

Bill No. SB 276

Barcode 284210

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Lawson) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Effective January 1, 2006, paragraph (b) of subsection (8) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements;
agencies.--

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

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

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1 | director of the Division of the Florida Highway Patrol.

2 | Section 2. Effective January 1, 2006, section
3 | 205.1975, Florida Statutes, is created to read:

4 | 205.1975 Wrecker companies; consumer protection.--A
5 | county or municipality may not issue or renew an occupational
6 | license for the operation of a wrecker company under chapter
7 | 508 unless the wrecker company exhibits a current registration
8 | from the Department of Agriculture and Consumer Services.

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

11 | 316.530 Towing requirements.--

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

21 | Section 4. For the purpose of incorporating the
22 | amendment made by this act to section 320.01, Florida
23 | Statutes, in references thereto, subsection (4) of section
24 | 316.550, Florida Statutes, is reenacted to read:

25 | 316.550 Operations not in conformity with law; special
26 | permits.--

27 | (4)(a) The Department of Transportation may issue a
28 | wrecker special blanket permit to authorize a wrecker as
29 | defined in s. 320.01(40) to tow a disabled vehicle as defined
30 | in s. 320.01(38) where the combination of the wrecker and the
31 | disabled vehicle being towed exceeds the maximum weight limits

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1 as established by s. 316.535.

2 (b) The Department of Transportation must supply the
3 permitted wrecker with a map showing the routes on which the
4 wrecker may safely tow disabled vehicles for all special
5 permit classifications for which the wrecker applies.

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

8 316.605 Licensing of vehicles.--

9 (1) Every vehicle, at all times while driven, stopped,
10 or parked upon any highways, roads, or streets of this state,
11 shall be licensed in the name of the owner thereof in
12 accordance with the laws of this state unless such vehicle is
13 not required by the laws of this state to be licensed in this
14 state and shall, except as otherwise provided in s. 320.0706
15 for front-end registration license plates on truck tractors or
16 wreckers, display the license plate or both of the license
17 plates assigned to it by the state, one on the rear and, if
18 two, the other on the front of the vehicle, each to be
19 securely fastened to the vehicle outside the main body of the
20 vehicle in such manner as to prevent the plates from swinging,
21 and with all letters, numerals, printing, writing, and other
22 identification marks upon the plates regarding the word
23 "Florida," the registration decal, and this alphanumeric
24 designation shall be clear and distinct and free from
25 defacement, mutilation, grease, and other obscuring matter, so
26 that they will be plainly visible and legible at all times 100
27 feet from the rear or front. In addition, if only one
28 registration plate is issued for a motor vehicle that is
29 equipped with a mechanical loading device that may damage the
30 plate, the plate may be attached to the front of the vehicle.
31 Nothing shall be placed upon the face of a Florida plate

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1 | except as permitted by law or by rule or regulation of a
2 | governmental agency. No license plates other than those
3 | furnished by the state shall be used. However, if the vehicle
4 | is not required to be licensed in this state, the license
5 | plates on such vehicle issued by another state, by a
6 | territory, possession, or district of the United States, or by
7 | a foreign country, substantially complying with the provisions
8 | hereof, shall be considered as complying with this chapter. A
9 | government license plate that is issued to a truck tractor or
10 | heavy truck having a gross vehicle weight of 26,001 pounds or
11 | more which is owned by a governmental entity may be placed on
12 | the front of the vehicle and is in compliance with this
13 | chapter. A violation of this subsection is a noncriminal
14 | traffic infraction, punishable as a nonmoving violation as
15 | provided in chapter 318.

16 | Section 6. Subsection (40) of section 320.01, Florida
17 | Statutes, is amended to read:

18 | 320.01 Definitions, general.--As used in the Florida
19 | Statutes, except as otherwise provided, the term:

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

25 | Section 7. Effective January 1, 2006, subsection (8)
26 | of section 320.03, Florida Statutes, is amended to read:

27 | 320.03 Registration; duties of tax collectors;
28 | International Registration Plan.--

29 | (8) If the applicant's name appears on the list
30 | referred to in s. 316.1001(4), s. 316.1967(6), or s.
31 | 713.78(13), a license plate or revalidation sticker may not be

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

26 Section 8. Section 320.0706, Florida Statutes, is
27 amended to read:

28 320.0706 Display of license plates on trucks.--The
29 owner of any commercial truck of gross vehicle weight of
30 26,001 pounds or more shall display the registration license
31 plate on both the front and rear of the truck in conformance

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1 with all the requirements of s. 316.605 that do not conflict
 2 with this section. However, the owner of a truck tractor or a
 3 wrecker must ~~shall be required to~~ display the registration
 4 license plate only on the front of such vehicle.

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

10 320.08 License taxes.--Except as otherwise provided
 11 herein, there are hereby levied and imposed annual license
 12 taxes for the operation of motor vehicles, mopeds, motorized
 13 bicycles as defined in s. 316.003(2), and mobile homes, as
 14 defined in s. 320.01, which shall be paid to and collected by
 15 the department or its agent upon the registration or renewal
 16 of registration of the following:

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

19 (d) A wrecker, as defined in s. 320.01(40), which is
 20 used to tow a vessel as defined in s. 327.02(36), a disabled,
 21 abandoned, stolen-recovered, or impounded motor vehicle as
 22 defined in s. 320.01(38), or a replacement motor vehicle as
 23 defined in s. 320.01(39): \$30 flat.

24 (e) A wrecker, as defined in s. 320.01(40), which is
 25 used to tow any motor vehicle, regardless of whether or not
 26 such motor vehicle is a disabled motor vehicle as defined in
 27 s. 320.01(38), a replacement motor vehicle as defined in s.
 28 320.01(39), a vessel as defined in s. 327.02(36), or any other
 29 cargo, as follows:

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

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

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

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

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

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

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

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

15 9. Gross vehicle weight of 72,000 pounds or more:
16 \$979 flat.

17 Section 10. Subsection (1) of section 320.0821,
18 Florida Statutes, is amended, and subsection (5) is added to
19 that section, to read:

20 320.0821 Wrecker license plates.--

21 (1) The department shall issue one a wrecker license
22 plate, regardless of gross vehicle weight, to the owner of any
23 motor vehicle that is used to tow, carry, or otherwise
24 transport motor vehicles and that is equipped for that purpose
25 with a boom, winch, carrier, or other similar equipment,
26 except a motor vehicle registered under the International
27 Registration Plan, upon application and payment of the
28 appropriate license tax and fees in accordance with s.
29 320.08(5)(d) or (e).

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

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1 Section 11. Effective January 1, 2006, subsection (1)
2 of section 320.0821, Florida Statutes, as amended by this act,
3 is amended to read:

4 320.0821 Wrecker license plates.--

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

18 Section 12. Paragraph (a) of subsection (1) of section
19 320.13, Florida Statutes, is amended to read:

20 320.13 Dealer and manufacturer license plates and
21 alternative method of registration.--

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

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1 demonstrated for sale, and the dealer license plates may not
2 be used on a vehicle used to transport another motor vehicle
3 for the motor vehicle dealer.

