

By the Committee on General Government Appropriations; and  
Senator Crist

601-2212-05

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.; clarifying  
17                   that portion of a license plate which must be  
18                   clear and plainly visible; providing  
19                   requirements for licensing wreckers and other  
20                   vehicles; amending s. 320.01, F.S.; redefining  
21                   the term "wrecker" for purposes of the Florida  
22                   Statutes; amending ss. 320.03 and 320.0706,  
23                   F.S., relating to motor vehicle registration  
24                   and license plates; conforming provisions to  
25                   changes made by the act; reenacting s.  
26                   320.08(5)(d) and (e), F.S., relating to license  
27                   taxes, to incorporate the amendment to s.  
28                   320.01, F.S., in references thereto; amending  
29                   s. 320.0821, F.S.; revising requirements for  
30                   the issuance of wrecker license plates;  
31                   amending s. 320.13, F.S., relating to dealer

1 license plates; conforming provisions to  
2 changes made by the act; amending s. 321.051,  
3 F.S.; providing definitions; requiring the  
4 Division of the Florida Highway Patrol within  
5 the Department of Highway Safety and Motor  
6 Vehicles to establish a wrecker allocation  
7 system; providing requirements for the system;  
8 authorizing the division to set maximum rates  
9 for towing and storage of vehicles; prohibiting  
10 an unauthorized wrecker company from monitoring  
11 a police radio or engaging in other activities;  
12 providing penalties; providing requirements for  
13 dispatching wreckers; amending s. 323.001,  
14 F.S., relating to wrecker company storage  
15 facilities; providing definitions; providing  
16 procedures for a law enforcement agency to  
17 place a hold on a stored vehicle; providing for  
18 payment of towing and storage charges; amending  
19 s. 323.002, F.S.; providing definitions;  
20 providing requirements for a county or  
21 municipality that operates a wrecker allocation  
22 system; providing requirements for the system;  
23 prohibiting an unauthorized wrecker company  
24 from monitoring a police radio or engaging in  
25 other activities; providing penalties;  
26 providing requirements for dispatching  
27 wreckers; creating chapter 508, F.S.; providing  
28 definitions; creating the Wrecker Operator  
29 Advisory Council within the Department of  
30 Agriculture and Consumer Services; providing  
31 for membership and terms; providing for

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

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

1 for issuing certificates of destruction and  
2 revalidation stickers; providing procedures for  
3 disputing a lien and for discharge of a lien;  
4 providing for the posting and repayment of  
5 surety; providing for criminal penalties;  
6 amending s. 715.07, F.S.; defining the term  
7 "vessel"; conforming provisions related to  
8 towing vessels parked on private property;  
9 imposing criminal penalties for failure to  
10 comply with certain laws governing the towing  
11 of vehicles and vessels; repealing s. 1.01(15),  
12 F.S., relating to the definition of the term  
13 "wrecker operator"; providing an appropriation  
14 and authorizing additional positions; providing  
15 effective dates.

16

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

18

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

22 120.80 Exceptions and special requirements;  
23 agencies.--

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

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

1 hearings shall be held by a hearing officer appointed by the  
2 director of the Division of the Florida Highway Patrol.

3 Section 2. Effective January 1, 2006, section  
4 205.1975, Florida Statutes, is created to read:

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

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

12 316.530 Towing requirements.--

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

22 Section 4. For the purpose of incorporating the  
23 amendment made by this act to section 320.01, Florida  
24 Statutes, in references thereto, subsection (4) of section  
25 316.550, Florida Statutes, is reenacted to read:

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

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

1 disabled vehicle being towed exceeds the maximum weight limits  
2 as established by s. 316.535.

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

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

9 316.605 Licensing of vehicles.--

10 (1) Every vehicle, at all times while driven, stopped,  
11 or parked upon any highways, roads, or streets of this state,  
12 shall be licensed in the name of the owner thereof in  
13 accordance with the laws of this state unless such vehicle is  
14 not required by the laws of this state to be licensed in this  
15 state and shall, except as otherwise provided in s. 320.0706  
16 for front-end registration license plates on truck tractors or  
17 wreckers, display the license plate or both of the license  
18 plates assigned to it by the state, one on the rear and, if  
19 two, the other on the front of the vehicle, each to be  
20 securely fastened to the vehicle outside the main body of the  
21 vehicle in such manner as to prevent the plates from swinging,  
22 ~~and with~~ all letters, numerals, printing, writing, and other  
23 identification marks upon the plates regarding the word  
24 "Florida," the registration decal, and this alphanumeric  
25 designation shall be clear and distinct and free from  
26 defacement, mutilation, grease, and other obscuring matter, so  
27 that they will be plainly visible and legible at all times 100  
28 feet from the rear or front. In addition, if only one  
29 registration plate is issued for a motor vehicle that is  
30 equipped with a mechanical loading device that may damage the  
31 plate, the plate may be attached to the front of the vehicle.

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

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

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

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

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

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

30 (8) If the applicant's name appears on the list  
31 referred to in s. 316.1001(4), s. 316.1967(6), or s.



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

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

29 320.0706 Display of license plates on trucks.--The  
30 owner of any commercial truck of gross vehicle weight of  
31 26,001 pounds or more shall display the registration license

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

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

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

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

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

25 |             (e) A wrecker, as defined in s. 320.01(40), which is  
26 | used to tow any motor vehicle, regardless of whether or not  
27 | such motor vehicle is a disabled motor vehicle as defined in  
28 | s. 320.01(38), a replacement motor vehicle as defined in s.  
29 | 320.01(39), a vessel as defined in s. 327.02(36), or any other  
30 | cargo, as follows:  
31 |

- 1           1. Gross vehicle weight of 10,000 pounds or more, but  
2 less than 15,000 pounds: \$87 flat.
- 3           2. Gross vehicle weight of 15,000 pounds or more, but  
4 less than 20,000 pounds: \$131 flat.
- 5           3. Gross vehicle weight of 20,000 pounds or more, but  
6 less than 26,000 pounds: \$186 flat.
- 7           4. Gross vehicle weight of 26,000 pounds or more, but  
8 less than 35,000 pounds: \$240 flat.
- 9           5. Gross vehicle weight of 35,000 pounds or more, but  
10 less than 44,000 pounds: \$300 flat.
- 11          6. Gross vehicle weight of 44,000 pounds or more, but  
12 less than 55,000 pounds: \$572 flat.
- 13          7. Gross vehicle weight of 55,000 pounds or more, but  
14 less than 62,000 pounds: \$678 flat.
- 15          8. Gross vehicle weight of 62,000 pounds or more, but  
16 less than 72,000 pounds: \$800 flat.
- 17          9. Gross vehicle weight of 72,000 pounds or more:  
18 \$979 flat.

