

By the Committees on Criminal Justice; Commerce; and Senator
Crist

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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

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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

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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.

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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

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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

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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

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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

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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

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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 effective dates.

260

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

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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

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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 or business entity
303 regularly engaged in the business of transporting mobile homes or
304 any franchised motor vehicle dealer licensed under s. 320.27 if
305 wrecker services are incidental to the operation of the
306 franchise.

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

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

313 (a) Driving a wrecker.

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

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

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320 wrecker-allocation system pursuant to s. 323.002.

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

323 (e) Towing, transportation, or removal of a vehicle or
324 vessel parked on real property without permission under s.
325 715.07.

326 (f) Recovery of a vehicle or vessel.

327

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

331 508.102 Wrecker Operator Advisory Council.--

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

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

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

345 (c) Effective July 1, 2014, each of four members of the
346 council must be an ultimate equitable owner of a wrecker company
347 registered under this chapter who has been an ultimate equitable
348 owner of that company registered for at least 5 years before his

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349 or her appointment; one member must be a wrecker operator
350 certified under this chapter who is not an ultimate equitable
351 owner of a wrecker company and who has been a certified wrecker
352 operator for at least 5 years before his or her appointment; and
353 two members must be laypersons. Each member must be a resident of
354 this state.

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

362 (4) (a) From among its members, the council shall annually
363 elect a chair, who shall preside over the meetings of the
364 council, and a vice chair.

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

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

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

376 (7) The council shall review the rules adopted by the
377 department to administer this chapter and shall advise the

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378 department on matters relating to industry standards and
379 practices and other issues that require technical expertise and
380 consultation or that promote better consumer protection in the
381 wrecker industry.

382 508.103 Rulemaking authority.--The department may adopt
383 rules under ss. 120.536(1) and 120.54 to administer this chapter.

384 508.105 Registration requirements; renewal of
385 registrations.--

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

392 (a) The name and federal employer identification number of
393 the wrecker company.

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

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

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

406 (e) If the applicant is other than a natural person, the

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407 full name of the business entity's registered agent and the
408 address of the registered office for service of process.

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

412 (2) Each initial and renewal application for registration
413 must be accompanied by the registration fee prescribed in s.
414 508.116.

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

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436 (4) The department shall review each application in
437 accordance with s. 120.60 and shall issue a registration
438 certificate, in the form and size prescribed by the department,
439 to each wrecker company whose application is approved. The
440 certificate must show at least the name and address of the
441 wrecker company and the registration number. The registration
442 certificate must be prominently displayed in the wrecker
443 company's primary place of business.

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

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

460 (7) (a) Each registration must be renewed annually on or
461 before the expiration date of the current registration. A late
462 fee of \$25 must be paid, in addition to the registration fee or
463 any other penalty, for a registration renewal application that is
464 received by the department after the expiration date of the

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465 current registration. The department may not issue a registration
466 until all fees are paid.

467 (b) A wrecker company whose primary place of business is
468 located within a county or municipality that requires, by local
469 ordinance, a local business tax receipt under chapter 205 may not
470 renew a registration under this chapter unless the wrecker
471 company obtains the business tax receipt from the county or
472 municipality.

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

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

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

491 (1) Not met the requirements for registration under this
492 chapter;

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

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494 adjudication, or pled guilty or nolo contendere to, a felony
495 within the last 10 years;

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

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

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

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

517 508.1061 Acceptable forms of payment.--A wrecker company
518 shall accept a minimum of two of the three following forms of
519 payment:

520 (1) Cash, cashier's check, money order, or traveler's
521 check.

522 (2) Valid personal check, showing upon its face the name

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523 and address of the vehicle or vessel owner or authorized
524 representative.

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

527 508.107 Wrecker operator certification program.--

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

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

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

550 508.108 Specialized wrecker services.--

551 (1) In addition to the minimum curricula for certification

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552 of wrecker operators, each approved certification course must
553 offer optional instruction, training, and examination of wrecker
554 operators for each of the following specialized wrecker services:

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

558 (b) Medium duty.--Towing and winching a medium-sized
559 commercial vehicle and uprighting an overturned medium-sized
560 commercial vehicle.

561 (c) Heavy duty.--Towing and winching a standard large-sized
562 commercial vehicle and uprighting an overturned standard large-
563 sized commercial vehicle.

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

568 (e) Rollback wrecker.--Proper loading, securing,
569 transporting, and unloading of a vehicle on a flatbed-rollback
570 wrecker.

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

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

576 (2) The department shall adopt rules prescribing specific
577 standards to further define each of the specialized wrecker
578 services described in subsection (1). The council must approve
579 the instruction, training, and examination for a specialized
580 wrecker service before the specialized wrecker service is

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581 accepted for endorsement of a wrecker operator's certification
582 under this chapter.

583 (3) Each organization conducting an approved wrecker
584 operator certification course must issue on forms prescribed by
585 the department a certificate to each wrecker operator who
586 completes the approved instruction and training for a specialized
587 wrecker service and passes the approved endorsement examination
588 for that specialized wrecker service.

589 508.109 Certification cards.--

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

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

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

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

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610 this state.

611 2. Completed a certification course and passed a
612 certification examination in this state between January 1, 2003,
613 and December 31, 2008, which course and examination are
614 substantially equivalent to the approved certification courses
615 and the approved certification examinations. This subparagraph
616 expires July 1, 2009.

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

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

633 (4) Each certification card expires 5 years after the date
634 of issuance.

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

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639 of certification cards.

640 508.111 Renewal of certification; continuing education
641 requirements.--

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

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

657 508.112 Prohibited acts.--It is a violation of this chapter
658 for a person to:

659 (1) Charge rates that exceed the maximum rates imposed by
660 the ordinances of the respective county or municipality under ss.
661 125.0103(1)(c) and 166.043(1)(c).

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

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

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

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

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

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

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

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

683 508.113 Administrative penalties; inspection of records.--

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

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

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

690 (c) Direct the person to cease and desist specified
691 activities.

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

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

696 (2) Chapter 120 shall govern an administrative proceeding

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697 resulting from an order imposing a penalty specified in
698 subsection (1).

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

707 508.116 Fees.--

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

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

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

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

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

720 508.118 Recovery agents; exemption.--This chapter does not
721 apply to a person licensed under chapter 493 performing
722 repossession services.

723 508.119 County and municipal ordinances.--A county or
724 municipality may enact ordinances governing the business of
725 transporting vehicles or vessels by wrecker that are more

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726 restrictive than this chapter. This section does not limit the
727 authority of a political subdivision to impose regulatory fees or
728 charges or to levy local business taxes under chapter 205. The
729 department may enter into a cooperative agreement with any county
730 or municipality that provides for the referral, investigation,
731 and prosecution of consumer complaints alleging violations of
732 this chapter. The department may delegate enforcement of this
733 chapter to any county or municipality entering into a cooperative
734 agreement.

735 508.120 Records.--

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

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

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

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755 place of business to examine the records.

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

758 508.104 Wrecker companies; registration required.--

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

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

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

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

774 508.110 Wrecker operators; certification required;
775 inspection of employment records.--

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

781 (2) (a) A person may not perform wrecker services or
782 specialized wrecker services for a wrecker company for more than
783 6 months after first being employed by, or becoming an ultimate

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784 equitable owner of, the wrecker company without being certified
785 as a wrecker operator under this chapter.

786 (b) A wrecker operator certified under this chapter may not
787 perform a specialized wrecker service for a wrecker company
788 unless the wrecker operator's certification includes an
789 endorsement for that specialized wrecker service.

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

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

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

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

811 508.115 Criminal penalties.--

812 (1) A person who violates s. 508.104(1) by operating a

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813 wrecker company in this state without being registered with the
814 department under this chapter commits a felony of the third
815 degree, punishable as provided in s. 775.082, s. 775.083, or s.
816 775.084.

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

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

826 120.80 Exceptions and special requirements; agencies.--

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

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

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

839 205.1977 Wrecker companies; consumer protection.--A county
840 or municipality may not issue or renew a business tax receipt for
841 the operation of a wrecker company under chapter 508 unless the

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842 wrecker company exhibits a current registration from the
843 Department of Agriculture and Consumer Services.

