

Bill No. SB 492

Barcode 504848

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Aronberg) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

Section 2. Subsection (1) of section 323.001, Florida Statutes, is republished, and paragraph (c) of subsection (2) of that section is amended, to read:

323.001 Wrecker operator storage facilities; vehicle holds.--

(1) An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage

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1 facility for a period not to exceed 5 days, excluding holidays
2 and weekends, unless extended in writing.

3 (2) The investigating agency must notify the wrecker
4 operator in writing within 5 days, excluding holidays and
5 weekends, whether the hold is to be continued. If no
6 notification follows this period of time, the wrecker operator
7 may release the vehicle to the designated person pursuant to
8 s. 713.78.

9 (c) The towing and storage rates for the owner or
10 lienholder of the held vehicle shall not exceed the contract
11 or county rates ~~for the investigating agency~~.

12 Section 3. Subsections (2), (4), (5), (7), and (10) of
13 section 713.78, Florida Statutes, are amended to read:

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

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

20 (a) The owner thereof; or

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

25 (c) Any law enforcement agency; or

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

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

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1 that no storage fee shall be charged if such vehicle is stored
2 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

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1 agency within 5 days from the date of storage and shall give
 2 notice pursuant to paragraph (a). The department may release
 3 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),

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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 (5)(a) The owner of a vehicle or vessel removed

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

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

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

30 (7)(a) A wrecker operator recovering, towing, or
 31 storing vehicles or vessels is not liable for damages

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1 connected with such services, theft of such vehicles or
 2 vessels, or theft of personal property contained in such
 3 vehicles or vessels, provided that such services have been
 4 performed with reasonable care and provided, further, that, in
 5 the case of removal of a vehicle or vessel upon the request of
 6 a person purporting, and reasonably appearing, to be the owner
 7 or lessee, or a person authorized by the owner or lessee, of
 8 the property from which such vehicle or vessel is removed,
 9 such removal has been done in compliance with s. 715.07.

10 Further, a wrecker operator is not liable for damage to a
 11 vehicle, vessel, or cargo that obstructs the normal movement
 12 of traffic or creates a hazard to traffic and is removed in
 13 compliance with the request of a law enforcement officer.

14 ~~connected with such services when complying with the lawful~~
 15 ~~directions of a law enforcement officer to remove a vehicle~~
 16 ~~stopped, standing, or parked upon a street or highway in such~~
 17 ~~a position as to obstruct the normal movement of traffic or in~~
 18 ~~such a condition as to create a hazard to other traffic upon~~
 19 ~~the street or highway.~~

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

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

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

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

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

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

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

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

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

25 (10) Persons who provide services pursuant to this
 26 section shall permit vehicle or vessel owners or their agents,
 27 which agency is evidenced by an original a writing
 28 acknowledged by the owner before a notary public or other
 29 person empowered by law to administer oaths, to inspect the
 30 towed vehicle or vessel and shall release to the owner or
 31 agent the vehicle, vessel, or all personal property not

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1 affixed to the vehicle or vessel which was in the vehicle or
2 vessel at the time the vehicle or vessel came into the custody
3 of the person providing such services.

4 Section 4. Effective January 1, 2006, section 713.785,
5 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 (3)(a) A mobile home transport company that comes into

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

7 (b) Notice by certified mail, return receipt
 8 requested, shall be sent within 7 business days after the date
 9 of storage of the mobile home to the registered owner at the
 10 owner's last known address, and all persons of record claiming
 11 a lien against the mobile home. The notice shall state the
 12 fact of possession of the mobile home, that a lien as provided
 13 in subsection (2) is claimed, that charges have accrued and
 14 the amount thereof, that the lien is subject to enforcement
 15 under law and that the owner or lienholder, if any, has the
 16 right to a hearing as set forth in subsection (4), and that
 17 any mobile home which remains unclaimed, or for which charges
 18 remain unpaid, may be sold free of all prior liens after 35
 19 days.

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

27 (b) Upon filing of a complaint, an owner or lienholder
 28 may have the mobile home released upon posting with the court
 29 a cash or surety bond or other adequate security equal to the
 30 amount of the charges for towing or storage and lot rental
 31 amount due and owing at that time to ensure the payment of the

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1 charges in the event she or he does not prevail. Upon the
 2 posting of the bond and the payment of the applicable fee set
 3 forth in s. 28.24, the clerk of the court shall issue a
 4 certificate notifying the mobile home transport company of the
 5 posting of the bond and directing the mobile home transport
 6 company to release the mobile home. At the time of the
 7 release, after reasonable inspection, she or he shall give a
 8 receipt to the mobile home transport company citing any claims
 9 she or he has for loss or damage to the mobile home or the
 10 contents thereof.