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

22           320.0821 Wrecker license plates.--

23           (1) The department shall issue one ~~a~~ wrecker license  
24 plate, regardless of gross vehicle weight, to the owner of any  
25 motor vehicle that is used to tow, carry, or otherwise  
26 transport motor vehicles and that is equipped for that purpose  
27 with a boom, winch, carrier, or other similar equipment,  
28 except a motor vehicle registered under the International  
29 Registration Plan, upon application and payment of the  
30 appropriate license tax and fees in accordance with s.  
31 320.08(5)(d) or (e).

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

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

6           320.0821 Wrecker license plates.--

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

20           Section 12. Paragraph (a) of subsection (1) of section  
21 320.13, Florida Statutes, is amended to read:

22           320.13 Dealer and manufacturer license plates and  
23 alternative method of registration.--

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

1 | plates may not be used on any ~~tow truck or~~ wrecker as defined  
2 | in s. 320.01 unless the ~~tow truck or~~ wrecker is being  
3 | demonstrated for sale, and the dealer license plates may not  
4 | be used on a vehicle used to transport another motor vehicle  
5 | for the motor vehicle dealer.

6 | Section 13. Effective January 1, 2006, section  
7 | 321.051, Florida Statutes, is amended to read:

8 | (Substantial rewording of section. See  
9 | s. 321.051, F.S., for present text.)

10 | 321.051 Florida Highway Patrol wrecker allocation  
11 | system; penalties for operation outside of system.--

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

13 | (a) "Division" means the Division of the Florida  
14 | Highway Patrol within the Department of Highway Safety and  
15 | Motor Vehicles.

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

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

22 | (d) "Wrecker company" has the same meaning ascribed in  
23 | s. 508.01.

24 | (e) "Wrecker operator" has the same meaning ascribed  
25 | in s. 508.01.

26 | (f) "Wrecker services" has the same meaning ascribed  
27 | in s. 508.01.

28 | (2)(a) The division may establish within areas  
29 | designated by the division a wrecker allocation system, using  
30 | qualified, reputable wrecker companies, for the removal from  
31 | crash scenes and the storage of wrecked or disabled vehicles

1 when the owner or operator is incapacitated, unavailable, or  
2 leaves the procurement of wrecker services to the officer at  
3 the scene and for the removal and storage of abandoned  
4 vehicles.

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

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

21 (d) Notwithstanding chapter 120, a final order of the  
22 department denying, suspending, or revoking a wrecker  
23 company's participation in the wrecker allocation system may  
24 be appealed only in the manner and within the time provided by  
25 the Florida Rules of Appellate Procedure by a writ of  
26 certiorari issued by the circuit court in the county in which  
27 the wrecker company's primary place of business is located, as  
28 evidenced by the wrecker company's registration under chapter  
29 508.

30 (3)(a) An unauthorized wrecker company, its wrecker  
31 operators, or its other employees or agents may not monitor a

1 police radio for communications between patrol field units and  
2 the dispatcher in order to determine the location of a wrecked  
3 or disabled vehicle for the purpose of dispatching its wrecker  
4 operator to drive by the scene of the vehicle in a manner  
5 described in paragraph (b) or paragraph (c). Any person who  
6 violates this paragraph commits a noncriminal violation,  
7 punishable as provided in s. 775.083.

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

16       (c) When a wrecker operator dispatched by an  
17 unauthorized wrecker company drives by the scene of a wrecked  
18 or disabled vehicle and the owner or operator initiates  
19 contact by signaling the wrecker operator to stop and provide  
20 wrecker services, the wrecker operator must disclose to the  
21 owner or operator of the vehicle that he or she was not  
22 dispatched by the authorized wrecker company designated as  
23 part of the wrecker allocation system and must disclose, in  
24 writing, what charges for towing and storage will apply before  
25 the vehicle is connected to the towing apparatus. Any person  
26 who violates this paragraph commits a misdemeanor of the  
27 second degree, punishable as provided in s. 775.082 or s.  
28 775.083.

29       (d) A wrecker operator may not falsely identify  
30 himself or herself as being part of, or as being employed by a  
31 wrecker company that is part of, the wrecker allocation system

1 at the scene of a wrecked or disabled vehicle. Any person who  
2 violates this paragraph commits a misdemeanor of the first  
3 degree, punishable as provided in s. 775.082 or s. 775.083.

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

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



1           Section 14. Effective January 1, 2006, section  
2 323.001, Florida Statutes, is amended to read:

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

5           323.001 Wrecker company storage facilities; vehicle  
6 holds.--

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

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

10           (b) "Wrecker company" has the same meaning ascribed in  
11 s. 508.01.

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

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

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

28           (b) If the law enforcement agency chooses to have the  
29 vehicle remain at the wrecker company's storage facility for  
30 more than 5 business days under the written notification, the  
31 law enforcement agency is responsible for paying the storage

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

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

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

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

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

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

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

28 (d) The law enforcement officer has probable cause to  
29 believe that the vehicle is itself evidence that tends to show  
30 that a crime has been committed or that the vehicle contains  
31

1 evidence, which cannot readily be removed, which tends to show  
2 that a crime has been committed;  
3 (e) The law enforcement officer has probable cause to  
4 believe that the vehicle was involved in a traffic accident  
5 resulting in death or personal injury and should be sealed for  
6 investigation and collection of evidence by a vehicular  
7 homicide investigator;  
8 (f) The vehicle is impounded or immobilized under s.  
9 316.193 or s. 322.34; or  
10 (g) The law enforcement officer is complying with a  
11 court order.  
12 (6) The hold must be in writing and must specify:  
13 (a) The name and agency of the law enforcement officer  
14 placing the hold on the vehicle;  
15 (b) The date and time the hold is placed on the  
16 vehicle;  
17 (c) A general description of the vehicle, including  
18 its color, make, model, body style, and year; VIN (Vehicle  
19 Identification Number); registration license plate number,  
20 state, and year; and validation sticker number, state, and  
21 year;  
22 (d) The specific reason for placing the hold;  
23 (e) The condition of the vehicle;  
24 (f) The location where the vehicle is being held; and  
25 (g) The name, address, and telephone number of the  
26 wrecker company and the storage facility.  
27 (7) A wrecker company's storage facility must comply  
28 with a hold placed by a law enforcement officer, including  
29 instructions for inside or outside storage. A wrecker  
30 company's storage facility may not release a motor vehicle  
31

1 subject to a hold to any person except as directed by the law  
2 enforcement agency placing the hold.