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

846 316.530 Towing requirements.--

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

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

858 320.01 Definitions, general.--As used in the Florida
859 Statutes, except as otherwise provided, the term:

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

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

867 320.03 Registration; duties of tax collectors;
868 International Registration Plan.--

869 (8) If the applicant's name appears on the list referred to
870 in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license

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871 | plate or revalidation sticker may not be issued until that
872 | person's name no longer appears on the list or until the person
873 | presents a receipt from the clerk showing that the fines
874 | outstanding have been paid. This subsection does not apply to the
875 | owner of a leased vehicle if the vehicle is registered in the
876 | name of the lessee of the vehicle. The tax collector and the
877 | clerk of the court are each entitled to receive monthly, as costs
878 | for implementing and administering this subsection, 10 percent of
879 | the civil penalties and fines recovered from such persons. As
880 | used in this subsection, the term "civil penalties and fines"
881 | does not include a wrecker company's ~~operator's~~ lien as described
882 | in s. 713.78(13). If the tax collector has private tag agents,
883 | such tag agents are entitled to receive a pro rata share of the
884 | amount paid to the tax collector, based upon the percentage of
885 | license plates and revalidation stickers issued by the tag agent
886 | compared to the total issued within the county. The authority of
887 | any private agent to issue license plates shall be revoked, after
888 | notice and a hearing as provided in chapter 120, if he or she
889 | issues any license plate or revalidation sticker contrary to the
890 | provisions of this subsection. This section applies only to the
891 | annual renewal in the owner's birth month of a motor vehicle
892 | registration and does not apply to the transfer of a registration
893 | of a motor vehicle sold by a motor vehicle dealer licensed under
894 | this chapter, except for the transfer of registrations which is
895 | inclusive of the annual renewals. This section does not affect
896 | the issuance of the title to a motor vehicle, notwithstanding s.
897 | 319.23(7)(b).

898 | Section 10. Section 320.0706, Florida Statutes, is amended
899 | to read:

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900 320.0706 Display of license plates on trucks.--The owner of
901 any commercial truck of gross vehicle weight of 26,001 pounds or
902 more shall display the registration license plate on both the
903 front and rear of the truck in conformance with all the
904 requirements of s. 316.605 that do not conflict with this
905 section. The owner of a dump truck may place the rear license
906 plate on the gate no higher than 60 inches to allow for better
907 visibility. However, the owner of a truck tractor or a wrecker
908 must ~~shall be required to~~ display the registration license plate
909 only on the front of such vehicle.

910 Section 11. Subsection (1) of section 320.0821, Florida
911 Statutes, is amended, and subsection (5) is added to that
912 section, to read:

913 320.0821 Wrecker license plates.--

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

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

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

928 320.0821 Wrecker license plates.--

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929 (1) The department shall issue a wrecker license plate
930 regardless of gross vehicle weight, to the owner of a wrecker ~~any~~
931 ~~motor vehicle that is used to tow, carry, or otherwise transport~~
932 ~~motor vehicles and that is equipped for that purpose with a boom,~~
933 ~~winch, carrier, or other similar equipment, except a motor~~
934 ~~vehicle registered under the International Registration Plan,~~
935 upon application and payment of the appropriate license tax and
936 fees in accordance with s. 320.08(5)(d) or (e).

937 Section 13. Paragraph (a) of subsection (1) of section
938 320.13, Florida Statutes, is amended to read:

939 320.13 Dealer and manufacturer license plates and
940 alternative method of registration.--

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

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

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958 316.550 Operations not in conformity with law; special
959 permits.--

960 (4) (a) The Department of Transportation may issue a wrecker
961 special blanket permit to authorize a wrecker as defined in s.
962 320.01(40) to tow a disabled vehicle as defined in s. 320.01(38)
963 where the combination of the wrecker and the disabled vehicle
964 being towed exceeds the maximum weight limits as established by
965 s. 316.535.

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

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

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

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

986 (d) For violation of any special condition that has been

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987 | prescribed in the rules of the Department of Transportation and
988 | declared on the permit, the vehicle shall be determined to be out
989 | of conformance with the permit and the permit shall be declared
990 | null and void for the vehicle, and weight and dimensional limits
991 | for the vehicle shall be as established in s. 316.515 or s.
992 | 316.535, whichever is applicable, and:

993 | 1. For weight violations, a penalty as provided in s.
994 | 316.545 shall be assessed for those weights which exceed the
995 | limits thus established for the vehicle; and

996 | 2. For dimensional, operational, or safety violations, a
997 | penalty as established in paragraph (c) or s. 316.516, whichever
998 | is applicable, shall be assessed for each nonconforming
999 | dimensional, operational, or safety violation and the penalties
1000 | for multiple violations shall be cumulative for the vehicle.

1001 | Section 15. For the purpose of incorporating the amendment
1002 | made by this act to section 320.01, Florida Statutes, in
1003 | references thereto, paragraphs (d) and (e) of subsection (5) of
1004 | section 320.08, Florida Statutes, are reenacted to read:

1005 | 320.08 License taxes.--Except as otherwise provided herein,
1006 | there are hereby levied and imposed annual license taxes for the
1007 | operation of motor vehicles, mopeds, motorized bicycles as
1008 | defined in s. 316.003(2), and mobile homes, as defined in s.
1009 | 320.01, which shall be paid to and collected by the department or
1010 | its agent upon the registration or renewal of registration of the
1011 | following:

1012 | (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
1013 | SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--

1014 | (d) A wrecker, as defined in s. 320.01(40), which is used
1015 | to tow a vessel as defined in s. 327.02(39), a disabled,

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1016 abandoned, stolen-recovered, or impounded motor vehicle as
1017 defined in s. 320.01(38), or a replacement motor vehicle as
1018 defined in s. 320.01(39): \$30 flat.

1019 (e) A wrecker, as defined in s. 320.01(40), which is used
1020 to tow any motor vehicle, regardless of whether or not such motor
1021 vehicle is a disabled motor vehicle as defined in s. 320.01(38),
1022 a replacement motor vehicle as defined in s. 320.01(39), a vessel
1023 as defined in s. 327.02(39), or any other cargo, as follows:

1024 1. Gross vehicle weight of 10,000 pounds or more, but less
1025 than 15,000 pounds: \$87 flat.

1026 2. Gross vehicle weight of 15,000 pounds or more, but less
1027 than 20,000 pounds: \$131 flat.

1028 3. Gross vehicle weight of 20,000 pounds or more, but less
1029 than 26,000 pounds: \$186 flat.

1030 4. Gross vehicle weight of 26,000 pounds or more, but less
1031 than 35,000 pounds: \$240 flat.

1032 5. Gross vehicle weight of 35,000 pounds or more, but less
1033 than 44,000 pounds: \$300 flat.

1034 6. Gross vehicle weight of 44,000 pounds or more, but less
1035 than 55,000 pounds: \$572 flat.

1036 7. Gross vehicle weight of 55,000 pounds or more, but less
1037 than 62,000 pounds: \$678 flat.

1038 8. Gross vehicle weight of 62,000 pounds or more, but less
1039 than 72,000 pounds: \$800 flat.

1040 9. Gross vehicle weight of 72,000 pounds or more: \$979
1041 flat.

1042 Section 16. Effective January 1, 2009, section 321.051,
1043 Florida Statutes, is amended to read:

1044 (Substantial rewording of section. See

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- 1045 s. 321.051, F.S., for present text.)
1046 321.051 Florida Highway Patrol wrecker-allocation system;
1047 penalties for operation outside of system.--
1048 (1) As used in this section, the term:
1049 (a) "Authorized wrecker company" means a wrecker company
1050 designated by the division as part of its wrecker-allocation
1051 system.
1052 (b) "Division" means the Division of the Florida Highway
1053 Patrol within the Department of Highway Safety and Motor
1054 Vehicles.
1055 (c) "Unauthorized wrecker company" means a wrecker company
1056 not designated by the division as part of its wrecker-allocation
1057 system.
1058 (d) "Wrecker company" has the same meaning ascribed in s.
1059 508.101.
1060 (e) "Wrecker operator" has the same meaning ascribed in s.
1061 508.101.
1062 (f) "Wrecker services" has the same meaning ascribed in s.
1063 508.101.
1064 (2) (a) The division may establish within areas designated
1065 by the division a wrecker-allocation system, using qualified,
1066 reputable wrecker companies, for the removal from crash scenes
1067 and the storage of wrecked or disabled vehicles when the owner or
1068 operator is incapacitated or unavailable or leaves the
1069 procurement of wrecker services to the officer at the scene and
1070 for the removal and storage of abandoned vehicles.
1071 (b) The wrecker-allocation system may use only wrecker
1072 companies registered under chapter 508. Each reputable wrecker
1073 company registered under chapter 508 is eligible for use in the

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1074 system if its equipment and wrecker operators meet the recognized
1075 safety qualifications and mechanical standards set by the
1076 division's rules for the size of vehicle they are designed to
1077 handle. The division may limit the number of wrecker companies
1078 participating in the wrecker-allocation system.

