

By the Committees on General Government Appropriations;
Commerce; and Senators Crist and Lynn

601-2655-07

1 A bill to be entitled
2 An act relating to wrecker services; creating
3 chapter 508, F.S.; providing for regulatory
4 oversight of wrecker services by the Department
5 of Agriculture and Consumer Services; creating
6 s. 508.101, F.S.; providing definitions;
7 creating s. 508.102, F.S.; creating the Wrecker
8 Operator Advisory Council within the Department
9 of Agriculture and Consumer Services; directing
10 the council to prepare recommendations relating
11 to education and training and present the
12 recommendations to the Legislature and the
13 Commissioner of Agriculture; providing for
14 membership, terms, and organization; providing
15 for meeting procedures and recordkeeping;
16 providing for reimbursement for travel and per
17 diem expenses; directing the department to
18 provide support services for the council;
19 directing the council to review rules adopted
20 by the department and to advise the department
21 on certain matters relating to the wrecker
22 industry; creating s. 508.103, F.S.;
23 authorizing the department to adopt rules;
24 creating s. 508.105, F.S.; requiring wrecker
25 companies to register annually with the
26 department; providing for the registration
27 application; providing for processing of
28 fingerprints by the Department of Law
29 Enforcement; requiring fees for processing;
30 providing for issuance of registration
31 certificate; requiring display of the

1 certificate; providing requirements for
2 advertisements; requiring notification of
3 changes in registration information; requiring
4 certain fees to be paid; requiring certain
5 companies to obtain a local business tax
6 receipt prior to registration renewal;
7 requiring insurance coverage; requiring the
8 department to notify the Department of Highway
9 Safety and Motor Vehicles when a registration
10 has been suspended or revoked; creating s.
11 508.106, F.S.; authorizing the Department of
12 Agriculture and Consumer Services to deny,
13 revoke, or refuse to renew the registration of
14 a wrecker company under certain circumstances;
15 creating s. 508.1061, F.S.; requiring a wrecker
16 company to accept certain forms of payment;
17 creating s. 508.107, F.S.; prohibiting certain
18 acts; creating ss. 508.108 and 508.109, F.S.;
19 providing administrative and civil penalties;
20 creating s. 508.110, F.S.; providing for
21 registration and renewal fees; creating s.
22 508.111, F.S.; providing for deposit and use of
23 fees, penalties, and other funds; creating s.
24 508.112, F.S.; providing that the chapter does
25 not apply to recovery agents; creating s.
26 508.113, F.S.; authorizing counties and
27 municipalities to enact ordinances governing
28 wrecker operators; providing for the department
29 to enter into a cooperative agreement with a
30 county or municipality for the referral,
31 investigation, and prosecution of consumer

1 | complaints or enforcement of specified wrecker
2 | services provisions; creating s. 508.114, F.S.;
3 | requiring that a wrecker company maintain
4 | records of its services; creating s. 508.104,
5 | F.S.; prohibiting a person from owning,
6 | operating, or otherwise engaging in the
7 | business of a wrecker company without first
8 | registering with the department; requiring
9 | registration prior to issuance or renewal of
10 | local business tax receipt; excluding certain
11 | motor vehicle repair shops and dealers;
12 | creating s. 508.116, F.S.; providing criminal
13 | penalties; amending s. 120.80, F.S.; providing
14 | for appointment of a hearing officer by the
15 | director of the Division of the Florida Highway
16 | Patrol when a hearing is held to deny, suspend,
17 | or remove a wrecker company from participating
18 | in the wrecker allocation system; creating s.
19 | 205.1977, F.S.; prohibiting a county or
20 | municipality from issuing or renewing a
21 | business tax receipt for a wrecker company that
22 | is not registered with the Department of
23 | Agriculture and Consumer Services; amending s.
24 | 316.530, F.S., relating to towing requirements;
25 | conforming terminology; amending s. 320.01,
26 | F.S.; redefining the term "wrecker" for
27 | purposes of the Florida Statutes; amending s.
28 | 320.03, F.S., relating to withholding the motor
29 | vehicle registration plate or revalidation
30 | sticker; providing for application of
31 | provisions to wrecker companies rather than

1 wrecker operators; amending s. 320.0706, F.S.;
2 requiring a wrecker to display the registration
3 license plate only on its front; amending s.
4 320.0821, F.S.; revising requirements for the
5 issuance of wrecker license plates; requiring
6 the license plate to be displayed on the front
7 of the wrecker; amending s. 320.13, F.S.,
8 relating to dealer license plates; conforming
9 terminology; reenacting ss. 316.550(4)(a) and
10 (9) and 320.08(5)(d) and (e), F.S., relating to
11 special wrecker permits and license taxes, to
12 incorporate the amendment to s. 320.01, F.S.,
13 in references thereto; amending s. 321.051,
14 F.S.; revising provisions for the Florida
15 Highway Patrol wrecker operator system;
16 changing the designation to "wrecker allocation
17 system"; providing definitions; revising
18 provisions that authorize the Division of the
19 Florida Highway Patrol within the Department of
20 Highway Safety and Motor Vehicles to establish
21 the system; revising requirements for the
22 system; limiting the system to using certain
23 registered wrecker companies; revising wrecker
24 eligibility requirements; revising provisions
25 for procedures for appeal of final orders by
26 the department denying, suspending, or revoking
27 eligibility to participate; prohibiting an
28 unauthorized wrecker company and wrecker
29 operators dispatched by an unauthorized company
30 from engaging in certain activities; requiring
31 those operators to disclose certain information

1 to the owner or operator of a wrecked or
2 disabled vehicle prior to towing; providing
3 penalties; providing for a law enforcement
4 officer to dispatch an authorized wrecker
5 company other than a company requested by the
6 vehicle owner or operator or to dispatch a
7 company out of rotation; amending s. 323.001,
8 F.S.; revising procedures for placement of a
9 hold on a vehicle at a storage facility;
10 providing for placement of a hold by a law
11 enforcement agency; providing definitions;
12 revising provisions for payment of towing and
13 storage charges; revising rate limitation
14 provisions; amending s. 323.002, F.S.; revising
15 provisions for county and municipal wrecker
16 operator systems; changing the designation to
17 "wrecker allocation systems"; providing
18 definitions; limiting the systems to using
19 certain registered wrecker companies;
20 prohibiting an unauthorized wrecker company and
21 wrecker operators dispatched by an unauthorized
22 company from engaging in certain activities;
23 requiring those operators to disclose certain
24 information to the owner or operator of a
25 wrecked or disabled vehicle prior to towing;
26 providing penalties; providing for a law
27 enforcement officer to dispatch an authorized
28 wrecker company other than a company requested
29 by the vehicle owner or operator or to dispatch
30 a company out of rotation; amending s. 713.78,
31 F.S.; providing for claim of lien by a wrecker

1 company for recovering, removing, or storing a
2 vehicle or vessel; conforming provisions to
3 changes made by the act; providing definitions;
4 requiring notification to the vehicle or vessel
5 owners, insurers, and lienholders; providing
6 for a law enforcement agency to obtain
7 information from the Department of Highway
8 Safety and Motor Vehicles and provide the
9 information to the wrecker company; providing
10 notice procedures; providing for content of the
11 notice; providing for notice to the agency of
12 jurisdiction if the vehicle or vessel owner or
13 lienholder cannot be identified; revising
14 procedures for complaint by the vehicle or
15 vessel owner; providing for release of the
16 vehicle or vessel; requiring damages,
17 attorney's fees, and costs to be awarded by the
18 court; requiring immediate payment of recovery,
19 towing, and storage fees to be ordered by the
20 court; providing for notice and sale of the
21 vehicle or vessel by the wrecker company;
22 providing for distribution of proceeds;
23 providing for discharge of liens and issuance
24 of certificate of title; providing immunity
25 from liability for a wrecker company, its
26 operators, and other employees or agents under
27 certain conditions; providing for a presumption
28 of the use of reasonable care; requiring
29 wrecker company information to be printed on
30 the wrecker; specifying that failure to make
31 good faith, best efforts to comply with notice

1 requirements precludes imposition of storage
2 charges; requiring a wrecker company to provide
3 access to the vehicle or vessel; requiring
4 release of the vehicle, vessel, or personal
5 property to the owner or agent of the owner;
6 requiring the wrecker company to obtain a
7 certificate of destruction in lieu of a
8 certificate of title when the vehicle or vessel
9 is to be dismantled, destroyed, or changed in
10 such a manner that it is not the motor vehicle
11 or vessel described in the certificate of
12 title; providing for issuance of the
13 certificate of destruction by the county tax
14 collector; providing requirements for
15 application for the certificate of destruction;
16 providing for reassignment of the certificate
17 of destruction; authorizing the Department of
18 Highway Safety and Motor Vehicles to adopt
19 rules; providing penalties for specified
20 violations; authorizing the Department of
21 Highway Safety and Motor Vehicles to inspect
22 wrecker company records; directing the
23 Department of Highway Safety and Motor
24 Vehicles, upon notice of lien from a wrecker
25 company, to place the name of the owner of the
26 vehicle or vessel on the list of those persons
27 who may not be issued a license plate or
28 revalidation sticker for a motor vehicle;
29 providing for forms for the notice of lien;
30 providing for dispute by the owner; providing
31 for the owner's name to be removed from the

1 list of those persons who may not be issued a
2 license plate or revalidation sticker for a
3 motor vehicle; providing for lien expiration;
4 requiring a certificate of discharge to be
5 issued by the wrecker company; providing for
6 certain fees and charges; providing for
7 application and exceptions; clarifying that the
8 amendments made by the act do not affect the
9 validity of prior liens; amending s. 715.07,
10 F.S., revising provisions for the towing and
11 storage of vehicles and vessels parked on real
12 property without permission; providing
13 definitions; providing requirements for storage
14 facility operation; providing requirements for
15 a wrecker company, its operators, and other
16 employees or agents; prohibiting a wrecker
17 company, a wrecker operator, or another
18 employee or agent of a wrecker company from
19 paying or accepting payment for the privilege
20 of removing vehicles or vessels from a
21 particular location; revising requirements for
22 tow-away signs to be posted by property owners;
23 requiring a wrecker company to maintain rate
24 schedules with the local law enforcement agency
25 and to post rates and contracts at its storage
26 facility; revising requirements for certain
27 signage on a wrecker; providing immunity from
28 liability for a wrecker company, its operators,
29 and other employees or agents if entry into the
30 vehicle or vessel is performed with reasonable
31 care; revising provisions for release of the

1 vehicle or vessel; providing that failure to
2 comply with notice requirements precludes a
3 wrecker company from imposing certain towing or
4 storage charges; providing penalties; repealing
5 s. 1.01(15), F.S., relating to the definition
6 of the term "wrecker operator"; providing an
7 appropriation and authorizing additional
8 positions; providing effective dates.
9

10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. This act may be cited as the "Glen D. Rich
13 Towing Reform Act of 2007."

14 Section 2. Chapter 508, Florida Statutes, consisting
15 of sections 508.101, 508.102, 508.103, 508.105, 508.106,
16 508.1061, 508.107, 508.108, 508.109, 508.110, 508.111,
17 508.112, 508.113, and 508.114, is created to read:

18 CHAPTER 508

19 WRECKER SERVICES

20 508.101 Definitions.--As used in this chapter, the
21 term:

22 (1) "Business entity" means any form of corporation,
23 limited liability company, partnership, association,
24 cooperative, joint venture, business trust, sole
25 proprietorship, or self-employed person conducting business in
26 this state.

27 (2) "Council" means the Wrecker Operator Advisory
28 Council.

29 (3) "Department" means the Department of Agriculture
30 and Consumer Services.
31

1 (4) "Ultimate equitable owner" means a natural person
2 who, directly or indirectly, owns or controls 10 percent or
3 more of an ownership interest in a wrecker company, regardless
4 of whether the natural person owns or controls the ownership
5 interest through one or more natural persons or one or more
6 proxies, powers of attorney, nominees, business entities, or
7 any combination thereof.

