



LEGISLATIVE ACTION

Senate	.	House
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Floor: 1x/RE/2R	.	
05/02/2013 07:42 AM	.	
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Senator Latvala moved the following:

1 **Senate Amendment to Amendment (218538) (with title**
2 **amendment)**

3
4 Delete lines 3621 - 3920
5 and insert:
6 Motor Vehicle Title Information System or an equivalent
7 commercially available system as being the current state where
8 the vehicle is titled ~~appears registered~~. Such notice must
9 contain:

10 (a) A description of the vehicle (year, make, vehicle
11 identification number) and its location.

12 (b) The name and address of the owner of the vehicle, the
13 customer as indicated on the order for repair, and any person



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14 claiming an interest in or lien thereon.

15 (c) The name, address, and telephone number of the lienor.

16 (d) Notice that the lienor claims a lien on the vehicle for
17 labor and services performed and storage charges, if any, and
18 the cash sum which, if paid to the lienor, would be sufficient
19 to redeem the vehicle from the lien claimed by the lienor.

20 (e) Notice that the lien claimed by the lienor is subject
21 to enforcement pursuant to this section and that the vehicle may
22 be sold to satisfy the lien.

23 (f) If known, the date, time, and location of any proposed
24 or scheduled sale of the vehicle. No vehicle may be sold earlier
25 than 60 days after completion of the repair work.

26 (g) Notice that the owner of the vehicle or any person
27 claiming an interest in or lien thereon has a right to a hearing
28 at any time prior to the scheduled date of sale by filing a
29 demand for hearing with the clerk of the circuit court in the
30 county in which the vehicle is held and mailing copies of the
31 demand for hearing to all other owners and lienors as reflected
32 on the notice.

33 (h) Notice that the owner of the vehicle has a right to
34 recover possession of the vehicle without instituting judicial
35 proceedings by posting bond in accordance with the provisions of
36 s. 559.917.

37 (i) Notice that any proceeds from the sale of the vehicle
38 remaining after payment of the amount claimed to be due and
39 owing to the lienor will be deposited with the clerk of the
40 circuit court for disposition upon court order pursuant to
41 subsection (8).

42 (2) If attempts to locate the owner or lienholder are



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43 unsuccessful after a check of the records of the Department of
44 Highway Safety and Motor Vehicles and any state disclosed by the
45 check of the National Motor Vehicle Title Information System or
46 an equivalent commercially available system, the lienor must
47 notify the local law enforcement agency in writing by certified
48 mail or acknowledged hand delivery that the lienor has been
49 unable to locate the owner or lienholder, that a physical search
50 of the vehicle has disclosed no ownership information, and that
51 a good faith effort, including records checks of the Department
52 of Highway Safety and Motor Vehicles database and the National
53 Motor Vehicle Title Information System or an equivalent
54 commercially available system, has been made. A description of
55 the motor vehicle which includes the year, make, and
56 identification number must be given on the notice. This
57 notification must take place within 15 business days, excluding
58 Saturday and Sunday, from the beginning date of the assessment
59 of storage charges on said motor vehicle. For purposes of this
60 paragraph, the term "good faith effort" means that the following
61 checks have been performed by the company to establish the prior
62 state of registration and title:

63 (a) A check of the Department of Highway Safety and Motor
64 Vehicles database for the owner and any lienholder.

65 (b) A check of the federally mandated electronic National
66 Motor Vehicle Title Information System or an equivalent
67 commercially available system to determine the state of
68 registration when there is not a current title or registration
69 record for the vehicle on file with the Department of Highway
70 Safety and Motor Vehicles.

71 (c) ~~(a)~~ A check of vehicle for any type of tag, tag record,



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72 temporary tag, or regular tag;

73 ~~(d)~~ ~~(b)~~ A check of vehicle for inspection sticker or other
74 stickers and decals that could indicate the state of possible
75 registration; and

76 ~~(e)~~ ~~(c)~~ A check of the interior of the vehicle for any
77 papers that could be in the glove box, trunk, or other areas for
78 the state of registration.

