

1 the towing of vehicles and vessels; providing
2 effective dates.

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

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6 Section 1. Paragraph (a) of subsection (1) of section
7 319.30, Florida Statutes, is amended to read:

8 319.30 Definitions; dismantling, destruction, change
9 of identity of motor vehicle or mobile home; salvage.--

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

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

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

16 323.001 Wrecker operator storage facilities; vehicle
17 holds.--

18 (1) An investigating agency may place a hold on a
19 motor vehicle stored within a wrecker operator's storage
20 facility for a period not to exceed 5 days, excluding holidays
21 and weekends, unless extended in writing.

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

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

31

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

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

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

9 (a) The owner thereof; or

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

14 (c) Any law enforcement agency; or

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

18
19 she or he shall have a lien on such vehicle or vessel for a
20 reasonable towing fee and for a reasonable storage fee; except
21 that no storage fee shall be charged if such vehicle is stored
22 for less than 6 hours.

23 (4)(a) Any person regularly engaged in the business of
24 recovering, towing, or storing vehicles or vessels who comes
25 into possession of a vehicle or vessel pursuant to subsection
26 (2), and who claims a lien for recovery, towing, or storage
27 services, shall give notice to the registered owner, the
28 insurance company insuring the vehicle notwithstanding the
29 provisions of s. 627.736, and to all persons claiming a lien
30 thereon, as disclosed by the records in the Department of
31

1 Highway Safety and Motor Vehicles or of a corresponding agency
2 in any other state.

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

26 (c) Notice by certified mail, return receipt
27 requested, shall be sent within 7 business days after the date
28 of storage of the vehicle or vessel to the registered owner,
29 the insurance company insuring the vehicle notwithstanding the
30 provisions of s. 627.736, and all persons of record claiming a
31 lien against the vehicle or vessel. It shall state the fact

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

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

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

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

31 |

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

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

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

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

14 7. Check of vehicle for vehicle identification number.

15 8. Check of vessel for vessel registration number.

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

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

30 (b) Upon filing of a complaint, an owner or lienholder
31 may have her or his vehicle or vessel released upon posting

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

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

21 (7)(a) A wrecker operator recovering, towing, or
22 storing vehicles or vessels is not liable for damages
23 connected with such services, theft of such vehicles or
24 vessels, or theft of personal property contained in such
25 vehicles or vessels, provided that such services have been
26 performed with reasonable care and provided, further, that, in
27 the case of removal of a vehicle or vessel upon the request of
28 a person purporting, and reasonably appearing, to be the owner
29 or lessee, or a person authorized by the owner or lessee, of
30 the property from which such vehicle or vessel is removed,
31 such removal has been done in compliance with s. 715.07.

1 Further, a wrecker operator is not liable for damage to a
2 vehicle, vessel, or cargo that obstructs the normal movement
3 of traffic or creates a hazard to traffic and is removed in
4 compliance with the request of a law enforcement officer.
5 ~~connected with such services when complying with the lawful~~
6 ~~directions of a law enforcement officer to remove a vehicle~~
7 ~~stopped, standing, or parked upon a street or highway in such~~
8 ~~a position as to obstruct the normal movement of traffic or in~~
9 ~~such a condition as to create a hazard to other traffic upon~~
10 ~~the street or highway.~~

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

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

19 2. The wrecker operator has illuminated the storage
20 facility with lighting of sufficient intensity to reveal
21 persons and vehicles at a distance of at least 150 feet during
22 nighttime; and

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

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

29 b. A security dog remains at the storage facility from
30 sunset to sunrise;

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1 c. Security cameras or other similar surveillance
2 devices monitor the storage facility; or

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

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

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

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

29 713.785 Liens for recovering, towing, or storing
30 mobile homes.--

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

1 (a) "Mobile home transport company" means a person
2 regularly engaged in the business of transporting mobile
3 homes.

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

7 (c) "Unpaid lot rental amount" or "rent" means any
8 unpaid financial obligations of the mobile home owner or
9 tenant to the mobile home park owner defined as "lot rental
10 amount" in s. 723.003 or "rent" in part II of chapter 83 and
11 includes any amounts defined as storage charges in s. 723.084.

