

Bill No. SB 612

Barcode 474546

CHAMBER ACTION

Senate

House

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The Committee on Transportation (Constantine) recommended the following amendment:

Senate Amendment (with directory and title amendments)

On page 13, line 16, through
page 30, line 16, delete those lines

and insert:

508.102 Wrecker Operator Advisory Council.--

(1) The Wrecker Operator Advisory Council is created within the department. The council shall advise and assist the department in administering this chapter.

(2)(a) The council shall be composed of seven members appointed by the Commissioner of Agriculture.

(b) Three members of the council must each be an ultimate equitable owner of a wrecker company who has been an ultimate equitable owner of that company for at least 5 years before his or her appointment; one member must be a wrecker operator who is not an ultimate equitable owner of a wrecker company and who has been a wrecker operator for at least 5 years before his or her appointment; and two members must be

Bill No. SB 612

Barcode 474546

1 laypersons. Each member must be a resident of this state. This
2 paragraph expires July 1, 2013.

3 (c) Effective July 1, 2013, four members, two of whom
4 operate three trucks or fewer, of the council must each be an
5 ultimate equitable owner of a wrecker company registered under
6 this chapter who has been an ultimate equitable owner of that
7 company registered for at least 5 years before his or her
8 appointment; one member must be a wrecker operator certified
9 under this chapter who is not an ultimate equitable owner of a
10 wrecker company and who has been a certified wrecker operator
11 for at least 5 years before his or her appointment; and three
12 members must be laypersons. Each member must be a resident of
13 this state.

14 (3) The term of each member of the council is 4 years,
15 except, in order to establish staggered terms, two members who
16 are owners of wrecker companies and one layperson shall be
17 appointed initially for a 2-year term. Members may be
18 reappointed for additional terms that may not exceed 8 years
19 of consecutive service. A vacancy shall be filled for the
20 remainder of the unexpired term in the same manner as the
21 original appointment.

22 (4)(a) From among its members, the council shall
23 annually elect a chair, who shall preside over the meetings of
24 the council, and a vice chair.

25 (b) In conducting its meetings, the council shall use
26 accepted rules of procedure. The department shall keep a
27 complete record of each meeting showing the names of members
28 present and the actions taken. These records and other
29 documents regarding matters within the jurisdiction of the
30 council must be kept on file with the department.

31 (5) The members of the council shall serve without

Bill No. SB 612

Barcode 474546

1 compensation, but are entitled to reimbursement of travel and
2 per diem expenses under s. 112.061.

3 (6) The department shall provide administrative and
4 staff support services relating to the functions of the
5 council.

6 (7) The council shall review the rules adopted by the
7 department to administer this chapter and shall advise the
8 department on matters relating to industry standards and
9 practices and other issues that require technical expertise
10 and consultation or that promote better consumer protection in
11 the wrecker industry.

12 508.103 Rulemaking authority.--The department may
13 adopt rules under ss. 120.536(1) and 120.54 to administer this
14 chapter.

15 508.105 Registration requirements; renewal of
16 registrations.--

17 (1) Each wrecker company engaged or attempting to
18 engage for hire in the business of towing, carrying, or
19 transporting vehicles or vessels by wrecker upon the streets
20 and highways of this state must annually register with the
21 department on forms prescribed by the department. The
22 application for registration must include at least the
23 following information:

24 (a) The name and federal employer identification
25 number of the wrecker company.

26 (b) The mailing address, physical address, and
27 telephone number of the wrecker company's primary place of
28 business.

29 (c) The fictitious name under which the wrecker
30 company transacts business in this state.

31 (d) The full name, residence address, business

Bill No. SB 612

Barcode 474546

1 address, and telephone number of the applicant. If the
 2 applicant is other than a natural person, the application must
 3 also contain the full name, residence address, business
 4 address, telephone number, and federal employer identification
 5 number, if applicable, of each ultimate equitable owner of the
 6 business entity and each officer, director, partner, manager,
 7 member, or managing member of the entity.

8 (e) If the applicant is other than a natural person,
 9 the full name of the business entity's registered agent and
 10 the address of the registered office for service of process.