1079 (c) The division may establish maximum rates for the towing
1080 and storage of vehicles removed at the division's request if
1081 those rates are not established by a county or municipality under
1082 s. 125.0103 or s. 166.043. These rates are not rules for the
1083 purpose of chapter 120; however, the Department of Highway Safety
1084 and Motor Vehicles shall adopt rules prescribing the procedures
1085 for setting these rates.

1086 (d) Notwithstanding chapter 120, a final order of the
1087 Department of Highway Safety and Motor Vehicles denying,
1088 suspending, or revoking a wrecker company's participation in the
1089 wrecker-allocation system may be appealed only in the manner and
1090 within the time provided by the Florida Rules of Appellate
1091 Procedure by a writ of certiorari issued by the circuit court in
1092 the county in which the wrecker company's primary place of
1093 business is located, as evidenced by the wrecker company's
1094 registration under chapter 508.

1095 (3) (a) An unauthorized wrecker company, its wrecker
1096 operators, or its other employees or agents may not monitor a
1097 police radio for communications between patrol field units and
1098 the dispatcher in order to determine the location of a wrecked or
1099 disabled vehicle for the purpose of dispatching its wrecker
1100 operator to drive by the scene of the vehicle in a manner
1101 described in paragraph (b) or paragraph (c). Any person who
1102 violates this paragraph commits a noncriminal violation,

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1103 punishable as provided in s. 775.083.

1104 (b) Except as provided in paragraph (c), a wrecker operator
1105 dispatched by an unauthorized wrecker company who drives by the
1106 scene of a wrecked or disabled vehicle before the arrival of the
1107 wrecker operator dispatched by the authorized wrecker company may
1108 not initiate contact with the owner or operator of the vehicle by
1109 soliciting or offering wrecker services or tow the vehicle. Any
1110 person who violates this paragraph commits a misdemeanor of the
1111 second degree, punishable as provided in s. 775.082 or s.
1112 775.083.

1113 (c) When a wrecker operator dispatched by an unauthorized
1114 wrecker company drives by the scene of a wrecked or disabled
1115 vehicle and the owner or operator initiates contact by signaling
1116 the wrecker operator to stop and provide wrecker services, the
1117 wrecker operator must disclose to the owner or operator of the
1118 vehicle that he or she was not dispatched by the authorized
1119 wrecker company designated as part of the wrecker-allocation
1120 system and must disclose, in writing, what charges for towing and
1121 storage will apply before the vehicle is connected to the towing
1122 apparatus. Any person who violates this paragraph commits a
1123 misdemeanor of the second degree, punishable as provided in s.
1124 775.082 or s. 775.083.

1125 (d) A wrecker operator may not falsely identify himself or
1126 herself as being part of, or as being employed by a wrecker
1127 company that is part of, the wrecker-allocation system at the
1128 scene of a wrecked or disabled vehicle. Any person who violates
1129 this paragraph commits a misdemeanor of the first degree,
1130 punishable as provided in s. 775.082 or s. 775.083.

1131 (4) This section does not prohibit or in any way prevent

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1132 the owner or operator of a vehicle involved in a crash or
1133 otherwise disabled from contacting any wrecker company for the
1134 provision of wrecker services, regardless of whether the wrecker
1135 company is an authorized wrecker company. However, if a law
1136 enforcement officer determines that the disabled vehicle or
1137 vehicle cargo is a public safety hazard, the officer may, in the
1138 interest of public safety, dispatch an authorized wrecker company
1139 if the officer believes that the authorized wrecker company would
1140 arrive at the scene before the wrecker company requested by the
1141 owner or operator of the disabled vehicle or vehicle cargo.

1142 (5) A law enforcement officer may dispatch an authorized
1143 wrecker company out of rotation to the scene of a wrecked or
1144 disabled vehicle if the authorized wrecker company next on
1145 rotation is not equipped to provide the required wrecker services
1146 and the out-of-rotation authorized wrecker company is available
1147 with the required equipment. However, this subsection does not
1148 prohibit or prevent the owner or operator of a vehicle involved
1149 in a crash or otherwise disabled from contacting any wrecker
1150 company that is properly equipped to provide the required wrecker
1151 services, regardless of whether the wrecker company is an
1152 authorized wrecker company, unless the law enforcement officer
1153 determines that the wrecked or disabled vehicle or vehicle cargo
1154 is a public safety hazard and the officer believes that the
1155 authorized wrecker company would arrive at the scene before the
1156 wrecker company requested by the owner or operator.

1157 Section 17. Effective January 1, 2009, section 323.001,
1158 Florida Statutes, is amended to read:

1159 (Substantial rewording of section. See
1160 s. 323.001, F.S., for present text.)

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1161 323.001 Wrecker company storage facilities; vehicle
1162 holds.--

1163 (1) As used in this section, the term:

1164 (a) "Business day" means a day other than a Saturday,
1165 Sunday, or federal or state legal holiday.

1166 (b) "Wrecker company" has the same meaning ascribed in s.
1167 508.101.

1168 (2) A law enforcement agency may place a hold on a motor
1169 vehicle stored within a wrecker company's storage facility for 5
1170 business days, thereby preventing a motor vehicle from being
1171 released to its owner.

1172 (3) To extend a hold beyond 5 business days, the law
1173 enforcement agency must notify the wrecker company in writing
1174 before the expiration of the 5 business days. If notification is
1175 not made within the 5 business days, the wrecker company must
1176 release the vehicle to the designated person under s. 713.78.

1177 (a) If the hold is extended beyond the 5 business days, the
1178 law enforcement agency may have the vehicle removed to a
1179 designated impound lot and the vehicle may not be released by the
1180 law enforcement agency to the owner or lienholder of the vehicle
1181 until proof of payment of the towing and storage charges incurred
1182 by the wrecker company is presented to the law enforcement
1183 agency.

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

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1190 accrued towing and storage charges for the first 5 business days,
1191 or any period less than the first 5 business days, if the law
1192 enforcement agency moves the vehicle from the wrecker company's
1193 storage facility to a designated impound lot or provides written
1194 notification to extend the hold on the vehicle before the
1195 expiration of the 5 business days.

1196 (c) The towing and storage rates for the owner or
1197 lienholder of the held vehicle may not exceed the rates for the
1198 law enforcement agency.

1199 (4) If there is a judicial finding of no probable cause for
1200 having continued the immobilization or impoundment, the law
1201 enforcement agency ordering the hold must pay the accrued charges
1202 for any towing and storage.

1203 (5) The requirements for a written hold apply when:

1204 (a) The law enforcement officer has probable cause to
1205 believe that the vehicle should be seized and forfeited under the
1206 Florida Contraband Forfeiture Act, ss. 932.701-932.707;

1207 (b) The law enforcement officer has probable cause to
1208 believe that the vehicle should be seized and forfeited under
1209 chapter 370 or chapter 372;

1210 (c) The law enforcement officer has probable cause to
1211 believe that the vehicle was used as a means to commit a crime;

1212 (d) The law enforcement officer has probable cause to
1213 believe that the vehicle is itself evidence that a crime has been
1214 committed or that the vehicle contains evidence, which cannot
1215 readily be removed, that a crime has been committed;

1216 (e) The law enforcement officer has probable cause to
1217 believe that the vehicle was involved in a traffic accident
1218 resulting in death or personal injury and should be sealed for

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1219 investigation and collection of evidence by a vehicular homicide
1220 investigator;

1221 (f) The vehicle is impounded or immobilized under s.
1222 316.193 or s. 322.34; or

1223 (g) The law enforcement officer is complying with a court
1224 order.

1225 (6) The hold must be in writing and must specify:

1226 (a) The name and agency of the law enforcement officer
1227 placing the hold on the vehicle.

1228 (b) The date and time the hold is placed on the vehicle.

1229 (c) A general description of the vehicle, including its
1230 color, make, model, body style, and year; vehicle identification
1231 number; registration license plate number, state, and year; and
1232 validation sticker number, state, and year.

1233 (d) The specific reason for placing the hold.

1234 (e) The condition of the vehicle.

1235 (f) The location where the vehicle is being held.

1236 (g) The name, address, and telephone number of the wrecker
1237 company and the storage facility.

1238 (7) A wrecker company's storage facility must comply with a
1239 hold placed by a law enforcement officer, including instructions
1240 for inside or outside storage. A wrecker company's storage
1241 facility may not release a motor vehicle subject to a hold to any
1242 person except as directed by the law enforcement agency placing
1243 the hold.

1244 (8) When a vehicle owner is found guilty of, regardless of
1245 adjudication, or pleads nolo contendere to, the offense that
1246 resulted in a hold being placed on his or her vehicle, the owner
1247 must pay the accrued towing and storage charges assessed against

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1248 | the vehicle.

