

By Senator Perry

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1 A bill to be entitled
2 An act relating to wrecker and towing-storage
3 operators; amending s. 321.051, F.S.; prohibiting the
4 Division of the Florida Highway Patrol from excluding
5 wrecker operators from the wrecker operator system or
6 from being designated as an authorized wrecker
7 operator based solely on a prior felony conviction;
8 providing an exception; amending s. 713.78, F.S.;
9 defining the term "towing-storage operator";
10 authorizing a towing-storage operator to charge
11 certain fees; providing that a lien can be placed on a
12 vehicle only for specified fees; requiring a towing-
13 storage operator to accept credit cards; deleting
14 certain requirements for law enforcement agencies and
15 the Department of Highway Safety and Motor Vehicles;
16 revising the timeframe in which certain unclaimed
17 vehicles or vessels may be sold; revising the
18 timeframe in which a notice of lien must be sent for
19 certain unclaimed vehicles or vessels; revising the
20 timeframe in which a towing-storage operator must
21 provide certain notice to the public agency of
22 jurisdiction; requiring that such notice be sent by
23 certified mail; requiring the posting of a bond or
24 other security be done in a specified manner; revising
25 the timeframe in which public notice of the sale of a
26 vehicle or vessel must be published; restricting the
27 imposition of storage charges under certain
28 circumstances; revising the amount a lienor may charge
29 as an administrative fee; requiring a towing-storage

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30 operator to maintain certain records; providing the
31 exclusive remedy for certain liens; making technical
32 changes; amending s. 559.917, F.S.; providing
33 procedures and requirements for acquiring a bond to
34 release certain liens; providing definitions; amending
35 ss. 83.09, 83.805, and 677.210, F.S.; conforming
36 provisions to changes made by the act; amending s.
37 715.07, F.S.; conforming a cross-reference; providing
38 an effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Subsection (5) is added to section 321.051,
43 Florida Statutes, to read:

44 321.051 Florida Highway Patrol wrecker operator system;
45 penalties for operation outside of system.-

46 (5) The Division of the Florida Highway Patrol may not
47 exclude a wrecker operator from the wrecker operator system or
48 fail to designate him or her as an authorized wrecker operator
49 based solely on a prior felony conviction, unless such
50 conviction is for a forcible felony as defined in s. 776.08.

51 Section 2. Subsections (1), (2), (4), (5), (6), and (9),
52 paragraph (a) of subsection (11), paragraph (a) of subsection
53 (12), paragraphs (a), (b), and (d) of subsection (13), and
54 paragraph (a) of subsection (15) of section 713.78, Florida
55 Statutes, are amended, and subsections (18) and (19) are added
56 to that section, to read:

57 713.78 Liens for recovering, towing, or storing vehicles
58 and vessels.-

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59 (1) For the purposes of this section, the term:

60 (d)~~(a)~~ "Vehicle" means any mobile item, whether motorized
61 or not, which is mounted on wheels.

62 (e)~~(b)~~ "Vessel" means every description of watercraft,
63 barge, and airboat used or capable of being used as a means of
64 transportation on water, other than a seaplane or a "documented
65 vessel" as defined in s. 327.02.

66 (c) "Towing-storage operator" means a person who regularly
67 engages in the business of transporting vehicles or vessels by
68 wrecker, tow truck, or car carrier.

69 (f)~~(e)~~ "Wrecker" means any truck or other vehicle that
70 ~~which~~ is used to tow, carry, or otherwise transport motor
71 vehicles or vessels upon the streets and highways of this state
72 and ~~which~~ is equipped for that purpose with a boom, winch, car
73 carrier, or other similar equipment.

74 (b)~~(d)~~ "National Motor Vehicle Title Information System"
75 means the federally authorized electronic National Motor Vehicle
76 Title Information System.

77 (a)~~(e)~~ "Equivalent commercially available system" means a
78 service that charges a fee to provide vehicle information and
79 that at a minimum maintains records from those states
80 participating in data sharing with the National Motor Vehicle
81 Title Information System.

82 (2) (a) A towing-storage operator may charge only the
83 following fees for, or incidental to, the recovery, removal, or
84 storage of a vehicle or vessel:

85 1. A reasonable recovery fee.

86 2. A reasonable towing fee.

