10 oaths, to inspect the towed vehicle or vessel and must ~~shall~~
11 release to the owner or agent all personal property not
12 affixed to the vehicle or vessel which was in the vehicle or
13 vessel at the time the vehicle or vessel came into the custody
14 of the wrecker company ~~person~~ providing those ~~such~~ services.

15 (11)(a) A wrecker company that ~~Any person~~ regularly
16 ~~engaged in the business of recovering, towing, or storing~~
17 ~~vehicles or vessels who~~ comes into possession of a vehicle or
18 vessel under ~~pursuant to~~ subsection (2) and that complies ~~who~~
19 ~~has complied with the provisions of~~ subsections (3) and (6),
20 when the ~~such~~ vehicle or vessel is to be sold for purposes of
21 being dismantled, destroyed, or changed in a such manner that
22 it is not the motor vehicle or ~~vessel, or mobile home~~
23 described in the certificate of title, must ~~shall~~ apply to the
24 county tax collector for a certificate of destruction. A
25 certificate of destruction, which authorizes the dismantling
26 or destruction of the vehicle or vessel described on the
27 certificate therein, is ~~shall be~~ reassignable no more than
28 twice ~~a maximum of two times~~ before dismantling or destruction
29 of the vehicle is ~~shall be~~ required, and the certificate must
30 ~~shall~~ accompany the vehicle or vessel for which it is issued,
31 when the ~~such~~ vehicle or vessel is sold for that purpose ~~such~~

1 ~~purposes~~, in lieu of a certificate of title. The application
2 for a certificate of destruction must include an affidavit
3 from the applicant that it has complied with all applicable
4 requirements of this section and, if the vehicle or vessel is
5 not registered in this state, by a statement from a law
6 enforcement officer that the vehicle or vessel is not reported
7 stolen, and must also ~~shall~~ be accompanied by any other ~~such~~
8 documentation ~~as may be~~ 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 such rules to administer ~~as it deems~~
15 ~~necessary or proper for the administration of~~ this subsection.

16 (12)(a) Any person who violates ~~any provision of~~
17 subsection (1), subsection (2), subsection (4), subsection
18 (5), subsection (6), or subsection (7) commits ~~is guilty of~~ a
19 misdemeanor of the first degree, punishable as provided in s.
20 775.082 or s. 775.083.

21 (b) Any person who violates ~~the provisions of~~
22 subsections (8) through (11) commits ~~is guilty of~~ a felony of
23 the third degree, punishable as provided in s. 775.082, s.
24 775.083, or s. 775.084.

25 (c) Any person who uses a false or fictitious name,
26 gives a false or fictitious address, or makes any false
27 statement in any application or affidavit required under ~~the~~
28 ~~provisions of this section~~ commits ~~is guilty of~~ a felony of
29 the third degree, punishable as provided in s. 775.082, s.
30 775.083, or s. 775.084.

31

1 (d) Employees of the Department of Highway Safety and
2 Motor Vehicles and law enforcement officers may ~~are authorized~~
3 ~~to inspect the records of each wrecker company in this state~~
4 ~~any person regularly engaged in the business of recovering,~~
5 ~~towing, or storing vehicles or vessels or transporting~~
6 ~~vehicles or vessels by wrecker, tow truck, or car carrier, to~~
7 ensure compliance with the requirements of this section. Any
8 person who fails to maintain records, or fails to produce
9 records when required in a reasonable manner and at a
10 reasonable time, commits a misdemeanor of the first degree,
11 punishable as provided in s. 775.082 or s. 775.083.

12 (13)(a) Upon receipt by the Department of Highway
13 Safety and Motor Vehicles of written notice from a wrecker
14 company operator who claims a wrecker company's operator's
15 lien under paragraph (2)(c) or paragraph (2)(d) for recovery,
16 towing, or storage of an abandoned vehicle or, vessel, or
17 ~~mobile home~~ upon instructions from any law enforcement agency,
18 for which a certificate of destruction has been issued under
19 subsection (11), the department shall place the name of the
20 registered owner of that vehicle or, vessel, or mobile home on
21 the list of those persons who may not be issued a license
22 plate or revalidation sticker for any motor vehicle under s.
23 320.03(8). If the vehicle or, vessel, or mobile home is owned
24 jointly by more than one person, the name of each registered
25 owner shall be placed on the list. The notice of wrecker
26 company's operator's lien shall be submitted on forms provided
27 by the department, which must include:

28 1. The name, address, and telephone number of the
29 wrecker company operator.

