

By Senator Crist

12-257-05

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

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

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

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

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

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

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

13
14 Section 1. Effective January 1, 2006, paragraph (b) of
15 subsection (8) of section 120.80, Florida Statutes, is amended
16 to read:

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

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

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

29 Section 2. Effective January 1, 2006, section
30 205.1975, Florida Statutes, is created to read:

31

1 205.1975 Wrecker companies; consumer protection.--A
2 county or municipality may not issue or renew an occupational
3 license for the operation of a wrecker company under chapter
4 508 unless the wrecker company exhibits a current registration
5 from the Department of Agriculture and Consumer Services.

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

8 316.530 Towing requirements.--

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

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

22 316.550 Operations not in conformity with law; special
23 permits.--

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

30 (b) The Department of Transportation must supply the
31 permitted wrecker with a map showing the routes on which the

1 wrecker may safely tow disabled vehicles for all special
2 permit classifications for which the wrecker applies.

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

5 316.605 Licensing of vehicles.--

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

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

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

13 320.01 Definitions, general.--As used in the Florida
14 Statutes, except as otherwise provided, the term:

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

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

22 320.03 Registration; duties of tax collectors;
23 International Registration Plan.--

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

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

21 Section 8. Section 320.0706, Florida Statutes, is
22 amended to read:

23 320.0706 Display of license plates on trucks.--The
24 owner of any commercial truck of gross vehicle weight of
25 26,001 pounds or more shall display the registration license
26 plate on both the front and rear of the truck in conformance
27 with all the requirements of s. 316.605 that do not conflict
28 with this section. However, the owner of a truck tractor or a
29 wrecker must ~~shall be required to~~ display the registration
30 license plate only on the front of such vehicle.
31

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

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

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

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

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

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

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

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

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

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

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

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

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

11 9. Gross vehicle weight of 72,000 pounds or more:
12 \$979 flat.

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

16 320.0821 Wrecker license plates.--

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

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

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

31 320.0821 Wrecker license plates.--

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

14 Section 12. Paragraph (a) of subsection (1) of section
15 320.13, Florida Statutes, is amended to read:

16 320.13 Dealer and manufacturer license plates and
17 alternative method of registration.--

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

31

1 Section 13. Effective January 1, 2006, section
2 321.051, Florida Statutes, is amended to read:

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

5 321.051 Florida Highway Patrol wrecker allocation
6 system; penalties for operation outside of system.--

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

8 (a) "Division" means the Division of the Florida
9 Highway Patrol within the Department of Highway Safety and
10 Motor Vehicles.

11 (b) "Authorized wrecker company" means a wrecker
12 company designated by the division as part of its wrecker
13 allocation system.

14 (c) "Unauthorized wrecker company" means a wrecker
15 company not designated by the division as part of its wrecker
16 allocation system.

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

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

21 (f) "Wrecker services" has the same meaning ascribed
22 in s. 508.01.

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

31

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

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

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

26 (3)(a) An unauthorized wrecker company, its wrecker
27 operators, or its other employees or agents may not monitor a
28 police radio for communications between patrol field units and
29 the dispatcher in order to determine the location of a wrecked
30 or disabled vehicle for the purpose of dispatching its wrecker
31 operator to drive by the scene of the vehicle in a manner

1 described in paragraph (b) or paragraph (c). Any person who
2 violates this paragraph commits a noncriminal violation,
3 punishable as provided in s. 775.083.

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

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

25 (d) A wrecker operator may not falsely identify
26 himself or herself as being part of, or as being employed by a
27 wrecker company that is part of, the wrecker allocation system
28 at the scene of a wrecked or disabled vehicle. Any person who
29 violates this paragraph commits a misdemeanor of the first
30 degree, punishable as provided in s. 775.082 or s. 775.083.
31

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

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

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

31 (Substantial rewording of section. See

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

2 323.001 Wrecker company storage facilities; vehicle
3 holds.--

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

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

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

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

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

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

25 (b) If the law enforcement agency chooses to have the
26 vehicle remain at the wrecker company's storage facility for
27 more than 5 business days under the written notification, the
28 law enforcement agency is responsible for paying the storage
29 charges incurred by the wrecker company for the requested
30 extended period. In such an event, the owner or lienholder is
31 responsible for paying the accrued towing and storage charges

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

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

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

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

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

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

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

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

30 (e) The law enforcement officer has probable cause to
31 believe that the vehicle was involved in a traffic accident

1 resulting in death or personal injury and should be sealed for
2 investigation and collection of evidence by a vehicular
3 homicide investigator;

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

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

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

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

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

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

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

19 (e) The condition of the vehicle;

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

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

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

29 (8) When a vehicle owner is found guilty of, or pleads
30 nolo contendere to, the offense that resulted in a hold being
31 placed on his or her vehicle, regardless of the adjudication

1 of guilt, the owner must pay the accrued towing and storage
2 charges assessed against the vehicle.