1249 | Section 18. Effective January 1, 2009, section 323.002,
1250 | Florida Statutes, is amended to read:

1251 | (Substantial rewording of section. See
1252 | s. 323.002, F.S., for present text.)

1253 | 323.002 County and municipal wrecker-allocation systems;
1254 | penalties for operation outside of system.--

1255 | (1) As used in this section, the term:

1256 | (a) "Authorized wrecker company" means a wrecker company
1257 | designated as part of the wrecker-allocation system established
1258 | by the governmental unit having jurisdiction over the scene of a
1259 | wrecked, disabled, or abandoned vehicle.

1260 | (b) "Unauthorized wrecker company" means a wrecker company
1261 | not designated as part of the wrecker-allocation system
1262 | established by the governmental unit having jurisdiction over the
1263 | scene of a wrecked, disabled, or abandoned vehicle.

1264 | (c) "Wrecker-allocation system" means a system for the
1265 | towing or removal of wrecked, disabled, or abandoned vehicles,
1266 | similar to the Florida Highway Patrol wrecker-allocation system
1267 | described in s. 321.051(2), under which a county or municipality
1268 | contracts with one or more wrecker companies registered under
1269 | chapter 508 for the towing or removal of wrecked, disabled, or
1270 | abandoned vehicles from accident scenes, streets, or highways.
1271 | Each wrecker-allocation system must use a method for apportioning
1272 | the towing assignments among the eligible wrecker companies
1273 | through the creation of geographic zones or a rotation schedule
1274 | or a combination of geographic zones and a rotation schedule.

1275 | (d) "Wrecker company" has the same meaning ascribed in s.
1276 | 508.101.

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1277 (e) "Wrecker operator" has the same meaning ascribed in s.
1278 508.101.

1279 (f) "Wrecker services" has the same meaning ascribed in s.
1280 508.101.

1281 (2) In a county or municipality that operates a wrecker-
1282 allocation system:

1283 (a) The wrecker-allocation system may only use wrecker
1284 companies registered under chapter 508.

1285 (b) An unauthorized wrecker company, its wrecker operators,
1286 or its other employees or agents may not monitor a police radio
1287 for communications between patrol field units and the dispatcher
1288 in order to determine the location of a wrecked or disabled
1289 vehicle for the purpose of dispatching its wrecker operator to
1290 drive by the scene of the vehicle in a manner described in
1291 paragraph (c) or paragraph (d). Any person who violates this
1292 paragraph commits a noncriminal violation, punishable as provided
1293 in s. 775.083.

1294 (c) Except as provided in paragraph (d), a wrecker operator
1295 dispatched by an unauthorized wrecker company who drives by the
1296 scene of a wrecked or disabled vehicle before the arrival of the
1297 wrecker operator dispatched by the authorized wrecker company may
1298 not initiate contact with the owner or operator of the vehicle by
1299 soliciting or offering wrecker services or tow the vehicle. Any
1300 person who violates this paragraph commits a misdemeanor of the
1301 second degree, punishable as provided in s. 775.082 or s.
1302 775.083.

1303 (d) When a wrecker operator dispatched by an unauthorized
1304 wrecker company drives by the scene of a wrecked or disabled
1305 vehicle and the owner or operator initiates contact by signaling

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1306 the wrecker operator to stop and provide wrecker services, the
1307 wrecker operator must disclose to the owner or operator of the
1308 vehicle that he or she was not dispatched by the authorized
1309 wrecker company designated as part of the wrecker-allocation
1310 system and must disclose, in writing, what charges for towing and
1311 storage will apply before the vehicle is connected to the towing
1312 apparatus. Any person who violates this paragraph commits a
1313 misdemeanor of the second degree, punishable as provided in s.
1314 775.082 or s. 775.083.

1315 (e) A wrecker operator may not falsely identify himself or
1316 herself as being part of, or as being employed by a wrecker
1317 company that is part of, the wrecker-allocation system at the
1318 scene of a wrecked or disabled vehicle. Any person who violates
1319 this paragraph commits a misdemeanor of the first degree,
1320 punishable as provided in s. 775.082 or s. 775.083.

1321 (3) This section does not prohibit or in any way prevent
1322 the owner or operator of a vehicle involved in a crash or
1323 otherwise disabled from contacting any wrecker company for the
1324 provision of wrecker services, regardless of whether the wrecker
1325 company is an authorized wrecker company. If a law enforcement
1326 officer determines that the disabled vehicle or vehicle cargo is
1327 a public safety hazard, the officer may, in the interest of
1328 public safety, dispatch an authorized wrecker company if the
1329 officer believes that the authorized wrecker company would arrive
1330 at the scene before the wrecker company requested by the owner or
1331 operator of the disabled vehicle or vehicle cargo.

1332 (4) A law enforcement officer may dispatch an authorized
1333 wrecker company out of rotation to the scene of a wrecked or
1334 disabled vehicle if the authorized wrecker company next on

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1335 rotation is not equipped to provide the required wrecker services
1336 and the out-of-rotation authorized wrecker company is available
1337 with the required equipment. However, this subsection does not
1338 prohibit or prevent the owner or operator of a vehicle involved
1339 in a crash or otherwise disabled from contacting any wrecker
1340 company that is properly equipped to provide the required wrecker
1341 services, regardless of whether the wrecker company is an
1342 authorized wrecker company, unless the law enforcement officer
1343 determines that the wrecked or disabled vehicle or vehicle cargo
1344 is a public safety hazard and the officer believes that the
1345 authorized wrecker company would arrive at the scene before the
1346 wrecker company requested by the owner or operator.

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

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

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

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

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

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

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

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

1369 (f) "Wrecker company" has the same meaning ascribed in s.
1370 508.101.

1371 (g) "Wrecker operator" has the same meaning ascribed in s.
1372 508.101.

1373 (2) Whenever a wrecker company registered under chapter 508
1374 ~~person regularly engaged in the business of transporting vehicles~~
1375 ~~or vessels by wrecker, tow truck, or car carrier recovers,~~
1376 removes, or stores a vehicle or vessel upon instructions from:

1377 (a) The owner of the vehicle or vessel thereof;

1378 (b) The property owner ~~or lessor, or a person authorized by~~
1379 ~~the owner or lessor,~~ of real property on which the ~~such~~ vehicle
1380 or vessel is ~~wrongfully~~ parked without permission, and the
1381 removal is done in compliance with s. 715.07; or

1382 (c) Any law enforcement agency,

1383
1384 the wrecker company has ~~she or he shall have~~ a lien on the
1385 vehicle or vessel for a reasonable towing fee and for a
1386 reasonable storage fee, ~~+~~ except that no storage fee shall be
1387 charged if the vehicle or vessel is stored ~~for~~ less than 6 hours.

1388 (3) This section does not authorize any person to claim a
1389 lien on a vehicle for fees or charges connected with the
1390 immobilization of the ~~such~~ vehicle using a vehicle boot or other
1391 similar device under ~~pursuant to~~ s. 715.07.

1392 (4) (a) Any wrecker company that ~~person regularly engaged in~~

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1393 ~~the business of recovering, towing, or storing vehicles or~~
1394 ~~vessels who~~ comes into possession of a vehicle or vessel under
1395 ~~pursuant to~~ subsection (2), ~~and who~~ claims a lien for recovery,
1396 towing, or storage services, shall give notice to the registered
1397 owner, the insurance company insuring the vehicle notwithstanding
1398 ~~the provisions of~~ s. 627.736, and ~~to~~ all persons claiming a lien
1399 on the vehicle or vessel thereon, as disclosed by the records in
1400 the Department of Highway Safety and Motor Vehicles or of a
1401 corresponding agency in any other state.

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

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1422 ~~pursuant to~~ paragraph (a). The department may release the
1423 insurance company information to the requestor notwithstanding
1424 ~~the provisions of~~ s. 627.736.

1425 (c) Notice by certified mail, ~~return receipt requested,~~
1426 shall be sent within 7 business days after the date of storage of
1427 the vehicle or vessel to the registered owner, the insurance
1428 company insuring the vehicle notwithstanding ~~the provisions of~~ s.
1429 627.736, and all persons of record claiming a lien against the
1430 vehicle or vessel. The notice ~~It~~ shall state the fact of
1431 possession of the vehicle or vessel and, that a lien as provided
1432 in subsection (2) is claimed, that charges have accrued and the
1433 amount of the charges ~~thereof~~, that the lien is subject to
1434 enforcement under ~~pursuant to~~ law, and that the owner or
1435 lienholder, if any, has the right to a hearing as set forth in
1436 subsection (5), and that any vehicle or vessel that ~~which~~ remains
1437 unclaimed, or for which the charges for recovery, towing, or
1438 storage services remain unpaid, may be sold free of all prior
1439 liens after 35 days if the vehicle or vessel is more than 3 years
1440 of age or after 50 days if the vehicle or vessel is 3 years of
1441 age or less.