8 (5) "Vehicle" means any vehicle of a type that may be
9 registered under chapter 320 for operation on the roads of
10 this state, regardless of whether the vehicle is actually
11 registered. The term does not include a mobile home or
12 manufactured home as defined in s. 320.01.

13 (6) "Vessel" means any type of watercraft, barge, or
14 airboat, however described, used or capable of being used as a
15 means of transportation on water, other than a seaplane or a
16 documented vessel as defined in s. 327.02.

17 (7) "Wrecker" has the same meaning ascribed in s.
18 320.01.

19 (8) "Wrecker company" means a business entity engaged
20 for hire in the business of towing, carrying, or transporting
21 vehicles or vessels by wrecker upon the streets and highways
22 of this state. The term does not include a person regularly
23 engaged in the business of transporting mobile homes.

24 (9) "Wrecker operator" means a person who performs
25 wrecker services.

26 (10) "Wrecker services" means towing, carrying, or
27 otherwise transporting vehicles or vessels by wrecker upon the
28 streets and highways of this state for hire. The term
29 includes, but is not limited to, each of the following:

30 (a) Driving a wrecker.
31

1 (b) Loading, securing, and unloading a vehicle or
2 vessel on a wrecker using a boom, winch, car carrier, or other
3 similar equipment.

4 (c) Towing or removal of a wrecked, disabled, or
5 abandoned vehicle under the Florida Highway Patrol wrecker
6 allocation system pursuant to s. 321.051 or under a county or
7 municipal wrecker allocation system pursuant to s. 323.002.

8 (d) Towing, recovery, or removal of a vehicle or
9 vessel under s. 713.78.

10 (e) Towing, transportation, or removal of a vehicle or
11 vessel parked on real property without permission under s.
12 715.07.

13 (f) Recovery of a vehicle or vessel.

14 508.102 Wrecker Operator Advisory Council.--

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

18 (2) The council shall prepare recommendations
19 regarding the need for a wrecker operator certification
20 program and establishment of educational and training
21 requirements for wrecker operators should such a certification
22 program be deemed necessary. The council shall present its
23 recommendations to the President of the Senate, the Speaker of
24 the House of Representatives, and the Commissioner of
25 Agriculture by January 31, 2008.

26 (3)(a) The council shall be composed of five members
27 appointed by the Commissioner of Agriculture.

28 (b) One member of the council must be a wrecker
29 company owner-operator, one member must be a consumer, one
30 member must be an owner of a wrecker company with 10 or more
31 employees, one member must be an owner of a wrecker company

1 with fewer than 10 employees, and one member must be a
2 community college staff person with expertise in and
3 responsibility for establishing and implementing continuing
4 education programs. Each member must be a resident of this
5 state.

6 (c) The term of each member of the council is 4 years,
7 except, to establish staggered terms, the owner-operator
8 member, the consumer member, and the community college staff
9 member shall be appointed initially for terms of 2 years each.
10 Members may be reappointed for additional terms not to exceed
11 8 years of consecutive service. A vacancy shall be filled for
12 the remainder of the unexpired term in the same manner as the
13 original appointment.

14 (4)(a) From among its members, the council shall
15 annually elect a chair, who shall preside over the meetings of
16 the council, and a vice chair.

17 (b) In conducting its meetings, the council shall use
18 accepted rules of procedure. The department shall keep a
19 complete record of each meeting showing the names of members
20 present and the actions taken. These records and other
21 documents regarding matters within the jurisdiction of the
22 council must be kept on file with the department.

23 (5) The members of the council shall serve without
24 compensation but are entitled to reimbursement of travel and
25 per diem expenses under s. 112.061.

26 (6) The department shall provide administrative and
27 staff support services relating to the functions of the
28 council.

29 (7) The council shall review the rules adopted by the
30 department to administer this chapter and shall advise the
31 department on matters relating to industry standards and

1 practices and other issues that require technical expertise
2 and consultation or that promote better consumer protection in
3 the wrecker industry.

4 508.103 Rulemaking authority.--The department may
5 adopt rules under ss. 120.536(1) and 120.54 to administer this
6 chapter.

7 508.105 Registration requirements; renewal of
8 registrations.--

9 (1) Each wrecker company engaged or attempting to
10 engage for hire in the business of towing, carrying, or
11 transporting vehicles or vessels by wrecker upon the streets
12 and highways of this state must annually register with the
13 department on forms prescribed by the department. The
14 application for registration must include at least the
15 following information:

16 (a) The name and federal employer identification
17 number of the wrecker company.

18 (b) The mailing address, physical address, and
19 telephone number of the wrecker company's primary place of
20 business.

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

23 (d) The full name, residence address, business
24 address, and telephone number of the applicant. If the
25 applicant is other than a natural person, the application must
26 also contain the full name, residence address, business
27 address, telephone number, and federal employer identification
28 number, if applicable, of each ultimate equitable owner of the
29 business entity and each officer, director, partner, manager,
30 member, or managing member of the entity.

31

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

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

7 (2) Each initial and renewal application for
8 registration must be accompanied by the registration fee
9 prescribed in s. 508.110.

10 (3) Each initial application for registration must be
11 accompanied by a complete set of the applicant's fingerprints
12 taken by a law enforcement agency. If the applicant is other
13 than a natural person, a complete set of fingerprints must be
14 filed for each ultimate equitable owner of the business entity
15 and each officer, director, partner, manager, member, or
16 managing member of the entity. The department shall submit the
17 fingerprints to the Department of Law Enforcement for state
18 processing, and the Department of Law Enforcement shall
19 forward the fingerprints to the Federal Bureau of
20 Investigation for national processing. The Department of
21 Agriculture and Consumer Services shall collect from each
22 applicant the fingerprint processing fee of \$23 for state
23 processing and an additional fee for national processing for
24 each applicant submitted. The department shall screen
25 background results to determine whether the applicant meets
26 the requirements for issuance of a registration certificate.
27 Registration renewal applications need not be accompanied by a
28 set of fingerprints for an individual who previously submitted
29 a set of fingerprints to the department as part of a prior
30 year's registration application.

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

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

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

26 (7)(a) Each registration must be renewed annually on
27 or before the expiration date of the current registration. A
28 late fee of \$25 must be paid, in addition to the registration
29 fee or any other penalty, for a registration renewal
30 application that is received by the department after the
31

1 expiration date of the current registration. The department
2 may not issue a registration until all fees are paid.

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

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

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

21 508.106 Denial of registration.--The department may
22 deny, revoke, or refuse to renew the registration of a wrecker
23 company based upon a determination that the applicant or, if
24 the applicant is other than a natural person, the wrecker
25 company or any of its ultimate equitable owners, officers,
26 directors, partners, managers, members, or managing members
27 has:

28 (1) Not met the requirements for registration under
29 this chapter;

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

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

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

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

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

26 508.1061 Acceptable forms of payment.--A wrecker
27 company shall accept a minimum of two of the three following
28 forms of payment:

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

31

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 Prohibited acts.--It is a violation of this
7 chapter for a person to:

8 (1) Charge rates that exceed the maximum rates imposed
9 by the ordinances of the respective county or municipality
10 under ss. 125.0103(1)(c) and 166.043(1)(c).

11 (2) Violate s. 321.051, relating to the Florida
12 Highway Patrol wrecker allocation system.

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

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

17 (5) Violate s. 715.07, relating to towing or removing
18 vehicles and vessels parked on real property without
19 permission.

20 (6) Refuse to allow a law enforcement officer to
21 inspect a towing and storage facility as required in s.
22 812.055.

23 (7) Perform an act otherwise prohibited by this
24 chapter or fail to perform an act otherwise required by this
25 chapter.

26 508.108 Administrative penalties; inspection of
27 records.--

28 (1) The department may take one or more of the
29 following actions if the department finds that a business is
30 operating without being registered under this chapter or has
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1 violated this chapter or the rules or orders issued under this
2 chapter:
3 (a) Issue a notice of noncompliance under s. 120.695.
4 (b) Impose an administrative fine not to exceed \$5,000
5 for each act or omission.
6 (c) Direct the person to cease and desist specified
7 activities.
8 (d) Refuse to register the wrecker company or suspend
9 or revoke the wrecker company's registration.
10 (e) Place the wrecker company on probation for a
11 period of time, subject to the conditions specified by the
12 department.
13 (2) Chapter 120 shall govern an administrative
14 proceeding resulting from an order imposing a penalty
15 specified in subsection (1).
16 508.109 Civil penalties.--The department may bring a
17 civil action in a court of competent jurisdiction to recover
18 any penalties or damages allowed in this chapter and for
19 injunctive relief to enforce compliance with this chapter. The
20 department may seek a civil penalty of up to \$5,000 for each
21 violation of this chapter and may seek restitution for and on
22 behalf of any owner of a vehicle or vessel who is aggrieved or
23 injured by a violation of this chapter.
24 508.110 Fees.--The department shall adopt by rule a
25 fee schedule not to exceed the following amounts:
26 (1) Wrecker company registration fee: \$495.
27 (2) Wrecker company registration renewal fee: \$495.
28 508.111 General Inspection Trust Fund; payments.--All
29 fees, penalties, or other funds collected by the department
30 under this chapter must be deposited in the General Inspection
31

1 Trust Fund and may only be used for the purpose of
2 administering this chapter.

3 508.112 Recovery agents; exemption.--This chapter does
4 not apply to a person licensed under chapter 493 performing
5 repossession services.

6 508.113 County and municipal ordinances.--A county or
7 municipality may enact ordinances governing the business of
8 transporting vehicles or vessels by wrecker that are more
9 restrictive than this chapter. This section does not limit the
10 authority of a political subdivision to impose regulatory fees
11 or charges or to levy local business taxes under chapter 205.
12 The department may enter into a cooperative agreement with any
13 county or municipality that provides for the referral,
14 investigation, and prosecution of consumer complaints alleging
15 violations of this chapter. The department is authorized to
16 delegate enforcement of this chapter to any county or
17 municipality entering into a cooperative agreement.

18 508.114 Records.--Each wrecker company shall maintain
19 records of its wrecker services for at least 12 months. These
20 records shall be maintained at the wrecker company's principal
21 place of business.

22 Section 3. Effective January 1, 2008, section 508.104,
23 Florida Statutes, is created to read:

24 508.104 Wrecker companies; registration required.--

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

29 (2) A person applying for or renewing a local business
30 tax receipt to engage for hire in the business of a wrecker
31 company must exhibit a current registration certificate from

1 the department before the local business tax receipt may be
2 issued or reissued under chapter 205.

3 (3) This section does not apply to a motor vehicle
4 repair shop registered with the department under s. 559.904
5 that derives at least 80 percent of its gross sales from motor
6 vehicle repairs or to any franchised motor vehicle dealer
7 licensed pursuant to s. 320.27 when wrecker services are
8 incidental to the operation of the franchise.

9 (4) This section does not apply to a wrecker used
10 solely for a repossession or recovery business or used by an
11 independent automobile dealer solely for the purpose of towing
12 vehicles owned by the dealer or transported to new owners. The
13 words "NOT FOR HIRE" shall be prominently displayed on the
14 door of such wrecker.

15 Section 4. Effective July 1, 2008, section 508.116,
16 Florida Statutes, is created to read:

17 508.116 Criminal penalties.--A person who violates s.
18 508.104(1) by operating a wrecker company in this state
19 without being registered with the department under this
20 chapter commits a felony of the third degree, punishable as
21 provided in s. 775.082, s. 775.083, or s. 775.084.