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

8 Section 15. Effective January 1, 2006, section  
9 323.002, Florida Statutes, is amended to read:

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

12 323.002 County and municipal wrecker allocation  
13 systems; penalties for operation outside of system.--

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

15 (a) "Authorized wrecker company" means a wrecker  
16 company designated as part of the wrecker allocation system  
17 established by the governmental unit having jurisdiction over  
18 the scene of a wrecked or disabled vehicle.

19 (b) "Unauthorized wrecker company" means a wrecker  
20 company not designated as part of the wrecker allocation  
21 system established by the governmental unit having  
22 jurisdiction over the scene of a wrecked or disabled vehicle.

23 (c) "Wrecker allocation system" means a system for the  
24 towing or removal of wrecked, disabled, or abandoned vehicles,  
25 similar to the Florida Highway Patrol wrecker allocation  
26 system described in s. 321.051(2), under which a county or  
27 municipality contracts with one or more wrecker companies  
28 registered under chapter 508 for the towing or removal of  
29 wrecked, disabled, or abandoned vehicles from accident scenes,  
30 streets, or highways. Each wrecker allocation system must use  
31 a method for apportioning the towing assignments among the

1 eligible wrecker companies through the creation of geographic  
2 zones, a rotation schedule, or a combination of these methods.

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

5 (e) "Wrecker operator" has the same meaning ascribed  
6 in s. 508.01.

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

9 (2) In a county or municipality that operates a  
10 wrecker allocation system:

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

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

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

30 (d) When a wrecker operator dispatched by an  
31 unauthorized wrecker company drives by the scene of a wrecked

1 or disabled vehicle and the owner or operator initiates  
2 contact by signaling the wrecker operator to stop and provide  
3 wrecker services, the wrecker operator must disclose to the  
4 owner or operator of the vehicle that he or she was not  
5 dispatched by the authorized wrecker company designated as  
6 part of the wrecker allocation system and must disclose, in  
7 writing, what charges for towing and storage will apply before  
8 the vehicle is connected to the towing apparatus. Any person  
9 who violates this paragraph commits a misdemeanor of the  
10 second degree, punishable as provided in s. 775.082 or s.  
11 775.083.

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

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

30 (4) A law enforcement officer may dispatch an  
31 authorized wrecker company out of rotation to the scene of a

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

15 Section 16. Chapter 508, Florida Statutes, consisting  
16 of sections 508.01, 508.02, 508.03, 508.04, 508.05, 508.06,  
17 508.061, 508.07, 508.08, 508.09, 508.10, 508.11, 508.12,  
18 508.13, 508.14, 508.15, 508.16, 508.17, 508.18, 508.19, and  
19 508.20, Florida Statutes, is created to read:

20 CHAPTER 508

21 WRECKER SERVICES

22 508.01 Definitions.--As used in this chapter, the  
23 term:

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

29 (2) "Council" means the Wrecker Operator Advisory  
30 Council.

31

1           (3) "Department" means the Department of Agriculture  
2 and Consumer Services.

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

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

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

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

22           (8) "Wrecker" has the same meaning ascribed in s.  
23 320.01.

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

29           (10) "Wrecker operator" means a person who performs  
30 wrecker services.

31



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

5           (a) Driving a wrecker.

6           (b) Loading, securing, and unloading a vehicle or  
7 vessel on a wrecker using a boom, winch, car carrier, or other  
8 similar equipment.

9           (c) Towing or removal of a wrecked, disabled, or  
10 abandoned vehicle under the Florida Highway Patrol wrecker  
11 allocation system pursuant to s. 321.051 or under a county or  
12 municipal wrecker allocation system pursuant to s. 323.002.

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

15           (e) Towing, transportation, or removal of a vehicle or  
16 vessel parked on real property without permission under s.  
17 715.07.

18           (f) Recovery of a vehicle or vessel.

19           508.02 Wrecker Operator Advisory Council.--

20           (1) The Wrecker Operator Advisory Council is created  
21 within the department. The council shall advise and assist the  
22 department in administering this chapter.

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

27           (b) Three members of the council must each be an  
28 ultimate equitable owner of a wrecker company who has been an  
29 ultimate equitable owner of that company for at least 5 years  
30 before his or her appointment; one member must be a wrecker  
31 operator who is not an ultimate equitable owner of a wrecker

1 company and who has been a wrecker operator for at least 5  
2 years before his or her appointment; and two members must be  
3 laypersons. Each member must be a resident of this state. This  
4 paragraph expires July 1, 2011.

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

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

23 (4)(a) From among its members, the council shall  
24 annually elect a chair, who shall preside over the meetings of  
25 the council, and a vice chair.

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

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

4           (6) The department shall provide administrative and  
5 staff support services relating to the functions of the  
6 council.

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

13           508.03 Rulemaking authority.--The department may adopt  
14 rules under ss. 120.536(1) and 120.54 to administer this  
15 chapter.

16           508.04 Wrecker companies; registration  
17 required.--Effective January 1, 2006:

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

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

27           (3) This section does not apply to a motor vehicle  
28 repair shop registered with the department under s. 559.904  
29 which derives at least 80 percent of its gross sales from  
30 motor vehicle repairs, or to any franchised motor vehicle  
31

1 dealers licensed pursuant to s. 320.27 when wrecker services  
2 are incidental to the operation of the franchise.

3 508.05 Registration requirements; renewal of  
4 registrations.--

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

12 (a) The name and federal employer identification  
13 number of the wrecker company.

14 (b) The mailing address, physical address, and  
15 telephone number of the wrecker company's primary place of  
16 business.

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

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

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

30  
31

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

4           (2) Each initial and renewal application for  
5 registration must be accompanied by the registration fee  
6 prescribed in s. 508.16.

7           (3) Each initial application for registration must be  
8 accompanied by a complete set of the applicant's fingerprints  
9 taken by a law enforcement agency. If the applicant is other  
10 than a natural person, a complete set of fingerprints must  
11 also be filed for each ultimate equitable owner of the  
12 business entity and each officer, director, partner, manager,  
13 member, or managing member of the entity. The department shall  
14 submit the fingerprints to the Department of Law Enforcement  
15 for state processing, and the Department of Law Enforcement  
16 shall forward the fingerprints to the Federal Bureau of  
17 Investigation for national processing. The Department of  
18 Agriculture and Consumer Services shall collect from each  
19 applicant the fingerprint processing fee of \$23 for state  
20 processing and an additional fee for federal processing for  
21 each applicant's name submitted. The Department of Agriculture  
22 and Consumer Services shall screen background results to  
23 determine if the applicant meets the requirements for issuance  
24 of a registration certificate. Registration renewal  
25 applications need not be accompanied by a set of fingerprints  
26 for an individual who previously submitted a set of  
27 fingerprints to the department as part of a prior year's  
28 registration application.