1442 (d) If the wrecker company is unable ~~attempts~~ to identify
1443 ~~locate~~ the name and address of the owner or lienholder prove
1444 ~~unsuccessful,~~ the wrecker company ~~towing-storage operator~~ shall,
1445 after 7 business ~~working~~ days following, ~~excluding Saturday and~~
1446 ~~Sunday,~~ of the initial tow or storage, notify the public agency
1447 of jurisdiction in writing by certified mail or acknowledged hand
1448 delivery that the wrecker ~~towing-storage~~ company has been unable
1449 to identify ~~locate~~ the name and address of the owner or
1450 lienholder, and a physical search of the vehicle or vessel has

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1451 disclosed no ownership information, and a good faith effort has
1452 been made. For purposes of this paragraph and subsection (9), the
1453 term "good faith effort" means that the following checks have
1454 been performed by the wrecker company to establish prior state of
1455 registration and for title:

1456 1. Check of vehicle or vessel for any type of tag, tag
1457 record, temporary tag, or regular tag.

1458 2. Check of law enforcement report for tag number or other
1459 information identifying the vehicle or vessel, if the vehicle or
1460 vessel was towed at the request of a law enforcement officer.

1461 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~
1462 ~~truck~~ operator to see if a tag was on vehicle or vessel at
1463 beginning of tow, if private tow.

1464 4. If there is no address of the owner on the impound
1465 report, check of law enforcement report to see if an out-of-state
1466 address is indicated from driver license information.

1467 5. Check of vehicle or vessel for inspection sticker or
1468 other stickers and decals that may indicate a state of possible
1469 registration.

1470 6. Check of the interior of the vehicle or vessel for any
1471 papers that may be in the glove box, trunk, or other areas for a
1472 state of registration.

1473 7. Check of vehicle for vehicle identification number.

1474 8. Check of vessel for vessel registration number.

1475 9. Check of vessel hull for a hull identification number,
1476 which should be carved, burned, stamped, embossed, or otherwise
1477 permanently affixed to the outboard side of the transom or, if
1478 there is no transom, to the outmost seaboard side at the end of
1479 the hull that bears the rudder or other steering mechanism.

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1480 (5) (a) The owner of a vehicle or vessel removed under
1481 ~~pursuant to the provisions of~~ subsection (2), or any person
1482 claiming a lien, other than the wrecker company towing storage
1483 ~~operator~~, within 10 days after the time she or he has knowledge
1484 of the location of the vehicle or vessel, may file a complaint in
1485 the county court of the county in which the vehicle or vessel is
1486 stored or in which the owner resides to determine if her or his
1487 property was wrongfully taken or withheld from her or him.

1488 (b) Upon filing of a complaint, an owner or lienholder may
1489 have her or his vehicle or vessel released upon posting with the
1490 court a cash or surety bond or other adequate security equal to
1491 the amount of the charges for towing or storage and lot rental
1492 amount to ensure the payment of the such charges in the event she
1493 or he does not prevail. Upon the posting of the bond and the
1494 payment of the applicable fee set forth in s. 28.24, the clerk of
1495 the court shall issue a certificate notifying the lienor of the
1496 posting of the bond and directing the lienor to release the
1497 vehicle or vessel. At the time of the such release, after
1498 reasonable inspection, she or he shall give a receipt to the
1499 wrecker towing storage company reciting any claims she or he has
1500 for loss or damage to the vehicle or vessel or to the contents of
1501 the vehicle or vessel thereof.

1502 (c) Upon determining the respective rights of the parties,
1503 the court shall ~~may~~ award damages, reasonable attorney's fees,
1504 and costs to in favor of the prevailing party. ~~In any event,~~ The
1505 final order shall require ~~provide for~~ immediate payment in full
1506 of the recovery, towing, and storage fees by the vehicle or
1507 vessel owner or lienholder, ~~+~~ by ~~or~~ the law enforcement agency
1508 ordering the tow, ~~+~~ or by the property owner, ~~lessee, or agent~~

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1509 ~~thereof~~ of the real property from which the vehicle or vessel was
1510 towed or removed under s. 715.07.

1511 (6) Any vehicle or vessel that ~~which~~ is stored under
1512 ~~pursuant to~~ subsection (2) and ~~which~~ remains unclaimed, or for
1513 which reasonable charges for recovery, towing, or storing remain
1514 unpaid, and any contents not released under ~~pursuant to~~
1515 subsection (10), ~~may be sold by the wrecker company owner or~~
1516 ~~operator of the storage space for the such~~ towing or storage
1517 charge ~~after~~ 35 days after ~~from the time~~ the vehicle or vessel is
1518 stored in the wrecker company's storage facility ~~therein~~ if the
1519 vehicle or vessel is more than 3 years of age or ~~after~~ 50 days
1520 after ~~following the time~~ the vehicle or vessel is stored in the
1521 wrecker company's storage facility ~~therein~~ if the vehicle or
1522 vessel is 3 years of age or less. The sale shall be at public
1523 auction for cash. If the date of the sale is ~~was~~ not included in
1524 the notice required in subsection (4), notice of the sale shall
1525 be given to the person in whose name the vehicle or vessel is
1526 registered and to all persons claiming a lien on the vehicle or
1527 vessel as shown on the records of the Department of Highway
1528 Safety and Motor Vehicles or of the corresponding agency in any
1529 other state. Notice shall be sent by certified mail, ~~return~~
1530 ~~receipt requested,~~ to the owner of the vehicle or vessel and the
1531 person having the recorded lien on the vehicle or vessel at the
1532 address shown on the records of the registering agency and shall
1533 be mailed at least ~~not less than~~ 15 days before the date of the
1534 sale. After diligent search and inquiry, if the name and address
1535 of the registered owner or the owner of the recorded lien cannot
1536 be ascertained, the requirements of notice by mail may be
1537 dispensed with. In addition to the notice by mail, public notice

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1538 of the time and place of sale shall be made by publishing a
1539 notice of the sale ~~thereof~~ one time, at least 10 days prior to
1540 the date of the sale, in a newspaper of general circulation in
1541 the county in which the sale is to be held. The proceeds of the
1542 sale, after payment of reasonable towing and storage charges, and
1543 costs of the sale, in that order of priority, shall be deposited
1544 with the clerk of the circuit court for the county if the owner
1545 is absent, and the clerk shall hold the such proceeds subject to
1546 the claim of the person legally entitled to those proceeds
1547 ~~thereto~~. The clerk shall be entitled to receive 5 percent of the
1548 ~~such~~ proceeds for the care and disbursement of the proceeds
1549 ~~thereof~~. The certificate of title issued under this section ~~law~~
1550 shall be discharged of all liens unless otherwise provided by
1551 court order.

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

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1567 | vehicle, a vessel, or cargo that obstructs the normal movement of
1568 | traffic or creates a hazard to traffic and is removed in
1569 | compliance with the request of a law enforcement officer.

1570 | (b) For the purposes of this subsection, a wrecker company,
1571 | its wrecker operators, and other employees or agents of the
1572 | wrecker company are ~~operator is~~ presumed to use reasonable care
1573 | to prevent the theft of a vehicle or vessel or of any personal
1574 | property contained in the such vehicle or vessel stored in the
1575 | wrecker company's ~~operator's~~ storage facility if all of the
1576 | following apply:

1577 | 1. The wrecker company ~~operator~~ surrounds the storage
1578 | facility with a chain-link or solid-wall type fence at least 6
1579 | feet in height;

1580 | 2. The wrecker company illuminates ~~operator has illuminated~~
1581 | the storage facility with lighting of sufficient intensity to
1582 | reveal persons and vehicles at a distance of at least 150 feet
1583 | during nightttime; and

1584 | 3. The wrecker company ~~operator~~ uses one or more of the
1585 | following security methods to discourage theft of vehicles or
1586 | vessels or of any personal property contained in such vehicles or
1587 | vessels stored in the wrecker company's ~~operator's~~ storage
1588 | facility:

1589 | a. A night dispatcher or watchman remains on duty at the
1590 | storage facility from sunset to sunrise;

1591 | b. A security dog remains at the storage facility from
1592 | sunset to sunrise;

1593 | c. Security cameras or other similar surveillance devices
1594 | monitor the storage facility; or

1595 | d. A security guard service examines the storage facility

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1596 at least once each hour from sunset to sunrise.