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

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

7 323.002 County and municipal wrecker allocation
8 systems; penalties for operation outside of system.--

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

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

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

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

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

31

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 (b) or paragraph (c). 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

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,

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.

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

1 (b) Loading, securing, and unloading a vehicle or
2 vessel on a wrecker using a boom, winch, car carrier, or other
3 similar equipment.

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

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

10 (e) Towing, transportation, or removal of a vehicle or
11 vessel parked on real property without permission under s.
12 715.07.

13 (f) Recovery of a vehicle or vessel.

14 508.02 Wrecker Operator Advisory Council.--

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

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

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

1 (c) Effective July 1, 2011, three members of the
2 council must each be an ultimate equitable owner of a wrecker
3 company registered under this chapter who has been an ultimate
4 equitable owner of that company registered for at least 5
5 years before his or her appointment; one member must be a
6 wrecker operator certified under this chapter who is not an
7 ultimate equitable owner of a wrecker company and who has been
8 a wrecker operator certified for at least 5 years before his
9 or her appointment; and two members must be laypersons. Each
10 member must be a resident of this state.

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

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

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

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

31

1 (6) The department shall provide administrative and
2 staff support services relating to the functions of the
3 council.

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

10 508.03 Rulemaking authority.--The department may adopt
11 rules under ss. 120.536(1) and 120.54 to administer this
12 chapter.

13 508.04 Wrecker companies; registration
14 required.--Effective January 1, 2006:

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

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

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

30 508.05 Registration requirements; renewal of
31 registrations.--

1 (1) Each wrecker company engaged or attempting to
2 engage for hire in the business of towing, carrying, or
3 transporting vehicles, vessels, or mobile homes by wrecker
4 upon the streets and highways of this state must annually
5 register with the department on forms prescribed by the
6 department. The application for registration must include at
7 least the following information:

8 (a) The name and federal employer identification
9 number of the wrecker company.

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

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

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

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

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

29 (2) Each initial and renewal application for
30 registration must be accompanied by the registration fee
31 prescribed in s. 508.16.

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

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

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

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

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 10 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 10 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

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) A judgment entered against him or her in an action
11 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

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
31

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

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

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

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

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

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

25 508.09 Certification cards.--

26 (1) Each organization conducting an approved wrecker
27 operator certification course must issue a certification card
28 to each wrecker operator who completes the approved
29 certification course and passes the approved certification
30 examination. The department must approve the form of the
31 certification cards issued by each organization. Each

1 certification card must include the wrecker operator's name, a
2 color photograph or digital image of the wrecker operator, and
3 the expiration date of the certification card.

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

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

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

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

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

29
30 For the purposes of this subsection, the council shall approve
31 each certification examination in another state, and shall

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

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

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

15 508.10 Wrecker operators; certification required;
16 inspection of employment records.--Effective January 1, 2006:

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

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

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

31

1 (3)(a) Notwithstanding subsections (1) and (2), a
2 person may perform wrecker services or specialized wrecker
3 services in this state if he or she is an employee or ultimate
4 equitable owner of a motor vehicle repair shop registered with
5 the department under s. 559.904 and those wrecker services or
6 specialized wrecker services are performed on behalf of the
7 motor vehicle repair shop.

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

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

21 508.11 Renewal of certification; continuing education
22 requirements.--

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

1 it proposes to offer, before the course is approved for
2 recertifying wrecker operators.

3 (2) Each organization conducting an approved wrecker
4 operator continuing education course must issue, on forms
5 prescribed by the department, a certificate to each wrecker
6 operator who completes the approved course or who passes an
7 approved recertification examination.

8 508.12 Prohibited acts.--It is a violation of this
9 chapter for a person to:

10 (1) Charge rates that 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).

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

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

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

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

22 (6) Refuse to allow a law enforcement officer to
23 inspect a towing and storage facility, as required in s.
24 812.055.

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

30 (8) Allow a wrecker operator certified under this
31 chapter to perform a specialized wrecker service for the

1 wrecker company if the wrecker operator's certification does
2 not include an endorsement for that specialized wrecker
3 service.

4 (9) Perform an act otherwise prohibited by this
5 chapter or fail to perform an act otherwise required by this
6 chapter.

7 508.13 Administrative penalties; inspection of
8 records.--

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

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

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

15 (c) Direct the person to cease and desist specified
16 activities.

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

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

22 (2) Chapter 120 shall govern an administrative
23 proceeding resulting from an order imposing a penalty
24 specified in subsection (1).

25 508.14 Civil penalties.--The department may bring a
26 civil action in a court of competent jurisdiction to recover
27 any penalties or damages allowed in this chapter and for
28 injunctive relief to enforce compliance with this chapter. The
29 department may seek a civil penalty of up to \$5,000 for each
30 violation of this chapter and may seek restitution for and on
31

1 behalf of any owner of a vehicle, vessel, or mobile home who
2 is aggrieved or injured by a violation of this chapter.