4 Section 13. Effective January 1, 2006, section
5 321.051, Florida Statutes, is amended to read:

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

8 321.051 Florida Highway Patrol wrecker allocation
9 system; penalties for operation outside of system.--

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

11 (a) "Division" means the Division of the Florida
12 Highway Patrol within the Department of Highway Safety and
13 Motor Vehicles.

14 (b) "Authorized wrecker company" means a wrecker
15 company designated by the division as part of its wrecker
16 allocation system.

17 (c) "Unauthorized wrecker company" means a wrecker
18 company not designated by the division as part of its wrecker
19 allocation system.

20 (d) "Wrecker company" has the same meaning ascribed in
21 s. 508.01.

22 (e) "Wrecker operator" has the same meaning ascribed
23 in s. 508.01.

24 (f) "Wrecker services" has the same meaning ascribed
25 in s. 508.01.

26 (2)(a) The division may establish within areas
27 designated by the division a wrecker allocation system, using
28 qualified, reputable wrecker companies, for the removal from
29 crash scenes and the storage of wrecked or disabled vehicles
30 when the owner or operator is incapacitated, unavailable, or
31 leaves the procurement of wrecker services to the officer at

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1 the scene and for the removal and storage of abandoned
2 vehicles.

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

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

19 (d) Notwithstanding chapter 120, a final order of the
20 department denying, suspending, or revoking a wrecker
21 company's participation in the wrecker allocation system may
22 be appealed only in the manner and within the time provided by
23 the Florida Rules of Appellate Procedure by a writ of
24 certiorari issued by the circuit court in the county in which
25 the wrecker company's primary place of business is located, as
26 evidenced by the wrecker company's registration under chapter
27 508.

28 (3)(a) An unauthorized wrecker company, its wrecker
29 operators, or its other employees or agents may not monitor a
30 police radio for communications between patrol field units and
31 the dispatcher in order to determine the location of a wrecked

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1 or disabled vehicle for the purpose of dispatching its wrecker
 2 operator to drive by the scene of the vehicle in a manner
 3 described in paragraph (b) or paragraph (c). Any person who
 4 violates this paragraph commits a noncriminal violation,
 5 punishable as provided in s. 775.083.

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

14 (c) When a wrecker operator dispatched by an
 15 unauthorized wrecker company drives by the scene of a wrecked
 16 or disabled vehicle and the owner or operator initiates
 17 contact by signaling the wrecker operator to stop and provide
 18 wrecker services, the wrecker operator must disclose to the
 19 owner or operator of the vehicle that he or she was not
 20 dispatched by the authorized wrecker company designated as
 21 part of the wrecker allocation system and must disclose, in
 22 writing, what charges for towing and storage will apply before
 23 the vehicle is connected to the towing apparatus. Any person
 24 who violates this paragraph commits a misdemeanor of the
 25 second degree, punishable as provided in s. 775.082 or s.
 26 775.083.

27 (d) A wrecker operator may not falsely identify
 28 himself or herself as being part of, or as being employed by a
 29 wrecker company that is part of, the wrecker allocation system
 30 at the scene of a wrecked or disabled vehicle. Any person who
 31 violates this paragraph commits a misdemeanor of the first

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

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

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

30 Section 14. Effective January 1, 2006, section
31 323.001, Florida Statutes, is amended to read:

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1 (Substantial rewording of section. See

2 s. 323.001, F.S., for present text.)

3 323.001 Wrecker company storage facilities; vehicle

4 holds.--

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

6 (a) "Business day" means a day other than a Saturday,

7 Sunday, or federal or state legal holiday.

8 (b) "Wrecker company" has the same meaning ascribed in

9 s. 508.01.

10 (2) A law enforcement agency may place a hold on a

11 motor vehicle stored within a wrecker company's storage

12 facility for 5 business days, thereby preventing a motor

13 vehicle from being released to its owner.

14 (3) To extend a hold, the law enforcement agency must

15 notify the wrecker company in writing within the 5 business

16 days. If notification is not made within the 5 business days,

17 the wrecker company must release the vehicle to the designated

18 person under s. 713.78.

19 (a) If the hold is extended beyond the 5 business

20 days, the law enforcement agency may have the vehicle removed

21 to a designated impound lot, in which event the vehicle may

22 not be released by the law enforcement agency to the owner or

23 lienholder of the vehicle until proof of payment of the towing

24 and storage charges incurred by the wrecker company is

25 presented to the law enforcement agency.

26 (b) If the law enforcement agency chooses to have the

27 vehicle remain at the wrecker company's storage facility for

28 more than 5 business days under the written notification, the

29 law enforcement agency is responsible for paying the storage

30 charges incurred by the wrecker company for the requested

31 extended period. In such an event, the owner or lienholder is

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1 responsible for paying the accrued towing and storage charges
 2 for the first 5 business days, or any period less than the
 3 first 5 business days, if the law enforcement agency moves the
 4 vehicle from the wrecker company's storage facility to a
 5 designated impound lot or provides written notification to
 6 extend the hold on the vehicle before the expiration of the 5
 7 business days.

8 (c) The towing and storage rates for the owner or
 9 lienholder of the held vehicle may not exceed the rates for
 10 the law enforcement agency.

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

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

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

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

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

26 (d) The law enforcement officer has probable cause to
 27 believe that the vehicle is itself evidence that tends to show
 28 that a crime has been committed or that the vehicle contains
 29 evidence, which cannot readily be removed, which tends to show
 30 that a crime has been committed;

31 (e) The law enforcement officer has probable cause to

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1 believe that the vehicle was involved in a traffic accident
2 resulting in death or personal injury and should be sealed for
3 investigation and collection of evidence by a vehicular
4 homicide investigator;

5 (f) The vehicle is impounded or immobilized under s.
6 316.193 or s. 322.34; or

7 (g) The law enforcement officer is complying with a
8 court order.

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

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

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

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

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

20 (e) The condition of the vehicle;

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

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

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

30 (8) When a vehicle owner is found guilty of, or pleads
31 nolo contendere to, the offense that resulted in a hold being

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1 placed on his or her vehicle, regardless of the adjudication
2 of guilt, the owner must pay the accrued towing and storage
3 charges assessed against the vehicle.

4 Section 15. Effective January 1, 2006, section
5 323.002, Florida Statutes, is amended to read:

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

8 323.002 County and municipal wrecker allocation
9 systems; penalties for operation outside of system.--

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

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

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

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

30 (d) "Wrecker company" has the same meaning ascribed in
31 s. 508.01.

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1 (e) "Wrecker operator" has the same meaning ascribed
2 in s. 508.01.

3 (f) "Wrecker services" has the same meaning ascribed
4 in s. 508.01.

5 (2) In a county or municipality that operates a
6 wrecker allocation system:

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

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

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

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

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1 dispatched by the authorized wrecker company designated as
2 part of the wrecker allocation system and must disclose, in
3 writing, what charges for towing and storage will apply before
4 the vehicle is connected to the towing apparatus. Any person
5 who violates this paragraph commits a misdemeanor of the
6 second degree, punishable as provided in s. 775.082 or s.
7 775.083.