22 Section 5. Effective January 1, 2008, paragraph (b) of
23 subsection (8) of section 120.80, Florida Statutes, is amended
24 to read:

25 120.80 Exceptions and special requirements;
26 agencies.--

27 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

28 (b) Wrecker companies ~~operators~~.--Notwithstanding s.
29 120.57(1)(a), hearings held by the Division of the Florida
30 Highway Patrol of the Department of Highway Safety and Motor
31 Vehicles to deny, suspend, or remove a wrecker company

1 ~~operator~~ from participating in the wrecker allocation rotation
2 system established under ~~by~~ s. 321.051 need not be conducted
3 by an administrative law judge assigned by the division. These
4 hearings shall be held by a hearing officer appointed by the
5 director of the Division of the Florida Highway Patrol.

6 Section 6. Effective January 1, 2008, section
7 205.1977, Florida Statutes, is created to read:

8 205.1977 Wrecker companies; consumer protection.--A
9 county or municipality may not issue or renew a business tax
10 receipt for the operation of a wrecker company under chapter
11 508 unless the wrecker company exhibits a current registration
12 from the Department of Agriculture and Consumer Services.

13 Section 7. Subsection (3) of section 316.530, Florida
14 Statutes, is amended to read:

15 316.530 Towing requirements.--

16 (3) Whenever a motor vehicle becomes disabled upon the
17 highways of this state and a wrecker ~~or tow truck~~ is required
18 to remove it to a repair shop or other appropriate location,
19 if the combined weights of those two vehicles and the loads
20 thereon exceed the maximum allowable weights as established by
21 s. 316.535, no penalty shall be assessed either vehicle or
22 driver. However, this exception shall not apply to the load
23 limits for bridges and culverts established by the department
24 as provided in s. 316.555.

25 Section 8. Subsection (40) of section 320.01, Florida
26 Statutes, is amended to read:

27 320.01 Definitions, general.--As used in the Florida
28 Statutes, except as otherwise provided, the term:

29 (40) "Wrecker" means a tow truck or other ~~any~~ motor
30 vehicle that is used to tow, carry, or otherwise transport
31 ~~motor~~ vehicles or vessels upon the streets and highways of

1 this state and that is equipped for that purpose with a boom,
2 winch, car carrier, or other similar equipment.

3 Section 9. Effective January 1, 2008, subsection (8)
4 of section 320.03, Florida Statutes, is amended to read:

5 320.03 Registration; duties of tax collectors;
6 International Registration Plan.--

7 (8) If the applicant's name appears on the list
8 referred to in s. 316.1001(4), s. 316.1967(6), or s.
9 713.78(13), a license plate or revalidation sticker may not be
10 issued until that person's name no longer appears on the list
11 or until the person presents a receipt from the clerk showing
12 that the fines outstanding have been paid. This subsection
13 does not apply to the owner of a leased vehicle if the vehicle
14 is registered in the name of the lessee of the vehicle. The
15 tax collector and the clerk of the court are each entitled to
16 receive monthly, as costs for implementing and administering
17 this subsection, 10 percent of the civil penalties and fines
18 recovered from such persons. As used in this subsection, the
19 term "civil penalties and fines" does not include a wrecker
20 company's ~~operator's~~ lien as described in s. 713.78(13). If
21 the tax collector has private tag agents, such tag agents are
22 entitled to receive a pro rata share of the amount paid to the
23 tax collector, based upon the percentage of license plates and
24 revalidation stickers issued by the tag agent compared to the
25 total issued within the county. The authority of any private
26 agent to issue license plates shall be revoked, after notice
27 and a hearing as provided in chapter 120, if he or she issues
28 any license plate or revalidation sticker contrary to the
29 provisions of this subsection. This section applies only to
30 the annual renewal in the owner's birth month of a motor
31 vehicle registration and does not apply to the transfer of a

1 registration of a motor vehicle sold by a motor vehicle dealer
2 licensed under this chapter, except for the transfer of
3 registrations which is inclusive of the annual renewals. This
4 section does not affect the issuance of the title to a motor
5 vehicle, notwithstanding s. 319.23(7)(b).

6 Section 10. Section 320.0706, Florida Statutes, is
7 amended to read:

8 320.0706 Display of license plates on trucks.--The
9 owner of any commercial truck of gross vehicle weight of
10 26,001 pounds or more shall display the registration license
11 plate on both the front and rear of the truck in conformance
12 with all the requirements of s. 316.605 that do not conflict
13 with this section. The owner of a dump truck may place the
14 rear license plate on the gate no higher than 60 inches to
15 allow for better visibility. However, the owner of a truck
16 tractor or a wrecker must ~~shall be required to~~ display the
17 registration license plate only on the front of such vehicle.

18 Section 11. Subsection (1) of section 320.0821,
19 Florida Statutes, is amended, and subsection (5) is added to
20 that section, to read:

21 320.0821 Wrecker license plates.--

22 (1) The department shall issue one ~~a~~ wrecker license
23 plate, regardless of gross vehicle weight, to the owner of any
24 motor vehicle that is used to tow, carry, or otherwise
25 transport ~~motor~~ vehicles or vessels upon the streets and
26 highways of this state and that is equipped for that purpose
27 with a boom, winch, carrier, or other similar equipment,
28 except a motor vehicle registered under the International
29 Registration Plan, upon application and payment of the
30 appropriate license tax and fees in accordance with s.
31 320.08(5)(d) or (e).

1 (5) A wrecker license plate must be displayed on the
2 front of such vehicle.

3 Section 12. Effective January 1, 2008, subsection (1)
4 of section 320.0821, Florida Statutes, as amended by this act,
5 is amended to read:

6 320.0821 Wrecker license plates.--

7 (1) The department shall issue one wrecker license
8 plate, regardless of gross vehicle weight, to the owner of a
9 wrecker ~~any motor vehicle that is used to tow, carry, or~~
10 ~~otherwise transport vehicles or vessels upon the streets and~~
11 ~~highways of this state and that is equipped for that purpose~~
12 ~~with a boom, winch, carrier, or other similar equipment,~~
13 ~~except a motor vehicle registered under the International~~
14 ~~Registration Plan,~~ upon application and payment of the
15 appropriate license tax and fees in accordance with s.
16 320.08(5)(d) or (e).

17 Section 13. Paragraph (a) of subsection (1) of section
18 320.13, Florida Statutes, is amended to read:

19 320.13 Dealer and manufacturer license plates and
20 alternative method of registration.--

21 (1)(a) Any licensed motor vehicle dealer and any
22 licensed mobile home dealer may, upon payment of the license
23 tax imposed by s. 320.08(12), secure one or more dealer
24 license plates, which are valid for use on motor vehicles or
25 mobile homes owned by the dealer to whom such plates are
26 issued while the motor vehicles are in inventory and for sale,
27 or while being operated in connection with such dealer's
28 business, but are not valid for use for hire. Dealer license
29 plates may not be used on any ~~tow truck or~~ wrecker as defined
30 in s. 320.01 unless the ~~tow truck or~~ wrecker is being
31 demonstrated for sale, and the dealer license plates may not

1 | be used on a vehicle used to transport another motor vehicle
2 | for the motor vehicle dealer.

3 | Section 14. For the purpose of incorporating the
4 | amendment made by this act to section 320.01, Florida
5 | Statutes, in references thereto, paragraph (a) of subsection
6 | (4) and subsection (9) of section 316.550, Florida Statutes,
7 | are reenacted to read:

8 | 316.550 Operations not in conformity with law; special
9 | permits.--

10 | (4)(a) The Department of Transportation may issue a
11 | wrecker special blanket permit to authorize a wrecker as
12 | defined in s. 320.01(40) to tow a disabled vehicle as defined
13 | in s. 320.01(38) where the combination of the wrecker and the
14 | disabled vehicle being towed exceeds the maximum weight limits
15 | as established by s. 316.535.

16 | (9) Whenever any motor vehicle, or the combination of
17 | a wrecker as defined in s. 320.01(40) and a towed motor
18 | vehicle, exceeds any weight or dimensional criteria or special
19 | operational or safety stipulation contained in a special
20 | permit issued under the provisions of this section, the
21 | penalty assessed to the owner or operator shall be as follows:

22 | (a) For violation of weight criteria contained in a
23 | special permit, the penalty per pound or portion thereof
24 | exceeding the permitted weight shall be as provided in s.
25 | 316.545.

26 | (b) For each violation of dimensional criteria in a
27 | special permit, the penalty shall be as provided in s. 316.516
28 | and penalties for multiple violations of dimensional criteria
29 | shall be cumulative except that the total penalty for the
30 | vehicle shall not exceed \$1,000.

31 |

1 (c) For each violation of an operational or safety
2 stipulation in a special permit, the penalty shall be an
3 amount not to exceed \$1,000 per violation and penalties for
4 multiple violations of operational or safety stipulations
5 shall be cumulative except that the total penalty for the
6 vehicle shall not exceed \$1,000.

7 (d) For violation of any special condition that has
8 been prescribed in the rules of the Department of
9 Transportation and declared on the permit, the vehicle shall
10 be determined to be out of conformance with the permit and the
11 permit shall be declared null and void for the vehicle, and
12 weight and dimensional limits for the vehicle shall be as
13 established in s. 316.515 or s. 316.535, whichever is
14 applicable, and:

15 1. For weight violations, a penalty as provided in s.
16 316.545 shall be assessed for those weights which exceed the
17 limits thus established for the vehicle; and

18 2. For dimensional, operational, or safety violations,
19 a penalty as established in paragraph (c) or s. 316.516,
20 whichever is applicable, shall be assessed for each
21 nonconforming dimensional, operational, or safety violation
22 and the penalties for multiple violations shall be cumulative
23 for the vehicle.

24 Section 15. For the purpose of incorporating the
25 amendment made by this act to section 320.01, Florida
26 Statutes, in references thereto, paragraphs (d) and (e) of
27 subsection (5) of section 320.08, Florida Statutes, are
28 reenacted to read:

29 320.08 License taxes.--Except as otherwise provided
30 herein, there are hereby levied and imposed annual license
31 taxes for the operation of motor vehicles, mopeds, motorized

1 bicycles as defined in s. 316.003(2), and mobile homes, as
2 defined in s. 320.01, which shall be paid to and collected by
3 the department or its agent upon the registration or renewal
4 of registration of the following:

5 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE
6 WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

7 (d) A wrecker, as defined in s. 320.01(40), which is
8 used to tow a vessel as defined in s. 327.02(39), a disabled,
9 abandoned, stolen-recovered, or impounded motor vehicle as
10 defined in s. 320.01(38), or a replacement motor vehicle as
11 defined in s. 320.01(39): \$30 flat.

12 (e) A wrecker, as defined in s. 320.01(40), which is
13 used to tow any motor vehicle, regardless of whether or not
14 such motor vehicle is a disabled motor vehicle as defined in
15 s. 320.01(38), a replacement motor vehicle as defined in s.
16 320.01(39), a vessel as defined in s. 327.02(39), or any other
17 cargo, as follows:

18 1. Gross vehicle weight of 10,000 pounds or more, but
19 less than 15,000 pounds: \$87 flat.

20 2. Gross vehicle weight of 15,000 pounds or more, but
21 less than 20,000 pounds: \$131 flat.

22 3. Gross vehicle weight of 20,000 pounds or more, but
23 less than 26,000 pounds: \$186 flat.

24 4. Gross vehicle weight of 26,000 pounds or more, but
25 less than 35,000 pounds: \$240 flat.

26 5. Gross vehicle weight of 35,000 pounds or more, but
27 less than 44,000 pounds: \$300 flat.

28 6. Gross vehicle weight of 44,000 pounds or more, but
29 less than 55,000 pounds: \$572 flat.

30 7. Gross vehicle weight of 55,000 pounds or more, but
31 less than 62,000 pounds: \$678 flat.

1 8. Gross vehicle weight of 62,000 pounds or more, but
2 less than 72,000 pounds: \$800 flat.

3 9. Gross vehicle weight of 72,000 pounds or more: \$979
4 flat.

5 Section 16. Effective January 1, 2008, section
6 321.051, Florida Statutes, is amended to read:

7 (Substantial rewording of section. See
8 s. 321.051, F.S., for present text.)