87 3. A reasonable storage fee.

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88 4. A reasonable fee or charge that is imposed by a county
89 or municipality.

90 (b) If a towing-storage operator ~~Whenever a person~~
91 ~~regularly engaged in the business of transporting vehicles or~~
92 ~~vessels by wrecker, tow truck, or car carrier~~ recovers, removes,
93 or stores a vehicle or vessel upon instructions from:

94 1.(a) The owner thereof;

95 2.(b) The owner or lessor, or a person authorized by the
96 owner or lessor, of property on which such vehicle or vessel is
97 wrongfully parked, and the removal is done in compliance with s.
98 715.07;

99 3.(e) The landlord or a person authorized by the landlord,
100 when such motor vehicle or vessel remained on the premises after
101 the tenancy terminated and the removal is done in compliance
102 with s. 83.806 or s. 715.104; or

103 4.(d) Any law enforcement agency,

104
105 she or he has ~~shall have~~ a lien on the vehicle or vessel for a
106 reasonable recovery fee, a reasonable towing fee, ~~for a~~
107 ~~reasonable administrative fee or charge imposed by a county or~~
108 ~~municipality~~, and ~~for~~ a reasonable storage fee; except that a
109 storage fee may not be charged if the vehicle or vessel is
110 stored for fewer than 6 hours.

111 (c) A towing-storage operator must accept credit cards, as
112 that term is defined in s. 658.995(2) (a).

113 (4) (a) A towing-storage operator ~~person regularly engaged~~
114 ~~in the business of recovering, towing, or storing vehicles or~~
115 ~~vessels~~ who comes into possession of a vehicle or vessel
116 pursuant to paragraph (2) (b) ~~subsection (2)~~, and who claims a

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117 lien for recovery, towing, or storage services, must ~~shall~~ give
118 notice, by certified mail, to the registered owner, the
119 insurance company insuring the vehicle notwithstanding s.
120 627.736, and all persons claiming a lien thereon, as disclosed
121 by the records in the Department of Highway Safety and Motor
122 Vehicles or as disclosed by the records of any corresponding
123 agency in any other state in which the vehicle is identified
124 through a records check of the National Motor Vehicle Title
125 Information System or an equivalent commercially available
126 system as being titled or registered.

127 ~~(b) Whenever a law enforcement agency authorizes the~~
128 ~~removal of a vehicle or vessel or whenever a towing service,~~
129 ~~garage, repair shop, or automotive service, storage, or parking~~
130 ~~place notifies the law enforcement agency of possession of a~~
131 ~~vehicle or vessel pursuant to s. 715.07(2)(a)2., the law~~
132 ~~enforcement agency of the jurisdiction where the vehicle or~~
133 ~~vessel is stored shall contact the Department of Highway Safety~~
134 ~~and Motor Vehicles, or the appropriate agency of the state of~~
135 ~~registration, if known, within 24 hours through the medium of~~
136 ~~electronic communications, giving the full description of the~~
137 ~~vehicle or vessel. Upon receipt of the full description of the~~
138 ~~vehicle or vessel, the department shall search its files to~~
139 ~~determine the owner's name, the insurance company insuring the~~
140 ~~vehicle or vessel, and whether any person has filed a lien upon~~
141 ~~the vehicle or vessel as provided in s. 319.27(2) and (3) and~~
142 ~~notify the applicable law enforcement agency within 72 hours.~~
143 ~~The person in charge of the towing service, garage, repair shop,~~
144 ~~or automotive service, storage, or parking place shall obtain~~
145 ~~such information from the applicable law enforcement agency~~

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146 ~~within 5 days after the date of storage and shall give notice~~
147 ~~pursuant to paragraph (a). The department may release the~~
148 ~~insurance company information to the requestor notwithstanding~~
149 ~~s. 627.736.~~

150 (b) ~~(e)~~ The notice of lien must be sent by certified mail to
151 the registered owner, the insurance company insuring the vehicle
152 notwithstanding s. 627.736, and all other persons claiming a
153 lien thereon within 3 ~~7~~ business days, excluding Saturday and
154 Sunday, after the date of storage of the vehicle or vessel.
155 ~~However, in no event shall the notice of lien be sent less than~~
156 ~~30 days before the sale of the vehicle or vessel.~~ The notice
157 must state:

