

By the Committee on Commerce; and Senator Crist

577-06374-08

2008672c1

1 A bill to be entitled

2 An act relating to wrecker services; creating ch. 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; providing for
9 membership, terms, and organization; providing procedures
10 for meetings and recordkeeping; providing for
11 reimbursement for travel and per diem expenses; directing
12 the department to provide support services for the
13 council; directing the council to review rules adopted by
14 the department and to advise the department on matters
15 relating to standards and practices in the wrecker
16 industry; creating s. 508.103, F.S.; authorizing the
17 department to adopt rules; creating s. 508.105, F.S.;
18 requiring wrecker companies to register annually with the
19 department; providing for the registration application;
20 providing for the processing of fingerprints by the
21 Department of Agriculture and Consumer Services; requiring
22 fees for processing; providing for issuance of a
23 registration certificate; requiring display of the
24 certificate; providing requirements for advertisements;
25 requiring notification of changes in registration
26 information; requiring payment of certain fees; requiring
27 certain companies to obtain a local business tax receipt
28 prior to registration renewal; requiring insurance
29 coverage; requiring the department to notify the

577-06374-08

2008672c1

30 Department of Highway Safety and Motor Vehicles when a
31 registration has been suspended or revoked; creating s.
32 508.106, F.S.; authorizing the Department of Agriculture
33 and Consumer Services to deny, revoke, or refuse to renew
34 the registration of a wrecker company under certain
35 circumstances; creating s. 508.1061, F.S.; requiring a
36 wrecker company to accept certain forms of payment;
37 creating s. 508.107, F.S.; requiring the department to
38 establish a certification program for wrecker operators;
39 providing for the council to approve certification courses
40 and the organizations conducting the courses; providing
41 for the council to prescribe course curricula; providing
42 requirements for courses; requiring that each course
43 include an examination approved by the council; providing
44 criteria for the examination; requiring that the
45 organization conducting the course issue the certificate
46 to the wrecker operator; creating s. 508.108, F.S.;

47 requiring each certification course to offer optional
48 specialized wrecker services instruction, training, and
49 examinations; describing specialized wrecker services;
50 directing the department to adopt rules prescribing
51 specific standards to further define each specialized
52 wrecker service; requiring council approval of the
53 instruction, training, and examination; requiring the
54 organization conducting the course to issue the
55 certificate to the wrecker operator; creating s. 508.109,
56 F.S.; providing for form and content of certification
57 cards; authorizing the department to adopt rules for
58 issuance of certification cards to an operator who

577-06374-08

2008672c1

59 | completes a certification course and passes a
60 | certification examination in another state or completed a
61 | certification course and passed a certification
62 | examination in this state during a certain time period;
63 | authorizing the department to adopt rules for issuance of
64 | endorsements for specialized services to a wrecker
65 | operator who completed instruction and training for a
66 | specialized wrecker service and passed an endorsement
67 | examination for that specialized wrecker service during a
68 | certain time period; providing for approval by the council
69 | of out-of-state certification instructions, training, and
70 | examinations; providing for expiration of certification;
71 | requiring that certification cards be issued by the
72 | organizations conducting the courses; creating s. 508.111,
73 | F.S.; providing requirements for recertification;
74 | providing for a continuing education program to be
75 | established by the department; providing for curricula and
76 | examinations to be prescribed by the council; requiring
77 | course approval by the council; providing for a
78 | certificate to be issued by the training organization to
79 | the wrecker operator; creating s. 508.112, F.S.;
80 | prohibiting certain acts; creating ss. 508.113 and
81 | 508.114, F.S.; providing administrative and civil
82 | penalties; creating s. 508.116, F.S.; providing for
83 | registration and renewal fees; requiring the department to
84 | maintain data relating to the fees; creating s. 508.117,
85 | F.S.; providing for deposit and use of fees, penalties,
86 | and other funds; creating s. 508.118, F.S.; providing that
87 | the chapter does not apply to recovery agents; creating s.

577-06374-08

2008672c1

88 508.119, F.S.; authorizing counties and municipalities to
89 enact ordinances governing wrecker operators; providing
90 for the department to enter into a cooperative agreement
91 with a county or municipality for the referral,
92 investigation, and prosecution of consumer complaints or
93 enforcement of specified wrecker services provisions;
94 creating s. 508.120, F.S.; requiring that a wrecker
95 company maintain records of its services and operators;
96 requiring organizations that conduct operator
97 certification or continuing education courses to maintain
98 records on each person who successfully completes one of
99 the courses; authorizing inspection of records by the
100 department; creating s. 508.104, F.S.; prohibiting persons
101 from owning, operating, or being issued a local business
102 tax receipt on behalf of a wrecker company without first
103 registering with the department; requiring registration
104 prior to issuance or renewal of local business tax
105 receipt; excluding certain motor vehicle repair shops;
106 creating s. 508.110, F.S.; prohibiting the performance of
107 wrecker services after a certain date unless the operator
108 is in the employ of a company that is registered;
109 requiring wrecker operators to be certified; providing
110 exceptions for certain shops and organizations;
111 authorizing the department to inspect company records;
112 creating s. 508.115, F.S.; providing criminal penalties;
113 amending s. 120.80, F.S.; providing for appointment of a
114 hearing officer by the director of the Division of the
115 Florida Highway Patrol when a hearing is held to deny,
116 suspend, or remove a wrecker company from participating in

577-06374-08

2008672c1

117 the wrecker-allocation system; creating s. 205.1977, F.S.;

118 prohibiting a county or municipality from issuing or

119 renewing a business tax receipt for a wrecker company that

120 is not registered with the Department of Agriculture and

121 Consumer Services; amending s. 316.530, F.S., relating to

122 towing requirements; conforming terminology; amending s.

123 320.01, F.S.; redefining the term "wrecker" for purposes

124 of the Florida Statutes; amending s. 320.03, F.S.,

125 relating to withholding the motor vehicle registration

126 plate or revalidation sticker; providing for application

127 of provisions to wrecker companies rather than wrecker

128 operators; amending s. 320.0706, F.S.; requiring that the

129 license plate be displayed only on the front of a wrecker;

130 amending s. 320.0821, F.S.; revising requirements for the

131 issuance of wrecker license plates; requiring that the

132 license plate be displayed on the front of the wrecker;

133 amending s. 320.13, F.S., relating to dealer license

134 plates; conforming terminology; reenacting ss.

135 316.550(4)(a) and (9) and 320.08(5)(d) and (e), F.S.,

136 relating to special wrecker permits and license taxes, to

137 incorporate the amendment to s. 320.01, F.S., in

138 references thereto; amending s. 321.051, F.S.; revising

139 provisions for the Florida Highway Patrol wrecker operator

140 system; changing the designation to "wrecker-allocation

141 system"; providing definitions; revising provisions that

142 authorize the Division of the Florida Highway Patrol

143 within the Department of Highway Safety and Motor Vehicles

144 to establish the system; revising requirements for the

145 system; limiting the system to using certain registered

577-06374-08

2008672c1

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

577-06374-08

2008672c1

175 | company requested by the vehicle owner or operator or to
176 | dispatch a company out of rotation; amending s. 713.78,
177 | F.S.; providing for claim of lien by a wrecker company for
178 | recovering, removing, or storing a vehicle or vessel;
179 | conforming provisions to changes made by the act;
180 | providing definitions; requiring notification to the
181 | vehicle or vessel owners, insurers, and lienholders;
182 | providing for a law enforcement agency to obtain
183 | information from the Department of Highway Safety and
184 | Motor Vehicles and provide the information to the wrecker
185 | company; providing notice procedures; providing for
186 | content of the notice; providing for notice to the agency
187 | of jurisdiction if the vehicle or vessel owner or
188 | lienholder cannot be identified; revising procedures for
189 | complaint by the vehicle or vessel owner; providing for
190 | release of the vehicle or vessel; requiring damages,
191 | attorney's fees, and costs to be awarded by the court;
192 | requiring immediate payment of recovery, towing, and
193 | storage fees to be ordered by the court; providing for
194 | notice and sale of the vehicle or vessel by the wrecker
195 | company; providing for distribution of proceeds; providing
196 | for discharge of liens and issuance of certificate of
197 | title; providing immunity from liability for a wrecker
198 | company, its operators, and other employees or agents
199 | under certain conditions; providing for a presumption of
200 | the use of reasonable care; requiring wrecker company
201 | information to be printed on the wrecker; specifying that
202 | failure to make good-faith best efforts to comply with
203 | notice requirements precludes imposition of storage

577-06374-08

2008672c1

204 charges; requiring a wrecker company to provide access to
205 the vehicle or vessel; requiring release of the vehicle,
206 vessel, or personal property to the owner or agent of the
207 owner; requiring the wrecker company to obtain a
208 certificate of destruction in lieu of a certificate of
209 title when the vehicle or vessel is to be dismantled,
210 destroyed, or changed in such a manner that it is not the
211 motor vehicle or vessel described in the certificate of
212 title; providing for issuance of the certificate of
213 destruction by the county tax collector; providing
214 requirements for application for the certificate of
215 destruction; providing for reassignment of the certificate
216 of destruction; authorizing the Department of Highway
217 Safety and Motor Vehicles to adopt rules; providing
218 penalties for specified violations; authorizing the
219 Department of Highway Safety and Motor Vehicles to inspect
220 wrecker company records; directing the Department of
221 Highway Safety and Motor Vehicles, upon notice of lien
222 from a wrecker company, to place the name of the owner of
223 the vehicle or vessel on the list of those persons who may
224 not be issued a license plate or revalidation sticker for
225 a motor vehicle; providing for forms for the notice of
226 lien; providing for dispute by the owner; providing for
227 the owner's name to be removed from the list of those
228 persons who may not be issued a license plate or
229 revalidation sticker for a motor vehicle; providing for
230 lien expiration; requiring a certificate of discharge to
231 be issued by the wrecker company; providing for certain
232 fees and charges; providing for application and

577-06374-08

2008672c1

233 exceptions; clarifying that the amendments made by the act
234 do not affect the validity of prior liens; amending s.
235 715.07, F.S.; revising provisions for the towing and
236 storage of vehicles and vessels parked on real property
237 without permission; providing definitions; providing
238 requirements for storage facility operation; providing
239 requirements for a wrecker company, its operators, and
240 other employees or agents; prohibiting a wrecker company,
241 a wrecker operator, or another employee or agent of a
242 wrecker company from paying or accepting payment for the
243 privilege of removing vehicles or vessels from a
244 particular location; revising requirements for tow-away
245 signs to be posted by property owners; requiring a wrecker
246 company to maintain rate schedules with the local law
247 enforcement agency and to post rates and contracts at its
248 storage facility; revising requirements for certain
249 signage on a wrecker; providing immunity from liability
250 for a wrecker company, its operators, and other employees
251 or agents if entry into the vehicle or vessel is performed
252 with reasonable care; revising provisions for release of
253 the vehicle or vessel; providing that failure to comply
254 with notice requirements precludes a wrecker company from
255 imposing certain towing or storage charges; providing
256 penalties; repealing s. 1.01(15), F.S., relating to the
257 definition of the term "wrecker operator"; providing an
258 appropriation and authorizing additional positions;
259 providing an effective date.

260

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

577-06374-08

2008672c1

262
263 Section 1. Chapter 508, Florida Statutes, consisting of
264 sections 508.101, 508.102, 508.103, 508.105, 508.106, 508.1061,
265 508.107, 508.108, 508.109, 508.111, 508.112, 508.113, 508.114,
266 508.116, 508.117, 508.118, 508.119, and 508.120, is created to
267 read:

268 CHAPTER 508

269 WRECKER SERVICES

270 508.101 Definitions.--As used in this chapter, the term:

271 (1) "Business entity" means any form of corporation,
272 limited liability company, partnership, association, cooperative,
273 joint venture, business trust, sole proprietorship, or self-
274 employed person conducting business in this state.

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

276 (3) "Department" means the Department of Agriculture and
277 Consumer Services.