1597 (c) Any law enforcement agency requesting that a motor
1598 vehicle be removed from an accident scene, street, or highway
1599 must conduct an inventory and prepare a written record of all
1600 personal property found in the vehicle before the vehicle is
1601 removed by a wrecker operator. However, if the owner or driver of
1602 the motor vehicle is present and accompanies the vehicle, an ~~no~~
1603 inventory by law enforcement is not required. A wrecker company,
1604 its wrecker operators, and other employees or agents of the
1605 wrecker company ~~operator~~ is not liable for the loss of
1606 personal property alleged to be contained in ~~such~~ a vehicle when
1607 the ~~such~~ personal property was not identified on the inventory
1608 record prepared by the law enforcement agency requesting the
1609 removal of the vehicle.

1610 (8) A wrecker company and its wrecker operators, excluding
1611 ~~person regularly engaged in the business of recovering, towing,~~
1612 ~~or storing vehicles or vessels, except~~ a person licensed under
1613 chapter 493 while engaged in "repossession" activities as defined
1614 in s. 493.6101, may not operate a wrecker, ~~tow truck, or car~~
1615 ~~carrier~~ unless the name, address, and telephone number of the
1616 wrecker company performing the wrecker services ~~service~~ is
1617 clearly printed in contrasting colors on the driver and passenger
1618 sides of the wrecker ~~its vehicle~~. The name must be in at least 3-
1619 inch permanently affixed letters, and the address and telephone
1620 number must be in at least 1-inch permanently affixed letters.

1621 (9) Failure to make good faith, best efforts to comply with
1622 the notice requirements of this section precludes ~~shall preclude~~
1623 the imposition of any storage charges against the ~~such~~ vehicle or
1624 vessel.

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1625 (10) Each wrecker company that provides ~~Persons who provide~~
1626 services under ~~pursuant to~~ this section shall permit vehicle or
1627 vessel owners or their agents, which agency is evidenced by an
1628 original writing acknowledged by the owner before a notary public
1629 or other person empowered by law to administer oaths, to inspect
1630 the towed vehicle or vessel and shall release to the owner or
1631 agent the vehicle, vessel, or all personal property not affixed
1632 to the vehicle or vessel that ~~which~~ was in the vehicle or vessel
1633 at the time the vehicle or vessel came into the custody of the
1634 wrecker company ~~person~~ providing those ~~such~~ services.

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

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1654 all applicable requirements of this section and, if the vehicle
1655 or vessel is not registered in this state, by a statement from a
1656 law enforcement officer that the vehicle or vessel is not
1657 reported stolen, and must also ~~shall~~ be accompanied by any other
1658 ~~such~~ documentation ~~as may be~~ required by the department.

1659 (b) The Department of Highway Safety and Motor Vehicles
1660 shall charge a fee of \$3 for each certificate of destruction. A
1661 service charge of \$4.25 shall be collected and retained by the
1662 tax collector who processes the application.

1663 (c) The Department of Highway Safety and Motor Vehicles may
1664 adopt ~~such~~ rules to administer ~~as it deems necessary or proper~~
1665 ~~for the administration of~~ this subsection.

1666 (12) (a) Any person who violates ~~any provision of~~ subsection
1667 (1), subsection (2), subsection (4), subsection (5), subsection
1668 (6), or subsection (7) commits ~~is guilty of~~ a misdemeanor of the
1669 first degree, punishable as provided in s. 775.082 or s. 775.083.

1670 (b) Any person who violates subsection (8), subsection (9),
1671 subsection (10), or subsection (11) commits ~~the provisions of~~
1672 ~~subsections (8) through (11) is guilty of~~ a felony of the third
1673 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1674 775.084.

1675 (c) Any person who uses a false or fictitious name, gives a
1676 false or fictitious address, or makes any false statement in any
1677 application or affidavit required under ~~the provisions of~~ this
1678 section commits ~~is guilty of~~ a felony of the third degree,
1679 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1680 (d) Employees of the Department of Highway Safety and Motor
1681 Vehicles and law enforcement officers may ~~are authorized to~~
1682 inspect the records of each wrecker company in this state ~~any~~

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1683 ~~person regularly engaged in the business of recovering, towing,~~
1684 ~~or storing vehicles or vessels or transporting vehicles or~~
1685 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure
1686 compliance with the requirements of this section. Any person who
1687 fails to maintain records, or fails to produce records when
1688 required in a reasonable manner and at a reasonable time, commits
1689 a misdemeanor of the first degree, punishable as provided in s.
1690 775.082 or s. 775.083.

1691 (13) (a) Upon receipt by the Department of Highway Safety
1692 and Motor Vehicles of written notice from a wrecker company that
1693 ~~operator who~~ claims a wrecker company's operator's lien under
1694 paragraph (2) (c) ~~or paragraph (2) (d)~~ for recovery, towing, or
1695 storage of an abandoned vehicle or vessel upon instructions from
1696 any law enforcement agency, for which a certificate of
1697 destruction has been issued under subsection (11), the department
1698 shall place the name of the registered owner of that vehicle or
1699 vessel on the list of those persons who may not be issued a
1700 license plate or revalidation sticker for any motor vehicle under
1701 s. 320.03(8). If the vehicle or vessel is owned jointly by more
1702 than one person, the name of each registered owner shall be
1703 placed on the list. The notice of wrecker company's operator's
1704 lien shall be submitted on forms provided by the department,
1705 which must include:

1706 1. The name, address, and telephone number of the wrecker
1707 company operator.

1708 2. The name of the registered owner of the vehicle or
1709 vessel and the address to which the wrecker company operator
1710 provided notice of the lien to the registered owner under
1711 subsection (4).

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1712 3. A general description of the vehicle or vessel,
1713 including its color, make, model, body style, and year.

1714 4. The vehicle identification number (VIN); registration
1715 license plate number, state, and year; validation decal number,
1716 state, and year; vessel registration number; hull identification
1717 number; or other identification number, as applicable.

1718 5. The name of the person or the corresponding law
1719 enforcement agency that requested that the vehicle or vessel be
1720 recovered, towed, or stored.

1721 6. The amount of the wrecker company's ~~operator's~~ lien, not
1722 to exceed the amount allowed by paragraph (b).

1723 (b) For purposes of this subsection only, the amount of the
1724 wrecker company's ~~operator's~~ lien for which the department will
1725 prevent issuance of a license plate or revalidation sticker may
1726 not exceed the amount of the charges for recovery, towing, and
1727 storage of the vehicle or vessel for 7 days. These charges may
1728 not exceed the maximum rates imposed by the ordinances of the
1729 respective county or municipality under ss. 125.0103(1)(c) and
1730 166.043(1)(c). This paragraph does not limit the amount of a
1731 wrecker company's ~~operator's~~ lien claimed under subsection (2) or
1732 prevent a wrecker company ~~operator~~ from seeking civil remedies
1733 for enforcement of the entire amount of the lien, but limits only
1734 that portion of the lien for which the department will prevent
1735 issuance of a license plate or revalidation sticker.

1736 (c)1. The registered owner of a vehicle or vessel may
1737 dispute a wrecker company's ~~operator's~~ lien, by notifying the
1738 department of the dispute in writing on forms provided by the
1739 department, if at least one of the following applies:

1740 a. The registered owner presents a notarized bill of sale

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1741 | proving that the vehicle or vessel was sold in a private or
1742 | casual sale before the vehicle or vessel was recovered, towed, or
1743 | stored.

1744 | b. The registered owner presents proof that the Florida
1745 | certificate of title of the vehicle or vessel was sold to a
1746 | licensed dealer as defined in s. 319.001 before the vehicle or
1747 | vessel was recovered, towed, or stored.

1748 | c. The records of the department were marked "sold" prior
1749 | to the date of the tow.

1750

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

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1770 obtaining the judgment. The department's action under this
1771 subparagraph is ministerial in nature, shall not be considered
1772 final agency action, and is appealable only to the county court
1773 for the county in which the vehicle or vessel was ordered
1774 removed.

1775 2. A person against whom a wrecker company's ~~operator's~~
1776 lien has been imposed may alternatively obtain a discharge of the
1777 lien by filing a complaint, challenging the validity ~~of the lien~~
1778 or ~~the amount of~~ the lien ~~thereof~~, in the county court of the
1779 county in which the vehicle or vessel was ordered removed. Upon
1780 filing of the complaint, the person may have her or his name
1781 removed from the list of those persons who may not be issued a
1782 license plate or revalidation sticker for any motor vehicle under
1783 s. 320.03(8), thereby allowing issuance of a license plate or
1784 revalidation sticker, upon posting with the court a cash or
1785 surety bond or other adequate security equal to the amount of the
1786 wrecker company's ~~operator's~~ lien to ensure the payment of such
1787 lien in the event she or he does not prevail. Upon the posting of
1788 the bond and the payment of the applicable fee set forth in s.
1789 28.24, the clerk of the court shall issue a certificate notifying
1790 the department of the posting of the bond and directing the
1791 department to release the wrecker company's ~~operator's~~ lien. Upon
1792 determining the respective rights of the parties, the court may
1793 award damages and costs in favor of the prevailing party.

