

1 A bill to be entitled
2 An act relating to wrecker services; creating chapter 508,
3 F.S.; providing for regulatory oversight of wrecker
4 services by the Department of Agriculture and Consumer
5 Services; creating s. 508.101, F.S.; providing
6 definitions; creating s. 508.102, F.S.; creating the
7 Wrecker Operator Advisory Council within the Department of
8 Agriculture and Consumer Services; requiring the council
9 to prepare recommendations on the need for a wrecker
10 operator certification program and for educational and
11 training programs; requiring presentation of
12 recommendations by time certain; providing for membership,
13 terms, and organization; providing procedures for meetings
14 and recordkeeping; providing for reimbursement for travel
15 and per diem expenses; directing the department to provide
16 support services for the council; directing the council to
17 review rules adopted by the department and to advise the
18 department on matters relating to standards and practices
19 in the wrecker industry; creating s. 508.103, F.S.;
20 authorizing the department to adopt rules; creating s.
21 508.105, F.S.; requiring wrecker companies to register
22 annually with the department; providing for the
23 registration application; providing for the processing of
24 fingerprints by the department; requiring fees for
25 processing; providing for issuance of a registration
26 certificate; requiring display of the certificate;
27 providing requirements for advertisements; requiring
28 notification of changes in registration information;

29 requiring payment of certain fees; requiring certain
30 companies to obtain a local business tax receipt prior to
31 registration renewal; requiring insurance coverage;
32 requiring the department to notify the Department of
33 Highway Safety and Motor Vehicles when a registration has
34 been suspended or revoked; creating s. 508.106, F.S.;
35 authorizing the Department of Agriculture and Consumer
36 Services to deny, revoke, or refuse to renew the
37 registration of a wrecker company under certain
38 circumstances; creating s. 508.1061, F.S.; requiring a
39 wrecker company to accept certain forms of payment;
40 creating s. 508.107, F.S.; requiring the department to
41 establish a certification program for wrecker operators;
42 providing for the council to approve certification courses
43 and the organizations conducting the courses; providing
44 for the council to prescribe course curricula; providing
45 requirements for courses; requiring that each course
46 include an examination approved by the council; providing
47 criteria for the examination; requiring that the
48 organization conducting the course issue the certificate
49 to the wrecker operator; creating s. 508.108, F.S.;
50 requiring each certification course to offer optional
51 specialized wrecker services instruction, training, and
52 examinations; describing specialized wrecker services;
53 directing the department to adopt rules prescribing
54 specific standards to further define each specialized
55 wrecker service; requiring council approval of the
56 instruction, training, and examination; requiring the

57 organization conducting the course to issue the
58 certificate to the wrecker operator; creating s. 508.109,
59 F.S.; providing for form and content of certification
60 cards; authorizing the department to adopt rules for
61 issuance of certification cards to an operator who
62 completes a certification course and passes a
63 certification examination in another state or completed a
64 certification course and passed a certification
65 examination in this state during a certain time period;
66 authorizing the department to adopt rules for issuance of
67 endorsements for specialized services to a wrecker
68 operator who completed instruction and training for a
69 specialized wrecker service and passed an endorsement
70 examination for that specialized wrecker service during a
71 certain time period; providing for approval by the council
72 of out-of-state certification instructions, training, and
73 examinations; providing for expiration of certification;
74 requiring that certification cards be issued by the
75 organizations conducting the courses; creating s. 508.111,
76 F.S.; providing requirements for recertification;
77 providing for a continuing education program to be
78 established by the department; providing for curricula and
79 examinations to be prescribed by the council; requiring
80 course approval by the council; providing for a
81 certificate to be issued by the training organization to
82 the wrecker operator; creating s. 508.112, F.S.;
83 prohibiting certain acts; creating ss. 508.113 and
84 508.114, F.S.; providing administrative and civil

85 penalties; creating s. 508.116, F.S.; providing for
86 registration and renewal fees; creating s. 508.117, F.S.;
87 providing for deposit and use of fees, penalties, and
88 other funds; creating s. 508.118, F.S.; providing that the
89 chapter does not apply to recovery agents; creating s.
90 508.119, F.S.; authorizing counties and municipalities to
91 enact ordinances governing wrecker operators; providing
92 for the department to enter into a cooperative agreement
93 with a county or municipality for the referral,
94 investigation, and prosecution of consumer complaints or
95 enforcement of specified wrecker services provisions;
96 creating s. 508.120, F.S.; requiring that a wrecker
97 company maintain records of its services and operators;
98 requiring organizations that conduct operator
99 certification or continuing education courses to maintain
100 records on each person who successfully completes one of
101 the courses; authorizing inspection of records by the
102 department; creating s. 508.104, F.S.; prohibiting persons
103 from owning, operating, or being issued a local business
104 tax receipt on behalf of a wrecker company without first
105 registering with the department; requiring registration
106 prior to issuance or renewal of local business tax
107 receipt; excluding certain motor vehicle repair shops and
108 dealers; creating s. 508.110, F.S.; prohibiting the
109 performance of wrecker services after a certain date
110 unless the operator is in the employ of a company that is
111 registered; requiring wrecker operators to be certified;
112 providing exceptions for certain shops and organizations;

113 | authorizing the department to inspect company records;
114 | creating s. 508.115, F.S.; providing criminal penalties;
115 | amending s. 120.80, F.S.; providing for appointment of a
116 | hearing officer by the director of the Division of the
117 | Florida Highway Patrol when a hearing is held to deny,
118 | suspend, or remove a wrecker company from participating in
119 | the wrecker-allocation system; creating s. 205.1977, F.S.;
120 | prohibiting a county or municipality from issuing or
121 | renewing a business tax receipt for a wrecker company that
122 | is not registered with the Department of Agriculture and
123 | Consumer Services; amending s. 316.530, F.S., relating to
124 | towing requirements; conforming terminology; amending s.
125 | 320.01, F.S.; redefining the term "wrecker" for purposes
126 | of the Florida Statutes; amending s. 320.03, F.S.,
127 | relating to withholding the motor vehicle registration
128 | plate or revalidation sticker; providing for application
129 | of provisions to wrecker companies rather than wrecker
130 | operators; amending s. 320.0706, F.S.; requiring that the
131 | license plate be displayed only on the front of a wrecker;
132 | amending s. 320.0821, F.S.; revising requirements for the
133 | issuance of wrecker license plates; requiring that the
134 | license plate be displayed on the front of the wrecker;
135 | amending s. 320.13, F.S., relating to dealer license
136 | plates; conforming terminology; reenacting ss.
137 | 316.550(4)(a) and (9) and 320.08(5)(d) and (e), F.S.,
138 | relating to special wrecker permits and license taxes, to
139 | incorporate the amendment to s. 320.01, F.S., in
140 | references thereto; amending s. 321.051, F.S.; revising

141 provisions for the Florida Highway Patrol wrecker operator
142 system; changing the designation to "wrecker-allocation
143 system"; providing definitions; revising provisions that
144 authorize the Division of the Florida Highway Patrol
145 within the Department of Highway Safety and Motor Vehicles
146 to establish the system; revising requirements for the
147 system; limiting the system to using certain registered
148 wrecker companies; revising eligibility requirements for
149 wreckers; revising provisions for procedures for appeal of
150 final orders by the department denying, suspending, or
151 revoking eligibility to participate; prohibiting an
152 unauthorized wrecker company and wrecker operators
153 dispatched by an unauthorized company from engaging in
154 certain activities; requiring those operators to disclose
155 certain information to the owner or operator of a wrecked
156 or disabled vehicle before towing; providing penalties;
157 providing for a law enforcement officer to dispatch an
158 authorized wrecker company other than a company requested
159 by the vehicle owner or operator or to dispatch a company
160 out of rotation; amending s. 323.001, F.S.; revising
161 procedures for placement of a hold on a vehicle at a
162 storage facility; providing for placement of a hold by a
163 law enforcement agency; providing definitions; revising
164 provisions for payment of towing and storage charges;
165 revising rate-limitation provisions; amending s. 323.002,
166 F.S.; revising provisions for county and municipal wrecker
167 operator systems; changing the designation to "wrecker-
168 allocation systems"; providing definitions; limiting the

169 systems to using certain registered wrecker companies;
170 prohibiting an unauthorized wrecker company and wrecker
171 operators dispatched by an unauthorized company from
172 engaging in certain activities; requiring those operators
173 to disclose certain information to the owner or operator
174 of a wrecked or disabled vehicle before towing; providing
175 penalties; providing for a law enforcement officer to
176 dispatch an authorized wrecker company other than a
177 company requested by the vehicle owner or operator or to
178 dispatch a company out of rotation; amending s. 713.78,
179 F.S.; providing for claim of lien by a wrecker company for
180 recovering, removing, or storing a vehicle or vessel;
181 conforming provisions to changes made by the act;
182 providing definitions; requiring notification to the
183 vehicle or vessel owners, insurers, and lienholders;
184 providing for a law enforcement agency to obtain
185 information from the Department of Highway Safety and
186 Motor Vehicles and provide the information to the wrecker
187 company; providing notice procedures; providing for
188 content of the notice; providing for notice to the agency
189 of jurisdiction if the vehicle or vessel owner or
190 lienholder cannot be identified; revising procedures for
191 complaint by the vehicle or vessel owner; providing for
192 release of the vehicle or vessel; requiring damages,
193 attorney's fees, and costs to be awarded by the court;
194 requiring immediate payment of recovery, towing, and
195 storage fees to be ordered by the court; providing for
196 notice and sale of the vehicle or vessel by the wrecker

197 | company; providing for distribution of proceeds; providing
198 | for discharge of liens and issuance of certificate of
199 | title; providing immunity from liability for a wrecker
200 | company, its operators, and other employees or agents
201 | under certain conditions; providing for a presumption of
202 | the use of reasonable care; requiring wrecker company
203 | information to be printed on the wrecker; specifying that
204 | failure to make good-faith best efforts to comply with
205 | notice requirements precludes imposition of storage
206 | charges; requiring a wrecker company to provide access to
207 | the vehicle or vessel; requiring release of the vehicle,
208 | vessel, or personal property to the owner or agent of the
209 | owner; requiring the wrecker company to obtain a
210 | certificate of destruction in lieu of a certificate of
211 | title when the vehicle or vessel is to be dismantled,
212 | destroyed, or changed in such a manner that it is not the
213 | motor vehicle or vessel described in the certificate of
214 | title; providing for issuance of the certificate of
215 | destruction by the county tax collector; providing
216 | requirements for application for the certificate of
217 | destruction; providing for reassignment of the certificate
218 | of destruction; authorizing the Department of Highway
219 | Safety and Motor Vehicles to adopt rules; providing
220 | penalties for specified violations; authorizing the
221 | Department of Highway Safety and Motor Vehicles to inspect
222 | wrecker company records; directing the Department of
223 | Highway Safety and Motor Vehicles, upon notice of lien
224 | from a wrecker company, to place the name of the owner of

225 | the vehicle or vessel on the list of those persons who may
 226 | not be issued a license plate or revalidation sticker for
 227 | a motor vehicle; providing for forms for the notice of
 228 | lien; providing for dispute by the owner; providing for
 229 | the owner's name to be removed from the list of those
 230 | persons who may not be issued a license plate or
 231 | revalidation sticker for a motor vehicle; providing for
 232 | lien expiration; requiring a certificate of discharge to
 233 | be issued by the wrecker company; providing for certain
 234 | fees and charges; providing for application and
 235 | exceptions; clarifying that the amendments made by the act
 236 | do not affect the validity of prior liens; amending s.
 237 | 715.07, F.S.; revising provisions for the towing and
 238 | storage of vehicles and vessels parked on real property
 239 | without permission; providing definitions; providing
 240 | requirements for storage facility operation; providing
 241 | requirements for a wrecker company, its operators, and
 242 | other employees or agents; prohibiting a wrecker company,
 243 | a wrecker operator, or another employee or agent of a
 244 | wrecker company from paying or accepting payment for the
 245 | privilege of removing vehicles or vessels from a
 246 | particular location; revising requirements for tow-away
 247 | signs to be posted by property owners; requiring a wrecker
 248 | company to maintain rate schedules with the local law
 249 | enforcement agency and to post rates and contracts at its
 250 | storage facility; revising requirements for certain
 251 | signage on a wrecker; providing immunity from liability
 252 | for a wrecker company, its operators, and other employees

253 | or agents if entry into the vehicle or vessel is performed
 254 | with reasonable care; revising provisions for release of
 255 | the vehicle or vessel; providing that failure to comply
 256 | with notice requirements precludes a wrecker company from
 257 | imposing certain towing or storage charges; providing
 258 | penalties; repealing s. 1.01(15), F.S., relating to the
 259 | definition of the term "wrecker operator"; providing an
 260 | appropriation and authorizing additional positions;
 261 | providing effective dates.

262 |

263 | Be It Enacted by the Legislature of the State of Florida:

264 |

265 | Section 1. Chapter 508, Florida Statutes, consisting of
 266 | sections 508.101, 508.102, 508.103, 508.105, 508.106, 508.1061,
 267 | 508.107, 508.108, 508.109, 508.111, 508.112, 508.113, 508.114,
 268 | 508.116, 508.117, 508.118, 508.119, and 508.120, is created to
 269 | read:

270 |

CHAPTER 508

271 |

WRECKER SERVICES

272 |

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

273 |

(1) "Business entity" means any form of corporation,

274 |

limited liability company, partnership, association,

275 |

cooperative, joint venture, business trust, sole proprietorship,

276 |

or self-employed person conducting business in this state.

277 |

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

278 |

(3) "Department" means the Department of Agriculture and

279 |

Consumer Services.

