

1 A bill to be entitled
 2 An act relating to recovering, towing, or storing vehicles
 3 and vessels; amending ss. 125.0103 and 166.043, F.S.;
 4 prescribing the rates for towing and storage in counties
 5 and municipalities that have not established rates;
 6 amending s. 321.051, F.S.; requiring the rates for the
 7 wrecker operator system of the Florida Highway Patrol to
 8 be established and reviewed biennially to ensure that the
 9 rates are equitable; amending s. 713.78, F.S.; revising
 10 provisions governing liens for recovering, towing, or
 11 storing vehicles and vessels; providing for application of
 12 those provisions to salvage motor vehicle yards; revising
 13 requirements for notice to be provided by mail to the
 14 vehicle or vessel owner, insurance company, and
 15 lienholders; requiring proof of mailing to be provided to
 16 certain persons; revising provisions for sale of the
 17 vehicle or vessel; authorizing an administrative charge;
 18 providing an effective date.

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

21
 22 Section 1. Paragraph (c) of subsection (1) of section
 23 125.0103, Florida Statutes, is amended to read:

24 125.0103 Ordinances and rules imposing price controls;
 25 findings required; procedures.--

26 (1)

27 (c) Counties must establish maximum rates which may be
 28 charged on the towing of vehicles from or immobilization of

29 | vehicles on private property, removal and storage of wrecked or
 30 | disabled vehicles from an accident scene or for the removal and
 31 | storage of vehicles, in the event the owner or operator is
 32 | incapacitated, unavailable, leaves the procurement of wrecker
 33 | service to the law enforcement officer at the scene, or
 34 | otherwise does not consent to the removal of the vehicle.
 35 | However, if a municipality chooses to enact an ordinance
 36 | establishing the maximum fees for the towing or immobilization
 37 | of vehicles as described in paragraph (b), the county's
 38 | ordinance shall not apply within such municipality. Except as
 39 | provided by a municipality, the rates for a county that has not
 40 | established rates shall be the rates established for the wrecker
 41 | operator system of the Division of Florida Highway Patrol of the
 42 | Department of Highway Safety and Motor Vehicles under s.
 43 | 321.051.

44 | Section 2. Paragraph (c) of subsection (1) of section
 45 | 166.043, Florida Statutes, is amended to read:

46 | 166.043 Ordinances and rules imposing price controls;
 47 | findings required; procedures.--

48 | (1)

49 | (c) Counties must establish maximum rates which may be
 50 | charged on the towing of vehicles from or immobilization of
 51 | vehicles on private property, removal and storage of wrecked or
 52 | disabled vehicles from an accident scene or for the removal and
 53 | storage of vehicles, in the event the owner or operator is
 54 | incapacitated, unavailable, leaves the procurement of wrecker
 55 | service to the law enforcement officer at the scene, or
 56 | otherwise does not consent to the removal of the vehicle.

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57 | However, if a municipality chooses to enact an ordinance
58 | establishing the maximum fees for the towing or immobilization
59 | of vehicles as described in paragraph (b), the county's
60 | ordinance established under s. 125.0103 shall not apply within
61 | such municipality. Unless provided by the county, in a
62 | municipality that has not established rates, the rates shall be
63 | the rates established for the wrecker operator system of the
64 | Division of Florida Highway Patrol of the Department of Highway
65 | Safety and Motor Vehicles under s. 321.051.

66 | Section 3. Subsection (2) of section 321.051, Florida
67 | Statutes, is amended to read:

68 | 321.051 Florida Highway Patrol wrecker operator system;
69 | penalties for operation outside of system.--

70 | (2) The Division of Florida Highway Patrol of the
71 | Department of Highway Safety and Motor Vehicles is authorized to
72 | establish within areas designated by the patrol a wrecker
73 | operator system using qualified, reputable wrecker operators for
74 | removal and storage of wrecked or disabled vehicles from a crash
75 | scene or for removal and storage of abandoned vehicles, in the
76 | event the owner or operator is incapacitated or unavailable or
77 | leaves the procurement of wrecker service to the officer at the
78 | scene. All reputable wrecker operators shall be eligible for use
79 | in the system provided their equipment and drivers meet
80 | recognized safety qualifications and mechanical standards set by
81 | rules of the Division of Florida Highway Patrol for the size of
82 | vehicle it is designed to handle. The division is authorized to
83 | limit the number of wrecker operators participating in the
84 | wrecker operator system, which authority shall not affect