30 2. The name of the registered owner of the vehicle or,
31 ~~vessel, or mobile home~~ and the address to which the wrecker

1 company operator provided notice of the lien to the registered
2 owner under subsection (4).

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

6 4. The vehicle identification number (VIN);
7 registration license plate number, state, and year; validation
8 decal number, state, and year; ~~mobile home sticker number,~~
9 ~~state, and year; vessel registration number; hull~~
10 identification number; or other identification number, as
11 applicable.

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

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

17 (b) For purposes of this subsection only, the amount
18 of the wrecker company's ~~operator's~~ lien for which the
19 department will prevent issuance of a license plate or
20 revalidation sticker may not exceed the amount of the charges
21 for recovery, towing, and storage of the vehicle or, vessel,
22 ~~or mobile home~~ for 7 days. These charges may not exceed the
23 maximum rates imposed by the ordinances of the respective
24 county or municipality under ss. 125.0103(1)(c) and
25 166.043(1)(c). This paragraph does not limit the amount of a
26 wrecker company's ~~operator's~~ lien claimed under subsection (2)
27 or prevent a wrecker company operator from seeking civil
28 remedies for enforcement of the entire amount of the lien, but
29 limits only that portion of the lien for which the department
30 will prevent issuance of a license plate or revalidation
31 sticker.

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

6 a. The registered owner presents a notarized bill of
7 sale proving that the vehicle or, ~~vessel, or mobile home~~ was
8 sold in a private or casual sale before the vehicle or,
9 ~~vessel, or mobile home~~ was recovered, towed, or stored.

10 b. The registered owner presents proof that the
11 Florida certificate of title of the vehicle or, ~~vessel, or~~
12 ~~mobile home~~ was sold to a licensed dealer as defined in s.
13 319.001 before the vehicle or, ~~vessel, or mobile home~~ was
14 recovered, towed, or stored.

15 c. The records of the department were marked to
16 indicate that the vehicle or, ~~vessel, or mobile home~~ was sold
17 before the issuance of the certificate of destruction under
18 subsection (11).

19
20 If the registered owner's dispute of a wrecker company's
21 ~~operator's~~ lien complies with one of these criteria, the
22 department shall immediately remove the registered owner's
23 name from the list of those persons who may not be issued a
24 license plate or revalidation sticker for any motor vehicle
25 under s. 320.03(8), thereby allowing issuance of a license
26 plate or revalidation sticker. If the vehicle or, ~~vessel, or~~
27 ~~mobile home~~ is owned jointly by more than one person, each
28 registered owner must dispute the wrecker company's ~~operator's~~
29 lien in order to be removed from the list. However, the
30 department shall deny any dispute and maintain the registered
31 owner's name on the list of those persons who may not be

1 issued a license plate or revalidation sticker for any motor
2 vehicle under s. 320.03(8) if the wrecker company ~~operator~~ has
3 provided the department with a certified copy of the judgment
4 of a court which orders the registered owner to pay the
5 wrecker company's ~~operator's~~ lien claimed under this section.
6 In such a case, the amount of the wrecker company's ~~operator's~~
7 lien allowed by paragraph (b) may be increased to include no
8 more than \$500 of the reasonable costs and attorney's fees
9 incurred in obtaining the judgment. The department's action
10 under this subparagraph is ministerial in nature, shall not be
11 considered final agency action, and may be appealed only to
12 the county court for the county in which the vehicle or,
13 ~~vessel, or mobile home~~ was ordered removed.

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

1 Upon determining the respective rights of the parties, the
2 court may award damages and costs in favor of the prevailing
3 party.

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

28 4. A wrecker company's ~~operator's~~ lien expires 5 years
29 after filing.

30 (d) Upon discharge of the amount of the wrecker
31 company's ~~operator's~~ lien allowed by paragraph (b), the

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

20 (e) When a wrecker company ~~operator~~ files a notice of
21 wrecker operator's lien under this subsection, the department
22 shall charge the wrecker company ~~operator~~ a fee of \$2, which
23 must be deposited into the General Revenue Fund. A service
24 charge of \$2.50 shall be collected and retained by the tax
25 collector who processes a notice of wrecker company's
26 ~~operator's~~ lien.