280 |

(4) "Specialized wrecker service" means a wrecker service

281 described in s. 508.108. A wrecker operator is required to
 282 obtain the applicable certification endorsement before
 283 performing a specialized wrecker service.

284 (5) "Ultimate equitable owner" means a natural person who,
 285 directly or indirectly, owns or controls 10 percent or more of
 286 an ownership interest in a wrecker company, regardless of
 287 whether the natural person owns or controls the ownership
 288 interest through one or more natural persons or one or more
 289 proxies, powers of attorney, nominees, business entities, or any
 290 combination thereof.

291 (6) "Vehicle" means any vehicle of a type that may be
 292 registered under chapter 320 for operation on the roads of this
 293 state, regardless of whether the vehicle is actually registered.
 294 The term does not include a mobile home or manufactured home as
 295 defined in s. 320.01.

296 (7) "Vessel" means any type of watercraft, barge, or
 297 airboat, however described, used or capable of being used as a
 298 means of transportation on water, other than a seaplane or a
 299 documented vessel as defined in s. 327.02.

300 (8) "Wrecker" has the same meaning ascribed in s. 320.01.

301 (9) "Wrecker company" means a business entity engaged for
 302 hire in the business of towing, carrying, or transporting
 303 vehicles or vessels by wrecker upon the streets and highways of
 304 this state. The term does not include a person regularly engaged
 305 in the business of transporting mobile homes.

306 (10) "Wrecker operator" means a person who performs
 307 wrecker services.

308 (11) "Wrecker services" means towing, carrying, or

309 otherwise transporting vehicles or vessels by wrecker upon the
310 streets and highways of this state for hire. The term includes,
311 but is not limited to, the following:

312 (a) Driving a wrecker.

313 (b) Loading, securing, and unloading a vehicle or vessel
314 on a wrecker using a boom, winch, car carrier, or other similar
315 equipment.

316 (c) Towing or removal of a wrecked, disabled, or abandoned
317 vehicle under the Florida Highway Patrol wrecker-allocation
318 system pursuant to s. 321.051 or under a county or municipal
319 wrecker-allocation system pursuant to s. 323.002.

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

322 (e) Towing, transportation, or removal of a vehicle or
323 vessel parked on real property without permission under s.
324 715.07.

325 (f) Recovery of a vehicle or vessel.

326 508.102 Wrecker Operator Advisory Council.--

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

330 (2) The council shall prepare recommendations regarding
331 the need for a wrecker operator certification program and
332 establishment of educational and training requirements for
333 wrecker operators should such a certification program be deemed
334 necessary. The council shall present its recommendations to the
335 President of the Senate, the Speaker of the House of
336 Representatives, and the Commissioner of Agriculture by January

HB 1195

2008

337 31, 2009.

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

340 (b) Each of four members of the council must be an
341 ultimate equitable owner of a wrecker company who has been an
342 ultimate equitable owner of that company for at least 5 years
343 before his or her appointment; one member must be a wrecker
344 operator who is not an ultimate equitable owner of a wrecker
345 company and who has been a wrecker operator for at least 5 years
346 before his or her appointment; and two members must be
347 laypersons. Each member must be a resident of this state. This
348 paragraph expires July 1, 2014.

349 (c) Effective July 1, 2014, each of four members of the
350 council must be an ultimate equitable owner of a wrecker company
351 registered under this chapter who has been an ultimate equitable
352 owner of that company registered for at least 5 years before his
353 or her appointment; one member must be a wrecker operator
354 certified under this chapter who is not an ultimate equitable
355 owner of wrecker company and who has been a certified wrecker
356 operator for at least 5 years before his or her appointment; and
357 two members must be laypersons. Each member must be a resident
358 of this state.

359 (4) The term of each member of the council is 4 years,
360 except that, in order to establish staggered terms, two members
361 who are owners of wrecker companies and one layperson shall be
362 appointed initially for a 2-year term each. Members may be
363 reappointed for additional terms, but may not serve more than 8
364 consecutive years. A vacancy shall be filled for the remainder

HB 1195

2008

365 of the unexpired term in the same manner as the original
366 appointment.

367 (5) (a) The council shall annually elect from among its
368 members a chair, who shall preside over the meetings of the
369 council, and a vice chair.

370 (b) In conducting its meetings, the council shall use
371 accepted rules of procedure. The department must keep a complete
372 record of each meeting showing the names of members present and
373 the actions taken. These records and other documents regarding
374 matters within the jurisdiction of the council must be kept on
375 file with the department.

376 (6) The members of the council shall serve without
377 compensation, but are entitled to reimbursement of travel and
378 per diem expenses under s. 112.061.

379 (7) The department shall provide administrative and staff
380 support services relating to the functions of the council.

381 (8) The council shall review the rules adopted by the
382 department to administer this chapter and shall advise the
383 department on matters relating to industry standards and
384 practices and other issues that require technical expertise and
385 consultation or that promote better consumer protection in the
386 wrecker industry.

387 508.103 Rulemaking authority.--The department may adopt
388 rules under ss. 120.536(1) and 120.54 to administer this
389 chapter.

390 508.105 Registration requirements; renewal of
391 registrations.--

392 (1) Each wrecker company engaged or attempting to engage

HB 1195

2008

393 for hire in the business of towing, carrying, or transporting
394 vehicles or vessels by wrecker upon the streets and highways of
395 this state must annually register with the department on forms
396 prescribed by the department. The application for registration
397 must include at least the following information:

398 (a) The name and federal employer identification number of
399 the wrecker company.

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

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

404 (d) The full name, residence address, business address,
405 and telephone number of the applicant. If the applicant is other
406 than a natural person, the application must also contain the
407 full name, residence address, business address, telephone
408 number, and federal employer identification number, if
409 applicable, of each ultimate equitable owner of the business
410 entity and each officer, director, partner, manager, member, or
411 managing member of the entity.

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

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

418 (2) Each initial and renewal application for registration
419 must be accompanied by the registration fee prescribed in s.
420 508.116.

421 (3) The department shall collect from each applicant a
422 fingerprint processing fee of \$15 for state processing and an
423 additional fee for national processing for each applicant
424 submitted. The department shall screen background results to
425 determine whether the applicant meets the requirements for
426 issuance of a registration certificate.

427 (4) The department shall review each application in
428 accordance with s. 120.60 and shall issue a registration
429 certificate, in the form and size prescribed by the department,
430 to each wrecker company whose application is approved. The
431 certificate must show at least the name and address of the
432 wrecker company and the registration number. The registration
433 certificate must be prominently displayed in the wrecker
434 company's primary place of business.

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

441 (6) A registration is invalid for a wrecker company
442 transacting business at a place other than the location
443 specified in the registration application unless the department
444 is first notified in writing before the change of location. A
445 registration issued under this chapter is not transferable or
446 assignable, and a wrecker company may not conduct business under
447 a name other than the name registered. A wrecker company
448 desiring to change its registered name, location, or registered

449 agent for service of process at a time other than upon renewal
450 of registration must notify the department of the change.

451 (7) (a) Each registration must be renewed annually on or
452 before the expiration date of the current registration. A late
453 fee of \$25 must be paid, in addition to the registration fee or
454 any other penalty, for a registration renewal application that
455 is received by the department after the expiration date of the
456 current registration. The department may not issue a
457 registration until all fees are paid.

458 (b) A wrecker company whose primary place of business is
459 located within a county or municipality that requires, by local
460 ordinance, a local business tax receipt under chapter 205 may
461 not renew a registration under this chapter unless the wrecker
462 company obtains the business tax receipt from the county or
463 municipality.

464 (8) Each wrecker company must provide the department with
465 a certificate of insurance for the insurance coverage required
466 under s. 627.7415 before the department may issue the
467 certificate for an initial or renewal registration. The
468 department must be named as a certificateholder on the insurance
469 certificate and must be notified at least 30 days before any
470 change in insurance coverage.

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

476 508.106 Denial of registration.--The department may deny,

477 revoke, or refuse to renew the registration of a wrecker company
 478 based upon a determination that the applicant or, if the
 479 applicant is other than a natural person, the wrecker company or
 480 any of its ultimate equitable owners, officers, directors,
 481 partners, managers, members, or managing members has:

482 (1) Not met the requirements for registration under this
 483 chapter;

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

487 (3) Been convicted or found guilty of, regardless of
 488 adjudication, or pled guilty or nolo contendere to, a crime
 489 within the last 10 years involving repossession of a motor
 490 vehicle under chapter 493, repair of a motor vehicle under ss.
 491 559.901-559.9221, theft of a motor vehicle under s. 812.014,
 492 carjacking under s. 812.133, operation of a chop shop under s.
 493 812.16, failure to maintain records of motor vehicle parts and
 494 accessories under s. 860.14, violations relating to airbags
 495 under s. 860.145 or use of fake airbags under s. 860.146,
 496 overcharging for repairs and parts under s. 860.15, or a
 497 violation of towing or storage requirements for a motor vehicle
 498 under this chapter, s. 321.051, chapter 323, s. 713.78, or s.
 499 715.07;

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

504 (5) Pending against him or her a criminal, administrative,

505 or enforcement proceeding in any jurisdiction based upon conduct
 506 involving a violation of this chapter; or

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

509 508.1061 Acceptable forms of payment.--A wrecker company
 510 shall accept a minimum of two of the three following forms of
 511 payment:

512 (1) Cash, cashier's check, money order, or traveler's
 513 check.

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

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

519 508.107 Wrecker operator certification program.--

520 (1) The department, in consultation with the council,
 521 shall establish a wrecker operator certification program by
 522 December 31, 2008. Under this program, the council shall approve
 523 certification courses for wrecker operators conducted by
 524 approved organizations. The council shall prescribe the minimum
 525 curricula for these courses, which must comprise at least 16
 526 hours, equally apportioned between theoretical instruction and
 527 practical training. The council must approve each organization
 528 and its certification course before the course is accepted for
 529 certification of wrecker operators under this chapter.

530 (2) Each approved wrecker operator certification course
 531 must include a certification examination demonstrating a wrecker
 532 operator's knowledge, skills, and abilities in performing

533 wrecker services and proficiency in the subject matter of the
534 certification course. The council must approve each
535 certification examination before the examination is accepted for
536 certification of wrecker operators under this chapter.

537 (3) Each organization conducting an approved wrecker
538 operator certification course must issue on forms prescribed by
539 the department a certificate to each wrecker operator who
540 completes the approved certification course and passes the
541 approved certification examination.

542 508.108 Specialized wrecker services.--

543 (1) In addition to the minimum curricula for certification
544 of wrecker operators, each approved certification course must
545 offer optional instruction, training, and examination of wrecker
546 operators for each of the following specialized wrecker
547 services:

548 (a) Light duty.--Towing and winching a passenger vehicle
549 and uprighting an overturned passenger vehicle, including the
550 proper use of chains, wire rope, and straps.

551 (b) Medium duty.--Towing and winching a medium-sized
552 commercial vehicle and uprighting an overturned medium-sized
553 commercial vehicle.

554 (c) Heavy duty.--Towing and winching a standard large-
555 sized commercial vehicle and uprighting an overturned standard
556 large-sized commercial vehicle.

557 (d) Ultra-heavy duty.--Towing and winching a specialty
558 large-sized commercial vehicle or another complex vehicle and
559 uprighting an overturned specialty large-sized commercial
560 vehicle or another complex vehicle.

561 (e) Rollback wrecker.--Proper loading, securing,
562 transporting, and unloading of a vehicle on a flatbed-rollback
563 wrecker.

564 (f) Hazardous materials.--Awareness of hazardous
565 materials. Instruction and training for this wrecker service
566 must comprise at least 8 hours in order to be approved.

567 (g) Air cushions.--Proper use of air cushions in the
568 recovery of a heavy-duty vehicle.

569 (2) The department shall adopt rules prescribing specific
570 standards to further define each of the specialized wrecker
571 services described in subsection (1). The council must approve
572 the instruction, training, and examination for a specialized
573 wrecker service before the specialized wrecker service is
574 accepted for endorsement of a wrecker operator's certification
575 under this chapter.

576 (3) Each organization conducting an approved wrecker
577 operator certification course must issue on forms prescribed by
578 the department a certificate to each wrecker operator who
579 completes the approved instruction and training for a
580 specialized wrecker service and passes the approved endorsement
581 examination for that specialized wrecker service.

582 508.109 Certification cards.--

583 (1) Each organization conducting an approved wrecker
584 operator certification course must issue a certification card to
585 each wrecker operator who completes the approved certification
586 course and passes the approved certification examination. The
587 department must approve the form of the certification cards
588 issued by each organization. Each certification card must

HB 1195

2008

589 include the wrecker operator's name, a color photograph or
590 digital image of the wrecker operator, and the expiration date
591 of the certification card.

592 (2) Each certification card must also include the wrecker
593 operator's applicable endorsements for those specialized wrecker
594 services for which the wrecker operator completed the approved
595 instruction and training and passed the approved endorsement
596 examination.

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

599 1. Completes a certification course and passes a
600 certification examination in another state, which course and
601 examination are substantially equivalent to the approved
602 certification courses and approved certification examinations in
603 this state.

604 2. Completed a certification course and passed a
605 certification examination in this state between January 1, 2003,
606 and December 31, 2008, which course and examination are
607 substantially equivalent to the approved certification courses
608 and the approved certification examinations. This subparagraph
609 expires July 1, 2009.

610 3. Completed instruction and training for a specialized
611 wrecker service and passed an endorsement examination for that
612 specialized wrecker service between January 1, 2003, and
613 December 31, 2008, which instruction, training, and examination
614 are substantially equivalent to the approved instruction and
615 training and the approved endorsement examinations. This
616 subparagraph expires July 1, 2009.