79 (3) If the date of the sale was not included in the notice
80 required in subsection (1), notice of the sale must be sent by
81 certified mail, return receipt requested, not less than 15 days
82 before the date of sale, to the customer as indicated on the
83 order for repair, and to all other persons claiming an interest
84 in or lien on the motor vehicle, as disclosed by the records of
85 the Department of Highway Safety and Motor Vehicles or of a
86 corresponding agency of any other state in which the vehicle
87 appears to have been registered after completion of a check of
88 the National Motor Vehicle Title Information System or an
89 equivalent commercially available system. ~~After diligent search~~
90 ~~and inquiry, if the name and address of the registered owner or~~
91 ~~the owner of the recorded lien cannot be ascertained, the~~
92 ~~requirements for this notice may be disregarded.~~

93 (4) The lienor, at least 15 days before the proposed or
94 scheduled date of sale of the vehicle, shall publish the notice
95 required by this section once in a newspaper circulated in the
96 county where the vehicle is held. A certificate of compliance
97 with the notification provisions of this section, verified by
98 the lienor, together with a copy of the notice and return
99 receipt for mailing of the notice required by this section, ~~and~~
100 proof of publication, and checks of the Department of Highway



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101 Safety and Motor Vehicles and the National Motor Vehicle Title
102 Information System or an equivalent commercially available
103 system, must be duly and expeditiously filed with the clerk of
104 the circuit court in the county where the vehicle is held. The
105 lienor, at the time of filing the certificate of compliance,
106 must pay to the clerk of that court a service charge of \$10 for
107 indexing and recording the certificate.

108 (9) A copy of the certificate of compliance and the report
109 of sale, certified by the clerk of the court, and proof of the
110 required check of the National Motor Vehicle Title Information
111 System or an equivalent commercially available system shall
112 constitute satisfactory proof for application to the Department
113 of Highway Safety and Motor Vehicles for transfer of title,
114 together with any other proof required by any rules and
115 regulations of the department.

116 (13) A failure to make good faith efforts as defined in
117 subsection (2) precludes the imposition of any storage charges
118 against the vehicle. If a lienor fails to provide notice to any
119 person claiming a lien on a vehicle under subsection (1) within
120 15 business days after the assessment of storage charges have
121 begun, then the lienor is precluded from charging for more than
122 15 days of storage, but failure to provide timely notice does
123 not affect charges made for repairs, adjustments, or
124 modifications to the vehicle or the priority of liens on the
125 vehicle.

126 Section 62. Section 713.78, Florida Statutes, is amended to
127 read:

128 713.78 Liens for recovering, towing, or storing vehicles
129 and vessels.-



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130 (1) For the purposes of this section, the term:
131 (a) "Vehicle" means any mobile item, whether motorized or
132 not, which is mounted on wheels.
133 (b) "Vessel" means every description of watercraft, barge,
134 and airboat used or capable of being used as a means of
135 transportation on water, other than a seaplane or a "documented
136 vessel" as defined in s. 327.02(9).
137 (c) "Wrecker" means any truck or other vehicle which is
138 used to tow, carry, or otherwise transport motor vehicles or
139 vessels upon the streets and highways of this state and which is
140 equipped for that purpose with a boom, winch, car carrier, or
141 other similar equipment.
142 (d) "National Motor Vehicle Title Information System" means
143 the federally authorized electronic National Motor Vehicle Title
144 Information System.
145 (e) "Equivalent commercially available system" means a
146 service that charges a fee to provide vehicle information and
147 that at a minimum maintains records from those states
148 participating in data sharing with the National Motor Vehicle
149 Title Information System.
150 (2) Whenever a person regularly engaged in the business of
151 transporting vehicles or vessels by wrecker, tow truck, or car
152 carrier recovers, removes, or stores a vehicle or vessel upon
153 instructions from:
154 (a) The owner thereof;
155 (b) The owner or lessor, or a person authorized by the
156 owner or lessor, of property on which such vehicle or vessel is
157 wrongfully parked, and the removal is done in compliance with s.
158 715.07; ~~or~~



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159 (c) The landlord or a person authorized by the landlord,
160 when such motor vehicle or vessel remained on the premises after
161 the tenancy terminated and the removal is done in compliance
162 with s. 715.104; or

163 (d) ~~(e)~~ Any law enforcement agency,

164
165 she or he shall have a lien on the vehicle or vessel for a
166 reasonable towing fee and for a reasonable storage fee; except
167 that no storage fee shall be charged if the vehicle is stored
168 for less than 6 hours.

169 (3) This section does not authorize any person to claim a
170 lien on a vehicle for fees or charges connected with the
171 immobilization of such vehicle using a vehicle boot or other
172 similar device pursuant to s. 715.07.

