

Bill No. CS for SB 1218

Barcode 823910

	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. Any such fee may include, in addition  
17 to a reasonable fee for towing or storage, a fee for  
18 administrative costs. Any such fee for administrative costs  
19 may be based on the applicable administrative charge imposed  
20 by an ordinance or, if an administrative charge is not imposed  
21 by ordinance, must be no more than the lesser of \$100 or 30  
22 percent of the combined towing and storage fee.

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

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1 in any other state.

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

25 (c) Notice by certified mail, return receipt  
26 requested, shall be sent within 7 business days after the date  
27 of storage of the vehicle or vessel to the registered owner,  
28 the insurance company insuring the vehicle notwithstanding the  
29 provisions of s. 627.736, and all persons of record claiming a  
30 lien against the vehicle or vessel. Proof of mailing must be  
31 provided upon request to any person involved in an action. The

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

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

26 1. Check of vehicle or vessel for any type of tag, tag  
27 record, temporary tag, or regular tag.

28 2. Check of law enforcement report for tag number or  
29 other information identifying the vehicle or vessel, if the  
30 vehicle or vessel was towed at the request of a law  
31 enforcement officer.

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

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

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

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

14           7. Check of vehicle for vehicle identification number.

15           8. Check of vessel for vessel registration number.

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

22           (6) Any vehicle or vessel that ~~which~~ is stored  
23 pursuant to subsection (2) and that ~~which~~ remains unclaimed,  
24 or for which reasonable charges for the recovery, towing, or  
25 storage services ~~storing~~ remain unpaid, and any contents not  
26 released pursuant to subsection (10), may be sold by the owner  
27 or operator of the storage space for the fees authorized by  
28 subsection (2) ~~such towing or storage charge~~ after 35 days  
29 following ~~from~~ the time the vehicle or vessel is stored  
30 therein if the vehicle or vessel is more than 3 years of age  
31 or after 50 days following the time the vehicle or vessel is

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

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1 otherwise provided by court order.

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

5 And the title is amended as follows:

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

7

8 and insert:

9 biannually for the purpose of ensuring that the

10 rates are equitable; amending s. 713.78, F.S.;

11 revising provisions governing fees related to

12 liens for recovering, towing, or storing

13 vehicles and vessels; revising certain

14 requirements that notice be provided by mail to

15 the owner, insurance company, and persons

16 claiming a lien against the vehicle or vessel;

17 providing an effective date.

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