3 508.15 Criminal penalties.--Effective July 1, 2006:

4 (1) A person who violates s. 508.04(1) by operating a
5 wrecker company in this state without being registered with
6 the department under this chapter commits a felony of the
7 third degree, punishable as provided in s. 775.082, s.
8 775.083, or s. 775.084.

9 (2) A person who violates s. 508.10(1) by performing
10 wrecker services in this state without being an employee or
11 ultimate equitable owner of a wrecker company that is
12 registered with the department under this chapter commits a
13 felony of the third degree, punishable as provided in s.
14 775.082, s. 775.083, or s. 775.084.

15 508.16 Fees.--The department shall adopt by rule a fee
16 schedule, not to exceed the following amounts:

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

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

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

24 508.18 Recovery agents; exemption.--This chapter does
25 not apply to a person licensed under chapter 493 performing
26 repossession services.

27 508.19 County and municipal ordinances.--A county or
28 municipality may enact ordinances governing the business of
29 transporting vehicles or vessels by wrecker which are more
30 restrictive than this chapter. This section does not limit the
31 authority of a political subdivision to impose regulatory fees

1 or charges or to levy occupational license taxes under chapter
2 205. The department may enter into a cooperative agreement
3 with any county or municipality that provides for the
4 referral, investigation, and prosecution of consumer
5 complaints alleging violations of this act. The department is
6 authorized to delegate enforcement of this act to any county
7 or municipality entering into a cooperative agreement.

8 508.20 Records.--

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

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

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

31

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

3 713.78 Liens for recovering, towing, or storing
4 vehicles and vessels.--

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

21 1. The name, address, and telephone number of the
22 wrecker operator.

23 2. The name of the registered owner of the vehicle,
24 vessel, or mobile home and the address to which the wrecker
25 operator provided notice of the lien to the registered owner
26 under subsection (4).

27 3. A general description of the vehicle, vessel, or
28 mobile home, including its color, make, model, body style, and
29 year.

30 4. The vehicle identification number (VIN);
31 registration license plate number, state, and year; validation

1 decal number, state, and year; mobile home sticker number,
2 state, and year; vessel registration number; hull
3 identification number; or other identification number, as
4 applicable.

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

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

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

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

29 a. The registered owner presents a notarized bill of
30 sale proving that the vehicle, vessel, or mobile home was sold
31

1 in a private or casual sale before the vehicle, vessel, or
2 mobile home was recovered, towed, or stored.

3 b. The registered owner presents proof that the
4 Florida certificate of title of the vehicle, vessel, or mobile
5 home was sold to a licensed dealer as defined in s. 319.001
6 before the vehicle, vessel, or mobile home was recovered,
7 towed, or stored.

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

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

1 incurred in obtaining the judgment. The department's action
2 under this subparagraph is ministerial in nature, shall not be
3 considered final agency action, and may be appealed ~~is~~
4 ~~appealable~~ only to the county court for the county in which
5 the vehicle, vessel, or mobile home was ordered removed.

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

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

1 | vehicle under s. 320.03(8), thereby allowing issuance of a
2 | license plate or revalidation sticker, upon posting with the
3 | clerk of court in the county in which the vehicle, vessel, or
4 | mobile home was ordered removed, a cash or surety bond or
5 | other adequate security equal to the amount of the wrecker
6 | operator's lien. Upon the posting of the bond and the payment
7 | of the application fee set forth in s. 28.24, the clerk of the
8 | court shall issue a certificate notifying the department of
9 | the posting of the bond and directing the department to
10 | release the wrecker operator's lien. The department shall mail
11 | to the wrecker operator, at the address upon the lien form,
12 | notice that the wrecker operator must claim the security
13 | within 60 days, or the security will be released back to the
14 | person who posted it. At the conclusion of the 60 days, the
15 | department shall direct the clerk as to which party is
16 | entitled to payment of the security, less applicable clerk's
17 | fees.

18 | 4. A wrecker operator's lien expires 5 years after
19 | filing.

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

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

9 | (e) When a wrecker operator files a notice of wrecker
10 | operator's lien under this subsection, the department shall
11 | charge the wrecker operator a fee of \$2, which must ~~shall~~ be
12 | deposited into the General Revenue Fund ~~established under s.~~
13 | ~~860.158~~. A service charge of \$2.50 shall be collected and
14 | retained by the tax collector who processes a notice of
15 | wrecker operator's lien.

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

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

29 | Section 18. Effective January 1, 2006, section 713.78,
30 | Florida Statutes, as amended by this act, is amended to read:
31 |

1 713.78 Liens for recovering, towing, or storing
2 vehicles and vessels.--

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

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

7 (b) "Property owner" has the same meaning ascribed in
8 s. 715.07.