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

19 (5) A mobile home that is stored under subsection (2)
 20 and which remains unclaimed, or for which reasonable charges
 21 for recovery, towing, or storing remain unpaid or for which a
 22 lot rental amount is due and owing to the mobile home park
 23 owner as evidenced by a judgment for unpaid rent and any
 24 contents of the mobile home not released under subsection (9),
 25 may be sold by the mobile home transport company for the
 26 towing or storage charge and any unpaid lot rental amount 35
 27 days after the mobile home is stored by a mobile home
 28 transport company. The sale shall be at public auction for
 29 cash. If the date of the sale was not included in the notice
 30 required by subsection (3), notice of the sale must be given
 31 to the person in whose name the mobile home is registered at

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

29 (6) The mobile home transport company, the landlord or
30 his or her agent, or any subsequent purchaser for value are
31 not responsible to the tenant or any other party for loss,

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1 destruction, or damage to the mobile home or other personal
2 property after coming into possession of the mobile home under
3 this section, provided the mobile home transport company, the
4 landlord, or their agents use reasonable care in storing the
5 mobile home. As used in this subsection, the term "reasonable
6 care" means securing the mobile home by changing door locks,
7 or any similar methods for securing the mobile home, in place
8 in the mobile home park or in a separate storage area.

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

29 (b) The Department of Highway Safety and Motor
30 Vehicles shall charge a fee of \$3 for each certificate of
31 destruction. The tax collector who processes the application

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1 shall collect and retain a service charge of \$4.25.

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

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

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

21 1. The name, address, and telephone number of the
22 mobile home transport company.

23 2. The name of the registered owner of the mobile home
24 and the address to which the mobile home transport company
25 provided notice of the lien to the registered owner under
26 subsection (3).

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

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

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

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

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

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

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

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

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

30 c. The records of the department were marked to
31 indicate that the mobile home was sold before the issuance of

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

24 2. A person against whom a mobile home transport
25 company's lien has been imposed may alternatively obtain a
26 discharge of the lien by filing a complaint, challenging the
27 validity of the lien or the amount thereof, in the county
28 court of the county in which the mobile home was ordered
29 removed. Upon filing of the complaint, the person may have her
30 or his name removed from the list of those persons who may not
31 be issued a revalidation sticker for any mobile home under s.

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1 320.03 upon posting with the court a cash or surety bond or
2 other adequate security equal to the amount of the mobile home
3 transport company's lien to ensure the payment of the lien in
4 the event she or he does not prevail. Upon the posting of the
5 bond and the payment of the applicable fee set forth in s.
6 28.24, the clerk of the court shall issue a certificate
7 notifying the department of the posting of the bond and
8 directing the department to release the mobile home transport
9 company's lien. Upon determining the respective rights of the
10 parties, the court may award damages and costs in favor of the
11 prevailing party.

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

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

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

5 (d) Upon discharge of the amount of the mobile home
6 transport company's lien allowed under paragraph (b), the
7 mobile home transport company must issue a certificate of
8 discharged lien on a form provided by the department to each
9 registered owner of the mobile home attesting that the amount
10 of the mobile home transport company's lien allowed under
11 paragraph (b) has been discharged. Upon presentation of the
12 certificate of discharged lien by the registered owner, 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. Issuance of a
16 certificate of discharged lien under this paragraph does not
17 discharge the entire amount of the mobile home transport
18 company's lien claimed under subsection (2), but certifies to
19 the department only that the amount of the mobile home
20 transport company's lien allowed by paragraph (b), for which
21 the department will prevent issuance of a revalidation
22 sticker, has been discharged.

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

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

31 (9) Persons who provide services under this section

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1 shall permit a mobile home owner or her or his agent, whose
 2 agency is evidenced by a writing acknowledged by the owner
 3 before a notary public or other person empowered by law to
 4 administer oaths, to inspect the mobile home and shall release
 5 to the owner or agent all personal property not affixed to the
 6 mobile home, provided there exists no landlord's lien for rent
 7 under s. 713.691 or s. 713.77.

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

12 Section 5. Section 715.07, Florida Statutes, is
 13 amended to read:

14 715.07 Vehicles or vessels parked on private property;
 15 towing.--

16 (1) As used in this section, the term "vehicle" means
 17 any mobile item which normally uses wheels, whether motorized
 18 or not.