11 (f) The physical address and telephone number of each
 12 business location and each storage facility where the wrecker
 13 company stores towed vehicles or vessels.

14 (2) Each initial and renewal application for
 15 registration must be accompanied by the registration fee
 16 prescribed in s. 508.116.

17 (3) Each initial application for registration must be
 18 accompanied by a complete set of the applicant's fingerprints
 19 taken by a law enforcement agency. If the applicant is other
 20 than a natural person, a complete set of fingerprints must be
 21 filed for each ultimate equitable owner of the business entity
 22 and each officer, director, partner, manager, member, or
 23 managing member of the entity. The department shall submit the
 24 fingerprints to the Department of Law Enforcement for state
 25 processing, and the Department of Law Enforcement shall
 26 forward the fingerprints to the Federal Bureau of
 27 Investigation for national processing. The applicant must also
 28 pay the Department of Law Enforcement a fingerprint-processing
 29 fee of \$23 for state processing, and the amount of the fee
 30 charged by the Federal Bureau of Investigation for federal
 31 processing, for each applicant's name submitted. Registration

Bill No. SB 612

Barcode 474546

1 renewal applications need not be accompanied by a set of
 2 fingerprints for an individual who previously submitted a set
 3 of fingerprints to the department as part of a prior year's
 4 registration application.

5 (4) The department shall review each application in
 6 accordance with s. 120.60 and shall issue a registration
 7 certificate, in the form and size prescribed by the
 8 department, to each wrecker company whose application is
 9 approved. The certificate must show at least the name and
 10 address of the wrecker company and the registration number.
 11 The registration certificate must be prominently displayed in
 12 the wrecker company's primary place of business.

13 (5) Each advertisement of a wrecker company must
 14 include the phrase "Fla. Wrecker Co. Reg. No. ." For the
 15 purpose of this subsection, the term "advertisement" means a
 16 printed or graphic statement made in a newspaper or other
 17 publication or contained in any notice, handbill, or sign,
 18 including signage on a vehicle, flyer, catalog, or letter.

19 (6) A registration is invalid for a wrecker company
 20 transacting business at a place other than the location
 21 specified in the registration application unless the
 22 department is first notified in writing before the change of
 23 location. A registration issued under this chapter is not
 24 transferable or assignable, and a wrecker company may not
 25 conduct business under a name other than the name registered.
 26 A wrecker company desiring to change its registered name,
 27 location, or registered agent for service of process at a time
 28 other than upon renewal of registration must notify the
 29 department of the change.

30 (7)(a) Each registration must be renewed annually on
 31 or before the expiration date of the current registration. A

Bill No. SB 612

Barcode 474546

1 late fee of \$25 must be paid, in addition to the registration
 2 fee or any other penalty, for a registration renewal
 3 application that is received by the department after the
 4 expiration date of the current registration. The department
 5 may not issue a registration until all fees are paid.

6 (b) A wrecker company whose primary place of business
 7 is located within a county or municipality that requires, by
 8 local ordinance, a local business tax receipt under chapter
 9 205 may not renew a registration under this chapter unless the
 10 wrecker company obtains the business tax receipt from the
 11 county or municipality.

12 (8) Each wrecker company must provide the department
 13 with a certificate of insurance for the insurance coverage
 14 required under s. 627.7415 before the department may issue the
 15 certificate for an initial or renewal registration. The
 16 department must be named as a certificateholder on the
 17 insurance certificate and must be notified at least 30 days
 18 before any change in insurance coverage.

19 (9) The department shall notify the Department of
 20 Highway Safety and Motor Vehicles when a registration issued
 21 under this chapter has been suspended or revoked by order of
 22 the department. Notification must be sent within 10 days after
 23 the department issues the suspension or revocation order.