9 (c)(a) "Vehicle" has the same meaning ascribed in s.
10 508.01 ~~means any mobile item, whether motorized or not, which~~
11 ~~is mounted on wheels.~~

12 (d)(b) "Vessel" has the same meaning ascribed in s.
13 508.01 ~~means every description of watercraft, barge, and air~~
14 ~~boat used or capable of being used as a means of~~
15 ~~transportation on water, other than a seaplane or a~~
16 ~~"documented vessel" as defined in s. 327.02(8).~~

17 (e)(c) "Wrecker" has the same meaning ascribed in s.
18 320.01 ~~means any truck or other vehicle which is used to tow,~~
19 ~~carry, or otherwise transport motor vehicles or vessels upon~~
20 ~~the streets and highways of this state and which is equipped~~
21 ~~for that purpose with a boom, winch, car carrier, or other~~
22 ~~similar equipment.~~

23 (f) "Wrecker company" has the same meaning ascribed in
24 s. 508.01.

25 (g) "Wrecker operator" has the same meaning ascribed
26 in s. 508.01.

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

- 1 (a) The owner of the vehicle or vessel thereof; ~~or~~
2 (b) The property owner ~~or lessor, or a person~~
3 ~~authorized by the owner or lessor,~~ of real property on which
4 ~~the such~~ vehicle is ~~wrongfully~~ parked without permission, and
5 ~~the such~~ removal is done in compliance with s. 715.07; or
6 (c) A ~~Any~~ law enforcement agency, ~~or~~
7 (d) ~~A mobile home park owner as defined in s. 723.003~~
8 ~~who has a current writ of possession for a mobile home lot~~
9 ~~pursuant to s. 723.061,~~

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

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

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

24 (c) Notice by certified mail, return receipt
25 requested, must ~~shall~~ be sent within 7 business days after the
26 date of storage of the vehicle or vessel to the registered
27 owner, the insurance company insuring the vehicle
28 notwithstanding ~~the provisions of~~ s. 627.736, and all persons
29 of record claiming a lien against the vehicle or vessel. The
30 notice must ~~it shall~~ state the fact of possession of the
31 vehicle or vessel, that a lien as provided in subsection (2)

1 is claimed, that charges have accrued and the amount of the
2 charges thereof, that the lien is subject to enforcement under
3 ~~pursuant to law, and~~ that the owner or lienholder, if any, has
4 the right to a hearing as set forth in subsection (5), and
5 that any vehicle or vessel which remains unclaimed, or for
6 which the charges for recovery, towing, or storage services
7 remain unpaid, may be sold free of all prior liens after 35
8 days if the vehicle or vessel is more than 3 years of age or
9 after 50 days if the vehicle or vessel is 3 years of age or
10 less.

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

25 1. Check of vehicle or vessel for any type of tag, tag
26 record, temporary tag, or regular tag.

27 2. Check of law enforcement report for tag number or
28 other information identifying the vehicle or vessel, if the
29 vehicle or vessel was towed at the request of a law
30 enforcement officer.

31

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

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

8 5. Check of vehicle or vessel for inspection sticker
9 or other stickers and decals that may indicate a state of
10 possible registration.

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

14 7. Check of vehicle for vehicle identification number.

15 8. Check of vessel for vessel registration number.

16 9. Check of vessel hull for a hull identification
17 number which should be carved, burned, stamped, embossed, or
18 otherwise permanently affixed to the outboard side of the
19 transom or, if there is no transom, to the outmost seaboard
20 side at the end of the hull that bears the rudder or other
21 steering mechanism.

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

31

1 (b) Upon filing of a complaint, an owner or lienholder
2 may have her or his vehicle or vessel released upon posting
3 with the court a cash or surety bond or other adequate
4 security equal to the amount of the charges for towing or
5 storage and lot rental amount to ensure the payment of the
6 ~~such~~ charges in the event she or he does not prevail. Upon
7 the posting of the bond and the payment of the applicable fee
8 set forth in s. 28.24, the clerk of the court shall issue a
9 certificate notifying the lienor of the posting of the bond
10 and directing the lienor to release the vehicle or vessel. At
11 the time of the ~~such~~ release, after reasonable inspection, she
12 or he shall give a receipt to the wrecker ~~towing storage~~
13 company reciting any claims she or he has for loss or damage
14 to the vehicle or vessel or to the contents of the vehicle or
15 vessel thereof.

16 (c) Upon determining the respective rights of the
17 parties, the court shall ~~may~~ award damages, and costs, and
18 reasonable attorney's fees to in favor of the prevailing
19 party. ~~In any event,~~ The final order must require ~~shall~~
20 ~~provide for~~ immediate payment in full of the recovery, towing,
21 and storage fees by the vehicle or vessel owner or lienholder;
22 by ~~or~~ the law enforcement agency ordering the tow; or by the
23 property owner, lessee, or agent thereof of the real property
24 from which the vehicle or vessel was towed or removed under s.
25 715.07.