9 321.051 Florida Highway Patrol wrecker allocation
10 system; penalties for operation outside of system.--

11 (1) As used in this section, the term:

12 (a) "Authorized wrecker company" means a wrecker
13 company designated by the division as part of its wrecker
14 allocation system.

15 (b) "Division" means the Division of the Florida
16 Highway Patrol within the Department of Highway Safety and
17 Motor Vehicles.

18 (c) "Unauthorized wrecker company" means a wrecker
19 company not designated by the division as part of its wrecker
20 allocation system.

21 (d) "Wrecker company" has the same meaning ascribed in
22 s. 508.101.

23 (e) "Wrecker operator" has the same meaning ascribed
24 in s. 508.101.

25 (f) "Wrecker services" has the same meaning ascribed
26 in s. 508.101.

27 (2)(a) The division may establish within areas
28 designated by the division a wrecker allocation system, using
29 qualified, reputable wrecker companies, for the removal from
30 crash scenes and the storage of wrecked or disabled vehicles
31 when the owner or operator is incapacitated or unavailable or

1 leaves the procurement of wrecker services to the officer at
2 the scene and for the removal and storage of abandoned
3 vehicles.

4 (b) The wrecker allocation system may use only wrecker
5 companies registered under chapter 508. Each reputable wrecker
6 company registered under chapter 508 is eligible for use in
7 the system if its equipment and wrecker operators meet the
8 recognized safety qualifications and mechanical standards set
9 by the division's rules for the size of vehicle they are
10 designed to handle. The division may limit the number of
11 wrecker companies participating in the wrecker allocation
12 system.

13 (c) The division may establish maximum rates for the
14 towing and storage of vehicles removed at the division's
15 request if those rates are not established by a county or
16 municipality under s. 125.0103 or s. 166.043. These rates are
17 not rules for the purpose of chapter 120; however, the
18 Department of Highway Safety and Motor Vehicles shall adopt
19 rules prescribing the procedures for setting these rates.

20 (d) Notwithstanding chapter 120, a final order of the
21 Department of Highway Safety and Motor Vehicles denying,
22 suspending, or revoking a wrecker company's participation in
23 the wrecker allocation system may be appealed only in the
24 manner and within the time provided by the Florida Rules of
25 Appellate Procedure by a writ of certiorari issued by the
26 circuit court in the county in which the wrecker company's
27 primary place of business is located, as evidenced by the
28 wrecker company's registration under chapter 508.

29 (3)(a) An unauthorized wrecker company, its wrecker
30 operators, or its other employees or agents may not monitor a
31 police radio for communications between patrol field units and

1 the dispatcher in order to determine the location of a wrecked
2 or disabled vehicle for the purpose of dispatching its wrecker
3 operator to drive by the scene of the vehicle in a manner
4 described in paragraph (b) or paragraph (c). Any person who
5 violates this paragraph commits a noncriminal violation,
6 punishable as provided in s. 775.083.

7 (b) Except as provided in paragraph (c), a wrecker
8 operator dispatched by an unauthorized wrecker company who
9 drives by the scene of a wrecked or disabled vehicle before
10 the arrival of the wrecker operator dispatched by the
11 authorized wrecker company may not initiate contact with the
12 owner or operator of the vehicle by soliciting or offering
13 wrecker services or tow the vehicle. Any person who violates
14 this paragraph commits a misdemeanor of the second degree,
15 punishable as provided in s. 775.082 or s. 775.083.

16 (c) When a wrecker operator dispatched by an
17 unauthorized wrecker company drives by the scene of a wrecked
18 or disabled vehicle and the owner or operator initiates
19 contact by signaling the wrecker operator to stop and provide
20 wrecker services, the wrecker operator must disclose to the
21 owner or operator of the vehicle that he or she was not
22 dispatched by the authorized wrecker company designated as
23 part of the wrecker allocation system and must disclose, in
24 writing, what charges for towing and storage will apply before
25 the vehicle is connected to the towing apparatus. Any person
26 who violates this paragraph commits a misdemeanor of the
27 second degree, punishable as provided in s. 775.082 or s.
28 775.083.

29 (d) A wrecker operator may not falsely identify
30 himself or herself as being part of, or as being employed by a
31 wrecker company that is part of, the wrecker allocation system

1 at the scene of a wrecked or disabled vehicle. Any person who
2 violates this paragraph commits a misdemeanor of the first
3 degree, punishable as provided in s. 775.082 or s. 775.083.

4 (4) This section does not prohibit or in any way
5 prevent the owner or operator of a vehicle involved in a crash
6 or otherwise disabled from contacting any wrecker company for
7 the provision of wrecker services, regardless of whether the
8 wrecker company is an authorized wrecker company. However, if
9 a law enforcement officer determines that the disabled vehicle
10 or vehicle cargo is a public safety hazard, the officer may,
11 in the interest of public safety, dispatch an authorized
12 wrecker company if the officer believes that the authorized
13 wrecker company would arrive at the scene before the wrecker
14 company requested by the owner or operator of the disabled
15 vehicle or vehicle cargo.

16 (5) A law enforcement officer may dispatch an
17 authorized wrecker company out of rotation to the scene of a
18 wrecked or disabled vehicle if the authorized wrecker company
19 next on rotation is not equipped to provide the required
20 wrecker services and the out-of-rotation authorized wrecker
21 company is available with the required equipment. However,
22 this subsection does not prohibit or prevent the owner or
23 operator of a vehicle involved in a crash or otherwise
24 disabled from contacting any wrecker company that is properly
25 equipped to provide the required wrecker services, regardless
26 of whether the wrecker company is an authorized wrecker
27 company, unless the law enforcement officer determines that
28 the wrecked or disabled vehicle or vehicle cargo is a public
29 safety hazard and the officer believes that the authorized
30 wrecker company would arrive at the scene before the wrecker
31 company requested by the owner or operator.

1 Section 17. Effective January 1, 2008, section
2 323.001, Florida Statutes, is amended to read:

3 (Substantial rewording of section. See
4 s. 323.001, F.S., for present text.)

5 323.001 Wrecker company storage facilities; vehicle
6 holds.--

7 (1) As used in this section, the term:

8 (a) "Business day" means a day other than a Saturday,
9 Sunday, or federal or state legal holiday.

10 (b) "Wrecker company" has the same meaning ascribed in
11 s. 508.101.

12 (2) A law enforcement agency may place a hold on a
13 motor vehicle stored within a wrecker company's storage
14 facility for 5 business days, thereby preventing a motor
15 vehicle from being released to its owner.

16 (3) To extend a hold beyond 5 business days, the law
17 enforcement agency must notify the wrecker company in writing
18 before the expiration of the 5 business days. If notification
19 is not made within the 5 business days, the wrecker company
20 must release the vehicle to the designated person under s.
21 713.78.

22 (a) If the hold is extended beyond the 5 business
23 days, the law enforcement agency may have the vehicle removed
24 to a designated impound lot and the vehicle may not be
25 released by the law enforcement agency to the owner or
26 lienholder of the vehicle until proof of payment of the towing
27 and storage charges incurred by the wrecker company is
28 presented to the law enforcement agency.

29 (b) If the law enforcement agency chooses to have the
30 vehicle remain at the wrecker company's storage facility for
31 more than 5 business days under the written notification, the

1 law enforcement agency is responsible for paying the storage
2 charges incurred by the wrecker company for the requested
3 extended period. The owner or lienholder is responsible for
4 paying the accrued towing and storage charges for the first 5
5 business days, or any period less than the first 5 business
6 days, if the law enforcement agency moves the vehicle from the
7 wrecker company's storage facility to a designated impound lot
8 or provides written notification to extend the hold on the
9 vehicle before the expiration of the 5 business days.

10 (c) The towing and storage rates for the owner or
11 lienholder of the held vehicle may not exceed the rates for
12 the law enforcement agency.

13 (4) If there is a judicial finding of no probable
14 cause for having continued the immobilization or impoundment,
15 the law enforcement agency ordering the hold must pay the
16 accrued charges for any towing and storage.

17 (5) The requirements for a written hold apply when:

18 (a) The law enforcement officer has probable cause to
19 believe that the vehicle should be seized and forfeited under
20 the Florida Contraband Forfeiture Act, ss. 932.701-932.707;

21 (b) The law enforcement officer has probable cause to
22 believe that the vehicle should be seized and forfeited under
23 chapter 370 or chapter 372;

24 (c) The law enforcement officer has probable cause to
25 believe that the vehicle was used as a means to commit a
26 crime;

27 (d) The law enforcement officer has probable cause to
28 believe that the vehicle is itself evidence that a crime has
29 been committed or that the vehicle contains evidence, which
30 cannot readily be removed, that a crime has been committed;
31

1 (e) The law enforcement officer has probable cause to
2 believe that the vehicle was involved in a traffic accident
3 resulting in death or personal injury and should be sealed for
4 investigation and collection of evidence by a vehicular
5 homicide investigator;

6 (f) The vehicle is impounded or immobilized under s.
7 316.193 or s. 322.34; or

8 (g) The law enforcement officer is complying with a
9 court order.

10 (6) The hold must be in writing and must specify:

11 (a) The name and agency of the law enforcement officer
12 placing the hold on the vehicle.

13 (b) The date and time the hold is placed on the
14 vehicle.

15 (c) A general description of the vehicle, including
16 its color, make, model, body style, and year; vehicle
17 identification number; registration license plate number,
18 state, and year; and validation sticker number, state, and
19 year.

20 (d) The specific reason for placing the hold.

21 (e) The condition of the vehicle.

22 (f) The location where the vehicle is being held.

23 (g) The name, address, and telephone number of the
24 wrecker company and the storage facility.

25 (7) A wrecker company's storage facility must comply
26 with a hold placed by a law enforcement officer, including
27 instructions for inside or outside storage. A wrecker
28 company's storage facility may not release a motor vehicle
29 subject to a hold to any person except as directed by the law
30 enforcement agency placing the hold.

31

1 (8) When a vehicle owner is found guilty of,
2 regardless of adjudication, or pleads nolo contendere to, the
3 offense that resulted in a hold being placed on his or her
4 vehicle, the owner must pay the accrued towing and storage
5 charges assessed against the vehicle.

6 Section 18. Effective January 1, 2008, section
7 323.002, Florida Statutes, is amended to read:

8 (Substantial rewording of section. See
9 s. 323.002, F.S., for present text.)

10 323.002 County and municipal wrecker allocation
11 systems; penalties for operation outside of system.--

12 (1) As used in this section, the term:

13 (a) "Authorized wrecker company" means a wrecker
14 company designated as part of the wrecker allocation system
15 established by the governmental unit having jurisdiction over
16 the scene of a wrecked, disabled, or abandoned vehicle.

17 (b) "Unauthorized wrecker company" means a wrecker
18 company not designated as part of the wrecker allocation
19 system established by the governmental unit having
20 jurisdiction over the scene of a wrecked, disabled, or
21 abandoned vehicle.

22 (c) "Wrecker allocation system" means a system for the
23 towing or removal of wrecked, disabled, or abandoned vehicles,
24 similar to the Florida Highway Patrol wrecker allocation
25 system described in s. 321.051(2), under which a county or
26 municipality contracts with one or more wrecker companies
27 registered under chapter 508 for the towing or removal of
28 wrecked, disabled, or abandoned vehicles from accident scenes,
29 streets, or highways. Each wrecker allocation system must use
30 a method for apportioning the towing assignments among the
31 eligible wrecker companies through the creation of geographic

1 zones or a rotation schedule or a combination of geographic
2 zones and a rotation schedule.

3 (d) "Wrecker company" has the same meaning ascribed in
4 s. 508.101.

5 (e) "Wrecker operator" has the same meaning ascribed
6 in s. 508.101.

7 (f) "Wrecker services" has the same meaning ascribed
8 in s. 508.101.

