

Bill No. CS for SB 1218

Barcode 573338

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Bennett moved the following amendment:

Senate Amendment (with title amendment)

On page 3, line 30, through
page 9, line 19, delete those lines

and insert: These rates must be reviewed biannually in June for the purpose of ensuring that the rates are equitable. Such rates shall not be considered rules for the purpose of chapter 120; however, the department shall establish by rule a procedure for setting such rates. Any provision in chapter 120 to the contrary notwithstanding, a final order of the department denying, suspending, or revoking a wrecker operator's participation in the system shall be reviewable in the manner and within the time provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the circuit court in the county wherein such wrecker operator resides.

Section 4. Subsections (2), (4), and (6) of section 713.78, Florida Statutes, are amended to read:

713.78 Liens for recovering, towing, or storing

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1 vehicles and vessels.--

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

6 (a) The owner thereof;

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

11 (c) Any law enforcement agency,

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13 she or he shall have a lien on the vehicle or vessel for a
14 reasonable towing fee and for a reasonable storage fee; except
15 that no storage fee shall be charged if the vehicle is stored
16 for less than 6 hours.

17 (4)(a) Any person regularly engaged in the business of
18 recovering, towing, or storing vehicles or vessels who comes
19 into possession of a vehicle or vessel pursuant to subsection
20 (2), and who claims a lien for recovery, towing, or storage
21 services, shall give notice to the registered owner, to the
22 insurance company insuring the vehicle notwithstanding the
23 provisions of s. 627.736, and to all persons claiming a lien
24 thereon, as disclosed by the records in the Department of
25 Highway Safety and Motor Vehicles or of a corresponding agency
26 in any other state.

27 (b) Whenever any law enforcement agency authorizes the
28 removal of a vehicle or vessel or whenever any towing service,
29 garage, repair shop, or automotive service, storage, or
30 parking place notifies the law enforcement agency of
31 possession of a vehicle or vessel pursuant to s.

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1 715.07(2)(a)2., the applicable law enforcement agency shall
2 contact the Department of Highway Safety and Motor Vehicles,
3 or the appropriate agency of the state of registration, if
4 known, within 24 hours through the medium of electronic
5 communications, giving the full description of the vehicle or
6 vessel. Upon receipt of the full description of the vehicle or
7 vessel, the department shall search its files to determine the
8 owner's name, the insurance company insuring the vehicle or
9 vessel, and whether any person has filed a lien upon the
10 vehicle or vessel as provided in s. 319.27(2) and (3) and
11 notify the applicable law enforcement agency within 72 hours.
12 The person in charge of the towing service, garage, repair
13 shop, or automotive service, storage, or parking place shall
14 obtain such information from the applicable law enforcement
15 agency within 5 days after the date of storage and shall give
16 notice pursuant to paragraph (a). The department may release
17 the insurance company information to the requestor
18 notwithstanding the provisions of s. 627.736.

19 (c) Notice by certified mail, ~~return receipt~~
20 ~~requested~~, shall be sent within 7 business days after the date
21 of storage of the vehicle or vessel to the registered owner,
22 the insurance company insuring the vehicle notwithstanding the
23 provisions of s. 627.736, and all persons of record claiming a
24 lien against the vehicle or vessel. Proof of mailing must be
25 provided upon request to any person involved in an action. The
26 notice must ~~It shall~~ state the fact of possession of the
27 vehicle or vessel, that a lien as provided in subsection (2)
28 is claimed, that charges have accrued and the amount thereof,
29 that the lien is subject to enforcement pursuant to law, ~~and~~
30 that the owner or lienholder, if any, has the right to a
31 hearing as set forth in subsection (5), and that any vehicle

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1 or vessel that ~~which~~ remains unclaimed, or for which the
 2 charges for recovery, towing, or storage services remain
 3 unpaid, may be sold free of all prior liens after 35 days if
 4 the vehicle or vessel is more than 3 years of age or after 50
 5 days if the vehicle or vessel is 3 years of age or less.