617 (b) For the purposes of this subsection, the council shall
 618 approve each certification examination in another state and
 619 shall approve the instruction, training, and examination for
 620 each specialized wrecker service in another state which the
 621 council determines are substantially equivalent to the approved
 622 certification courses and approved certification examinations in
 623 this state or to the approved instruction, training, and
 624 endorsement examinations for a specialized wrecker service in
 625 this state.

626 (4) Each certification card expires 5 years after the date
 627 of issuance.

628 (5) Certification cards shall be issued by the
 629 organizations conducting approved wrecker operator certification
 630 courses. The department is not responsible for issuing
 631 certification cards or for the costs associated with the
 632 issuance of certification cards.

633 508.111 Renewal of certification; continuing education
 634 requirements.--

635 (1) The department, in consultation with the council,
 636 shall establish a continuing education program for the
 637 recertification of wrecker operators by December 31, 2009. In
 638 order to renew a wrecker operator's certification card, an
 639 operator must complete a continuing education course. The
 640 council must prescribe the minimum curricula and proper
 641 examination for each continuing education course, each of which
 642 must be at least 8 hours in length. The council shall approve
 643 each organization, and the continuing education course it
 644 proposes to offer, before the course is approved for

645 recertifying wrecker operators.

646 (2) Each organization conducting an approved wrecker
647 operator continuing education course must issue, on forms
648 prescribed by the department, a certificate to each wrecker
649 operator who completes the approved course and passes an
650 approved recertification examination.

651 508.112 Prohibited acts.--It is a violation of this
652 chapter for a person to:

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

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

658 (3) Violate s. 323.002, relating to county and municipal
659 wrecker-allocation systems.

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

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

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

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

671 (8) Allow a wrecker operator certified under this chapter
672 to perform a specialized wrecker service for the wrecker company

673 if the wrecker operator's certification does not include an
 674 endorsement for that specialized wrecker service.

675 (9) Perform an act otherwise prohibited by this chapter or
 676 fail to perform an act otherwise required by this chapter.

677 508.113 Administrative penalties; inspection of records.--

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

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

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

684 (c) Direct the person to cease and desist specified
 685 activities.

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

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

690 (2) Chapter 120 shall govern an administrative proceeding
 691 resulting from an order imposing a penalty specified in
 692 subsection (1).

693 508.114 Civil penalties.--The department may bring a civil
 694 action in a court of competent jurisdiction to recover any
 695 penalties or damages allowed in this chapter and for injunctive
 696 relief to enforce compliance with this chapter. The department
 697 may seek a civil penalty of up to \$5,000 for each violation of
 698 this chapter and may seek restitution for and on behalf of any
 699 owner of a vehicle or vessel who is aggrieved or injured by a
 700 violation of this chapter.

701 508.116 Fees.--The department shall adopt by rule a fee
 702 schedule not to exceed the following amounts:

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

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

705 508.117 General Inspection Trust Fund; payments.--All
 706 fees, penalties, or other funds collected by the department
 707 under this chapter must be deposited in the General Inspection
 708 Trust Fund and may only be used for the purpose of administering
 709 this chapter.

710 508.118 Recovery agents; exemption.--This chapter does not
 711 apply to a person licensed under chapter 493 performing
 712 repossession services.

713 508.119 County and municipal ordinances.--A county or
 714 municipality may enact ordinances governing the business of
 715 transporting vehicles or vessels by wrecker that are more
 716 restrictive than this chapter. This section does not limit the
 717 authority of a political subdivision to impose regulatory fees
 718 or charges or to levy local business taxes under chapter 205.
 719 The department may enter into a cooperative agreement with any
 720 county or municipality that provides for the referral,
 721 investigation, and prosecution of consumer complaints alleging
 722 violations of this chapter. The department may delegate
 723 enforcement of this chapter to any county or municipality
 724 entering into a cooperative agreement.

725 508.120 Records.--

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

HB 1195

2008

729 (2) Each wrecker company shall maintain records on each of
730 its wrecker operators sufficient to demonstrate that the
731 operator has successfully completed an approved wrecker operator
732 certification course or an approved wrecker operator continuing
733 education course and is certified to perform wrecker services.
734 These records shall be maintained at the wrecker company's
735 principal place of business for as long as the operator is
736 employed by the wrecker company and for at least 6 months
737 thereafter.

738 (3) Each organization approved to conduct a wrecker
739 operator certification course or approved to offer a wrecker
740 operator continuing education course shall maintain records on
741 each person who successfully completes one of the courses. The
742 records shall be maintained at the organization's principal
743 place of business for at least 5 years. The department may, at
744 any time during normal business hours, enter the organization's
745 principal place of business to examine the records.

746 Section 2. Effective January 1, 2009, section 508.104,
747 Florida Statutes, is created to read:

748 508.104 Wrecker companies; registration required.--

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

753 (2) A person applying for or renewing a local business tax
754 receipt to engage for hire in the business of a wrecker company
755 must exhibit a current registration certificate from the
756 department before the local business tax receipt may be issued

HB 1195

2008

757 or reissued under chapter 205.

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

764 Section 3. Effective January 1, 2009, section 508.110,
765 Florida Statutes, is created to read:

766 508.110 Wrecker operators; certification required;
767 inspection of employment records.--

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

773 (2) (a) A person may not perform wrecker services or
774 specialized wrecker services for a wrecker company for more than
775 6 months after first being employed by, or becoming an ultimate
776 equitable owner of, the wrecker company without being certified
777 as a wrecker operator under this chapter.

778 (b) A wrecker operator certified under this chapter may
779 not perform a specialized wrecker service for a wrecker company
780 unless the wrecker operator's certification includes an
781 endorsement for that specialized wrecker service.

782 (3) (a) Notwithstanding subsections (1) and (2), a person
783 may perform wrecker services or specialized wrecker services in
784 this state if he or she is an employee or ultimate equitable

785 owner of a motor vehicle repair shop registered with the
 786 department under s. 559.904 and those wrecker services or
 787 specialized wrecker services are performed on behalf of the
 788 motor vehicle repair shop.

789 (b) Notwithstanding subsections (1) and (2), a person may
 790 perform wrecker services or specialized wrecker services in this
 791 state if those wrecker services or specialized wrecker services
 792 are performed on behalf of a religious organization that holds a
 793 current exemption from federal taxation or that is not required
 794 to apply for recognition of its exemption under s. 501 of the
 795 Internal Revenue Code.

796 (4) The department may, at any time during business hours,
 797 enter any business location of a wrecker company and examine the
 798 company's books or records. If the department reasonably
 799 believes a violation of this chapter has occurred or is
 800 occurring, the department may subpoena any necessary books or
 801 records.

802 Section 4. Effective July 1, 2009, section 508.115,
 803 Florida Statutes, is created to read:

804 508.115 Criminal penalties.--

805 (1) A person who violates s. 508.104(1) by operating a
 806 wrecker company in this state without being registered with the
 807 department under this chapter commits a felony of the third
 808 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 809 775.084.

810 (2) A person who violates s. 508.110(1) by performing
 811 wrecker services in this state without being an employee or
 812 ultimate equitable owner of a wrecker company that is registered

HB 1195

2008

813 with the department under this chapter commits a felony of the
 814 third degree, punishable as provided in s. 775.082, s. 775.083,
 815 or s. 775.084.

816 Section 5. Effective January 1, 2009, paragraph (b) of
 817 subsection (8) of section 120.80, Florida Statutes, is amended
 818 to read:

819 120.80 Exceptions and special requirements; agencies.--

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

821 (b) Wrecker companies ~~operators~~.--Notwithstanding s.
 822 120.57(1)(a), hearings held by the Division of the Florida
 823 Highway Patrol of the Department of Highway Safety and Motor
 824 Vehicles to deny, suspend, or remove a wrecker company ~~operator~~
 825 from participating in the wrecker-allocation ~~wrecker rotation~~
 826 system established under ~~by~~ s. 321.051 need not be conducted by
 827 an administrative law judge assigned by the division. These
 828 hearings shall be held by a hearing officer appointed by the
 829 director of the Division of the Florida Highway Patrol.

830 Section 6. Effective January 1, 2009, section 205.1977,
 831 Florida Statutes, is created to read:

832 205.1977 Wrecker companies; consumer protection.--A county
 833 or municipality may not issue or renew a business tax receipt
 834 for the operation of a wrecker company under chapter 508 unless
 835 the wrecker company exhibits a current registration from the
 836 Department of Agriculture and Consumer Services.

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

839 316.530 Towing requirements.--

840 (3) Whenever a motor vehicle becomes disabled upon the
 841 highways of this state and a wrecker ~~or tow truck~~ is required to
 842 remove it to a repair shop or other appropriate location, if the
 843 combined weights of those two vehicles and the loads thereon
 844 exceed the maximum allowable weights as established by s.
 845 316.535, no penalty shall be assessed either vehicle or driver.
 846 However, this exception shall not apply to the load limits for
 847 bridges and culverts established by the department as provided
 848 in s. 316.555.

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

851 320.01 Definitions, general.--As used in the Florida
 852 Statutes, except as otherwise provided, the term:

853 (40) "Wrecker" means a tow truck or other ~~any~~ motor
 854 vehicle that is used to tow, carry, or otherwise transport ~~motor~~
 855 vehicles or vessels upon the streets and highways of this state
 856 and that is equipped for that purpose with a boom, winch, car
 857 carrier, or other similar equipment.

858 Section 9. Effective January 1, 2009, subsection (8) of
 859 section 320.03, Florida Statutes, is amended to read:

860 320.03 Registration; duties of tax collectors;
 861 International Registration Plan.--

862 (8) If the applicant's name appears on the list referred
 863 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a
 864 license plate or revalidation sticker may not be issued until
 865 that person's name no longer appears on the list or until the
 866 person presents a receipt from the clerk showing that the fines
 867 outstanding have been paid. This subsection does not apply to

868 the owner of a leased vehicle if the vehicle is registered in
 869 the name of the lessee of the vehicle. The tax collector and the
 870 clerk of the court are each entitled to receive monthly, as
 871 costs for implementing and administering this subsection, 10
 872 percent of the civil penalties and fines recovered from such
 873 persons. As used in this subsection, the term "civil penalties
 874 and fines" does not include a wrecker company's ~~operator's~~ lien
 875 as described in s. 713.78(13). If the tax collector has private
 876 tag agents, such tag agents are entitled to receive a pro rata
 877 share of the amount paid to the tax collector, based upon the
 878 percentage of license plates and revalidation stickers issued by
 879 the tag agent compared to the total issued within the county.
 880 The authority of any private agent to issue license plates shall
 881 be revoked, after notice and a hearing as provided in chapter
 882 120, if he or she issues any license plate or revalidation
 883 sticker contrary to the provisions of this subsection. This
 884 section applies only to the annual renewal in the owner's birth
 885 month of a motor vehicle registration and does not apply to the
 886 transfer of a registration of a motor vehicle sold by a motor
 887 vehicle dealer licensed under this chapter, except for the
 888 transfer of registrations which is inclusive of the annual
 889 renewals. This section does not affect the issuance of the title
 890 to a motor vehicle, notwithstanding s. 319.23(7)(b).

891 Section 10. Section 320.0706, Florida Statutes, is amended
 892 to read:

893 320.0706 Display of license plates on trucks.--The owner
 894 of any commercial truck of gross vehicle weight of 26,001 pounds
 895 or more shall display the registration license plate on both the

HB 1195

2008

896 front and rear of the truck in conformance with all the
 897 requirements of s. 316.605 that do not conflict with this
 898 section. The owner of a dump truck may place the rear license
 899 plate on the gate no higher than 60 inches to allow for better
 900 visibility. However, the owner of a truck tractor or a wrecker
 901 must ~~shall be required to~~ display the registration license plate
 902 only on the front of such vehicle.

903 Section 11. Subsection (1) of section 320.0821, Florida
 904 Statutes, is amended, and subsection (5) is added to that
 905 section, to read:

906 320.0821 Wrecker license plates.--

907 (1) The department shall issue one a wrecker license
 908 plate, regardless of gross vehicle weight, to the owner of any
 909 motor vehicle that is used to tow, carry, or otherwise transport
 910 ~~motor~~ vehicles or vessels upon the streets and highways of this
 911 state and that is equipped for that purpose with a boom, winch,
 912 carrier, or other similar equipment, except a motor vehicle
 913 registered under the International Registration Plan, upon
 914 application and payment of the appropriate license tax and fees
 915 in accordance with s. 320.08(5)(d) or (e).

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

918 Section 12. Effective January 1, 2009, subsection (1) of
 919 section 320.0821, Florida Statutes, as amended by this act, is
 920 amended to read:

921 320.0821 Wrecker license plates.--

922 (1) The department shall issue one wrecker license plate,
 923 regardless of gross vehicle weight, to the owner of a wrecker

924 ~~any motor vehicle that is used to tow, carry, or otherwise~~
 925 ~~transport vehicles or vessels upon the streets and highways of~~
 926 ~~this state and that is equipped for that purpose with a boom,~~
 927 ~~winch, carrier, or other similar equipment, except a motor~~
 928 ~~vehicle registered under the International Registration Plan,~~
 929 upon application and payment of the appropriate license tax and
 930 fees in accordance with s. 320.08(5)(d) or (e).