24 508.106 Denial of registration.--The department may
 25 deny, revoke, or refuse to renew the registration of a wrecker
 26 company based upon a determination that the applicant or, if
 27 the applicant is other than a natural person, the wrecker
 28 company or any of its ultimate equitable owners, officers,
 29 directors, partners, managers, members, or managing members
 30 has:

31 (1) Not met the requirements for registration under

Bill No. SB 612

Barcode 474546

1 this chapter;

2 (2) Been convicted or found guilty of, regardless of
3 adjudication, or pled guilty or nolo contendere to, a felony
4 within the last 10 years;

5 (3) Been convicted or found guilty of, regardless of
6 adjudication, or pled guilty or nolo contendere to, a crime
7 within the last 10 years involving repossession of a motor
8 vehicle under chapter 493, repair of a motor vehicle under ss.
9 559.901-559.9221, theft of a motor vehicle under s. 812.014,
10 carjacking under s. 812.133, operation of a chop shop under s.
11 812.16, failure to maintain records of motor vehicle parts and
12 accessories under s. 860.14, violations relating to airbags
13 under s. 860.145 or use of fake airbags under s. 860.146,
14 overcharging for repairs and parts under s. 860.15, or a
15 violation of towing or storage requirements for a motor
16 vehicle under this chapter, s. 321.051, chapter 323, s.
17 713.78, or s. 715.07;

18 (4) Not satisfied a civil fine or penalty arising out
19 of an administrative or enforcement action brought by the
20 department, another governmental agency, or a private person
21 based upon conduct involving a violation of this chapter;

22 (5) Pending against him or her a criminal,
23 administrative, or enforcement proceeding in any jurisdiction
24 based upon conduct involving a violation of this chapter; or

25 (6) Had a judgment entered against him or her in an
26 action brought by the department under this chapter.

27 508.1061 Acceptable forms of payment.--A wrecker
28 company shall accept a minimum of two of the three following
29 forms of payment:

30 (1) Cash, cashier's check, money order, or traveler's
31 check.

Bill No. SB 612

Barcode 474546

1 (2) Valid personal check, showing upon its face the
2 name and address of the vehicle or vessel owner or authorized
3 representative.

4 (3) Valid credit card, including, but not limited to,
5 Visa or MasterCard.

6 508.107 Wrecker operator certification program.--

7 (1) The department, in consultation with the council,
8 shall establish a wrecker operator certification program by
9 December 31, 2007. Under this program, the council shall
10 approve certification courses for wrecker operators conducted
11 by approved organizations. The council shall prescribe the
12 minimum curricula for these courses, including instruction for
13 operators of light duty, medium duty, and rollback trucks,
14 which must be at least a 16-hour course for light duty, medium
15 duty, and rollback wreckers. Included in the course must be
16 instruction in towing and winching a passenger vehicle and
17 uprighting an overturned passenger vehicle, including the
18 proper use of chains, wire rope, and straps; towing and
19 winching a medium-sized commercial vehicle and uprighting an
20 overturned medium-sized commercial vehicle; and proper
21 loading, securing, transporting, and unloading of a vehicle on
22 a flatbed-rollback wrecker. Such instruction must be equally
23 apportioned between theoretical instruction and practical
24 training. This class shall be 16 hours and should be taken
25 within the first 6 months after employment. The council must
26 approve each organization and its certification course before
27 the course is accepted for certification of wrecker operators
28 under this chapter.

29 (2) Each approved wrecker operator certification
30 course must include a certification examination demonstrating
31 a wrecker operator's knowledge, skills, and abilities in

Bill No. SB 612

Barcode 474546

1 performing wrecker services and proficiency in the subject
 2 matter of the certification course. The council must approve
 3 each certification examination before the examination is
 4 accepted for certification of wrecker operators under this
 5 chapter.

6 (3) Each organization conducting an approved wrecker
 7 operator certification course must issue on forms prescribed
 8 by the department a certificate to each wrecker operator who
 9 completes the approved certification course and passes the
 10 approved certification examination.

11 508.108 Specialized wrecker services.--

12 (1) In addition to the minimum curricula for
 13 certification of wrecker operators, approved certification
 14 courses may offer optional instruction, training, and
 15 examination of wrecker operators for each of the following
 16 specialized wrecker services:

17 (a) Heavy and ultra-heavy duty.--Towing and winching a
 18 standard large-sized commercial vehicle and uprighting an
 19 overturned standard large-sized commercial vehicle; towing and
 20 winching a specialty large-sized commercial vehicle or another
 21 complex vehicle and uprighting an overturned specialty
 22 large-sized commercial vehicle or another complex vehicle.
 23 This class shall be 16 hours and should be taken within the
 24 first year of employment.