27 (f) This subsection applies only to the annual renewal
28 in the registered owner's birth month of a motor vehicle
29 registration and does not apply to the transfer of a
30 registration of a motor vehicle sold by a motor vehicle dealer
31 licensed under chapter 320, except for the transfer of

1 registrations which is inclusive of the annual renewals. This
2 subsection does not apply to any vehicle registered in the
3 name of a lessor. This subsection does not affect the issuance
4 of the title to a motor vehicle, notwithstanding s.
5 319.23(7)(b).

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

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

12 Section 19. Effective January 1, 2005, section
13 713.785, Florida Statutes, is created to read:

14 713.785 Liens for recovering, towing, or storing
15 mobile homes.--

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

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

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

23 (c) "Property owner" has the same meaning ascribed in
24 s. 715.07.

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

28 (e) "Unpaid lot rental amount" means any unpaid
29 financial obligations of the mobile home owner or tenant to
30 the mobile home park owner.

31

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

3 (a) The owner of the mobile home;

4 (b) A law enforcement agency; or

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

8
9 the mobile home transport company has a lien on the mobile
10 home for a reasonable towing fee and for a reasonable storage
11 fee.

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

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

22 (5) A mobile home that is stored under subsection (2)
23 and that remains unclaimed, or for which reasonable charges
24 for recovery, towing, or storing remain unpaid or for which a
25 lot rental amount is due and owing to the mobile home park
26 owner, may be sold by the mobile home transport company for
27 the towing or storage charge and any unpaid lot rental amount
28 35 days after the mobile home is stored by a mobile home
29 transport company. The sale must be at public auction for
30 cash. Notice of the sale must be given to the person in whose
31 name the mobile home is registered, to the mobile home park

1 owner, and to all persons claiming a lien on the mobile home
2 as shown on the records of the Department of Highway Safety
3 and Motor Vehicles or of the corresponding agency in any other
4 state. Notice must be sent by certified mail, return receipt
5 requested, at least 15 days before the date of the sale. After
6 diligent search and inquiry, if the name and address of the
7 registered owner or the owner of the recorded lien cannot be
8 ascertained, the requirements of notice by mail may be
9 dispensed with. In addition to the notice by mail, public
10 notice of the time and place of sale must be made by
11 publishing a notice of the sale one time, at least 10 days
12 before the date of the sale, in a newspaper of general
13 circulation in the county in which the sale is to be held. The
14 proceeds of the sale, after payment of reasonable towing and
15 storage charges, costs of the sale, and the unpaid lot rental
16 amount, as evidenced by an affidavit executed by the mobile
17 home park owner or the owner's agent, in that order of
18 priority, must be deposited with the clerk of the circuit
19 court for the county if the owner is absent, and the clerk
20 shall hold the proceeds subject to the claim of the person
21 legally entitled to those proceeds. The clerk is entitled to
22 receive 5 percent of the proceeds for the care and
23 disbursement of the proceeds.

24 (6) Neither the mobile home transport company, the
25 landlord or his or her agent, nor any subsequent purchaser for
26 value is responsible to the tenant or any other party for
27 loss, destruction, or damage to the mobile home or other
28 personal property after coming into possession of the mobile
29 home pursuant to this section.

30 (7)(a) A mobile home transport company that comes into
31 possession of a mobile home under subsection (2) and that

1 complies with subsection (3), if the mobile home is to be sold
2 for purposes of being dismantled, destroyed, or changed so
3 that it is not the mobile home described in the certificate of
4 title, must apply to the county tax collector for a
5 certificate of destruction. A certificate of destruction,
6 which authorizes the dismantling or destruction of the mobile
7 home described in the certificate, is reassignable no more
8 than twice before dismantling or destruction of the mobile
9 home is required, and the certificate must accompany the
10 mobile home for which it is issued when the mobile home is
11 sold for that purpose, in lieu of a certificate of title. The
12 application for a certificate of destruction must include an
13 affidavit from the applicant that it has complied with all
14 applicable requirements of this section; must, if the mobile
15 home is not registered in this state, include a statement from
16 a law enforcement officer that the mobile home is not reported
17 stolen; and must be accompanied by any other documentation
18 required by the department.