26 (6) Any vehicle or vessel that ~~which~~ is stored under
27 ~~pursuant to~~ subsection (2) and that ~~which~~ remains unclaimed,
28 or for which reasonable charges for recovery, towing, or
29 storing remain unpaid ~~or for which a lot rental amount is due~~
30 ~~and owing to the mobile home park owner, as evidenced by a~~
31 ~~judgment for unpaid rent, and any contents not released under~~

1 ~~pursuant to~~ subsection (10), may be sold by the wrecker
2 ~~company owner or operator of the storage space~~ for the such
3 towing or storage charge or unpaid lot rental amount ~~after~~ 35
4 days after ~~from the time~~ the vehicle or vessel is stored in
5 the wrecker company's storage facility ~~therein~~ if the vehicle
6 or vessel is more than 3 years of age or ~~after~~ 50 days after
7 ~~following the time~~ the vehicle or vessel is stored in the
8 wrecker company's storage facility ~~therein~~ if the vehicle or
9 vessel is 3 years of age or less. The sale must ~~shall~~ be at
10 public auction for cash. If the date of the sale is ~~was~~ not
11 included in the notice required in subsection (4), notice of
12 the sale must ~~shall~~ be given to the person in whose name the
13 vehicle or, vessel, ~~or mobile home~~ is registered, ~~to the~~
14 ~~mobile home park owner~~, and to all persons claiming a lien on
15 the vehicle or vessel as shown on the records of the
16 Department of Highway Safety and Motor Vehicles or of the
17 corresponding agency in any other state. Notice must ~~shall~~ be
18 sent by certified mail, return receipt requested, to the owner
19 of the vehicle or vessel and the person having the recorded
20 lien on the vehicle or vessel at the address shown on the
21 records of the registering agency and must ~~shall~~ be mailed at
22 least not less than 15 days before the date of the sale. After
23 diligent search and inquiry, if the name and address of the
24 registered owner or the owner of the recorded lien cannot be
25 ascertained, the requirements of notice by mail may be
26 dispensed with. In addition to the notice by mail, public
27 notice of the time and place of sale must ~~shall~~ be made by
28 publishing a notice of the sale ~~thereof~~ one time, at least 10
29 days before ~~prior to~~ the date of the sale, in a newspaper of
30 general circulation in the county in which the sale is to be
31 held. The proceeds of the sale, after payment of reasonable

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

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

1 ~~such a condition as to create~~ a hazard to other traffic upon
2 the street or highway.

3 (b) Employees or authorized agents of an authorized or
4 unauthorized wrecker company, as defined in s. 321.051 or s.
5 323.002, may remove a vehicle or vehicle cargo from a public
6 road without consent of the owner or operator of the vehicle
7 or vehicle cargo upon request of a law enforcement officer as
8 defined in s. 112.531, a sheriff or deputy sheriff as defined
9 in s. 30.072, or a firefighter as defined in s. 112.81. The
10 employee or authorized agent of the wrecker company, its
11 wrecker operators, and other employees or agents of the
12 wrecker company, the law enforcement officer, sheriff, or
13 deputy sheriff, and the firefighters and emergency medical
14 services providers are not liable for any property damages or
15 claims of damage for the removal if the vehicle or vehicle
16 cargo is removed because it presents an imminent public-safety
17 hazard.

18 (c)(b) For the purposes of this subsection, a wrecker
19 company, its wrecker operators, and other employees or agents
20 of the wrecker company are ~~operator is~~ presumed to use
21 reasonable care to prevent the theft of a vehicle or vessel or
22 of any personal property contained in ~~the~~ such vehicle stored
23 in the wrecker company's ~~operator's~~ storage facility if all of
24 the following apply:

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

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

1 3. The wrecker company ~~operator~~ uses one or more of
2 the following security methods to discourage theft of vehicles
3 or vessels or of any personal property contained in such
4 vehicles or vessels stored in the wrecker company's ~~operator's~~
5 storage facility:

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

8 b. A security dog remains at the storage facility from
9 sunset to sunrise;

10 c. Security cameras or other similar surveillance
11 devices monitor the storage facility; or

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

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

27 (8) A wrecker company and its wrecker operators,
28 excluding ~~person regularly engaged in the business of~~
29 ~~recovering, towing, or storing vehicles or vessels, except a~~
30 person licensed under chapter 493 while engaged in
31 "repossession" activities as defined in s. 493.6101, may not

1 operate a wrecker, ~~tow truck, or car carrier~~ unless the name,
2 address, and telephone number of the wrecker company
3 performing the wrecker services ~~service~~ is clearly printed in
4 contrasting colors on the driver and passenger sides of the
5 wrecker ~~its vehicle~~. The name must be in at least 3-inch
6 permanently affixed letters, and the address and telephone
7 number must be in at least 1-inch permanently affixed letters.