25 (b) Hazardous materials.--Awareness of hazardous
 26 materials. Instruction and training for this wrecker service
 27 must comprise at least 8 hours in order to be approved.

28 (c) Air cushions.--Proper use of air cushions in the
 29 recovery of a heavy-duty vehicle.

30 (2) The department shall adopt rules prescribing
 31 specific standards to further define each of the specialized

Bill No. SB 612

Barcode 474546

1 wrecker services described in subsection (1). The council must
 2 approve the instruction, training, and examination for a
 3 specialized wrecker service before the specialized wrecker
 4 service is accepted for endorsement of a wrecker operator's
 5 certification under this chapter.

6 (3) Each organization conducting an approved wrecker
 7 operator certification course must issue on forms prescribed
 8 by the department a certificate to each wrecker operator who
 9 completes the approved instruction and training for a
 10 specialized wrecker service and passes the approved
 11 endorsement examination for that specialized wrecker service.

12 508.109 Certification cards.--

13 (1) Each organization conducting an approved wrecker
 14 operator certification course must issue a certification card
 15 to each wrecker operator who completes the approved
 16 certification course and passes the approved certification
 17 examination. The department must approve the form of the
 18 certification cards issued by each organization. Each
 19 certification card must include the wrecker operator's name, a
 20 color photograph or digital image of the wrecker operator, and
 21 the expiration date of the certification card.

22 (2) Each certification card must also include the
 23 wrecker operator's applicable endorsements for those
 24 specialized wrecker services for which the wrecker operator
 25 has completed the approved instruction and training and passed
 26 the approved endorsement examination.

27 (3)(a) The department may adopt rules governing the
 28 issuance of a certification card to a wrecker operator who:

- 29 1. Completes a certification course and passes a
 30 certification examination in another state, which course and
 31 examination are substantially equivalent to the approved

Bill No. SB 612

Barcode 474546

1 certification courses and approved certification examinations
2 in this state.

3 2. Completed a certification course and passed a
4 certification examination in this state between January 1,
5 2003, and December 31, 2007, which course and examination are
6 substantially equivalent to the approved certification courses
7 and the approved certification examinations. This subparagraph
8 expires July 1, 2008.

9 3. Completed instruction and training for a
10 specialized wrecker service and passed an endorsement
11 examination for that specialized wrecker service between
12 January 1, 2003, and December 31, 2007, which instruction,
13 training, and examination are substantially equivalent to the
14 approved instruction and training and the approved endorsement
15 examinations. This subparagraph expires July 1, 2008.

16 (b) For the purposes of this subsection, the council
17 shall approve each certification examination in another state,
18 and shall approve the instruction, training, and examination
19 for each specialized wrecker service in another state, which
20 the council determines are substantially equivalent to the
21 approved certification courses and approved certification
22 examinations in this state or to the approved instruction,
23 training, and endorsement examinations for a specialized
24 wrecker service in this state.

25 (4) Each certification card expires 5 years after the
26 date of issuance.

27 (5) Certification cards shall be issued by the
28 organizations conducting approved wrecker operator
29 certification courses. The department is not responsible for
30 issuing certification cards or for the costs associated with
31 the issuance of certification cards.

Bill No. SB 612

Barcode 474546

1 508.111 Renewal of certification; continuing education
2 requirements.--

3 (1) The department, in consultation with the council,
4 shall establish a continuing education program for the
5 recertification of wrecker operators by December 31, 2008. In
6 order to renew a wrecker operator's certification card, an
7 operator must complete 4 hours of continuing education every 5
8 years. The council must prescribe the minimum curricula and
9 proper examination for each continuing education course, each
10 of which must be at least 4 hours in length. The council shall
11 approve each organization, and the continuing education course
12 it proposes to offer, before the course is approved for
13 recertifying wrecker operators. Coursework may be completed in
14 a classroom setting or, if available, online.

15 (2) Each organization conducting an approved wrecker
16 operator continuing education course must issue, on forms
17 prescribed by the department, a certificate to each wrecker
18 operator who completes the approved course and passes an
19 approved recertification examination.

