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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
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The Committee on Transportation (Latvala) recommended the following:

Senate Amendment (with title amendment)

Between lines 2260 and 2261
insert:

Section 57. Subsections (1) and (2) of section 323.001, Florida Statutes, are amended to read:

323.001 Wrecker operator storage facilities; vehicle holds.—

(1) An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for a period not to exceed 7 ~~5~~ days, excluding holidays and weekends, unless extended in writing.



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13 (2) The investigating agency must notify the wrecker
14 operator in writing within 7 ½ days, excluding holidays and
15 weekends, whether the hold is to be continued. If no
16 notification follows this period of time, the wrecker operator
17 may release the vehicle to the designated person pursuant to s.
18 713.78.

19 (a) If the hold is to continue beyond 7 ½ days, excluding
20 holidays and weekends, the investigating agency may have the
21 vehicle removed to a designated impound lot, in which event the
22 vehicle will not be released by the investigating agency to the
23 owner or lienholder of the vehicle until proof of payment of the
24 towing and storage charges incurred by the wrecker operator is
25 presented to the investigating agency.

26 (b) If the investigating agency chooses to have the vehicle
27 remain at the wrecker operator's storage facility beyond 7 ½
28 days, excluding holidays and weekends, pursuant to the written
29 notification, the investigating agency shall be responsible for
30 payment of the storage charges incurred by the wrecker operator
31 for the requested extended period. In such an event, the owner
32 or lienholder shall be responsible for payment of accrued towing
33 and storage charges for the first 7 ½ days, excluding holidays
34 and weekends, or any period less than the first 7 ½ days,
35 excluding holidays and weekends, when the investigating agency
36 either moves the vehicle from the wrecker operator's storage
37 facility to a designated impound lot or provides written
38 notification to extend the hold on the vehicle before ~~prior to~~
39 the expiration of the 7 ½ days, excluding holidays and weekends.

40 (c) The towing and storage rates for the owner or
41 lienholder of the held vehicle may ~~shall~~ not exceed the contract



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42 or county rates.

43 Section 58. Section 323.002, Florida Statutes, is amended
44 to read:

45 323.002 County and municipal wrecker operator systems;
46 penalties for operation outside of system.—

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

48 (a) "Authorized wrecker operator" means any wrecker
49 operator who has been designated as part of the wrecker operator
50 system established by the governmental unit having jurisdiction
51 over the scene of a wrecked or disabled vehicle.

52 (b) "Unauthorized wrecker operator" means any wrecker
53 operator who has not been designated as part of the wrecker
54 operator system established by the governmental unit having
55 jurisdiction over the scene of a wrecked or disabled vehicle.

56 (c) "Wrecker operator system" means a system for the towing
57 or removal of wrecked, disabled, or abandoned vehicles, similar
58 to the Florida Highway Patrol wrecker operator system described
59 in s. 321.051(2), under which a county or municipality contracts
60 with one or more wrecker operators for the towing or removal of
61 wrecked, disabled, or abandoned vehicles from accident scenes,
62 streets, or highways. A wrecker operator system shall include
63 using a method for apportioning the towing assignments among the
64 eligible wrecker operators through the creation of geographic
65 zones, a rotation schedule, or a combination of these methods.

66 (2) In any county or municipality that operates a wrecker
67 operator system:

68 (a) It is unlawful for an unauthorized wrecker operator or
69 its employees or agents to monitor police radio for
70 communications between patrol field units and the dispatcher in



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71 order to determine the location of a wrecked or disabled vehicle
72 for the purpose of driving by the scene of such vehicle in a
73 manner described in paragraph (b) or paragraph (c). Any person
74 who violates this paragraph commits ~~is guilty of~~ a noncriminal
75 violation, punishable as provided in s. 775.083, and the
76 person's wrecker, tow truck, or other motor vehicle that was
77 used during the offense may be immediately removed and impounded
78 pursuant to subsection (3).

79 (b) It is unlawful for an unauthorized wrecker operator to
80 drive by the scene of a wrecked or disabled vehicle before the
81 arrival of an authorized wrecker operator, initiate contact with
82 the owner or operator of such vehicle by soliciting or offering
83 towing services, and tow such vehicle. Any person who violates
84 this paragraph commits ~~is guilty of~~ a misdemeanor of the second
85 degree, punishable as provided in s. 775.082 or s. 775.083, and
86 the person's wrecker, tow truck, or other motor vehicle that was
87 used during the offense may be immediately removed and impounded
88 pursuant to subsection (3).

89 (c) When an unauthorized wrecker operator drives by the
90 scene of a wrecked or disabled vehicle and the owner or operator
91 initiates contact by signaling the wrecker operator to stop and
92 provide towing services, the unauthorized wrecker operator must
93 disclose in writing to the owner or operator of the vehicle his
94 or her full name and driver license number, that he or she is
95 not the authorized wrecker operator who has been designated as
96 part of the wrecker operator system, that the motor vehicle is
97 not being towed for the owner's or operator's insurance company
98 or lienholder, and the maximum ~~must disclose, in writing, what~~
99 charges for towing and storage which will apply before the



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100 vehicle is connected to the towing apparatus. The unauthorized
101 wrecker operator must also provide a copy of the disclosure to
102 the owner or operator in the presence of a law enforcement
103 officer if such officer is at the scene of a motor vehicle
104 accident. Any person who violates this paragraph commits ~~is~~
105 ~~guilty of~~ a misdemeanor of the second degree, punishable as
106 provided in s. 775.082 or s. 775.083, and the person's wrecker,
107 tow truck, or other motor vehicle that was used during the
108 offense may be immediately removed and impounded pursuant to
109 subsection (3).

