

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Galvano offered the following:

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3 **Amendment (with directory amendment)**

4 Remove line(s) 199-262 and insert:

5 (6) Any vehicle or vessel which is stored pursuant to  
6 subsection (2) and which remains unclaimed, or for which  
7 reasonable charges for recovery, towing, or storing remain  
8 unpaid ~~or for which a lot rental amount is due and owing to the~~  
9 ~~mobile home park owner, as evidenced by a judgment for unpaid~~  
10 ~~rent~~, and any contents not released pursuant to subsection (10),  
11 may be sold by the owner or operator of the storage space for  
12 such towing or storage charge ~~or unpaid lot rental amount~~ after  
13 35 days from the time the vehicle or vessel is stored therein if  
14 the vehicle or vessel is more than 3 years of age or after 50  
15 days following the time the vehicle or vessel is stored therein

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16 | if the vehicle or vessel is 3 years of age or less. The sale  
17 | shall be at public auction for cash. If the date of the sale was  
18 | not included in the notice required in subsection (4), notice of  
19 | the sale shall be given to the person in whose name the vehicle  
20 | ~~or, vessel, or mobile home is registered, to the mobile home~~  
21 | ~~park owner,~~ and to all persons claiming a lien on the vehicle or  
22 | vessel as shown on the records of the Department of Highway  
23 | Safety and Motor Vehicles or of the corresponding agency in any  
24 | other state. Notice shall be sent by certified mail, return  
25 | receipt requested, to the owner of the vehicle or vessel and the  
26 | person having the recorded lien on the vehicle or vessel at the  
27 | address shown on the records of the registering agency and shall  
28 | be mailed not less than 15 days before the date of the sale.  
29 | After diligent search and inquiry, if the name and address of  
30 | the registered owner or the owner of the recorded lien cannot be  
31 | ascertained, the requirements of notice by mail may be dispensed  
32 | with. In addition to the notice by mail, public notice of the  
33 | time and place of sale shall be made by publishing a notice  
34 | thereof one time, at least 10 days prior to the date of the  
35 | sale, in a newspaper of general circulation in the county in  
36 | which the sale is to be held. The proceeds of the sale, after  
37 | payment of reasonable towing and storage charges, and costs of  
38 | the sale, ~~and the unpaid lot rental amount,~~ in that order of  
39 | priority, shall be deposited with the clerk of the circuit court  
40 | for the county if the owner is absent, and the clerk shall hold  
41 | such proceeds subject to the claim of the person legally  
42 | entitled thereto. The clerk shall be entitled to receive 5

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43 percent of such proceeds for the care and disbursement thereof.  
44 The certificate of title issued under this law shall be  
45 discharged of all liens unless otherwise provided by court  
46 order.

47 (7)(a) A wrecker operator recovering, towing, or storing  
48 vehicles or vessels is not liable for damages connected with  
49 such services, theft of such vehicles or vessels, or theft of  
50 personal property contained in such vehicles or vessels,  
51 provided that such services have been performed with reasonable  
52 care and provided, further, that, in the case of removal of a  
53 vehicle or vessel upon the request of a person purporting, and  
54 reasonably appearing, to be the owner or lessee, or a person  
55 authorized by the owner or lessee, of the property from which  
56 such vehicle or vessel is removed, such removal has been done in  
57 compliance with s. 715.07. Further, a wrecker operator is not  
58 liable for damage to a vehicle, vessel, or cargo that obstructs  
59 the normal movement of traffic or creates a hazard to traffic  
60 and is removed in compliance with the request of a law  
61 enforcement officer ~~connected with such services when complying~~  
62 ~~with the lawful directions of a law enforcement officer to~~  
63 ~~remove a vehicle stopped, standing, or parked upon a street or~~  
64 ~~highway in such a position as to obstruct the normal movement of~~  
65 ~~traffic or in such a condition as to create a hazard to other~~  
66 ~~traffic upon the street or highway.~~

67 (10) Persons who provide services pursuant to this section  
68 shall permit vehicle or vessel owners or their agents, which  
69 agency is evidenced by an original a writing acknowledged by the

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70 owner before a notary public or other person empowered by law to  
71 administer oaths, to inspect the towed vehicle or vessel and  
72 shall release to the owner or agent the vehicle, vessel, or all  
73 personal property not affixed to the vehicle or vessel which was  
74 in the vehicle or vessel at the time the vehicle or vessel came  
75 into the custody of the person providing such services.