19 (2) The owner or lessee of real property, or any
 20 person authorized by the owner or lessee, which person may be
 21 the designated representative of the condominium association
 22 if the real property is a condominium, may cause any vehicle
 23 or vessel parked on such property without her or his
 24 permission to be removed by a person regularly engaged in the
 25 business of towing vehicles or vessels, without liability for
 26 the costs of removal, transportation, or storage or damages
 27 caused by such removal, transportation, or storage, under any
 28 of the following circumstances:

29 (a) The towing or removal of any vehicle or vessel
 30 from private property without the consent of the registered
 31 owner or other legally authorized person in control of that

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1 vehicle or vessel is subject to strict compliance with the
2 following conditions and restrictions:

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

17 b. If no towing business providing such service is
18 located within the area of towing limitations set forth in
19 sub-subparagraph a., the following limitations apply: any
20 towed or removed vehicle or vessel must be stored at a site
21 within a 20-mile radius ~~20 miles~~ of the point of removal in
22 any county of 500,000 population or more, and within a 30-mile
23 radius ~~30 miles~~ of the point of removal in any county of less
24 than 500,000 population.

25 2. The person or firm towing or removing the vehicle
26 or vessel shall, within 30 minutes after ~~of~~ completion of such
27 towing or removal, notify the municipal police department or,
28 in an unincorporated area, the sheriff, of such towing or
29 removal, the storage site, the time the vehicle or vessel was
30 towed or removed, and the make, model, color, and license
31 plate number of the vehicle or description and registration

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1 number of the vessel and shall obtain the name of the person
2 at that department to whom such information was reported and
3 note that name on the trip record.

4 3. A person in the process of towing or removing a
5 vehicle or vessel from the premises or parking lot in which it
6 is not lawfully parked must stop when a person seeks the
7 return of the vehicle. The vehicle or vessel must be returned
8 upon the payment of a reasonable service fee of not more than
9 one-half of the posted rate for the towing or removal service
10 as provided in subparagraph 6. The vehicle or vessel may be
11 towed or removed if, after a reasonable opportunity, the owner
12 or legally authorized person in control of the vehicle or
13 vessel is unable to pay the service fee. If the vehicle or
14 vessel is redeemed, a detailed signed receipt must be given to
15 the person redeeming the vehicle or vessel. ~~If the registered~~
16 ~~owner or other legally authorized person in control of the~~
17 ~~vehicle arrives at the scene prior to removal or towing of the~~
18 ~~vehicle, the vehicle shall be disconnected from the towing or~~
19 ~~removal apparatus, and that person shall be allowed to remove~~
20 ~~the vehicle without interference upon the payment of a~~
21 ~~reasonable service fee of not more than one-half of the posted~~
22 ~~rate for such towing service as provided in subparagraph 6.,~~
23 ~~for which a receipt shall be given, unless that person refuses~~
24 ~~to remove the vehicle which is otherwise unlawfully parked.~~

25 4. A person may not pay or accept money or other
26 valuable consideration for the privilege of towing or removing
27 vehicles or vessels from a particular location. ~~The rebate or~~
28 ~~payment of money or any other valuable consideration from the~~
29 ~~individual or firm towing or removing vehicles to the owners~~
30 ~~or operators of the premises from which the vehicles are towed~~
31 ~~or removed, for the privilege of removing or towing those~~

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1 ~~vehicles, is prohibited.~~

2 5. Except for property appurtenant to and obviously a
3 part of a single-family residence, and except for instances
4 when notice is personally given to the owner or other legally
5 authorized person in control of the vehicle or vessel that the
6 area in which that vehicle or vessel is parked is reserved or
7 otherwise unavailable for unauthorized vehicles or vessels and
8 that the vehicle or vessel is subject to being removed at the
9 owner's or operator's expense, any property owner or lessee,
10 or person authorized by the property owner or lessee, prior to
11 towing or removing any vehicle or vessel from private property
12 without the consent of the owner or other legally authorized
13 person in control of that vehicle or vessel, must post a
14 notice meeting the following requirements:

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

21 b. The notice must clearly indicate, in not less than
22 2-inch high, light-reflective letters on a contrasting
23 background, that unauthorized vehicles will be towed away at
24 the owner's expense. The words "tow-away zone" must be
25 included on the sign in not less than 4-inch high letters.