1794 3. If a person against whom a wrecker company's ~~operator's~~
1795 lien has been imposed does not object to the lien, but cannot
1796 discharge the lien by payment because the wrecker company
1797 ~~operator~~ has moved or gone out of business, the person may have
1798 her or his name removed from the list of those persons who may

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1799 | not be issued a license plate or revalidation sticker for any
1800 | motor vehicle under s. 320.03(8), thereby allowing issuance of a
1801 | license plate or revalidation sticker, upon posting with the
1802 | clerk of court in the county in which the vehicle or vessel was
1803 | ordered removed, a cash or surety bond or other adequate security
1804 | equal to the amount of the wrecker company's ~~operator's~~ lien.
1805 | Upon the posting of the bond and the payment of the application
1806 | fee set forth in s. 28.24, the clerk of the court shall issue a
1807 | certificate notifying the department of the posting of the bond
1808 | and directing the department to release the wrecker company's
1809 | ~~operator's~~ lien. The department shall mail to the wrecker company
1810 | ~~operator~~, at the address upon the lien form, notice that the
1811 | wrecker company ~~operator~~ must claim the security within 60 days,
1812 | or the security will be released back to the person who posted
1813 | it. At the conclusion of the 60 days, the department shall direct
1814 | the clerk as to which party is entitled to payment of the
1815 | security, less applicable clerk's fees.

1816 | 4. A wrecker company's ~~operator's~~ lien expires 5 years
1817 | after filing.

1818 | (d) Upon discharge of the amount of the wrecker company's
1819 | ~~operator's~~ lien allowed by paragraph (b), the wrecker company
1820 | ~~operator~~ must issue a certificate of discharged wrecker company's
1821 | ~~operator's~~ lien on forms provided by the department to each
1822 | registered owner of the vehicle or vessel attesting that the
1823 | amount of the wrecker company's ~~operator's~~ lien allowed by
1824 | paragraph (b) has been discharged. Upon presentation of the
1825 | certificate of discharged wrecker company's ~~operator's~~ lien by
1826 | the registered owner, the department shall immediately remove the
1827 | registered owner's name from the list of those persons who may

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1828 not be issued a license plate or revalidation sticker for any
1829 motor vehicle under s. 320.03(8), thereby allowing issuance of a
1830 license plate or revalidation sticker. Issuance of a certificate
1831 of discharged wrecker company's ~~operator's~~ lien under this
1832 paragraph does not discharge the entire amount of the wrecker
1833 company's ~~operator's~~ lien claimed under subsection (2), but only
1834 certifies to the department that the amount of the wrecker
1835 company's ~~operator's~~ lien allowed by paragraph (b), for which the
1836 department will prevent issuance of a license plate or
1837 revalidation sticker, has been discharged.

1838 (e) When a wrecker company ~~operator~~ files a notice of
1839 wrecker company's ~~operator's~~ lien under this subsection, the
1840 department shall charge the wrecker company ~~operator~~ a fee of \$2,
1841 which shall be deposited into the General Revenue Fund
1842 established under s. 860.158. A service charge of \$2.50 shall be
1843 collected and retained by the tax collector who processes a
1844 notice of wrecker company's ~~operator's~~ lien.

1845 (f) This subsection applies only to the annual renewal in
1846 the registered owner's birth month of a motor vehicle
1847 registration and does not apply to the transfer of a registration
1848 of a motor vehicle sold by a motor vehicle dealer licensed under
1849 chapter 320, except for the transfer of registrations which is
1850 inclusive of the annual renewals. This subsection does not apply
1851 to any vehicle registered in the name of the lessor. This
1852 subsection does not affect the issuance of the title to a motor
1853 vehicle, notwithstanding s. 319.23(7)(b).

1854 (g) The Department of Highway Safety and Motor Vehicles may
1855 adopt rules pursuant to ss. 120.536(1) and 120.54 to implement
1856 this subsection.

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1857 Section 20. The amendments to section 713.78, Florida
1858 Statutes, made by this act do not affect the validity of liens
1859 established under section 713.78, Florida Statutes, before
1860 January 1, 2009.

1861 Section 21. Effective January 1, 2009, section 715.07,
1862 Florida Statutes, is amended to read:

1863 715.07 Vehicles or vessels parked on real ~~private~~ property
1864 without permission; towing.--

1865 (1) As used in this section, the term:

1866 (a) "Property owner" means an owner or lessee of real
1867 property, or a person authorized by the owner or lessee, which
1868 person may be the designated representative of the condominium
1869 association if the real property is a condominium.

1870 (b) (a) "Vehicle" has the same meaning ascribed in s.
1871 508.101 means any mobile item which normally uses wheels, whether
1872 motorized or not.

1873 (c) (b) "Vessel" has the same meaning ascribed in s. 508.101
1874 means every description of watercraft, barge, and airboat used or
1875 capable of being used as a means of transportation on water,
1876 other than a seaplane or a "documented vessel" as defined in s.
1877 327.02(9).

1878 (d) "Wrecker company" has the same meaning ascribed in s.
1879 508.101.

1880 (e) "Wrecker operator" has the same meaning ascribed in s.
1881 508.101.

1882 (2) A property owner ~~The owner or lessee of real property,~~
1883 ~~or any person authorized by the owner or lessee, which person may~~
1884 ~~be the designated representative of the condominium association~~
1885 ~~if the real property is a condominium,~~ may cause a any vehicle or

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1886 vessel parked on her or his ~~such~~ property without her or his
1887 permission to be removed by a wrecker company registered under
1888 chapter 508 ~~person regularly engaged in the business of towing~~
1889 ~~vehicles or vessels,~~ without liability for the costs of removal,
1890 transportation, or storage or damages caused by the ~~such~~ removal,
1891 transportation, or storage, under any of the following
1892 circumstances:

1893 (a) The towing or removal of any vehicle or vessel from
1894 real private property without the consent of the registered owner
1895 or other legally authorized person in control of that vehicle or
1896 vessel is subject to strict compliance with the following
1897 conditions and restrictions:

1898 1.a. Any towed or removed vehicle or vessel must be stored
1899 at a storage facility ~~site~~ within a 10-mile radius of the point
1900 of removal in any county that has a population of 500,000
1901 ~~population~~ or more, and within a 15-mile radius of the point of
1902 removal in any county that has a population of fewer less than
1903 500,000 ~~population~~. The wrecker company's storage facility ~~That~~
1904 ~~site~~ must be open for the purpose of redemption of vehicles and
1905 vessels on any day that the wrecker company ~~person or firm~~ towing
1906 the ~~such~~ vehicle or vessel is open for towing purposes, from 8
1907 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when closed, must ~~shall~~ have
1908 prominently posted a sign indicating a telephone number where the
1909 operator of the storage facility ~~site~~ can be reached at all
1910 times. Upon receipt of a telephoned request to open the storage
1911 facility ~~site~~ to redeem a vehicle or vessel, the operator shall
1912 return to the storage facility ~~site~~ within 1 hour or she or he is
1913 ~~will be~~ in violation of this section.

1914 b. If no wrecker company ~~towing business providing such~~

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1915 ~~service~~ is located within the area of towing limitations ~~set~~
1916 ~~forth~~ in sub-subparagraph a., the following limitations apply:
1917 any towed or removed vehicle or vessel must be stored at a
1918 storage facility site within a 20-mile radius of the point of
1919 removal in any county that has a population of 500,000 ~~population~~
1920 or more, and within a 30-mile radius of the point of removal in
1921 any county that has a population of fewer ~~less~~ than 500,000
1922 ~~population~~.

1923 2. The wrecker company ~~person or firm~~ towing or removing
1924 the vehicle or vessel shall, within 30 minutes after completion
1925 of the ~~such~~ towing or removal, notify the municipal police
1926 department or, in an unincorporated area, the sheriff, of the
1927 ~~such~~ towing or removal, the location of the storage facility
1928 ~~site~~, the time the vehicle or vessel was towed or removed, and
1929 the make, model, color, and license plate number of the vehicle
1930 or the make, model, color, and registration number of the vessel.
1931 ~~The wrecker company or description and registration number of the~~
1932 ~~vessel and~~ shall also obtain the name of the person at the police
1933 ~~that~~ department or sheriff's office to whom such information is
1934 ~~was~~ reported and note that name on the trip record.