76 (11)(a) Any person regularly engaged in the business of  
77 recovering, towing, or storing vehicles or vessels who comes  
78 into possession of a vehicle or vessel pursuant to subsection  
79 (2) and who has complied with the provisions of subsections (3)  
80 and (6), when such vehicle or vessel is to be sold for purposes  
81 of being dismantled, destroyed, or changed in such manner that  
82 it is not the motor vehicle or, vessel, ~~or mobile home~~ described  
83 in the certificate of title, shall apply to the county tax  
84 collector for a certificate of destruction. A certificate of  
85 destruction, which authorizes the dismantling or destruction of  
86 the vehicle or vessel described therein, shall be reassignable a  
87 maximum of two times before dismantling or destruction of the  
88 vehicle shall be required, and shall accompany the vehicle or  
89 vessel for which it is issued, when such vehicle or vessel is  
90 sold for such purposes, in lieu of a certificate of title. The  
91 application for a certificate of destruction must include an  
92 affidavit from the applicant that it has complied with all  
93 applicable requirements of this section and, if the vehicle or  
94 vessel is not registered in this state, by a statement from a  
95 law enforcement officer that the vehicle or vessel is not

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96 reported stolen, and shall be accompanied by such documentation  
97 as may be required by the department.

98 (13)(a) Upon receipt by the Department of Highway Safety  
99 and Motor Vehicles of written notice from a wrecker operator who  
100 claims a wrecker operator's lien under paragraph (2)(c) or  
101 paragraph (2)(d) for recovery, towing, or storage of an  
102 abandoned vehicle or, ~~vessel, or mobile home~~ upon instructions  
103 from any law enforcement agency, for which a certificate of  
104 destruction has been issued under subsection (11), the  
105 department shall place the name of the registered owner of that  
106 vehicle or, ~~vessel, or mobile home~~ on the list of those persons  
107 who may not be issued a license plate or revalidation sticker  
108 for any motor vehicle under s. 320.03(8). If the vehicle or,  
109 ~~vessel, or mobile home~~ is owned jointly by more than one person,  
110 the name of each registered owner shall be placed on the list.  
111 The notice of wrecker operator's lien shall be submitted on  
112 forms provided by the department, which must include:

113 1. The name, address, and telephone number of the wrecker  
114 operator.

115 2. The name of the registered owner of the vehicle or,  
116 ~~vessel, or mobile home~~ and the address to which the wrecker  
117 operator provided notice of the lien to the registered owner  
118 under subsection (4).

119 3. A general description of the vehicle or, vessel, ~~or~~  
120 ~~mobile home~~ including its color, make, model, body style, and  
121 year.

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122           4. The vehicle identification number (VIN); registration  
123 license plate number, state, and year; validation decal number,  
124 state, and year; ~~mobile home sticker number, state, and year;~~  
125 vessel registration number; hull identification number; or other  
126 identification number, as applicable.

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

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

132           (b) For purposes of this subsection only, the amount of  
133 the wrecker operator's lien for which the department will  
134 prevent issuance of a license plate or revalidation sticker may  
135 not exceed the amount of the charges for recovery, towing, and  
136 storage of the vehicle or, vessel, ~~or mobile home~~ for 7 days.  
137 These charges may not exceed the maximum rates imposed by the  
138 ordinances of the respective county or municipality under ss.  
139 125.0103(1)(c) and 166.043(1)(c). This paragraph does not limit  
140 the amount of a wrecker operator's lien claimed under subsection  
141 (2) or prevent a wrecker operator from seeking civil remedies  
142 for enforcement of the entire amount of the lien, but limits  
143 only that portion of the lien for which the department will  
144 prevent issuance of a license plate or revalidation sticker.

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

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149 a. The registered owner presents a notarized bill of sale  
150 proving that the vehicle or, vessel, ~~or mobile home~~ was sold in  
151 a private or casual sale before the vehicle or, vessel, ~~or~~  
152 ~~mobile home~~ was recovered, towed, or stored.

153 b. The registered owner presents proof that the Florida  
154 certificate of title of the vehicle or, vessel, ~~or mobile home~~  
155 was sold to a licensed dealer as defined in s. 319.001 before  
156 the vehicle or, vessel, ~~or mobile home~~ was recovered, towed, or  
157 stored.

158  
159 If the registered owner's dispute of a wrecker operator's lien  
160 complies with one of these criteria, the department shall  
161 immediately remove the registered owner's name from the list of  
162 those persons who may not be issued a license plate or  
163 revalidation sticker for any motor vehicle under s. 320.03(8),  
164 thereby allowing issuance of a license plate or revalidation  
165 sticker. If the vehicle or, vessel, ~~or mobile home~~ is owned  
166 jointly by more than one person, each registered owner must  
167 dispute the wrecker operator's lien in order to be removed from  
168 the list. However, the department shall deny any dispute and  
169 maintain the registered owner's name on the list of those  
170 persons who may not be issued a license plate or revalidation  
171 sticker for any motor vehicle under s. 320.03(8) if the wrecker  
172 operator has provided the department with a certified copy of  
173 the judgment of a court which orders the registered owner to pay  
174 the wrecker operator's lien claimed under this section. In such  
175 a case, the amount of the wrecker operator's lien allowed by

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176 paragraph (b) may be increased to include no more than \$500 of  
177 the reasonable costs and attorney's fees incurred in obtaining  
178 the judgment. The department's action under this subparagraph is  
179 ministerial in nature, shall not be considered final agency  
180 action, and is appealable only to the county court for the  
181 county in which the vehicle or, vessel, ~~or mobile home~~ was  
182 ordered removed.