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

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

26 (4) A law enforcement officer may dispatch an
27 authorized wrecker company out of rotation to the scene of a
28 wrecked or disabled vehicle if the authorized wrecker company
29 next on rotation is not equipped to provide the required
30 wrecker services and the out-of-rotation authorized wrecker
31 company is available with the required equipment. However,

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

11 Section 16. Chapter 508, Florida Statutes, consisting
12 of sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06,
13 508.061, 508.07, 508.08, 508.09, 508.10, 508.11, 508.12,
14 508.13, 508.14, 508.15, 508.16, 508.17, 508.18, 508.19, and
15 508.20, Florida Statutes, is created to read:

16 CHAPTER 508

17 WRECKER SERVICES

18 508.01 Definitions.--As used in this chapter, the
19 term:

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

25 (2) "Council" means the Wrecker Operator Advisory
26 Council.

27 (3) "Department" means the Department of Agriculture
28 and Consumer Services.

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

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1 (5) "Ultimate equitable owner" means a natural person
 2 who, directly or indirectly, owns or controls 10 percent or
 3 more of an ownership interest in a wrecker company, regardless
 4 of whether the natural person owns or controls the ownership
 5 interest through one or more natural persons or one or more
 6 proxies, powers of attorney, nominees, business entities, or
 7 any combination thereof.

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

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

17 (8) "Wrecker" has the same meaning ascribed in s.
 18 320.01.

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

24 (10) "Wrecker operator" means a person who performs
 25 wrecker services.

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

30 (a) Driving a wrecker.

31 (b) Loading, securing, and unloading a vehicle or

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1 vessel on a wrecker using a boom, winch, car carrier, or other
2 similar equipment.

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

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

9 (e) Towing, transportation, or removal of a vehicle or
10 vessel parked on real property without permission under s.
11 715.07.

12 (f) Recovery of a vehicle or vessel.

13 508.02 Wrecker Operator Advisory Council.--

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

17 (2)(a) The council shall be composed of seven members
18 appointed by the Commissioner of Agriculture. One member must
19 be an officer of an organization whose members are engaged in
20 towing or transporting vehicles, vessels, or mobile homes.

21 (b) Three members of the council must each be an
22 ultimate equitable owner of a wrecker company who has been an
23 ultimate equitable owner of that company for at least 5 years
24 before his or her appointment; one member must be a wrecker
25 operator who is not an ultimate equitable owner of a wrecker
26 company and who has been a wrecker operator for at least 5
27 years before his or her appointment; and two members must be
28 laypersons. Each member must be a resident of this state. This
29 paragraph expires July 1, 2011.

30 (c) Effective July 1, 2011, three members of the
31 council must each be an ultimate equitable owner of a wrecker

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

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

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

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

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

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

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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, 2006:

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

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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

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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 Department of
9 Agriculture and Consumer Services shall collect from each
10 applicant the fingerprint processing fee of \$23 for state
11 processing and an additional fee for federal processing for
12 each applicant's name submitted. The Department of Agriculture
13 and Consumer Services shall screen background results to
14 determine if the applicant meets the requirements for issuance
15 of a registration certificate. Registration renewal
16 applications need not be accompanied by a set of fingerprints
17 for an individual who previously submitted a set of
18 fingerprints to the department as part of a prior year's
19 registration application.

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

28 (5) Each advertisement of a wrecker company must
29 include the phrase "Fla. Wrecker Co. Reg. No. ." For the
30 purpose of this subsection, the term "advertisement" means a
31 printed or graphic statement made in a newspaper or other

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1 publication or contained in any notice, handbill, or sign,
2 including signage on a vehicle, flyer, catalog, or letter.

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

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

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

27 (8) Each wrecker company must provide the department
28 with a certificate of insurance for the required insurance
29 coverage under s. 627.7415 before the department may issue the
30 registration certificate for an initial or renewal
31 registration. The department must be named as a

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1 certificateholder on the insurance certificate and must be
2 notified at least 30 days before any change in insurance
3 coverage.

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

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

16 (1) Not met the requirements for registration under
17 this chapter;

18 (2) Been convicted of, found guilty of, or pled guilty
19 or nolo contendere to, regardless of the adjudication of
20 guilt, a felony within the last 7 years;

21 (3) Been convicted of, found guilty of, or pled guilty
22 or nolo contendere to, regardless of the adjudication of
23 guilt, a crime within the last 7 years involving repossession
24 of a motor vehicle under chapter 493; repair of a motor
25 vehicle under ss. 559.901-559.9221; theft of a motor vehicle
26 under s. 812.014; carjacking under s. 812.133; operation of a
27 chop shop under s. 812.16; failure to maintain records of
28 motor vehicle parts and accessories under s. 860.14; airbag
29 theft or use of fake airbags under s. 860.145 or s. 860.146;
30 overcharging for repairs and parts under s. 860.15; or a
31 violation of towing or storage requirements for a motor

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1 vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07,
2 or this chapter;

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

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

10 (6) An administrative order entered against him or her
11 in an action brought by the department under this chapter.

12 508.061 Acceptable forms of payment.--A wrecker
13 company shall accept a minimum of two of the following forms
14 of payment:

15 (1) Cash, cashier's check, money order, or traveler's
16 check;

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

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

22 508.07 Wrecker operator certification program.--

23 (1) The department, in consultation with the council,
24 shall establish a wrecker operator certification program by
25 December 31, 2005. Under this program, the council shall
26 approve certification courses for wrecker operators conducted
27 by approved organizations. The council shall prescribe the
28 minimum curricula for these courses, which must comprise at
29 least 16 hours, equally apportioned between theoretical
30 instruction and practical training. The council must approve
31 each organization and its certification course before the

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1 course is accepted for certification of wrecker operators
2 under this chapter.

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

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

16 508.08 Specialized wrecker services.--

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

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

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

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

30 (d) Ultra-heavy duty.--Towing and winching a specialty
31 large-sized commercial vehicle or another complex vehicle, and

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1 uprighting such an overturned vehicle.

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

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

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

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

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

23 508.09 Certification cards.--

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

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1 the expiration date of the certification card.

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

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

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

14 (b) Completed a certification course and passed a
15 certification examination in this state between January 1,
16 2000, and December 31, 2005, which are substantially
17 equivalent to the approved certification courses and the
18 approved certification examinations. This paragraph expires
19 July 1, 2006.

20 (c) Completed instruction and training for a
21 specialized wrecker service and passed an endorsement
22 examination for that specialized wrecker service between
23 January 1, 2000, and December 31, 2005, which are
24 substantially equivalent to the approved instruction and
25 training and the approved endorsement examinations. This
26 paragraph expires July 1, 2006.