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

14 (a) The owner of the mobile home;

15 (b) Any law enforcement agency; or

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

19
20 the mobile home transport company has a lien on the mobile
21 home for a reasonable towing fee and for a reasonable storage
22 fee.

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

30 (b) Notice by certified mail, return receipt
31 requested, shall be sent within 7 business days after the date

1 of storage of the mobile home to the registered owner at the
2 owner's last known address, and all persons of record claiming
3 a lien against the mobile home. The notice shall state the
4 fact of possession of the mobile home, that a lien as provided
5 in subsection (2) is claimed, that charges have accrued and
6 the amount thereof, that the lien is subject to enforcement
7 under law and that the owner or lienholder, if any, has the
8 right to a hearing as set forth in subsection (4), and that
9 any mobile home which remains unclaimed, or for which charges
10 remain unpaid, may be sold free of all prior liens after 35
11 days.

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

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

1 she or he has for loss or damage to the mobile home or the
2 contents thereof.

3 (c) Upon determining the respective rights of the
4 parties, the court may award damages and costs in favor of the
5 prevailing party. The final order shall provide for immediate
6 payment in full of any lien for recovery, towing, and storage
7 fees and any unpaid lot rental amount accruing until the time
8 the home is removed from the property, by the mobile home
9 owner or lienholder, or the owner, lessee, or agent thereof of
10 the property from which the mobile home was removed.

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

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

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

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

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

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

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

31

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

14 1. The name, address, and telephone number of the
15 mobile home transport company.

16 2. The name of the registered owner of the mobile home
17 and the address to which the mobile home transport company
18 provided notice of the lien to the registered owner under
19 subsection (3).

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

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

24 5. The name of the person or the corresponding law
25 enforcement agency that requested that the mobile home be
26 recovered, towed, or stored.

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

29 (b) For purposes of this subsection, the amount of the
30 mobile home transport company's lien for which the department
31 will prevent issuance of a revalidation sticker may not exceed

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

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

15 a. The registered owner presents a notarized bill of
16 sale proving that the mobile home was sold in a private or
17 casual sale before the mobile home was recovered, towed, or
18 stored.

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

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

26
27 If the registered owner's dispute of a mobile home transport
28 company's lien complies with one of these criteria, the
29 department shall immediately remove the registered owner's
30 name from the list of those persons who may not be issued a
31 revalidation sticker under s. 320.03. If the mobile home is

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

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

1 directing the department to release the mobile home transport
2 company's lien. Upon determining the respective rights of the
3 parties, the court may award damages and costs in favor of the
4 prevailing party.

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

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

29 (d) Upon discharge of the amount of the mobile home
30 transport company's lien allowed under paragraph (b), the
31 mobile home transport company must issue a certificate of

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

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

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

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

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

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

7 715.07 Vehicles or vessels parked on private property;
8 towing.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 d. The sign structure containing the required notices
26 must be permanently installed with the words "tow-away zone"
27 not less than 3 feet and not more than 6 feet above ground
28 level and must be continuously maintained on the property for
29 not less than 24 hours prior to the towing or removal of any
30 vehicles or vessels.
31

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

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

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

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

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

1 lessees, or persons in control of property which authorize
2 such person or firm to remove vehicles or vessels as provided
3 in this section.

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

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

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

1 receipt showing the legal name of the company or person towing
2 or removing the vehicle or vessel must be given to the person
3 paying towing or storage charges at the time of payment,
4 whether requested or not.

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

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

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

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

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

29 Section 6. Except as otherwise expressly provided in
30 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 492

The committee substitute makes the following changes to the underlying bill:

- Clarifies a wrecker operator's liability for damages when removing vehicles, vessels, and cargo that obstruct or create a hazard to traffic;
- Adds procedures authorizing mobile home transport companies to tow, remove, store, sell, dispose, and impose liens on mobile homes;
- Clarifies a wrecker operator's obligation to release an unlawfully parked vehicle or vessel for no more than one-half the published rate before the vehicle is removed from a parking lot or premises;
- Prohibits a person from paying or receiving consideration for the privilege of towing vehicles from a particular location;
- Reinserts a sentence of existing law that imposes liability on wrecker operator's for damages caused by entering a vehicle without reasonable care; and
- Makes several technical and conforming changes.