173 (4) (a) Any person regularly engaged in the business of
174 recovering, towing, or storing vehicles or vessels who comes
175 into possession of a vehicle or vessel pursuant to subsection
176 (2), and who claims a lien for recovery, towing, or storage
177 services, shall give notice to the registered owner, the
178 insurance company insuring the vehicle notwithstanding the
179 provisions of s. 627.736, and to all persons claiming a lien
180 thereon, as disclosed by the records in the Department of
181 Highway Safety and Motor Vehicles or as disclosed by the records
182 of any ~~of a~~ corresponding agency in any other state in which the
183 vehicle is identified through a records check of the National
184 Motor Vehicle Title Information System or an equivalent
185 commercially available system as being titled or registered.

186 (b) Whenever any law enforcement agency authorizes the
187 removal of a vehicle or vessel or whenever any towing service,



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188 garage, repair shop, or automotive service, storage, or parking
189 place notifies the law enforcement agency of possession of a
190 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
191 enforcement agency of the jurisdiction where the vehicle or
192 vessel is stored shall contact the Department of Highway Safety
193 and Motor Vehicles, or the appropriate agency of the state of
194 registration, if known, within 24 hours through the medium of
195 electronic communications, giving the full description of the
196 vehicle or vessel. Upon receipt of the full description of the
197 vehicle or vessel, the department shall search its files to
198 determine the owner's name, the insurance company insuring the
199 vehicle or vessel, and whether any person has filed a lien upon
200 the vehicle or vessel as provided in s. 319.27(2) and (3) and
201 notify the applicable law enforcement agency within 72 hours.
202 The person in charge of the towing service, garage, repair shop,
203 or automotive service, storage, or parking place shall obtain
204 such information from the applicable law enforcement agency
205 within 5 days after the date of storage and shall give notice
206 pursuant to paragraph (a). The department may release the
207 insurance company information to the requestor notwithstanding
208 the provisions of s. 627.736.

209 (c) Notice by certified mail shall be sent within 7
210 business days after the date of storage of the vehicle or vessel
211 to the registered owner, the insurance company insuring the
212 vehicle notwithstanding the provisions of s. 627.736, and all
213 persons of record claiming a lien against the vehicle or vessel.
214 It shall state the fact of possession of the vehicle or vessel,
215 that a lien as provided in subsection (2) is claimed, that
216 charges have accrued and the amount thereof, that the lien is



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217 subject to enforcement pursuant to law, and that the owner or
218 lienholder, if any, has the right to a hearing as set forth in
219 subsection (5), and that any vehicle or vessel which remains
220 unclaimed, or for which the charges for recovery, towing, or
221 storage services remain unpaid, may be sold free of all prior
222 liens after 35 days if the vehicle or vessel is more than 3
223 years of age or after 50 days if the vehicle or vessel is 3
224 years of age or less.

225 (d) If attempts to locate the name and address of the owner
226 or lienholder prove unsuccessful, the towing-storage operator
227 shall, after 7 working days, excluding Saturday and Sunday, of
228 the initial tow or storage, notify the public agency of
229 jurisdiction where the vehicle or vessel is stored in writing by
230 certified mail or acknowledged hand delivery that the towing-
231 storage company has been unable to locate the name and address
232 of the owner or lienholder and a physical search of the vehicle
233 or vessel has disclosed no ownership information and a good
234 faith effort has been made, including records checks of the
235 Department of Highway Safety and Motor Vehicles and the National
236 Motor Vehicle Title Information System or an equivalent
237 commercially available system databases. For purposes of this
238 paragraph and subsection (9), "good faith effort" means that the
239 following checks have been performed by the company to establish
240 prior state of registration and for title:

241 1. Check of the Department of Highway Safety and Motor
242 Vehicles database for the owner and any lienholder.

243 2. Check of the electronic National Motor Vehicle Title
244 Information System or an equivalent commercially available
245 system to determine the state of registration when there is not



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246 a current registration record for the vehicle on file with the
247 Department of Highway Safety and Motor Vehicles.

248 ~~3.1.~~ Check of vehicle or vessel for any type of tag, tag
249 record, temporary tag, or regular tag.

250 ~~4.2.~~ Check of law enforcement report for tag number or
251 other information identifying the vehicle or vessel, if the
252 vehicle or vessel was towed at the request of a law enforcement
253 officer.

254 ~~5.3.~~ Check of trip sheet or tow ticket of tow truck
255 operator to see if a tag was on vehicle or vessel at beginning
256 of tow, if private tow.

257 ~~6.4.~~ If there is no address of the owner on the impound
258 report, check of law enforcement report to see if an out-of-
259 state address is indicated from driver license information.