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

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

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

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

13 508.10 Wrecker operators; certification required;
14 inspection of employment records.--Effective January 1, 2006:

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

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

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

29 (3)(a) Notwithstanding subsections (1) and (2), a
30 person may perform wrecker services or specialized wrecker
31 services in this state if he or she is an employee or ultimate

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

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

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

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

20 (1) The department, in consultation with the council,
21 shall establish a continuing education program for the
22 recertification of wrecker operators by December 31, 2007. In
23 order to renew a wrecker operator's certification card, an
24 operator must complete a continuing education course. The
25 council must prescribe the minimum curricula and proper
26 examination for each continuing education course, each of
27 which must be at least 8 hours in length. The council shall
28 approve each organization, and the continuing education course
29 it proposes to offer, before the course is approved for
30 recertifying wrecker operators.

31 (2) Each organization conducting an approved wrecker

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1 operator continuing education course must issue, on forms
 2 prescribed by the department, a certificate to each wrecker
 3 operator who completes the approved course or who passes an
 4 approved recertification examination.

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

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

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

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

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

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

19 (6) Refuse to allow a law enforcement officer to
 20 inspect a towing and storage facility, as required in s.
 21 812.055.

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

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

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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, 2006:

31 (1) A person who violates s. 508.04(1) by operating a

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1 wrecker company in this state without being registered with
 2 the department under this chapter commits a felony of the
 3 third degree, punishable as provided in s. 775.082, s.
 4 775.083, or s. 775.084.

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

11 508.16 Fees.--The department shall adopt by rule a fee
 12 schedule, not to exceed the following amounts:

- 13 (1) Wrecker company registration fee: \$515.
- 14 (2) Wrecker company registration renewal fee: \$515.

15 508.17 General Inspection Trust Fund; payments.--All
 16 fees, penalties, or other funds collected by the department
 17 under this chapter must be deposited in the General Inspection
 18 Trust Fund and may only be used for the purpose of
 19 administering this chapter.

20 508.18 Recovery agents; exemption.--This chapter does
 21 not apply to a person licensed under chapter 493 performing
 22 repossession services.

23 508.19 County and municipal ordinances.--A county or
 24 municipality may enact ordinances governing the business of
 25 transporting vehicles or vessels by wrecker which are more
 26 restrictive than this chapter. This section does not limit the
 27 authority of a political subdivision to impose regulatory fees
 28 or charges or to levy occupational license taxes under chapter
 29 205. The department may enter into a cooperative agreement
 30 with any county or municipality that provides for the
 31 referral, investigation, and prosecution of consumer

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1 complaints alleging violations of this act. The department is
2 authorized to delegate enforcement of this act to any county
3 or municipality entering into a cooperative agreement.

4 508.20 Records.--

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

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

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

27 Section 17. Subsections (2), (4), (5), (6), (7), (10),
28 (11), and (13) of section 713.78, Florida Statutes, are
29 amended to read:

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

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1 (2) Whenever a person regularly engaged in the
 2 business of transporting vehicles or vessels by wrecker, tow
 3 truck, or car carrier recovers, removes, or stores a vehicle
 4 or, vessel, ~~or mobile home~~ upon instructions from:

5 (a) The owner thereof; ~~or~~

6 (b) The owner or lessor, or a person authorized by the
 7 owner or lessor, of property on which such vehicle or vessel
 8 is wrongfully parked, and the ~~such~~ removal is done in
 9 compliance with s. 715.07; or

10 (c) Any law enforcement agency; ~~or~~

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

14
 15 she or he shall have a lien on the ~~such~~ vehicle or vessel for
 16 a reasonable towing fee and for a reasonable storage fee;
 17 except that no storage fee shall be charged if the ~~such~~
 18 vehicle is stored for less than 6 hours.

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

29 (b) Whenever any law enforcement agency authorizes the
 30 removal of a vehicle or vessel or whenever any towing service,
 31 garage, repair shop, or automotive service, storage, or

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1 parking place notifies the law enforcement agency of
2 possession of a vehicle or vessel pursuant to s.
3 715.07(2)(a)2., the applicable law enforcement agency shall
4 contact the Department of Highway Safety and Motor Vehicles,
5 or the appropriate agency of the state of registration, if
6 known, within 24 hours through the medium of electronic
7 communications, giving the full description of the vehicle or
8 vessel. Upon receipt of the full description of the vehicle or
9 vessel, the department shall search its files to determine the
10 owner's name, the insurance company insuring the vehicle or
11 vessel, and whether any person has filed a lien upon the
12 vehicle or vessel as provided in s. 319.27(2) and (3) and
13 notify the applicable law enforcement agency within 72 hours.
14 The person in charge of the towing service, garage, repair
15 shop, or automotive service, storage, or parking place shall
16 obtain such information from the applicable law enforcement
17 agency within 5 days after ~~from~~ the date of storage and shall
18 give notice pursuant to paragraph (a). The department may
19 release the insurance company information to the requestor
20 notwithstanding the provisions of s. 627.736.

21 (c) Notice by certified mail, return receipt
22 requested, shall be sent within 7 business days after the date
23 of storage of the vehicle or vessel to the registered owner,
24 the insurance company insuring the vehicle notwithstanding the
25 provisions of s. 627.736, and all persons of record claiming a
26 lien against the vehicle or vessel. It shall state the fact
27 of possession of the vehicle or vessel, that a lien as
28 provided in subsection (2) is claimed, that charges have
29 accrued and the amount thereof, that the lien is subject to
30 enforcement pursuant to law, and that the owner or lienholder,
31 if any, has the right to a hearing as set forth in subsection

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1 (5), and that any vehicle or vessel which remains unclaimed,
 2 or for which the charges for recovery, towing, or storage
 3 services remain unpaid, may be sold free of all prior liens
 4 after 35 days if the vehicle or vessel is more than 3 years of
 5 age or after 50 days if the vehicle or vessel is 3 years of
 6 age or less.

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

20 1. Check of vehicle or vessel for any type of tag, tag
 21 record, temporary tag, or regular tag.

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

26 3. Check of trip sheet or tow ticket of tow truck
 27 operator to see if a tag was on vehicle or vessel at beginning
 28 of tow, if private tow.

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

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1 information.

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

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

8 7. Check of vehicle for vehicle identification number.

9 8. Check of vessel for vessel registration number.

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

16 (5)(a) The owner of a vehicle or vessel removed
17 pursuant to the provisions of subsection (2), or any person
18 claiming a lien, other than the towing-storage operator,
19 within 10 days after the time she or he has knowledge of the
20 location of the vehicle or vessel, may file a complaint in the
21 county court of the county in which the vehicle or vessel is
22 stored or in which the owner resides to determine if her or
23 his property was wrongfully taken or 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 such
29 charges in the event she or he does not prevail. Upon the
30 posting of the bond and the payment of the applicable fee set
31 forth in s. 28.24, the clerk of the court shall issue a

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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 such release, after reasonable inspection, she or
4 he shall give a receipt to the towing-storage company reciting
5 any claims she or he has for loss or damage to the vehicle or
6 vessel or the contents thereof.