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

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

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

29 (8)(a) Upon receipt by the Department of Highway
30 Safety and Motor Vehicles of written notice from a mobile home
31 transport company that claims a lien under paragraph (2)(c) or

1 paragraph (2)(d) for recovery, towing, or storage, upon
2 instructions from any law enforcement agency, of a mobile home
3 for which a certificate of destruction has been issued under
4 subsection (7), the department shall place the name of the
5 registered owner of that mobile home on the list of those
6 persons who may not be issued a revalidation sticker under s.
7 320.03. If the mobile home is owned jointly by more than one
8 person, the name of each registered owner must be placed on
9 the list. The notice of lien must be submitted on forms
10 provided by the department, which must include:

11 1. The name, address, and telephone number of the
12 mobile home transport company.

13 2. The name of the registered owner of the mobile home
14 and the address to which the mobile home transport company
15 provided notice of the lien to the registered owner under
16 subsection (3).

17 3. A general description of the mobile home, including
18 its color, make, model, and year.

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

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

24 6. The amount of the lien, which may not exceed the
25 amount allowed by paragraph (b).

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

1 respective county or municipality under ss. 125.0103(1)(c) and
2 166.043(1)(c). This paragraph does not limit the amount of a
3 mobile home transport company's lien claimed under subsection
4 (2) or prevent a mobile home transport company 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 revalidation sticker.

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

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

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

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

23
24 If the registered owner's dispute of a mobile home transport
25 company's lien complies with one of these criteria, the
26 department shall immediately remove the registered owner's
27 name from the list of those persons who may not be issued a
28 revalidation sticker under s. 320.03. If the mobile home is
29 owned jointly by more than one person, each registered owner
30 must dispute the mobile home transport company's lien in order
31 to be removed from the list. However, the department shall

1 deny any dispute and maintain the registered owner's name on
2 the list of those persons who may not be issued a revalidation
3 sticker if the motor home transport company has provided the
4 department with a certified copy of the judgment of a court
5 which orders the registered owner to pay the mobile home
6 transport company's lien claimed under this section. In such a
7 case, the amount of the mobile home transport company's lien
8 allowed under paragraph (b) may be increased to include no
9 more than \$500 of the reasonable costs and attorney's fees
10 incurred in obtaining the judgment. The department's action
11 under this subparagraph is ministerial in nature, is not final
12 agency action, and may be appealed only to the county court
13 for the county in which the mobile home was ordered removed.

14 2. A person against whom a mobile home transport
15 company's lien has been imposed may alternatively obtain a
16 discharge of the lien by filing a complaint challenging the
17 validity of the lien, or the amount thereof, in the county
18 court of the county in which the mobile home was ordered
19 removed. Upon filing the complaint, the person may have her or
20 his name removed from the list of those persons who may not be
21 issued a revalidation sticker under s. 320.03 upon posting
22 with the court a cash or surety bond or other adequate
23 security equal to the amount of the mobile home transport
24 company's lien to ensure the payment of the lien if she or he
25 does not prevail. Upon the posting of the bond and the payment
26 of the applicable fee set forth in s. 28.24, the clerk of the
27 court shall issue a certificate notifying the department of
28 the posting of the bond and directing the department to
29 release the mobile home transport company's lien. Upon
30 determining the respective rights of the parties, the court
31 may award damages and costs in favor of the prevailing party.

1 3. If a person against whom a mobile home transport
2 company's lien has been imposed does not object to the lien
3 but cannot discharge the lien by payment because the mobile
4 home transport company has moved or gone out of business, the
5 person may have her or his name removed from the list of those
6 persons who may not be issued a revalidation sticker under s.
7 320.03 upon posting with the clerk of the court in the county
8 in which the mobile home was ordered removed a cash or surety
9 bond or other adequate security equal to the amount of the
10 mobile home transport company's lien. Upon the posting of the
11 bond and the payment of the application fee set forth in s.
12 28.24, the clerk of the court shall issue a certificate
13 notifying the department of the posting of the bond and
14 directing the department to release the mobile home transport
15 company's lien. The department shall mail to the mobile home
16 transport company, at the address on the lien form, notice
17 that the mobile home transport company must claim the security
18 within 60 days or the security will be released to the person
19 who posted it. At the conclusion of the 60 days, the
20 department shall direct the clerk as to which party is
21 entitled to payment of the security, less applicable clerk's
22 fees.