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

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

22 (11)(a) A wrecker company that ~~Any person regularly~~
23 ~~engaged in the business of recovering, towing, or storing~~
24 ~~vehicles or vessels who~~ comes into possession of a vehicle or
25 vessel under ~~pursuant to~~ subsection (2) and that complies ~~who~~
26 ~~has complied~~ with the ~~provisions~~ of subsections (3) and (6),
27 when the ~~such~~ vehicle or vessel is to be sold for purposes of
28 being dismantled, destroyed, or changed in a ~~such~~ manner that
29 it is not the motor vehicle or, ~~vessel, or mobile home~~
30 described in the certificate of title, must ~~shall~~ apply to the
31 county tax collector for a certificate of destruction. A

1 certificate of destruction, which authorizes the dismantling
2 or destruction of the vehicle or vessel described on the
3 certificate therein, is shall be reassignable no more than
4 twice a maximum of two times before dismantling or destruction
5 of the vehicle is shall be required, and the certificate must
6 ~~shall~~ accompany the vehicle or vessel for which it is issued,
7 when the such vehicle or vessel is sold for that purpose such
8 ~~purposes~~, in lieu of a certificate of title. The application
9 for a certificate of destruction must include an affidavit
10 from the applicant that it has complied with all applicable
11 requirements of this section and, if the vehicle or vessel is
12 not registered in this state, by a statement from a law
13 enforcement officer that the vehicle or vessel is not reported
14 stolen, and must also shall be accompanied by any other such
15 documentation ~~as may be~~ required by the department.

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

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

23 (12)(a) Any person who violates ~~any provision of~~
24 subsection (1), subsection (2), subsection (4), subsection
25 (5), subsection (6), or subsection (7) commits is guilty of a
26 misdemeanor of the first degree, punishable as provided in s.
27 775.082 or s. 775.083.

28 (b) Any person who violates ~~the provisions of~~
29 subsections (8) through (11) commits is guilty of a felony of
30 the third degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

1 (c) Any person who uses a false or fictitious name,
2 gives a false or fictitious address, or makes any false
3 statement in any application or affidavit required under ~~the~~
4 ~~provisions of this section~~ commits ~~is guilty of~~ a felony of
5 the third degree, punishable as provided in s. 775.082, s.
6 775.083, or s. 775.084.

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

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

1 ~~company's operator's~~ lien shall be submitted on forms provided
2 by the department, which must include:

3 1. The name, address, and telephone number of the
4 wrecker company operator.

5 2. The name of the registered owner of the vehicle or
6 vessel, ~~or mobile home~~ and the address to which the wrecker
7 company operator provided notice of the lien to the registered
8 owner under subsection (4).

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

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

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

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

23 (b) For purposes of this subsection only, the amount
24 of the wrecker company's operator's lien for which the
25 department will prevent issuance of a license plate or
26 revalidation sticker may not exceed the amount of the charges
27 for recovery, towing, and storage of the vehicle or vessel,
28 ~~or 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

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

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

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

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

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

25
26 If the registered owner's dispute of a wrecker company's
27 ~~operator's~~ lien complies with one of these criteria, the
28 department shall immediately remove the registered owner's
29 name from the list of those persons who may not be issued a
30 license plate or revalidation sticker for any motor vehicle
31 under s. 320.03(8), thereby allowing issuance of a license

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

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

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

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

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

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

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

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

1 collector who processes a notice of wrecker company's
2 ~~operator's~~ lien.

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

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

16 (14) The amendments to this section made by this act
17 do not affect the validity of liens established under this
18 section before January 1, 2006.

19 Section 19. Effective January 1, 2006, section
20 713.785, Florida Statutes, is created to read:

21 713.785 Liens for recovering, towing, or storing
22 mobile homes.--

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

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

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

30 (c) "Unpaid lot rental amount" or "rent" means any
31 unpaid financial obligations of the mobile home owner or

1 tenant to the mobile home park owner defined as "lot rental
2 amount" in s. 723.003 or "rent" in part II of chapter 83 and
3 includes any amounts defined as storage charges in s. 723.084.

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

6 (a) The owner of the mobile home;

7 (b) Any law enforcement agency; or

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

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

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

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

1 any mobile home which remains unclaimed, or for which charges
2 remain unpaid, may be sold free of all prior liens after 35
3 days.

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

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

26 (c) Upon determining the respective rights of the
27 parties, the court may award damages and costs in favor of the
28 prevailing party. The final order shall provide for immediate
29 payment in full of any lien for recovery, towing, and storage
30 fees and any unpaid lot rental amount accruing until the time
31 the home is removed from the property, by the mobile home

1 owner or lienholder, or the owner, lessee, or agent thereof of
2 the property from which the mobile home was removed.

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

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

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

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

1 than twice before dismantling or destruction of the mobile
2 home and the certificate must accompany the mobile home for
3 which it is issued when the mobile home is sold for that
4 purpose, in lieu of a certificate of title. The application
5 for a certificate of destruction must include an affidavit
6 from the applicant that it has complied with all applicable
7 requirements of this section; must, if the mobile home is not
8 registered in this state, include a statement from a law
9 enforcement officer that the mobile home is not reported
10 stolen; and shall be accompanied by any other documentation as
11 may be required by the department.