20 508.112 Prohibited acts.--It is a violation of this
21 chapter for a person to:

22 (1) Charge rates that exceed the maximum rates imposed
23 by the ordinances of the respective county or municipality
24 under s. 125.0103(1)(c) or s. 166.043(1)(c).

25 (2) Violate s. 321.051, relating to the Florida
26 Highway Patrol wrecker-allocation system.

27 (3) Violate s. 323.002, relating to county and
28 municipal wrecker allocation systems.

29 (4) Violate s. 713.78, relating to liens for
30 recovering, towing, or storing vehicles and vessels.

31 (5) Violate s. 715.07, relating to towing or removing

Bill No. SB 612

Barcode 474546

1 vehicles and vessels parked on real property without
2 permission.

3 (6) Refuse to allow a law enforcement officer to
4 inspect a towing and storage facility as required in s.
5 812.055.

6 (7) Allow a person who is not certified as a wrecker
7 operator under this chapter to perform wrecker services or
8 specialized wrecker services for the wrecker company for more
9 than 6 months after first being employed by, or becoming an
10 ultimate equitable owner of, the wrecker company.

11 (8) Allow a wrecker operator certified under this
12 chapter to perform a specialized wrecker service for the
13 wrecker company if the wrecker operator's certification does
14 not include an endorsement for that specialized wrecker
15 service.

16 (9) Perform an act otherwise prohibited by this
17 chapter or fail to perform an act otherwise required by this
18 chapter.

19 508.113 Administrative penalties; inspection of
20 records.--

21 (1) The department may take one or more of the
22 following actions if the department finds that a person has
23 violated this chapter or the rules or orders issued under this
24 chapter:

25 (a) Issue a notice of noncompliance under s. 120.695.

26 (b) Impose an administrative fine not to exceed \$5,000
27 for each act or omission.

28 (c) Direct the person to cease and desist specified
29 activities.

30 (d) Refuse to register the wrecker company or suspend
31 or revoke the wrecker company's registration.

Bill No. SB 612

Barcode 474546

1 (e) Place the wrecker company on probation for a
2 period of time, subject to the conditions specified by the
3 department.

4 (2) Chapter 120 shall govern an administrative
5 proceeding resulting from an order imposing a penalty
6 specified in subsection (1).

7 508.114 Civil penalties.--The department may bring a
8 civil action in a court of competent jurisdiction to recover
9 any penalties or damages allowed in this chapter and for
10 injunctive relief to enforce compliance with this chapter. The
11 department may seek a civil penalty of up to \$5,000 for each
12 violation of this chapter and may seek restitution for and on
13 behalf of any owner of a vehicle or vessel who is aggrieved or
14 injured by a violation of this chapter.

15 508.116 Fees.--The department shall adopt by rule a
16 fee schedule not to exceed the following amounts:

17 (1) Wrecker company registration fee: \$495.

18 (2) Wrecker company registration renewal fee: \$495.

19
20 The department shall collect and maintain data relating to the
21 registration fees and shall review the fee amounts after the
22 first 2 years of the registration program's existence.

23 508.117 General Inspection Trust Fund; payments.--All
24 fees, penalties, or other funds collected by the department
25 under this chapter must be deposited in the General Inspection
26 Trust Fund and may be used only for the purpose of
27 administering this chapter.

28 508.118 County and municipal ordinances.--A county or
29 municipality may enact ordinances governing the business of
30 transporting vehicles or vessels by wrecker which are more
31 restrictive than this chapter. This section does not limit the

Bill No. SB 612

Barcode 474546

1 authority of a political subdivision to impose regulatory fees
 2 or charges or to levy local business taxes under chapter 205.
 3 The department may enter into a cooperative agreement with any
 4 county or municipality that provides for the referral,
 5 investigation, and prosecution of consumer complaints alleging
 6 violations of this chapter. The department may delegate
 7 enforcement of this chapter to any county or municipality
 8 entering into a cooperative agreement.

9 508.119 Records.--

10 (1) Each wrecker company shall maintain records of its
 11 wrecker services for at least 12 months. These records shall
 12 be maintained at the wrecker company's principal place of
 13 business.