931 Section 13. Paragraph (a) of subsection (1) of section
 932 320.13, Florida Statutes, is amended to read:

933 320.13 Dealer and manufacturer license plates and
 934 alternative method of registration.--

935 (1)(a) Any licensed motor vehicle dealer and any licensed
 936 mobile home dealer may, upon payment of the license tax imposed
 937 by s. 320.08(12), secure one or more dealer license plates,
 938 which are valid for use on motor vehicles or mobile homes owned
 939 by the dealer to whom such plates are issued while the motor
 940 vehicles are in inventory and for sale, or while being operated
 941 in connection with such dealer's business, but are not valid for
 942 use for hire. Dealer license plates may not be used on any ~~tow~~
 943 ~~truck or wrecker~~ as defined in s. 320.01 unless the ~~tow truck or~~
 944 wrecker is being demonstrated for sale, and the dealer license
 945 plates may not be used on a vehicle used to transport another
 946 motor vehicle for the motor vehicle dealer.

947 Section 14. For the purpose of incorporating the amendment
 948 made by this act to section 320.01, Florida Statutes, in
 949 references thereto, paragraph (a) of subsection (4) and
 950 subsection (9) of section 316.550, Florida Statutes, are
 951 reenacted to read:

952 316.550 Operations not in conformity with law; special
 953 permits.--

954 (4) (a) The Department of Transportation may issue a
 955 wrecker special blanket permit to authorize a wrecker as defined
 956 in s. 320.01(40) to tow a disabled vehicle as defined in s.
 957 320.01(38) where the combination of the wrecker and the disabled
 958 vehicle being towed exceeds the maximum weight limits as
 959 established by s. 316.535.

960 (9) Whenever any motor vehicle, or the combination of a
 961 wrecker as defined in s. 320.01(40) and a towed motor vehicle,
 962 exceeds any weight or dimensional criteria or special
 963 operational or safety stipulation contained in a special permit
 964 issued under the provisions of this section, the penalty
 965 assessed to the owner or operator shall be as follows:

966 (a) For violation of weight criteria contained in a
 967 special permit, the penalty per pound or portion thereof
 968 exceeding the permitted weight shall be as provided in s.
 969 316.545.

970 (b) For each violation of dimensional criteria in a
 971 special permit, the penalty shall be as provided in s. 316.516
 972 and penalties for multiple violations of dimensional criteria
 973 shall be cumulative except that the total penalty for the
 974 vehicle shall not exceed \$1,000.

975 (c) For each violation of an operational or safety
 976 stipulation in a special permit, the penalty shall be an amount
 977 not to exceed \$1,000 per violation and penalties for multiple
 978 violations of operational or safety stipulations shall be
 979 cumulative except that the total penalty for the vehicle shall

980 not exceed \$1,000.

981 (d) For violation of any special condition that has been
 982 prescribed in the rules of the Department of Transportation and
 983 declared on the permit, the vehicle shall be determined to be
 984 out of conformance with the permit and the permit shall be
 985 declared null and void for the vehicle, and weight and
 986 dimensional limits for the vehicle shall be as established in s.
 987 316.515 or s. 316.535, whichever is applicable, and:

988 1. For weight violations, a penalty as provided in s.
 989 316.545 shall be assessed for those weights which exceed the
 990 limits thus established for the vehicle; and

991 2. For dimensional, operational, or safety violations, a
 992 penalty as established in paragraph (c) or s. 316.516, whichever
 993 is applicable, shall be assessed for each nonconforming
 994 dimensional, operational, or safety violation and the penalties
 995 for multiple violations shall be cumulative for the vehicle.

996 Section 15. For the purpose of incorporating the amendment
 997 made by this act to section 320.01, Florida Statutes, in
 998 references thereto, paragraphs (d) and (e) of subsection (5) of
 999 section 320.08, Florida Statutes, are reenacted to read:

1000 320.08 License taxes.--Except as otherwise provided
 1001 herein, there are hereby levied and imposed annual license taxes
 1002 for the operation of motor vehicles, mopeds, motorized bicycles
 1003 as defined in s. 316.003(2), and mobile homes, as defined in s.
 1004 320.01, which shall be paid to and collected by the department
 1005 or its agent upon the registration or renewal of registration of
 1006 the following:

1007 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;

1008 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

1009 (d) A wrecker, as defined in s. 320.01(40), which is used
 1010 to tow a vessel as defined in s. 327.02(39), a disabled,
 1011 abandoned, stolen-recovered, or impounded motor vehicle as
 1012 defined in s. 320.01(38), or a replacement motor vehicle as
 1013 defined in s. 320.01(39): \$30 flat.

1014 (e) A wrecker, as defined in s. 320.01(40), which is used
 1015 to tow any motor vehicle, regardless of whether or not such
 1016 motor vehicle is a disabled motor vehicle as defined in s.
 1017 320.01(38), a replacement motor vehicle as defined in s.
 1018 320.01(39), a vessel as defined in s. 327.02(39), or any other
 1019 cargo, as follows:

1020 1. Gross vehicle weight of 10,000 pounds or more, but less
 1021 than 15,000 pounds: \$87 flat.

1022 2. Gross vehicle weight of 15,000 pounds or more, but less
 1023 than 20,000 pounds: \$131 flat.

1024 3. Gross vehicle weight of 20,000 pounds or more, but less
 1025 than 26,000 pounds: \$186 flat.

1026 4. Gross vehicle weight of 26,000 pounds or more, but less
 1027 than 35,000 pounds: \$240 flat.

1028 5. Gross vehicle weight of 35,000 pounds or more, but less
 1029 than 44,000 pounds: \$300 flat.

1030 6. Gross vehicle weight of 44,000 pounds or more, but less
 1031 than 55,000 pounds: \$572 flat.

1032 7. Gross vehicle weight of 55,000 pounds or more, but less
 1033 than 62,000 pounds: \$678 flat.

1034 8. Gross vehicle weight of 62,000 pounds or more, but less
 1035 than 72,000 pounds: \$800 flat.

HB 1195

2008

1036 9. Gross vehicle weight of 72,000 pounds or more: \$979
 1037 flat.

1038 Section 16. Effective January 1, 2009, section 321.051,
 1039 Florida Statutes, is amended to read:

1040 (Substantial rewording of section. See
 1041 s. 321.051, F.S., for present text.)

1042 321.051 Florida Highway Patrol wrecker-allocation system;
 1043 penalties for operation outside of system.--

1044 (1) As used in this section, the term:

1045 (a) "Authorized wrecker company" means a wrecker company
 1046 designated by the division as part of its wrecker-allocation
 1047 system.

1048 (b) "Division" means the Division of the Florida Highway
 1049 Patrol within the Department of Highway Safety and Motor
 1050 Vehicles.

1051 (c) "Unauthorized wrecker company" means a wrecker company
 1052 not designated by the division as part of its wrecker-allocation
 1053 system.

1054 (d) "Wrecker company" has the same meaning ascribed in s.
 1055 508.101.

1056 (e) "Wrecker operator" has the same meaning ascribed in s.
 1057 508.101.

1058 (f) "Wrecker services" has the same meaning ascribed in s.
 1059 508.101.

1060 (2) (a) The division may establish within areas designated
 1061 by the division a wrecker-allocation system, using qualified,
 1062 reputable wrecker companies, for the removal from crash scenes
 1063 and the storage of wrecked or disabled vehicles when the owner

1064 or operator is incapacitated or unavailable or leaves the
 1065 procurement of wrecker services to the officer at the scene and
 1066 for the removal and storage of abandoned vehicles.

1067 (b) The wrecker-allocation system may use only wrecker
 1068 companies registered under chapter 508. Each reputable wrecker
 1069 company registered under chapter 508 is eligible for use in the
 1070 system if its equipment and wrecker operators meet the
 1071 recognized safety qualifications and mechanical standards set by
 1072 the division's rules for the size of vehicle they are designed
 1073 to handle. The division may limit the number of wrecker
 1074 companies participating in the wrecker-allocation system.

1075 (c) The division may establish maximum rates for the
 1076 towing and storage of vehicles removed at the division's request
 1077 if those rates are not established by a county or municipality
 1078 under s. 125.0103 or s. 166.043. These rates are not rules for
 1079 the purpose of chapter 120; however, the Department of Highway
 1080 Safety and Motor Vehicles shall adopt rules prescribing the
 1081 procedures for setting these rates.

1082 (d) Notwithstanding chapter 120, a final order of the
 1083 Department of Highway Safety and Motor Vehicles denying,
 1084 suspending, or revoking a wrecker company's participation in the
 1085 wrecker-allocation system may be appealed only in the manner and
 1086 within the time provided by the Florida Rules of Appellate
 1087 Procedure by a writ of certiorari issued by the circuit court in
 1088 the county in which the wrecker company's primary place of
 1089 business is located, as evidenced by the wrecker company's
 1090 registration under chapter 508.

1091 (3) (a) An unauthorized wrecker company, its wrecker

1092 operators, or its other employees or agents may not monitor a
 1093 police radio for communications between patrol field units and
 1094 the dispatcher in order to determine the location of a wrecked
 1095 or disabled vehicle for the purpose of dispatching its wrecker
 1096 operator to drive by the scene of the vehicle in a manner
 1097 described in paragraph (b) or paragraph (c). Any person who
 1098 violates this paragraph commits a noncriminal violation,
 1099 punishable as provided in s. 775.083.

1100 (b) Except as provided in paragraph (c), a wrecker
 1101 operator dispatched by an unauthorized wrecker company who
 1102 drives by the scene of a wrecked or disabled vehicle before the
 1103 arrival of the wrecker operator dispatched by the authorized
 1104 wrecker company may not initiate contact with the owner or
 1105 operator of the vehicle by soliciting or offering wrecker
 1106 services or tow the vehicle. Any person who violates this
 1107 paragraph commits a misdemeanor of the second degree, punishable
 1108 as provided in s. 775.082 or s. 775.083.

1109 (c) When a wrecker operator dispatched by an unauthorized
 1110 wrecker company drives by the scene of a wrecked or disabled
 1111 vehicle and the owner or operator initiates contact by signaling
 1112 the wrecker operator to stop and provide wrecker services, the
 1113 wrecker operator must disclose to the owner or operator of the
 1114 vehicle that he or she was not dispatched by the authorized
 1115 wrecker company designated as part of the wrecker-allocation
 1116 system and must disclose, in writing, what charges for towing
 1117 and storage will apply before the vehicle is connected to the
 1118 towing apparatus. Any person who violates this paragraph commits
 1119 a misdemeanor of the second degree, punishable as provided in s.

HB 1195

2008

1120 775.082 or s. 775.083.

1121 (d) A wrecker operator may not falsely identify himself or
1122 herself as being part of, or as being employed by a wrecker
1123 company that is part of, the wrecker-allocation system at the
1124 scene of a wrecked or disabled vehicle. Any person who violates
1125 this paragraph commits a misdemeanor of the first degree,
1126 punishable as provided in s. 775.082 or s. 775.083.

1127 (4) This section does not prohibit or in any way prevent
1128 the owner or operator of a vehicle involved in a crash or
1129 otherwise disabled from contacting any wrecker company for the
1130 provision of wrecker services, regardless of whether the wrecker
1131 company is an authorized wrecker company. However, if a law
1132 enforcement officer determines that the disabled vehicle or
1133 vehicle cargo is a public safety hazard, the officer may, in the
1134 interest of public safety, dispatch an authorized wrecker
1135 company if the officer believes that the authorized wrecker
1136 company would arrive at the scene before the wrecker company
1137 requested by the owner or operator of the disabled vehicle or
1138 vehicle cargo.

1139 (5) A law enforcement officer may dispatch an authorized
1140 wrecker company out of rotation to the scene of a wrecked or
1141 disabled vehicle if the authorized wrecker company next on
1142 rotation is not equipped to provide the required wrecker
1143 services and the out-of-rotation authorized wrecker company is
1144 available with the required equipment. However, this subsection
1145 does not prohibit or prevent the owner or operator of a vehicle
1146 involved in a crash or otherwise disabled from contacting any
1147 wrecker company that is properly equipped to provide the

1148 required wrecker services, regardless of whether the wrecker
 1149 company is an authorized wrecker company, unless the law
 1150 enforcement officer determines that the wrecked or disabled
 1151 vehicle or vehicle cargo is a public safety hazard and the
 1152 officer believes that the authorized wrecker company would
 1153 arrive at the scene before the wrecker company requested by the
 1154 owner or operator.

1155 Section 17. Effective January 1, 2009, section 323.001,
 1156 Florida Statutes, is amended to read:

1157 (Substantial rewording of section. See
 1158 s. 323.001, F.S., for present text.)

1159 323.001 Wrecker company storage facilities; vehicle
 1160 holds.--

1161 (1) As used in this section, the term:

1162 (a) "Business day" means a day other than a Saturday,
 1163 Sunday, or federal or state legal holiday.

1164 (b) "Wrecker company" has the same meaning ascribed in s.
 1165 508.101.

1166 (2) A law enforcement agency may place a hold on a motor
 1167 vehicle stored within a wrecker company's storage facility for 5
 1168 business days, thereby preventing a motor vehicle from being
 1169 released to its owner.

1170 (3) To extend a hold beyond 5 business days, the law
 1171 enforcement agency must notify the wrecker company in writing
 1172 before the expiration of the 5 business days. If notification is
 1173 not made within 5 business days, the wrecker company must
 1174 release the vehicle to the designated person under s. 713.78.

1175 (a) If the hold is extended beyond 5 business days, the

1176 law enforcement agency may have the vehicle removed to a
 1177 designated impound lot and the vehicle may not be released by
 1178 the law enforcement agency to the owner or lienholder of the
 1179 vehicle until proof of payment of the towing and storage charges
 1180 incurred by the wrecker company is presented to the law
 1181 enforcement agency.