158 1. If the claim of lien is for a vehicle, the last 8 digits
159 of the vehicle identification number of the vehicle subject to
160 the lien, or, if the claim of lien is for a vessel, the hull
161 identification number of the vessel subject to the lien, clearly
162 printed in the delivery address box and on the outside of the
163 envelope sent to the registered owner and all other persons
164 claiming an interest in ~~therein~~ or lien on the vehicle or vessel
165 ~~thereon.~~

166 2. The name, physical address, and telephone number of the
167 lienor, and the entity name, as registered with the Division of
168 Corporations, of the business where the towing and storage
169 occurred, which must also appear on the outside of the envelope
170 sent to the registered owner and all other persons claiming an
171 interest in or lien on the vehicle or vessel.

172 3. The fact of possession of the vehicle or vessel.

173 4. The name of the person or entity that authorized the
174 lienor to take possession of the vehicle or vessel.

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175 5. That a lien as provided in paragraph (2) (b) ~~subsection~~
176 ~~(2)~~ is claimed.

177 6. That charges have accrued and include an itemized
178 statement of the amount thereof.

179 7. That the lien is subject to enforcement under law and
180 that the owner or lienholder, if any, has the right to a hearing
181 as set forth in subsection (5).

182 8. That any vehicle or vessel that remains unclaimed, or
183 for which the charges for recovery, towing, or storage services
184 remain unpaid, may be sold free of all prior liens 35 days after
185 the vehicle or vessel is stored by the lienor if the vehicle or
186 vessel is more than 3 years of age or 65 ~~50~~ days after the
187 vehicle or vessel is stored by the lienor if the vehicle or
188 vessel is 3 years of age or less.

189 9. The address at which the vehicle or vessel is physically
190 located.

191 (c) ~~(d)~~ The notice of lien may not be sent to the registered
192 owner, the insurance company insuring the vehicle or vessel, and
193 all other persons claiming a lien thereon less than 30 days
194 before the sale of a the vehicle or vessel that is more than 3
195 years of age or less than 60 days before the sale of a vehicle
196 or vessel that is 3 years of age or less.

197 (d) ~~(e)~~ If attempts to locate the name and address of the
198 owner or lienholder prove unsuccessful, the towing-storage
199 operator shall, after 3 ~~7~~ business days, excluding Saturday and
200 Sunday, after the initial tow or storage, notify the public
201 agency of jurisdiction where the vehicle or vessel is stored in
202 writing by certified mail ~~or acknowledged hand delivery~~ that the
203 towing-storage company has been unable to locate the name and

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204 address of the owner or lienholder and a physical search of the
205 vehicle or vessel has disclosed no ownership information and a
206 good faith effort has been made, including records checks of the
207 Department of Highway Safety and Motor Vehicles database and the
208 National Motor Vehicle Title Information System or an equivalent
209 commercially available system. For purposes of this paragraph
210 and subsection (9), the term "good faith effort" means that the
211 following checks have been performed by the company to establish
212 the prior state of registration and for title:

213 1. A check of the department's database for the owner and
214 any lienholder.

215 2. A check of the electronic National Motor Vehicle Title
216 Information System or an equivalent commercially available
217 system to determine the state of registration when there is not
218 a current registration record for the vehicle or vessel on file
219 with the department.

220 3. A check of the vehicle or vessel for any type of tag,
221 tag record, temporary tag, or regular tag.

222 4. A check of the law enforcement report for a tag number
223 or other information identifying the vehicle or vessel, if the
224 vehicle or vessel was towed at the request of a law enforcement
225 officer.

226 5. A check of the trip sheet or tow ticket of the tow truck
227 operator to determine whether a tag was on the vehicle or vessel
228 at the beginning of the tow, if a private tow.

229 6. If there is no address of the owner on the impound
230 report, a check of the law enforcement report to determine
231 whether an out-of-state address is indicated from driver license
232 information.

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233 7. A check of the vehicle or vessel for an inspection
234 sticker or other stickers and decals that may indicate a state
235 of possible registration.

236 8. A check of the interior of the vehicle or vessel for any
237 papers that may be in the glove box, trunk, or other areas for a
238 state of registration.

239 9. A check of the vehicle for a vehicle identification
240 number.