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85 wrecker operators currently participating in the system
86 established by this section. The division shall ~~is authorized to~~
87 establish maximum rates for the towing and storage of vehicles
88 removed at the division's request, where such rates have not
89 been set by a county or municipality pursuant to s. 125.0103 or
90 s. 166.043. These rates must be reviewed biennially in June for
91 the purpose of ensuring that the rates are equitable. Such rates
92 shall not be considered rules for the purpose of chapter 120;
93 however, the department shall establish by rule a procedure for
94 setting such rates. Any provision in chapter 120 to the contrary
95 notwithstanding, a final order of the department denying,
96 suspending, or revoking a wrecker operator's participation in
97 the system shall be reviewable in the manner and within the time
98 provided by the Florida Rules of Appellate Procedure only by a
99 writ of certiorari issued by the circuit court in the county
100 wherein such wrecker operator resides.

101 Section 4. Subsections (4) and (6) of section 713.78,
102 Florida Statutes, are amended to read:

103 713.78 Liens for recovering, towing, or storing vehicles
104 and vessels.--

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

109 (a) The owner thereof;

110 (b) The owner or lessor, or a person authorized by the
111 owner or lessor, of property on which such vehicle or vessel is
112 wrongfully parked, and the removal is done in compliance with s.

113 715.07; or

114 (c) Any law enforcement agency,

115

116 she or he shall have a lien on the vehicle or vessel for a
 117 reasonable towing fee and for a reasonable storage fee; except
 118 that no storage fee shall be charged if the vehicle is stored
 119 for less than 6 hours.

120 (4) (a) Any person regularly engaged in the business of
 121 recovering, towing, or storing vehicles or vessels who comes
 122 into possession of a vehicle or vessel pursuant to subsection
 123 (2), and who claims a lien for recovery, towing, or storage
 124 services, shall give notice to the registered owner, to the
 125 insurance company insuring the vehicle notwithstanding the
 126 provisions of s. 627.736, and to all persons claiming a lien
 127 thereon, as disclosed by the records in the Department of
 128 Highway Safety and Motor Vehicles or of a corresponding agency
 129 in any other state.

130 (b) Whenever any law enforcement agency authorizes the
 131 removal of a vehicle or vessel or whenever any towing service,
 132 garage, repair shop, salvage motor vehicle yard, or automotive
 133 service, storage, or parking place notifies the law enforcement
 134 agency of possession of a vehicle or vessel pursuant to s.
 135 715.07(2)(a)2., the applicable law enforcement agency shall
 136 contact the Department of Highway Safety and Motor Vehicles, or
 137 the appropriate agency of the state of registration, if known,
 138 within 24 hours through the medium of electronic communications,
 139 giving the full description of the vehicle or vessel. Upon
 140 receipt of the full description of the vehicle or vessel, the

141 department shall search its files to determine the owner's name,
 142 the insurance company insuring the vehicle or vessel, and
 143 whether any person has filed a lien upon the vehicle or vessel
 144 as provided in s. 319.27(2) and (3) and notify the applicable
 145 law enforcement agency within 72 hours. The person in charge of
 146 the towing service, garage, repair shop, salvage motor vehicle
 147 yard, or automotive service, storage, or parking place shall
 148 obtain such information from the applicable law enforcement
 149 agency within 5 days after the date of storage and shall give
 150 notice pursuant to paragraph (a). The department may release the
 151 insurance company information to the requestor notwithstanding
 152 the provisions of s. 627.736.

153 (c) Notice by certified mail, ~~return receipt requested,~~
 154 shall be sent within 7 business days after the date of storage
 155 of the vehicle or vessel to the registered owner, the insurance
 156 company insuring the vehicle notwithstanding the provisions of
 157 s. 627.736, and all persons of record claiming a lien against
 158 the vehicle or vessel. Proof of mailing must be provided upon
 159 request to any person involved in an action. The notice must ~~It~~
 160 ~~shall~~ state the fact of possession of the vehicle or vessel,
 161 that a lien as provided in subsection (2) is claimed, that
 162 charges have accrued and the amount thereof, that the lien is
 163 subject to enforcement pursuant to law, ~~and~~ that the owner or
 164 lienholder, if any, has the right to a hearing as set forth in
 165 subsection (5), and that any vehicle or vessel that ~~which~~
 166 remains unclaimed, or for which the charges for recovery,
 167 towing, or storage services remain unpaid, may be sold free of
 168 all prior liens after 35 days if the vehicle or vessel is more

169 than 3 years of age or after 50 days if the vehicle or vessel is
 170 3 years of age or less.

