

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Articles offered the following:

2
3 **Amendment (with title amendment)**

4 Between lines 2687 and 2688, insert:

5 Section 72. Section 323.002, Florida Statutes, is amended
6 to read:

7 323.002 County and municipal wrecker operator systems;
8 penalties for operation outside of system.-

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

10 (a) "Authorized wrecker operator" means any wrecker
11 operator who has been designated as part of the wrecker operator
12 system established by the governmental unit having jurisdiction
13 over the scene of a wrecked or disabled vehicle.

14 (b) "Unauthorized wrecker operator" means any wrecker
15 operator who has not been designated as part of the wrecker

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16 operator system established by the governmental unit having
17 jurisdiction over the scene of a wrecked or disabled vehicle.

18 (c) "Wrecker operator system" means a system for the
19 towing or removal of wrecked, disabled, or abandoned vehicles,
20 similar to the Florida Highway Patrol wrecker operator system
21 described in s. 321.051(2), under which a county or municipality
22 contracts with one or more wrecker operators for the towing or
23 removal of wrecked, disabled, or abandoned vehicles from
24 accident scenes, streets, or highways. A wrecker operator system
25 shall include using a method for apportioning the towing
26 assignments among the eligible wrecker operators through the
27 creation of geographic zones, a rotation schedule, or a
28 combination of these methods.

29 (2) In any county or municipality that operates a wrecker
30 operator system:

31 (a) It is unlawful for an unauthorized wrecker operator or
32 its employees or agents to monitor police radio for
33 communications between patrol field units and the dispatcher in
34 order to determine the location of a wrecked or disabled vehicle
35 for the purpose of driving by the scene of such vehicle in a
36 manner described in paragraph (b) or paragraph (c). Any person
37 who violates this paragraph commits ~~is guilty of~~ a noncriminal
38 violation, punishable as provided in s. 775.083, and the
39 person's wrecker, tow truck, or other motor vehicle that was
40 used during the offense may be immediately removed and impounded
41 pursuant to subsection (3).

42 (b) It is unlawful for an unauthorized wrecker operator to
43 drive by the scene of a wrecked or disabled vehicle before the
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44 arrival of an authorized wrecker operator, initiate contact with
45 the owner or operator of such vehicle by soliciting or offering
46 towing services, and tow such vehicle. Any person who violates
47 this paragraph commits ~~is guilty of~~ a misdemeanor of the second
48 degree, punishable as provided in s. 775.082 or s. 775.083, and
49 the person's wrecker, tow truck, or other motor vehicle that was
50 used during the offense may be immediately removed and impounded
51 pursuant to subsection (3).

52 (c) When an unauthorized wrecker operator drives by the
53 scene of a wrecked or disabled vehicle and the owner or operator
54 initiates contact by signaling the wrecker operator to stop and
55 provide towing services, the unauthorized wrecker operator must
56 disclose in writing to the owner or operator of the vehicle his
57 or her full name and driver license number, that he or she is
58 not the authorized wrecker operator who has been designated as
59 part of the wrecker operator system, that the motor vehicle is
60 not being towed for the owner's or operator's insurance company
61 or lienholder, and the maximum ~~must disclose, in writing, what~~
62 charges for towing and storage which will apply before the
63 vehicle is connected to the towing apparatus. The unauthorized
64 wrecker operator must also provide a copy of the disclosure to
65 the owner or operator in the presence of a law enforcement
66 officer if such officer is at the scene of a motor vehicle
67 accident. Any person who violates this paragraph commits ~~is~~
68 ~~guilty of~~ a misdemeanor of the second degree, punishable as
69 provided in s. 775.082 or s. 775.083, and the person's wrecker,
70 tow truck, or other motor vehicle that was used during the

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71 offense may be immediately removed and impounded pursuant to
72 subsection (3).