241 10. A check of the vessel for a vessel registration number.

242 11. A check of the vessel hull for a hull identification
243 number which should be carved, burned, stamped, embossed, or
244 otherwise permanently affixed to the outboard side of the
245 transom or, if there is no transom, to the outmost seaboard side
246 at the end of the hull that bears the rudder or other steering
247 mechanism.

248 (5) (a) The owner of a vehicle or vessel removed pursuant to
249 paragraph (2) (b) ~~subsection (2)~~, or any person claiming a lien,
250 other than the towing-storage operator, within 10 days after the
251 time she or he has knowledge of the location of the vehicle or
252 vessel, may file a complaint in the county court of the county
253 in which the vehicle or vessel is stored to determine whether
254 her or his property was wrongfully taken or withheld.

255 (b) At any time before the sale of the vehicle or vessel,
256 an owner or lienholder may have her or his vehicle or vessel
257 released upon payment of the applicable fee in s. 28.24 and
258 posting with the court a cash or surety bond, or other adequate
259 security, in accordance with s. 559.917 equal to the amount of
260 the charges for towing or storage and lot rental amount to
261 ensure the payment of such charges in the event she or he does

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262 not prevail. Upon the posting of the bond and the payment of the
263 applicable fee set forth in s. 28.24, the clerk of the court
264 shall issue a certificate notifying the lienor of the posting of
265 the bond and directing the lienor to release the vehicle or
266 vessel. At the time of such release, after reasonable
267 inspection, she or he shall give a receipt to the towing-storage
268 company reciting any claims she or he has for loss or damage to
269 the vehicle or vessel or the contents thereof.

270 (c) Upon determining the respective rights of the parties,
271 the court may award damages, attorney ~~attorney's~~ fees, and costs
272 in favor of the prevailing party. In any event, the final order
273 must ~~shall~~ provide for immediate payment in full of recovery,
274 towing, and storage fees by the vehicle or vessel owner or
275 lienholder; or the agency ordering the tow; or the owner,
276 lessee, or agent thereof of the property from which the vehicle
277 or vessel was removed.

278 (6) A vehicle or vessel that is stored pursuant to
279 paragraph (2) (b) ~~subsection (2)~~ and remains unclaimed, or for
280 which reasonable charges for recovery, towing, or storing remain
281 unpaid, and any contents not released pursuant to subsection
282 (10), may be sold by the owner or operator of the storage space
283 for such towing or storage charge 35 days after the vehicle or
284 vessel is stored by the lienor if the vehicle or vessel is more
285 than 3 years of age or 65 ~~50~~ days after the vehicle or vessel is
286 stored by the lienor if the vehicle or vessel is 3 years of age
287 or less. The sale must ~~shall~~ be at public sale for cash. If the
288 date of the sale was not included in the notice required in
289 subsection (4), notice of the sale must ~~shall~~ be given to the
290 person in whose name the vehicle or vessel is registered and to

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291 all persons claiming a lien on the vehicle or vessel as shown on
292 the records of the Department of Highway Safety and Motor
293 Vehicles or of any corresponding agency in any other state in
294 which the vehicle is identified through a records check of the
295 National Motor Vehicle Title Information System or an equivalent
296 commercially available system as being titled. Notice of the
297 sale must be sent by certified mail to the owner of the vehicle
298 or vessel and the person having the recorded lien on the vehicle
299 or vessel at the address shown on the records of the registering
300 agency at least 30 days before the sale of the vehicle or
301 vessel. ~~The notice must have clearly identified and printed, if~~
302 ~~the claim of lien is for a motor vehicle,~~ The last 8 digits of
303 the vehicle identification number of the ~~motor~~ vehicle subject
304 to the lien, or, if the claim of lien is for a vessel, the hull
305 identification number of the vessel subject to the lien, must be
306 clearly identified and printed in the delivery address box and
307 on the outside of the envelope sent to the registered owner and
308 all other persons claiming an interest in ~~therein~~ or lien on the
309 vehicle or vessel thereon. ~~The notice must be sent to the owner~~
310 ~~of the vehicle or vessel and the person having the recorded lien~~
311 ~~on the vehicle or vessel at the address shown on the records of~~
312 ~~the registering agency at least 30 days before the sale of the~~
313 ~~vehicle or vessel.~~ The notice must state the name, physical
314 address, and telephone number of the lienor, and the vehicle
315 identification number if the claim of lien is for a vehicle or
316 the hull identification number if the claim of lien is for a
317 vessel, all of which must also appear in the return address
318 section on the outside of the envelope containing the notice of
319 sale. After diligent search and inquiry, if the name and address