29           (4) The department shall review each application in  
30 accordance with s. 120.60 and shall issue a registration  
31 certificate, in the form and size prescribed by the

1 department, to each wrecker company whose application is  
2 approved. The certificate must show at least the name and  
3 address of the wrecker company and the registration number.  
4 The registration certificate must be prominently displayed in  
5 the wrecker company's primary place of business.

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

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

23 (7)(a) Each registration must be renewed annually on  
24 or before the expiration date of the current registration. A  
25 late fee of \$25 must be paid, in addition to the registration  
26 fee or any other penalty, for a registration renewal  
27 application that is received by the department after the  
28 expiration date of the current registration. The department  
29 may not issue a registration until all fees are paid.

30 (b) A wrecker company whose primary place of business  
31 is located within a county or municipality that requires, by

1 local ordinance, a local occupational license under chapter  
2 205 may not renew a license under this chapter unless the  
3 wrecker company obtains the occupational license from the  
4 county or municipality.

5 (8) Each wrecker company must provide the department  
6 with a certificate of insurance for the required insurance  
7 coverage under s. 627.7415 before the department may issue the  
8 registration certificate for an initial or renewal  
9 registration. The department must be named as a  
10 certificateholder on the insurance certificate and must be  
11 notified at least 30 days before any change in insurance  
12 coverage.

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

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

25 (1) Not met the requirements for registration under  
26 this chapter;

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

30 (3) Been convicted of, found guilty of, or pled guilty  
31 or nolo contendere to, regardless of the adjudication of

1 quilt, a crime within the last 7 years involving repossession  
2 of a motor vehicle under chapter 493; repair of a motor  
3 vehicle under ss. 559.901-559.9221; theft of a motor vehicle  
4 under s. 812.014; carjacking under s. 812.133; operation of a  
5 chop shop under s. 812.16; failure to maintain records of  
6 motor vehicle parts and accessories under s. 860.14; airbag  
7 theft or use of fake airbags under s. 860.145 or s. 860.146;  
8 overcharging for repairs and parts under s. 860.15; or a  
9 violation of towing or storage requirements for a motor  
10 vehicle under s. 321.051, chapter 323, s. 713.78, s. 715.07,  
11 or this chapter;

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

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

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

21 508.061 Acceptable forms of payment.--A wrecker  
22 company shall accept a minimum of two of the following forms  
23 of payment:

24 (1) Cash, cashier's check, money order, or traveler's  
25 check;

26 (2) Valid personal check, showing upon its face the  
27 name and address of the vehicle or vessel owner or authorized  
28 representative; or

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

31 508.07 Wrecker operator certification program.--



1       (1) The department, in consultation with the council,  
2 shall establish a wrecker operator certification program by  
3 December 31, 2005. Under this program, the council shall  
4 approve certification courses for wrecker operators conducted  
5 by approved organizations. The council shall prescribe the  
6 minimum curricula for these courses, which must comprise at  
7 least 16 hours, equally apportioned between theoretical  
8 instruction and practical training. The council must approve  
9 each organization and its certification course before the  
10 course is accepted for certification of wrecker operators  
11 under this chapter.

12       (2) Each approved wrecker operator certification  
13 course must include a certification examination demonstrating  
14 a wrecker operator's knowledge, skills, and abilities in  
15 performing wrecker services and in the instruction and  
16 training of the certification course. The council must approve  
17 each certification examination before the examination is  
18 accepted for certification of wrecker operators under this  
19 chapter.

20       (3) Each organization conducting an approved wrecker  
21 operator certification course must issue on forms prescribed  
22 by the department a certificate to each wrecker operator who  
23 completes the approved certification course or who passes the  
24 approved certification examination.

25       508.08 Specialized wrecker services.--

26       (1) In addition to the minimum curricula for  
27 certification of wrecker operators, each approved  
28 certification course must offer optional instruction,  
29 training, and examination of wrecker operators for each of the  
30 following specialized wrecker services:  
31

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

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

6       (c) Heavy duty.--Towing and winching a standard  
7 large-sized commercial vehicle, and uprighting such an  
8 overturned vehicle.

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

12       (e) Rollback wrecker.--Proper loading, securing,  
13 transporting, and unloading of a vehicle on a flatbed-rollback  
14 wrecker.

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

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

20       (2) The department shall adopt rules prescribing  
21 specific standards to further define each of the specialized  
22 wrecker services described in subsection (1). The council must  
23 approve the instruction, training, and examination for a  
24 specialized wrecker service before the specialized wrecker  
25 service is accepted for endorsement of a wrecker operator's  
26 certification under this chapter.

27       (3) Each organization conducting an approved wrecker  
28 operator certification course must issue on forms prescribed  
29 by the department a certificate to each wrecker operator who  
30 completes the approved instruction and training for a  
31

1 specialized wrecker service or who passes the approved  
2 endorsement examination for that specialized wrecker service.

3 508.09 Certification cards.--

4 (1) Each organization conducting an approved wrecker  
5 operator certification course must issue a certification card  
6 to each wrecker operator who completes the approved  
7 certification course and passes the approved certification  
8 examination. The department must approve the form of the  
9 certification cards issued by each organization. Each  
10 certification card must include the wrecker operator's name, a  
11 color photograph or digital image of the wrecker operator, and  
12 the expiration date of the certification card.

13 (2) Each certification card must also include the  
14 wrecker operator's applicable endorsements for specialized  
15 wrecker services, for which the wrecker operator completed the  
16 approved instruction and training for the specialized wrecker  
17 service and passed the approved endorsement examination for  
18 that specialized wrecker service.

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

21 (a) Completes a certification course and passes a  
22 certification examination in another state which are  
23 substantially equivalent to the approved certification courses  
24 and approved certification examinations in this state.

25 (b) Completed a certification course and passed a  
26 certification examination in this state between January 1,  
27 2000, and December 31, 2005, which are substantially  
28 equivalent to the approved certification courses and the  
29 approved certification examinations. This paragraph expires  
30 July 1, 2006.

31

1           (c) Completed instruction and training for a  
2 specialized wrecker service and passed an endorsement  
3 examination for that specialized wrecker service between  
4 January 1, 2000, and December 31, 2005, which are  
5 substantially equivalent to the approved instruction and  
6 training and the approved endorsement examinations. This  
7 paragraph expires July 1, 2006.

8  
9 For the purposes of this subsection, the council shall approve  
10 each certification examination in another state, and shall  
11 approve the instruction, training, and examination for each  
12 specialized wrecker service in another state, which the  
13 council determines are substantially equivalent to the  
14 approved certification courses and approved certification  
15 examinations in this state or to the approved instruction,  
16 training, and endorsement examinations for a specialized  
17 wrecker service in this state.