6 (d) If attempts to locate the name and address of the
 7 owner or lienholder prove unsuccessful, the towing-storage
 8 operator shall, after 7 working days, excluding Saturday and
 9 Sunday, following ~~of~~ the initial tow or storage, notify the
 10 public agency of jurisdiction in writing by certified mail or
 11 acknowledged hand delivery that the towing-storage company has
 12 been unable to locate the name and address of the owner or
 13 lienholder and a physical search of the vehicle or vessel has
 14 disclosed no ownership information and a good faith effort has
 15 been made. Proof of mailing must be provided upon request to
 16 any person involved in an action. For purposes of this
 17 paragraph and subsection (9), "good faith effort" means that
 18 the following checks have been performed by the company to
 19 establish prior state of registration and for title:

20 1. Check of vehicle or vessel for any type of tag, tag
 21 record, temporary tag, or regular tag.

22 2. Check of law enforcement report for tag number or
 23 other information identifying the vehicle or vessel, if the
 24 vehicle or vessel was towed at the request of a law
 25 enforcement officer.

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

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

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1 information.

2 5. Check of vehicle or vessel for inspection sticker
3 or other stickers and decals that may indicate a state of
4 possible registration.

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

8 7. Check of vehicle for vehicle identification number.

9 8. Check of vessel for vessel registration number.

10 9. Check of vessel hull for a hull identification
11 number which should be carved, burned, stamped, embossed, or
12 otherwise permanently affixed to the outboard side of the
13 transom or, if there is no transom, to the outmost seaboard
14 side at the end of the hull that bears the rudder or other
15 steering mechanism.

16 (6) Any vehicle or vessel that ~~which~~ is stored
17 pursuant to subsection (2) and that ~~which~~ remains unclaimed,
18 or for which reasonable charges for the recovery, towing, or
19 storage services ~~storing~~ remain unpaid, and any contents not
20 released pursuant to subsection (10), may be sold by the owner
21 or operator of the storage space for such recovery, towing, or
22 storage charges and the administrative costs authorized under
23 this subsection ~~charge~~ after 35 days following ~~from~~ the time
24 the vehicle or vessel is stored therein if the vehicle or
25 vessel is more than 3 years of age or after 50 days following
26 the time the vehicle or vessel is stored therein if the
27 vehicle or vessel is 3 years of age or less. The sale shall be
28 at public auction for cash. An administrative cost is
29 authorized under this subsection if it is based on the
30 applicable administrative charge imposed by ordinance or, if
31 an administrative charge is not imposed by ordinance, if the

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1 administrative cost is not more than the lesser of \$100 or 30
2 percent of the unpaid recovery, towing, and storage charges.
3 If the date of the sale was not included in the notice
4 required in subsection (4), notice of the sale shall be given
5 to the person in whose name the vehicle or vessel is
6 registered and to all persons claiming a lien on the vehicle
7 or vessel as shown on the records of the Department of Highway
8 Safety and Motor Vehicles or of the corresponding agency in
9 any other state. Notice shall be sent by certified mail~~7~~
10 ~~return receipt requested,~~ to the owner of the vehicle or
11 vessel and the person having the recorded lien on the vehicle
12 or vessel at the address shown on the records of the
13 registering agency and shall be mailed not less than 15 days
14 before the date of the sale. Proof of mailing must be provided
15 upon request to any person involved in an action. After
16 diligent search and inquiry, if the name and address of the
17 registered owner or the owner of the recorded lien cannot be
18 ascertained, the requirements of notice by mail may be
19 dispensed with. In addition to the notice by mail, public
20 notice of the time and place of sale shall be made by
21 publishing a notice thereof one time, at least 10 days prior
22 to the date of the sale, in a newspaper of general circulation
23 in the county in which the sale is to be held. The proceeds of
24 the sale, after payment of reasonable recovery, towing, and
25 storage charges, and costs of the sale, in that order of
26 priority, shall be deposited with the clerk of the circuit
27 court for the county if the owner is absent, and the clerk
28 shall hold such proceeds subject to the claim of the person
29 legally entitled thereto. The clerk shall be entitled to
30 receive 5 percent of such proceeds for the care and
31 disbursement thereof. The certificate of title issued under

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1 this law shall be discharged of all liens unless otherwise
2 provided by court order.

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5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 On page 1, lines 10-20, delete those lines

8

9 and insert:

10 biannually for the purpose of ensuring that the
11 rates are equitable; amending s. 713.78, F.S.;
12 revising provisions governing the amount for
13 which an unclaimed vehicle or vessel may be
14 sold by the owner or operator of the storage
15 space vehicles and vessels; revising certain
16 requirements that notice be provided by mail to
17 the owner, insurance company, and persons
18 claiming a lien against the vehicle or vessel;
19 providing an effective date.

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