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

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

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

22 (8)(a) Upon receipt by the Department of Highway
23 Safety and Motor Vehicles of written notice from a mobile home
24 transport company that claims a lien under paragraph (2)(b) or
25 paragraph (2)(c) for recovery, towing, or storage of a mobile
26 home for which a certificate of destruction has been issued
27 under subsection (7), the department shall place the name of
28 the registered owner of that mobile home on the list of those
29 persons who may not be issued a revalidation sticker under s.
30 320.03. If the mobile home is owned jointly by more than one
31 person, the name of each registered owner must be placed on

1 the list. The notice of a mobile home transport company's lien
2 must be submitted on forms provided by the department, which
3 must include:

4 1. The name, address, and telephone number of the
5 mobile home transport company.

6 2. The name of the registered owner of the mobile home
7 and the address to which the mobile home transport company
8 provided notice of the lien to the registered owner under
9 subsection (3).

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

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

14 5. The name of the person or the corresponding law
15 enforcement agency that requested that the mobile home be
16 recovered, towed, or stored.

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

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

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

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

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

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

16
17 If the registered owner's dispute of a mobile home transport
18 company's lien complies with one of these criteria, the
19 department shall immediately remove the registered owner's
20 name from the list of those persons who may not be issued a
21 revalidation sticker under s. 320.03. If the mobile home is
22 owned jointly by more than one person, each registered owner
23 must dispute the mobile home transport company's lien in order
24 to be removed from the list. However, the department shall
25 deny any dispute and maintain the registered owner's name on
26 the list of those persons who may not be issued a revalidation
27 sticker if the mobile home transport company has provided the
28 department with a certified copy of the judgment of a court
29 which orders the registered owner to pay the mobile home
30 transport company's lien claimed under this section. In such a
31 case, the amount of the mobile home transport company's lien

1 allowed by paragraph (b) may be increased to include no more
2 than \$500 of the reasonable costs and attorney's fees incurred
3 in obtaining the judgment. The department's action under this
4 subparagraph is ministerial in nature, is not final agency
5 action, and is appealable only to the county court for the
6 county in which the mobile home was ordered removed.

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

26 3. If a person against whom a mobile home transport
27 company's lien has been imposed does not object to the lien,
28 but cannot discharge the lien by payment because the mobile
29 home transport company has moved or gone out of business, the
30 person may have her or his name removed from the list of those
31 persons who may not be issued a revalidation sticker under s.

1 320.03, upon posting with the clerk of court in the county in
2 which the mobile home was ordered removed a cash or surety
3 bond or other adequate security equal to the amount of the
4 mobile home transport company's lien. Upon the posting of the
5 bond and the payment of the application fee set forth in s.
6 28.24, the clerk of the court shall issue a certificate
7 notifying the department of the posting of the bond and
8 directing the department to release the mobile home transport
9 company's lien. The department shall mail to the mobile home
10 transport company, at the address upon the lien form, notice
11 that the mobile home transport company must claim the security
12 within 60 days or the security will be released to the person
13 who posted it. At the conclusion of the 60 days, the
14 department shall direct the clerk as to which party is
15 entitled to payment of the security, less applicable fees of
16 the clerk.

17 4. A mobile home transport company's lien expires 5
18 years after filing.

19 (d) Upon discharge of the amount of the mobile home
20 transport company's lien allowed under paragraph (b), the
21 mobile home transport company must issue a certificate of
22 discharged lien on a form provided by the department to each
23 registered owner of the mobile home attesting that the amount
24 of the mobile home transport company's lien allowed under
25 paragraph (b) has been discharged. Upon presentation of the
26 certificate of discharged lien by the registered owner, the
27 department shall immediately remove the registered owner's
28 name from the list of those persons who may not be issued a
29 revalidation sticker under s. 320.03. Issuance of a
30 certificate of discharged lien under this paragraph does not
31 discharge the entire amount of the mobile home transport

1 company's lien claimed under subsection (2), but certifies to
2 the department only that the amount of the mobile home
3 transport company's lien allowed by paragraph (b), for which
4 the department will prevent issuance of a revalidation
5 sticker, has been discharged.

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

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

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

22 (10) Any person who violates subsection (3),
23 subsection (5), subsection (6), subsection (7), or subsection
24 (9) commits a misdemeanor of the first degree, punishable as
25 provided in s. 775.082 or s. 775.083.

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

28 319.30 Definitions; dismantling, destruction, change
29 of identity of motor vehicle or mobile home; salvage.--

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

31

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, section 715.07,
24 Florida Statutes, is amended to read:

25 715.07 Vehicles and vessels parked on real ~~private~~
26 property without permission; towing.--

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

28 (a) "Property owner" means an owner or lessee of real
29 property, or a person authorized by the owner or lessee, which
30 person may be the designated representative of the condominium
31 association if the real property is a condominium.