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

15 (6) Any vehicle or vessel which is stored pursuant to
16 subsection (2) and which remains unclaimed, or for which
17 reasonable charges for recovery, towing, or storing remain
18 unpaid ~~or for which a lot rental amount is due and owing to~~
19 ~~the mobile home park owner, as evidenced by a judgment for~~
20 ~~unpaid rent~~, and any contents not released pursuant to
21 subsection (10), may be sold by the owner or operator of the
22 storage space for such towing or storage charge ~~or unpaid lot~~
23 ~~rental amount~~ after 35 days from the time the vehicle or
24 vessel is stored therein if the vehicle or vessel is more than
25 3 years of age or after 50 days following the time the vehicle
26 or vessel is stored therein if the vehicle or vessel is 3
27 years of age or less. The sale shall be at public auction for
28 cash. If the date of the sale was not included in the notice
29 required in subsection (4), notice of the sale shall be given
30 to the person in whose name the vehicle or, vessel, ~~or mobile~~
31 ~~home is registered, to the mobile home park owner, and to all~~

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

27 (7)(a) A wrecker operator recovering, towing, or
28 storing vehicles or vessels is not liable for damages
29 connected with such services, theft of such vehicles or
30 vessels, or theft of personal property contained in such
31 vehicles or vessels, provided that such services have been

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1 performed with reasonable care and provided, further, that, in
 2 the case of removal of a vehicle or vessel upon the request of
 3 a person purporting, and reasonably appearing, to be the owner
 4 or lessee, or a person authorized by the owner or lessee, of
 5 the property from which such vehicle or vessel is removed,
 6 such removal has been done in compliance with s. 715.07.
 7 Further, a wrecker operator is not liable for damage to a
 8 vehicle, vessel, or cargo that obstructs the normal movement
 9 of traffic or creates a hazard to traffic and is removed in
 10 compliance with the request of a law enforcement officer.
~~11 connected with such services when complying with the lawful~~
~~12 directions of a law enforcement officer to remove a vehicle~~
~~13 stopped, standing, or parked upon a street or highway in such~~
~~14 a position as to obstruct the normal movement of traffic or in~~
~~15 such a condition as to create a hazard to other traffic upon~~
~~16 the street or highway.~~

17 (b) For the purposes of this subsection, a wrecker
 18 operator is presumed to use reasonable care to prevent the
 19 theft of a vehicle or vessel or of any personal property
 20 contained in such vehicle stored in the wrecker operator's
 21 storage facility if all of the following apply:

22 1. The wrecker operator surrounds the storage facility
 23 with a chain-link or solid-wall type fence at least 6 feet in
 24 height;

25 2. The wrecker operator has illuminated the storage
 26 facility with lighting of sufficient intensity to reveal
 27 persons and vehicles at a distance of at least 150 feet during
 28 nighttime; and

29 3. The wrecker operator uses one or more of the
 30 following security methods to discourage theft of vehicles or
 31 vessels or of any personal property contained in such vehicles

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1 or vessels stored in the wrecker operator's storage facility:

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

4 b. A security dog remains at the storage facility from
5 sunset to sunrise;

6 c. Security cameras or other similar surveillance
7 devices monitor the storage facility; or

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

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

22 (10) Persons who provide services pursuant to this
23 section shall permit vehicle or vessel owners or their agents,
24 which agency is evidenced by an original a writing
25 acknowledged by the owner before a notary public or other
26 person empowered by law to administer oaths, to inspect the
27 towed vehicle or vessel and shall release to the owner or
28 agent the vehicle, vessel, or all personal property not
29 affixed to the vehicle or vessel which was in the vehicle or
30 vessel at the time the vehicle or vessel came into the custody
31 of the person providing such services.

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1 (11)(a) Any person regularly engaged in the business
2 of recovering, towing, or storing vehicles or vessels who
3 comes into possession of a vehicle or vessel pursuant to
4 subsection (2) and who has complied with the provisions of
5 subsections (3) and (6), when such vehicle or vessel is to be
6 sold for purposes of being dismantled, destroyed, or changed
7 in such manner that it is not the motor vehicle or, vessel, ~~or~~
8 ~~mobile home~~ described in the certificate of title, shall apply
9 to the county tax collector for a certificate of destruction.
10 A certificate of destruction, which authorizes the dismantling
11 or destruction of the vehicle or vessel described therein,
12 shall be reassignable a maximum of two times before
13 dismantling or destruction of the vehicle shall be required,
14 and shall accompany the vehicle or vessel for which it is
15 issued, when such vehicle or vessel is sold for such purposes,
16 in lieu of a certificate of title. The application for a
17 certificate of destruction must include an affidavit from the
18 applicant that it has complied with all applicable
19 requirements of this section and, if the vehicle or vessel is
20 not registered in this state, by a statement from a law
21 enforcement officer that the vehicle or vessel is not reported
22 stolen, and shall be accompanied by such documentation as may
23 be required by the department.

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

28 (c) The Department of Highway Safety and Motor
29 Vehicles may adopt such rules as it deems necessary or proper
30 for the administration of this subsection.

31 (13)(a) Upon receipt by the Department of Highway

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

16 1. The name, address, and telephone number of the
17 wrecker operator.

18 2. The name of the registered owner of the vehicle or,
19 vessel, ~~or mobile home~~ and the address to which the wrecker
20 operator provided notice of the lien to the registered owner
21 under subsection (4).

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

25 4. The vehicle identification number (VIN);
26 registration license plate number, state, and year; validation
27 decal number, state, and year; ~~mobile home sticker number,~~
28 ~~state, and year;~~ vessel registration number; hull
29 identification number; or other identification number, as
30 applicable.

31 5. The name of the person or the corresponding law

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1 enforcement agency that requested that the vehicle or vessel
2 ~~or mobile home~~ be recovered, towed, or stored.

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

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

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

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

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

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1 recovered, towed, or stored.

2

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

27 2. A person against whom a wrecker operator's lien has
 28 been imposed may alternatively obtain a discharge of the lien
 29 by filing a complaint, challenging the validity of the lien or
 30 the amount thereof, in the county court of the county in which
 31 the vehicle or, vessel, ~~or mobile home~~ was ordered removed.

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

16 3. If a person against whom a wrecker operator's lien
17 has been imposed does not object to the lien, but cannot
18 discharge the lien by payment because the wrecker operator has
19 moved or gone out of business, the person may have her or his
20 name removed from the list of those persons who may not be
21 issued a license plate or revalidation sticker for any motor
22 vehicle under s. 320.03(8), thereby allowing issuance of a
23 license plate or revalidation sticker, upon posting with the
24 clerk of court in the county in which the vehicle ~~or~~ vessel
25 ~~or mobile home~~ was ordered removed, a cash or surety bond or
26 other adequate security equal to the amount of the wrecker
27 operator's lien. Upon the posting of the bond and the payment
28 of the application fee set forth in s. 28.24, the clerk of the
29 court shall issue a certificate notifying the department of
30 the posting of the bond and directing the department to
31 release the wrecker operator's lien. The department shall mail

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1 to the wrecker operator, at the address upon the lien form,
 2 notice that the wrecker operator must claim the security
 3 within 60 days, or the security will be released back to the
 4 person who posted it. At the conclusion of the 60 days, the
 5 department shall direct the clerk as to which party is
 6 entitled to payment of the security, less applicable clerk's
 7 fees.