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

20           (5) Certification cards shall be issued by the  
21 organizations conducting approved wrecker operator  
22 certification courses. The department is not responsible for  
23 issuing certification cards or for the costs associated with  
24 the issuance of certification cards.

25           508.10 Wrecker operators; certification required;  
26 inspection of employment records.--Effective January 1, 2006:

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

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

6           (b) A wrecker operator certified under this chapter  
7 may not perform a specialized wrecker service for a wrecker  
8 company unless the wrecker operator's certification includes  
9 an endorsement for that specialized wrecker service.

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

17           (b) Notwithstanding subsections (1) and (2), a person  
18 may perform wrecker services or specialized wrecker services  
19 in this state if those wrecker services or specialized wrecker  
20 services are performed on behalf of a religious organization  
21 that holds a current exemption from federal taxation or that  
22 is not required to apply for recognition of its exemption,  
23 under s. 501 of the Internal Revenue Code.

24           (4) The department may, at any time during business  
25 hours, enter any business location of a wrecker company and  
26 examine the company's books or records. If the department has  
27 reason to believe that a violation of this chapter has  
28 occurred or is occurring, the department may subpoena any  
29 necessary books or records.

30           508.11 Renewal of certification; continuing education  
31 requirements.--

1       (1) The department, in consultation with the council,  
2 shall establish a continuing education program for the  
3 recertification of wrecker operators by December 31, 2007. In  
4 order to renew a wrecker operator's certification card, an  
5 operator must complete a continuing education course. The  
6 council must prescribe the minimum curricula and proper  
7 examination for each continuing education course, each of  
8 which must be at least 8 hours in length. The council shall  
9 approve each organization, and the continuing education course  
10 it proposes to offer, before the course is approved for  
11 recertifying wrecker operators.

12       (2) Each organization conducting an approved wrecker  
13 operator continuing education course must issue, on forms  
14 prescribed by the department, a certificate to each wrecker  
15 operator who completes the approved course or who passes an  
16 approved recertification examination.

17       508.12 Prohibited acts.--It is a violation of this  
18 chapter for a person to:

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

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

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

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

28       (5) Violate s. 715.07, relating to towing or removing  
29 vehicles and vessels parked on real property without  
30 permission.

31

1           (6) Refuse to allow a law enforcement officer to  
2 inspect a towing and storage facility, as required in s.  
3 812.055.

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

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

14           (9) Perform an act otherwise prohibited by this  
15 chapter or fail to perform an act otherwise required by this  
16 chapter.

17           508.13 Administrative penalties; inspection of  
18 records.--

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

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

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

25           (c) Direct the person to cease and desist specified  
26 activities.

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

29           (e) Place the wrecker company on probation for a  
30 period of time, subject to the conditions specified by the  
31 department.

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

4           508.14 Civil penalties.--The department may bring a  
5 civil action in a court of competent jurisdiction to recover  
6 any penalties or damages allowed in this chapter and for  
7 injunctive relief to enforce compliance with this chapter. The  
8 department may seek a civil penalty of up to \$5,000 for each  
9 violation of this chapter and may seek restitution for and on  
10 behalf of any owner of a vehicle, vessel, or mobile home who  
11 is aggrieved or injured by a violation of this chapter.

12           508.15 Criminal penalties.--Effective July 1, 2006:

13           (1) A person who violates s. 508.04(1) by operating a  
14 wrecker company in this state without being registered with  
15 the department under this chapter commits a felony of the  
16 third degree, punishable as provided in s. 775.082, s.  
17 775.083, or s. 775.084.

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

24           508.16 Fees.--The department shall adopt by rule a fee  
25 schedule, not to exceed the following amounts:

26           (1) Wrecker company registration fee: \$515.

27           (2) Wrecker company registration renewal fee: \$515.

28           508.17 General Inspection Trust Fund; payments.--All  
29 fees, penalties, or other funds collected by the department  
30 under this chapter must be deposited in the General Inspection  
31



1 Trust Fund and may only be used for the purpose of  
2 administering this chapter.

3 508.18 Recovery agents; exemption.--This chapter does  
4 not apply to a person licensed under chapter 493 performing  
5 repossession services.

6 508.19 County and municipal ordinances.--A county or  
7 municipality may enact ordinances governing the business of  
8 transporting vehicles or vessels by wrecker which are more  
9 restrictive than this chapter. This section does not limit the  
10 authority of a political subdivision to impose regulatory fees  
11 or charges or to levy occupational license taxes under chapter  
12 205. The department may enter into a cooperative agreement  
13 with any county or municipality that provides for the  
14 referral, investigation, and prosecution of consumer  
15 complaints alleging violations of this act. The department is  
16 authorized to delegate enforcement of this act to any county  
17 or municipality entering into a cooperative agreement.

18 508.20 Records.--

19 (1) Each wrecker company shall maintain records of its  
20 wrecker services for at least 12 months. These records shall  
21 be maintained at the wrecker company's principal place of  
22 business.

23 (2) Each wrecker company shall maintain records on  
24 each of its wrecker operators sufficient to demonstrate that  
25 the operator has successfully completed an approved wrecker  
26 operator certification course or an approved wrecker operator  
27 continuing education course and is certified to perform  
28 wrecker services. These records shall be maintained at the  
29 wrecker company's principal place of business for as long as  
30 the operator is employed by the wrecker company and for at  
31 least 6 months thereafter.

1           (3) Each organization approved to conduct a wrecker  
2 operator certification course or approved to offer a wrecker  
3 operator continuing education course shall maintain records on  
4 each person who successfully completes one of the courses. The  
5 records shall be maintained at the organization's principal  
6 place of business for at least 5 years. The department may, at  
7 any time during normal business hours, enter the  
8 organization's principal place of business to examine the  
9 records.

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

13           713.78 Liens for recovering, towing, or storing  
14 vehicles and vessels.--

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

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

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

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

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

28  
29 she or he shall have a lien on the ~~such~~ vehicle or vessel for  
30 a reasonable towing fee and for a reasonable storage fee;

31

1 | except that no storage fee shall be charged if ~~the such~~  
2 | vehicle is stored for less than 6 hours.

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

13 |       (b) Whenever any law enforcement agency authorizes the  
14 | removal of a vehicle or vessel or whenever any towing service,  
15 | garage, repair shop, or automotive service, storage, or  
16 | parking place notifies the law enforcement agency of  
17 | possession of a vehicle or vessel pursuant to s.

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

1 agency within 5 days ~~after from~~ the date of storage and shall  
2 give notice pursuant to paragraph (a). The department may  
3 release the insurance company information to the requestor  
4 notwithstanding the provisions of s. 627.736.

