

1                                   A bill to be entitled  
2           An act relating to recovering, towing, or  
3           storing vehicles and vessels; amending ss.  
4           125.0103 and 166.043, F.S.; prescribing the  
5           rates for towing and storage in counties and  
6           municipalities that have not established rates;  
7           amending s. 321.051, F.S.; requiring the rates  
8           for the wrecker operator system of the Florida  
9           Highway Patrol to be established and adjusted  
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.

20  
21 Be It Enacted by the Legislature of the State of Florida:

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23           Section 1. Paragraph (c) of subsection (1) of section  
24   125.0103, Florida Statutes, is amended to read:  
25           125.0103 Ordinances and rules imposing price controls;  
26   findings required; procedures.--  
27           (1)  
28           (c) Counties must establish maximum rates which may be  
29   charged on the towing of vehicles from or immobilization of  
30   vehicles on private property, removal and storage of wrecked  
31   or disabled vehicles from an accident scene or for the removal

1 and storage of vehicles, in the event the owner or operator is  
2 incapacitated, unavailable, leaves the procurement of wrecker  
3 service to the law enforcement officer at the scene, or  
4 otherwise does not consent to the removal of the vehicle.  
5 However, if a municipality chooses to enact an ordinance  
6 establishing the maximum fees for the towing or immobilization  
7 of vehicles as described in paragraph (b), the county's  
8 ordinance shall not apply within such municipality. Except as  
9 provided by a municipality, the rates for a county shall be  
10 the rates established for the wrecker operator system of the  
11 Division of Florida Highway Patrol of the Department of  
12 Highway Safety and Motor Vehicles under s. 321.051.

13 Section 2. Paragraph (c) of subsection (1) of section  
14 166.043, Florida Statutes, is amended to read:

15 166.043 Ordinances and rules imposing price controls;  
16 findings required; procedures.--

17 (1)

18 (c) Counties must establish maximum rates which may be  
19 charged on the towing of vehicles from or immobilization of  
20 vehicles on private property, removal and storage of wrecked  
21 or disabled vehicles from an accident scene or for the removal  
22 and storage of vehicles, in the event the owner or operator is  
23 incapacitated, unavailable, leaves the procurement of wrecker  
24 service to the law enforcement officer at the scene, or  
25 otherwise does not consent to the removal of the vehicle.  
26 However, if a municipality chooses to enact an ordinance  
27 establishing the maximum fees for the towing or immobilization  
28 of vehicles as described in paragraph (b), the county's  
29 ordinance established under s. 125.0103 shall not apply within  
30 such municipality. In a county or municipality that has not  
31 established rates, the rates shall be the rates established

1 for the wrecker operator system of the Division of Florida  
2 Highway Patrol of the Department of Highway Safety and Motor  
3 Vehicles under s. 321.051.

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

6 321.051 Florida Highway Patrol wrecker operator  
7 system; penalties for operation outside of system.--

8 (2) The Division of Florida Highway Patrol of the  
9 Department of Highway Safety and Motor Vehicles is authorized  
10 to establish within areas designated by the patrol a wrecker  
11 operator system using qualified, reputable wrecker operators  
12 for removal and storage of wrecked or disabled vehicles from a  
13 crash scene or for removal and storage of abandoned vehicles,  
14 in the event the owner or operator is incapacitated or  
15 unavailable or leaves the procurement of wrecker service to  
16 the officer at the scene. All reputable wrecker operators  
17 shall be eligible for use in the system provided their  
18 equipment and drivers meet recognized safety qualifications  
19 and mechanical standards set by rules of the Division of  
20 Florida Highway Patrol for the size of vehicle it is designed  
21 to handle. The division is authorized to limit the number of  
22 wrecker operators participating in the wrecker operator  
23 system, which authority shall not affect wrecker operators  
24 currently participating in the system established by this  
25 section. The division must ~~is authorized to~~ establish maximum  
26 rates for the towing and storage of vehicles removed at the  
27 division's request, where such rates have not been set by a  
28 county or municipality pursuant to s. 125.0103 or s. 166.043.  
29 These rates must be reviewed biannually in June for the  
30 purpose of ensuring that the rates are equitable. Such rates  
31 shall not be considered rules for the purpose of chapter 120;

