

By the Committees on Criminal Justice; Judiciary; and Senators
Bennett and Crist

591-1853-05

1 A bill to be entitled
2 An act relating to wrecker operators; amending
3 s. 319.30, F.S.; redefining the term
4 "certificate of destruction," to conform;
5 amending s. 323.001, F.S.; revising certain
6 towing and storage rates; amending s. 713.78,
7 F.S.; removing mobile homes from the
8 application of a statutory lien for towing and
9 storage; conforming provisions related to
10 recovering, towing, or storing vessels;
11 providing for attorney's fees; creating s.
12 713.785, F.S.; authorizing the imposition of
13 lien by a mobile home transport company for
14 recovering, towing, or storing a mobile home;
15 providing definitions; requiring a mobile home
16 transport company to provide notice of
17 recovery, towing, or storage services;
18 providing for the filing of a complaint;
19 providing procedures for the sale of an
20 unclaimed mobile home; specifying circumstances
21 under which a mobile home transport company
22 must obtain a certificate of destruction;
23 providing for fees; authorizing the department
24 to adopt rules; providing for fees; providing
25 for issuing certificates of destruction and
26 revalidation stickers; providing procedures for
27 disputing a lien and for discharge of a lien;
28 providing for the posting and repayment of
29 surety; providing for criminal penalties;
30 amending s. 715.07, F.S.; conforming provisions
31 related to towing vessels parked on private

1 property; imposing criminal penalties for
2 failure to comply with certain laws governing
3 the towing of vehicles and vessels; providing
4 effective dates.
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6 Be It Enacted by the Legislature of the State of Florida:
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8 Section 1. Paragraph (a) of subsection (1) of section
9 319.30, Florida Statutes, is amended to read:

10 319.30 Definitions; dismantling, destruction, change
11 of identity of motor vehicle or mobile home; salvage.--

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

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

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

18 323.001 Wrecker operator storage facilities; vehicle
19 holds.--

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

24 (2) The investigating agency must notify the wrecker
25 operator in writing within 5 days, excluding holidays and
26 weekends, whether the hold is to be continued. If no
27 notification follows this period of time, the wrecker operator
28 may release the vehicle to the designated person pursuant to
29 s. 713.78.
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31

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

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

6 713.78 Liens for recovering, towing, or storing
7 vehicles and vessels.--

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

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

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

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

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

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

26 (4)(a) Any person regularly engaged in the business of
27 recovering, towing, or storing vehicles or vessels who comes
28 into possession of a vehicle or vessel pursuant to subsection
29 (2), and who claims a lien for recovery, towing, or storage
30 services, shall give notice to the registered owner, the
31 insurance company insuring the vehicle notwithstanding the

1 provisions of s. 627.736, and to all persons claiming a lien
2 thereon, as disclosed by the records in the Department of
3 Highway Safety and Motor Vehicles or of a corresponding agency
4 in any other state.

5 (b) Whenever any law enforcement agency authorizes the
6 removal of a vehicle or vessel or whenever any towing service,
7 garage, repair shop, or automotive service, storage, or
8 parking place notifies the law enforcement agency of
9 possession of a vehicle or vessel pursuant to s.

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

28 (c) Notice by certified mail, return receipt
29 requested, shall be sent within 7 business days after the date
30 of storage of the vehicle or vessel to the registered owner,
31 the insurance company insuring the vehicle notwithstanding the

1 provisions of s. 627.736, and all persons of record claiming a
2 lien against the vehicle or vessel. It shall state the fact
3 of possession of the vehicle or vessel, that a lien as
4 provided in subsection (2) is claimed, that charges have
5 accrued and the amount thereof, that the lien is subject to
6 enforcement pursuant to law, and that the owner or lienholder,
7 if any, has the right to a hearing as set forth in subsection
8 (5), and that any vehicle or vessel which remains unclaimed,
9 or for which the charges for recovery, towing, or storage
10 services remain unpaid, may be sold free of all prior liens
11 after 35 days if the vehicle or vessel is more than 3 years of
12 age or after 50 days if the vehicle or vessel is 3 years of
13 age or less.

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

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

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

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

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

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

16 | 7. Check of vehicle for vehicle identification number.

17 | 8. Check of vessel for vessel registration number.