278 (4) "Specialized wrecker service" means a wrecker service
279 described in s. 508.108. A wrecker operator is required to obtain
280 the applicable certification endorsement before performing a
281 specialized wrecker service.

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

289 (6) "Vehicle" means any vehicle of a type that may be
290 registered under chapter 320 for operation on the roads of this

577-06374-08

2008672c1

291 state, regardless of whether the vehicle is actually registered.
292 The term does not include a mobile home or manufactured home as
293 defined in s. 320.01.

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

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

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

304 (10) "Wrecker operator" means a person who performs wrecker
305 services.

306 (11) "Wrecker services" means towing, carrying, or
307 otherwise transporting vehicles or vessels by wrecker upon the
308 streets and highways of this state for hire. The term includes,
309 but is not limited to, each of the following:

310 (a) Driving a wrecker.

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

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

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

577-06374-08

2008672c1

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

323 (f) Recovery of a vehicle or vessel.

324
325 The term does not include wrecker services provided by a
326 franchised motor vehicle dealer licensed pursuant to s. 320.27 if
327 such services are incidental to the operation of the franchise.

328 508.102 Wrecker Operator Advisory Council.--

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

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

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

342 (c) Effective July 1, 2014, each of four members of the
343 council must be an ultimate equitable owner of a wrecker company
344 registered under this chapter who has been an ultimate equitable
345 owner of that company registered for at least 5 years before his
346 or her appointment; one member must be a wrecker operator
347 certified under this chapter who is not an ultimate equitable
348 owner of a wrecker company and who has been a certified wrecker

577-06374-08

2008672c1

349 operator for at least 5 years before his or her appointment; and
350 two members must be laypersons. Each member must be a resident of
351 this state.

352 (3) The term of each member of the council is 4 years,
353 except that, in order to establish staggered terms, two members
354 who are owners of wrecker companies and one layperson shall be
355 appointed initially for a 2-year term. Members may be reappointed
356 for additional terms, but may not serve more than 8 consecutive
357 years. A vacancy shall be filled for the remainder of the
358 unexpired term in the same manner as the original appointment.

359 (4) (a) From among its members, the council shall annually
360 elect a chair, who shall preside over the meetings of the
361 council, and a vice chair.

362 (b) In conducting its meetings, the council shall use
363 accepted rules of procedure. The department must keep a complete
364 record of each meeting showing the names of members present and
365 the actions taken. These records and other documents regarding
366 matters within the jurisdiction of the council must be kept on
367 file with the department.

368 (5) The members of the council shall serve without
369 compensation, but are entitled to reimbursement of travel and per
370 diem expenses under s. 112.061.

371 (6) The department shall provide administrative and staff
372 support services relating to the functions of the council.

373 (7) The council shall review the rules adopted by the
374 department to administer this chapter and shall advise the
375 department on matters relating to industry standards and
376 practices and other issues that require technical expertise and
377 consultation or that promote better consumer protection in the

577-06374-08

2008672c1

378 wrecker industry.

379 508.103 Rulemaking authority.--The department may adopt
380 rules under ss. 120.536(1) and 120.54 to administer this chapter.

381 508.105 Registration requirements; renewal of
382 registrations.--

383 (1) Each wrecker company engaged or attempting to engage
384 for hire in the business of towing, carrying, or transporting
385 vehicles or vessels by wrecker upon the streets and highways of
386 this state must annually register with the department on forms
387 prescribed by the department. The application for registration
388 must include at least the following information:

389 (a) The name and federal employer identification number of
390 the wrecker company.

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

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

395 (d) The full name, residence address, business address, and
396 telephone number of the applicant. If the applicant is other than
397 a natural person, the application must also contain the full
398 name, residence address, business address, telephone number, and
399 federal employer identification number, if applicable, of each
400 ultimate equitable owner of the business entity and each officer,
401 director, partner, manager, member, or managing member of the
402 entity.

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

406 (f) The physical address and telephone number of each

577-06374-08

2008672c1

407 business location and each storage facility where the wrecker
408 company stores towed vehicles or vessels.

409 (2) Each initial and renewal application for registration
410 must be accompanied by the registration fee prescribed in s.
411 508.116.

412 (3) Each initial application for registration must be
413 accompanied by a complete set of the applicant's fingerprints
414 taken by a law enforcement agency. If the applicant is other than
415 a natural person, a complete set of fingerprints must be filed
416 for each ultimate equitable owner of the business entity and each
417 officer, director, partner, manager, member, or managing member
418 of the entity. The Department of Agriculture and Consumer
419 Services shall collect from each applicant the fingerprint
420 processing fee of \$15 for state processing and an additional fee
421 for national processing for each application submitted. The
422 department shall submit the fingerprints to the Department of Law
423 Enforcement for state processing, and the Department of Law
424 Enforcement shall forward the fingerprints to the Federal Bureau
425 of Investigation for national processing. The Department of
426 Agriculture and Consumer Services shall screen background results
427 to determine whether the applicant meets the requirements for
428 issuance of a registration certificate. Registration renewal
429 applications need not be accompanied by a set of fingerprints for
430 an individual who previously submitted a set of fingerprints to
431 the department as part of a prior year's registration
432 application.

433 (4) The department shall review each application in
434 accordance with s. 120.60 and shall issue a registration
435 certificate, in the form and size prescribed by the department,

577-06374-08

2008672c1

436 to each wrecker company whose application is approved. The
437 certificate must show at least the name and address of the
438 wrecker company and the registration number. The registration
439 certificate must be prominently displayed in the wrecker
440 company's primary place of business.

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

447 (6) A registration is invalid for a wrecker company
448 transacting business at a place other than the location specified
449 in the registration application unless the department is first
450 notified in writing before the change of location. A registration
451 issued under this chapter is not transferable or assignable, and
452 a wrecker company may not conduct business under a name other
453 than the name registered. A wrecker company desiring to change
454 its registered name, location, or registered agent for service of
455 process at a time other than upon renewal of registration must
456 notify the department of the change.

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

464 (b) A wrecker company whose primary place of business is

577-06374-08

2008672c1

465 located within a county or municipality that requires, by local
466 ordinance, a local business tax receipt under chapter 205 may not
467 renew a registration under this chapter unless the wrecker
468 company obtains the business tax receipt from the county or
469 municipality.

470 (8) Each wrecker company must provide the department with a
471 certificate of insurance for the insurance coverage required
472 under s. 627.7415 before the department may issue the certificate
473 for an initial or renewal registration. The department must be
474 named as a certificateholder on the insurance certificate and
475 must be notified at least 30 days before any change in insurance
476 coverage.

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

482 508.106 Denial of registration.--The department may deny,
483 revoke, or refuse to renew the registration of a wrecker company
484 based upon a determination that the applicant or, if the
485 applicant is other than a natural person, the wrecker company or
486 any of its ultimate equitable owners, officers, directors,
487 partners, managers, members, or managing members has:

488 (1) Not met the requirements for registration under this
489 chapter;

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

493 (3) Been convicted or found guilty of, regardless of

577-06374-08

2008672c1

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

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

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

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

514 508.1061 Acceptable forms of payment.--A wrecker company
515 shall accept a minimum of two of the three following forms of
516 payment:

517 (1) Cash, cashier's check, money order, or traveler's
518 check.

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

522 (3) Valid credit card, including, but not limited to, Visa

577-06374-08

2008672c1

523 or MasterCard.

524 508.107 Wrecker operator certification program.--

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

535 (2) Each approved wrecker operator certification course
536 must include a certification examination demonstrating a wrecker
537 operator's knowledge, skills, and abilities in performing wrecker
538 services and proficiency in the subject matter of the
539 certification course. The council must approve each certification
540 examination before the examination is accepted for certification
541 of wrecker operators under this chapter.

542 (3) Each organization conducting an approved wrecker
543 operator certification course must issue on forms prescribed by
544 the department a certificate to each wrecker operator who
545 completes the approved certification course and passes the
546 approved certification examination.

547 508.108 Specialized wrecker services.--

548 (1) In addition to the minimum curricula for certification
549 of wrecker operators, each approved certification course must
550 offer optional instruction, training, and examination of wrecker
551 operators for each of the following specialized wrecker services:

577-06374-08

2008672c1

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

555 (b) Medium duty.--Towing and winching a medium-sized
556 commercial vehicle and uprighting an overturned medium-sized
557 commercial vehicle.

558 (c) Heavy duty.--Towing and winching a standard large-sized
559 commercial vehicle and uprighting an overturned standard large-
560 sized commercial vehicle.

561 (d) Ultra-heavy duty.--Towing and winching a specialty
562 large-sized commercial vehicle or another complex vehicle and
563 uprighting an overturned specialty large-sized commercial vehicle
564 or another complex vehicle.

565 (e) Rollback wrecker.--Proper loading, securing,
566 transporting, and unloading of a vehicle on a flatbed-rollback
567 wrecker.

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

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

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

580 (3) Each organization conducting an approved wrecker

577-06374-08

2008672c1

581 operator certification course must issue on forms prescribed by
582 the department a certificate to each wrecker operator who
583 completes the approved instruction and training for a specialized
584 wrecker service and passes the approved endorsement examination
585 for that specialized wrecker service.

586 508.109 Certification cards.--

587 (1) Each organization conducting an approved wrecker
588 operator certification course must issue a certification card to
589 each wrecker operator who completes the approved certification
590 course and passes the approved certification examination. The
591 department must approve the form of the certification cards
592 issued by each organization. Each certification card must include
593 the wrecker operator's name, a color photograph or digital image
594 of the wrecker operator, and the expiration date of the
595 certification card.

596 (2) Each certification card must also include the wrecker
597 operator's applicable endorsements for those specialized wrecker
598 services for which the wrecker operator completed the approved
599 instruction and training and passed the approved endorsement
600 examination.

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

603 1. Completes a certification course and passes a
604 certification examination in another state, which course and
605 examination are substantially equivalent to the approved
606 certification courses and approved certification examinations in
607 this state.

608 2. Completed a certification course and passed a
609 certification examination in this state between January 1, 2003,

577-06374-08

2008672c1

610 and December 31, 2008, which course and examination are
611 substantially equivalent to the approved certification courses
612 and the approved certification examinations. This subparagraph
613 expires July 1, 2009.

614 3. Completed instruction and training for a specialized
615 wrecker service and passed an endorsement examination for that
616 specialized wrecker service between January 1, 2003, and December
617 31, 2008, which instruction, training, and examination are
618 substantially equivalent to the approved instruction and training
619 and the approved endorsement examinations. This subparagraph
620 expires July 1, 2009.

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

630 (4) Each certification card expires 5 years after the date
631 of issuance.

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

637 508.111 Renewal of certification; continuing education
638 requirements.--

577-06374-08

2008672c1

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

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

654 508.112 Prohibited acts.--It is a violation of this chapter
655 for a person to:

656 (1) Charge rates that exceed the maximum rates imposed by
657 the ordinances of the respective county or municipality under ss.
658 125.0103(1)(c) and 166.043(1)(c).

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

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

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

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

667 (6) Refuse to allow a law enforcement officer to inspect a

577-06374-08

2008672c1

668 towing and storage facility as required in s. 812.055.

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

674 (8) Allow a wrecker operator certified under this chapter
675 to perform a specialized wrecker service for the wrecker company
676 if the wrecker operator's certification does not include an
677 endorsement for that specialized wrecker service.

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

680 508.113 Administrative penalties; inspection of records.--

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

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

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

687 (c) Direct the person to cease and desist specified
688 activities.

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

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

693 (2) Chapter 120 shall govern an administrative proceeding
694 resulting from an order imposing a penalty specified in
695 subsection (1).

696 508.114 Civil penalties.--The department may bring a civil

577-06374-08

2008672c1

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

704 508.116 Fees.--

705 (1) The department shall adopt by rule a fee schedule not
706 to exceed the following amounts:

707 (a) Wrecker company registration fee: \$495.

708 (b) Wrecker company registration renewal fee: \$495.

709 (2) The department shall collect and maintain data relating
710 to the fees and shall review the fee amounts after the first 2
711 years of the registration program.