9 (2) In a county or municipality that operates a
10 wrecker allocation system:

11 (a) The wrecker allocation system may only use wrecker
12 companies registered under chapter 508.

13 (b) An unauthorized wrecker company, its wrecker
14 operators, or its other employees or agents may not monitor a
15 police radio for communications between patrol field units and
16 the dispatcher in order to determine the location of a wrecked
17 or disabled vehicle for the purpose of dispatching its wrecker
18 operator to drive by the scene of the vehicle in a manner
19 described in paragraph (c) or paragraph (d). Any person who
20 violates this paragraph commits a noncriminal violation,
21 punishable as provided in s. 775.083.

22 (c) Except as provided in paragraph (d), a wrecker
23 operator dispatched by an unauthorized wrecker company who
24 drives by the scene of a wrecked or disabled vehicle before
25 the arrival of the wrecker operator dispatched by the
26 authorized wrecker company may not initiate contact with the
27 owner or operator of the vehicle by soliciting or offering
28 wrecker services or tow the vehicle. Any person who violates
29 this paragraph commits a misdemeanor of the second degree,
30 punishable as provided in s. 775.082 or s. 775.083.

31

1 (d) When a wrecker operator dispatched by an
2 unauthorized wrecker company drives by the scene of a wrecked
3 or disabled vehicle and the owner or operator initiates
4 contact by signaling the wrecker operator to stop and provide
5 wrecker services, the wrecker operator must disclose to the
6 owner or operator of the vehicle that he or she was not
7 dispatched by the authorized wrecker company designated as
8 part of the wrecker allocation system and must disclose, in
9 writing, what charges for towing and storage will apply before
10 the vehicle is connected to the towing apparatus. Any person
11 who violates this paragraph commits a misdemeanor of the
12 second degree, punishable as provided in s. 775.082 or s.
13 775.083.

14 (e) A wrecker operator may not falsely identify
15 himself or herself as being part of, or as being employed by a
16 wrecker company that is part of, the wrecker allocation system
17 at the scene of a wrecked or disabled vehicle. Any person who
18 violates this paragraph commits a misdemeanor of the first
19 degree, punishable as provided in s. 775.082 or s. 775.083.

20 (3) This section does not prohibit or in any way
21 prevent the owner or operator of a vehicle involved in a crash
22 or otherwise disabled from contacting any wrecker company for
23 the provision of wrecker services, regardless of whether the
24 wrecker company is an authorized wrecker company. If a law
25 enforcement officer determines that the disabled vehicle or
26 vehicle cargo is a public safety hazard, the officer may, in
27 the interest of public safety, dispatch an authorized wrecker
28 company if the officer believes that the authorized wrecker
29 company would arrive at the scene before the wrecker company
30 requested by the owner or operator of the disabled vehicle or
31 vehicle cargo.

1 (4) A law enforcement officer may dispatch an
2 authorized wrecker company out of rotation to the scene of a
3 wrecked or disabled vehicle if the authorized wrecker company
4 next on rotation is not equipped to provide the required
5 wrecker services and the out-of-rotation authorized wrecker
6 company is available with the required equipment. However,
7 this subsection does not prohibit or prevent the owner or
8 operator of a vehicle involved in a crash or otherwise
9 disabled from contacting any wrecker company that is properly
10 equipped to provide the required wrecker services, regardless
11 of whether the wrecker company is an authorized wrecker
12 company, unless the law enforcement officer determines that
13 the wrecked or disabled vehicle or vehicle cargo is a public
14 safety hazard and the officer believes that the authorized
15 wrecker company would arrive at the scene before the wrecker
16 company requested by the owner or operator.

17 Section 19. Effective January 1, 2008, section 713.78,
18 Florida Statutes, is amended to read:

19 713.78 Liens for recovering, towing, or storing
20 vehicles and vessels.--

21 (1) As used in ~~For the purposes of~~ this section, the
22 term:

23 (a) "Business day" means a day other than a Saturday,
24 Sunday, or federal or state legal holiday.

25 (b) "Property owner" has the same meaning ascribed in
26 s. 715.07.

27 (c)~~(a)~~ "Vehicle" has the same meaning ascribed in s.
28 508.101 ~~means any mobile item, whether motorized or not, which~~
29 ~~is mounted on wheels.~~

30 (d)~~(b)~~ "Vessel" has the same meaning ascribed in s.
31 508.101 ~~means every description of watercraft, barge, and~~

1 ~~airboat used or capable of being used as a means of~~
2 ~~transportation on water, other than a seaplane or a~~
3 ~~"documented vessel" as defined in s. 327.02(9).~~

4 (e)(c) "Wrecker" has the same meaning ascribed in s.
5 320.01 ~~means any truck or other vehicle which is used to tow,~~
6 ~~carry, or otherwise transport motor vehicles or vessels upon~~
7 ~~the streets and highways of this state and which is equipped~~
8 ~~for that purpose with a boom, winch, car carrier, or other~~
9 ~~similar equipment.~~

10 (f) "Wrecker company" has the same meaning ascribed in
11 s. 508.101.

12 (g) "Wrecker operator" has the same meaning ascribed
13 in s. 508.101.

14 (2) Whenever a wrecker company registered under
15 chapter 508 ~~person regularly engaged in the business of~~
16 ~~transporting vehicles or vessels by wrecker, tow truck, or car~~
17 ~~carrier~~ recovers, removes, or stores a vehicle or vessel upon
18 instructions from:

19 (a) The owner of the vehicle or vessel thereof;

20 (b) The property owner or lessor, or a person
21 ~~authorized by the owner or lessor,~~ of real property on which
22 ~~the such~~ vehicle or vessel is ~~wrongfully~~ parked without
23 permission, and the removal is done in compliance with s.
24 715.07; or

25 (c) Any law enforcement agency,

26
27 the wrecker company has ~~she or he shall have~~ a lien on the
28 vehicle or vessel for a reasonable towing fee and for a
29 reasonable storage fee, ~~+~~ except that no storage fee shall be
30 charged if the vehicle or vessel is stored ~~for~~ less than 6
31 hours.

1 (3) This section does not authorize any person to
2 claim a lien on a vehicle for fees or charges connected with
3 the immobilization of ~~the such~~ vehicle using a vehicle boot or
4 other similar device under ~~pursuant to~~ s. 715.07.

5 (4)(a) Any wrecker company that ~~person regularly~~
6 ~~engaged in the business of recovering, towing, or storing~~
7 ~~vehicles or vessels who~~ comes into possession of a vehicle or
8 vessel under ~~pursuant to~~ subsection (2),⁷ and ~~who~~ claims a lien
9 for recovery, towing, or storage services,⁷ shall give notice
10 to the registered owner, the insurance company insuring the
11 vehicle notwithstanding ~~the provisions of~~ s. 627.736, and ~~to~~
12 all persons claiming a lien on the vehicle or vessel thereon,
13 as disclosed by the records in the Department of Highway
14 Safety and Motor Vehicles or of a corresponding agency in any
15 other state.

16 (b) Whenever a ~~any~~ law enforcement agency authorizes
17 the removal of a vehicle or vessel or whenever a wrecker
18 company ~~any towing service, garage, repair shop, or automotive~~
19 ~~service, storage, or parking place~~ notifies the law
20 enforcement agency of possession of a vehicle or vessel under
21 ~~pursuant to~~ s. 715.07(2)(a)2., the applicable law enforcement
22 agency shall contact the Department of Highway Safety and
23 Motor Vehicles, or the appropriate agency of the state of
24 registration, if known, within 24 hours through the medium of
25 electronic communications, giving the full description of the
26 vehicle or vessel. Upon receipt of the full description of the
27 vehicle or vessel, the department shall search its files to
28 determine the owner's name, the insurance company insuring the
29 vehicle or vessel, and whether any person has filed a lien
30 upon the vehicle or vessel as provided in s. 319.27(2) and (3)
31 and notify the applicable law enforcement agency within 72

1 | hours. The wrecker company ~~person in charge of the towing~~
2 | ~~service, garage, repair shop, or automotive service, storage,~~
3 | ~~or parking place~~ shall obtain that ~~such~~ information from the
4 | applicable law enforcement agency within 5 days after the date
5 | of storage and shall give notice under ~~pursuant to~~ paragraph
6 | (a). The department may release the insurance company
7 | information to the requestor notwithstanding ~~the provisions of~~
8 | s. 627.736.

9 | (c) Notice by certified mail, ~~return receipt~~
10 | ~~requested,~~ shall be sent within 7 business days after the date
11 | of storage of the vehicle or vessel to the registered owner,
12 | the insurance company insuring the vehicle notwithstanding ~~the~~
13 | ~~provisions of~~ s. 627.736, and all persons of record claiming a
14 | lien against the vehicle or vessel. The notice ~~it~~ shall state
15 | the fact of possession of the vehicle or vessel and, that a
16 | lien as provided in subsection (2) is claimed, that charges
17 | have accrued and the amount of the charges ~~thereof,~~ that the
18 | lien is subject to enforcement under ~~pursuant to~~ law, ~~and~~ that
19 | the owner or lienholder, if any, has the right to a hearing as
20 | set forth in subsection (5), and that any vehicle or vessel
21 | that ~~which~~ remains unclaimed, or for which the charges for
22 | recovery, towing, or storage services remain unpaid, may be
23 | sold free of all prior liens after 35 days if the vehicle or
24 | vessel is more than 3 years of age or after 50 days if the
25 | vehicle or vessel is 3 years of age or less.

26 | (d) If the wrecker company is unable ~~attempts~~ to
27 | identify ~~locate~~ the name and address of the owner or
28 | lienholder ~~prove unsuccessful,~~ the wrecker company
29 | ~~towing storage operator~~ shall, after 7 business working days
30 | following, ~~excluding Saturday and Sunday,~~ of the initial tow
31 | or storage, notify the public agency of jurisdiction in

1 writing by certified mail or acknowledged hand delivery that
2 the wrecker ~~towing storage~~ company has been unable to identify
3 ~~locate~~ the name and address of the owner or lienholder, and a
4 physical search of the vehicle or vessel has disclosed no
5 ownership information, and a good faith effort has been made.
6 For purposes of this paragraph and subsection (9), the term
7 "good faith effort" means that the following checks have been
8 performed by the wrecker company to establish prior state of
9 registration and for title:

- 10 1. Check of vehicle or vessel for any type of tag, tag
11 record, temporary tag, or regular tag.
- 12 2. Check of law enforcement report for tag number or
13 other information identifying the vehicle or vessel, if the
14 vehicle or vessel was towed at the request of a law
15 enforcement officer.
- 16 3. Check of trip sheet or tow ticket of the wrecker
17 ~~tow truck~~ operator to see if a tag was on vehicle or vessel at
18 beginning of tow, if private tow.
- 19 4. If there is no address of the owner on the impound
20 report, check of law enforcement report to see if an
21 out-of-state address is indicated from driver license
22 information.
- 23 5. Check of vehicle or vessel for inspection sticker
24 or other stickers and decals that may indicate a state of
25 possible registration.
- 26 6. Check of the interior of the vehicle or vessel for
27 any papers that may be in the glove box, trunk, or other areas
28 for a state of registration.
- 29 7. Check of vehicle for vehicle identification number.
- 30 8. Check of vessel for vessel registration number.
- 31

1 9. Check of vessel hull for a hull identification
2 number, which should be carved, burned, stamped, embossed, or
3 otherwise permanently affixed to the outboard side of the
4 transom or, if there is no transom, to the outmost seaboard
5 side at the end of the hull that bears the rudder or other
6 steering mechanism.

7 (5)(a) The owner of a vehicle or vessel removed under
8 ~~pursuant to the provisions of~~ subsection (2), or any person
9 claiming a lien, other than the wrecker company towing storage
10 ~~operator~~, within 10 days after the time she or he has
11 knowledge of the location of the vehicle or vessel, may file a
12 complaint in the county court of the county in which the
13 vehicle or vessel is stored or in which the owner resides to
14 determine if her or his property was wrongfully taken or
15 withheld from her or him.