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

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

30 (e) When a wrecker operator files a notice of wrecker
 31 operator's lien under this subsection, the department shall

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1 charge the wrecker operator a fee of \$2, which shall be
 2 deposited into the General Revenue Fund established under s.
 3 860.158. A service charge of \$2.50 shall be collected and
 4 retained by the tax collector who processes a notice of
 5 wrecker operator's lien.

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

14 (g) The Department of Highway Safety and Motor
 15 Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54
 16 to implement this subsection.

17 Section 18. Effective January 1, 2006, section
 18 713.785, Florida Statutes, is created to read:

19 713.785 Liens for recovering, towing, or storing
 20 mobile homes.--

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

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

25 (b) "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 (c) "Unpaid lot rental amount" or "rent" means any
 29 unpaid financial obligations of the mobile home owner or
 30 tenant to the mobile home park owner defined as "lot rental
 31 amount" in s. 723.003 or "rent" in part II of chapter 83 and

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1 includes any amounts defined as storage charges in s. 723.084.

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

4 (a) The owner of the mobile home;

5 (b) Any law enforcement agency; or

6 (c) A mobile home park owner as defined in s. 723.003

7 who has a current writ of possession for a mobile home lot

8 under s. 723.062 or s. 83.62,

9

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

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

20 (b) Notice by certified mail, return receipt
21 requested, shall be sent within 7 business days after the date
22 of storage of the mobile home to the registered owner at the
23 owner's last known address, and all persons of record claiming
24 a lien against the mobile home. The notice shall state the
25 fact of possession of the mobile home, that a lien as provided
26 in subsection (2) is claimed, that charges have accrued and
27 the amount thereof, that the lien is subject to enforcement
28 under law and that the owner or lienholder, if any, has the
29 right to a hearing as set forth in subsection (4), and that
30 any mobile home which remains unclaimed, or for which charges
31 remain unpaid, may be sold free of all prior liens after 35

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1 days following the eviction proceeding that resulted in the
2 issuance of the writ of possession, provided that any
3 lienholder entitled to notice pursuant to s. 723.084 has
4 received such notice and has failed to act pursuant to s.
5 723.084 to pay storage charges, take possession of the home,
6 or take legal action to foreclose its interest prior to
7 issuance of the writ of possession.

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

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

30 (c) Upon determining the respective rights of the
31 parties, the court may award damages and costs in favor of the

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1 prevailing party. The final order shall provide for immediate
 2 payment in full of any lien for recovery, towing, and storage
 3 fees and any unpaid lot rental amount accruing until the time
 4 the home is removed from the property, by the mobile home
 5 owner or lienholder, or the owner, lessee, or agent thereof of
 6 the property from which the mobile home was removed.

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

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1 before the date of the sale, in a newspaper of general
2 circulation in the county in which the sale is to be held. The
3 proceeds of the sale, after payment of reasonable towing and
4 storage charges, costs of the sale, and the unpaid lot rental
5 amount as evidenced by the judgment for unpaid lot rental and
6 an affidavit executed by the mobile home park owner or the
7 owner's agent establishing the amount of unpaid lot rental
8 amount through the date of the sale, in that order of
9 priority, must be deposited with the clerk of the circuit
10 court for the county if the owner is absent, and the clerk
11 shall hold the proceeds subject to the claim of the person
12 legally entitled to those proceeds. The clerk is entitled to
13 receive 5 percent of the proceeds for the care and
14 disbursement of the proceeds. The certificate of title issued
15 under this section shall be discharged of all liens unless
16 otherwise provided by court order.

17 (6) The mobile home transport company, the landlord or
18 his or her agent, or any subsequent purchaser for value are
19 not responsible to the tenant or any other party for loss,
20 destruction, or damage to the mobile home or other personal
21 property after coming into possession of the mobile home under
22 this section, provided the mobile home transport company, the
23 landlord, or their agents use reasonable care in storing the
24 mobile home. As used in this subsection, the term "reasonable
25 care" means securing the mobile home by changing door locks,
26 or any similar methods for securing the mobile home, in place
27 in the mobile home park or in a separate storage area.

28 (7)(a) A mobile home transport company that comes into
29 possession of a mobile home under subsection (2) and that
30 complies with subsection (3), if the mobile home is to be sold
31 for purposes of being dismantled, destroyed, or changed so

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

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

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

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

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

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1 under subsection (7), the department shall place the name of
2 the registered owner of that mobile home on the list of those
3 persons who may not be issued a revalidation sticker under s.
4 320.03. If the mobile home is owned jointly by more than one
5 person, the name of each registered owner must be placed on
6 the list. The notice of a mobile home transport company's lien
7 must be submitted on forms provided by the department, which
8 must include:

9 1. The name, address, and telephone number of the
10 mobile home transport company.

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

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

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

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

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

24 (b) For purposes of this subsection, the amount of the
25 mobile home transport company's lien for which the department
26 will prevent issuance of a revalidation sticker may not exceed
27 the amount of the charges for recovery, towing, and storage of
28 the mobile home for 7 days. These charges may not exceed the
29 maximum rates imposed by the ordinances of the respective
30 county or municipality under ss. 125.0103(1)(c) and
31 166.043(1)(c). This paragraph does not limit the amount of a

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1 mobile home transport company's lien claimed under subsection
2 (2) or prevent a mobile home transport company from seeking
3 civil remedies for enforcement of the entire amount of the
4 lien, but limits only that portion of the lien for which the
5 department will prevent issuance of a revalidation sticker.

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

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

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

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

21
22 If the registered owner's dispute of a mobile home transport
23 company's lien complies with one of these criteria, the
24 department shall immediately remove the registered owner's
25 name from the list of those persons who may not be issued a
26 revalidation sticker under s. 320.03. If the mobile home is
27 owned jointly by more than one person, each registered owner
28 must dispute the mobile home transport company's lien in order
29 to be removed from the list. However, the department shall
30 deny any dispute and maintain the registered owner's name on
31 the list of those persons who may not be issued a revalidation

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

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

31 3. If a person against whom a mobile home transport

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

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

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

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

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

17 (f) The Department of Highway Safety and Motor
 18 Vehicles may adopt rules to administer this subsection.

19 (9) Persons who provide services under this section
 20 shall permit a mobile home owner or her or his agent, whose
 21 agency is evidenced by a writing acknowledged by the owner
 22 before a notary public or other person empowered by law to
 23 administer oaths, to inspect the mobile home and shall release
 24 to the owner or agent all personal property not affixed to the
 25 mobile home, provided there exists no landlord's lien for rent
 26 under s. 713.691 or s. 713.77.

27 (10) Any person who violates subsection (3),
 28 subsection (5), subsection (6), subsection (7), or subsection
 29 (9) commits a misdemeanor of the first degree, punishable as
 30 provided in s. 775.082 or s. 775.083.

31 Section 19. Section 715.07, Florida Statutes, is

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1 amended to read:

2 715.07 Vehicles or vessels parked on private property;
3 towing.--

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

5 (a) "Vehicle" means any mobile item which normally
6 uses wheels, whether motorized or not.

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

11 (2) The owner or lessee of real property, or any
12 person authorized by the owner or lessee, which person may be
13 the designated representative of the condominium association
14 if the real property is a condominium, may cause any vehicle
15 or vessel parked on such property without her or his
16 permission to be removed by a person regularly engaged in the
17 business of towing vehicles or vessels, without liability for
18 the costs of removal, transportation, or storage or damages
19 caused by such removal, transportation, or storage, under any
20 of the following circumstances:

21 (a) The towing or removal of any vehicle or vessel
22 from private property without the consent of the registered
23 owner or other legally authorized person in control of that
24 vehicle or vessel is subject to strict compliance with the
25 following conditions and restrictions:

26 1.a. Any towed or removed vehicle or vessel must be
27 stored at a site within a 10-mile radius ~~10 miles~~ of the point
28 of removal in any county of 500,000 population or more, and
29 within a 15-mile radius ~~15 miles~~ of the point of removal in
30 any county of less than 500,000 population. That site must be
31 open for the purpose of redemption of vehicles on any day that

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1 the person or firm towing such vehicle or vessel is open for
2 towing purposes, from 8:00 a.m. to 6:00 p.m., and, when
3 closed, shall have prominently posted a sign indicating a
4 telephone number where the operator of the site can be reached
5 at all times. Upon receipt of a telephoned request to open
6 the site to redeem a vehicle or vessel, the operator shall
7 return to the site within 1 hour or she or he will be in
8 violation of this section.

9 b. If no towing business providing such service is
10 located within the area of towing limitations set forth in
11 sub-subparagraph a., the following limitations apply: any
12 towed or removed vehicle or vessel must be stored at a site
13 within a 20-mile radius ~~20 miles~~ of the point of removal in
14 any county of 500,000 population or more, and within a 30-mile
15 radius ~~30 miles~~ of the point of removal in any county of less
16 than 500,000 population.

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

27 3. A person in the process of towing or removing a
28 vehicle or vessel from the premises or parking lot in which
29 the vehicle or vessel is not lawfully parked must stop when a
30 person seeks the return of the vehicle or vessel. The vehicle
31 or vessel must be returned upon the payment of a reasonable

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1 service fee of not more than one-half of the posted rate for
2 the towing or removal service as provided in subparagraph 6.
3 The vehicle or vessel may be towed or removed if, after a
4 reasonable opportunity, the owner or legally authorized person
5 in control of the vehicle or vessel is unable to pay the
6 service fee. If the vehicle or vessel is redeemed, a detailed
7 signed receipt must be given to the person redeeming the
8 vehicle or vessel. If the registered owner or other legally
9 authorized person in control of the vehicle arrives at the
10 scene prior to removal or towing of the vehicle, the vehicle
11 shall be disconnected from the towing or removal apparatus,
12 and that person shall be allowed to remove the vehicle without
13 interference upon the payment of a reasonable service fee of
14 not more than one-half of the posted rate for such towing
15 service as provided in subparagraph 6., for which a receipt
16 shall be given, unless that person refuses to remove the
17 vehicle which is otherwise unlawfully parked.

18 4. A person may not pay or accept money or other
19 valuable consideration for the privilege of towing or removing
20 vehicles or vessels from a particular location. The rebate or
21 payment of money or any other valuable consideration from the
22 individual or firm towing or removing vehicles to the owners
23 or operators of the premises from which the vehicles are towed
24 or removed, for the privilege of removing or towing those
25 vehicles, is prohibited.

26 5. Except for property appurtenant to and obviously a
27 part of a single-family residence, and except for instances
28 when notice is personally given to the owner or other legally
29 authorized person in control of the vehicle or vessel that the
30 area in which that vehicle or vessel is parked is reserved or
31 otherwise unavailable for unauthorized vehicles or vessels and

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1 that the vehicle or vessel is subject to being removed at the
 2 owner's or operator's expense, any property owner or lessee,
 3 or person authorized by the property owner or lessee, prior to
 4 towing or removing any vehicle or vessel from private property
 5 without the consent of the owner or other legally authorized
 6 person in control of that vehicle or vessel, must post a
 7 notice meeting the following requirements:

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

14 b. The notice must clearly indicate, in not less than
 15 2-inch high, light-reflective letters on a contrasting
 16 background, that unauthorized vehicles will be towed away at
 17 the owner's expense. The words "tow-away zone" must be
 18 included on the sign in not less than 4-inch high letters.

19 c. The notice must also provide the name and current
 20 telephone number of the person or firm towing or removing the
 21 vehicles or vessels, ~~if the property owner, lessee, or person~~
 22 ~~in control of the property has a written contract with the~~
 23 ~~towing company.~~

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

30 e. The local government may require permitting and
 31 inspection of these signs prior to any towing or removal of

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1 vehicles or vessels being authorized.

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

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

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

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

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1 in this section.

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

13 8. Vehicle entry for the purpose of removing the
14 vehicle or vessel shall be allowed with reasonable care on the
15 part of the person or firm towing the vehicle or vessel. Such
16 person or firm shall be liable for any damage occasioned to
17 the vehicle or vessel if such entry is not in accordance with
18 the standard of reasonable care.

19 9. When a vehicle or vessel has been towed or removed
20 pursuant to this section, it must be released to its owner or
21 custodian within one hour after requested. Any vehicle or
22 vessel owner, ~~custodian~~, or agent shall have the right to
23 inspect the vehicle or vessel before accepting its return, and
24 no release or waiver of any kind which would release the
25 person or firm towing the vehicle or vessel from liability for
26 damages noted by the owner or other legally authorized person
27 at the time of the redemption may be required from any vehicle
28 or vessel owner, custodian, or agent as a condition of release
29 of the vehicle or vessel to its owner. A detailed, signed
30 receipt showing the legal name of the company or person towing
31 or removing the vehicle or vessel must be given to the person

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1 paying towing or storage charges at the time of payment,
2 whether requested or not.

3 (b) These requirements are ~~shall be the~~ minimum
4 standards and do ~~shall~~ not preclude enactment of additional
5 regulations by any municipality or county including the right
6 to regulate rates when vehicles or vessels are towed from
7 private property.

8 (3) This section does not apply to law enforcement,
9 firefighting, rescue squad, ambulance, or other emergency
10 vehicles or vessels that ~~which~~ are marked as such or to
11 property owned by any governmental entity.

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

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

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

27 Section 20. Paragraph (a) of subsection (1) of section
28 319.30, Florida Statutes, is amended to read:

29 319.30 Definitions; dismantling, destruction, change
30 of identity of motor vehicle or mobile home; salvage.--

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

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

3 Section 21. Section 713.69, Florida Statutes, is
4 amended to read:

5 713.69 Unlawful to remove property upon which lien has
6 accrued.--It is unlawful for any person to remove any property
7 upon which a lien has accrued under the provisions of s.
8 713.68, s. 713.77, or s. 713.785 from any mobile home park,
9 hotel, apartment house, roominghouse, lodginghouse,
10 boardinghouse or tenement house without first making full
11 payment to the person operating or conducting the same of all
12 sums due and payable for such occupancy or without first
13 having the written consent of such person so conducting or
14 operating such place to so remove such property. Any person
15 violating the provisions of this section shall, if the
16 property removed in violation hereof be of the value of \$50 or
17 less, be guilty of a misdemeanor of the second degree,
18 punishable as provided in s. 775.082 or s. 775.083; and if the
19 property so removed should be of greater value than \$50 then
20 such person shall be guilty of a felony of the third degree,
21 punishable as provided in s. 775.082, s. 775.083, or s.
22 775.084.

23 Section 22. Effective January 1, 2006, subsection (15)
24 of section 1.01, Florida Statutes, is repealed.

25 Section 23. The sum of \$693,000 is appropriated from
26 the General Inspection Trust Fund to the Department of
27 Agriculture and Consumer Services, and 10 additional
28 full-time-equivalent positions are authorized, for the purpose
29 of implementing this act during the 2005-2006 fiscal year.

30 Section 24. Except as otherwise expressly provided in
31 this act, this act shall take effect July 1, 2005.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

4

5 and insert:

6 A bill to be entitled

7 An act relating to wrecker services; amending

8 s. 120.80, F.S.; exempting hearings of the

9 Division of the Florida Highway Patrol

10 concerning the wrecker allocation system from

11 requirements of ch. 120, F.S.; creating s.

12 205.1975, F.S.; prohibiting a county or

13 municipality from issuing or renewing a license

14 for a wrecker company that is not in compliance

15 with the requirements of the act; amending s.

16 316.530, F.S., relating to traffic control;

17 conforming provisions to changes made by the

18 act; reenacting s. 316.550(4), F.S., relating

19 to special wrecker permits, to incorporate the

20 amendment to s. 320.01, F.S., in references

21 thereto; amending s. 316.605, F.S.; clarifying

22 that portion of a license plate which must be

23 clear and plainly visible; providing

24 requirements for licensing wreckers and other

25 vehicles; amending s. 320.01, F.S.; redefining

26 the term "wrecker" for purposes of the Florida

27 Statutes; amending ss. 320.03 and 320.0706,

28 F.S., relating to motor vehicle registration

29 and license plates; conforming provisions to

30 changes made by the act; reenacting s.

31 320.08(5)(d) and (e), F.S., relating to license

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1 taxes, to incorporate the amendment to s.
2 320.01, F.S., in references thereto; amending
3 s. 320.0821, F.S.; revising requirements for
4 the issuance of wrecker license plates;
5 amending s. 320.13, F.S., relating to dealer
6 license plates; conforming provisions to
7 changes made by the act; amending s. 321.051,
8 F.S.; providing definitions; requiring the
9 Division of the Florida Highway Patrol within
10 the Department of Highway Safety and Motor
11 Vehicles to establish a wrecker allocation
12 system; providing requirements for the system;
13 authorizing the division to set maximum rates
14 for towing and storage of vehicles; prohibiting
15 an unauthorized wrecker company from monitoring
16 a police radio or engaging in other activities;
17 providing penalties; providing requirements for
18 dispatching wreckers; amending s. 323.001,
19 F.S., relating to wrecker company storage
20 facilities; providing definitions; providing
21 procedures for a law enforcement agency to
22 place a hold on a stored vehicle; providing for
23 payment of towing and storage charges; amending
24 s. 323.002, F.S.; providing definitions;
25 providing requirements for a county or
26 municipality that operates a wrecker allocation
27 system; providing requirements for the system;
28 prohibiting an unauthorized wrecker company
29 from monitoring a police radio or engaging in
30 other activities; providing penalties;
31 providing requirements for dispatching

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1 wreckers; creating chapter 508, F.S.; providing
2 definitions; creating the Wrecker Operator
3 Advisory Council within the Department of
4 Agriculture and Consumer Services; providing
5 for membership and terms; providing for
6 reimbursement for travel and per diem expenses;
7 requiring the council to advise the department
8 on matters relating to standards and practices
9 in the wrecker industry; authorizing the
10 department to adopt rules; requiring wrecker
11 companies to register with the department;
12 providing requirements for registration
13 renewal; providing requirements for
14 advertisements; requiring insurance coverage;
15 requiring the department to notify the
16 Department of Highway Safety and Motor Vehicles
17 when a registration has been suspended or
18 revoked; authorizing the department to deny
19 registration under certain circumstances;
20 specifying acceptable forms of payment;
21 establishing a certification program for
22 wrecker operators; requiring the department to
23 approve courses and organizations; providing
24 requirements for examinations; providing for
25 certification in specialized wrecker services;
26 requiring the department to adopt rules;
27 providing for certification cards to be issued
28 to wrecker operators who complete the
29 certification course and pass the examination;
30 prohibiting the performance of wrecker services
31 after a specified date unless the company is

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1 registered and obtains certification as
2 required; authorizing the department to inspect
3 employment records; providing requirements for
4 continuing education; specifying prohibited
5 acts; providing administrative, civil, and
6 criminal penalties; providing for registration
7 fees; providing for deposit of fees, penalties,
8 and other funds; providing that the chapter
9 does not apply to recovery agents; authorizing
10 counties and municipalities to enact ordinances
11 governing wrecker operators; requiring that a
12 wrecker company maintain records of its
13 services for a specified time; requiring a
14 wrecker company to keep records of its
15 operators continuing education courses for a
16 specified time; directing organizations that
17 conduct continuing education courses to keep
18 records for a specified time; amending s.
19 713.78, F.S.; removing mobile homes from the
20 application of a statutory lien for towing and
21 storage; conforming provisions related to
22 recovering, towing, or storing vessels;
23 providing for attorney's fees; creating s.
24 713.785, F.S.; authorizing the imposition of
25 lien by a mobile home transport company for
26 recovering, towing, or storing a mobile home;
27 providing definitions; requiring a mobile home
28 transport company to provide notice of
29 recovery, towing, or storage services;
30 providing for the filing of a complaint;
31 providing procedures for the sale of an

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1 unclaimed mobile home; specifying circumstances
2 under which a mobile home transport company
3 must obtain a certificate of destruction;
4 providing for fees; authorizing the department
5 to adopt rules; providing for fees; providing
6 for issuing certificates of destruction and
7 revalidation stickers; providing procedures for
8 disputing a lien and for discharge of a lien;
9 providing for the posting and repayment of
10 surety; providing for criminal penalties;
11 amending s. 715.07, F.S.; defining the term
12 "vessel"; conforming provisions related to
13 towing vessels parked on private property;
14 imposing criminal penalties for failure to
15 comply with certain laws governing the towing
16 of vehicles and vessels; repealing s. 1.01(15),
17 F.S., relating to the definition of the term
18 "wrecker operator"; providing an appropriation
19 and authorizing additional positions; providing
20 effective dates.

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