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

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1944 authorized person in control of the vehicle or vessel is unable
1945 to pay the service fee or refuses to remove the vehicle or vessel
1946 that is parked without permission. If the vehicle or vessel is
1947 redeemed, a detailed signed receipt must be given to the person
1948 redeeming the vehicle or vessel.

1949 4. A wrecker company, a wrecker operator, or another
1950 employee or agent of a wrecker company ~~person~~ may not pay or
1951 accept money or other valuable consideration for the privilege of
1952 towing or removing vehicles or vessels from a particular
1953 location.

1954 5. Except for property appurtenant to and obviously a part
1955 of a single-family residence, and except for instances when
1956 notice is personally given to the owner or other legally
1957 authorized person in control of the vehicle or vessel that the
1958 area in which that vehicle or vessel is parked is reserved or
1959 otherwise unavailable for unauthorized vehicles or vessels and
1960 that the vehicle or vessel is subject to being removed at the
1961 owner's or operator's expense, any property owner ~~or lessee, or~~
1962 ~~person authorized by the property owner or lessee,~~ before ~~prior~~
1963 ~~to~~ towing or removing any vehicle or vessel from real ~~private~~
1964 property without the consent of the owner or other legally
1965 authorized person in control of that vehicle or vessel, must post
1966 a notice meeting the following requirements:

1967 a. The notice must be prominently placed at each driveway
1968 access or curb cut allowing vehicular access to the property,
1969 within 5 feet from the public right-of-way line. If there are no
1970 curbs or access barriers, at least one sign ~~the signs~~ must be
1971 posted ~~not less than one sign~~ for each 25 feet of lot frontage.

1972 b. The notice must clearly indicate, in at least ~~not less~~

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1973 ~~than~~ 2-inch high, light-reflective letters on a contrasting
1974 background, that unauthorized vehicles will be towed away at the
1975 owner's expense. The words "tow-away zone" must be included on
1976 the sign in at least ~~not less than~~ 4-inch high letters.

1977 c. The notice must also provide the name and current
1978 telephone number of the wrecker company ~~person or firm~~ towing or
1979 removing the vehicles or vessels.

1980 d. The sign structure containing the required notices must
1981 be permanently installed with the words "tow-away zone" not less
1982 than 3 feet and not more than 6 feet above ground level and must
1983 be continuously maintained on the property for not less than 24
1984 hours prior to the towing or removal of any vehicles or vessels.

1985 e. The local government may require permitting and
1986 inspection of these signs prior to any towing or removal of
1987 vehicles or vessels being authorized.

1988 f. A business with 20 or fewer parking spaces satisfies the
1989 notice requirements of this subparagraph by prominently
1990 displaying a sign stating, "Reserved Parking for Customers Only.
1991 Unauthorized Vehicles or Vessels Will be Towed Away At the
1992 Owner's Expense," in at least ~~not less than~~ 4-inch high, light-
1993 reflective letters on a contrasting background.

1994 ~~g. A property owner towing or removing vessels from real~~
1995 ~~property must post notice, consistent with the requirements in~~
1996 ~~sub-subparagraphs a. f., which apply to vehicles, that~~
1997 ~~unauthorized vehicles or vessels will be towed away at the~~
1998 ~~owner's expense.~~

1999
2000 A business owner or lessee may authorize the removal of a vehicle
2001 or vessel by a wrecker ~~towing~~ company registered under chapter

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2002 | 508 when no tow-away sign is posted if the vehicle or vessel is
 2003 | parked in ~~such~~ a manner that restricts the normal operation of
 2004 | business. ~~and~~ If a vehicle or vessel parked on a public right-
 2005 | of-way obstructs access to a private driveway when no tow-away
 2006 | sign is posted, the owner ~~or~~ lessee of the driveway, or the
 2007 | owner's or lessee's agent may have the vehicle or vessel removed
 2008 | by a wrecker towing company registered under chapter 508 upon
 2009 | signing an order that the vehicle or vessel be removed ~~without a~~
 2010 | ~~posted tow-away zone sign.~~

2011 | 6. Each wrecker company ~~Any person or firm~~ that tows or
 2012 | removes vehicles or vessels and proposes to require an owner,
 2013 | operator, or person in control of a vehicle or vessel to pay the
 2014 | costs of towing and storage prior to redemption of the vehicle or
 2015 | vessel must file and keep on record with the local law
 2016 | enforcement agency a complete copy of the current rates to be
 2017 | charged for the ~~such~~ services and post at the wrecker company's
 2018 | storage facility ~~site~~ an identical rate schedule and any written
 2019 | contracts with property owners, ~~lessees,~~ or persons in control of
 2020 | real property that ~~which~~ authorize the wrecker company ~~such~~
 2021 | ~~person or firm~~ to remove vehicles or vessels as provided in this
 2022 | section.

2023 | 7. Each wrecker company ~~Any person or firm~~ towing or
 2024 | removing any vehicles or vessels from real ~~private~~ property
 2025 | without the consent of the owner or other legally authorized
 2026 | person in control of the vehicles or vessels shall, on each
 2027 | wrecker ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s.~~
 2028 | ~~713.78(1)(c), or other vehicles~~ used in the towing or removal,
 2029 | have the name, address, and telephone number of the wrecker
 2030 | company ~~performing such service~~ clearly printed in contrasting

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2031 colors on the driver and passenger sides of the wrecker vehicle.
2032 The name must ~~shall~~ be in at least 3-inch permanently affixed
2033 letters, and the address and telephone number must ~~shall~~ be in at
2034 least 1-inch permanently affixed letters.

2035 8. Vehicle or vessel entry for the purpose of towing or
2036 removing the vehicle or vessel is ~~shall be~~ allowed with
2037 reasonable care on the part of the wrecker company and the
2038 wrecker operators ~~person or firm~~ towing the vehicle or vessel. A
2039 wrecker company, its wrecker operators, and other employees or
2040 agents of the wrecker company are not ~~Such person or firm shall~~
2041 ~~be~~ liable for any damage occasioned to the vehicle or vessel if
2042 ~~such~~ entry into the vehicle or vessel is performed ~~not in~~
2043 accordance with ~~the standard of~~ reasonable care.

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

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2060 ~~towing or removing the vehicle or vessel must be given to the~~
2061 ~~person paying towing or storage charges~~ at the time of payment,
2062 whether requested or not.

2063 (b) The ~~These~~ requirements of this subsection are minimum
2064 standards and do not preclude enactment of additional regulations
2065 by any municipality or county, including the regulation of ~~right~~
2066 ~~to regulate~~ rates when vehicles or vessels are towed from real
2067 ~~private~~ property.

2068 (3) This section does not apply to vehicles or vessels that
2069 are reasonably identifiable from markings as law enforcement,
2070 firefighting, rescue squad, ambulance, or other emergency
2071 vehicles or vessels ~~that are marked as such~~ or to property owned
2072 by any governmental entity.

2073 (4) When a person improperly causes a vehicle or vessel to
2074 be removed, that ~~such~~ person is ~~shall be~~ liable to the owner or
2075 lessee of the vehicle or vessel for the cost of removal,
2076 transportation, and storage; any damages resulting from the
2077 removal, transportation, or storage of the vehicle or vessel;
2078 attorney's fees; and court costs.

2079 (5) Failure to make good faith efforts to comply with the
2080 notice requirements in subparagraph (2)(a)5. precludes the
2081 imposition of any towing or storage charges against the vehicle
2082 or vessel.

2083 (6)(5)-(a) Any person who violates subparagraph (2)(a)2. or
2084 subparagraph (2)(a)6. commits a misdemeanor of the first degree,
2085 punishable as provided in s. 775.082 or s. 775.083.

2086 (b) Any person who violates subparagraph (2)(a)1.,
2087 subparagraph (2)(a)3., subparagraph (2)(a)4., subparagraph
2088 (2)(a)7., or subparagraph (2)(a)9. commits a felony of the third

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2089 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2090 775.084.

2091 Section 22. Effective January 1, 2009, subsection (15) of
2092 section 1.01, Florida Statutes, is repealed.

2093 Section 23. The sum of \$693,000 is appropriated from the
2094 General Inspection Trust Fund to the Department of Agriculture
2095 and Consumer Services, and nine additional full-time equivalent
2096 positions are authorized, for the purpose of implementing this
2097 act during the 2008-2009 fiscal year.

2098 Section 24. Except as otherwise expressly provided in this
2099 act, this act shall take effect July 1, 2008.