16 (b) Upon filing of a complaint, an owner or lienholder
17 may have her or his vehicle or vessel released upon posting
18 with the court a cash or surety bond or other adequate
19 security equal to the amount of the charges for towing or
20 storage and lot rental amount to ensure the payment of the
21 ~~such~~ charges in the event she or he does not prevail. Upon the
22 posting of the bond and the payment of the applicable fee set
23 forth in s. 28.24, the clerk of the court shall issue a
24 certificate notifying the lienor of the posting of the bond
25 and directing the lienor to release the vehicle or vessel. At
26 the time of the ~~such~~ release, after reasonable inspection, she
27 or he shall give a receipt to the wrecker towing storage
28 company reciting any claims she or he has for loss or damage
29 to the vehicle or vessel or to the contents of the vehicle or
30 vessel thereof.

1 (c) Upon determining the respective rights of the
2 parties, the court ~~shall may~~ award damages, reasonable
3 attorney's fees, and costs ~~to in favor of~~ the prevailing
4 party. ~~In any event,~~ The final order shall require ~~provide for~~
5 immediate payment in full of the recovery, towing, and storage
6 fees by the vehicle or vessel owner or lienholder, ~~+~~ by ~~or~~ the
7 law enforcement agency ordering the tow, ~~+~~ or by the property
8 owner, ~~lessee, or agent thereof~~ of the real property from
9 which the vehicle or vessel was towed or removed under s.
10 715.07.

11 (6) Any vehicle or vessel ~~that which~~ is stored under
12 ~~pursuant to~~ subsection (2) and ~~which~~ remains unclaimed, or for
13 which reasonable charges for recovery, towing, or storing
14 remain unpaid, and any contents not released under ~~pursuant to~~
15 subsection (10), ~~+~~ may be sold by the wrecker company ~~owner or~~
16 ~~operator of the storage space~~ for the such towing or storage
17 charge ~~after~~ 35 days after ~~from the time~~ the vehicle or vessel
18 is stored in the wrecker company's storage facility therein if
19 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
20 days after ~~following the time~~ the vehicle or vessel is stored
21 in the wrecker company's storage facility therein if the
22 vehicle or vessel is 3 years of age or less. The sale shall be
23 at public auction for cash. If the date of the sale ~~is was~~ not
24 included in the notice required in subsection (4), notice of
25 the sale shall be given to the person in whose name the
26 vehicle or vessel is registered and to all persons claiming a
27 lien on the vehicle or vessel as shown on the records of the
28 Department of Highway Safety and Motor Vehicles or of the
29 corresponding agency in any other state. Notice shall be sent
30 by certified mail, ~~return receipt requested,~~ to the owner of
31 the vehicle or vessel and the person having the recorded lien

1 on the vehicle or vessel at the address shown on the records
2 of the registering agency and shall be mailed at least ~~not~~
3 ~~less than~~ 15 days before the date of the sale. After diligent
4 search and inquiry, if the name and address of the registered
5 owner or the owner of the recorded lien cannot be ascertained,
6 the requirements of notice by mail may be dispensed with. In
7 addition to the notice by mail, public notice of the time and
8 place of sale shall be made by publishing a notice of the sale
9 ~~thereof~~ one time, at least 10 days prior to the date of the
10 sale, in a newspaper of general circulation in the county in
11 which the sale is to be held. The proceeds of the sale, after
12 payment of reasonable towing and storage charges~~,~~ and costs of
13 the sale, in that order of priority, shall be deposited with
14 the clerk of the circuit court for the county if the owner is
15 absent, and the clerk shall hold the ~~such~~ proceeds subject to
16 the claim of the person legally entitled to those proceeds
17 ~~thereto~~. The clerk shall be entitled to receive 5 percent of
18 the ~~such~~ proceeds for the care and disbursement of the
19 proceeds ~~thereof~~. The certificate of title issued under this
20 section ~~law~~ shall be discharged of all liens unless otherwise
21 provided by court order.

22 (7)(a) A wrecker company, its wrecker operators, and
23 other employees or agents of the wrecker company ~~operator~~
24 recovering, towing, or storing vehicles or vessels are ~~is~~ not
25 liable for damages connected with those ~~such~~ services, theft
26 of the ~~such~~ vehicles or vessels, or theft of personal property
27 contained in the ~~such~~ vehicles or vessels if those, ~~provided~~
28 ~~that such services are~~ are ~~have been~~ performed with reasonable
29 care and ~~provided, further, that,~~ in the case of removal of a
30 vehicle or vessel upon the request of a person purporting~~,~~ and
31 reasonably appearing~~,~~ to be the property owner ~~or lessee, or a~~

1 ~~person authorized by the owner or lessee,~~ of the real property
2 from which ~~the such~~ vehicle or vessel is removed, ~~the such~~
3 removal ~~is has been~~ done in compliance with s. 715.07.
4 Further, a wrecker company, its wrecker operators, and other
5 employees or agents of the wrecker company are ~~operator is~~ not
6 liable for damage to a vehicle, a vessel, or cargo that
7 obstructs the normal movement of traffic or creates a hazard
8 to traffic and is removed in compliance with the request of a
9 law enforcement officer.

10 (b) For the purposes of this subsection, a wrecker
11 company, its wrecker operators, and other employees or agents
12 of the wrecker company are ~~operator is~~ presumed to use
13 reasonable care to prevent the theft of a vehicle or vessel or
14 of any personal property contained in ~~the such~~ vehicle or
15 vessel stored in the wrecker company's ~~operator's~~ storage
16 facility if all of the following apply:

17 1. The wrecker company ~~operator~~ surrounds the storage
18 facility with a chain-link or solid-wall type fence at least 6
19 feet in height;

20 2. The wrecker company illuminates ~~operator has~~
21 ~~illuminated~~ the storage facility with lighting of sufficient
22 intensity to reveal persons and vehicles at a distance of at
23 least 150 feet during nighttime; and

24 3. The wrecker company ~~operator~~ uses one or more of
25 the following security methods to discourage theft of vehicles
26 or vessels or of any personal property contained in such
27 vehicles or vessels stored in the wrecker company's ~~operator's~~
28 storage facility:

29 a. A night dispatcher or watchman remains on duty at
30 the storage facility from sunset to sunrise;

31

1 b. A security dog remains at the storage facility from
2 sunset to sunrise;

3 c. Security cameras or other similar surveillance
4 devices monitor the storage facility; or

5 d. A security guard service examines the storage
6 facility at least once each hour from sunset to sunrise.

7 (c) Any law enforcement agency requesting that a motor
8 vehicle be removed from an accident scene, street, or highway
9 must conduct an inventory and prepare a written record of all
10 personal property found in the vehicle before the vehicle is
11 removed by a wrecker operator. However, if the owner or driver
12 of the motor vehicle is present and accompanies the vehicle,
13 ~~an~~ no inventory by law enforcement is not required. A wrecker
14 company, its wrecker operators, and other employees or agents
15 of the wrecker company are ~~operator is~~ not liable for the loss
16 of personal property alleged to be contained in ~~such~~ a vehicle
17 when the ~~such~~ personal property was not identified on the
18 inventory record prepared by the law enforcement agency
19 requesting the removal of the vehicle.

20 (8) A wrecker company and its wrecker operators,
21 excluding ~~person regularly engaged in the business of~~
22 ~~recovering, towing, or storing vehicles or vessels, except a~~
23 person licensed under chapter 493 while engaged in
24 "repossession" activities as defined in s. 493.6101, may not
25 operate a wrecker, ~~tow truck, or car carrier~~ unless the name,
26 address, and telephone number of the wrecker company
27 performing the wrecker services ~~service~~ is clearly printed in
28 contrasting colors on the driver and passenger sides of the
29 wrecker ~~its vehicle~~. The name must be in at least 3-inch
30 permanently affixed letters, and the address and telephone
31 number must be in at least 1-inch permanently affixed letters.

1 (9) Failure to make good faith, best efforts to comply
2 with the notice requirements of this section ~~precludes shall~~
3 ~~preclude~~ the imposition of any storage charges against the
4 ~~such~~ vehicle or vessel.

5 (10) Each wrecker company that provides ~~Persons who~~
6 ~~provide~~ services under ~~pursuant to~~ this section shall permit
7 vehicle or vessel owners or their agents, which agency is
8 evidenced by an original writing acknowledged by the owner
9 before a notary public or other person empowered by law to
10 administer oaths, to inspect the towed vehicle or vessel and
11 shall release to the owner or agent the vehicle, vessel, or
12 all personal property not affixed to the vehicle or vessel
13 that which was in the vehicle or vessel at the time the
14 vehicle or vessel came into the custody of the wrecker company
15 ~~person~~ providing those ~~such~~ services.

16 (11)(a) A wrecker company that ~~Any person regularly~~
17 ~~engaged in the business of recovering, towing, or storing~~
18 ~~vehicles or vessels who~~ comes into possession of a vehicle or
19 vessel pursuant to subsection (2) and complies who has
20 ~~complied with the provisions of~~ subsections (3) and (6), when
21 the such vehicle or vessel is to be sold for purposes of being
22 dismantled, destroyed, or changed in such a manner that it is
23 not the motor vehicle or vessel described in the certificate
24 of title, must shall apply to the county tax collector for a
25 certificate of destruction. A certificate of destruction,
26 which authorizes the dismantling or destruction of the vehicle
27 or vessel described on the certificate therein, is shall be
28 reassignable no more than twice a maximum of two times before
29 dismantling or destruction of the vehicle or vessel is shall
30 ~~be~~ required, and, in lieu of a certificate of title, the
31 certificate of destruction shall accompany the vehicle or

1 vessel for which it is issued, when the ~~such~~ vehicle or vessel
2 is sold for that purpose ~~such purposes, in lieu of a~~
3 ~~certificate of title~~. The application for a certificate of
4 destruction must include an affidavit from the applicant that
5 it has complied with all applicable requirements of this
6 section and, if the vehicle or vessel is not registered in
7 this state, by a statement from a law enforcement officer that
8 the vehicle or vessel is not reported stolen, and must also
9 ~~shall~~ be accompanied by any other ~~such~~ documentation ~~as may be~~
10 required by the department.

11 (b) The Department of Highway Safety and Motor
12 Vehicles shall charge a fee of \$3 for each certificate of
13 destruction. A service charge of \$4.25 shall be collected and
14 retained by the tax collector who processes the application.

15 (c) The Department of Highway Safety and Motor
16 Vehicles may adopt ~~such~~ rules to administer ~~as it deems~~
17 ~~necessary or proper for the administration of~~ this subsection.

18 (12)(a) Any person who violates ~~any provision of~~
19 subsection (1), subsection (2), subsection (4), subsection
20 (5), subsection (6), or subsection (7) commits ~~is guilty of~~ a
21 misdemeanor of the first degree, punishable as provided in s.
22 775.082 or s. 775.083.

23 (b) Any person who violates subsection (8), subsection
24 (9), subsection (10), or subsection (11) commits the
25 ~~provisions of subsections (8) through (11) is guilty of~~ a
26 felony of the third degree, punishable as provided in s.
27 775.082, s. 775.083, or s. 775.084.

28 (c) Any person who uses a false or fictitious name,
29 gives a false or fictitious address, or makes any false
30 statement in any application or affidavit required under ~~the~~
31 ~~provisions of this section~~ commits ~~is guilty of~~ a felony of

1 the third degree, punishable as provided in s. 775.082, s.
2 775.083, or s. 775.084.