712 508.117 General Inspection Trust Fund; payments.--All fees,
713 penalties, or other funds collected by the department under this
714 chapter must be deposited in the General Inspection Trust Fund
715 and may only be used for the purpose of administering this
716 chapter.

717 508.118 Recovery agents; exemption.--This chapter does not
718 apply to a person licensed under chapter 493 performing
719 repossession services.

720 508.119 County and municipal ordinances.--A county or
721 municipality may enact ordinances governing the business of
722 transporting vehicles or vessels by wrecker that are more
723 restrictive than this chapter. This section does not limit the
724 authority of a political subdivision to impose regulatory fees or
725 charges or to levy local business taxes under chapter 205. The

577-06374-08

2008672c1

726 department may enter into a cooperative agreement with any county
727 or municipality that provides for the referral, investigation,
728 and prosecution of consumer complaints alleging violations of
729 this chapter. The department may delegate enforcement of this
730 chapter to any county or municipality entering into a cooperative
731 agreement.

732 508.120 Records.--

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

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

745 (3) Each organization approved to conduct a wrecker
746 operator certification course or approved to offer a wrecker
747 operator continuing education course shall maintain records on
748 each person who successfully completes one of the courses. The
749 records shall be maintained at the organization's principal place
750 of business for at least 5 years. The department may, at any time
751 during normal business hours, enter the organization's principal
752 place of business to examine the records.

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

577-06374-08

2008672c1

755 508.104 Wrecker companies; registration required.--

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

760 (2) A person applying for or renewing a local business tax
761 receipt to engage for hire in the business of a wrecker company
762 must exhibit a current registration certificate from the
763 department before the local business tax receipt may be issued or
764 reissued under chapter 205.

765 (3) This section does not apply to a motor vehicle repair
766 shop registered with the department under s. 559.904 that derives
767 at least 80 percent of its gross sales from motor vehicle
768 repairs.

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

771 508.110 Wrecker operators; certification required;
772 inspection of employment records.--

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

778 (2) (a) A person may not perform wrecker services or
779 specialized wrecker services for a wrecker company for more than
780 6 months after first being employed by, or becoming an ultimate
781 equitable owner of, the wrecker company without being certified
782 as a wrecker operator under this chapter.

783 (b) A wrecker operator certified under this chapter may not

577-06374-08

2008672c1

784 perform a specialized wrecker service for a wrecker company
785 unless the wrecker operator's certification includes an
786 endorsement for that specialized wrecker service.

787 (3) (a) Notwithstanding subsections (1) and (2), a person
788 may perform wrecker services or specialized wrecker services in
789 this state if he or she is an employee or ultimate equitable
790 owner of a motor vehicle repair shop registered with the
791 department under s. 559.904 and those wrecker services or
792 specialized wrecker services are performed on behalf of the motor
793 vehicle repair shop.

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

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

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

808 508.115 Criminal penalties.--

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

577-06374-08

2008672c1

813 775.084.

814 (2) A person who violates s. 508.110(1) by performing
815 wrecker services in this state without being an employee or
816 ultimate equitable owner of a wrecker company that is registered
817 with the department under this chapter commits a felony of the
818 third degree, punishable as provided in s. 775.082, s. 775.083,
819 or s. 775.084.

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

823 120.80 Exceptions and special requirements; agencies.--

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

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

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

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

841 Section 7. Subsection (3) of section 316.530, Florida

577-06374-08

2008672c1

842 Statutes, is amended to read:

843 316.530 Towing requirements.--

844 (3) Whenever a motor vehicle becomes disabled upon the
845 highways of this state and a wrecker ~~or tow truck~~ is required to
846 remove it to a repair shop or other appropriate location, if the
847 combined weights of those two vehicles and the loads thereon
848 exceed the maximum allowable weights as established by s.
849 316.535, no penalty shall be assessed either vehicle or driver.
850 However, this exception shall not apply to the load limits for
851 bridges and culverts established by the department as provided in
852 s. 316.555.

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

855 320.01 Definitions, general.--As used in the Florida
856 Statutes, except as otherwise provided, the term:

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

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

864 320.03 Registration; duties of tax collectors;
865 International Registration Plan.--

866 (8) If the applicant's name appears on the list referred to
867 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license
868 plate or revalidation sticker may not be issued until that
869 person's name no longer appears on the list or until the person
870 presents a receipt from the clerk showing that the fines

577-06374-08

2008672c1

871 | outstanding have been paid. This subsection does not apply to the
872 | owner of a leased vehicle if the vehicle is registered in the
873 | name of the lessee of the vehicle. The tax collector and the
874 | clerk of the court are each entitled to receive monthly, as costs
875 | for implementing and administering this subsection, 10 percent of
876 | the civil penalties and fines recovered from such persons. As
877 | used in this subsection, the term "civil penalties and fines"
878 | does not include a wrecker company's ~~operator's~~ lien as described
879 | in s. 713.78(13). If the tax collector has private tag agents,
880 | such tag agents are entitled to receive a pro rata share of the
881 | amount paid to the tax collector, based upon the percentage of
882 | license plates and revalidation stickers issued by the tag agent
883 | compared to the total issued within the county. The authority of
884 | any private agent to issue license plates shall be revoked, after
885 | notice and a hearing as provided in chapter 120, if he or she
886 | issues any license plate or revalidation sticker contrary to the
887 | provisions of this subsection. This section applies only to the
888 | annual renewal in the owner's birth month of a motor vehicle
889 | registration and does not apply to the transfer of a registration
890 | of a motor vehicle sold by a motor vehicle dealer licensed under
891 | this chapter, except for the transfer of registrations which is
892 | inclusive of the annual renewals. This section does not affect
893 | the issuance of the title to a motor vehicle, notwithstanding s.
894 | 319.23(7)(b).

895 | Section 10. Section 320.0706, Florida Statutes, is amended
896 | to read:

897 | 320.0706 Display of license plates on trucks.--The owner of
898 | any commercial truck of gross vehicle weight of 26,001 pounds or
899 | more shall display the registration license plate on both the

577-06374-08

2008672c1

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

907 Section 11. Subsection (1) of section 320.0821, Florida
908 Statutes, is amended, and subsection (5) is added to that
909 section, to read:

910 320.0821 Wrecker license plates.--

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

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

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

925 320.0821 Wrecker license plates.--

926 (1) The department shall issue a wrecker license plate
927 regardless of gross vehicle weight, to the owner of a wrecker ~~any~~
928 ~~motor vehicle that is used to tow, carry, or otherwise transport~~

577-06374-08

2008672c1

929 ~~motor vehicles and that is equipped for that purpose with a boom,~~
930 ~~winch, carrier, or other similar equipment, except a motor~~
931 ~~vehicle registered under the International Registration Plan,~~
932 upon application and payment of the appropriate license tax and
933 fees in accordance with s. 320.08(5)(d) or (e).

934 Section 13. Paragraph (a) of subsection (1) of section
935 320.13, Florida Statutes, is amended to read:

936 320.13 Dealer and manufacturer license plates and
937 alternative method of registration.--

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

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

955 316.550 Operations not in conformity with law; special
956 permits.--

957 (4)(a) The Department of Transportation may issue a wrecker

577-06374-08

2008672c1

958 special blanket permit to authorize a wrecker as defined in s.
959 320.01(40) to tow a disabled vehicle as defined in s. 320.01(38)
960 where the combination of the wrecker and the disabled vehicle
961 being towed exceeds the maximum weight limits as established by
962 s. 316.535.

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

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

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

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

983 (d) For violation of any special condition that has been
984 prescribed in the rules of the Department of Transportation and
985 declared on the permit, the vehicle shall be determined to be out
986 of conformance with the permit and the permit shall be declared

577-06374-08

2008672c1

987 null and void for the vehicle, and weight and dimensional limits
988 for the vehicle shall be as established in s. 316.515 or s.
989 316.535, whichever is applicable, and:

990 1. For weight violations, a penalty as provided in s.
991 316.545 shall be assessed for those weights which exceed the
992 limits thus established for the vehicle; and

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

998 Section 15. For the purpose of incorporating the amendment
999 made by this act to section 320.01, Florida Statutes, in
1000 references thereto, paragraphs (d) and (e) of subsection (5) of
1001 section 320.08, Florida Statutes, are reenacted to read:

1002 320.08 License taxes.--Except as otherwise provided herein,
1003 there are hereby levied and imposed annual license taxes for the
1004 operation of motor vehicles, mopeds, motorized bicycles as
1005 defined in s. 316.003(2), and mobile homes, as defined in s.
1006 320.01, which shall be paid to and collected by the department or
1007 its agent upon the registration or renewal of registration of the
1008 following:

1009 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
1010 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

1011 (d) A wrecker, as defined in s. 320.01(40), which is used
1012 to tow a vessel as defined in s. 327.02(39), a disabled,
1013 abandoned, stolen-recovered, or impounded motor vehicle as
1014 defined in s. 320.01(38), or a replacement motor vehicle as
1015 defined in s. 320.01(39): \$30 flat.

577-06374-08

2008672c1

1016 (e) A wrecker, as defined in s. 320.01(40), which is used
1017 to tow any motor vehicle, regardless of whether or not such motor
1018 vehicle is a disabled motor vehicle as defined in s. 320.01(38),
1019 a replacement motor vehicle as defined in s. 320.01(39), a vessel
1020 as defined in s. 327.02(39), or any other cargo, as follows:

1021 1. Gross vehicle weight of 10,000 pounds or more, but less
1022 than 15,000 pounds: \$87 flat.

1023 2. Gross vehicle weight of 15,000 pounds or more, but less
1024 than 20,000 pounds: \$131 flat.

1025 3. Gross vehicle weight of 20,000 pounds or more, but less
1026 than 26,000 pounds: \$186 flat.

1027 4. Gross vehicle weight of 26,000 pounds or more, but less
1028 than 35,000 pounds: \$240 flat.

1029 5. Gross vehicle weight of 35,000 pounds or more, but less
1030 than 44,000 pounds: \$300 flat.

1031 6. Gross vehicle weight of 44,000 pounds or more, but less
1032 than 55,000 pounds: \$572 flat.

1033 7. Gross vehicle weight of 55,000 pounds or more, but less
1034 than 62,000 pounds: \$678 flat.

1035 8. Gross vehicle weight of 62,000 pounds or more, but less
1036 than 72,000 pounds: \$800 flat.

1037 9. Gross vehicle weight of 72,000 pounds or more: \$979
1038 flat.

1039 Section 16. Effective January 1, 2009, section 321.051,
1040 Florida Statutes, is amended to read:

1041 (Substantial rewording of section. See
1042 s. 321.051, F.S., for present text.)

1043 321.051 Florida Highway Patrol wrecker-allocation system;
1044 penalties for operation outside of system.--

577-06374-08

2008672c1

- 1045 (1) As used in this section, the term:
- 1046 (a) "Authorized wrecker company" means a wrecker company
1047 designated by the division as part of its wrecker-allocation
1048 system.
- 1049 (b) "Division" means the Division of the Florida Highway
1050 Patrol within the Department of Highway Safety and Motor
1051 Vehicles.
- 1052 (c) "Unauthorized wrecker company" means a wrecker company
1053 not designated by the division as part of its wrecker-allocation
1054 system.
- 1055 (d) "Wrecker company" has the same meaning ascribed in s.
1056 508.101.
- 1057 (e) "Wrecker operator" has the same meaning ascribed in s.
1058 508.101.
- 1059 (f) "Wrecker services" has the same meaning ascribed in s.
1060 508.101.
- 1061 (2) (a) The division may establish within areas designated
1062 by the division a wrecker-allocation system, using qualified,
1063 reputable wrecker companies, for the removal from crash scenes
1064 and the storage of wrecked or disabled vehicles when the owner or
1065 operator is incapacitated or unavailable or leaves the
1066 procurement of wrecker services to the officer at the scene and
1067 for the removal and storage of abandoned vehicles.
- 1068 (b) The wrecker-allocation system may use only wrecker
1069 companies registered under chapter 508. Each reputable wrecker
1070 company registered under chapter 508 is eligible for use in the
1071 system if its equipment and wrecker operators meet the recognized
1072 safety qualifications and mechanical standards set by the
1073 division's rules for the size of vehicle they are designed to

577-06374-08

2008672c1

1074 handle. The division may limit the number of wrecker companies
1075 participating in the wrecker-allocation system.