23 4. A mobile home transport company's lien expires 5
24 years after filing.

25 (d) Upon discharge of the amount of the mobile home
26 transport company's lien allowed under paragraph (b), the
27 mobile home transport company must issue a certificate of
28 discharged lien on a form provided by the department to each
29 registered owner of the mobile home, attesting that the amount
30 of the mobile home transport company's lien allowed under
31 paragraph (b) has been discharged. Upon presentation of the

1 certificate of discharged lien by the registered owner, the
2 department shall immediately remove the registered owner's
3 name from the list of those persons who may not be issued a
4 revalidation sticker under s. 320.03. Issuance of a
5 certificate of discharged lien under this paragraph does not
6 discharge the entire amount of the mobile home transport
7 company's lien claimed under subsection (2), but certifies to
8 the department only that the amount of the mobile home
9 transport company's lien allowed under paragraph (b), for
10 which the department will prevent issuance of a revalidation
11 sticker, has been discharged.

12 (e) When a mobile home transport company files a
13 notice of lien under this subsection, the department shall
14 charge the mobile home transport company a fee of \$2, which
15 must be deposited into the General Revenue Fund. The tax
16 collector who processes a notice of lien shall collect and
17 retain a service charge of \$2.50.

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

21 Section 20. Paragraph (a) of subsection (1) of section
22 319.30, Florida Statutes, is amended to read:

23 319.30 Definitions; dismantling, destruction, change
24 of identity of motor vehicle or mobile home; salvage.--

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

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

28 Section 21. Section 713.69, Florida Statutes, is
29 amended to read:

30 713.69 Unlawful to remove property upon which lien has
31 accrued.--It is unlawful for any person to remove any property

1 upon which a lien has accrued under the provisions of s.
2 713.68, s. 713.77, or s. 713.785 from any mobile home park,
3 hotel, apartment house, roominghouse, lodginghouse,
4 boardinghouse or tenement house without first making full
5 payment to the person operating or conducting the same of all
6 sums due and payable for such occupancy or without first
7 having the written consent of such person so conducting or
8 operating such place to so remove such property. Any person
9 violating the provisions of this section shall, if the
10 property removed in violation hereof be of the value of \$50 or
11 less, be guilty of a misdemeanor of the second degree,
12 punishable as provided in s. 775.082 or s. 775.083; and if the
13 property so removed should be of greater value than \$50 then
14 such person shall be guilty of a felony of the third degree,
15 punishable as provided in s. 775.082, s. 775.083, or s.
16 775.084.

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

19 715.07 Vehicles and vessels parked on real private
20 property without permission; towing.--

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

22 (a) "Property owner" means an owner or lessee of real
23 property, or a person authorized by the owner or lessee, which
24 person may be the designated representative of the condominium
25 association if the real property is a condominium.

26 (b) "Vehicle" has the same meaning ascribed in s.
27 508.01 means any mobile item which normally uses wheels,
28 whether motorized or not.

29 (c) "Vessel" has the same meaning ascribed in s.
30 508.01.

31

1 (d) "Wrecker company" has the same meaning ascribed in
2 s. 508.01.

3 (e) "Wrecker operator" has the same meaning ascribed
4 in s. 508.01.

5 (2) A property owner ~~The owner or lessee of real~~
6 ~~property, or any person authorized by the owner or lessee,~~
7 ~~which person may be the designated representative of the~~
8 ~~condominium association if the real property is a condominium,~~
9 ~~may cause a any vehicle or vessel parked on her or his such~~
10 ~~property without her or his permission to be removed by a~~
11 ~~wrecker company registered under chapter 508 person regularly~~
12 ~~engaged in the business of towing vehicles, without liability~~
13 ~~for the costs of removal, transportation, or storage or~~
14 ~~damages caused by the ~~such~~ removal, transportation, or~~
15 ~~storage, under any of the following circumstances:~~

16 (a) The towing or removal of any vehicle or vessel
17 ~~from real ~~private~~ property without the consent of the~~
18 ~~registered owner or other legally authorized person in control~~
19 ~~of that vehicle or vessel is subject to strict compliance with~~
20 ~~the following conditions and restrictions:~~