1 **(b) "Vehicle" has the same meaning ascribed in s.**
2 ~~508.01 means any mobile item which normally uses wheels,~~
3 ~~whether motorized or not.~~

4 **(c) "Vessel" has the same meaning ascribed in s.**
5 ~~508.01.~~

6 **(d) "Wrecker company" has the same meaning ascribed in**
7 ~~s. 508.01.~~

8 **(e) "Wrecker operator" has the same meaning ascribed**
9 ~~in s. 508.01.~~

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

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

26 1.a. Any towed or removed vehicle or vessel must be
27 stored at a storage facility site within a 10-mile radius ~~10~~
28 ~~miles~~ of the point of removal in any county of 500,000
29 population or more, and within a 15-mile radius ~~15 miles~~ of
30 the point of removal in any county of less than 500,000
31 population. The wrecker company's storage facility ~~That site~~

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

11 b. If a wrecker company ~~no towing business providing~~
12 ~~such service~~ is not located within the area of towing
13 limitations ~~set forth~~ in sub-subparagraph a., the following
14 limitations apply: any towed or removed vehicle or vessel
15 must be stored at a storage facility ~~site~~ within a 20-mile
16 radius ~~20 miles~~ of the point of removal in any county of
17 500,000 population or more, and within a 30-mile radius ~~30~~
18 ~~miles~~ of the point of removal in any county of less than
19 500,000 population.

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

1 3. If the registered owner or other legally authorized
2 person in control of the vehicle or vessel arrives at the
3 scene ~~before~~ ~~prior to removal or towing of the vehicle or~~
4 vessel is towed or removed, the wrecker company must
5 disconnect the vehicle or vessel ~~shall be disconnected~~ from
6 the ~~wrecker towing or removal apparatus~~, and must allow that
7 person ~~shall be allowed~~ to remove the vehicle or vessel
8 without interference upon the payment of a reasonable service
9 fee of not more than one-half of the posted rate for those
10 services ~~such towing service~~ as provided in subparagraph 6.,
11 for which a receipt shall be given, unless that person refuses
12 to remove the vehicle or vessel that ~~which~~ is otherwise
13 unlawfully parked or located.

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

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

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

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

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

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

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

31

1 e. The local government may require permitting and
2 inspection of these signs prior to any towing or removal of
3 vehicles being authorized.

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

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

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

26 6. Each wrecker company ~~Any person or firm~~ that tows
27 or removes vehicles or vessels and proposes to require an
28 owner, operator, or person in control of a vehicle or vessel
29 to pay the costs of towing and storage prior to redemption of
30 the vehicle or vessel must file and keep on record with the
31 local law enforcement agency a complete copy of the current

1 rates to be charged for those ~~such~~ services and post at the
2 wrecker company's storage facility ~~site~~ an identical rate
3 schedule and any written contracts with property owners,
4 lessees, or persons in control of real property which
5 authorize the wrecker company ~~such person or firm~~ to remove
6 vehicles or vessels as provided in this section.

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

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

29 9. When a vehicle or vessel ~~is has been~~ towed or
30 removed under ~~pursuant to~~ this section, the wrecker company ~~it~~
31 must release the vehicle or vessel ~~be released~~ to its owner or

1 | custodian within one hour after requested. Any vehicle or
2 | vessel owner, custodian, or agent ~~has~~ ~~shall have~~ the right to
3 | inspect the vehicle or vessel before accepting its return. A
4 | wrecker company may not require any vehicle or vessel owner,
5 | custodian, or agent to, and no release the wrecker company or
6 | ~~waiver of any kind which would release the person or firm~~
7 | towing the vehicle or vessel from liability for damages noted
8 | by the owner or other legally authorized person at the time of
9 | the redemption ~~may be required from any vehicle owner,~~
10 | ~~custodian, or agent~~ as a condition of release of the vehicle
11 | or vessel to its owner. A wrecker company must give a person
12 | paying towing and storage charges under this section a
13 | detailed, signed receipt showing the legal name of the wrecker
14 | ~~company or person towing or removing the vehicle must be given~~
15 | ~~to the person paying towing or storage charges~~ at the time of
16 | payment, whether requested or not.

17 | (b) These requirements are ~~shall be the~~ minimum
18 | standards and do ~~shall~~ not preclude enactment of additional
19 | regulations by any municipality or county, including the
20 | regulation of ~~right to regulate~~ rates when vehicles or vessels
21 | are towed from real ~~private~~ property.

22 | (3) This section does not apply to vehicles or vessels
23 | that are reasonably identifiable from markings as law
24 | enforcement, firefighting, rescue squad, ambulance, or other
25 | emergency vehicles or vessels ~~which are marked as such~~ or to
26 | property owned by any governmental entity.

27 | (4) When a person improperly causes a vehicle or
28 | vessel to be removed, that ~~such~~ person is ~~shall be~~ liable to
29 | the owner or lessee of the vehicle or vessel for the cost of
30 | removal, transportation, and storage; any damages resulting
31 |

1 from the removal, transportation, or storage of the vehicle or
2 vessel; attorneys' fees; and court costs.

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

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

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

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

18 Section 24. The sum of \$693,000 is appropriated from
19 the General Inspection Trust Fund to the Department of
20 Agriculture and Consumer Services, and 10 additional
21 full-time-equivalent positions are authorized, for the purpose
22 of implementing this act during the 2005-2006 fiscal year.

23 Section 25. Except as otherwise expressly provided in
24 this act, this act shall take effect July 1, 2005.

25
26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

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