

Bill No. SB 1218

Barcode 302460

CHAMBER ACTION

Senate

House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Paragraph (c) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.--

(1)

(c) Counties must establish maximum rates which may be charged on the towing of vehicles from or immobilization of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.

However, if a municipality chooses to enact an ordinance

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1 establishing the maximum fees for the towing or immobilization
 2 of vehicles as described in paragraph (b), the county's
 3 ordinance shall not apply within such municipality. Except as
 4 provided by a municipality, the rates for a county shall be
 5 the rates established for the wrecker operator system of the
 6 Division of Florida Highway Patrol of the Department of
 7 Highway Safety and Motor Vehicles under s. 321.051.

8 Section 2. Paragraph (c) of subsection (1) of section
 9 166.043, Florida Statutes, is amended to read:

10 166.043 Ordinances and rules imposing price controls;
 11 findings required; procedures.--

12 (1)

13 (c) Counties must establish maximum rates which may be
 14 charged on the towing of vehicles from or immobilization of
 15 vehicles on private property, removal and storage of wrecked
 16 or disabled vehicles from an accident scene or for the removal
 17 and storage of vehicles, in the event the owner or operator is
 18 incapacitated, unavailable, leaves the procurement of wrecker
 19 service to the law enforcement officer at the scene, or
 20 otherwise does not consent to the removal of the vehicle.

21 However, if a municipality chooses to enact an ordinance
 22 establishing the maximum fees for the towing or immobilization
 23 of vehicles as described in paragraph (b), the county's
 24 ordinance established under s. 125.0103 shall not apply within
 25 such municipality. In a county or municipality that has not
 26 established rates, the rates shall be the rates established
 27 for the wrecker operator system of the Division of Florida
 28 Highway Patrol of the Department of Highway Safety and Motor
 29 Vehicles under s. 321.051.

30 Section 3. Subsection (2) of section 321.051, Florida
 31 Statutes, is amended to read:

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1 321.051 Florida Highway Patrol wrecker operator
2 system; penalties for operation outside of system.--

3 (2) The Division of Florida Highway Patrol of the
4 Department of Highway Safety and Motor Vehicles is authorized
5 to establish within areas designated by the patrol a wrecker
6 operator system using qualified, reputable wrecker operators
7 for removal and storage of wrecked or disabled vehicles from a
8 crash scene or for removal and storage of abandoned vehicles,
9 in the event the owner or operator is incapacitated or
10 unavailable or leaves the procurement of wrecker service to
11 the officer at the scene. All reputable wrecker operators
12 shall be eligible for use in the system provided their
13 equipment and drivers meet recognized safety qualifications
14 and mechanical standards set by rules of the Division of
15 Florida Highway Patrol for the size of vehicle it is designed
16 to handle. The division is authorized to limit the number of
17 wrecker operators participating in the wrecker operator
18 system, which authority shall not affect wrecker operators
19 currently participating in the system established by this
20 section. The division must ~~is authorized to~~ establish maximum
21 rates for the towing and storage of vehicles removed at the
22 division's request, where such rates have not been set by a
23 county or municipality pursuant to s. 125.0103 or s. 166.043.
24 These rates must be adjusted annually based on the Consumer
25 Price Index. Such rates shall not be considered rules for the
26 purpose of chapter 120; however, the department shall
27 establish by rule a procedure for setting such rates. Any
28 provision in chapter 120 to the contrary notwithstanding, a
29 final order of the department denying, suspending, or revoking
30 a wrecker operator's participation in the system shall be
31 reviewable in the manner and within the time provided by the

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1 Florida Rules of Appellate Procedure only by a writ of
2 certiorari issued by the circuit court in the county wherein
3 such wrecker operator resides.

4 Section 4. Subsections (1), (4), and (6) of section
5 713.78, Florida Statutes, are amended to read:

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

8 (1) For the purposes of this section, the term:

9 (a) "Department" means the Department of Highway
10 Safety and Motor Vehicles.

11 (b)(a) "Vehicle" means any mobile item, whether
12 motorized or not, which is mounted on wheels.

13 (c)(b) "Vessel" means every description of watercraft,
14 barge, and air boat used or capable of being used as a means
15 of transportation on water, other than a seaplane or a
16 "documented vessel" as defined in s. 327.02(8).

17 (d)(c) "Wrecker" means any truck or other vehicle
18 which is used to tow, carry, or otherwise transport motor
19 vehicles or vessels upon the streets and highways of this
20 state and which is equipped for that purpose with a boom,
21 winch, car carrier, or other similar equipment.