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

22 (d) If attempts to locate the name and address of the  
23 owner or lienholder prove unsuccessful, the towing-storage  
24 operator shall, after 7 working days, excluding Saturday and  
25 Sunday, of the initial tow or storage, notify the public  
26 agency of jurisdiction in writing by certified mail or  
27 acknowledged hand delivery that the towing-storage company has  
28 been unable to locate the name and address of the owner or  
29 lienholder and a physical search of the vehicle or vessel has  
30 disclosed no ownership information and a good faith effort has  
31 been made. For purposes of this paragraph and subsection (9),

1 "good faith effort" means that the following checks have been  
2 performed by the company to establish prior state of  
3 registration and for title:  
4       1. Check of vehicle or vessel for any type of tag, tag  
5 record, temporary tag, or regular tag.  
6       2. Check of law enforcement report for tag number or  
7 other information identifying the vehicle or vessel, if the  
8 vehicle or vessel was towed at the request of a law  
9 enforcement officer.  
10       3. Check of trip sheet or tow ticket of tow truck  
11 operator to see if a tag was on vehicle or vessel at beginning  
12 of tow, if private tow.  
13       4. If there is no address of the owner on the impound  
14 report, check of law enforcement report to see if an  
15 out-of-state address is indicated from driver license  
16 information.  
17       5. Check of vehicle or vessel for inspection sticker  
18 or other stickers and decals that may indicate a state of  
19 possible registration.  
20       6. Check of the interior of the vehicle or vessel for  
21 any papers that may be in the glove box, trunk, or other areas  
22 for a state of registration.  
23       7. Check of vehicle for vehicle identification number.  
24       8. Check of vessel for vessel registration number.  
25       9. Check of vessel hull for a hull identification  
26 number which should be carved, burned, stamped, embossed, or  
27 otherwise permanently affixed to the outboard side of the  
28 transom or, if there is no transom, to the outmost seaboard  
29 side at the end of the hull that bears the rudder or other  
30 steering mechanism.  
31

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

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

23           (c) Upon determining the respective rights of the  
24 parties, the court may award damages, attorney's fees, and  
25 costs in favor of the prevailing party. In any event, the  
26 final order shall provide for immediate payment in full of  
27 recovery, towing, and storage fees by the vehicle or vessel  
28 owner or lienholder; or the agency ordering the tow; or the  
29 owner, lessee, or agent thereof of the property from which the  
30 vehicle or vessel was removed.

31

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

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

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



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

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

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

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

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

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

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

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

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

27 (c) Any law enforcement agency requesting that a motor  
28 vehicle be removed from an accident scene, street, or highway  
29 must conduct an inventory and prepare a written record of all  
30 personal property found in the vehicle before the vehicle is  
31 removed by a wrecker operator. However, if the owner or driver

1 | of the motor vehicle is present and accompanies the vehicle,  
2 | no inventory by law enforcement is required. A wrecker  
3 | operator is not liable for the loss of personal property  
4 | alleged to be contained in such a vehicle when such personal  
5 | property was not identified on the inventory record prepared  
6 | by the law enforcement agency requesting the removal of the  
7 | vehicle.

8 |           (10) Persons who provide services pursuant to this  
9 | section shall permit vehicle or vessel owners or their agents,  
10 | which agency is evidenced by an original ~~a~~ writing  
11 | acknowledged by the owner before a notary public or other  
12 | person empowered by law to administer oaths, to inspect the  
13 | towed vehicle or vessel and shall release to the owner or  
14 | agent the vehicle, vessel, or all personal property not  
15 | affixed to the vehicle or vessel which was in the vehicle or  
16 | vessel at the time the vehicle or vessel came into the custody  
17 | of the person providing such services.

18 |           (11)(a) Any person regularly engaged in the business  
19 | of recovering, towing, or storing vehicles or vessels who  
20 | comes into possession of a vehicle or vessel pursuant to  
21 | subsection (2) and who has complied with the provisions of  
22 | subsections (3) and (6), when such vehicle or vessel is to be  
23 | sold for purposes of being dismantled, destroyed, or changed  
24 | in such manner that it is not the motor vehicle or, vessel, ~~or~~  
25 | ~~mobile home~~ described in the certificate of title, shall apply  
26 | to the county tax collector for a certificate of destruction.  
27 | A certificate of destruction, which authorizes the dismantling  
28 | or destruction of the vehicle or vessel described therein,  
29 | shall be reassignable a maximum of two times before  
30 | dismantling or destruction of the vehicle shall be required,  
31 | and shall accompany the vehicle or vessel for which it is

1 issued, when such vehicle or vessel is sold for such purposes,  
2 in lieu of a certificate of title. The application for a  
3 certificate of destruction must include an affidavit from the  
4 applicant that it has complied with all applicable  
5 requirements of this section and, if the vehicle or vessel is  
6 not registered in this state, by a statement from a law  
7 enforcement officer that the vehicle or vessel is not reported  
8 stolen, and shall be accompanied by such documentation as may  
9 be required by the department.

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

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

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

1 shall be submitted on forms provided by the department, which  
2 must include:

3 1. The name, address, and telephone number of the  
4 wrecker 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 operator provided notice of the lien to the registered owner  
8 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 operator's lien, not to  
22 exceed the amount allowed by paragraph (b).

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

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

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

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

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

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

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

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

1 parties, the court may award damages and costs in favor of the  
2 prevailing party.

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

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

28           (d) Upon discharge of the amount of the wrecker  
29 operator's lien allowed by paragraph (b), the wrecker operator  
30 must issue a certificate of discharged wrecker operator's lien  
31 on forms provided by the department to each registered owner

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

17 (e) When a wrecker operator files a notice of wrecker  
18 operator's lien under this subsection, the department shall  
19 charge the wrecker operator a fee of \$2, which shall be  
20 deposited into the General Revenue Fund established under s.  
21 860.158. A service charge of \$2.50 shall be collected and  
22 retained by the tax collector who processes a notice of  
23 wrecker operator's lien.

24 (f) This subsection applies only to the annual renewal  
25 in the registered owner's birth month of a motor vehicle  
26 registration and does not apply to the transfer of a  
27 registration of a motor vehicle sold by a motor vehicle dealer  
28 licensed under chapter 320, except for the transfer of  
29 registrations which is inclusive of the annual renewals. This  
30 subsection does not affect the issuance of the title to a  
31 motor vehicle, notwithstanding s. 319.23(7)(b).



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

4 Section 18. Effective January 1, 2006, section  
5 713.785, Florida Statutes, is created to read:

6 713.785 Liens for recovering, towing, or storing  
7 mobile homes.--

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

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

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

15 (c) "Unpaid lot rental amount" or "rent" means any  
16 unpaid financial obligations of the mobile home owner or  
17 tenant to the mobile home park owner defined as "lot rental  
18 amount" in s. 723.003 or "rent" in part II of chapter 83 and  
19 includes any amounts defined as storage charges in s. 723.084.