1076 (c) The division may establish maximum rates for the towing
1077 and storage of vehicles removed at the division's request if
1078 those rates are not established by a county or municipality under
1079 s. 125.0103 or s. 166.043. These rates are not rules for the
1080 purpose of chapter 120; however, the Department of Highway Safety
1081 and Motor Vehicles shall adopt rules prescribing the procedures
1082 for setting these rates.

1083 (d) Notwithstanding chapter 120, a final order of the
1084 Department of Highway Safety and Motor Vehicles denying,
1085 suspending, or revoking a wrecker company's participation in the
1086 wrecker-allocation system may be appealed only in the manner and
1087 within the time provided by the Florida Rules of Appellate
1088 Procedure by a writ of certiorari issued by the circuit court in
1089 the county in which the wrecker company's primary place of
1090 business is located, as evidenced by the wrecker company's
1091 registration under chapter 508.

1092 (3) (a) An unauthorized wrecker company, its wrecker
1093 operators, or its other employees or agents may not monitor a
1094 police radio for communications between patrol field units and
1095 the dispatcher in order to determine the location of a wrecked or
1096 disabled vehicle for the purpose of dispatching its wrecker
1097 operator to drive by the scene of the vehicle in a manner
1098 described in paragraph (b) or paragraph (c). Any person who
1099 violates this paragraph commits a noncriminal violation,
1100 punishable as provided in s. 775.083.

1101 (b) Except as provided in paragraph (c), a wrecker operator
1102 dispatched by an unauthorized wrecker company who drives by the

577-06374-08

2008672c1

1103 scene of a wrecked or disabled vehicle before the arrival of the
1104 wrecker operator dispatched by the authorized wrecker company may
1105 not initiate contact with the owner or operator of the vehicle by
1106 soliciting or offering wrecker services or tow the vehicle. Any
1107 person who violates this paragraph commits a misdemeanor of the
1108 second degree, punishable as provided in s. 775.082 or s.
1109 775.083.

1110 (c) When a wrecker operator dispatched by an unauthorized
1111 wrecker company drives by the scene of a wrecked or disabled
1112 vehicle and the owner or operator initiates contact by signaling
1113 the wrecker operator to stop and provide wrecker services, the
1114 wrecker operator must disclose to the owner or operator of the
1115 vehicle that he or she was not dispatched by the authorized
1116 wrecker company designated as part of the wrecker-allocation
1117 system and must disclose, in writing, what charges for towing and
1118 storage will apply before the vehicle is connected to the towing
1119 apparatus. Any person who violates this paragraph commits a
1120 misdemeanor of the second degree, punishable as provided in s.
1121 775.082 or s. 775.083.

1122 (d) A wrecker operator may not falsely identify himself or
1123 herself as being part of, or as being employed by a wrecker
1124 company that is part of, the wrecker-allocation system at the
1125 scene of a wrecked or disabled vehicle. Any person who violates
1126 this paragraph commits a misdemeanor of the first degree,
1127 punishable as provided in s. 775.082 or s. 775.083.

1128 (4) This section does not prohibit or in any way prevent
1129 the owner or operator of a vehicle involved in a crash or
1130 otherwise disabled from contacting any wrecker company for the
1131 provision of wrecker services, regardless of whether the wrecker

577-06374-08

2008672c1

1132 company is an authorized wrecker company. However, if a law
1133 enforcement officer determines that the disabled vehicle or
1134 vehicle cargo is a public safety hazard, the officer may, in the
1135 interest of public safety, dispatch an authorized wrecker company
1136 if the officer believes that the authorized wrecker company would
1137 arrive at the scene before the wrecker company requested by the
1138 owner or operator of the disabled vehicle or 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 services
1143 and the out-of-rotation authorized wrecker company is available
1144 with the required equipment. However, this subsection does not
1145 prohibit or prevent the owner or operator of a vehicle involved
1146 in a crash or otherwise disabled from contacting any wrecker
1147 company that is properly equipped to provide the required wrecker
1148 services, regardless of whether the wrecker company is an
1149 authorized wrecker company, unless the law enforcement officer
1150 determines that the wrecked or disabled vehicle or vehicle cargo
1151 is a public safety hazard and the officer believes that the
1152 authorized wrecker company would arrive at the scene before the
1153 wrecker company requested by the owner or operator.

1154 Section 17. Effective January 1, 2009, section 323.001,
1155 Florida Statutes, is amended to read:

1156 (Substantial rewording of section. See
1157 s. 323.001, F.S., for present text.)

1158 323.001 Wrecker company storage facilities; vehicle
1159 holds.--

1160 (1) As used in this section, the term:

577-06374-08

2008672c1

1161 (a) "Business day" means a day other than a Saturday,
1162 Sunday, or federal or state legal holiday.

1163 (b) "Wrecker company" has the same meaning ascribed in s.
1164 508.101.

1165 (2) A law enforcement agency may place a hold on a motor
1166 vehicle stored within a wrecker company's storage facility for 5
1167 business days, thereby preventing a motor vehicle from being
1168 released to its owner.

1169 (3) To extend a hold beyond 5 business days, the law
1170 enforcement agency must notify the wrecker company in writing
1171 before the expiration of the 5 business days. If notification is
1172 not made within the 5 business days, the wrecker company must
1173 release the vehicle to the designated person under s. 713.78.

1174 (a) If the hold is extended beyond the 5 business days, the
1175 law enforcement agency may have the vehicle removed to a
1176 designated impound lot and the vehicle may not be released by the
1177 law enforcement agency to the owner or lienholder of the vehicle
1178 until proof of payment of the towing and storage charges incurred
1179 by the wrecker company is presented to the law enforcement
1180 agency.

1181 (b) If the law enforcement agency chooses to have the
1182 vehicle remain at the wrecker company's storage facility for more
1183 than 5 business days under the written notification, the law
1184 enforcement agency is responsible for paying the storage charges
1185 incurred by the wrecker company for the requested extended
1186 period. The owner or lienholder is responsible for paying the
1187 accrued towing and storage charges for the first 5 business days,
1188 or any period less than the first 5 business days, if the law
1189 enforcement agency moves the vehicle from the wrecker company's

577-06374-08

2008672c1

1190 storage facility to a designated impound lot or provides written
1191 notification to extend the hold on the vehicle before the
1192 expiration of the 5 business days.

1193 (c) The towing and storage rates for the owner or
1194 lienholder of the held vehicle may not exceed the rates for the
1195 law enforcement agency.

1196 (4) If there is a judicial finding of no probable cause for
1197 having continued the immobilization or impoundment, the law
1198 enforcement agency ordering the hold must pay the accrued charges
1199 for any towing and storage.

1200 (5) The requirements for a written hold apply when:

1201 (a) The law enforcement officer has probable cause to
1202 believe that the vehicle should be seized and forfeited under the
1203 Florida Contraband Forfeiture Act, ss. 932.701-932.707;

1204 (b) The law enforcement officer has probable cause to
1205 believe that the vehicle should be seized and forfeited under
1206 chapter 370 or chapter 372;

1207 (c) The law enforcement officer has probable cause to
1208 believe that the vehicle was used as a means to commit a crime;

1209 (d) The law enforcement officer has probable cause to
1210 believe that the vehicle is itself evidence that a crime has been
1211 committed or that the vehicle contains evidence, which cannot
1212 readily be removed, that a crime has been committed;

1213 (e) The law enforcement officer has probable cause to
1214 believe that the vehicle was involved in a traffic accident
1215 resulting in death or personal injury and should be sealed for
1216 investigation and collection of evidence by a vehicular homicide
1217 investigator;

1218 (f) The vehicle is impounded or immobilized under s.

577-06374-08

2008672c1

- 1219 316.193 or s. 322.34; or
- 1220 (g) The law enforcement officer is complying with a court
- 1221 order.
- 1222 (6) The hold must be in writing and must specify:
- 1223 (a) The name and agency of the law enforcement officer
- 1224 placing the hold on the vehicle.
- 1225 (b) The date and time the hold is placed on the vehicle.
- 1226 (c) A general description of the vehicle, including its
- 1227 color, make, model, body style, and year; vehicle identification
- 1228 number; registration license plate number, state, and year; and
- 1229 validation sticker number, state, and year.
- 1230 (d) The specific reason for placing the hold.
- 1231 (e) The condition of the vehicle.
- 1232 (f) The location where the vehicle is being held.
- 1233 (g) The name, address, and telephone number of the wrecker
- 1234 company and the storage facility.
- 1235 (7) A wrecker company's storage facility must comply with a
- 1236 hold placed by a law enforcement officer, including instructions
- 1237 for inside or outside storage. A wrecker company's storage
- 1238 facility may not release a motor vehicle subject to a hold to any
- 1239 person except as directed by the law enforcement agency placing
- 1240 the hold.
- 1241 (8) When a vehicle owner is found guilty of, regardless of
- 1242 adjudication, or pleads nolo contendere to, the offense that
- 1243 resulted in a hold being placed on his or her vehicle, the owner
- 1244 must pay the accrued towing and storage charges assessed against
- 1245 the vehicle.
- 1246 Section 18. Effective January 1, 2009, section 323.002,
- 1247 Florida Statutes, is amended to read:

577-06374-08

2008672c1

- 1248 (Substantial rewording of section. See
1249 s. 323.002, F.S., for present text.)
1250 323.002 County and municipal wrecker-allocation systems;
1251 penalties for operation outside of system.--
1252 (1) As used in this section, the term:
1253 (a) "Authorized wrecker company" means a wrecker company
1254 designated as part of the wrecker-allocation system established
1255 by the governmental unit having jurisdiction over the scene of a
1256 wrecked, disabled, or abandoned vehicle.
1257 (b) "Unauthorized wrecker company" means a wrecker company
1258 not designated as part of the wrecker-allocation system
1259 established by the governmental unit having jurisdiction over the
1260 scene of a wrecked, disabled, or abandoned vehicle.
1261 (c) "Wrecker-allocation system" means a system for the
1262 towing or removal of wrecked, disabled, or abandoned vehicles,
1263 similar to the Florida Highway Patrol wrecker-allocation system
1264 described in s. 321.051(2), under which a county or municipality
1265 contracts with one or more wrecker companies registered under
1266 chapter 508 for the towing or removal of wrecked, disabled, or
1267 abandoned vehicles from accident scenes, streets, or highways.
1268 Each wrecker-allocation system must use a method for apportioning
1269 the towing assignments among the eligible wrecker companies
1270 through the creation of geographic zones or a rotation schedule
1271 or a combination of geographic zones and a rotation schedule.
1272 (d) "Wrecker company" has the same meaning ascribed in s.
1273 508.101.
1274 (e) "Wrecker operator" has the same meaning ascribed in s.
1275 508.101.
1276 (f) "Wrecker services" has the same meaning ascribed in s.

577-06374-08

2008672c1

1277 | 508.101.

1278 | (2) In a county or municipality that operates a wrecker-
1279 | allocation system:

1280 | (a) The wrecker-allocation system may only use wrecker
1281 | companies registered under chapter 508.

1282 | (b) An unauthorized wrecker company, its wrecker operators,
1283 | or its other employees or agents may not monitor a police radio
1284 | for communications between patrol field units and the dispatcher
1285 | in order to determine the location of a wrecked or disabled
1286 | vehicle for the purpose of dispatching its wrecker operator to
1287 | drive by the scene of the vehicle in a manner described in
1288 | paragraph (c) or paragraph (d). Any person who violates this
1289 | paragraph commits a noncriminal violation, punishable as provided
1290 | in s. 775.083.

1291 | (c) Except as provided in paragraph (d), a wrecker operator
1292 | dispatched by an unauthorized wrecker company who drives by the
1293 | scene of a wrecked or disabled vehicle before the arrival of the
1294 | wrecker operator dispatched by the authorized wrecker company may
1295 | not initiate contact with the owner or operator of the vehicle by
1296 | soliciting or offering wrecker services or tow the vehicle. Any
1297 | person who violates this paragraph commits a misdemeanor of the
1298 | second degree, punishable as provided in s. 775.082 or s.
1299 | 775.083.