73 (d) At the scene of a wrecked or disabled vehicle, it is
74 unlawful for a wrecker operator to falsely identify himself or
75 herself as being part of the wrecker operator system. Any person
76 who violates this paragraph commits ~~is guilty of~~ a misdemeanor
77 of the first degree, punishable as provided in s. 775.082 or s.
78 775.083, and the person's wrecker, tow truck, or other motor
79 vehicle that was used during the offense may be immediately
80 removed and impounded pursuant to subsection (3).

81 (3) (a) A law enforcement officer from any local
82 governmental agency or state law enforcement agency may cause to
83 be immediately removed and impounded from the scene of a wrecked
84 or disabled vehicle, at the unauthorized wrecker operator's
85 expense, any wrecker, tow truck, or other motor vehicle that is
86 used in violation of any provision of subsection (2). The
87 unauthorized wrecker operator shall be assessed a cost recovery
88 fine as provided in paragraph (b) by the authority that ordered
89 the immediate removal and impoundment of the wrecker, tow truck,
90 or other motor vehicle. A wrecker, tow truck, or other motor
91 vehicle that is removed and impounded pursuant to this section
92 may not be released from an impound or towing and storage
93 facility before a release form has been completed by the
94 authority that ordered the immediate removal and impoundment of
95 the wrecker, tow truck, or other motor vehicle which verifies
96 that the cost recovery fine has been paid to the authority. The
97 vehicle must remain impounded until the fine has been paid or
98 until the vehicle is sold at public sale pursuant to s. 713.78.

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99 (b) Notwithstanding any other provision of law to the
100 contrary, the unauthorized wrecker operator, upon retrieval of
101 the wrecker, tow truck, or other motor vehicle removed or
102 impounded pursuant to this section, and in addition to any other
103 penalties that may be imposed for noncriminal violations, shall
104 pay a cost recovery fine of \$500 for a first-time violation of
105 any provision of subsection (2), or a fine of \$1,000 for each
106 subsequent violation, to the authority that ordered the
107 immediate removal and impoundment of the wrecker, tow truck, or
108 other motor vehicle. Cost recovery funds collected under this
109 subsection shall be retained by the authority that ordered the
110 removal and impoundment of the wrecker, tow truck, or other
111 motor vehicle and may be used only for the enforcement,
112 investigation, prosecution, and training related to towing
113 violations and crimes involving motor vehicles.

114 (c) Notwithstanding any other provision of law to the
115 contrary and in addition to the cost recovery fine required by
116 this subsection, a person who violates any provision of
117 subsection (2) shall pay the fees associated with the removal
118 and storage of the unauthorized wrecker, tow truck, or other
119 motor vehicle.

120 (4)(3) This section does not prohibit, or in any way
121 prevent, the owner or operator of a vehicle involved in an
122 accident or otherwise disabled from contacting any wrecker
123 operator for the provision of towing services, whether the
124 wrecker operator is an authorized wrecker operator or not.

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T I T L E A M E N D M E N T

Remove line 380 and insert:

cross-reference; amending s. 323.002, F.S.; providing that an unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle used during certain offenses may be immediately removed and impounded; requiring that an unauthorized wrecker operator disclose in writing to the owner or operator of a motor vehicle certain information; requiring that the unauthorized wrecker operator also provide a copy of the disclosure to the owner or operator in the presence of a law enforcement officer if at the scene of a motor vehicle accident; authorizing a law enforcement officer from a local governmental agency or state law enforcement agency to cause to be removed and impounded from the scene of a wrecked or disabled vehicle an unauthorized wrecker, tow truck, or other motor vehicle; authorizing the authority that caused the removal and impoundment to assess a cost recovery fine; requiring a release form; requiring that the wrecker, tow truck, or other motor vehicle remain impounded until the fine has been paid; providing the amounts for the cost recovery fine for first-time and subsequent violations; requiring that the unauthorized wrecker operator pay the fees associated with the removal and storage of the wrecker, tow truck, or other motor vehicle; providing effective dates.