183         2. A person against whom a wrecker operator's lien has  
184 been imposed may alternatively obtain a discharge of the lien by  
185 filing a complaint, challenging the validity of the lien or the  
186 amount thereof, in the county court of the county in which the  
187 vehicle or, vessel, ~~or mobile home~~ was ordered removed. Upon  
188 filing of the complaint, the person may have her or his name  
189 removed from the list of those persons who may not be issued a  
190 license plate or revalidation sticker for any motor vehicle  
191 under s. 320.03(8), thereby allowing issuance of a license plate  
192 or revalidation sticker, upon posting with the court a cash or  
193 surety bond or other adequate security equal to the amount of  
194 the wrecker operator's lien to ensure the payment of such lien  
195 in the event she or he does not prevail. Upon the posting of the  
196 bond and the payment of the applicable fee set forth in s.  
197 28.24, the clerk of the court shall issue a certificate  
198 notifying the department of the posting of the bond and  
199 directing the department to release the wrecker operator's lien.  
200 Upon determining the respective rights of the parties, the court  
201 may award damages and costs in favor of the prevailing party.

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202 3. If a person against whom a wrecker operator's lien has  
203 been imposed does not object to the lien, but cannot discharge  
204 the lien by payment because the wrecker operator has moved or  
205 gone out of business, the person may have her or his name  
206 removed from the list of those persons who may not be issued a  
207 license plate or revalidation sticker for any motor vehicle  
208 under s. 320.03(8), thereby allowing issuance of a license plate  
209 or revalidation sticker, upon posting with the clerk of court in  
210 the county in which the vehicle or vessel, ~~or mobile home~~ was  
211 ordered removed, a cash or surety bond or other adequate  
212 security equal to the amount of the wrecker operator's lien.  
213 Upon the posting of the bond and the payment of the application  
214 fee set forth in s. 28.24, the clerk of the court shall issue a  
215 certificate notifying the department of the posting of the bond  
216 and directing the department to release the wrecker operator's  
217 lien. The department shall mail to the wrecker operator, at the  
218 address upon the lien form, notice that the wrecker operator  
219 must claim the security within 60 days, or the security will be  
220 released back to the person who posted it. At the conclusion of  
221 the 60 days, the department shall direct the clerk as to which  
222 party is entitled to payment of the security, less applicable  
223 clerk's fees.

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

225 (d) Upon discharge of the amount of the wrecker operator's  
226 lien allowed by paragraph (b), the wrecker operator must issue a  
227 certificate of discharged wrecker operator's lien on forms  
228 provided by the department to each registered owner of the

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229 vehicle or, vessel, ~~or mobile home~~ attesting that the amount of  
230 the wrecker operator's lien allowed by paragraph (b) has been  
231 discharged. Upon presentation of the certificate of discharged  
232 wrecker operator's lien by the registered owner, the department  
233 shall immediately remove the registered owner's name from the  
234 list of those persons who may not be issued a license plate or  
235 revalidation sticker for any motor vehicle under s. 320.03(8),  
236 thereby allowing issuance of a license plate or revalidation  
237 sticker. Issuance of a certificate of discharged wrecker  
238 operator's lien under this paragraph does not discharge the  
239 entire amount of the wrecker operator's lien claimed under  
240 subsection (2), but only certifies to the department that the  
241 amount of the wrecker operator's lien allowed by paragraph (b),  
242 for which the department will prevent issuance of a license  
243 plate or revalidation sticker, has been discharged.

244 (e) When a wrecker operator files a notice of wrecker  
245 operator's lien under this subsection, the department shall  
246 charge the wrecker operator a fee of \$2, which shall be  
247 deposited into the General Revenue Fund established under s.  
248 860.158. A service charge of \$2.50 shall be collected and  
249 retained by the tax collector who processes a notice of wrecker  
250 operator's lien.

251 (f) This subsection applies only to the annual renewal in  
252 the registered owner's birth month of a motor vehicle  
253 registration and does not apply to the transfer of a  
254 registration of a motor vehicle sold by a motor vehicle dealer  
255 licensed under chapter 320, except for the transfer of

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256 | registrations which is inclusive of the annual renewals. This  
257 | subsection does not affect the issuance of the title to a motor  
258 | vehicle, notwithstanding s. 319.23(7)(b).

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

262 |

263 |

264 | ===== D I R E C T O R Y A M E N D M E N T =====

265 | Remove line(s) 63 and 64 insert:

266 | Section 3. Subsections (2), (4), (5), and (6), paragraph  
267 | (a) of subsection (7), subsection (10), paragraph (a) of  
268 | subsection (11), and subsection (13) of section 713.78, Florida  
269 | Statutes, are amended to read: