

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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24 for issuing certificates of destruction and revalidation
 25 stickers; providing procedures for disputing a lien and
 26 for discharge of a lien; providing for the posting and
 27 repayment of surety; providing for criminal penalties;
 28 amending s. 715.07, F.S.; conforming provisions related to
 29 towing vessels parked on private property; imposing
 30 criminal penalties for failure to comply with certain laws
 31 governing the towing of vehicles and vessels; providing
 32 effective dates.

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

35

36 Section 1. Paragraph (a) of subsection (1) of section
 37 319.30, Florida Statutes, is amended to read:

38 319.30 Definitions; dismantling, destruction, change of
 39 identity of motor vehicle or mobile home; salvage.--

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

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

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

46 323.001 Wrecker operator storage facilities; vehicle
 47 holds.--

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

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52 (2) The investigating agency must notify the wrecker
53 operator in writing within 5 days, excluding holidays and
54 weekends, whether the hold is to be continued. If no
55 notification follows this period of time, the wrecker operator
56 may release the vehicle to the designated person pursuant to s.
57 713.78.

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

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

63 713.78 Liens for recovering, towing, or storing vehicles
64 and vessels.--

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

69 (a) The owner thereof; or

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

74 (c) Any law enforcement agency, ~~or~~

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

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79 | she or he shall have a lien on the ~~such~~ vehicle or vessel for a
 80 | reasonable towing fee and for a reasonable storage fee; except
 81 | that no storage fee shall be charged if the ~~such~~ vehicle is
 82 | stored for less than 6 hours.

83 | (4)(a) Any person regularly engaged in the business of
 84 | recovering, towing, or storing vehicles or vessels who comes
 85 | into possession of a vehicle or vessel pursuant to subsection
 86 | (2), and who claims a lien for recovery, towing, or storage
 87 | services, shall give notice to the registered owner, the
 88 | insurance company insuring the vehicle notwithstanding the
 89 | provisions of s. 627.736, and to all persons claiming a lien
 90 | thereon, as disclosed by the records in the Department of
 91 | Highway Safety and Motor Vehicles or of a corresponding agency
 92 | in any other state.

93 | (b) Whenever any law enforcement agency authorizes the
 94 | removal of a vehicle or vessel or whenever any towing service,
 95 | garage, repair shop, or automotive service, storage, or parking
 96 | place notifies the law enforcement agency of possession of a
 97 | vehicle or vessel pursuant to s. 715.07(2)(a)2., the applicable
 98 | law enforcement agency shall contact the Department of Highway
 99 | Safety and Motor Vehicles, or the appropriate agency of the
 100 | state of registration, if known, within 24 hours through the
 101 | medium of electronic communications, giving the full description
 102 | of the vehicle or vessel. Upon receipt of the full description
 103 | of the vehicle or vessel, the department shall search its files
 104 | to determine the owner's name, the insurance company insuring
 105 | the vehicle or vessel, and whether any person has filed a lien
 106 | upon the vehicle or vessel as provided in s. 319.27(2) and (3)

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107 and notify the applicable law enforcement agency within 72
108 hours. The person in charge of the towing service, garage,
109 repair shop, or automotive service, storage, or parking place
110 shall obtain such information from the applicable law
111 enforcement agency within 5 days from the date of storage and
112 shall give notice pursuant to paragraph (a). The department may
113 release the insurance company information to the requestor
114 notwithstanding the provisions of s. 627.736.

115 (c) Notice by certified mail, return receipt requested,
116 shall be sent within 7 business days after the date of storage
117 of the vehicle or vessel to the registered owner, the insurance
118 company insuring the vehicle notwithstanding the provisions of
119 s. 627.736, and all persons of record claiming a lien against
120 the vehicle or vessel. It shall state the fact of possession of
121 the vehicle or vessel, that a lien as provided in subsection (2)
122 is claimed, that charges have accrued and the amount thereof,
123 that the lien is subject to enforcement pursuant to law, and
124 that the owner or lienholder, if any, has the right to a hearing
125 as set forth in subsection (5), and that any vehicle or vessel
126 which remains unclaimed, or for which the charges for recovery,
127 towing, or storage services remain unpaid, may be sold free of
128 all prior liens after 35 days if the vehicle or vessel is more
129 than 3 years of age or after 50 days if the vehicle or vessel is
130 3 years of age or less.

131 (d) If attempts to locate the name and address of the
132 owner or lienholder prove unsuccessful, the towing-storage
133 operator shall, after 7 working days, excluding Saturday and
134 Sunday, of the initial tow or storage, notify the public agency

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135 of jurisdiction in writing by certified mail or acknowledged
 136 hand delivery that the towing-storage company has been unable to
 137 locate the name and address of the owner or lienholder and a
 138 physical search of the vehicle or vessel has disclosed no
 139 ownership information and a good faith effort has been made. For
 140 purposes of this paragraph and subsection (9), "good faith
 141 effort" means that the following checks have been performed by
 142 the company to establish prior state of registration and for
 143 title:

- 144 1. Check of vehicle or vessel for any type of tag, tag
 145 record, temporary tag, or regular tag.
- 146 2. Check of law enforcement report for tag number or other
 147 information identifying the vehicle or vessel, if the vehicle or
 148 vessel was towed at the request of a law enforcement officer.
- 149 3. Check of trip sheet or tow ticket of tow truck operator
 150 to see if a tag was on vehicle or vessel at beginning of tow, if
 151 private tow.
- 152 4. If there is no address of the owner on the impound
 153 report, check of law enforcement report to see if an out-of-
 154 state address is indicated from driver license information.
- 155 5. Check of vehicle or vessel for inspection sticker or
 156 other stickers and decals that may indicate a state of possible
 157 registration.
- 158 6. Check of the interior of the vehicle or vessel for any
 159 papers that may be in the glove box, trunk, or other areas for a
 160 state of registration.
- 161 7. Check of vehicle for vehicle identification number.
- 162 8. Check of vessel for vessel registration number.

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163 9. Check of vessel hull for a hull identification number
 164 which should be carved, burned, stamped, embossed, or otherwise
 165 permanently affixed to the outboard side of the transom or, if
 166 there is no transom, to the outmost seaboard side at the end of
 167 the hull that bears the rudder or other steering mechanism.

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

176 (b) Upon filing of a complaint, an owner or lienholder may
 177 have her or his vehicle or vessel released upon posting with the
 178 court a cash or surety bond or other adequate security equal to
 179 the amount of the charges for towing or storage and lot rental
 180 amount to ensure the payment of such charges in the event she or
 181 he does not prevail. Upon the posting of the bond and the
 182 payment of the applicable fee set forth in s. 28.24, the clerk
 183 of the court shall issue a certificate notifying the lienor of
 184 the posting of the bond and directing the lienor to release the
 185 vehicle or vessel. At the time of such release, after reasonable
 186 inspection, she or he shall give a receipt to the towing-storage
 187 company reciting any claims she or he has for loss or damage to
 188 the vehicle or vessel or the contents thereof.

189 (c) Upon determining the respective rights of the parties,
 190 the court may award damages, attorney's fees, and costs in favor

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191 of the prevailing party. In any event, the final order shall
 192 provide for immediate payment in full of recovery, towing, and
 193 storage fees by the vehicle or vessel owner or lienholder; or
 194 the agency ordering the tow; or the owner, lessee, or agent
 195 thereof of the property from which the vehicle or vessel was
 196 removed.

197 (7)(a) A wrecker operator recovering, towing, or storing
 198 vehicles or vessels is not liable for damages connected with
 199 such services, theft of such vehicles or vessels, or theft of
 200 personal property contained in such vehicles or vessels,
 201 provided that such services have been performed with reasonable
 202 care and provided, further, that, in the case of removal of a
 203 vehicle or vessel upon the request of a person purporting, and
 204 reasonably appearing, to be the owner or lessee, or a person
 205 authorized by the owner or lessee, of the property from which
 206 such vehicle or vessel is removed, such removal has been done in
 207 compliance with s. 715.07. Further, a wrecker operator is not
 208 liable for damage to a vehicle, vessel, or cargo that obstructs
 209 the normal movement of traffic or creates a hazard to traffic
 210 and is removed in compliance with the request of a law
 211 enforcement officer. ~~connected with such services when complying~~
 212 ~~with the lawful directions of a law enforcement officer to~~
 213 ~~remove a vehicle stopped, standing, or parked upon a street or~~
 214 ~~highway in such a position as to obstruct the normal movement of~~
 215 ~~traffic or in such a condition as to create a hazard to other~~
 216 ~~traffic upon the street or highway.~~

217 (b) For the purposes of this subsection, a wrecker
 218 operator is presumed to use reasonable care to prevent the theft

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219 of a vehicle or vessel or of any personal property contained in
 220 such vehicle stored in the wrecker operator's storage facility
 221 if all of the following apply:

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

225 2. The wrecker operator has illuminated the storage
 226 facility with lighting of sufficient intensity to reveal persons
 227 and vehicles at a distance of at least 150 feet during
 228 nighttime; and

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

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

235 b. A security dog remains at the storage facility from
 236 sunset to sunrise;

237 c. Security cameras or other similar surveillance devices
 238 monitor the storage facility; or

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

241 (c) Any law enforcement agency requesting that a motor
 242 vehicle be removed from an accident scene, street, or highway
 243 must conduct an inventory and prepare a written record of all
 244 personal property found in the vehicle before the vehicle is
 245 removed by a wrecker operator. However, if the owner or driver
 246 of the motor vehicle is present and accompanies the vehicle, no

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247 inventory by law enforcement is required. A wrecker operator is
 248 not liable for the loss of personal property alleged to be
 249 contained in such a vehicle when such personal property was not
 250 identified on the inventory record prepared by the law
 251 enforcement agency requesting the removal of the vehicle.

252 (10) Persons who provide services pursuant to this section
 253 shall permit vehicle or vessel owners or their agents, which
 254 agency is evidenced by an original a writing acknowledged by the
 255 owner before a notary public or other person empowered by law to
 256 administer oaths, to inspect the towed vehicle or vessel and
 257 shall release to the owner or agent the vehicle, vessel, or all
 258 personal property not affixed to the vehicle or vessel which was
 259 in the vehicle or vessel at the time the vehicle or vessel came
 260 into the custody of the person providing such services.

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

263 713.785 Liens for recovering, towing, or storing mobile
 264 homes.--

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

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

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

271 (c) "Unpaid lot rental amount" or "rent" means any unpaid
 272 financial obligations of the mobile home owner or tenant to the
 273 mobile home park owner defined as "lot rental amount" in s.

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274 723.003 or "rent" in part II of chapter 83 and includes any
 275 amounts defined as storage charges in s. 723.084.

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

278 (a) The owner of the mobile home;

279 (b) Any law enforcement agency; or

280 (c) A mobile home park owner as defined in s. 723.003 who
 281 has a current writ of possession for a mobile home lot under s.
 282 723.062 or s. 83.62,

283
 284 the mobile home transport company has a lien on the mobile home
 285 for a reasonable towing fee and for a reasonable storage fee.

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

293 (b) Notice by certified mail, return receipt requested,
 294 shall be sent within 7 business days after the date of storage
 295 of the mobile home to the registered owner at the owner's last
 296 known address, and all persons of record claiming a lien against
 297 the mobile home. The notice shall state the fact of possession
 298 of the mobile home, that a lien as provided in subsection (2) is
 299 claimed, that charges have accrued and the amount thereof, that
 300 the lien is subject to enforcement under law and that the owner
 301 or lienholder, if any, has the right to a hearing as set forth

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302 in subsection (4), and that any mobile home which remains
 303 unclaimed, or for which charges remain unpaid, may be sold free
 304 of all prior liens after 35 days.

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

312 (b) Upon filing of a complaint, an owner or lienholder may
 313 have the mobile home released upon posting with the court a cash
 314 or surety bond or other adequate security equal to the amount of
 315 the charges for towing or storage and lot rental amount due and
 316 owing at that time to ensure the payment of the charges in the
 317 event she or he does not prevail. Upon the posting of the bond
 318 and the payment of the applicable fee set forth in s. 28.24, the
 319 clerk of the court shall issue a certificate notifying the
 320 mobile home transport company of the posting of the bond and
 321 directing the mobile home transport company to release the
 322 mobile home. At the time of the release, after reasonable
 323 inspection, she or he shall give a receipt to the mobile home
 324 transport company citing any claims she or he has for loss or
 325 damage to the mobile home or the contents thereof.

326 (c) Upon determining the respective rights of the parties,
 327 the court may award damages and costs in favor of the prevailing
 328 party. The final order shall provide for immediate payment in
 329 full of any lien for recovery, towing, and storage fees and any

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330 unpaid lot rental amount accruing until the time the home is
 331 removed from the property, by the mobile home owner or
 332 lienholder, or the owner, lessee, or agent thereof of the
 333 property from which the mobile home was removed.

334 (5) A mobile home that is stored under subsection (2) and
 335 which remains unclaimed, or for which reasonable charges for
 336 recovery, towing, or storing remain unpaid or for which a lot
 337 rental amount is due and owing to the mobile home park owner as
 338 evidenced by a judgment for unpaid rent and any contents of the
 339 mobile home not released under subsection (9), may be sold by
 340 the mobile home transport company for the towing or storage
 341 charge and any unpaid lot rental amount 35 days after the mobile
 342 home is stored by a mobile home transport company. The sale
 343 shall be at public auction for cash. If the date of the sale was
 344 not included in the notice required by subsection (3), notice of
 345 the sale must be given to the person in whose name the mobile
 346 home is registered at her or his last known address, to the
 347 mobile home park owner, and to all persons claiming a lien on
 348 the mobile home as shown on the records of the Department of
 349 Highway Safety and Motor Vehicles or of the corresponding agency
 350 in any other state. Notice must be sent by certified mail,
 351 return receipt requested, at least 15 days before the date of
 352 the sale. After diligent search and inquiry, if the name and
 353 address of the registered owner or the owner of the recorded
 354 lien cannot be ascertained, the requirements of notice by mail
 355 may be dispensed with. In addition to the notice by mail, public
 356 notice of the time and place of sale must be made by publishing
 357 a notice of the sale one time, at least 10 days before the date

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358 of the sale, in a newspaper of general circulation in the county
 359 in which the sale is to be held. The proceeds of the sale, after
 360 payment of reasonable towing and storage charges, costs of the
 361 sale, and the unpaid lot rental amount as evidenced by the
 362 judgment for unpaid lot rental and an affidavit executed by the
 363 mobile home park owner or the owner's agent establishing the
 364 amount of unpaid lot rental amount through the date of the sale,
 365 in that order of priority, must be deposited with the clerk of
 366 the circuit court for the county if the owner is absent, and the
 367 clerk shall hold the proceeds subject to the claim of the person
 368 legally entitled to those proceeds. The clerk is entitled to
 369 receive 5 percent of the proceeds for the care and disbursement
 370 of the proceeds. The certificate of title issued under this
 371 section shall be discharged of all liens unless otherwise
 372 provided by court order.

373 (6) The mobile home transport company, the landlord or his
 374 or her agent, or any subsequent purchaser for value is not
 375 responsible to the tenant or any other party for loss,
 376 destruction, or damage to the mobile home or other personal
 377 property after coming into possession of the mobile home under
 378 this section, provided the mobile home transport company, the
 379 landlord, or the agent of either uses reasonable care in storing
 380 the mobile home. As used in this subsection, the term
 381 "reasonable care" means securing the mobile home by changing
 382 door locks, or any similar methods for securing the mobile home,
 383 in place in the mobile home park or in a separate storage area.

384 (7)(a) A mobile home transport company that comes into
 385 possession of a mobile home under subsection (2) and that

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386 complies with subsection (3), if the mobile home is to be sold
387 for purposes of being dismantled, destroyed, or changed so that
388 it is not the mobile home described in the certificate of title,
389 must apply to the county tax collector for a certificate of
390 destruction. A certificate of destruction, which authorizes the
391 dismantling or destruction of the mobile home described in the
392 certificate, is reassignable no more than twice before
393 dismantling or destruction of the mobile home and the
394 certificate must accompany the mobile home for which it is
395 issued when the mobile home is sold for that purpose, in lieu of
396 a certificate of title. The application for a certificate of
397 destruction must include an affidavit from the applicant that it
398 has complied with all applicable requirements of this section;
399 must, if the mobile home is not registered in this state,
400 include a statement from a law enforcement officer that the
401 mobile home is not reported stolen; and shall be accompanied by
402 any other documentation as may be required by the department.

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

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

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

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413 (8)(a) Upon receipt by the Department of Highway Safety
 414 and Motor Vehicles of written notice from a mobile home
 415 transport company that claims a lien under paragraph (2)(b) or
 416 paragraph (2)(c) for recovery, towing, or storage of a mobile
 417 home for which a certificate of destruction has been issued
 418 under subsection (7), the department shall place the name of the
 419 registered owner of that mobile home on the list of those
 420 persons who may not be issued a revalidation sticker under s.
 421 320.03. If the mobile home is owned jointly by more than one
 422 person, the name of each registered owner must be placed on the
 423 list. The notice of a mobile home transport company's lien must
 424 be submitted on forms provided by the department, which must
 425 include:

426 1. The name, address, and telephone number of the mobile
 427 home transport company.

428 2. The name of the registered owner of the mobile home and
 429 the address to which the mobile home transport company provided
 430 notice of the lien to the registered owner under subsection (3).

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

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

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

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

440 (b) For purposes of this subsection, the amount of the
 441 mobile home transport company's lien for which the department
 442 will prevent issuance of a revalidation sticker may not exceed
 443 the amount of the charges for recovery, towing, and storage of
 444 the mobile home for 7 days. These charges may not exceed the
 445 maximum rates imposed by the ordinances of the respective county
 446 or municipality under ss. 125.0103(1)(c) and 166.043(1)(c). This
 447 paragraph does not limit the amount of a mobile home transport
 448 company's lien claimed under subsection (2) or prevent a mobile
 449 home transport company from seeking civil remedies for
 450 enforcement of the entire amount of the lien, but limits only
 451 that portion of the lien for which the department will prevent
 452 issuance of a revalidation sticker.

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

457 a. The registered owner presents a notarized bill of sale
 458 proving that the mobile home was sold in a private or casual
 459 sale before the mobile home was recovered, towed, or stored.

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

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

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468 If the registered owner's dispute of a mobile home transport
469 company's lien complies with one of these criteria, the
470 department shall immediately remove the registered owner's name
471 from the list of those persons who may not be issued a
472 revalidation sticker under s. 320.03. If the mobile home is
473 owned jointly by more than one person, each registered owner
474 must dispute the mobile home transport company's lien in order
475 to be removed from the list. However, the department shall deny
476 any dispute and maintain the registered owner's name on the list
477 of those persons who may not be issued a revalidation sticker if
478 the mobile home transport company has provided the department
479 with a certified copy of the judgment of a court which orders
480 the registered owner to pay the mobile home transport company's
481 lien claimed under this section. In such a case, the amount of
482 the mobile home transport company's lien authorized by paragraph
483 (b) may be increased to include no more than \$500 of the
484 reasonable costs and attorney's fees incurred in obtaining the
485 judgment. The department's action under this subparagraph is
486 ministerial in nature, is not final agency action, and is
487 appealable only to the county court for the county in which the
488 mobile home was ordered removed.

489 2. A person against whom a mobile home transport company's
490 lien has been imposed may alternatively obtain a discharge of
491 the lien by filing a complaint, challenging the validity of the
492 lien or the amount thereof, in the county court of the county in
493 which the mobile home was ordered removed. Upon filing of the
494 complaint, the person may have her or his name removed from the
495 list of those persons who may not be issued a revalidation

496 sticker for any mobile home under s. 320.03 upon posting with
 497 the court a cash or surety bond or other adequate security equal
 498 to the amount of the mobile home transport company's lien to
 499 ensure the payment of the lien in the event she or he does not
 500 prevail. Upon the posting of the bond and the payment of the
 501 applicable fee set forth in s. 28.24, the clerk of the court
 502 shall issue a certificate notifying the department of the
 503 posting of the bond and directing the department to release the
 504 mobile home transport company's lien. Upon determining the
 505 respective rights of the parties, the court may award damages
 506 and costs in favor of the prevailing party.

507 3. If a person against whom a mobile home transport
 508 company's lien has been imposed does not object to the lien but
 509 cannot discharge the lien by payment because the mobile home
 510 transport company has moved or gone out of business, the person
 511 may have her or his name removed from the list of those persons
 512 who may not be issued a revalidation sticker under s. 320.03
 513 upon posting with the clerk of court in the county in which the
 514 mobile home was ordered removed a cash or surety bond or other
 515 adequate security equal to the amount of the mobile home
 516 transport company's lien. Upon the posting of the bond and the
 517 payment of the application fee set forth in s. 28.24, the clerk
 518 of the court shall issue a certificate notifying the department
 519 of the posting of the bond and directing the department to
 520 release the mobile home transport company's lien. The department
 521 shall mail to the mobile home transport company, at the address
 522 upon the lien form, notice that the mobile home transport
 523 company must claim the security within 60 days or the security

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524 will be released to the person who posted it. At the conclusion
525 of the 60 days, the department shall direct the clerk as to
526 which party is entitled to payment of the security, less
527 applicable fees of the clerk.

528 4. A mobile home transport company's lien expires 5 years
529 after its filing.

530 (d) Upon discharge of the amount of the mobile home
531 transport company's lien allowed under paragraph (b), the mobile
532 home transport company must issue a certificate of discharged
533 lien on a form provided by the department to each registered
534 owner of the mobile home attesting that the amount of the mobile
535 home transport company's lien allowed under paragraph (b) has
536 been discharged. Upon presentation of the certificate of
537 discharged lien by the registered owner, the department shall
538 immediately remove the registered owner's name from the list of
539 those persons who may not be issued a revalidation sticker under
540 s. 320.03. Issuance of a certificate of discharged lien under
541 this paragraph does not discharge the entire amount of the
542 mobile home transport company's lien claimed under subsection
543 (2) but certifies to the department only that the amount of the
544 mobile home transport company's lien allowed by paragraph (b),
545 for which the department will prevent issuance of a revalidation
546 sticker, has been discharged.

547 (e) When a mobile home transport company files a notice of
548 lien under this subsection, the department shall charge the
549 mobile home transport company a fee of \$2, which must be
550 deposited into the General Revenue Fund. The tax collector who

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551 processes a notice of lien shall collect and retain a service
552 charge of \$2.50.

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

555 (9) Persons who provide services under this section shall
556 permit a mobile home owner or her or his agent, whose agency is
557 evidenced by a writing acknowledged by the owner before a notary
558 public or other person empowered by law to administer oaths, to
559 inspect the mobile home and shall release to the owner or agent
560 all personal property not affixed to the mobile home, provided
561 there exists no landlord's lien for rent under s. 713.691 or s.
562 713.77.

563 (10) Any person who violates subsection (3), subsection
564 (5), subsection (6), subsection (7), or subsection (9) commits a
565 misdemeanor of the first degree, punishable as provided in s.
566 775.082 or s. 775.083.

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

569 715.07 Vehicles or vessels parked on private property;
570 towing.--

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

574 (2) The owner or lessee of real property, or any person
575 authorized by the owner or lessee, which person may be the
576 designated representative of the condominium association if the
577 real property is a condominium, may cause any vehicle or vessel
578 parked on such property without her or his permission to be

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579 removed by a person regularly engaged in the business of towing
 580 vehicles or vessels, without liability for the costs of removal,
 581 transportation, or storage or damages caused by such removal,
 582 transportation, or storage, under any of the following
 583 circumstances:

584 (a) The towing or removal of any vehicle or vessel from
 585 private property without the consent of the registered owner or
 586 other legally authorized person in control of that vehicle or
 587 vessel is subject to strict compliance with the following
 588 conditions and restrictions:

589 1.a. Any towed or removed vehicle or vessel must be stored
 590 at a site within a 10-mile radius ~~10 miles~~ of the point of
 591 removal in any county of 500,000 population or more, and within
 592 a 15-mile radius ~~15 miles~~ of the point of removal in any county
 593 of less than 500,000 population. That site must be open for the
 594 purpose of redemption of vehicles on any day that the person or
 595 firm towing such vehicle or vessel is open for towing purposes,
 596 from 8:00 a.m. to 6:00 p.m., and, when closed, shall have
 597 prominently posted a sign indicating a telephone number where
 598 the operator of the site can be reached at all times. Upon
 599 receipt of a telephoned request to open the site to redeem a
 600 vehicle or vessel, the operator shall return to the site within
 601 1 hour or she or he will be in violation of this section.

602 b. If no towing business providing such service is located
 603 within the area of towing limitations set forth in sub-
 604 subparagraph a., the following limitations apply: any towed or
 605 removed vehicle or vessel must be stored at a site within a 20-
 606 mile radius ~~20 miles~~ of the point of removal in any county of

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607 500,000 population or more, and within a 30-mile radius ~~30 miles~~
 608 of the point of removal in any county of less than 500,000
 609 population.

610 2. The person or firm towing or removing the vehicle or
 611 vessel shall, within 30 minutes after ~~of~~ completion of such
 612 towing or removal, notify the municipal police department or, in
 613 an unincorporated area, the sheriff of such towing or removal,
 614 the storage site, the time the vehicle or vessel was towed or
 615 removed, and the make, model, color, and license plate number of
 616 the vehicle or description and registration number of the vessel
 617 and shall obtain the name of the person at that department to
 618 whom such information was reported and note that name on the
 619 trip record.

620 3. A person in the process of towing or removing a vehicle
 621 or vessel from the premises or parking lot in which the vehicle
 622 or vessel is not lawfully parked must stop when a person seeks
 623 the return of the vehicle or vessel. The vehicle or vessel must
 624 be returned upon the payment of a reasonable service fee of not
 625 more than one-half of the posted rate for the towing or removal
 626 service as provided in subparagraph 6. The vehicle or vessel may
 627 be towed or removed if, after a reasonable opportunity, the
 628 owner or legally authorized person in control of the vehicle or
 629 vessel is unable to pay the service fee. If the vehicle or
 630 vessel is redeemed, a detailed signed receipt must be given to
 631 the person redeeming the vehicle or vessel. If the registered
 632 ~~owner or other legally authorized person in control of the~~
 633 ~~vehicle arrives at the scene prior to removal or towing of the~~
 634 ~~vehicle, the vehicle shall be disconnected from the towing or~~

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635 ~~removal apparatus, and that person shall be allowed to remove~~
 636 ~~the vehicle without interference upon the payment of a~~
 637 ~~reasonable service fee of not more than one half of the posted~~
 638 ~~rate for such towing service as provided in subparagraph 6., for~~
 639 ~~which a receipt shall be given, unless that person refuses to~~
 640 ~~remove the vehicle which is otherwise unlawfully parked.~~

641 4. A person may not pay or accept money or other valuable
 642 consideration for the privilege of towing or removing vehicles
 643 or vessels from a particular location. ~~The rebate or payment of~~
 644 ~~money or any other valuable consideration from the individual or~~
 645 ~~firm towing or removing vehicles to the owners or operators of~~
 646 ~~the premises from which the vehicles are towed or removed, for~~
 647 ~~the privilege of removing or towing those vehicles, is~~
 648 ~~prohibited.~~

649 5. Except for property appurtenant to and obviously a part
 650 of a single-family residence, and except for instances when
 651 notice is personally given to the owner or other legally
 652 authorized person in control of the vehicle or vessel that the
 653 area in which that vehicle or vessel is parked is reserved or
 654 otherwise unavailable for unauthorized vehicles or vessels and
 655 that the vehicle or vessel is subject to being removed at the
 656 owner's or operator's expense, any property owner or lessee, or
 657 person authorized by the property owner or lessee, prior to
 658 towing or removing any vehicle or vessel from private property
 659 without the consent of the owner or other legally authorized
 660 person in control of that vehicle or vessel, must post a notice
 661 meeting the following requirements:

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

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

672 c. The notice must also provide the name and current
673 telephone number of the person or firm towing or removing the
674 vehicles or vessels, ~~if the property owner, lessee, or person in~~
675 ~~control of the property has a written contract with the towing~~
676 ~~company.~~

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

682 e. The local government may require permitting and
683 inspection of these signs prior to any towing or removal of
684 vehicles or vessels being authorized.

685 f. A business with 20 or fewer parking spaces satisfies
686 the notice requirements of this subparagraph by prominently
687 displaying a sign stating "Reserved Parking for Customers Only
688 Unauthorized Vehicles or Vessels Will be Towed Away At the

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689 Owner's Expense" in not less than 4-inch high, light-reflective
690 letters on a contrasting background.

691 g. A property owner towing or removing vessels from real
692 property must post notice, consistent with the requirements in
693 sub-subparagraphs a.-f., which apply to vehicles, that
694 unauthorized vehicles or vessels will be towed away at the
695 owner's expense.

696
697 A business owner or lessee may authorize the removal of a
698 vehicle or vessel by a towing company when the vehicle or vessel
699 is parked in such a manner that restricts the normal operation
700 of business; and if a vehicle or vessel parked on a public
701 right-of-way obstructs access to a private driveway the owner,
702 lessee, or agent may have the vehicle or vessel removed by a
703 towing company upon signing an order that the vehicle or vessel
704 be removed without a posted tow-away zone sign.

705 6. Any person or firm that tows or removes vehicles or
706 vessels and proposes to require an owner, operator, or person in
707 control of a vehicle or vessel to pay the costs of towing and
708 storage prior to redemption of the vehicle or vessel must file
709 and keep on record with the local law enforcement agency a
710 complete copy of the current rates to be charged for such
711 services and post at the storage site an identical rate schedule
712 and any written contracts with property owners, lessees, or
713 persons in control of property which authorize such person or
714 firm to remove vehicles or vessels as provided in this section.

715 7. Any person or firm towing or removing any vehicles or
716 vessels from private property without the consent of the owner

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717 or other legally authorized person in control of the vehicles or
 718 vessels shall, on any trucks, wreckers as defined in s.
 719 713.78(1)(c), or other vehicles used in the towing or removal,
 720 have the name, address, and telephone number of the company
 721 performing such service clearly printed in contrasting colors on
 722 the driver and passenger sides of the vehicle. The name shall
 723 be in at least 3-inch permanently affixed letters, and the
 724 address and telephone number shall be in at least 1-inch
 725 permanently affixed letters.

726 8. Vehicle entry for the purpose of removing the vehicle
 727 or vessel shall be allowed with reasonable care on the part of
 728 the person or firm towing the vehicle or vessel. Such person or
 729 firm shall be liable for any damage occasioned to the vehicle or
 730 vessel if such entry is not in accordance with the standard of
 731 reasonable care.

732 9. When a vehicle or vessel has been towed or removed
 733 pursuant to this section, it must be released to its owner or
 734 custodian within one hour after requested. Any vehicle or vessel
 735 owner, ~~custodian,~~ or agent shall have the right to inspect the
 736 vehicle or vessel before accepting its return, and no release or
 737 waiver of any kind which would release the person or firm towing
 738 the vehicle or vessel from liability for damages noted by the
 739 owner or other legally authorized person at the time of the
 740 redemption may be required from any vehicle or vessel owner,
 741 custodian, or agent as a condition of release of the vehicle or
 742 vessel to its owner. A detailed, signed receipt showing the
 743 legal name of the company or person towing or removing the
 744 vehicle or vessel must be given to the person paying towing or

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745 storage charges at the time of payment, whether requested or
746 not.

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

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

755 (4) When a person improperly causes a vehicle or vessel to
756 be removed, such person shall be liable to the owner or lessee
757 of the vehicle or vessel for the cost of removal,
758 transportation, and storage; any damages resulting from the
759 removal, transportation, or storage of the vehicle or vessel;
760 attorney's attorneys' fees; and court costs.

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

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

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