



Bill No. SB 276

Barcode 284210

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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