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

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

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

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

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

1 the property from which such vehicle or vessel is removed,
2 such removal has been done in compliance with s. 715.07.
3 Further, a wrecker operator is not liable for damage to a
4 vehicle, vessel, or cargo that obstructs the normal movement
5 of traffic or creates a hazard to traffic and is removed in
6 compliance with the request of a law enforcement officer.
7 ~~connected with such services when complying with the lawful~~
8 ~~directions of a law enforcement officer to remove a vehicle~~
9 ~~stopped, standing, or parked upon a street or highway in such~~
10 ~~a position as to obstruct the normal movement of traffic or in~~
11 ~~such a condition as to create a hazard to other traffic upon~~
12 ~~the street or highway.~~

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

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

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

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

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

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1 b. A security dog remains at the storage facility from
2 sunset to sunrise;

3 c. Security cameras or other similar surveillance
4 devices monitor the storage facility; or

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

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

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

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

31

1 713.785 Liens for recovering, towing, or storing
2 mobile homes.--

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

4 (a) "Mobile home transport company" means a person
5 regularly engaged in the business of transporting mobile
6 homes.

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

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

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

17 (a) The owner of the mobile home;

18 (b) Any law enforcement agency; or

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

22
23 the mobile home transport company has a lien on the mobile
24 home for a reasonable towing fee and for a reasonable storage
25 fee.

26 (3)(a) A mobile home transport company that comes into
27 possession of a mobile home under subsection (2) and that
28 claims a lien for recovery, towing, or storage services must
29 give notice to the registered owner and to all persons
30 claiming a lien on the mobile home, as disclosed by the

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

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

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

29 (b) Upon filing of a complaint, an owner or lienholder
30 may have the mobile home released upon posting with the court
31 a cash or surety bond or other adequate security equal to the

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

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

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

1 required by subsection (3), notice of the sale must be given
2 to the person in whose name the mobile home is registered at
3 her or his last known address, to the mobile home park owner,
4 and to all persons claiming a lien on the mobile home as shown
5 on the records of the Department of Highway Safety and Motor
6 Vehicles or of the corresponding agency in any other state.
7 Notice must be sent by certified mail, return receipt
8 requested, at least 15 days before the date of the sale. After
9 diligent search and inquiry, if the name and address of the
10 registered owner or the owner of the recorded lien cannot be
11 ascertained, the requirements of notice by mail may be
12 dispensed with. In addition to the notice by mail, public
13 notice of the time and place of sale must be made by
14 publishing a notice of the sale one time, at least 10 days
15 before the date of the sale, in a newspaper of general
16 circulation in the county in which the sale is to be held. The
17 proceeds of the sale, after payment of reasonable towing and
18 storage charges, costs of the sale, and the unpaid lot rental
19 amount as evidenced by the judgment for unpaid lot rental and
20 an affidavit executed by the mobile home park owner or the
21 owner's agent establishing the amount of unpaid lot rental
22 amount through the date of the sale, in that order of
23 priority, must be deposited with the clerk of the circuit
24 court for the county if the owner is absent, and the clerk
25 shall hold the proceeds subject to the claim of the person
26 legally entitled to those proceeds. The clerk is entitled to
27 receive 5 percent of the proceeds for the care and
28 disbursement of the proceeds. The certificate of title issued
29 under this section shall be discharged of all liens unless
30 otherwise provided by court order.
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1 (6) The mobile home transport company, the landlord or
2 his or her agent, or any subsequent purchaser for value are
3 not responsible to the tenant or any other party for loss,
4 destruction, or damage to the mobile home or other personal
5 property after coming into possession of the mobile home under
6 this section, provided the mobile home transport company, the
7 landlord, or their agents use reasonable care in storing the
8 mobile home. As used in this subsection, the term "reasonable
9 care" means securing the mobile home by changing door locks,
10 or any similar methods for securing the mobile home, in place
11 in the mobile home park or in a separate storage area.

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

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

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

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

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

24 1. The name, address, and telephone number of the
25 mobile home transport company.

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

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

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

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

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

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

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

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

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

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

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

28 2. A person against whom a mobile home transport
29 company's lien has been imposed may alternatively obtain a
30 discharge of the lien by filing a complaint, challenging the
31 validity of the lien or the amount thereof, in the county

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

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

1 that the mobile home transport company must claim the security
2 within 60 days or the security will be released to the person
3 who posted it. At the conclusion of the 60 days, the
4 department shall direct the clerk as to which party is
5 entitled to payment of the security, less applicable fees of
6 the clerk.