1182 (b) If the law enforcement agency chooses to have the
 1183 vehicle remain at the wrecker company's storage facility for
 1184 more than 5 business days under the written notification, the
 1185 law enforcement agency is responsible for paying the storage
 1186 charges incurred by the wrecker company for the requested
 1187 extended period. The owner or lienholder is responsible for
 1188 paying the accrued towing and storage charges for the first 5
 1189 business days, or any period less than the first 5 business
 1190 days, if the law enforcement agency moves the vehicle from the
 1191 wrecker company's storage facility to a designated impound lot
 1192 or provides written notification to extend the hold on the
 1193 vehicle before the expiration of 5 business days.

1194 (c) The towing and storage rates for the owner or
 1195 lienholder of the held vehicle may not exceed the rates for the
 1196 law enforcement agency.

1197 (4) If there is a judicial finding of no probable cause
 1198 for having continued the immobilization or impoundment, the law
 1199 enforcement agency ordering the hold must pay the accrued
 1200 charges for any towing and storage.

1201 (5) The requirements for a written hold apply when:

1202 (a) The law enforcement officer has probable cause to
 1203 believe that the vehicle should be seized and forfeited under

1204 the Florida Contraband Forfeiture Act;

1205 (b) The law enforcement officer has probable cause to
 1206 believe that the vehicle should be seized and forfeited under
 1207 chapter 370 or chapter 372;

1208 (c) The law enforcement officer has probable cause to
 1209 believe that the vehicle was used as a means to commit a crime;

1210 (d) The law enforcement officer has probable cause to
 1211 believe that the vehicle is evidence that a crime has been
 1212 committed or that the vehicle contains evidence, which cannot
 1213 readily be removed, that a crime has been committed;

1214 (e) The law enforcement officer has probable cause to
 1215 believe that the vehicle was involved in a traffic accident
 1216 resulting in death or personal injury and should be sealed for
 1217 investigation and collection of evidence by a vehicular homicide
 1218 investigator;

1219 (f) The vehicle is impounded or immobilized under s.
 1220 316.193 or s. 322.34; or

1221 (g) The law enforcement officer is complying with a court
 1222 order.

1223 (6) The hold must be in writing and must specify:

1224 (a) The name and agency of the law enforcement officer
 1225 placing the hold on the vehicle.

1226 (b) The date and time the hold is placed on the vehicle.

1227 (c) A general description of the vehicle, including its
 1228 color, make, model, body style, and year; vehicle identification
 1229 number; registration license plate number, state, and year; and
 1230 validation sticker number, state, and year.

1231 (d) The specific reason for placing the hold.

- 1232 (e) The condition of the vehicle.
- 1233 (f) The location where the vehicle is being held.
- 1234 (g) The name, address, and telephone number of the wrecker
- 1235 company and the storage facility.

1236 (7) A wrecker company's storage facility must comply with
 1237 a hold placed by a law enforcement officer, including
 1238 instructions for inside or outside storage. A wrecker company's
 1239 storage facility may not release a motor vehicle subject to a
 1240 hold to any person except as directed by the law enforcement
 1241 agency placing the hold.

1242 (8) When a vehicle owner is found guilty of, regardless of
 1243 adjudication, or pleads nolo contendere to, the offense that
 1244 resulted in a hold being placed on his or her vehicle, the owner
 1245 must pay the accrued towing and storage charges assessed against
 1246 the vehicle.

1247 Section 18. Effective January 1, 2009, section 323.002,
 1248 Florida Statutes, is amended to read:

1249 (Substantial rewording of section. See
 1250 s. 323.002, F.S., for present text.)

1251 323.002 County and municipal wrecker-allocation systems;
 1252 penalties for operation outside of system.--

1253 (1) As used in this section, the term:

1254 (a) "Authorized wrecker company" means a wrecker company
 1255 designated as part of the wrecker-allocation system established
 1256 by the governmental unit having jurisdiction over the scene of a
 1257 wrecked, disabled, or abandoned vehicle.

1258 (b) "Unauthorized wrecker company" means a wrecker company
 1259 not designated as part of the wrecker-allocation system

HB 1195

2008

1260 established by the governmental unit having jurisdiction over
1261 the scene of a wrecked, disabled, or abandoned vehicle.

1262 (c) "Wrecker-allocation system" means a system for the
1263 towing or removal of wrecked, disabled, or abandoned vehicles,
1264 similar to the Florida Highway Patrol wrecker-allocation system
1265 described in s. 321.051(2), under which a county or municipality
1266 contracts with one or more wrecker companies registered under
1267 chapter 508 for the towing or removal of wrecked, disabled, or
1268 abandoned vehicles from accident scenes, streets, or highways.
1269 Each wrecker-allocation system must use a method for
1270 apportioning the towing assignments among the eligible wrecker
1271 companies through the creation of geographic zones or a rotation
1272 schedule or a combination of geographic zones and a rotation
1273 schedule.

1274 (d) "Wrecker company" has the same meaning ascribed in s.
1275 508.101.

1276 (e) "Wrecker operator" has the same meaning ascribed in s.
1277 508.101.

1278 (f) "Wrecker services" has the same meaning ascribed in s.
1279 508.101.

1280 (2) In a county or municipality that operates a wrecker-
1281 allocation system:

1282 (a) The wrecker-allocation system may only use wrecker
1283 companies registered under chapter 508.

1284 (b) An unauthorized wrecker company, its wrecker
1285 operators, or its other employees or agents may not monitor a
1286 police radio for communications between patrol field units and
1287 the dispatcher in order to determine the location of a wrecked

1288 or disabled vehicle for the purpose of dispatching its wrecker
 1289 operator to drive by the scene of the vehicle in a manner
 1290 described in paragraph (c) or paragraph (d). Any person who
 1291 violates this paragraph commits a noncriminal violation,
 1292 punishable as provided in s. 775.083.

1293 (c) Except as provided in paragraph (d), a wrecker
 1294 operator dispatched by an unauthorized wrecker company who
 1295 drives by the scene of a wrecked or disabled vehicle before the
 1296 arrival of the wrecker operator dispatched by the authorized
 1297 wrecker company may not initiate contact with the owner or
 1298 operator of the vehicle by soliciting or offering wrecker
 1299 services or tow the vehicle. Any person who violates this
 1300 paragraph commits a misdemeanor of the second degree, punishable
 1301 as provided in s. 775.082 or s. 775.083.

1302 (d) When a wrecker operator dispatched by an unauthorized
 1303 wrecker company drives by the scene of a wrecked or disabled
 1304 vehicle and the owner or operator initiates contact by signaling
 1305 the wrecker operator to stop and provide wrecker services, the
 1306 wrecker operator must disclose to the owner or operator of the
 1307 vehicle that he or she was not dispatched by the authorized
 1308 wrecker company designated as part of the wrecker-allocation
 1309 system and must disclose, in writing, what charges for towing
 1310 and storage will apply before the vehicle is connected to the
 1311 towing apparatus. Any person who violates this paragraph commits
 1312 a misdemeanor of the second degree, punishable as provided in s.
 1313 775.082 or s. 775.083.

1314 (e) A wrecker operator may not falsely identify himself or
 1315 herself as being part of, or as being employed by a wrecker

HB 1195

2008

1316 company that is part of, the wrecker-allocation system at the
1317 scene of a wrecked or disabled vehicle. Any person who violates
1318 this paragraph commits a misdemeanor of the first degree,
1319 punishable as provided in s. 775.082 or s. 775.083.

1320 (3) This section does not prohibit or in any way prevent
1321 the owner or operator of a vehicle involved in a crash or
1322 otherwise disabled from contacting any wrecker company for the
1323 provision of wrecker services, regardless of whether the wrecker
1324 company is an authorized wrecker company. If a law enforcement
1325 officer determines that the disabled vehicle or vehicle cargo is
1326 a public safety hazard, the officer may, in the interest of
1327 public safety, dispatch an authorized wrecker company if the
1328 officer believes that the authorized wrecker company would
1329 arrive at the scene before the wrecker company requested by the
1330 owner or operator of the disabled vehicle or vehicle cargo.

1331 (4) A law enforcement officer may dispatch an authorized
1332 wrecker company out of rotation to the scene of a wrecked or
1333 disabled vehicle if the authorized wrecker company next on
1334 rotation is not equipped to provide the required wrecker
1335 services and the out-of-rotation authorized wrecker company is
1336 available with the required equipment. However, this subsection
1337 does not prohibit or prevent the owner or operator of a vehicle
1338 involved in a crash or otherwise disabled from contacting any
1339 wrecker company that is properly equipped to provide the
1340 required wrecker services, regardless of whether the wrecker
1341 company is an authorized wrecker company, unless the law
1342 enforcement officer determines that the wrecked or disabled
1343 vehicle or vehicle cargo is a public safety hazard and the

HB 1195

2008

1344 officer believes that the authorized wrecker company would
 1345 arrive at the scene before the wrecker company requested by the
 1346 owner or operator.

1347 Section 19. Effective January 1, 2009, section 713.78,
 1348 Florida Statutes, is amended to read:

1349 713.78 Liens for recovering, towing, or storing vehicles
 1350 and vessels.--

1351 (1) As used in ~~For the purposes of~~ this section, the term:

1352 (a) "Business day" means a day other than a Saturday,
 1353 Sunday, or federal or state legal holiday.

1354 (b) "Property owner" has the same meaning ascribed in s.
 1355 715.07.

1356 (c) ~~(a)~~ "Vehicle" has the same meaning ascribed in s.
 1357 508.101 ~~means any mobile item, whether motorized or not, which~~
 1358 ~~is mounted on wheels.~~

1359 (d) ~~(b)~~ "Vessel" has the same meaning ascribed in s.
 1360 508.101 ~~means every description of watercraft, barge, and~~
 1361 ~~airboat used or capable of being used as a means of~~
 1362 ~~transportation on water, other than a seaplane or a "documented~~
 1363 ~~vessel" as defined in s. 327.02(9).~~

1364 (e) ~~(c)~~ "Wrecker" has the same meaning ascribed in s.
 1365 320.01 ~~means any truck or other vehicle which is used to tow,~~
 1366 ~~carry, or otherwise transport motor vehicles or vessels upon the~~
 1367 ~~streets and highways of this state and which is equipped for~~
 1368 ~~that purpose with a boom, winch, car carrier, or other similar~~
 1369 ~~equipment.~~

1370 (f) "Wrecker company" has the same meaning ascribed in s.
 1371 508.101.

1372 (g) "Wrecker operator" has the same meaning ascribed in s.
 1373 508.101.

1374 (2) Whenever a wrecker company registered under chapter
 1375 508 ~~person regularly engaged in the business of transporting~~
 1376 ~~vehicles or vessels by wrecker, tow truck, or car carrier~~
 1377 recovers, removes, or stores a vehicle or vessel upon
 1378 instructions from:

1379 (a) The owner of the vehicle or vessel ~~thereof~~;

1380 (b) The property owner or lessor, ~~or a person authorized~~
 1381 ~~by the owner or lessor~~, of real property on which the ~~such~~
 1382 vehicle or vessel is ~~wrongfully~~ parked without permission, and
 1383 the removal is done in compliance with s. 715.07; or

1384 (c) Any law enforcement agency,

1385
 1386 the wrecker company has ~~she or he shall have~~ a lien on the
 1387 vehicle or vessel for a reasonable towing fee and for a
 1388 reasonable storage fee, ~~+~~ except that no storage fee shall be
 1389 charged if the vehicle or vessel is stored ~~for~~ less than 6
 1390 hours.

1391 (3) This section does not authorize any person to claim a
 1392 lien on a vehicle for fees or charges connected with the
 1393 immobilization of the ~~such~~ vehicle using a vehicle boot or other
 1394 similar device under ~~pursuant to~~ s. 715.07.

1395 (4) (a) Any wrecker company that ~~person regularly engaged~~
 1396 ~~in the business of recovering, towing, or storing vehicles or~~
 1397 ~~vessels who~~ comes into possession of a vehicle or vessel under
 1398 ~~pursuant to~~ subsection (2), ~~and who~~ claims a lien for recovery,
 1399 towing, or storage services, ~~+~~ shall give notice to the registered

HB 1195

2008

1400 owner, the insurance company insuring the vehicle
 1401 notwithstanding ~~the provisions of~~ s. 627.736, and ~~to~~ all persons
 1402 claiming a lien on the vehicle or vessel thereon, as disclosed
 1403 by the records in the Department of Highway Safety and Motor
 1404 Vehicles or of a corresponding agency in any other state.

1405 (b) Whenever a ~~any~~ law enforcement agency authorizes the
 1406 removal of a vehicle or vessel or whenever a wrecker company ~~any~~
 1407 ~~towing service, garage, repair shop, or automotive service,~~
 1408 ~~storage, or parking place~~ notifies the law enforcement agency of
 1409 possession of a vehicle or vessel under ~~pursuant to~~ s.
 1410 715.07(2)(a)2., the applicable law enforcement agency shall
 1411 contact the Department of Highway Safety and Motor Vehicles, or
 1412 the appropriate agency of the state of registration, if known,
 1413 within 24 hours through the medium of electronic communications,
 1414 giving the full description of the vehicle or vessel. Upon
 1415 receipt of the full description of the vehicle or vessel, the
 1416 department shall search its files to determine the owner's name,
 1417 the insurance company insuring the vehicle or vessel, and
 1418 whether any person has filed a lien upon the vehicle or vessel
 1419 as provided in s. 319.27(2) and (3) and notify the applicable
 1420 law enforcement agency within 72 hours. The wrecker company
 1421 ~~person in charge of the towing service, garage, repair shop, or~~
 1422 ~~automotive service, storage, or parking place~~ shall obtain that
 1423 ~~such~~ information from the applicable law enforcement agency
 1424 within 5 days after the date of storage and shall give notice
 1425 under ~~pursuant to~~ paragraph (a). The department may release the
 1426 insurance company information to the requestor notwithstanding
 1427 ~~the provisions of~~ s. 627.736.