21 1.a. Any towed or removed vehicle or vessel must be
22 stored at a storage facility ~~site~~ within a 10-mile radius ~~10~~
23 ~~miles~~ of the point of removal in any county of 500,000
24 population or more, and within a 15-mile radius ~~15 miles~~ of
25 the point of removal in any county of less than 500,000
26 population. The wrecker company's storage facility ~~That site~~
27 ~~must be open for the purpose of redemption of vehicles and~~
28 ~~vessels on any day that the wrecker company ~~person or firm~~~~
29 ~~towing the ~~such~~ vehicle or vessel is open for towing purposes,~~
30 ~~from 8 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when closed, must ~~shall~~~~
31 ~~have prominently posted a sign indicating a telephone number~~

1 where the operator of the storage facility site can be reached
2 at all times. Upon receipt of a telephoned request to open
3 the storage facility site to redeem a vehicle or vessel, the
4 operator shall return to the storage facility site within 1
5 hour or she or he ~~is will be~~ in violation of this section.

6 b. If a wrecker company ~~no towing business providing~~
7 ~~such service~~ is not located within the area of towing
8 limitations ~~set forth~~ in sub-subparagraph a., the following
9 limitations apply: any towed or removed vehicle or vessel
10 must be stored at a storage facility site within a 20-mile
11 radius ~~20 miles~~ of the point of removal in any county of
12 500,000 population or more, and within a 30-mile radius ~~30~~
13 ~~miles~~ of the point of removal in any county of less than
14 500,000 population.

15 2. The wrecker company ~~person or firm~~ towing or
16 removing the vehicle or vessel ~~must shall~~, within 30 minutes
17 ~~after of~~ completion of that such towing or removal, notify the
18 municipal police department or, in an unincorporated area, the
19 sheriff of that such towing or removal; ~~the location of the~~
20 ~~storage facility; site,~~ the time the vehicle or vessel was
21 towed or removed; ~~and the make, model, color, and license~~
22 ~~plate number of the vehicle or the make, model, color, and~~
23 registration number of the vessel. The wrecker company must
24 also and shall obtain the name of the person at that
25 department to whom this such information ~~is was~~ reported and
26 note that name on the trip record.

27 3. If the registered owner or other legally authorized
28 person in control of the vehicle or vessel arrives at the
29 scene before ~~prior to removal or towing of the vehicle or~~
30 vessel is towed or removed, the wrecker company must
31 disconnect the vehicle or vessel ~~shall be disconnected~~ from

1 the wrecker towing or removal apparatus, and must allow that
2 person ~~shall be allowed~~ to remove the vehicle or vessel
3 without interference upon the payment of a reasonable service
4 fee of not more than one-half of the posted rate for those
5 services such towing service as provided in subparagraph 6.,
6 for which a receipt shall be given, unless that person refuses
7 to remove the vehicle or vessel that ~~which~~ is otherwise
8 unlawfully parked or located.

9 4. A wrecker company, a wrecker operator, or another
10 employee or agent of a wrecker company may not give a ~~The~~
11 rebate or pay payment of money or any other valuable
12 consideration from the individual or firm towing or removing
13 vehicles to the property owner owners or operators of the
14 premises from which a vehicle or vessel is ~~the vehicles are~~
15 towed or removed, for the privilege of removing or towing the
16 vehicle or vessel those vehicles, is prohibited. A property
17 owner may not solicit a wrecker company, a wrecker operator,
18 or another employee or agent of a wrecker company to give him
19 or her a rebate or the payment of money or other valuable
20 consideration for the privilege of removing or towing a
21 vehicle from his or her premises.

22 5. Except for property appurtenant to and obviously a
23 part of a single-family residence, and except for instances
24 when notice is personally given to the owner or other legally
25 authorized person in control of the vehicle or vessel that the
26 area in which that vehicle or vessel is parked is reserved or
27 otherwise unavailable for unauthorized vehicles or vessels and
28 subject to being removed at the owner's or operator's expense,
29 any property owner ~~or lessee, or person authorized by the~~
30 ~~property owner or lessee, before~~ prior to towing or removing
31 any vehicle or vessel from real ~~private~~ property without the

1 consent of the owner or other legally authorized person in
2 control of that vehicle or vessel, must post a notice meeting
3 the following requirements:

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

10 b. The notice must clearly indicate, in not less than
11 2-inch high, light-reflective letters on a contrasting
12 background, that unauthorized vehicles will be towed away at
13 the owner's expense. The words "tow-away zone" must be
14 included on the sign in not less than 4-inch high letters.