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320 of the registered owner or the owner of the recorded lien cannot
321 be ascertained, the requirements of notice by mail may be
322 dispensed with. In addition to the notice by mail, public notice
323 of the time and place of sale must ~~shall~~ be made by publishing a
324 notice thereof one time, at least 30 ~~10~~ days before the date of
325 the sale, in a newspaper of general circulation in the county in
326 which the sale is to be held. The proceeds of the sale, after
327 payment of reasonable towing and storage charges, and costs of
328 the sale, in that order of priority, must ~~shall~~ be deposited
329 with the clerk of the circuit court for the county if the owner
330 or lienholder is absent, and the clerk shall hold such proceeds
331 subject to the claim of the owner or lienholder legally entitled
332 thereto. The clerk is ~~shall~~ be entitled to receive 5 percent of
333 such proceeds for the care and disbursement thereof. ~~The~~
334 ~~certificate of title issued under this law shall be discharged~~
335 ~~of~~ All liens on the certificate of title issued under this
336 section must be discharged unless otherwise provided by court
337 order. The owner or lienholder may file a complaint after the
338 vehicle or vessel has been sold in the county court of the
339 county in which it is stored. Upon determining the respective
340 rights of the parties, the court may award damages, attorney
341 fees, and costs in favor of the prevailing party.

342 (9) Failure to make good faith efforts to substantially
343 comply with the ~~notice~~ requirements of this section or precludes
344 ~~the imposition of any storage charges against the vehicle or~~
345 ~~vessel. If a lienor fails to provide notice to a person claiming~~
346 a lien on a vehicle or vessel in accordance with subsection (4)
347 precludes the imposition of storage charges against the vehicle
348 or vessel, the lienor may not charge the person for more than 3

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349 7 days of storage, but such failure does not affect charges made
350 for towing the vehicle or vessel or the priority of liens on the
351 vehicle or vessel.

352 (11) (a) Any person regularly engaged in the business of
353 recovering, towing, or storing vehicles or vessels who comes
354 into possession of a vehicle or vessel pursuant to paragraph
355 (2) (b) subsection (2) and who has complied with ~~the provisions~~
356 ~~of~~ subsections (4) (3) and (6), when such vehicle or vessel is
357 to be sold for purposes of being dismantled, destroyed, or
358 changed in such manner that it is not the ~~motor~~ vehicle or
359 vessel described in the certificate of title, must ~~shall~~ report
360 the vehicle to the National Motor Vehicle Title Information
361 System and apply to the Department of Highway Safety and Motor
362 Vehicles for a certificate of destruction. A certificate of
363 destruction, which authorizes the dismantling or destruction of
364 the vehicle or vessel described therein, is ~~shall be~~
365 reassignable a maximum of two times before dismantling or
366 destruction of the vehicle is ~~shall be~~ required, and must ~~shall~~
367 accompany the vehicle or vessel for which it is issued, when
368 such vehicle or vessel is sold for such purposes, in lieu of a
369 certificate of title. The application for a certificate of
370 destruction must include proof of reporting to the National
371 Motor Vehicle Title Information System and an affidavit from the
372 applicant that she or he ~~it~~ has complied with all applicable
373 requirements of this section and, if the vehicle or vessel is
374 not registered in this state or any other state, by a statement
375 from a law enforcement officer that the vehicle or vessel is not
376 reported stolen, and must ~~shall~~ be accompanied by such
377 documentation as may be required by the department.

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378 (12) (a) Any person who violates paragraph (2) (b) ~~any~~
379 ~~provision of subsection (1), subsection (2),~~ subsection (4),
380 subsection (5), subsection (6), or subsection (7) is guilty of a
381 misdemeanor of the first degree, punishable as provided in s.
382 775.082 or s. 775.083.