HB 1195

2008

1428 (c) Notice by certified mail, ~~return receipt requested,~~
 1429 shall be sent within 7 business days after the date of storage
 1430 of the vehicle or vessel to the registered owner, the insurance
 1431 company insuring the vehicle notwithstanding ~~the provisions of~~
 1432 s. 627.736, and all persons of record claiming a lien against
 1433 the vehicle or vessel. The notice ~~It~~ shall state the fact of
 1434 possession of the vehicle or vessel and, that a lien as provided
 1435 in subsection (2) is claimed, that charges have accrued and the
 1436 amount of the charges ~~thereof~~, that the lien is subject to
 1437 enforcement under ~~pursuant to~~ law, and that the owner or
 1438 lienholder, if any, has the right to a hearing as set forth in
 1439 subsection (5), and that any vehicle or vessel that ~~which~~
 1440 remains unclaimed, or for which the charges for recovery,
 1441 towing, or storage services remain unpaid, may be sold free of
 1442 all prior liens after 35 days if the vehicle or vessel is more
 1443 than 3 years of age or after 50 days if the vehicle or vessel is
 1444 3 years of age or less.

1445 (d) If the wrecker company is unable ~~attempts~~ to identify
 1446 ~~locate~~ the name and address of the owner or lienholder prove
 1447 ~~unsuccessful~~, the wrecker company ~~towing storage operator~~ shall,
 1448 after 7 business ~~working~~ days after, ~~excluding Saturday and~~
 1449 ~~Sunday,~~ of the initial tow or storage, notify the public agency
 1450 of jurisdiction in writing by certified mail or acknowledged
 1451 hand delivery that the wrecker ~~towing storage~~ company has been
 1452 unable to identify ~~locate~~ the name and address of the owner or
 1453 lienholder, and a physical search of the vehicle or vessel has
 1454 disclosed no ownership information, and a good faith effort has
 1455 been made. For purposes of this paragraph and subsection (9),

1456 the term "good faith effort" means that the following checks
 1457 have been performed by the wrecker company to establish prior
 1458 state of registration and for title:

1459 1. Check of vehicle or vessel for any type of tag, tag
 1460 record, temporary tag, or regular tag.

1461 2. Check of law enforcement report for tag number or other
 1462 information identifying the vehicle or vessel, ~~if the vehicle or~~
 1463 vessel was towed at the request of a law enforcement officer.

1464 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~
 1465 ~~truck~~ operator to see if a tag was on vehicle or vessel at
 1466 beginning of tow, if private tow.

1467 4. If there is no address of the owner on the impound
 1468 report, check of law enforcement report to see if an out-of-
 1469 state address is indicated from driver license information.

1470 5. Check of vehicle or vessel for inspection sticker or
 1471 other stickers and decals that may indicate a state of possible
 1472 registration.

1473 6. Check of the interior of the vehicle or vessel for any
 1474 papers that may be in the glove box, trunk, or other areas for a
 1475 state of registration.

1476 7. Check of vehicle for vehicle identification number.

1477 8. Check of vessel for vessel registration number.

1478 9. Check of vessel hull for a hull identification number,
 1479 which should be carved, burned, stamped, embossed, or otherwise
 1480 permanently affixed to the outboard side of the transom or, if
 1481 there is no transom, to the outmost seaboard side at the end of
 1482 the hull that bears the rudder or other steering mechanism.

1483 (5) (a) The owner of a vehicle or vessel removed under

1484 ~~pursuant to the provisions of~~ subsection (2), or any person
 1485 claiming a lien, other than the wrecker company towing storage
 1486 ~~operator~~, within 10 days after the time she or he has knowledge
 1487 of the location of the vehicle or vessel, may file a complaint
 1488 in the county court of the county in which the vehicle or vessel
 1489 is stored or in which the owner resides to determine if her or
 1490 his property was wrongfully taken or withheld from her or him.

1491 (b) Upon filing of a complaint, an owner or lienholder may
 1492 have her or his vehicle or vessel released upon posting with the
 1493 court a cash or surety bond or other adequate security equal to
 1494 the amount of the charges for towing or storage and lot rental
 1495 amount to ensure the payment of the ~~such~~ charges in the event
 1496 she or he does not prevail. Upon the posting of the bond and the
 1497 payment of the applicable fee set forth in s. 28.24, the clerk
 1498 of the court shall issue a certificate notifying the lienor of
 1499 the posting of the bond and directing the lienor to release the
 1500 vehicle or vessel. At the time of the ~~such~~ release, after
 1501 reasonable inspection, she or he shall give a receipt to the
 1502 wrecker towing storage company reciting any claims she or he has
 1503 for loss or damage to the vehicle or vessel or to the contents
 1504 of the vehicle or vessel thereof.

1505 (c) Upon determining the respective rights of the parties,
 1506 the court shall ~~may~~ award damages, reasonable attorney's fees,
 1507 and costs to ~~in favor of~~ the prevailing party. ~~In any event,~~ The
 1508 final order shall require ~~provide for~~ immediate payment in full
 1509 of the recovery, towing, and storage fees by the vehicle or
 1510 vessel owner or lienholder, + ~~by~~ ~~or~~ the law enforcement agency
 1511 ordering the tow, + or by the property owner, ~~lessee, or agent~~

1512 ~~thereof~~ of the real property from which the vehicle or vessel
 1513 was towed or removed under s. 715.07.

1514 (6) Any vehicle or vessel that ~~which~~ is stored under
 1515 ~~pursuant to~~ subsection (2) and ~~which~~ remains unclaimed, or for
 1516 which reasonable charges for recovery, towing, or storing remain
 1517 unpaid, and any contents not released under ~~pursuant to~~
 1518 subsection (10), may be sold by the wrecker company ~~owner or~~
 1519 ~~operator of the storage space~~ for the ~~such~~ towing or storage
 1520 charge ~~after~~ 35 days after ~~from the time~~ the vehicle or vessel
 1521 is stored in the wrecker company's storage facility ~~therein~~ if
 1522 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
 1523 days after ~~following the time~~ the vehicle or vessel is stored in
 1524 the wrecker company's storage facility ~~therein~~ if the vehicle or
 1525 vessel is 3 years of age or less. The sale shall be at public
 1526 auction for cash. If the date of the sale is ~~was~~ not included in
 1527 the notice required in subsection (4), notice of the sale shall
 1528 be given to the person in whose name the vehicle or vessel is
 1529 registered and to all persons claiming a lien on the vehicle or
 1530 vessel as shown on the records of the Department of Highway
 1531 Safety and Motor Vehicles or of the corresponding agency in any
 1532 other state. Notice shall be sent by certified mail, ~~return~~
 1533 ~~receipt requested,~~ to the owner of the vehicle or vessel and the
 1534 person having the recorded lien on the vehicle or vessel at the
 1535 address shown on the records of the registering agency and shall
 1536 be mailed at least ~~not less than~~ 15 days before the date of the
 1537 sale. After diligent search and inquiry, if the name and address
 1538 of the registered owner or the owner of the recorded lien cannot
 1539 be ascertained, the requirements of notice by mail may be

1540 dispensed with. In addition to the notice by mail, public notice
 1541 of the time and place of sale shall be made by publishing a
 1542 notice of the sale ~~thereof~~ one time, at least 10 days prior to
 1543 the date of the sale, in a newspaper of general circulation in
 1544 the county in which the sale is to be held. The proceeds of the
 1545 sale, after payment of reasonable towing and storage charges,
 1546 and costs of the sale, in that order of priority, shall be
 1547 deposited with the clerk of the circuit court for the county if
 1548 the owner is absent, and the clerk shall hold the ~~such~~ proceeds
 1549 subject to the claim of the person legally entitled to those
 1550 proceeds ~~thereto~~. The clerk shall be entitled to receive 5
 1551 percent of the ~~such~~ proceeds for the care and disbursement of
 1552 the proceeds ~~thereof~~. The certificate of title issued under this
 1553 section ~~law~~ shall be discharged of all liens unless otherwise
 1554 provided by court order.

1555 (7) (a) A wrecker company, its wrecker operators, and other
 1556 employees or agents of the wrecker company ~~operator~~ recovering,
 1557 towing, or storing vehicles or vessels are ~~is~~ not liable for
 1558 damages connected with those ~~such~~ services, theft of the ~~such~~
 1559 vehicles or vessels, or theft of personal property contained in
 1560 the ~~such~~ vehicles or vessels if those, ~~provided that such~~
 1561 services are ~~have been~~ performed with reasonable care and
 1562 ~~provided, further, that,~~ in the case of removal of a vehicle or
 1563 vessel upon the request of a person purporting,
 1564 appearing,
 1565 to be the property owner ~~or lessee, or a person~~
 1566 authorized by the owner or lessee,
 1567 of the real property from which the ~~such~~ vehicle or vessel is removed, the ~~such~~ removal is
~~has been~~ done in compliance with s. 715.07. Further, a wrecker

1568 company, its wrecker operators, and other employees or agents of
 1569 the wrecker company are ~~operator is~~ not liable for damage to a
 1570 vehicle, a vessel, or cargo that obstructs the normal movement
 1571 of traffic or creates a hazard to traffic and is removed in
 1572 compliance with the request of a law enforcement officer.

1573 (b) For the purposes of this subsection, a wrecker
 1574 company, its wrecker operators, and other employees or agents of
 1575 the wrecker company are ~~operator is~~ presumed to use reasonable
 1576 care to prevent the theft of a vehicle or vessel or of any
 1577 personal property contained in the ~~such~~ vehicle or vessel stored
 1578 in the wrecker company's ~~operator's~~ storage facility if all of
 1579 the following apply:

1580 1. The wrecker company ~~operator~~ surrounds the storage
 1581 facility with a chain-link or solid-wall type fence at least 6
 1582 feet in height;

1583 2. The wrecker company ~~illuminates~~ ~~operator has~~
 1584 ~~illuminated~~ the storage facility with lighting of sufficient
 1585 intensity to reveal persons and vehicles at a distance of at
 1586 least 150 feet during nighttime; and

1587 3. The wrecker company ~~operator~~ uses one or more of the
 1588 following security methods to discourage theft of vehicles or
 1589 vessels or of any personal property contained in such vehicles
 1590 or vessels stored in the wrecker company's ~~operator's~~ storage
 1591 facility:

1592 a. A night dispatcher or watchman remains on duty at the
 1593 storage facility from sunset to sunrise;

1594 b. A security dog remains at the storage facility from
 1595 sunset to sunrise;

1596 c. Security cameras or other similar surveillance devices
 1597 monitor the storage facility; or

1598 d. A security guard service examines the storage facility
 1599 at least once each hour from sunset to sunrise.

1600 (c) Any law enforcement agency requesting that a motor
 1601 vehicle be removed from an accident scene, street, or highway
 1602 must conduct an inventory and prepare a written record of all
 1603 personal property found in the vehicle before the vehicle is
 1604 removed by a wrecker operator. However, if the owner or driver
 1605 of the motor vehicle is present and accompanies the vehicle, an
 1606 ~~ne~~ inventory by law enforcement is not required. A wrecker
 1607 company, its wrecker operators, and other employees or agents of
 1608 the wrecker company are ~~operator is~~ not liable for the loss of
 1609 personal property alleged to be contained in ~~such~~ a vehicle when
 1610 the ~~such~~ personal property was not identified on the inventory
 1611 record prepared by the law enforcement agency requesting the
 1612 removal of the vehicle.

1613 (8) A wrecker company and its wrecker operators, excluding
 1614 ~~person regularly engaged in the business of recovering, towing,~~
 1615 ~~or storing vehicles or vessels, except~~ a person licensed under
 1616 chapter 493 while engaged in "repossession" activities as
 1617 defined in s. 493.6101, may not operate a wrecker, ~~tow truck, or~~
 1618 ~~ear carrier~~ unless the name, address, and telephone number of
 1619 the wrecker company performing the wrecker services ~~service~~ is
 1620 clearly printed in contrasting colors on the driver and
 1621 passenger sides of the wrecker ~~its vehicle~~. The name must be in
 1622 at least 3-inch permanently affixed letters, and the address and
 1623 telephone number must be in at least 1-inch permanently affixed

1624 letters.

1625 (9) Failure to make good faith, best efforts to comply
 1626 with the notice requirements of this section precludes ~~shall~~
 1627 ~~preclude~~ the imposition of any storage charges against the ~~such~~
 1628 vehicle or vessel.

1629 (10) Each wrecker company that provides ~~Persons who~~
 1630 ~~provide~~ services under ~~pursuant to~~ this section shall permit
 1631 vehicle or vessel owners or their agents, which agency is
 1632 evidenced by an original writing acknowledged by the owner
 1633 before a notary public or other person empowered by law to
 1634 administer oaths, to inspect the towed vehicle or vessel and
 1635 shall release to the owner or agent the vehicle, vessel, or all
 1636 personal property not affixed to the vehicle or vessel that
 1637 ~~which~~ was in the vehicle or vessel at the time the vehicle or
 1638 vessel came into the custody of the wrecker company ~~person~~
 1639 providing those ~~such~~ services.