171 (d) If attempts to locate the name and address of the
 172 owner or lienholder prove unsuccessful, the towing-storage
 173 operator shall, after 7 working days, excluding Saturday and
 174 Sunday, following ~~of~~ the initial tow or storage, notify the
 175 public agency of jurisdiction in writing by certified mail or
 176 acknowledged hand delivery that the towing-storage company has
 177 been unable to locate the name and address of the owner or
 178 lienholder and a physical search of the vehicle or vessel has
 179 disclosed no ownership information and a good faith effort has
 180 been made. Proof of mailing must be provided upon request to any
 181 person involved in an action. For purposes of this paragraph and
 182 subsection (9), "good faith effort" means that the following
 183 checks have been performed by the company to establish prior
 184 state of registration and for title:

- 185 1. Check of vehicle or vessel for any type of tag, tag
 186 record, temporary tag, or regular tag.
- 187 2. Check of law enforcement report for tag number or other
 188 information identifying the vehicle or vessel, if the vehicle or
 189 vessel was towed at the request of a law enforcement officer.
- 190 3. Check of trip sheet or tow ticket of tow truck operator
 191 to see if a tag was on vehicle or vessel at beginning of tow, if
 192 private tow.
- 193 4. If there is no address of the owner on the impound
 194 report, check of law enforcement report to see if an out-of-
 195 state address is indicated from driver license information.
- 196 5. Check of vehicle or vessel for inspection sticker or

197 other stickers and decals that may indicate a state of possible
198 registration.

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

202 7. Check of vehicle for vehicle identification number.

203 8. Check of vessel for vessel registration number.

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

209 (6) Any vehicle or vessel ~~which is~~ stored pursuant to
210 subsection (2) that ~~and which~~ remains unclaimed, or for which
211 reasonable charges for recovery, towing, or storage services
212 ~~storing~~ remain unpaid, and any contents not released pursuant to
213 subsection (10), may be sold by the owner or operator of the
214 storage space for such recovery, towing, or storage charges, and
215 the charge for administrative costs authorized under this
216 subsection, charge after 35 days following ~~from~~ the time the
217 vehicle or vessel is stored therein if the vehicle or vessel is
218 more than 3 years of age or after 50 days following the time the
219 vehicle or vessel is stored therein if the vehicle or vessel is
220 3 years of age or less. The sale shall be at public auction for
221 cash. A charge for administrative costs is authorized if it is
222 based on the applicable administrative charge set by city or
223 county ordinance or, if an administrative charge is not set by
224 ordinance, if it is not more than the lesser of \$100 or 30

225 percent of the unpaid recovery, towing, and storage charges. If
226 the date of the sale was not included in the notice required in
227 subsection (4), notice of the sale shall be given to the person
228 in whose name the vehicle or vessel is registered and to all
229 persons claiming a lien on the vehicle or vessel as shown on the
230 records of the Department of Highway Safety and Motor Vehicles
231 or of the corresponding agency in any other state. Notice shall
232 be sent by certified mail, ~~return receipt requested,~~ to the
233 owner of the vehicle or vessel and the person having the
234 recorded lien on the vehicle or vessel at the address shown on
235 the records of the registering agency and shall be mailed not
236 less than 15 days before the date of the sale. Proof of mailing
237 must be provided upon request to any person involved in an
238 action. After diligent search and inquiry, if the name and
239 address of the registered owner or the owner of the recorded
240 lien cannot be ascertained, the requirements of notice by mail
241 may be dispensed with. In addition to the notice by mail, public
242 notice of the time and place of sale shall be made by publishing
243 a notice thereof one time, at least 10 days prior to the date of
244 the sale, in a newspaper of general circulation in the county in
245 which the sale is to be held. The proceeds of the sale, after
246 payment of reasonable recovery, towing, and storage charges, and
247 costs of the sale, in that order of priority, shall be deposited
248 with the clerk of the circuit court for the county if the owner
249 is absent, and the clerk shall hold such proceeds subject to the
250 claim of the person legally entitled thereto. The clerk shall be
251 entitled to receive 5 percent of such proceeds for the care and
252 disbursement thereof. The certificate of title issued under this

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253 | law shall be discharged of all liens unless otherwise provided
254 | by court order.

255 | Section 5. This act shall take effect July 1, 2008.