1300 | (d) When a wrecker operator dispatched by an unauthorized
1301 | wrecker company drives by the scene of a wrecked or disabled
1302 | vehicle and the owner or operator initiates contact by signaling
1303 | the wrecker operator to stop and provide wrecker services, the
1304 | wrecker operator must disclose to the owner or operator of the
1305 | vehicle that he or she was not dispatched by the authorized

577-06374-08

2008672c1

1306 wrecker company designated as part of the wrecker-allocation
1307 system and must disclose, in writing, what charges for towing and
1308 storage will apply before the vehicle is connected to the towing
1309 apparatus. Any person who violates this paragraph commits a
1310 misdemeanor of the second degree, punishable as provided in s.
1311 775.082 or s. 775.083.

1312 (e) A wrecker operator may not falsely identify himself or
1313 herself as being part of, or as being employed by a wrecker
1314 company that is part of, the wrecker-allocation system at the
1315 scene of a wrecked or disabled vehicle. Any person who violates
1316 this paragraph commits a misdemeanor of the first degree,
1317 punishable as provided in s. 775.082 or s. 775.083.

1318 (3) This section does not prohibit or in any way prevent
1319 the owner or operator of a vehicle involved in a crash or
1320 otherwise disabled from contacting any wrecker company for the
1321 provision of wrecker services, regardless of whether the wrecker
1322 company is an authorized wrecker company. If a law enforcement
1323 officer determines that the disabled vehicle or vehicle cargo is
1324 a public safety hazard, the officer may, in the interest of
1325 public safety, dispatch an authorized wrecker company if the
1326 officer believes that the authorized wrecker company would arrive
1327 at the scene before the wrecker company requested by the owner or
1328 operator of the disabled vehicle or vehicle cargo.

1329 (4) A law enforcement officer may dispatch an authorized
1330 wrecker company out of rotation to the scene of a wrecked or
1331 disabled vehicle if the authorized wrecker company next on
1332 rotation is not equipped to provide the required wrecker services
1333 and the out-of-rotation authorized wrecker company is available
1334 with the required equipment. However, this subsection does not

577-06374-08

2008672c1

1335 prohibit or prevent the owner or operator of a vehicle involved
1336 in a crash or otherwise disabled from contacting any wrecker
1337 company that is properly equipped to provide the required wrecker
1338 services, regardless of whether the wrecker company is an
1339 authorized wrecker company, unless the law enforcement officer
1340 determines that the wrecked or disabled vehicle or vehicle cargo
1341 is a public safety hazard and the officer believes that the
1342 authorized wrecker company would arrive at the scene before the
1343 wrecker company requested by the owner or operator.

1344 Section 19. Effective January 1, 2009, section 713.78,
1345 Florida Statutes, is amended to read:

1346 713.78 Liens for recovering, towing, or storing vehicles
1347 and vessels.--

1348 (1) As used in ~~For the purposes of~~ this section, the term:

1349 (a) "Business day" means a day other than a Saturday,
1350 Sunday, or federal or state legal holiday.

1351 (b) "Property owner" has the same meaning ascribed in s.
1352 715.07.

1353 (c) ~~(a)~~ "Vehicle" has the same meaning ascribed in s.
1354 508.101 means any mobile item, whether motorized or not, which is
1355 mounted on wheels.

1356 (d) ~~(b)~~ "Vessel" has the same meaning ascribed in s. 508.101
1357 means every description of watercraft, barge, and airboat used or
1358 eapable of being used as a means of transportation on water,
1359 other than a seaplane or a "documented vessel" as defined in s.
1360 327.02(9).

1361 (e) ~~(c)~~ "Wrecker" has the same meaning ascribed in s. 320.01
1362 means any truck or other vehicle which is used to tow, carry, or
1363 otherwise transport motor vehicles or vessels upon the streets

577-06374-08

2008672c1

1364 ~~and highways of this state and which is equipped for that purpose~~
1365 ~~with a boom, winch, car carrier, or other similar equipment.~~

1366 (f) "Wrecker company" has the same meaning ascribed in s.
1367 508.101.

1368 (g) "Wrecker operator" has the same meaning ascribed in s.
1369 508.101.

1370 (2) Whenever a wrecker company registered under chapter 508
1371 ~~person regularly engaged in the business of transporting vehicles~~
1372 ~~or vessels by wrecker, tow truck, or car carrier recovers,~~
1373 removes, or stores a vehicle or vessel upon instructions from:

1374 (a) The owner of the vehicle or vessel thereof;

1375 (b) The property owner or lessor, ~~or a person authorized by~~
1376 ~~the owner or lessor,~~ of real property on which the ~~such~~ vehicle
1377 or vessel is wrongfully parked without permission, and the
1378 removal is done in compliance with s. 715.07; or

1379 (c) Any law enforcement agency,

1380
1381 the wrecker company has ~~she or he shall have~~ a lien on the
1382 vehicle or vessel for a reasonable towing fee and for a
1383 reasonable storage fee, † except that no storage fee shall be
1384 charged if the vehicle or vessel is stored ~~for~~ less than 6 hours.

1385 (3) This section does not authorize any person to claim a
1386 lien on a vehicle for fees or charges connected with the
1387 immobilization of the ~~such~~ vehicle using a vehicle boot or other
1388 similar device under ~~pursuant to~~ s. 715.07.

1389 (4) (a) Any wrecker company that ~~person regularly engaged in~~
1390 ~~the business of recovering, towing, or storing vehicles or~~
1391 ~~vessels who~~ comes into possession of a vehicle or vessel under
1392 ~~pursuant to~~ subsection (2), † and ~~who~~ claims a lien for recovery,

577-06374-08

2008672c1

1393 towing, or storage services, shall give notice to the registered
1394 owner, the insurance company insuring the vehicle notwithstanding
1395 ~~the provisions of s. 627.736, and to~~ all persons claiming a lien
1396 on the vehicle or vessel ~~thereon~~, as disclosed by the records in
1397 the Department of Highway Safety and Motor Vehicles or of a
1398 corresponding agency in any other state.

1399 (b) Whenever a ~~any~~ law enforcement agency authorizes the
1400 removal of a vehicle or vessel or whenever a wrecker company ~~any~~
1401 ~~towing service, garage, repair shop, or automotive service,~~
1402 ~~storage, or parking place~~ notifies the law enforcement agency of
1403 possession of a vehicle or vessel under ~~pursuant to~~ s.
1404 715.07(2)(a)2., the applicable law enforcement agency shall
1405 contact the Department of Highway Safety and Motor Vehicles, or
1406 the appropriate agency of the state of registration, if known,
1407 within 24 hours through the medium of electronic communications,
1408 giving the full description of the vehicle or vessel. Upon
1409 receipt of the full description of the vehicle or vessel, the
1410 department shall search its files to determine the owner's name,
1411 the insurance company insuring the vehicle or vessel, and whether
1412 any person has filed a lien upon the vehicle or vessel as
1413 provided in s. 319.27(2) and (3) and notify the applicable law
1414 enforcement agency within 72 hours. The wrecker company ~~person in~~
1415 ~~charge of the towing service, garage, repair shop, or automotive~~
1416 ~~service, storage, or parking place~~ shall obtain that such
1417 information from the applicable law enforcement agency within 5
1418 days after the date of storage and shall give notice under
1419 ~~pursuant to~~ paragraph (a). The department may release the
1420 insurance company information to the requestor notwithstanding
1421 ~~the provisions of s. 627.736.~~

577-06374-08

2008672c1

1422 (c) Notice by certified mail, ~~return receipt requested,~~
1423 shall be sent within 7 business days after the date of storage of
1424 the vehicle or vessel to the registered owner, the insurance
1425 company insuring the vehicle notwithstanding ~~the provisions of s.~~
1426 627.736, and all persons of record claiming a lien against the
1427 vehicle or vessel. The notice ~~It~~ shall state the fact of
1428 possession of the vehicle or vessel and, that a lien as provided
1429 in subsection (2) is claimed, that charges have accrued and the
1430 amount of the charges ~~thereof~~, that the lien is subject to
1431 enforcement under ~~pursuant to~~ law, ~~and~~ that the owner or
1432 lienholder, if any, has the right to a hearing as set forth in
1433 subsection (5), and that any vehicle or vessel that ~~which~~ remains
1434 unclaimed, or for which the charges for recovery, towing, or
1435 storage services remain unpaid, may be sold free of all prior
1436 liens after 35 days if the vehicle or vessel is more than 3 years
1437 of age or after 50 days if the vehicle or vessel is 3 years of
1438 age or less.

1439 (d) If the wrecker company is unable ~~attempts~~ to identify
1440 ~~locate~~ the name and address of the owner or lienholder ~~prove~~
1441 ~~unsuccessful~~, the wrecker company ~~towing-storage operator~~ shall,
1442 after 7 business working days following, ~~excluding Saturday and~~
1443 ~~Sunday~~, of the initial tow or storage, notify the public agency
1444 of jurisdiction in writing by certified mail or acknowledged hand
1445 delivery that the wrecker ~~towing-storage~~ company has been unable
1446 to identify ~~locate~~ the name and address of the owner or
1447 lienholder, ~~and~~ a physical search of the vehicle or vessel has
1448 disclosed no ownership information, and a good faith effort has
1449 been made. For purposes of this paragraph and subsection (9), the
1450 term "good faith effort" means that the following checks have

577-06374-08

2008672c1

1451 | been performed by the wrecker company to establish prior state of
1452 | registration and for title:

1453 | 1. Check of vehicle or vessel for any type of tag, tag
1454 | record, temporary tag, or regular tag.

1455 | 2. Check of law enforcement report for tag number or other
1456 | information identifying the vehicle or vessel, ~~if the vehicle or~~
1457 | vessel was towed at the request of a law enforcement officer.

1458 | 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~
1459 | ~~truck~~ operator to see if a tag was on vehicle or vessel at
1460 | beginning of tow, if private tow.

1461 | 4. If there is no address of the owner on the impound
1462 | report, check of law enforcement report to see if an out-of-state
1463 | address is indicated from driver license information.

1464 | 5. Check of vehicle or vessel for inspection sticker or
1465 | other stickers and decals that may indicate a state of possible
1466 | registration.

1467 | 6. Check of the interior of the vehicle or vessel for any
1468 | papers that may be in the glove box, trunk, or other areas for a
1469 | state of registration.

1470 | 7. Check of vehicle for vehicle identification number.

1471 | 8. Check of vessel for vessel registration number.

1472 | 9. Check of vessel hull for a hull identification number,
1473 | which should be carved, burned, stamped, embossed, or otherwise
1474 | permanently affixed to the outboard side of the transom or, if
1475 | there is no transom, to the outmost seaboard side at the end of
1476 | the hull that bears the rudder or other steering mechanism.

1477 | (5) (a) The owner of a vehicle or vessel removed under
1478 | ~~pursuant to the provisions of~~ subsection (2), or any person
1479 | claiming a lien, other than the wrecker company ~~towing-storage~~

577-06374-08

2008672c1

1480 operator, within 10 days after the time she or he has knowledge
1481 of the location of the vehicle or vessel, may file a complaint in
1482 the county court of the county in which the vehicle or vessel is
1483 stored or in which the owner resides to determine if her or his
1484 property was wrongfully taken or withheld from her or him.

1485 (b) Upon filing of a complaint, an owner or lienholder may
1486 have her or his vehicle or vessel released upon posting with the
1487 court a cash or surety bond or other adequate security equal to
1488 the amount of the charges for towing or storage and lot rental
1489 amount to ensure the payment of the ~~such~~ charges in the event she
1490 or he does not prevail. Upon the posting of the bond and the
1491 payment of the applicable fee set forth in s. 28.24, the clerk of
1492 the court shall issue a certificate notifying the lienor of the
1493 posting of the bond and directing the lienor to release the
1494 vehicle or vessel. At the time of the ~~such~~ release, after
1495 reasonable inspection, she or he shall give a receipt to the
1496 wrecker ~~towing-storage~~ company reciting any claims she or he has
1497 for loss or damage to the vehicle or vessel or to the contents of
1498 the vehicle or vessel ~~thereof~~.