260 ~~7.5.~~ Check of vehicle or vessel for inspection sticker or
261 other stickers and decals that may indicate a state of possible
262 registration.

263 ~~8.6.~~ Check of the interior of the vehicle or vessel for any
264 papers that may be in the glove box, trunk, or other areas for a
265 state of registration.

266 ~~9.7.~~ Check of vehicle for vehicle identification number.

267 ~~10.8.~~ Check of vessel for vessel registration number.

268 ~~11.9.~~ Check of vessel hull for a hull identification number
269 which should be carved, burned, stamped, embossed, or otherwise
270 permanently affixed to the outboard side of the transom or, if
271 there is no transom, to the outmost seaboard side at the end of
272 the hull that bears the rudder or other steering mechanism.

273 (5) (a) The owner of a vehicle or vessel removed pursuant to
274 the provisions of subsection (2), or any person claiming a lien,



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275 other than the towing-storage operator, within 10 days after the
276 time she or he has knowledge of the location of the vehicle or
277 vessel, may file a complaint in the county court of the county
278 in which the vehicle or vessel is stored to determine if her or
279 his property was wrongfully taken or withheld from her or him.

280 (b) Upon filing of a complaint, an owner or lienholder may
281 have her or his vehicle or vessel released upon posting with the
282 court a cash or surety bond or other adequate security equal to
283 the amount of the charges for towing or storage and lot rental
284 amount to ensure the payment of such charges in the event she or
285 he does not prevail. Upon the posting of the bond and the
286 payment of the applicable fee set forth in s. 28.24, the clerk
287 of the court shall issue a certificate notifying the lienor of
288 the posting of the bond and directing the lienor to release the
289 vehicle or vessel. At the time of such release, after reasonable
290 inspection, she or he shall give a receipt to the towing-storage
291 company reciting any claims she or he has for loss or damage to
292 the vehicle or vessel or the contents thereof.

293 (c) Upon determining the respective rights of the parties,
294 the court may award damages, attorney's fees, and costs in favor
295 of the prevailing party. In any event, the final order shall
296 provide for immediate payment in full of recovery, towing, and
297 storage fees by the vehicle or vessel owner or lienholder; or
298 the agency ordering the tow; or the owner, lessee, or agent
299 thereof of the property from which the vehicle or vessel was
300 removed.

301 (6) Any vehicle or vessel which is stored pursuant to
302 subsection (2) and which remains unclaimed, or for which
303 reasonable charges for recovery, towing, or storing remain



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304 unpaid, and any contents not released pursuant to subsection
305 (10), may be sold by the owner or operator of the storage space
306 for such towing or storage charge after 35 days from the time
307 the vehicle or vessel is stored therein if the vehicle or vessel
308 is more than 3 years of age or after 50 days following the time
309 the vehicle or vessel is stored therein if the vehicle or vessel
310 is 3 years of age or less. The sale shall be at public sale for
311 cash. If the date of the sale was not included in the notice
312 required in subsection (4), notice of the sale shall be given to
313 the person in whose name the vehicle or vessel is registered and
314 to all persons claiming a lien on the vehicle or vessel as shown
315 on the records of the Department of Highway Safety and Motor
316 Vehicles or of any the corresponding agency in any other state
317 in which the vehicle is identified through a records check of
318 the National Motor Vehicle Title Information System or an
319 equivalent commercially available system as being
320

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

322 And the title is amended as follows:

323 Delete lines 4926 - 4942

324 and insert:

325 National Motor Vehicle Title Information System or an
326 equivalent commercially available system, or the
327 records of any corresponding agency of any other state
328 before enforcing a lien by selling the motor vehicle;
329 requiring the lienholder to notify the local law
330 enforcement agency in writing by certified mail
331 informing the law enforcement agency that the
332 lienholder has made a good faith effort to locate the



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333 owner or lienholder; specifying that a good faith
334 effort includes a check of the Department of Highway
335 Safety and Motor Vehicles database records and the
336 National Motor Vehicle Title Information System or an
337 equivalent commercially available system; setting
338 requirements for notification of the sale of the
339 vehicle as a way to enforce a lien; requiring the
340 lienholder to publish notice; requiring the lienholder
341 to keep a record of proof of checking the National
342 Motor Vehicle Title Information System or an
343 equivalent commercially available system; amending s.
344 713.78, F.S.; providing definitions; revising
345 provisions for enforcement of a