22 (4)(a) Any person regularly engaged in the business of
23 recovering, towing, or storing vehicles or vessels who comes
24 into possession of a vehicle or vessel pursuant to subsection
25 (2), and who claims a lien for recovery, towing, or storage
26 services, shall give notice to the registered owner, the
27 insurance company insuring the vehicle notwithstanding the
28 provisions of s. 627.736, and to all persons claiming a lien
29 thereon, by submitting an application for notifications to the
30 department on a form prescribed by the department within 7
31 business days after the date of storage of the vehicle or

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1 ~~vessel as disclosed by the records in the Department of~~
 2 ~~Highway Safety and Motor Vehicles or of a corresponding agency~~
 3 ~~in any other state.~~

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

27 (c) Upon receipt of a valid and complete application
 28 for notifications, the required notification fee in the amount
 29 of \$4, and service fees as indicated in s. 320.04, the
 30 department shall notify ~~Notice by certified mail, return~~
 31 ~~receipt requested, shall be sent within 7 business days after~~

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

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

- 31 1. Check of vehicle or vessel for any type of tag, tag

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1 record, temporary tag, or regular tag.

2 2. Check of law enforcement report for tag number or
3 other information identifying the vehicle or vessel, if the
4 vehicle or vessel was towed at the request of a law
5 enforcement officer.

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

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

13 5. Check of vehicle or vessel for inspection sticker
14 or other stickers and decals that may indicate a state of
15 possible registration.

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

19 7. Check of vehicle for vehicle identification number.

20 8. Check of vessel for vessel registration number.

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

27 (6) Any vehicle or vessel which is stored pursuant to
28 subsection (2) and which remains unclaimed, or for which
29 reasonable charges for recovery, towing, or storing remain
30 unpaid, and any contents not released pursuant to subsection
31 (10), may be sold by the owner or operator of the storage

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1 space for such towing or storage charge after 35 days from the
2 time the vehicle or vessel is stored therein if the vehicle or
3 vessel is more than 3 years of age or after 50 days following
4 the time the vehicle or vessel is stored therein if the
5 vehicle or vessel is 3 years of age or less. The sale shall be
6 at public auction for cash. ~~If the date of the sale was not~~
7 ~~included in the notice required in subsection (4), notice of~~
8 ~~the sale shall be given to the person in whose name the~~
9 ~~vehicle or vessel is registered and to all persons claiming a~~
10 ~~lien on the vehicle or vessel as shown on the records of the~~
11 ~~Department of Highway Safety and Motor Vehicles or of the~~
12 ~~corresponding agency in any other state. Notice shall be sent~~
13 ~~by certified mail, return receipt requested, to the owner of~~
14 ~~the vehicle or vessel and the person having the recorded lien~~
15 ~~on the vehicle or vessel at the address shown on the records~~
16 ~~of the registering agency and shall be mailed not less than 15~~
17 ~~days before the date of the sale. After diligent search and~~
18 ~~inquiry, if the name and address of the registered owner or~~
19 ~~the owner of the recorded lien cannot be ascertained, the~~
20 ~~requirements of notice by mail may be dispensed with. In~~
21 addition to the notice by mail, public notice of the time and
22 place of sale shall be made by publishing a notice thereof one
23 time, at least 10 days prior to the date of the sale, in a
24 newspaper of general circulation in the county in which the
25 sale is to be held. Such public notice must include the
26 vehicle or vessel identification number or hull number; a
27 description of the vehicle or vessel, including make, model,
28 and year of manufacture; and, if known, the name of the
29 registered owner of the vehicle or vessel. The proceeds of
30 the sale, after payment of reasonable towing and storage
31 charges, and costs of the sale, in that order of priority,

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1 shall be deposited with the clerk of the circuit court for the
 2 county if the owner is absent, and the clerk shall hold such
 3 proceeds subject to the claim of the person legally entitled
 4 thereto. The clerk shall be entitled to receive 5 percent of
 5 such proceeds for the care and disbursement thereof. The
 6 certificate of title issued under this law shall be discharged
 7 of all liens unless otherwise provided by court order.

8 Section 5. This act shall take effect July 1, 2006.
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11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete everything before the enacting clause
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15 and insert:

16 A bill to be entitled
 17 An act relating to recovering, towing, or
 18 storing vehicles and vessels; amending ss.
 19 125.0103 and 166.043, F.S.; prescribing the
 20 rates for towing and storage in counties and
 21 municipalities that have not established rates;
 22 amending s. 321.051, F.S.; requiring the rates
 23 for the wrecker operator system of the Florida
 24 Highway Patrol to be established and adjusted
 25 annually based on the Consumer Price Index;
 26 amending s. 713.78, F.S.; revising certain
 27 requirements that notice be provided by mail to
 28 the owner, insurance company, and persons
 29 claiming a lien against the vehicle or vessel;
 30 providing duties of the Department of Highway
 31 Safety and Motor Vehicles; revising certain

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1 public notice requirements related to the sale
2 of unclaimed vehicles or vessels; providing an
3 effective date.

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