1499 (c) Upon determining the respective rights of the parties,
1500 the court shall ~~may~~ award damages, reasonable attorney's fees,
1501 and costs to ~~in favor of~~ the prevailing party. ~~In any event,~~ The
1502 final order shall require ~~provide for~~ immediate payment in full
1503 of the recovery, towing, and storage fees by the vehicle or
1504 vessel owner or lienholder, ~~+~~ by ~~or~~ the law enforcement agency
1505 ordering the tow, ~~+~~ or by the property owner, ~~lessee, or agent~~
1506 ~~thereof~~ of the real property from which the vehicle or vessel was
1507 towed or removed under s. 715.07.

1508 (6) Any vehicle or vessel that ~~which~~ is stored under

577-06374-08

2008672c1

1509 ~~pursuant to~~ subsection (2) and ~~which~~ remains unclaimed, or for
1510 which reasonable charges for recovery, towing, or storing remain
1511 unpaid, and any contents not released under ~~pursuant to~~
1512 subsection (10), may be sold by the wrecker company ~~owner or~~
1513 ~~operator of the storage space~~ for the such towing or storage
1514 charge ~~after~~ 35 days after ~~from the time~~ the vehicle or vessel is
1515 stored in the wrecker company's storage facility ~~therein~~ if the
1516 vehicle or vessel is more than 3 years of age or ~~after~~ 50 days
1517 after ~~following the time~~ the vehicle or vessel is stored in the
1518 wrecker company's storage facility ~~therein~~ if the vehicle or
1519 vessel is 3 years of age or less. The sale shall be at public
1520 auction for cash. If the date of the sale is ~~was~~ not included in
1521 the notice required in subsection (4), notice of the sale shall
1522 be given to the person in whose name the vehicle or vessel is
1523 registered and to all persons claiming a lien on the vehicle or
1524 vessel as shown on the records of the Department of Highway
1525 Safety and Motor Vehicles or of the corresponding agency in any
1526 other state. Notice shall be sent by certified mail, ~~return~~
1527 ~~receipt requested,~~ to the owner of the vehicle or vessel and the
1528 person having the recorded lien on the vehicle or vessel at the
1529 address shown on the records of the registering agency and shall
1530 be mailed at least ~~not less than~~ 15 days before the date of the
1531 sale. After diligent search and inquiry, if the name and address
1532 of the registered owner or the owner of the recorded lien cannot
1533 be ascertained, the requirements of notice by mail may be
1534 dispensed with. In addition to the notice by mail, public notice
1535 of the time and place of sale shall be made by publishing a
1536 notice of the sale ~~thereof~~ one time, at least 10 days prior to
1537 the date of the sale, in a newspaper of general circulation in

577-06374-08

2008672c1

1538 the county in which the sale is to be held. The proceeds of the
1539 sale, after payment of reasonable towing and storage charges, and
1540 costs of the sale, in that order of priority, shall be deposited
1541 with the clerk of the circuit court for the county if the owner
1542 is absent, and the clerk shall hold the ~~such~~ proceeds subject to
1543 the claim of the person legally entitled to those proceeds
1544 ~~thereto~~. The clerk shall be entitled to receive 5 percent of the
1545 ~~such~~ proceeds for the care and disbursement of the proceeds
1546 ~~thereof~~. The certificate of title issued under this section ~~law~~
1547 shall be discharged of all liens unless otherwise provided by
1548 court order.

1549 (7) (a) A wrecker company, its wrecker operators, and other
1550 employees or agents of the wrecker company ~~operator~~ recovering,
1551 towing, or storing vehicles or vessels are ~~is~~ not liable for
1552 damages connected with those ~~such~~ services, theft of the ~~such~~
1553 vehicles or vessels, or theft of personal property contained in
1554 the ~~such~~ vehicles or vessels if those, ~~provided that such~~
1555 services are ~~have been~~ performed with reasonable care and
1556 ~~provided, further, that~~, in the case of removal of a vehicle or
1557 vessel upon the request of a person purporting, and reasonably
1558 appearing, to be the property owner ~~or lessee, or a person~~
1559 ~~authorized by the owner or lessee~~, of the real property from
1560 which the ~~such~~ vehicle or vessel is removed, the ~~such~~ removal is
1561 ~~has been~~ done in compliance with s. 715.07. Further, a wrecker
1562 company, its wrecker operators, and other employees or agents of
1563 the wrecker company ~~are~~ ~~operator~~ ~~is~~ not liable for damage to a
1564 vehicle, a vessel, or cargo that obstructs the normal movement of
1565 traffic or creates a hazard to traffic and is removed in
1566 compliance with the request of a law enforcement officer.

577-06374-08

2008672c1

1567 (b) For the purposes of this subsection, a wrecker company,
1568 its wrecker operators, and other employees or agents of the
1569 wrecker company are ~~operator is~~ presumed to use reasonable care
1570 to prevent the theft of a vehicle or vessel or of any personal
1571 property contained in the such vehicle or vessel stored in the
1572 wrecker company's ~~operator's~~ storage facility if all of the
1573 following apply:

1574 1. The wrecker company ~~operator~~ surrounds the storage
1575 facility with a chain-link or solid-wall type fence at least 6
1576 feet in height;

1577 2. The wrecker company illuminates ~~operator has illuminated~~
1578 the storage facility with lighting of sufficient intensity to
1579 reveal persons and vehicles at a distance of at least 150 feet
1580 during nighttime; and

1581 3. The wrecker company ~~operator~~ uses one or more of the
1582 following security methods to discourage theft of vehicles or
1583 vessels or of any personal property contained in such vehicles or
1584 vessels stored in the wrecker company's ~~operator's~~ storage
1585 facility:

1586 a. A night dispatcher or watchman remains on duty at the
1587 storage facility from sunset to sunrise;

1588 b. A security dog remains at the storage facility from
1589 sunset to sunrise;

1590 c. Security cameras or other similar surveillance devices
1591 monitor the storage facility; or

1592 d. A security guard service examines the storage facility
1593 at least once each hour from sunset to sunrise.

1594 (c) Any law enforcement agency requesting that a motor
1595 vehicle be removed from an accident scene, street, or highway

577-06374-08

2008672c1

1596 must conduct an inventory and prepare a written record of all
1597 personal property found in the vehicle before the vehicle is
1598 removed by a wrecker operator. However, if the owner or driver of
1599 the motor vehicle is present and accompanies the vehicle, an ~~no~~
1600 inventory by law enforcement is not required. A wrecker company,
1601 its wrecker operators, and other employees or agents of the
1602 wrecker company are ~~operator is~~ not liable for the loss of
1603 personal property alleged to be contained in ~~such~~ a vehicle when
1604 the ~~such~~ personal property was not identified on the inventory
1605 record prepared by the law enforcement agency requesting the
1606 removal of the vehicle.

1607 (8) A wrecker company and its wrecker operators, excluding
1608 ~~person regularly engaged in the business of recovering, towing,~~
1609 ~~or storing vehicles or vessels, except~~ a person licensed under
1610 chapter 493 while engaged in "repossession" activities as defined
1611 in s. 493.6101, may not operate a wrecker, ~~tow truck, or car~~
1612 ~~carrier~~ unless the name, address, and telephone number of the
1613 wrecker company performing the wrecker services ~~service~~ is
1614 clearly printed in contrasting colors on the driver and passenger
1615 sides of the wrecker ~~its vehicle~~. The name must be in at least 3-
1616 inch permanently affixed letters, and the address and telephone
1617 number must be in at least 1-inch permanently affixed letters.

1618 (9) Failure to make good faith, best efforts to comply with
1619 the notice requirements of this section precludes ~~shall preclude~~
1620 the imposition of any storage charges against the ~~such~~ vehicle or
1621 vessel.

1622 (10) Each wrecker company that provides ~~Persons who provide~~
1623 services under ~~pursuant to~~ this section shall permit vehicle or
1624 vessel owners or their agents, which agency is evidenced by an

577-06374-08

2008672c1

1625 original writing acknowledged by the owner before a notary public
1626 or other person empowered by law to administer oaths, to inspect
1627 the towed vehicle or vessel and shall release to the owner or
1628 agent the vehicle, vessel, or all personal property not affixed
1629 to the vehicle or vessel that ~~which~~ was in the vehicle or vessel
1630 at the time the vehicle or vessel came into the custody of the
1631 wrecker company ~~person~~ providing those ~~such~~ services.

1632 (11) (a) A wrecker company that ~~Any person regularly engaged~~
1633 ~~in the business of recovering, towing, or storing vehicles or~~
1634 ~~vessels who~~ comes into possession of a vehicle or vessel pursuant
1635 to subsection (2) and complies ~~who has complied~~ with the
1636 ~~provisions of~~ subsections (3) and (6), when the ~~such~~ vehicle or
1637 vessel is to be sold for purposes of being dismantled, destroyed,
1638 or changed in such a manner that it is not the motor vehicle or
1639 vessel described in the certificate of title, must ~~shall~~ apply to
1640 the county tax collector for a certificate of destruction. A
1641 certificate of destruction, which authorizes the dismantling or
1642 destruction of the vehicle or vessel described on the certificate
1643 ~~therein,~~ is shall be reassignable no more than twice ~~a maximum of~~
1644 ~~two times~~ before dismantling or destruction of the vehicle or
1645 vessel is shall be required, and, in lieu of a certificate of
1646 title, the certificate of destruction shall accompany the vehicle
1647 or vessel for which it is issued, when the ~~such~~ vehicle or vessel
1648 is sold for that purpose ~~such purposes,~~ in lieu of a certificate
1649 ~~of title.~~ The application for a certificate of destruction must
1650 include an affidavit from the applicant that it has complied with
1651 all applicable requirements of this section and, if the vehicle
1652 or vessel is not registered in this state, by a statement from a
1653 law enforcement officer that the vehicle or vessel is not

577-06374-08

2008672c1

1654 reported stolen, and must also ~~shall~~ be accompanied by any other
1655 ~~such~~ documentation ~~as may be~~ required by the department.

1656 (b) The Department of Highway Safety and Motor Vehicles
1657 shall charge a fee of \$3 for each certificate of destruction. A
1658 service charge of \$4.25 shall be collected and retained by the
1659 tax collector who processes the application.

1660 (c) The Department of Highway Safety and Motor Vehicles may
1661 adopt ~~such~~ rules to administer ~~as it deems necessary or proper~~
1662 ~~for the administration of~~ this subsection.

1663 (12) (a) Any person who violates ~~any provision of~~ subsection
1664 (1), subsection (2), subsection (4), subsection (5), subsection
1665 (6), or subsection (7) commits ~~is guilty of~~ a misdemeanor of the
1666 first degree, punishable as provided in s. 775.082 or s. 775.083.

1667 (b) Any person who violates subsection (8), subsection (9),
1668 subsection (10), or subsection (11) commits ~~the provisions of~~
1669 ~~subsections (8) through (11) is guilty of~~ a felony of the third
1670 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1671 775.084.

1672 (c) Any person who uses a false or fictitious name, gives a
1673 false or fictitious address, or makes any false statement in any
1674 application or affidavit required under ~~the provisions of~~ this
1675 section commits ~~is guilty of~~ a felony of the third degree,
1676 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1677 (d) Employees of the Department of Highway Safety and Motor
1678 Vehicles and law enforcement officers may ~~are authorized to~~
1679 inspect the records of each wrecker company in this state ~~any~~
1680 ~~person regularly engaged in the business of recovering, towing,~~
1681 ~~or storing vehicles or vessels or transporting vehicles or~~
1682 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure

577-06374-08

2008672c1

1683 compliance with the requirements of this section. Any person who
1684 fails to maintain records, or fails to produce records when
1685 required in a reasonable manner and at a reasonable time, commits
1686 a misdemeanor of the first degree, punishable as provided in s.
1687 775.082 or s. 775.083.