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

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

27 (e) When a mobile home transport company files a
28 notice of lien under this subsection, the department shall
29 charge the mobile home transport company a fee of \$2, which
30 must be deposited into the General Revenue Fund. The tax
31

1 collector who processes a notice of lien shall collect and
2 retain a service charge of \$2.50.

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

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

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

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

19 715.07 Vehicles or vessels parked on private property;
20 towing.--

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

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

1 | caused by such removal, transportation, or storage, under any
2 | of the following circumstances:

3 | (a) The towing or removal of any vehicle or vessel
4 | from private property without the consent of the registered
5 | owner or other legally authorized person in control of that
6 | vehicle or vessel is subject to strict compliance with the
7 | following conditions and restrictions:

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

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

30 | 2. The person or firm towing or removing the vehicle
31 | or vessel shall, within 30 minutes after ~~of~~ completion of such

1 towing or removal, notify the municipal police department or,
2 in an unincorporated area, the sheriff, of such towing or
3 removal, the storage site, the time the vehicle or vessel was
4 towed or removed, and the make, model, color, and license
5 plate number of the vehicle or description and registration
6 number of the vessel and shall obtain the name of the person
7 at that department to whom such information was reported and
8 note that name on the trip record.

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

31

1 4. A person may not pay or accept money or other
2 valuable consideration for the privilege of towing or removing
3 vehicles or vessels from a particular location. ~~The rebate or~~
4 payment of money or any other valuable consideration from the
5 individual or firm towing or removing vehicles to the owners
6 or operators of the premises from which the vehicles are towed
7 or removed, for the privilege of removing or towing those
8 vehicles, is prohibited.

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

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

28 b. The notice must clearly indicate, in not less than
29 2-inch high, light-reflective letters on a contrasting
30 background, that unauthorized vehicles will be towed away at
31

1 the owner's expense. The words "tow-away zone" must be
2 included on the sign in not less than 4-inch high letters.

3 c. The notice must also provide the name and current
4 telephone number of the person or firm towing or removing the
5 vehicles or vessels, ~~if the property owner, lessee, or person~~
6 ~~in control of the property has a written contract with the~~
7 ~~towing company.~~

8 d. The sign structure containing the required notices
9 must be permanently installed with the words "tow-away zone"
10 not less than 3 feet and not more than 6 feet above ground
11 level and must be continuously maintained on the property for
12 not less than 24 hours prior to the towing or removal of any
13 vehicles or vessels.

14 e. The local government may require permitting and
15 inspection of these signs prior to any towing or removal of
16 vehicles or vessels being authorized.

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

23 g. A property owner towing or removing vessels from
24 real property must post notice, consistent with the
25 requirements in sub-subparagraphs a.-f., which apply to
26 vehicles, that unauthorized vehicles or vessels will be towed
27 away at the owner's expense.

28
29 A business owner or lessee may authorize the removal of a
30 vehicle or vessel by a towing company when the vehicle or
31 vessel is parked in such a manner that restricts the normal

1 operation of business; and if a vehicle or vessel parked on a
2 public right-of-way obstructs access to a private driveway the
3 owner, lessee, or agent may have the vehicle or vessel removed
4 by a towing company upon signing an order that the vehicle or
5 vessel be removed without a posted tow-away zone sign.

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

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

28 8. Vehicle entry for the purpose of removing the
29 vehicle or vessel shall be allowed with reasonable care on the
30 part of the person or firm towing the vehicle or vessel. Such
31 person or firm shall be liable for any damage occasioned to

1 the vehicle or vessel if such entry is not in accordance with
2 the standard of reasonable care.

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

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

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

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

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

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

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

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

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 CS/SB 492

- 18 - Deletes a provision in law that provides that a wrecker
19 operator that receives, removes, or restores a mobile
20 home, upon instruction from a mobile home park owner who
has a writ of possession for a mobile home lot, has a
lien on the mobile home for towing and storage.
- 21 - Provides that, in addition to other things that a mobile
22 home transport company that comes into possession of a
23 mobile home and claims a lien for recovery, towing or
24 storage services, is required to provide in a notice to
25 the registered owner and all persons claiming a lien on
26 the mobile home, the company must include in the notice
27 that any mobile home which remains unclaimed, or for
28 which charges remain unpaid, may be sold free of all
prior liens after 35 days of the eviction proceeding that
resulted in the issuance of the writ of possession,
provided that any lienholder entitled to notice has
received that notice and has failed to pay storage
charges, take possession of the home, or take legal
action to foreclose its interest prior to issuance of the
writ.