15 c. The notice must also provide the name and current
16 telephone number of the wrecker company ~~person or firm~~ towing
17 or removing the vehicles, if the property owner, ~~lessee, or~~
18 ~~person in control~~ of the real property has a written contract
19 with the wrecker towing company.

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

26 e. The local government may require permitting and
27 inspection of these signs prior to any towing or removal of
28 vehicles being authorized.

29 f. A business with 20 or fewer parking spaces
30 satisfies the notice requirements of this subparagraph by
31 prominently displaying a sign stating "Reserved Parking for

1 Customers Only Unauthorized Vehicles Will be Towed Away At the
2 Owner's Expense" in not less than 4-inch high,
3 light-reflective letters on a contrasting background.

4 g. A property owner towing or removing vessels from
5 real property must post notice, consistent with the
6 requirements in sub-subparagraphs a.-f. which apply to
7 vehicles, that unauthorized vehicles or vessels will be towed
8 away at the owner's expense.

9
10 A business owner or lessee may authorize the removal of a
11 vehicle or vessel by a wrecker towing company registered under
12 chapter 508 when the vehicle or vessel is parked in ~~such~~ a
13 manner that restricts the normal operation of business; and if
14 a vehicle or vessel parked on a public right-of-way obstructs
15 access to a private driveway the owner, lessee, or agent may
16 have the vehicle or vessel removed by a wrecker towing company
17 registered under chapter 508 upon signing an order that the
18 vehicle or vessel be removed without a posted tow-away zone
19 sign.

20 6. Each wrecker company ~~Any person or firm~~ that tows
21 or removes vehicles or vessels and proposes to require an
22 owner, operator, or person in control of a vehicle or vessel
23 to pay the costs of towing and storage prior to redemption of
24 the vehicle or vessel must file and keep on record with the
25 local law enforcement agency a complete copy of the current
26 rates to be charged for those ~~such~~ services and post at the
27 wrecker company's storage facility ~~site~~ an identical rate
28 schedule and any written contracts with property owners,
29 lessees, or persons in control of real property which
30 authorize the wrecker company ~~such person or firm~~ to remove
31 vehicles or vessels as provided in this section.

1 7. Each wrecker company ~~Any person or firm~~ towing or
2 removing any vehicles or vessels from real private property
3 without the consent of the owner or other legally authorized
4 person in control of the vehicles must shall, on each wrecker
5 ~~any trucks, wreckers~~ as defined in s. 320.01 s. 713.78(1)(c),
6 ~~or other vehicles~~ used in ~~the~~ towing or removal, have the
7 name, address, and telephone number of the wrecker company
8 ~~performing such service~~ clearly printed in contrasting colors
9 on the driver and passenger sides of the wrecker vehicle. The
10 name must shall be in at least 3-inch permanently affixed
11 letters, and the address and telephone number must shall be in
12 at least 1-inch permanently affixed letters.

13 8. Vehicle or vessel entry for the purpose of towing
14 or removing the vehicle or vessel is ~~shall be~~ allowed with
15 reasonable care by on the part of the wrecker company and the
16 wrecker operators person or firm towing the vehicle or vessel
17 for the wrecker company. A wrecker company, its wrecker
18 operators, and other employees or agents of the wrecker
19 company are not ~~Such person or firm shall be~~ liable for any
20 damage occasioned to the vehicle or vessel if ~~such~~ entry to
21 the vehicle or vessel is performed ~~not in accordance~~ with the
22 ~~standard of~~ reasonable care.

23 9. When a vehicle or vessel is ~~has been~~ towed or
24 removed under pursuant to this section, the wrecker company it
25 must release the vehicle or vessel be released to its owner or
26 custodian within one hour after requested. Any vehicle or
27 vessel owner, custodian, or agent ~~has shall have~~ the right to
28 inspect the vehicle or vessel before accepting its return. A
29 wrecker company may not require any vehicle or vessel owner,
30 custodian, or agent to, and no release the wrecker company or
31 ~~waiver of any kind which would release the person or firm~~

1 towing the vehicle or vessel from liability for damages noted
2 by the owner or other legally authorized person at the time of
3 the redemption ~~may be required from any vehicle owner,~~
4 ~~custodian, or agent~~ as a condition of release of the vehicle
5 or vessel to its owner. A wrecker company must give a person
6 paying towing and storage charges under this section a
7 detailed, signed receipt showing the legal name of the wrecker
8 ~~company or person towing or removing the vehicle must be given~~
9 ~~to the person paying towing or storage charges~~ at the time of
10 payment, whether requested or not.