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

22 (a) The owner of the mobile home;

23 (b) Any law enforcement agency; or

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

27  
28 the mobile home transport company has a lien on the mobile  
29 home for a reasonable towing fee and for a reasonable storage  
30 fee.

31

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

8           (b) Notice by certified mail, return receipt  
9 requested, shall be sent within 7 business days after the date  
10 of storage of the mobile home to the registered owner at the  
11 owner's last known address, and all persons of record claiming  
12 a lien against the mobile home. The notice shall state the  
13 fact of possession of the mobile home, that a lien as provided  
14 in subsection (2) is claimed, that charges have accrued and  
15 the amount thereof, that the lien is subject to enforcement  
16 under law and that the owner or lienholder, if any, has the  
17 right to a hearing as set forth in subsection (4), and that  
18 any mobile home which remains unclaimed, or for which charges  
19 remain unpaid, may be sold free of all prior liens after 35  
20 days following the eviction proceeding that resulted in the  
21 issuance of the writ of possession, provided that any  
22 lienholder entitled to notice pursuant to s. 723.084 has  
23 received such notice and has failed to act pursuant to s.  
24 723.084 to pay storage charges, take possession of the home,  
25 or take legal action to foreclose its interest prior to  
26 issuance of the writ of possession.

27           (4)(a) The owner of a mobile home stored under  
28 subsection (2), or any person claiming a lien of record, other  
29 than the mobile home transport company, within 10 days after  
30 the time she or he has knowledge of the location of the mobile  
31 home, may file a complaint in the court of the county in which

1 the mobile home is stored, to determine if her or his property  
2 was wrongfully taken or withheld from her or him.

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

18 (c) Upon determining the respective rights of the  
19 parties, the court may award damages and costs in favor of the  
20 prevailing party. The final order shall provide for immediate  
21 payment in full of any lien for recovery, towing, and storage  
22 fees and any unpaid lot rental amount accruing until the time  
23 the home is removed from the property, by the mobile home  
24 owner or lienholder, or the owner, lessee, or agent thereof of  
25 the property from which the mobile home was removed.

26 (5) A mobile home that is stored under subsection (2)  
27 and which remains unclaimed, or for which reasonable charges  
28 for recovery, towing, or storing remain unpaid or for which a  
29 lot rental amount is due and owing to the mobile home park  
30 owner as evidenced by a judgment for unpaid rent and any  
31 contents of the mobile home not released under subsection (9),

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

1 receive 5 percent of the proceeds for the care and  
2 disbursement of the proceeds. The certificate of title issued  
3 under this section shall be discharged of all liens unless  
4 otherwise provided by court order.

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

16 (7)(a) A mobile home transport company that comes into  
17 possession of a mobile home under subsection (2) and that  
18 complies with subsection (3), if the mobile home is to be sold  
19 for purposes of being dismantled, destroyed, or changed so  
20 that it is not the mobile home described in the certificate of  
21 title, must apply to the county tax collector for a  
22 certificate of destruction. A certificate of destruction,  
23 which authorizes the dismantling or destruction of the mobile  
24 home described in the certificate, is reassignable no more  
25 than twice before dismantling or destruction of the mobile  
26 home and the certificate must accompany the mobile home for  
27 which it is issued when the mobile home is sold for that  
28 purpose, in lieu of a certificate of title. The application  
29 for a certificate of destruction must include an affidavit  
30 from the applicant that it has complied with all applicable  
31 requirements of this section; must, if the mobile home is not

1 registered in this state, include a statement from a law  
2 enforcement officer that the mobile home is not reported  
3 stolen; and shall be accompanied by any other documentation as  
4 may be required by the department.

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

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

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

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

28 1. The name, address, and telephone number of the  
29 mobile home transport company.

30 2. The name of the registered owner of the mobile home  
31 and the address to which the mobile home transport company

1 provided notice of the lien to the registered owner under  
2 subsection (3).

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

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

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

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

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

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

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

1 casual sale before the mobile home was recovered, towed, or  
2 stored.

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

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

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



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

20           3. If a person against whom a mobile home transport  
21 company's lien has been imposed does not object to the lien,  
22 but cannot discharge the lien by payment because the mobile  
23 home transport company has moved or gone out of business, the  
24 person may have her or his name removed from the list of those  
25 persons who may not be issued a revalidation sticker under s.  
26 320.03, upon posting with the clerk of court in the county in  
27 which the mobile home was ordered removed a cash or surety  
28 bond or other adequate security equal to the amount of the  
29 mobile home transport company's lien. Upon the posting of the  
30 bond and the payment of the application fee set forth in s.  
31 28.24, the clerk of the court shall issue a certificate

1 notifying the department of the posting of the bond and  
2 directing the department to release the mobile home transport  
3 company's lien. The department shall mail to the mobile home  
4 transport company, at the address upon the lien form, notice  
5 that the mobile home transport company must claim the security  
6 within 60 days or the security will be released to the person  
7 who posted it. At the conclusion of the 60 days, the  
8 department shall direct the clerk as to which party is  
9 entitled to payment of the security, less applicable fees of  
10 the clerk.

11 4. A mobile home transport company's lien expires 5  
12 years after filing.

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

31

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

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

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

17       (10) Any person who violates subsection (3),  
18 subsection (5), subsection (6), subsection (7), or subsection  
19 (9) commits a misdemeanor of the first degree, punishable as  
20 provided in s. 775.082 or s. 775.083.

21       Section 19. Section 715.07, Florida Statutes, is  
22 amended to read:

23       715.07 Vehicles or vessels parked on private property;  
24 towing.--

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

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

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

1           (2) The owner or lessee of real property, or any  
2 person authorized by the owner or lessee, which person may be  
3 the designated representative of the condominium association  
4 if the real property is a condominium, may cause any vehicle  
5 or vessel parked on such property without her or his  
6 permission to be removed by a person regularly engaged in the  
7 business of towing vehicles or vessels, without liability for  
8 the costs of removal, transportation, or storage or damages  
9 caused by such removal, transportation, or storage, under any  
10 of the following circumstances:

11           (a) The towing or removal of any vehicle or vessel  
12 from private property without the consent of the registered  
13 owner or other legally authorized person in control of that  
14 vehicle or vessel is subject to strict compliance with the  
15 following conditions and restrictions:

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

30           b. If no towing business providing such service is  
31 located within the area of towing limitations set forth in

1 sub-subparagraph a., the following limitations apply: any  
2 towed or removed vehicle or vessel must be stored at a site  
3 within a 20-mile radius ~~20 miles~~ of the point of removal in  
4 any county of 500,000 population or more, and within a 30-mile  
5 radius ~~30 miles~~ of the point of removal in any county of less  
6 than 500,000 population.