1 however, the department shall establish by rule a procedure  
2 for setting such rates. Any provision in chapter 120 to the  
3 contrary notwithstanding, a final order of the department  
4 denying, suspending, or revoking a wrecker operator's  
5 participation in the system shall be reviewable in the manner  
6 and within the time provided by the Florida Rules of Appellate  
7 Procedure only by a writ of certiorari issued by the circuit  
8 court in the county wherein such wrecker operator resides.

9 Section 4. Subsections (2), (4), and (6) of section  
10 713.78, Florida Statutes, are amended to read:

11 713.78 Liens for recovering, towing, or storing  
12 vehicles and vessels.--

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

17 (a) The owner thereof;

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

22 (c) Any law enforcement agency,

23  
24 she or he shall have a lien on the vehicle or vessel for a  
25 reasonable towing fee and for a reasonable storage fee; except  
26 that no storage fee shall be charged if the vehicle is stored  
27 for less than 6 hours.

28 (4)(a) Any person regularly engaged in the business of  
29 recovering, towing, or storing vehicles or vessels who comes  
30 into possession of a vehicle or vessel pursuant to subsection  
31 (2), and who claims a lien for recovery, towing, or storage

1 services, shall give notice to the registered owner, to the  
2 insurance company insuring the vehicle notwithstanding the  
3 provisions of s. 627.736, and to all persons claiming a lien  
4 thereon, as disclosed by the records in the Department of  
5 Highway Safety and Motor Vehicles or of a corresponding agency  
6 in any other state.

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

30 (c) Notice by certified mail, ~~return receipt~~  
31 ~~requested~~, shall be sent within 7 business days after the date

1 of storage of the vehicle or vessel to the registered owner,  
2 the insurance company insuring the vehicle notwithstanding the  
3 provisions of s. 627.736, and all persons of record claiming a  
4 lien against the vehicle or vessel. Proof of mailing must be  
5 provided upon request to any person involved in an action. The  
6 notice must ~~It shall~~ state the fact of possession of the  
7 vehicle or vessel, that a lien as provided in subsection (2)  
8 is claimed, that charges have accrued and the amount thereof,  
9 that the lien is subject to enforcement pursuant to law, ~~and~~  
10 that the owner or lienholder, if any, has the right to a  
11 hearing as set forth in subsection (5), and that any vehicle  
12 or vessel ~~that which~~ remains unclaimed, or for which the  
13 charges for recovery, towing, or storage services remain  
14 unpaid, may be sold free of all prior liens after 35 days if  
15 the vehicle or vessel is more than 3 years of age or after 50  
16 days if the vehicle or vessel 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 towing-storage  
19 operator shall, after 7 working days, excluding Saturday and  
20 Sunday, following ~~of~~ the initial tow or storage, notify the  
21 public agency of jurisdiction in writing by certified mail or  
22 acknowledged hand delivery that the towing-storage company has  
23 been unable to locate the name and address of the owner or  
24 lienholder and a physical search of the vehicle or vessel has  
25 disclosed no ownership information and a good faith effort has  
26 been made. Proof of mailing must be provided upon request to  
27 any person involved in an action. For purposes of this  
28 paragraph and subsection (9), "good faith effort" means that  
29 the following checks have been performed by the company to  
30 establish prior state of registration and for title:

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- 1           1. Check of vehicle or vessel for any type of tag, tag  
2 record, temporary tag, or regular tag.
- 3           2. Check of law enforcement report for tag number or  
4 other information identifying the vehicle or vessel, if the  
5 vehicle or vessel was towed at the request of a law  
6 enforcement officer.
- 7           3. Check of trip sheet or tow ticket of tow truck  
8 operator to see if a tag was on vehicle or vessel at beginning  
9 of tow, if private tow.
- 10          4. If there is no address of the owner on the impound  
11 report, check of law enforcement report to see if an  
12 out-of-state address is indicated from driver license  
13 information.
- 14          5. Check of vehicle or vessel for inspection sticker  
15 or other stickers and decals that may indicate a state of  
16 possible registration.
- 17          6. Check of the interior of the vehicle or vessel for  
18 any papers that may be in the glove box, trunk, or other areas  
19 for a state of registration.
- 20          7. Check of vehicle for vehicle identification number.
- 21          8. Check of vessel for vessel registration number.
- 22          9. Check of vessel hull for a hull identification  
23 number which should be carved, burned, stamped, embossed, or  
24 otherwise permanently affixed to the outboard side of the  
25 transom or, if there is no transom, to the outmost seaboard  
26 side at the end of the hull that bears the rudder or other  
27 steering mechanism.
- 28          (6) Any vehicle or vessel that ~~which~~ is stored  
29 pursuant to subsection (2) and that ~~which~~ remains unclaimed,  
30 or for which reasonable charges for the recovery, towing, or  
31 storage services ~~storing~~ remain unpaid, and any contents not

1 released pursuant to subsection (10), may be sold by the owner  
2 or operator of the storage space for such recovery, towing, or  
3 storage charges and the administrative costs authorized under  
4 this subsection ~~charge~~ after 35 days following ~~from~~ the time  
5 the vehicle or vessel is stored therein if the vehicle or  
6 vessel is more than 3 years of age or after 50 days following  
7 the time the vehicle or vessel is stored therein if the  
8 vehicle or vessel is 3 years of age or less. The sale shall be  
9 at public auction for cash. An administrative cost is  
10 authorized under this subsection if it is based on the  
11 applicable administrative charge imposed by ordinance or, if  
12 an administrative charge is not imposed by ordinance, if the  
13 administrative cost is not more than the lesser of \$100 or 30  
14 percent of the unpaid recovery, towing, and storage charges.  
15 If the date of the sale was not included in the notice  
16 required in subsection (4), notice of the sale shall be given  
17 to the person in whose name the vehicle or vessel is  
18 registered and to all persons claiming a lien on the vehicle  
19 or vessel as shown on the records of the Department of Highway  
20 Safety and Motor Vehicles or of the corresponding agency in  
21 any other state. Notice shall be sent by certified mail, ~~return receipt requested,~~  
22 ~~return receipt requested,~~ to the owner of the vehicle or  
23 vessel and the person having the recorded lien on the vehicle  
24 or vessel at the address shown on the records of the  
25 registering agency and shall be mailed not less than 15 days  
26 before the date of the sale. Proof of mailing must be provided  
27 upon request to any person involved in an action. After  
28 diligent search and inquiry, if the name and address of the  
29 registered owner or the owner of the recorded lien cannot be  
30 ascertained, the requirements of notice by mail may be  
31 dispensed with. In addition to the notice by mail, public



1 notice of the time and place of sale shall be made by  
2 publishing a notice thereof one time, at least 10 days prior  
3 to the date of the sale, in a newspaper of general circulation  
4 in the county in which the sale is to be held. The proceeds of  
5 the sale, after payment of reasonable recovery, towing, and  
6 storage charges, and costs of the sale, in that order of  
7 priority, shall be deposited with the clerk of the circuit  
8 court for the county if the owner is absent, and the clerk  
9 shall hold such proceeds subject to the claim of the person  
10 legally entitled thereto. The clerk shall be entitled to  
11 receive 5 percent of such proceeds for the care and  
12 disbursement thereof. The certificate of title issued under  
13 this law shall be discharged of all liens unless otherwise  
14 provided by court order.

15 Section 5. This act shall take effect July 1, 2006.  
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