383 (13) (a) Upon receipt by the Department of Highway Safety
384 and Motor Vehicles of written notice from a wrecker operator who
385 claims a wrecker operator's lien under subparagraph (2) (b) 4.
386 ~~paragraph (2) (d)~~ for recovery, towing, or storage of an
387 abandoned vehicle or vessel upon instructions from any law
388 enforcement agency, for which a certificate of destruction has
389 been issued under subsection (11) and the vehicle has been
390 reported to the National Motor Vehicle Title Information System,
391 the department shall place the name of the registered owner of
392 that vehicle or vessel on the list of those persons who may not
393 be issued a license plate or revalidation sticker for any motor
394 vehicle under s. 320.03(8). If the vehicle or vessel is owned
395 jointly by more than one person, the name of each registered
396 owner must ~~shall~~ be placed on the list. The notice of wrecker
397 operator's lien must ~~shall~~ be submitted on forms provided by the
398 department and, ~~which must~~ include:

399 1. The name, address, and telephone number of the wrecker
400 operator.

401 2. The name of the registered owner of the vehicle or
402 vessel and the address to which the wrecker operator provided
403 notice of the lien to the registered owner under subsection (4).

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

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

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407 license plate number, state, and year; validation decal number,
408 state, and year; vessel registration number; hull identification
409 number; or other identification number, as applicable.

410 5. The name of the person or the corresponding law
411 enforcement agency that requested that the vehicle or vessel be
412 recovered, towed, or stored.

413 6. The amount of the wrecker operator's lien, not to exceed
414 the amount allowed by paragraph (b).

415 (b) For purposes of this subsection only, the amount of the
416 wrecker operator's lien for which the department will prevent
417 issuance of a license plate or revalidation sticker may not
418 exceed the amount of the charges for recovery, towing, and
419 storage of the vehicle or vessel for 7 days. These charges may
420 not exceed the maximum rates imposed by the ordinances of the
421 respective county or municipality under ss. 125.0103(1)(c) and
422 166.043(1)(c). This paragraph does not limit the amount of a
423 wrecker operator's lien claimed under paragraph (2)(b)
424 ~~subsection (2)~~ or prevent a wrecker operator from seeking civil
425 remedies for enforcement of the entire amount of the lien, but
426 limits only that portion of the lien for which the department
427 will prevent issuance of a license plate or revalidation
428 sticker.

429 (d) Upon discharge of the amount of the wrecker operator's
430 lien allowed by paragraph (b), the wrecker operator must issue a
431 certificate of discharged wrecker operator's lien on forms
432 provided by the department to each registered owner of the
433 vehicle or vessel attesting that the amount of the wrecker
434 operator's lien allowed by paragraph (b) has been discharged.
435 Upon presentation of the certificate of discharged wrecker

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436 operator's lien by the registered owner, the department must
437 ~~shall~~ immediately remove the registered owner's name from the
438 list of those persons who may not be issued a license plate or
439 revalidation sticker for any motor vehicle under s. 320.03(8),
440 thereby allowing issuance of a license plate or revalidation
441 sticker. Issuance of a certificate of discharged wrecker
442 operator's lien under this paragraph does not discharge the
443 entire amount of the wrecker operator's lien claimed under
444 paragraph (2)(b) ~~subsection (2)~~, but only certifies to the
445 department that the amount of the wrecker operator's lien
446 allowed by paragraph (b), for which the department will prevent
447 issuance of a license plate or revalidation sticker, has been
448 discharged.

449 (15) (a) A lienor or the lienor's agent may charge an
450 administrative fee to the registered owner or a person claiming
451 a lien against the vehicle or vessel to obtain release of the
452 vehicle or vessel from the claim of lien imposed under this
453 section. The ~~Such~~ administrative fee may not exceed \$250 or the
454 amount set by the county or municipality, whichever is less. For
455 purposes of this paragraph, the term "administrative fee" means
456 a lien fee or any fee imposed by the lienor or the lienor's
457 agent for administrative costs added to the amount due for
458 towing and storing the vehicle or vessel.

459 (18) A towing-storage operator must retain records of all
460 vehicles or vessels recovered, towed, or stored; all notice
461 publications and certified mailings; and all fees imposed under
462 this section.

463 (19) This section is the exclusive remedy for the placement
464 or foreclosure of a storage lien placed on a vehicle or vessel.