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

17 3. A person in the process of towing or removing a  
18 vehicle or vessel from the premises or parking lot in which  
19 the vehicle or vessel is not lawfully parked must stop when a  
20 person seeks the return of the vehicle or vessel. The vehicle  
21 or vessel must be returned upon the payment of a reasonable  
22 service fee of not more than one-half of the posted rate for  
23 the towing or removal service as provided in subparagraph 6.  
24 The vehicle or vessel may be towed or removed if, after a  
25 reasonable opportunity, the owner or legally authorized person  
26 in control of the vehicle or vessel is unable to pay the  
27 service fee. If the vehicle or vessel is redeemed, a detailed  
28 signed receipt must be given to the person redeeming the  
29 vehicle or vessel. If the registered owner or other legally  
30 authorized person in control of the vehicle arrives at the  
31 scene prior to removal or towing of the vehicle, the vehicle

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

8       4. A person may not pay or accept money or other  
9 valuable consideration for the privilege of towing or removing  
10 vehicles or vessels from a particular location. ~~The rebate or~~  
11 ~~payment of money or any other valuable consideration from the~~  
12 ~~individual or firm towing or removing vehicles to the owners~~  
13 ~~or operators of the premises from which the vehicles are towed~~  
14 ~~or removed, for the privilege of removing or towing those~~  
15 ~~vehicles, is prohibited.~~

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

29       a. The notice must be prominently placed at each  
30 driveway access or curb cut allowing vehicular access to the  
31 property, within 5 feet from the public right-of-way line. If

1 | there are no curbs or access barriers, the signs must be  
2 | posted not less than one sign for each 25 feet of lot  
3 | frontage.

4 |         b. The notice must clearly indicate, in not less than  
5 | 2-inch high, light-reflective letters on a contrasting  
6 | background, that unauthorized vehicles will be towed away at  
7 | the owner's expense. The words "tow-away zone" must be  
8 | included on the sign in not less than 4-inch high letters.

9 |         c. The notice must also provide the name and current  
10 | telephone number of the person or firm towing or removing the  
11 | vehicles or vessels, ~~if the property owner, lessee, or person~~  
12 | ~~in control of the property has a written contract with the~~  
13 | ~~towing company.~~

14 |         d. The sign structure containing the required notices  
15 | must be permanently installed with the words "tow-away zone"  
16 | not less than 3 feet and not more than 6 feet above ground  
17 | level and must be continuously maintained on the property for  
18 | not less than 24 hours prior to the towing or removal of any  
19 | vehicles or vessels.

20 |         e. The local government may require permitting and  
21 | inspection of these signs prior to any towing or removal of  
22 | vehicles or vessels being authorized.

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

29 |         g. A property owner towing or removing vessels from  
30 | real property must post notice, consistent with the  
31 | requirements in sub-subparagraphs a.-f., which apply to

1 vehicles, that unauthorized vehicles or vessels will be towed  
2 away at the owner's expense.

3  
4 A business owner or lessee may authorize the removal of a  
5 vehicle or vessel by a towing company when the vehicle or  
6 vessel is parked in such a manner that restricts the normal  
7 operation of business; and if a vehicle or vessel parked on a  
8 public right-of-way obstructs access to a private driveway the  
9 owner, lessee, or agent may have the vehicle or vessel removed  
10 by a towing company upon signing an order that the vehicle or  
11 vessel be removed without a posted tow-away zone sign.

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

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



1 and the address and telephone number shall be in at least  
2 1-inch permanently affixed letters.

3           8. Vehicle entry for the purpose of removing the  
4 vehicle or vessel shall be allowed with reasonable care on the  
5 part of the person or firm towing the vehicle or vessel. Such  
6 person or firm shall be liable for any damage occasioned to  
7 the vehicle or vessel if such entry is not in accordance with  
8 the standard of reasonable care.

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

24           (b) These requirements are ~~shall be the~~ minimum  
25 standards and do ~~shall~~ not preclude enactment of additional  
26 regulations by any municipality or county including the right  
27 to regulate rates when vehicles or vessels are towed from  
28 private property.

29           (3) This section does not apply to law enforcement,  
30 firefighting, rescue squad, ambulance, or other emergency  
31

1 | vehicles or vessels that ~~which~~ are marked as such or to  
2 | property owned by any governmental entity.

3 |         (4) When a person improperly causes a vehicle or  
4 | vessel to be removed, such person shall be liable to the owner  
5 | or lessee of the vehicle or vessel for the cost of removal,  
6 | transportation, and storage; any damages resulting from the  
7 | removal, transportation, or storage of the vehicle or vessel;  
8 | attorney's attorneys' fees; and court costs.

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

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

18 |         Section 20. Paragraph (a) of subsection (1) of section  
19 | 319.30, Florida Statutes, is amended to read:

20 |         319.30 Definitions; dismantling, destruction, change  
21 | of identity of motor vehicle or mobile home; salvage.--

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

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

25 |         Section 21. Section 713.69, Florida Statutes, is  
26 | amended to read:

27 |         713.69 Unlawful to remove property upon which lien has  
28 | accrued.--It is unlawful for any person to remove any property  
29 | upon which a lien has accrued under the provisions of s.  
30 | 713.68, s. 713.77, or s. 713.785 from any mobile home park,  
31 | hotel, apartment house, roominghouse, lodginghouse,

1 boardinghouse or tenement house without first making full  
2 payment to the person operating or conducting the same of all  
3 sums due and payable for such occupancy or without first  
4 having the written consent of such person so conducting or  
5 operating such place to so remove such property. Any person  
6 violating the provisions of this section shall, if the  
7 property removed in violation hereof be of the value of \$50 or  
8 less, be guilty of a misdemeanor of the second degree,  
9 punishable as provided in s. 775.082 or s. 775.083; and if the  
10 property so removed should be of greater value than \$50 then  
11 such person shall be guilty of a felony of the third degree,  
12 punishable as provided in s. 775.082, s. 775.083, or s.  
13 775.084.

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

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

21 Section 24. Except as otherwise expressly provided in  
22 this act, this act shall take effect July 1, 2005.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 276

The committee substitute for Senate Bill 276:

- o Includes vessels in the provisions relating to towing, recovery, storage and liens.
- o Removes language relating to mobile homes from the existing lien provisions and reestablishes in a new section 713.785, F.S.
- o Clarifies that the Department of Agriculture and Consumer Services will collect the fees for applicant's fingerprinting.
- o Increases the registration fee from \$495.00 to \$515.00.
- o Allows the Department of Agriculture and Consumer Services to deny registration to a person convicted of certain crimes within 7 years as opposed to 10 years.