1640 (11) (a) A wrecker company that ~~Any person regularly~~
 1641 ~~engaged in the business of recovering, towing, or storing~~
 1642 ~~vehicles or vessels who~~ comes into possession of a vehicle or
 1643 vessel pursuant to subsection (2) and complies ~~who has complied~~
 1644 with ~~the provisions of~~ subsections (3) and (6), when the ~~such~~
 1645 vehicle or vessel is to be sold for purposes of being
 1646 dismantled, destroyed, or changed in such a manner that it is
 1647 not the motor vehicle or vessel described in the certificate of
 1648 title, must ~~shall~~ apply to the county tax collector for a
 1649 certificate of destruction. A certificate of destruction, which
 1650 authorizes the dismantling or destruction of the vehicle or
 1651 vessel described on the certificate ~~therein~~, is ~~shall be~~

HB 1195

2008

1652 reassignable no more than twice ~~a maximum of two times~~ before
 1653 dismantling or destruction of the vehicle or vessel is ~~shall be~~
 1654 required, and, in lieu of a certificate of title, the
 1655 certificate of destruction shall accompany the vehicle or vessel
 1656 for which it is issued, when the ~~such~~ vehicle or vessel is sold
 1657 for that purpose ~~such purposes, in lieu of a certificate of~~
 1658 ~~title~~. The application for a certificate of destruction must
 1659 include an affidavit from the applicant that it has complied
 1660 with all applicable requirements of this section and, if the
 1661 vehicle or vessel is not registered in this state, by a
 1662 statement from a law enforcement officer that the vehicle or
 1663 vessel is not reported stolen, and must also ~~shall~~ be
 1664 accompanied by any other ~~such~~ documentation ~~as may be~~ required
 1665 by the department.

1666 (b) The Department of Highway Safety and Motor Vehicles
 1667 shall charge a fee of \$3 for each certificate of destruction. A
 1668 service charge of \$4.25 shall be collected and retained by the
 1669 tax collector who processes the application.

1670 (c) The Department of Highway Safety and Motor Vehicles
 1671 may adopt ~~such~~ rules to administer ~~as it deems necessary or~~
 1672 ~~proper for the administration of~~ this subsection.

1673 (12) (a) Any person who violates ~~any provision of~~
 1674 subsection (1), subsection (2), subsection (4), subsection (5),
 1675 subsection (6), or subsection (7) commits ~~is guilty of~~ a
 1676 misdemeanor of the first degree, punishable as provided in s.
 1677 775.082 or s. 775.083.

1678 (b) Any person who violates subsection (8), subsection
 1679 (9), subsection (10), or subsection (11) commits ~~the provisions~~

HB 1195

2008

1680 ~~of subsections (8) through (11) is guilty of a felony of the~~
 1681 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
 1682 ~~or s. 775.084.~~

1683 (c) Any person who uses a false or fictitious name, gives
 1684 a false or fictitious address, or makes any false statement in
 1685 any application or affidavit required under ~~the provisions of~~
 1686 this section commits ~~is guilty of~~ a felony of the third degree,
 1687 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1688 (d) Employees of the Department of Highway Safety and
 1689 Motor Vehicles and law enforcement officers may ~~are authorized~~
 1690 ~~to~~ inspect the records of each wrecker company in this state ~~any~~
 1691 ~~person regularly engaged in the business of recovering, towing,~~
 1692 ~~or storing vehicles or vessels or transporting vehicles or~~
 1693 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure
 1694 compliance with the requirements of this section. Any person who
 1695 fails to maintain records, or fails to produce records when
 1696 required in a reasonable manner and at a reasonable time,
 1697 commits a misdemeanor of the first degree, punishable as
 1698 provided in s. 775.082 or s. 775.083.

1699 (13) (a) Upon receipt by the Department of Highway Safety
 1700 and Motor Vehicles of written notice from a wrecker company that
 1701 ~~operator who~~ claims a wrecker company's ~~operator's~~ lien under
 1702 paragraph (2) (c) ~~or paragraph (2) (d)~~ for recovery, towing, or
 1703 storage of an abandoned vehicle or vessel upon instructions from
 1704 any law enforcement agency, for which a certificate of
 1705 destruction has been issued under subsection (11), the
 1706 department shall place the name of the registered owner of that
 1707 vehicle or vessel on the list of those persons who may not be

HB 1195

2008

1708 issued a license plate or revalidation sticker for any motor
 1709 vehicle under s. 320.03(8). If the vehicle or vessel is owned
 1710 jointly by more than one person, the name of each registered
 1711 owner shall be placed on the list. The notice of wrecker
 1712 company's ~~operator's~~ lien shall be submitted on forms provided
 1713 by the department, which must include:

1714 1. The name, address, and telephone number of the wrecker
 1715 company ~~operator~~.

1716 2. The name of the registered owner of the vehicle or
 1717 vessel and the address to which the wrecker company ~~operator~~
 1718 provided notice of the lien to the registered owner under
 1719 subsection (4).

1720 3. A general description of the vehicle or vessel,
 1721 including its color, make, model, body style, and year.

1722 4. The vehicle identification number (VIN); registration
 1723 license plate number, state, and year; validation decal number,
 1724 state, and year; vessel registration number; hull identification
 1725 number; or other identification number, as applicable.

1726 5. The name of the person or the corresponding law
 1727 enforcement agency that requested that the vehicle or vessel be
 1728 recovered, towed, or stored.

1729 6. The amount of the wrecker company's ~~operator's~~ lien,
 1730 not to exceed the amount allowed by paragraph (b).

1731 (b) For purposes of this subsection only, the amount of
 1732 the wrecker company's ~~operator's~~ lien for which the department
 1733 will prevent issuance of a license plate or revalidation sticker
 1734 may not exceed the amount of the charges for recovery, towing,
 1735 and storage of the vehicle or vessel for 7 days. These charges

1736 may not exceed the maximum rates imposed by the ordinances of
 1737 the respective county or municipality under ss. 125.0103(1)(c)
 1738 and 166.043(1)(c). This paragraph does not limit the amount of a
 1739 wrecker company's ~~operator's~~ lien claimed under subsection (2)
 1740 or prevent a wrecker company ~~operator~~ from seeking civil
 1741 remedies for enforcement of the entire amount of the lien, but
 1742 limits only that portion of the lien for which the department
 1743 will prevent issuance of a license plate or revalidation
 1744 sticker.

1745 (c)1. The registered owner of a vehicle or vessel may
 1746 dispute a wrecker company's ~~operator's~~ lien, by notifying the
 1747 department of the dispute in writing on forms provided by the
 1748 department, if at least one of the following applies:

1749 a. The registered owner presents a notarized bill of sale
 1750 proving that the vehicle or vessel was sold in a private or
 1751 casual sale before the vehicle or vessel was recovered, towed,
 1752 or stored.

1753 b. The registered owner presents proof that the Florida
 1754 certificate of title of the vehicle or vessel was sold to a
 1755 licensed dealer as defined in s. 319.001 before the vehicle or
 1756 vessel was recovered, towed, or stored.

1757 c. The records of the department were marked "sold" prior
 1758 to the date of the tow.

1759
 1760 If the registered owner's dispute of a wrecker company's
 1761 ~~operator's~~ lien complies with one of these criteria, the
 1762 department shall immediately remove the registered owner's name
 1763 from the list of those persons who may not be issued a license

1764 plate or revalidation sticker for any motor vehicle under s.
 1765 320.03(8), thereby allowing issuance of a license plate or
 1766 revalidation sticker. If the vehicle or vessel is owned jointly
 1767 by more than one person, each registered owner must dispute the
 1768 wrecker company's ~~operator's~~ lien in order to be removed from
 1769 the list. However, the department shall deny any dispute and
 1770 maintain the registered owner's name on the list of those
 1771 persons who may not be issued a license plate or revalidation
 1772 sticker for any motor vehicle under s. 320.03(8) if the wrecker
 1773 company ~~operator~~ has provided the department with a certified
 1774 copy of the judgment of a court that ~~which~~ orders the registered
 1775 owner to pay the wrecker company's ~~operator's~~ lien claimed under
 1776 this section. In such a case, the amount of the wrecker
 1777 company's ~~operator's~~ lien allowed by paragraph (b) may be
 1778 increased to include no more than \$500 of the reasonable costs
 1779 and attorney's fees incurred in obtaining the judgment. The
 1780 department's action under this subparagraph is ministerial in
 1781 nature, shall not be considered final agency action, and is
 1782 appealable only to the county court for the county in which the
 1783 vehicle or vessel was ordered removed.

1784 2. A person against whom a wrecker company's ~~operator's~~
 1785 lien has been imposed may alternatively obtain a discharge of
 1786 the lien by filing a complaint, ~~challenging the validity of the~~
 1787 ~~lien~~ or ~~the~~ amount of the lien ~~thereof~~, in the county court of
 1788 the county in which the vehicle or vessel was ordered removed.
 1789 Upon filing of the complaint, the person may have her or his
 1790 name removed from the list of those persons who may not be
 1791 issued a license plate or revalidation sticker for any motor

1792 vehicle under s. 320.03(8), thereby allowing issuance of a
 1793 license plate or revalidation sticker, upon posting with the
 1794 court a cash or surety bond or other adequate security equal to
 1795 the amount of the wrecker company's ~~operator's~~ lien to ensure
 1796 the payment of such lien in the event she or he does not
 1797 prevail. Upon the posting of the bond and the payment of the
 1798 applicable fee set forth in s. 28.24, the clerk of the court
 1799 shall issue a certificate notifying the department of the
 1800 posting of the bond and directing the department to release the
 1801 wrecker company's ~~operator's~~ lien. Upon determining the
 1802 respective rights of the parties, the court may award damages
 1803 and costs in favor of the prevailing party.

1804 3. If a person against whom a wrecker company's ~~operator's~~
 1805 lien has been imposed does not object to the lien, but cannot
 1806 discharge the lien by payment because the wrecker company
 1807 ~~operator~~ has moved or gone out of business, the person may have
 1808 her or his name removed from the list of those persons who may
 1809 not be issued a license plate or revalidation sticker for any
 1810 motor vehicle under s. 320.03(8), thereby allowing issuance of a
 1811 license plate or revalidation sticker, upon posting with the
 1812 clerk of court in the county in which the vehicle or vessel was
 1813 ordered removed, a cash or surety bond or other adequate
 1814 security equal to the amount of the wrecker company's ~~operator's~~
 1815 lien. Upon the posting of the bond and the payment of the
 1816 application fee set forth in s. 28.24, the clerk of the court
 1817 shall issue a certificate notifying the department of the
 1818 posting of the bond and directing the department to release the
 1819 wrecker company's ~~operator's~~ lien. The department shall mail to

1820 the wrecker company ~~operator~~, at the address upon the lien form,
 1821 notice that the wrecker company ~~operator~~ must claim the security
 1822 within 60 days, or the security will be released back to the
 1823 person who posted it. At the conclusion of the 60 days, the
 1824 department shall direct the clerk as to which party is entitled
 1825 to payment of the security, less applicable clerk's fees.

1826 4. A wrecker company's ~~operator's~~ lien expires 5 years
 1827 after filing.

1828 (d) Upon discharge of the amount of the wrecker company's
 1829 ~~operator's~~ lien allowed by paragraph (b), the wrecker company
 1830 ~~operator~~ must issue a certificate of discharged wrecker
 1831 company's ~~operator's~~ lien on forms provided by the department to
 1832 each registered owner of the vehicle or vessel attesting that
 1833 the amount of the wrecker company's ~~operator's~~ lien allowed by
 1834 paragraph (b) has been discharged. Upon presentation of the
 1835 certificate of discharged wrecker company's ~~operator's~~ lien by
 1836 the registered owner, the department shall immediately remove
 1837 the registered owner's name from the list of those persons who
 1838 may not be issued a license plate or revalidation sticker for
 1839 any motor vehicle under s. 320.03(8), thereby allowing issuance
 1840 of a license plate or revalidation sticker. Issuance of a
 1841 certificate of discharged wrecker company's ~~operator's~~ lien
 1842 under this paragraph does not discharge the entire amount of the
 1843 wrecker company's ~~operator's~~ lien claimed under subsection (2),
 1844 but only certifies to the department that the amount of the
 1845 wrecker company's ~~operator's~~ lien allowed by paragraph (b), for
 1846 which the department will prevent issuance of a license plate or
 1847 revalidation sticker, has been discharged.

1848 (e) When a wrecker company ~~operator~~ files a notice of
 1849 wrecker company's ~~operator's~~ lien under this subsection, the
 1850 department shall charge the wrecker company ~~operator~~ a fee of
 1851 \$2, which shall be deposited into the General Revenue Fund
 1852 established under s. 860.158. A service charge of \$2.50 shall be
 1853 collected and retained by the tax collector who processes a
 1854 notice of wrecker company's ~~operator's~~ lien.

1855 (f) This subsection applies only to the annual renewal in
 1856 the registered owner's birth month of a motor vehicle
 1857 registration and does not apply to the transfer of a
 1858 registration of a motor vehicle sold by a motor vehicle dealer
 1859 licensed under chapter 320, except for the transfer of
 1860 registrations which is inclusive of the annual renewals. This
 1861 subsection does not apply to any vehicle registered in the name
 1862 of the lessor. This subsection does not affect the issuance of
 1863 the title to a motor vehicle, notwithstanding s. 319.23(7)(b).

1864 (g) The Department of Highway Safety and Motor Vehicles
 1865 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
 1866 implement this subsection.

1867 Section 20. The amendments to section 713.78, Florida
 1868 Statutes, made by this act do not affect the validity of liens
 1869 established under section 713.78, Florida Statutes, before
 1870 January 1, 2009.

1871 Section 21. Effective January 1, 2009, section 715.07,
 1872 Florida Statutes, is amended to read:

1873 715.07 Vehicles or vessels parked on real ~~private~~ property
 1874 without permission; towing.--

1875 (1) As used in this section, the term:

1876 (a) "Property owner" means an owner or lessee of real
 1877 property, or a person authorized by the owner or lessee, which
 1878 person may be the designated representative of the condominium
 1879 association if the real property is a condominium.

1880 (b)(a) "Vehicle" has the same meaning ascribed in s.
 1881 508.101 means any mobile item which normally uses wheels,
 1882 whether motorized or not.