14 (2) Each wrecker company shall maintain records on
 15 each of its wrecker operators which are sufficient to
 16 demonstrate that the operator has successfully completed an
 17 approved wrecker operator certification course or an approved
 18 wrecker operator continuing education course and is certified
 19 to perform wrecker services. These records shall be maintained
 20 at the wrecker company's principal place of business for as
 21 long as the operator is employed by the wrecker company and
 22 for at least 6 months thereafter.

23 (3) Each organization approved to conduct a wrecker
 24 operator certification course or approved to offer a wrecker
 25 operator continuing education course shall maintain records of
 26 each person who successfully completes one of the courses. The
 27 records shall be maintained at the organization's principal
 28 place of business for at least 5 years. The department may, at
 29 any time during normal business hours, enter the
 30 organization's principal place of business to examine the
 31 records.

Bill No. SB 612

Barcode 474546

1 Section 2. Effective January 1, 2008, section 508.104,
2 Florida Statutes, is created to read:

3 508.104 Wrecker companies; registration required.--

4 (1) A person may not own, operate, solicit business
5 for, advertise services for, or otherwise engage for hire in
6 the business of a wrecker company in this state unless that
7 person is registered with the department under this chapter.

8 (2) A person applying for or renewing a local business
9 tax receipt to engage for hire in the business of a wrecker
10 company must exhibit a current registration certificate from
11 the department before the local business tax receipt may be
12 issued or reissued under chapter 205.

13 (3) This section does not apply to any franchised
14 motor vehicle dealer licensed pursuant to s. 320.27 when
15 wrecker services are incidental to the operation of the
16 franchise.

17 Section 3. Effective January 1, 2008, section 508.110,
18 Florida Statutes, is created to read:

19 508.110 Wrecker operators; certification required;
20 inspection of employment records.--

21 (1) A person may not perform wrecker services in this
22 state unless he or she is an employee or ultimate equitable
23 owner of a wrecker company that is registered with the
24 department under this chapter and those wrecker services are
25 performed on behalf of the wrecker company.

26 (2)(a) A person may not perform wrecker services or
27 specialized wrecker services for a wrecker company for more
28 than 6 months after first being employed by, or becoming an
29 ultimate equitable owner of, the wrecker company without being
30 certified as a wrecker operator under this chapter.

31 (b) A wrecker operator certified under this chapter

Bill No. SB 612

Barcode 474546

1 may not perform a specialized wrecker service for a wrecker
2 company unless the wrecker operator's certification includes
3 an endorsement for that specialized wrecker service.

4 (4) The department may, at any time during business
5 hours, enter any business location of a wrecker company and
6 examine the company's books or records. If the department
7 reasonably believes a violation of this chapter has occurred
8 or is occurring, the department may subpoena any necessary
9 books or records.

10

11 (Redesignate subsequent sections.)

12

13

14 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

15 And the directory clause is amended as follows:

16 On page 11, lines 14 and 15, delete those lines

17

18 and insert: 508.113, 508.114, 508.116, 508.117, and 508.119,

19 is created to read:

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

23 And the title is amended as follows:

24 On page 4, line 10, through

25 page 5, line 3, delete those lines

26

27 and insert:

28 creating s. 508.118, F.S.; authorizing counties

29 and municipalities to enact ordinances

30 governing wrecker operators; providing for the

31 department to enter into a cooperative

Bill No. SB 612

Barcode 474546

1 agreement with a county or municipality for the
2 referral, investigation, and prosecution of
3 consumer complaints or enforcement of specified
4 wrecker services provisions; creating s.
5 508.119, F.S.; requiring that a wrecker company
6 maintain records of its services and operators;
7 requiring organizations that conduct operator
8 certification or continuing education courses
9 to maintain records on each person who
10 successfully completes one of the courses;
11 authorizing inspection of records by the
12 department; creating s. 508.104, F.S.;
13 prohibiting persons from owning, operating, or
14 being issued a local business tax receipt on
15 behalf of a wrecker company without first
16 registering with the department; requiring
17 registration prior to issuance or renewal of
18 local business tax receipt; excluding certain
19 motor vehicle dealers;

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