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

16 (3) This section does not apply to vehicles or vessels
17 that are reasonably identifiable from markings as law
18 enforcement, firefighting, rescue squad, ambulance, or other
19 emergency vehicles or vessels ~~which are marked as such~~ or to
20 property owned by any governmental entity.

21 (4) When a person improperly causes a vehicle or
22 vessel to be removed, that ~~such~~ person is ~~shall be~~ liable to
23 the owner or lessee of the vehicle or vessel for the cost of
24 removal, transportation, and storage; any damages resulting
25 from the removal, transportation, or storage of the vehicle or
26 vessel; attorneys' fees; and court costs.

27 (5) Failure to make good-faith efforts to comply with
28 the notice requirements in subparagraph (2)(a)5. precludes the
29 imposition of any towing or storage charges against the
30 vehicle or vessel.

31

1 ~~(6)(5)~~(a) Any person who violates ~~the provisions of~~
2 subparagraph (2)(a)2. or subparagraph (2)(a)6. commits is
3 ~~guilty of~~ a misdemeanor of the first degree, punishable as
4 provided in s. 775.082 or s. 775.083.

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

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

12 Section 24. The sum of \$595,000 is appropriated from
13 the General Inspection Trust Fund to the Department of
14 Agriculture and Consumer Services, and 9 additional
15 full-time-equivalent positions are authorized, for the purpose
16 of implementing this act during the 2004-2005 fiscal year.

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

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 684

4 The CS specifies franchised auto dealers are excepted from the
5 requirement to register as a wrecker company. Fingerprinting
6 used in the application for registration must be performed by
7 a law enforcement agency with state and federal processing
8 fees borne by the applicant. The CS reduces the instances when
9 the DACS must report changes to a wrecker company's
10 registration to suspensions and revocations. Notification must
11 be made within 10 days. Advertisements used by the wrecker
12 company must include the wrecker company registration number.
13 Wrecker companies are required to accept 2 of the following 3
14 forms of payment:

- 15 1. Cash, cashier's check, or money order,
- 16 2. Valid personal check, or
- 17 3. Valid credit card.

18 The DACS shall establish a continuing educational program in
19 consultation with the council. Operators who complete the
20 course or pass an approved recertification examination must be
21 issued a certificate indicating so.

22 Regarding a lengthy list of violations, the CS broadens their
23 application to any person rather than only wrecker companies
24 and broadens the application of administrative penalties to
25 anyone found to have violated the provisions of this chapter.

26 The DACS may enter agreements with counties and cities for
27 local enforcement of this act.

28 Wrecker companies must maintain records of their services and
29 continuing educational requirements for at least 12 months.

30 The CS removes FDOT from those persons authorized under this
31 act to remove a vehicle or cargo from the roadway without the
consent of the owner. Section 713.785, F.S., is created to
provide for the placement of liens on mobile homes and their
contents that have been legally recovered, removed, or stored
for any amount of time by a mobile home transport company.
Mobile home transport companies are required to give notice to
registered owners and lien holders after taking possession.
Owners of mobile homes that have had a lien placed against
them shall have their names placed on a list that prevents
them from having a mobile home revalidation sticker issued.
The name may be removed from the list by discharging the lien
through payment or posting a bond in connection with a
challenge. Mobile homes that remain unclaimed or for which
recovery, towing, storage, or lot rental fees remain unpaid,
may be sold at public auction after suitable notice. Mobile
home transport companies, landlords, or subsequent purchasers
are not responsible to the tenant for loss of or damage to the
mobile home or other personal property. If the mobile home is
to be sold for dismantling or destruction, the transport
company must obtain a certificate of destruction from the
county tax collector. The amendment allows the DHSMV to adopt

1 rules to administer this section.
2 The CS also revises Section 713.69, F.S., making it unlawful
3 to remove from any mobile home park, any property which has
4 had a lien place against it.
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