26 c. The notice must also provide the name and current
27 telephone number of the person or firm towing or removing the
28 vehicles or vessels, ~~if the property owner, lessee, or person~~
29 ~~in control of the property has a written contract with the~~
30 ~~towing company.~~

31 d. The sign structure containing the required notices

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1 must be permanently installed with the words "tow-away zone"
 2 not less than 3 feet and not more than 6 feet above ground
 3 level and must be continuously maintained on the property for
 4 not less than 24 hours prior to the towing or removal of any
 5 vehicles or vessels.

6 e. The local government may require permitting and
 7 inspection of these signs prior to any towing or removal of
 8 vehicles or vessels being authorized.

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

15 g. A property owner towing or removing vessels from
 16 real property must post notice, consistent with the
 17 requirements in sub-subparagraphs a.-f., which apply to
 18 vehicles, that unauthorized vehicles or vessels will be towed
 19 away at the owner's expense.

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

29 6. Any person or firm that tows or removes vehicles or
 30 vessels and proposes to require an owner, operator, or person
 31 in control of a vehicle or vessel to pay the costs of towing

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1 and storage prior to redemption of the vehicle or vessel must
 2 file and keep on record with the local law enforcement agency
 3 a complete copy of the current rates to be charged for such
 4 services and post at the storage site an identical rate
 5 schedule and any written contracts with property owners,
 6 lessees, or persons in control of property which authorize
 7 such person or firm to remove vehicles or vessels as provided
 8 in this section.

9 7. Any person or firm towing or removing any vehicles
 10 or vessels from private property without the consent of the
 11 owner or other legally authorized person in control of the
 12 vehicles or vessels shall, on any trucks, wreckers as defined
 13 in s. 713.78(1)(c), or other vehicles used in the towing or
 14 removal, have the name, address, and telephone number of the
 15 company performing such service clearly printed in contrasting
 16 colors on the driver and passenger sides of the vehicle. The
 17 name shall be in at least 3-inch permanently affixed letters,
 18 and the address and telephone number shall be in at least
 19 1-inch permanently affixed letters.

20 8. Vehicle entry for the purpose of removing the
 21 vehicle or vessel shall be allowed with reasonable care on the
 22 part of the person or firm towing the vehicle or vessel. Such
 23 person or firm shall be liable for any damage occasioned to
 24 the vehicle or vessel if such entry is not in accordance with
 25 the standard of reasonable care.

26 9. When a vehicle or vessel has been towed or removed
 27 pursuant to this section, it must be released to its owner or
 28 custodian within one hour after requested. Any vehicle or
 29 vessel owner, ~~custodian,~~ or agent shall have the right to
 30 inspect the vehicle or vessel before accepting its return, and
 31 no release or waiver of any kind which would release the

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

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

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

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

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

29 (b) Any person who violates subparagraph (2)(a)1.,
 30 subparagraph (2)(a)3., subparagraph (2)(a)4., the provisions
 31 of subparagraph (2)(a)7., or subparagraph (2)(a)9. commits is

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1 ~~guilty~~ of a felony of the third degree, punishable as provided
2 in s. 775.082, s. 775.083, or s. 775.084.

3 Section 6. Except as otherwise expressly provided in
4 this act, this act shall take effect July 1, 2005.

5
6

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

8 And the title is amended as follows:

9 Delete everything before the enacting clause

10

11 and insert:

12 An act relating to wrecker operators; amending
13 s. 319.30, F.S.; redefining the term
14 "certificate of destruction," to conform;
15 amending s. 323.001, F.S.; revising certain
16 towing and storage rates; amending s. 713.78,
17 F.S.; conforming provisions related to
18 recovering, towing, or storing vessels;
19 providing for attorney's fees; creating s.
20 713.785, F.S.; authorizing the imposition of
21 lien by a mobile home transport company for
22 recovering, towing, or storing a mobile home;
23 providing definitions; requiring a mobile home
24 transport company to provide notice of
25 recovery, towing, or storage services;
26 providing for the filing of a complaint;
27 providing procedures for the sale of an
28 unclaimed mobile home; specifying circumstances
29 under which a mobile home transport company
30 must obtain a certificate of destruction;
31 providing for fees; authorizing the department

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1 to adopt rules; providing for fees; providing
2 for issuing certificates of destruction and
3 revalidation stickers; providing procedures for
4 disputing a lien and for discharge of a lien;
5 providing for the posting and repayment of
6 surety; providing for criminal penalties;
7 amending s. 715.07, F.S.; conforming provisions
8 related to towing vessels parked on private
9 property; imposing criminal penalties for
10 failure to comply with certain laws regulating
11 towing of vehicles and vessels; providing
12 effective dates.

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