110 (d) At the scene of a wrecked or disabled vehicle, it is
111 unlawful for a wrecker operator to falsely identify himself or
112 herself as being part of the wrecker operator system. Any person
113 who violates this paragraph commits ~~is guilty of~~ a misdemeanor
114 of the first degree, punishable as provided in s. 775.082 or s.
115 775.083, and the person's wrecker, tow truck, or other motor
116 vehicle that was used during the offense may be immediately
117 removed and impounded pursuant to subsection (3).

118 (3) (a) A law enforcement officer from any local
119 governmental agency or state law enforcement agency may cause to
120 be immediately removed and impounded from the scene of a wrecked
121 or disabled vehicle, at the unauthorized wrecker operator's
122 expense, any wrecker, tow truck, or other motor vehicle that is
123 used in violation of any provision of subsection (2). The
124 unauthorized wrecker operator shall be assessed a cost recovery
125 fine as provided in paragraph (b) by the authority that ordered
126 the immediate removal and impoundment of the wrecker, tow truck,
127 or other motor vehicle. A wrecker, tow truck, or other motor
128 vehicle that is removed and impounded pursuant to this section



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129 may not be released from an impound or towing and storage
130 facility before a release form has been completed by the
131 authority that ordered the immediate removal and impoundment of
132 the wrecker, tow truck, or other motor vehicle which verifies
133 that the cost recovery fine has been paid to the authority. The
134 vehicle must remain impounded until the fine has been paid or
135 until the vehicle is sold at public sale pursuant to s. 713.78.

136 (b) Notwithstanding any other provision of law to the
137 contrary, the unauthorized wrecker operator, upon retrieval of
138 the wrecker, tow truck, or other motor vehicle removed or
139 impounded pursuant to this section, and in addition to any other
140 penalties that may be imposed for noncriminal violations, shall
141 pay a cost recovery fine of \$500 for a first-time violation of
142 any provision of subsection (2), or a fine of \$1,000 for each
143 subsequent violation, to the authority that ordered the
144 immediate removal and impoundment of the wrecker, tow truck, or
145 other motor vehicle. Cost recovery funds collected under this
146 subsection shall be retained by the authority that ordered the
147 removal and impoundment of the wrecker, tow truck, or other
148 motor vehicle and may be used only for the enforcement,
149 investigation, prosecution, and training related to towing
150 violations and crimes involving motor vehicles.

151 (c) Notwithstanding any other provision of law to the
152 contrary and in addition to the cost recovery fine required by
153 this subsection, a person who violates any provision of
154 subsection (2) shall pay the fees associated with the removal
155 and storage of the unauthorized wrecker, tow truck, or other
156 motor vehicle.

157 (4)(3) This section does not prohibit, or in any way



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158 prevent, the owner or operator of a vehicle involved in an
159 accident or otherwise disabled from contacting any wrecker
160 operator for the provision of towing services, whether the
161 wrecker operator is an authorized wrecker operator or not.
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163 ===== T I T L E A M E N D M E N T =====

164 And the title is amended as follows:

165 Delete line 311

166 and insert:

167 motor vehicle; amending s. 323.001, F.S.; revising the
168 period during which an investigating agency may place
169 a hold on a motor vehicle stored within a wrecker
170 operator's storage facility; revising provisions to
171 conform to changes made by the act; amending s.
172 323.002, F.S.; providing that an unauthorized wrecker
173 operator's wrecker, tow truck, or other motor vehicle
174 used during certain offenses may be immediately
175 removed and impounded; requiring that an unauthorized
176 wrecker operator disclose in writing to the owner or
177 operator of a motor vehicle certain information;
178 requiring that the unauthorized wrecker operator also
179 provide a copy of the disclosure to the owner or
180 operator in the presence of a law enforcement officer
181 if at the scene of a motor vehicle accident;
182 authorizing a law enforcement officer from a local
183 governmental agency or state law enforcement agency to
184 cause to be removed and impounded from the scene of a
185 wrecked or disabled vehicle an unauthorized wrecker,
186 tow truck, or other motor vehicle; authorizing the



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187 authority that caused the removal and impoundment to
188 assess a cost recovery fine; requiring a release form;
189 requiring that the wrecker, tow truck, or other motor
190 vehicle remain impounded until the fine has been paid;
191 providing the amounts for the cost recovery fine for
192 first-time and subsequent violations; requiring that
193 the unauthorized wrecker operator pay the fees
194 associated with the removal and storage of the
195 wrecker, tow truck, or other motor vehicle; amending
196 s. 324.072, F.S.; prohibiting