3 (d) Employees of the Department of Highway Safety and
4 Motor Vehicles and law enforcement officers may ~~are authorized~~
5 ~~to~~ inspect the records of each wrecker company in this state
6 ~~any person regularly engaged in the business of recovering,~~
7 ~~towing, or storing vehicles or vessels or transporting~~
8 ~~vehicles or vessels by wrecker, tow truck, or car carrier, to~~
9 ensure compliance with the requirements of this section. Any
10 person who fails to maintain records, or fails to produce
11 records when required in a reasonable manner and at a
12 reasonable time, commits a misdemeanor of the first degree,
13 punishable as provided in s. 775.082 or s. 775.083.

14 (13)(a) Upon receipt by the Department of Highway
15 Safety and Motor Vehicles of written notice from a wrecker
16 company that ~~operator who~~ claims a wrecker company's
17 ~~operator's~~ lien under paragraph (2)(c) ~~or paragraph (2)(d)~~ for
18 recovery, towing, or storage of an abandoned vehicle or vessel
19 upon instructions from any law enforcement agency, for which a
20 certificate of destruction has been issued under subsection
21 (11), the department shall place the name of the registered
22 owner of that vehicle or vessel on the list of those persons
23 who may not be issued a license plate or revalidation sticker
24 for any motor vehicle under s. 320.03(8). If the vehicle or
25 vessel is owned jointly by more than one person, the name of
26 each registered owner shall be placed on the list. The notice
27 of wrecker company's ~~operator's~~ lien shall be submitted on
28 forms provided by the department, which must include:

29 1. The name, address, and telephone number of the
30 wrecker company ~~operator~~.
31

1 2. The name of the registered owner of the vehicle or
2 vessel and the address to which the wrecker company ~~operator~~
3 provided notice of the lien to the registered owner under
4 subsection (4).

5 3. A general description of the vehicle or vessel,
6 including its color, make, model, body style, and year.

7 4. The vehicle identification number (VIN);
8 registration license plate number, state, and year; validation
9 decal number, state, and year; vessel registration number;
10 hull identification number; or other identification number, as
11 applicable.

12 5. The name of the person or the corresponding law
13 enforcement agency that requested that the vehicle or vessel
14 be recovered, towed, or stored.

15 6. The amount of the wrecker company's ~~operator's~~
16 lien, not to exceed the amount allowed by paragraph (b).

17 (b) For purposes of this subsection only, the amount
18 of the wrecker company's ~~operator's~~ lien for which the
19 department will prevent issuance of a license plate or
20 revalidation sticker may not exceed the amount of the charges
21 for recovery, towing, and storage of the vehicle or vessel for
22 7 days. These charges may not exceed the maximum rates imposed
23 by the ordinances of the respective county or municipality
24 under ss. 125.0103(1)(c) and 166.043(1)(c). This paragraph
25 does not limit the amount of a wrecker company's ~~operator's~~
26 lien claimed under subsection (2) or prevent a wrecker company
27 ~~operator~~ from seeking civil remedies for enforcement of the
28 entire amount of the lien, but limits only that portion of the
29 lien for which the department will prevent issuance of a
30 license plate or revalidation sticker.

31

1 (c)1. The registered owner of a vehicle or vessel may
2 dispute a wrecker company's ~~operator's~~ lien, by notifying the
3 department of the dispute in writing on forms provided by the
4 department, if at least one of the following applies:

5 a. The registered owner presents a notarized bill of
6 sale proving that the vehicle or vessel was sold in a private
7 or casual sale before the vehicle or vessel was recovered,
8 towed, or stored.

9 b. The registered owner presents proof that the
10 Florida certificate of title of the vehicle or vessel was sold
11 to a licensed dealer as defined in s. 319.001 before the
12 vehicle or vessel was recovered, towed, or stored.

13 c. The records of the department were marked "sold"
14 prior to the date of the tow.

15
16 If the registered owner's dispute of a wrecker company's
17 ~~operator's~~ lien complies with one of these criteria, the
18 department shall immediately remove the registered owner's
19 name from the list of those persons who may not be issued a
20 license plate or revalidation sticker for any motor vehicle
21 under s. 320.03(8), thereby allowing issuance of a license
22 plate or revalidation sticker. If the vehicle or vessel is
23 owned jointly by more than one person, each registered owner
24 must dispute the wrecker company's ~~operator's~~ lien in order to
25 be removed from the list. However, the department shall deny
26 any dispute and maintain the registered owner's name on the
27 list of those persons who may not be issued a license plate or
28 revalidation sticker for any motor vehicle under s. 320.03(8)
29 if the wrecker company ~~operator~~ has provided the department
30 with a certified copy of the judgment of a court that ~~which~~
31 orders the registered owner to pay the wrecker company's

1 ~~operator's~~ lien claimed under this section. In such a case,
2 the amount of the wrecker company's ~~operator's~~ lien allowed by
3 paragraph (b) may be increased to include no more than \$500 of
4 the reasonable costs and attorney's fees incurred in obtaining
5 the judgment. The department's action under this subparagraph
6 is ministerial in nature, shall not be considered final agency
7 action, and is appealable only to the county court for the
8 county in which the vehicle or vessel was ordered removed.

9 2. A person against whom a wrecker company's
10 ~~operator's~~ lien has been imposed may alternatively obtain a
11 discharge of the lien by filing a complaint, challenging the
12 validity ~~of the lien~~ or ~~the amount of the lien thereof~~, in the
13 county court of the county in which the vehicle or vessel was
14 ordered removed. Upon filing of the complaint, the person may
15 have her or his name removed from the list of those persons
16 who may not be issued a license plate or revalidation sticker
17 for any motor vehicle under s. 320.03(8), thereby allowing
18 issuance of a license plate or revalidation sticker, upon
19 posting with the court a cash or surety bond or other adequate
20 security equal to the amount of the wrecker company's
21 ~~operator's~~ lien to ensure the payment of such lien in the
22 event she or he does not prevail. Upon the posting of the bond
23 and the payment of the applicable fee set forth in s. 28.24,
24 the clerk of the court shall issue a certificate notifying the
25 department of the posting of the bond and directing the
26 department to release the wrecker company's ~~operator's~~ lien.
27 Upon determining the respective rights of the parties, the
28 court may award damages and costs in favor of the prevailing
29 party.

30 3. If a person against whom a wrecker company's
31 ~~operator's~~ lien has been imposed does not object to the lien,

1 but cannot discharge the lien by payment because the wrecker
2 company operator has moved or gone out of business, the person
3 may have her or his name removed from the list of those
4 persons who may not be issued a license plate or revalidation
5 sticker for any motor vehicle under s. 320.03(8), thereby
6 allowing issuance of a license plate or revalidation sticker,
7 upon posting with the clerk of court in the county in which
8 the vehicle or vessel was ordered removed, a cash or surety
9 bond or other adequate security equal to the amount of the
10 wrecker company's operator's lien. Upon the posting of the
11 bond and the payment of the application fee set forth in s.
12 28.24, the clerk of the court shall issue a certificate
13 notifying the department of the posting of the bond and
14 directing the department to release the wrecker company's
15 ~~operator's~~ lien. The department shall mail to the wrecker
16 company operator, at the address upon the lien form, notice
17 that the wrecker company operator must claim the security
18 within 60 days, or the security will be released back to the
19 person who posted it. At the conclusion of the 60 days, the
20 department shall direct the clerk as to which party is
21 entitled to payment of the security, less applicable clerk's
22 fees.

23 4. A wrecker company's operator's lien expires 5 years
24 after filing.

25 (d) Upon discharge of the amount of the wrecker
26 company's operator's lien allowed by paragraph (b), the
27 wrecker company operator must issue a certificate of
28 discharged wrecker company's operator's lien on forms provided
29 by the department to each registered owner of the vehicle or
30 vessel attesting that the amount of the wrecker company's
31 ~~operator's~~ lien allowed by paragraph (b) has been discharged.

1 Upon presentation of the certificate of discharged wrecker
2 company's ~~operator's~~ lien by the registered owner, the
3 department shall immediately remove the registered owner's
4 name from the list of those persons who may not be issued a
5 license plate or revalidation sticker for any motor vehicle
6 under s. 320.03(8), thereby allowing issuance of a license
7 plate or revalidation sticker. Issuance of a certificate of
8 discharged wrecker company's ~~operator's~~ lien under this
9 paragraph does not discharge the entire amount of the wrecker
10 company's ~~operator's~~ lien claimed under subsection (2)⁷ but
11 only certifies to the department that the amount of the
12 wrecker company's ~~operator's~~ lien allowed by paragraph (b),
13 for which the department will prevent issuance of a license
14 plate or revalidation sticker, has been discharged.

15 (e) When a wrecker company ~~operator~~ files a notice of
16 wrecker company's ~~operator's~~ lien under this subsection, the
17 department shall charge the wrecker company ~~operator~~ a fee of
18 \$2, which shall be deposited into the General Revenue Fund
19 established under s. 860.158. A service charge of \$2.50 shall
20 be collected and retained by the tax collector who processes a
21 notice of wrecker company's ~~operator's~~ lien.

22 (f) This subsection applies only to the annual renewal
23 in the registered owner's birth month of a motor vehicle
24 registration and does not apply to the transfer of a
25 registration of a motor vehicle sold by a motor vehicle dealer
26 licensed under chapter 320, except for the transfer of
27 registrations which is inclusive of the annual renewals. This
28 subsection does not apply to any vehicle registered in the
29 name of the lessor. This subsection does not affect the
30 issuance of the title to a motor vehicle, notwithstanding s.
31 319.23(7)(b).

1 (g) The Department of Highway Safety and Motor
2 Vehicles may adopt rules pursuant to ss. 120.536(1) and 120.54
3 to implement this subsection.

4 Section 20. The amendments to section 713.78, Florida
5 Statutes, made by this act do not affect the validity of liens
6 established under section 713.78, Florida Statutes, before
7 January 1, 2008.

8 Section 21. Effective January 1, 2008, section 715.07,
9 Florida Statutes, is amended to read:

10 715.07 Vehicles or vessels parked on real ~~private~~
11 property without permission; towing.--

12 (1) As used in this section, the term:

13 (a) "Property owner" means an owner or lessee of real
14 property, or a person authorized by the owner or lessee, which
15 person may be the designated representative of the condominium
16 association if the real property is a condominium.

17 (b)(a) "Vehicle" has the same meaning ascribed in s.
18 508.101 means any mobile item which normally uses wheels,
19 whether motorized or not.

20 (c)(b) "Vessel" has the same meaning ascribed in s.
21 508.101 means every description of watercraft, barge, and
22 airboat used or capable of being used as a means of
23 transportation on water, other than a seaplane or a
24 "documented vessel" as defined in s. 327.02(9).

25 (d) "Wrecker company" has the same meaning ascribed in
26 s. 508.101.

27 (e) "Wrecker operator" has the same meaning ascribed
28 in s. 508.101.

29 (2) A property owner ~~The owner or lessee of real~~
30 ~~property, or any person authorized by the owner or lessee,~~
31 ~~which person may be the designated representative of the~~

1 ~~condominium association if the real property is a condominium,~~
2 may cause a ~~any~~ vehicle or vessel parked on her or his ~~such~~
3 property without her or his permission to be removed by a
4 wrecker company registered under chapter 508 ~~person regularly~~
5 ~~engaged in the business of towing vehicles or vessels,~~ without
6 liability for the costs of removal, transportation, or storage
7 or damages caused by the ~~such~~ removal, transportation, or
8 storage, under any of the following circumstances:

9 (a) The towing or removal of any vehicle or vessel
10 from real ~~private~~ property without the consent of the
11 registered owner or other legally authorized person in control
12 of that vehicle or vessel is subject to strict compliance with
13 the following conditions and restrictions:

14 1.a. Any towed or removed vehicle or vessel must be
15 stored at a storage facility ~~site~~ within a 10-mile radius of
16 the point of removal in any county with a population of
17 500,000 ~~population~~ or more, and within a 15-mile radius of the
18 point of removal in any county with a population of fewer less
19 than 500,000 ~~population~~. The wrecker company's storage
20 facility ~~That site~~ must be open for the purpose of redemption
21 of vehicles and vessels on any day that the wrecker company
22 ~~person or firm~~ towing the ~~such~~ vehicle or vessel is open for
23 towing purposes, from 8 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when
24 closed, must ~~shall~~ have prominently posted a sign indicating a
25 telephone number where the operator of the storage facility
26 ~~site~~ can be reached at all times. Upon receipt of a telephoned
27 request to open the storage facility ~~site~~ to redeem a vehicle
28 or vessel, the operator shall return to the storage facility
29 ~~site~~ within 1 hour or she or he is ~~will be~~ in violation of
30 this section.
31

1 b. If no ~~wrecker company towing business providing~~
2 ~~such service~~ is located within the area of towing limitations
3 ~~set forth~~ in sub-subparagraph a., the following limitations
4 apply: any towed or removed vehicle or vessel must be stored
5 at a storage facility site within a 20-mile radius of the
6 point of removal in any county with a population of 500,000
7 ~~population~~ or more, and within a 30-mile radius of the point
8 of removal in any county with a population of fewer less than
9 500,000 ~~population~~.