1688 (13) (a) Upon receipt by the Department of Highway Safety
1689 and Motor Vehicles of written notice from a wrecker company that
1690 ~~operator who~~ claims a wrecker company's operator's lien under
1691 paragraph (2) (c) ~~or paragraph (2) (d)~~ for recovery, towing, or
1692 storage of an abandoned vehicle or vessel upon instructions from
1693 any law enforcement agency, for which a certificate of
1694 destruction has been issued under subsection (11), the department
1695 shall place the name of the registered owner of that vehicle or
1696 vessel on the list of those persons who may not be issued a
1697 license plate or revalidation sticker for any motor vehicle under
1698 s. 320.03(8). If the vehicle or vessel is owned jointly by more
1699 than one person, the name of each registered owner shall be
1700 placed on the list. The notice of wrecker company's operator's
1701 lien shall be submitted on forms provided by the department,
1702 which must include:

1703 1. The name, address, and telephone number of the wrecker
1704 company operator.

1705 2. The name of the registered owner of the vehicle or
1706 vessel and the address to which the wrecker company operator
1707 provided notice of the lien to the registered owner under
1708 subsection (4).

1709 3. A general description of the vehicle or vessel,
1710 including its color, make, model, body style, and year.

1711 4. The vehicle identification number (VIN); registration

577-06374-08

2008672c1

1712 license plate number, state, and year; validation decal number,
1713 state, and year; vessel registration number; hull identification
1714 number; or other identification number, as applicable.

1715 5. The name of the person or the corresponding law
1716 enforcement agency that requested that the vehicle or vessel be
1717 recovered, towed, or stored.

1718 6. The amount of the wrecker company's ~~operator's~~ lien, not
1719 to exceed the amount allowed by paragraph (b).

1720 (b) For purposes of this subsection only, the amount of the
1721 wrecker company's ~~operator's~~ lien for which the department will
1722 prevent issuance of a license plate or revalidation sticker may
1723 not exceed the amount of the charges for recovery, towing, and
1724 storage of the vehicle or vessel for 7 days. These charges may
1725 not exceed the maximum rates imposed by the ordinances of the
1726 respective county or municipality under ss. 125.0103(1)(c) and
1727 166.043(1)(c). This paragraph does not limit the amount of a
1728 wrecker company's ~~operator's~~ lien claimed under subsection (2) or
1729 prevent a wrecker company ~~operator~~ from seeking civil remedies
1730 for enforcement of the entire amount of the lien, but limits only
1731 that portion of the lien for which the department will prevent
1732 issuance of a license plate or revalidation sticker.

1733 (c)1. The registered owner of a vehicle or vessel may
1734 dispute a wrecker company's ~~operator's~~ lien, by notifying the
1735 department of the dispute in writing on forms provided by the
1736 department, if at least one of the following applies:

1737 a. The registered owner presents a notarized bill of sale
1738 proving that the vehicle or vessel was sold in a private or
1739 casual sale before the vehicle or vessel was recovered, towed, or
1740 stored.

577-06374-08

2008672c1

1741 b. The registered owner presents proof that the Florida
1742 certificate of title of the vehicle or vessel was sold to a
1743 licensed dealer as defined in s. 319.001 before the vehicle or
1744 vessel was recovered, towed, or stored.

1745 c. The records of the department were marked "sold" prior
1746 to the date of the tow.

1747
1748 If the registered owner's dispute of a wrecker company's
1749 ~~operator's~~ lien complies with one of these criteria, the
1750 department shall immediately remove the registered owner's name
1751 from the list of those persons who may not be issued a license
1752 plate or revalidation sticker for any motor vehicle under s.
1753 320.03(8), thereby allowing issuance of a license plate or
1754 revalidation sticker. If the vehicle or vessel is owned jointly
1755 by more than one person, each registered owner must dispute the
1756 wrecker company's ~~operator's~~ lien in order to be removed from the
1757 list. However, the department shall deny any dispute and maintain
1758 the registered owner's name on the list of those persons who may
1759 not be issued a license plate or revalidation sticker for any
1760 motor vehicle under s. 320.03(8) if the wrecker company ~~operator~~
1761 has provided the department with a certified copy of the judgment
1762 of a court that ~~which~~ orders the registered owner to pay the
1763 wrecker company's ~~operator's~~ lien claimed under this section. In
1764 such a case, the amount of the wrecker company's ~~operator's~~ lien
1765 allowed by paragraph (b) may be increased to include no more than
1766 \$500 of the reasonable costs and attorney's fees incurred in
1767 obtaining the judgment. The department's action under this
1768 subparagraph is ministerial in nature, shall not be considered
1769 final agency action, and is appealable only to the county court

577-06374-08

2008672c1

1770 for the county in which the vehicle or vessel was ordered
1771 removed.

1772 2. A person against whom a wrecker company's ~~operator's~~
1773 lien has been imposed may alternatively obtain a discharge of the
1774 lien by filing a complaint, ~~challenging the validity of the lien~~
1775 or ~~the amount of the lien thereof,~~ in the county court of the
1776 county in which the vehicle or vessel was ordered removed. Upon
1777 filing of the complaint, the person may have her or his name
1778 removed from the list of those persons who may not be issued a
1779 license plate or revalidation sticker for any motor vehicle under
1780 s. 320.03(8), thereby allowing issuance of a license plate or
1781 revalidation sticker, upon posting with the court a cash or
1782 surety bond or other adequate security equal to the amount of the
1783 wrecker company's ~~operator's~~ lien to ensure the payment of such
1784 lien in the event she or he does not prevail. Upon the posting of
1785 the bond and the payment of the applicable fee set forth in s.
1786 28.24, the clerk of the court shall issue a certificate notifying
1787 the department of the posting of the bond and directing the
1788 department to release the wrecker company's ~~operator's~~ lien. Upon
1789 determining the respective rights of the parties, the court may
1790 award damages and costs in favor of the prevailing party.

1791 3. If a person against whom a wrecker company's ~~operator's~~
1792 lien has been imposed does not object to the lien, ~~but cannot~~
1793 discharge the lien by payment because the wrecker company
1794 ~~operator~~ has moved or gone out of business, the person may have
1795 her or his name removed from the list of those persons who may
1796 not be issued a license plate or revalidation sticker for any
1797 motor vehicle under s. 320.03(8), thereby allowing issuance of a
1798 license plate or revalidation sticker, upon posting with the

577-06374-08

2008672c1

1799 clerk of court in the county in which the vehicle or vessel was
1800 ordered removed, a cash or surety bond or other adequate security
1801 equal to the amount of the wrecker company's ~~operator's~~ lien.
1802 Upon the posting of the bond and the payment of the application
1803 fee set forth in s. 28.24, the clerk of the court shall issue a
1804 certificate notifying the department of the posting of the bond
1805 and directing the department to release the wrecker company's
1806 ~~operator's~~ lien. The department shall mail to the wrecker company
1807 ~~operator~~, at the address upon the lien form, notice that the
1808 wrecker company ~~operator~~ must claim the security within 60 days,
1809 or the security will be released back to the person who posted
1810 it. At the conclusion of the 60 days, the department shall direct
1811 the clerk as to which party is entitled to payment of the
1812 security, less applicable clerk's fees.

1813 4. A wrecker company's ~~operator's~~ lien expires 5 years
1814 after filing.

1815 (d) Upon discharge of the amount of the wrecker company's
1816 ~~operator's~~ lien allowed by paragraph (b), the wrecker company
1817 ~~operator~~ must issue a certificate of discharged wrecker company's
1818 ~~operator's~~ lien on forms provided by the department to each
1819 registered owner of the vehicle or vessel attesting that the
1820 amount of the wrecker company's ~~operator's~~ lien allowed by
1821 paragraph (b) has been discharged. Upon presentation of the
1822 certificate of discharged wrecker company's ~~operator's~~ lien by
1823 the registered owner, the department shall immediately remove the
1824 registered owner's name from the list of those persons who may
1825 not be issued a license plate or revalidation sticker for any
1826 motor vehicle under s. 320.03(8), thereby allowing issuance of a
1827 license plate or revalidation sticker. Issuance of a certificate

577-06374-08

2008672c1

1828 of discharged wrecker company's ~~operator's~~ lien under this
1829 paragraph does not discharge the entire amount of the wrecker
1830 company's ~~operator's~~ lien claimed under subsection (2), but only
1831 certifies to the department that the amount of the wrecker
1832 company's ~~operator's~~ lien allowed by paragraph (b), for which the
1833 department will prevent issuance of a license plate or
1834 revalidation sticker, has been discharged.

1835 (e) When a wrecker company ~~operator~~ files a notice of
1836 wrecker company's ~~operator's~~ lien under this subsection, the
1837 department shall charge the wrecker company ~~operator~~ a fee of \$2,
1838 which shall be deposited into the General Revenue Fund
1839 established under s. 860.158. A service charge of \$2.50 shall be
1840 collected and retained by the tax collector who processes a
1841 notice of wrecker company's ~~operator's~~ lien.

1842 (f) This subsection applies only to the annual renewal in
1843 the registered owner's birth month of a motor vehicle
1844 registration and does not apply to the transfer of a registration
1845 of a motor vehicle sold by a motor vehicle dealer licensed under
1846 chapter 320, except for the transfer of registrations which is
1847 inclusive of the annual renewals. This subsection does not apply
1848 to any vehicle registered in the name of the lessor. This
1849 subsection does not affect the issuance of the title to a motor
1850 vehicle, notwithstanding s. 319.23(7)(b).

1851 (g) The Department of Highway Safety and Motor Vehicles may
1852 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
1853 this subsection.

1854 Section 20. The amendments to section 713.78, Florida
1855 Statutes, made by this act do not affect the validity of liens
1856 established under section 713.78, Florida Statutes, before

577-06374-08

2008672c1

1857 January 1, 2009.

1858 Section 21. Effective January 1, 2009, section 715.07,
1859 Florida Statutes, is amended to read:

1860 715.07 Vehicles or vessels parked on real ~~private~~ property
1861 without permission; towing.--

1862 (1) As used in this section, the term:

1863 (a) "Property owner" means an owner or lessee of real
1864 property, or a person authorized by the owner or lessee, which
1865 person may be the designated representative of the condominium
1866 association if the real property is a condominium.

1867 (b)-(a) "Vehicle" has the same meaning ascribed in s.
1868 508.101 means any mobile item which normally uses wheels, whether
1869 motorized or not.

1870 (c)-(b) "Vessel" has the same meaning ascribed in s. 508.101
1871 means every description of watercraft, barge, and airboat used or
1872 capable of being used as a means of transportation on water,
1873 other than a seaplane or a "documented vessel" as defined in s.
1874 327.02(9).

1875 (d) "Wrecker company" has the same meaning ascribed in s.
1876 508.101.

1877 (e) "Wrecker operator" has the same meaning ascribed in s.
1878 508.101.

1879 (2) A property owner ~~The owner or lessee of real property,~~
1880 ~~or any person authorized by the owner or lessee, which person may~~
1881 ~~be the designated representative of the condominium association~~
1882 ~~if the real property is a condominium,~~ may cause a ~~any~~ vehicle or
1883 vessel parked on her or his ~~such~~ property without her or his
1884 permission to be removed by a wrecker company registered under
1885 chapter 508 ~~person regularly engaged in the business of towing~~

577-06374-08

2008672c1

1886 ~~vehicles or vessels,~~ without liability for the costs of removal,
1887 transportation, or storage or damages caused by the ~~such~~ removal,
1888 transportation, or storage, under any of the following
1889 circumstances:

1890 (a) The towing or removal of any vehicle or vessel from
1891 real private property without the consent of the registered owner
1892 or other legally authorized person in control of that vehicle or
1893 vessel is subject to strict compliance with the following
1894 conditions and restrictions:

1895 1.a. Any towed or removed vehicle or vessel must be stored
1896 at a storage facility ~~site~~ within a 10-mile radius of the point
1897 of removal in any county that has a population of 500,000
1898 ~~population~~ or more, and within a 15-mile radius of the point of
1899 removal in any county that has a population of fewer less than
1900 500,000 ~~population~~. The wrecker company's storage facility ~~That~~
1901 ~~site~~ must be open for the purpose of redemption of vehicles and
1902 vessels on any day that the wrecker company ~~person or firm~~ towing
1903 the such vehicle or vessel is open for towing purposes, from 8
1904 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when closed, must ~~shall~~ have
1905 prominently posted a sign indicating a telephone number where the
1906 operator of the storage facility ~~site~~ can be reached at all
1907 times. Upon receipt of a telephoned request to open the storage
1908 facility ~~site~~ to redeem a vehicle or vessel, the operator shall
1909 return to the storage facility ~~site~~ within 1 hour or she or he is
1910 ~~will be~~ in violation of this section.