1883 (c)(b) "Vessel" has the same meaning ascribed in s.
 1884 508.101 means every description of watercraft, barge, and
 1885 airboat used or capable of being used as a means of
 1886 transportation on water, other than a seaplane or a "documented
 1887 vessel" as defined in s. 327.02(9).

1888 (d) "Wrecker company" has the same meaning ascribed in s.
 1889 508.101.

1890 (e) "Wrecker operator" has the same meaning ascribed in s.
 1891 508.101.

1892 (2) A property owner ~~The owner or lessee of real property,~~
 1893 ~~or any person authorized by the owner or lessee, which person~~
 1894 ~~may be the designated representative of the condominium~~
 1895 ~~association if the real property is a condominium,~~ may cause a
 1896 ~~any~~ vehicle or vessel parked on her or his ~~such~~ property without
 1897 her or his permission to be removed by a wrecker company
 1898 registered under chapter 508 ~~person regularly engaged in the~~
 1899 ~~business of towing vehicles or vessels,~~ without liability for
 1900 the costs of removal, transportation, or storage or damages
 1901 caused by the ~~such~~ removal, transportation, or storage, under
 1902 any of the following circumstances:

1903 (a) The towing or removal of any vehicle or vessel from

1904 ~~real private~~ property without the consent of the registered
 1905 owner or other legally authorized person in control of that
 1906 vehicle or vessel is subject to strict compliance with the
 1907 following conditions and restrictions:

1908 1.a. Any towed or removed vehicle or vessel must be stored
 1909 at a storage facility site within a 10-mile radius of the point
 1910 of removal in any county that has a population of 500,000
 1911 ~~population~~ or more, and within a 15-mile radius of the point of
 1912 removal in any county that has a population of fewer less than
 1913 500,000 ~~population~~. The wrecker company's storage facility ~~That~~
 1914 ~~site~~ must be open for the purpose of redemption of vehicles and
 1915 vessels on any day that the wrecker company ~~person or firm~~
 1916 towing the such vehicle or vessel is open for towing purposes,
 1917 from 8 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when closed, must ~~shall~~
 1918 have prominently posted a sign indicating a telephone number
 1919 where the operator of the storage facility site can be reached
 1920 at all times. Upon receipt of a telephoned request to open the
 1921 storage facility site to redeem a vehicle or vessel, the
 1922 operator shall return to the storage facility site within 1 hour
 1923 or she or he is ~~will be~~ in violation of this section.

1924 b. If no wrecker company towing business providing such
 1925 ~~service~~ is located within the area of towing limitations ~~set~~
 1926 ~~forth~~ in sub-subparagraph a., the following limitations apply:
 1927 any towed or removed vehicle or vessel must be stored at a
 1928 storage facility site within a 20-mile radius of the point of
 1929 removal in any county that has a population of 500,000
 1930 ~~population~~ or more, and within a 30-mile radius of the point of
 1931 removal in any county that has a population of fewer less than

1932 500,000 ~~population~~.

1933 2. The wrecker company ~~person or firm~~ towing or removing
 1934 the vehicle or vessel shall, within 30 minutes after completion
 1935 of the ~~such~~ towing or removal, notify the municipal police
 1936 department or, in an unincorporated area, the sheriff, of the
 1937 ~~such~~ towing or removal, the location of the storage facility
 1938 site, the time the vehicle or vessel was towed or removed, and
 1939 the make, model, color, and license plate number of the vehicle
 1940 or the make, model, color, and registration number of the
 1941 vessel. The wrecker company ~~or description and registration~~
 1942 ~~number of the vessel and~~ shall also obtain the name of the
 1943 person at the police ~~that~~ department or sheriff's office to whom
 1944 such information is ~~was~~ reported and note that name on the trip
 1945 record.

1946 3. A wrecker operator ~~person~~ in the process of towing or
 1947 removing a vehicle or vessel from the premises or parking lot in
 1948 which the vehicle or vessel is ~~not lawfully~~ parked without
 1949 permission must stop when a person seeks the return of the
 1950 vehicle or vessel. The vehicle or vessel must be returned upon
 1951 the payment of a reasonable service fee of not more than one-
 1952 half of the posted rate for the towing or removal service as
 1953 provided in subparagraph 6. The vehicle or vessel may be towed
 1954 or removed if, after a reasonable opportunity, the owner or
 1955 legally authorized person in control of the vehicle or vessel is
 1956 unable to pay the service fee or refuses to remove the vehicle
 1957 or vessel that is parked without permission. If the vehicle or
 1958 vessel is redeemed, a detailed signed receipt must be given to
 1959 the person redeeming the vehicle or vessel.

1960 4. A wrecker company, a wrecker operator, or another
 1961 employee or agent of a wrecker company ~~person~~ may not pay or
 1962 accept money or other valuable consideration for the privilege
 1963 of towing or removing vehicles or vessels from a particular
 1964 location.

1965 5. Except for property appurtenant to and obviously a part
 1966 of a single-family residence, and except for instances when
 1967 notice is personally given to the owner or other legally
 1968 authorized person in control of the vehicle or vessel that the
 1969 area in which that vehicle or vessel is parked is reserved or
 1970 otherwise unavailable for unauthorized vehicles or vessels and
 1971 that the vehicle or vessel is subject to being removed at the
 1972 owner's or operator's expense, any property owner, before ~~or~~
 1973 ~~lessee, or person authorized by the property owner or lessee,~~
 1974 ~~prior to~~ towing or removing any vehicle or vessel from real
 1975 ~~private~~ property without the consent of the owner or other
 1976 legally authorized person in control of that vehicle or vessel,
 1977 must post a notice meeting the following requirements:

1978 a. The notice must be prominently placed at each driveway
 1979 access or curb cut allowing vehicular access to the property,
 1980 within 5 feet from the public right-of-way line. If there are no
 1981 curbs or access barriers, at least one sign ~~the signs~~ must be
 1982 posted ~~not less than one sign~~ for each 25 feet of lot frontage.

1983 b. The notice must clearly indicate, in at least ~~not less~~
 1984 ~~than~~ 2-inch high, light-reflective letters on a contrasting
 1985 background, that unauthorized vehicles will be towed away at the
 1986 owner's expense. The words "tow-away zone" must be included on
 1987 the sign in at least ~~not less than~~ 4-inch high letters.

1988 c. The notice must also provide the name and current
 1989 telephone number of the wrecker company ~~person or firm~~ towing or
 1990 removing the vehicles or vessels.

1991 d. The sign structure containing the required notices must
 1992 be permanently installed with the words "tow-away zone" not less
 1993 than 3 feet and not more than 6 feet above ground level and must
 1994 be continuously maintained on the property for not less than 24
 1995 hours prior to the towing or removal of any vehicles or vessels.

1996 e. The local government may require permitting and
 1997 inspection of these signs prior to any towing or removal of
 1998 vehicles or vessels being authorized.

1999 f. A business with 20 or fewer parking spaces satisfies
 2000 the notice requirements of this subparagraph by prominently
 2001 displaying a sign stating, "Reserved Parking for Customers Only.
 2002 Unauthorized Vehicles or Vessels Will be Towed Away At the
 2003 Owner's Expense," in at least ~~not less than~~ 4-inch high, light-
 2004 reflective letters on a contrasting background.

2005 ~~g. A property owner towing or removing vessels from real~~
 2006 ~~property must post notice, consistent with the requirements in~~
 2007 ~~sub-subparagraphs a. f., which apply to vehicles, that~~
 2008 ~~unauthorized vehicles or vessels will be towed away at the~~
 2009 ~~owner's expense.~~

2010
 2011 A business owner or lessee may authorize the removal of a
 2012 vehicle or vessel by a wrecker towing company registered under
 2013 chapter 508 when no tow-away sign is posted if the vehicle or
 2014 vessel is parked in ~~such~~ a manner that restricts the normal
 2015 operation of business. ~~and~~ If a vehicle or vessel parked on a

2016 public right-of-way obstructs access to a private driveway when
 2017 no tow-away sign is posted, the owner or, lessee of the
 2018 driveway, or the owner's or lessee's agent may have the vehicle
 2019 or vessel removed by a wrecker towing company registered under
 2020 chapter 508 upon signing an order that the vehicle or vessel be
 2021 removed ~~without a posted tow-away zone sign.~~

2022 6. Each wrecker company ~~Any person or firm~~ that tows or
 2023 removes vehicles or vessels and proposes to require an owner,
 2024 operator, or person in control of a vehicle or vessel to pay the
 2025 costs of towing and storage prior to redemption of the vehicle
 2026 or vessel must file and keep on record with the local law
 2027 enforcement agency a complete copy of the current rates to be
 2028 charged for the such services and post at the wrecker company's
 2029 storage facility ~~site~~ an identical rate schedule and any written
 2030 contracts with property owners, ~~lessees~~, or persons in control
 2031 of real property that ~~which~~ authorize the wrecker company ~~such~~
 2032 ~~person or firm~~ to remove vehicles or vessels as provided in this
 2033 section.

2034 7. Each wrecker company ~~Any person or firm~~ towing or
 2035 removing any vehicles or vessels from real ~~private~~ property
 2036 without the consent of the owner or other legally authorized
 2037 person in control of the vehicles or vessels shall, on each
 2038 wrecker ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s.~~
 2039 ~~713.78(1)(c), or other vehicles~~ used in the towing or removal,
 2040 have the name, address, and telephone number of the wrecker
 2041 company ~~performing such service~~ clearly printed in contrasting
 2042 colors on the driver and passenger sides of the wrecker ~~vehicle~~.
 2043 The name must ~~shall~~ be in at least 3-inch permanently affixed

2044 letters, and the address and telephone number must ~~shall~~ be in
 2045 at least 1-inch permanently affixed letters.

2046 8. Vehicle or vessel entry for the purpose of towing or
 2047 removing the vehicle or vessel is ~~shall be~~ allowed with
 2048 reasonable care on the part of the wrecker company and the
 2049 wrecker operators ~~person or firm~~ towing the vehicle or vessel. A
 2050 wrecker company, its wrecker operators, and other employees or
 2051 agents of the wrecker company are not ~~Such person or firm shall~~
 2052 be liable for any damage occasioned to the vehicle or vessel if
 2053 ~~such~~ entry into the vehicle or vessel is performed ~~not in~~
 2054 accordance with ~~the standard of~~ reasonable care.

2055 9. When a vehicle or vessel is ~~has been~~ towed or removed
 2056 under pursuant to this section, the wrecker company ~~it~~ must
 2057 release the vehicle or vessel ~~be released~~ to its owner or an
 2058 agent of the owner ~~custodian~~ within one hour after requested.
 2059 Any vehicle or vessel owner or the owner's agent ~~has~~ ~~shall have~~
 2060 the right to inspect the vehicle or vessel before accepting its
 2061 return. A wrecker company may not require any vehicle or vessel
 2062 owner, custodian, or agent to, ~~and no~~ release the wrecker
 2063 company or waiver of any kind which would release the person or
 2064 ~~firm~~ towing the vehicle or vessel from liability for damages
 2065 noted by the owner or other legally authorized person at the
 2066 time of the redemption ~~may be required from any vehicle or~~
 2067 ~~vessel owner, custodian, or agent~~ as a condition of release of
 2068 the vehicle or vessel to its owner. A wrecker company must give
 2069 a person paying towing and storage charges under this section a
 2070 detailed, signed receipt showing the legal name of the wrecker
 2071 ~~company or person towing or removing the vehicle or vessel must~~

2072 ~~be given to the person paying towing or storage charges~~ at the
 2073 time of payment, whether requested or not.

2074 (b) The ~~These~~ requirements of this subsection are minimum
 2075 standards and do not preclude enactment of additional
 2076 regulations by any municipality or county, including the
 2077 regulation of right to regulate rates when vehicles or vessels
 2078 are towed from real ~~private~~ property.

2079 (3) This section does not apply to vehicles or vessels
 2080 that are reasonably identifiable from markings as law
 2081 enforcement, firefighting, rescue squad, ambulance, or other
 2082 emergency vehicles or vessels ~~that are marked as such~~ or to
 2083 property owned by any governmental entity.

2084 (4) When a person improperly causes a vehicle or vessel to
 2085 be removed, that ~~such~~ person is ~~shall be~~ liable to the owner or
 2086 lessee of the vehicle or vessel for the cost of removal,
 2087 transportation, and storage; any damages resulting from the
 2088 removal, transportation, or storage of the vehicle or vessel;
 2089 attorney's fees; and court costs.

2090 (5) Failure to make good faith efforts to comply with the
 2091 notice requirements in subparagraph (2)(a)5. precludes the
 2092 imposition of any towing or storage charges against the vehicle
 2093 or vessel.

2094 ~~(6)(5)~~(a) Any person who violates subparagraph (2)(a)2. or
 2095 subparagraph (2)(a)6. commits a misdemeanor of the first degree,
 2096 punishable as provided in s. 775.082 or s. 775.083.

2097 (b) Any person who violates subparagraph (2)(a)1.,
 2098 subparagraph (2)(a)3., subparagraph (2)(a)4., subparagraph
 2099 (2)(a)7., or subparagraph (2)(a)9. commits a felony of the third

HB 1195

2008

2100 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2101 775.084.

2102 Section 22. Effective January 1, 2009, subsection (15) of
2103 section 1.01, Florida Statutes, is repealed.

2104 Section 23. The sum of \$693,000 is appropriated from the
2105 General Inspection Trust Fund to the Department of Agriculture
2106 and Consumer Services, and nine additional full-time equivalent
2107 positions are authorized, for the purpose of implementing this
2108 act during the 2008-2009 fiscal year.

2109 Section 24. Except as otherwise expressly provided in this
2110 act, this act shall take effect July 1, 2008.