10 2. The ~~wrecker company person or firm~~ towing or
11 removing the vehicle or vessel shall, within 30 minutes after
12 completion of the such towing or removal, notify the municipal
13 police department or, in an unincorporated area, the sheriff,
14 of the such towing or removal, the location of the storage
15 facility site, the time the vehicle or vessel was towed or
16 removed, and the make, model, color, and license plate number
17 of the vehicle or the make, model, color, and registration
18 number of the vessel. The ~~wrecker company or description and~~
19 ~~registration number of the vessel and~~ shall also obtain the
20 name of the person at the police that department or sheriff's
21 office to whom such information is was reported and note that
22 name on the trip record.

23 3. A wrecker operator person in the process of towing
24 or removing a vehicle or vessel from the premises or parking
25 lot in which the vehicle or vessel is ~~not lawfully~~ parked
26 without permission must stop when a person seeks the return of
27 the vehicle or vessel. The vehicle or vessel must be returned
28 upon the payment of a reasonable service fee of not more than
29 one-half of the posted rate for the towing or removal service
30 as provided in subparagraph 6. The vehicle or vessel may be
31 towed or removed if, after a reasonable opportunity, the owner

1 or legally authorized person in control of the vehicle or
2 vessel is unable to pay the service fee or refuses to remove
3 the vehicle or vessel that is parked without permission. If
4 the vehicle or vessel is redeemed, a detailed signed receipt
5 must be given to the person redeeming the vehicle or vessel.

6 4. A wrecker company, a wrecker operator, or another
7 employee or agent of a wrecker company ~~person~~ may not pay or
8 accept money or other valuable consideration for the privilege
9 of towing or removing vehicles or vessels from a particular
10 location.

11 5. Except for property appurtenant to and obviously a
12 part of a single-family residence, and except for instances
13 when notice is personally given to the owner or other legally
14 authorized person in control of the vehicle or vessel that the
15 area in which that vehicle or vessel is parked is reserved or
16 otherwise unavailable for unauthorized vehicles or vessels and
17 that the vehicle or vessel is subject to being removed at the
18 owner's or operator's expense, any property owner ~~or lessee,~~
19 ~~or person authorized by the property owner or lessee,~~ before
20 ~~prior to~~ towing or removing any vehicle or vessel from real
21 ~~private~~ property without the consent of the owner or other
22 legally authorized person in control of that vehicle or
23 vessel, must post a notice meeting the following requirements:

24 a. The notice must be prominently placed at each
25 driveway access or curb cut allowing vehicular access to the
26 property, within 5 feet from the public right-of-way line. If
27 there are no curbs or access barriers, at least one sign ~~the~~
28 ~~signs~~ must be posted ~~not less than one sign~~ for each 25 feet
29 of lot frontage.

30 b. The notice must clearly indicate, in at least ~~not~~
31 ~~less than~~ 2-inch high, light-reflective letters on a

1 | contrasting background, that unauthorized vehicles will be
2 | towed away at the owner's expense. The words "tow-away zone"
3 | must be included on the sign in at least ~~not less than~~ 4-inch
4 | high letters.

5 | c. The notice must also provide the name and current
6 | telephone number of the wrecker company ~~person or firm~~ towing
7 | or removing the vehicles or vessels.

8 | d. The sign structure containing the required notices
9 | must be permanently installed with the words "tow-away zone"
10 | not less than 3 feet and not more than 6 feet above ground
11 | level and must be continuously maintained on the property for
12 | not less than 24 hours prior to the towing or removal of any
13 | vehicles or vessels.

14 | e. The local government may require permitting and
15 | inspection of these signs prior to any towing or removal of
16 | vehicles or vessels being authorized.

17 | f. A business with 20 or fewer parking spaces
18 | satisfies the notice requirements of this subparagraph by
19 | prominently displaying a sign stating, "Reserved Parking for
20 | Customers Only. Unauthorized Vehicles or Vessels Will be Towed
21 | Away At the Owner's Expense," in at least ~~not less than~~ 4-inch
22 | high, light-reflective letters on a contrasting background.

23 | ~~g. A property owner towing or removing vessels from~~
24 | ~~real property must post notice, consistent with the~~
25 | ~~requirements in sub subparagraphs a. f., which apply to~~
26 | ~~vehicles, that unauthorized vehicles or vessels will be towed~~
27 | ~~away at the owner's expense.~~

28 |
29 | A business owner or lessee may authorize the removal of a
30 | vehicle or vessel by a wrecker towing company registered under
31 | chapter 508 when no tow-away sign is posted if the vehicle or

1 vessel is parked in ~~such~~ a manner that restricts the normal
2 operation of business. ~~;~~ ~~and~~ If a vehicle or vessel parked on a
3 public right-of-way obstructs access to a private driveway
4 when no tow-away sign is posted, the owner ~~or~~, lessee of the
5 driveway, or the owner's or lessee's agent may have the
6 vehicle or vessel removed by a wrecker ~~towing~~ company
7 registered under chapter 508 upon signing an order that the
8 vehicle or vessel be removed ~~without a posted tow away zone~~
9 ~~sign~~.

10 6. Each wrecker company ~~Any person or firm~~ that tows
11 or removes vehicles or vessels and proposes to require an
12 owner, operator, or person in control of a vehicle or vessel
13 to pay the costs of towing and storage prior to redemption of
14 the vehicle or vessel must file and keep on record with the
15 local law enforcement agency a complete copy of the current
16 rates to be charged for the ~~such~~ services and post at the
17 wrecker company's storage facility ~~site~~ an identical rate
18 schedule and any written contracts with property owners,
19 ~~lessees~~, or persons in control of real property that ~~which~~
20 authorize the wrecker company ~~such person or firm~~ to remove
21 vehicles or vessels as provided in this section.

22 7. Each wrecker company ~~Any person or firm~~ towing or
23 removing any vehicles or vessels from real ~~private~~ property
24 without the consent of the owner or other legally authorized
25 person in control of the vehicles or vessels shall, on each
26 wrecker ~~any trucks, wreckers~~ as defined in s. 320.01 s-
27 713.78(1)(c), ~~or other vehicles~~ used in the towing or removal,
28 have the name, address, and telephone number of the wrecker
29 company ~~performing such service~~ clearly printed in contrasting
30 colors on the driver and passenger sides of the wrecker
31 ~~vehicle~~. The name must ~~shall~~ be in at least 3-inch permanently

1 affixed letters, and the address and telephone number must
2 ~~shall~~ be in at least 1-inch permanently affixed letters.

3 8. Vehicle or vessel entry for the purpose of towing
4 or removing the vehicle or vessel is ~~shall be~~ allowed with
5 reasonable care on the part of the wrecker company and the
6 wrecker operators ~~person or firm~~ towing the vehicle or vessel.
7 A wrecker company, its wrecker operators, and other employees
8 or agents of the wrecker company are not ~~Such person or firm~~
9 ~~shall be~~ liable for any damage occasioned to the vehicle or
10 vessel if ~~such~~ entry into the vehicle or vessel is performed
11 ~~not in accordance with the standard of~~ reasonable care.

12 9. When a vehicle or vessel is ~~has been~~ towed or
13 removed under ~~pursuant to~~ this section, the wrecker company ~~it~~
14 must release the vehicle or vessel ~~be released~~ to its owner or
15 an agent of the owner ~~custodian~~ within one hour after
16 requested. Any vehicle or vessel owner or the owner's agent
17 has ~~shall have~~ the right to inspect the vehicle or vessel
18 before accepting its return. A wrecker company may not require
19 any vehicle or vessel owner, custodian, or agent to, and no
20 release the wrecker company ~~or waiver of any kind which would~~
21 ~~release the person or firm~~ towing the vehicle or vessel from
22 liability for damages noted by the owner or other legally
23 authorized person at the time of the redemption ~~may be~~
24 ~~required from any vehicle or vessel owner, custodian, or agent~~
25 as a condition of release of the vehicle or vessel to its
26 owner. A wrecker company must give a person paying towing and
27 storage charges under this section a detailed, signed receipt
28 showing the legal name of the wrecker company ~~or person~~ towing
29 ~~or removing the vehicle or vessel must be given to the person~~
30 ~~paying towing or storage charges~~ at the time of payment,
31 whether requested or not.

1 (b) The ~~These~~ requirements of this subsection are
2 minimum standards and do not preclude enactment of additional
3 regulations by any municipality or county, including the
4 regulation of right to regulate rates when vehicles or vessels
5 are towed from real ~~private~~ property.

6 (3) This section does not apply to vehicles or vessels
7 that are reasonably identifiable from markings as law
8 enforcement, firefighting, rescue squad, ambulance, or other
9 emergency vehicles or vessels ~~that are marked as such~~ or to
10 property owned by any governmental entity.

11 (4) When a person improperly causes a vehicle or
12 vessel to be removed, that such person is ~~shall be~~ liable to
13 the owner or lessee of the vehicle or vessel for the cost of
14 removal, transportation, and storage; any damages resulting
15 from the removal, transportation, or storage of the vehicle or
16 vessel; attorney's fees; and court costs.

17 (5) Failure to make good faith efforts to comply with
18 the notice requirements in subparagraph (2)(a)5. precludes the
19 imposition of any towing or storage charges against the
20 vehicle or vessel.

21 ~~(6)~~(5)(a) Any person who violates subparagraph
22 (2)(a)2. or subparagraph (2)(a)6. commits a misdemeanor of the
23 first degree, punishable as provided in s. 775.082 or s.
24 775.083.

25 (b) Any person who violates subparagraph (2)(a)1.,
26 subparagraph (2)(a)3., subparagraph (2)(a)4., subparagraph
27 (2)(a)7., or subparagraph (2)(a)9. commits a felony of the
28 third degree, punishable as provided in s. 775.082, s.
29 775.083, or s. 775.084.

30 Section 22. Effective January 1, 2008, subsection (15)
31 of section 1.01, Florida Statutes, is repealed.

1 Section 23. The sum of \$693,000 is appropriated from
2 the General Inspection Trust Fund to the Department of
3 Agriculture and Consumer Services, and nine additional
4 full-time-equivalent positions and associated salary rate of
5 304,446 are authorized, for the purpose of implementing this
6 act during the 2007-2008 fiscal year.

7 Section 24. Except as otherwise expressly provided in
8 this act, this act shall take effect July 1, 2007.

9
10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 CS/SB 612

- 13 Restructures membership on the Wrecker Operator Advisory
14 Council.
15 Removes provisions requiring the certification and continuing
16 education of tow-truck operators.
17 Provides for the Wrecker Operator Advisory Council to make
18 recommendations relating the certification and continuing
19 education of tow-truck operators.
20 Exempts independent automobile dealers from registration
21 requirements.
22 Exempts recovery agents from the provisions of ch. 508, F.S.