1911 b. If no wrecker company ~~towing business providing such~~
1912 ~~service~~ is located within the area of towing limitations ~~set~~
1913 ~~forth~~ in sub-subparagraph a., the following limitations apply:
1914 any towed or removed vehicle or vessel must be stored at a

577-06374-08

2008672c1

1915 storage facility site within a 20-mile radius of the point of
1916 removal in any county that has a population of 500,000 ~~population~~
1917 or more, and within a 30-mile radius of the point of removal in
1918 any county that has a population of fewer ~~less~~ than 500,000
1919 population.

1920 2. The wrecker company ~~person or firm~~ towing or removing
1921 the vehicle or vessel shall, within 30 minutes after completion
1922 of the ~~such~~ towing or removal, notify the municipal police
1923 department or, in an unincorporated area, the sheriff, ~~of the~~
1924 ~~such~~ towing or removal, the location of the storage facility
1925 site, the time the vehicle or vessel was towed or removed, and
1926 the make, model, color, and license plate number of the vehicle
1927 or the make, model, color, and registration number of the vessel.
1928 The wrecker company ~~or description and registration number of the~~
1929 ~~vessel and~~ shall also obtain the name of the person at the police
1930 ~~that~~ department or sheriff's office to whom such information is
1931 ~~was~~ reported and note that name on the trip record.

1932 3. A wrecker operator ~~person~~ in the process of towing or
1933 removing a vehicle or vessel from the premises or parking lot in
1934 which the vehicle or vessel is ~~not lawfully~~ parked without
1935 permission must stop when a person seeks the return of the
1936 vehicle or vessel. The vehicle or vessel must be returned upon
1937 the payment of a reasonable service fee of not more than one-half
1938 of the posted rate for the towing or removal service as provided
1939 in subparagraph 6. The vehicle or vessel may be towed or removed
1940 if, after a reasonable opportunity, the owner or legally
1941 authorized person in control of the vehicle or vessel is unable
1942 to pay the service fee or refuses to remove the vehicle or vessel
1943 that is parked without permission. If the vehicle or vessel is

577-06374-08

2008672c1

1944 redeemed, a detailed signed receipt must be given to the person
1945 redeeming the vehicle or vessel.

1946 4. A wrecker company, a wrecker operator, or another
1947 employee or agent of a wrecker company ~~person~~ may not pay or
1948 accept money or other valuable consideration for the privilege of
1949 towing or removing vehicles or vessels from a particular
1950 location.

1951 5. Except for property appurtenant to and obviously a part
1952 of a single-family residence, and except for instances when
1953 notice is personally given to the owner or other legally
1954 authorized person in control of the vehicle or vessel that the
1955 area in which that vehicle or vessel is parked is reserved or
1956 otherwise unavailable for unauthorized vehicles or vessels and
1957 that the vehicle or vessel is subject to being removed at the
1958 owner's or operator's expense, any property owner ~~or lessee, or~~
1959 ~~person authorized by the property owner or lessee, before~~ prior
1960 ~~to~~ towing or removing any vehicle or vessel from real ~~private~~
1961 property without the consent of the owner or other legally
1962 authorized person in control of that vehicle or vessel, must post
1963 a notice meeting the following requirements:

1964 a. The notice must be prominently placed at each driveway
1965 access or curb cut allowing vehicular access to the property,
1966 within 5 feet from the public right-of-way line. If there are no
1967 curbs or access barriers, at least one sign ~~the signs~~ must be
1968 posted ~~not less than one sign~~ for each 25 feet of lot frontage.

1969 b. The notice must clearly indicate, in at least ~~not less~~
1970 ~~than~~ 2-inch high, light-reflective letters on a contrasting
1971 background, that unauthorized vehicles will be towed away at the
1972 owner's expense. The words "tow-away zone" must be included on

577-06374-08

2008672c1

1973 the sign in at least ~~not less than~~ 4-inch high letters.

1974 c. The notice must also provide the name and current
1975 telephone number of the wrecker company ~~person or firm~~ towing or
1976 removing the vehicles or vessels.

1977 d. The sign structure containing the required notices must
1978 be permanently installed with the words "tow-away zone" not less
1979 than 3 feet and not more than 6 feet above ground level and must
1980 be continuously maintained on the property for not less than 24
1981 hours prior to the towing or removal of any vehicles or vessels.

1982 e. The local government may require permitting and
1983 inspection of these signs prior to any towing or removal of
1984 vehicles or vessels being authorized.

1985 f. A business with 20 or fewer parking spaces satisfies the
1986 notice requirements of this subparagraph by prominently
1987 displaying a sign stating, "Reserved Parking for Customers Only.
1988 Unauthorized Vehicles or Vessels Will be Towed Away At the
1989 Owner's Expense," in at least ~~not less than~~ 4-inch high, light-
1990 reflective letters on a contrasting background.

1991 ~~g. A property owner towing or removing vessels from real~~
1992 ~~property must post notice, consistent with the requirements in~~
1993 ~~sub-subparagraphs a.-f., which apply to vehicles, that~~
1994 ~~unauthorized vehicles or vessels will be towed away at the~~
1995 ~~owner's expense.~~

1996
1997 A business owner or lessee may authorize the removal of a vehicle
1998 or vessel by a wrecker towing company registered under chapter
1999 508 when no tow-away sign is posted if the vehicle or vessel is
2000 parked in ~~such~~ a manner that restricts the normal operation of
2001 business. ~~;~~ and If a vehicle or vessel parked on a public right-

577-06374-08

2008672c1

2002 of-way obstructs access to a private driveway when no tow-away
2003 sign is posted, the owner ~~or~~ lessee of the driveway or the
2004 owner's or lessee's agent may have the vehicle or vessel removed
2005 by a wrecker towing company registered under chapter 508 upon
2006 signing an order that the vehicle or vessel be removed ~~without a~~
2007 ~~posted tow-away zone sign~~.

2008 6. Each wrecker company ~~Any person or firm~~ that tows or
2009 removes vehicles or vessels and proposes to require an owner,
2010 operator, or person in control of a vehicle or vessel to pay the
2011 costs of towing and storage prior to redemption of the vehicle or
2012 vessel must file and keep on record with the local law
2013 enforcement agency a complete copy of the current rates to be
2014 charged for the such services and post at the wrecker company's
2015 storage facility site an identical rate schedule and any written
2016 contracts with property owners, ~~lessees~~, or persons in control of
2017 real property that ~~which~~ authorize the wrecker company ~~such~~
2018 ~~person or firm~~ to remove vehicles or vessels as provided in this
2019 section.

2020 7. Each wrecker company ~~Any person or firm~~ towing or
2021 removing any vehicles or vessels from real ~~private~~ property
2022 without the consent of the owner or other legally authorized
2023 person in control of the vehicles or vessels shall, on each
2024 wrecker ~~any trucks, wreckers~~ as defined in s. 320.01 s.
2025 ~~713.78(1)(c), or other vehicles~~ used in the towing or removal,
2026 have the name, address, and telephone number of the wrecker
2027 company ~~performing such service~~ clearly printed in contrasting
2028 colors on the driver and passenger sides of the wrecker ~~vehicle~~.
2029 The name must ~~shall~~ be in at least 3-inch permanently affixed
2030 letters, and the address and telephone number must ~~shall~~ be in at

577-06374-08

2008672c1

2031 | least 1-inch permanently affixed letters.

2032 | 8. Vehicle or vessel entry for the purpose of towing or
2033 | removing the vehicle or vessel is shall be allowed with
2034 | reasonable care on the part of the wrecker company and the
2035 | wrecker operators person or firm towing the vehicle or vessel. A
2036 | wrecker company, its wrecker operators, and other employees or
2037 | agents of the wrecker company are not ~~Such person or firm shall~~
2038 | ~~be~~ liable for any damage occasioned to the vehicle or vessel if
2039 | ~~such~~ entry into the vehicle or vessel is performed not in
2040 | accordance with ~~the standard of~~ reasonable care.

2041 | 9. When a vehicle or vessel is has been towed or removed
2042 | under pursuant to this section, the wrecker company it must
2043 | release the vehicle or vessel be released to its owner or an
2044 | agent of the owner custodian within one hour after requested. Any
2045 | vehicle or vessel owner or the owner's agent has shall have the
2046 | right to inspect the vehicle or vessel before accepting its
2047 | return. A wrecker company may not require any vehicle or vessel
2048 | owner, custodian, or agent to, and no release the wrecker company
2049 | or waiver of any kind which would release the person or firm
2050 | towing the vehicle or vessel from liability for damages noted by
2051 | the owner or other legally authorized person at the time of the
2052 | redemption ~~may be required from any vehicle or vessel owner,~~
2053 | ~~custodian, or agent~~ as a condition of release of the vehicle or
2054 | vessel to its owner. A wrecker company must give a person paying
2055 | towing and storage charges under this section a detailed, signed
2056 | receipt showing the legal name of the wrecker company ~~or person~~
2057 | ~~towing or removing the vehicle or vessel must be given to the~~
2058 | ~~person paying towing or storage charges~~ at the time of payment,
2059 | whether requested or not.

577-06374-08

2008672c1

2060 (b) ~~The~~ These requirements of this subsection are minimum
2061 standards and do not preclude enactment of additional regulations
2062 by any municipality or county, including the regulation of right
2063 ~~to regulate~~ rates when vehicles or vessels are towed from real
2064 ~~private~~ property.

2065 (3) This section does not apply to vehicles or vessels that
2066 are reasonably identifiable from markings as law enforcement,
2067 firefighting, rescue squad, ambulance, or other emergency
2068 vehicles or vessels ~~that are marked as such~~ or to property owned
2069 by any governmental entity.

2070 (4) When a person improperly causes a vehicle or vessel to
2071 be removed, that such person is ~~shall be~~ liable to the owner or
2072 lessee of the vehicle or vessel for the cost of removal,
2073 transportation, and storage; any damages resulting from the
2074 removal, transportation, or storage of the vehicle or vessel;
2075 attorney's fees; and court costs.

2076 (5) Failure to make good faith efforts to comply with the
2077 notice requirements in subparagraph (2) (a)5. precludes the
2078 imposition of any towing or storage charges against the vehicle
2079 or vessel.

2080 (6) ~~(5)~~(a) Any person who violates subparagraph (2) (a)2. or
2081 subparagraph (2) (a)6. commits a misdemeanor of the first degree,
2082 punishable as provided in s. 775.082 or s. 775.083.

2083 (b) Any person who violates subparagraph (2) (a)1.,
2084 subparagraph (2) (a)3., subparagraph (2) (a)4., subparagraph
2085 (2) (a)7., or subparagraph (2) (a)9. commits a felony of the third
2086 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2087 775.084.

2088 Section 22. Effective January 1, 2009, subsection (15) of

577-06374-08

2008672c1

2089 section 1.01, Florida Statutes, is repealed.

2090 Section 23. The sum of \$693,000 is appropriated from the
2091 General Inspection Trust Fund to the Department of Agriculture
2092 and Consumer Services, and nine additional full-time equivalent
2093 positions are authorized, for the purpose of implementing this
2094 act during the 2008-2009 fiscal year.

2095 Section 24. Except as otherwise expressly provided in this
2096 act, this act shall take effect July 1, 2008.