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465 Section 3. Section 559.917, Florida Statutes, is amended to
466 read:

467 559.917 Bond to release possessory lien claimed by motor
468 vehicle repair shop or towing-storage operator.-

469 (1) (a) A customer or a person of record claiming a lien
470 against a motor vehicle or vessel may obtain the release of the
471 motor vehicle or vessel from any lien claimed under part II of
472 chapter 713 by a motor vehicle repair shop for repair work
473 performed under a written repair estimate or by a towing-storage
474 operator for recovery, towing, or storage charges by filing with
475 the clerk of the court in the circuit in which the disputed
476 transaction occurred a cash or surety bond, payable to the
477 person claiming the lien and conditioned for the payment of any
478 judgment which may be entered on the lien. The bond must ~~shall~~
479 be in the amount stated on the notice of lien required under s.
480 713.78(4) or on the invoice required by s. 559.911, plus accrued
481 storage charges, if any, less any amount paid to the motor
482 vehicle repair shop as indicated on the invoice. The customer or
483 person is ~~shall~~ not be required to institute judicial
484 proceedings in order to post the bond in the registry of the
485 court and is ~~shall~~ not be required to use a particular form for
486 posting the bond unless the clerk provides such form to the
487 customer or person for filing. Upon the posting of such bond,
488 the clerk of the court shall automatically issue a certificate
489 notifying the lienor of the posting of the bond and directing
490 the lienor to release the motor vehicle or vessel.

491 (b) The lienor has ~~shall have~~ 60 days to file suit to
492 recover the bond. The prevailing party in that action may be
493 entitled to damages plus court costs and reasonable attorney

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494 fees. If the lienor fails to file suit within 60 days after the
495 posting of such bond, the bond must ~~shall~~ be discharged by the
496 clerk.

497 (2) ~~If the failure of a lienor~~ fails to release or return
498 to the customer or person the motor vehicle or vessel upon which
499 any lien is claimed, upon receiving a copy of a certificate
500 giving notice of the posting of the bond and directing release
501 of the motor vehicle or vessel, the lienor is ~~shall~~ subject ~~the~~
502 ~~lienor~~ to judicial proceedings which may be brought by the
503 customer or person to compel compliance with the certificate. If
504 ~~Whenever~~ a customer or person brings an action to compel
505 compliance with the certificate, the customer or person must
506 ~~need only~~ establish the following that:

507 (a) That the bond in the amount on the notice of lien
508 required under s. 713.78(4) or on of the invoice, plus accrued
509 storage charges, if any, less any amount paid to the motor
510 vehicle repair shop as indicated on the invoice, was posted.†

511 (b) That a certificate was issued under ~~pursuant to~~ this
512 section.†

513 (c) That the motor vehicle repair shop or towing-storage
514 operator, or any employee or agent thereof who is authorized to
515 release the motor vehicle or vessel, received a copy of a
516 certificate issued under ~~pursuant to~~ this section.† ~~and~~

517 (d) That the motor vehicle repair shop or towing-storage
518 operator, or an employee or agent thereof who is authorized to
519 release the motor vehicle or vessel, failed to release the motor
520 vehicle or vessel.

521
522 The customer or person, upon a judgment in her or his favor in

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523 an action brought under this subsection, may be entitled to
 524 damages plus court costs and reasonable attorney fees sustained
 525 by her or him by reason of such wrongful detention or retention.
 526 Upon a judgment in favor of the motor vehicle repair shop or
 527 towing-storage operator, the shop or towing-storage operator may
 528 be entitled to reasonable attorney fees.

529 (3) A motor vehicle repair shop or towing-storage operator
 530 ~~that~~, or an employee or agent thereof who is authorized to
 531 release the motor vehicle or vessel, who, upon receiving a copy
 532 of a certificate giving notice of the posting of the bond in the
 533 required amount and directing release of the motor vehicle or
 534 vessel, fails to release or return the property to the customer
 535 or person pursuant to this section commits a misdemeanor of the
 536 second degree, punishable as provided in s. 775.082 or s.
 537 775.083.

538 (4) A customer or person who stops payment on a credit card
 539 charge or a check drawn in favor of a motor vehicle repair shop
 540 on account of an invoice or who fails to post a cash or surety
 541 bond under ~~pursuant to~~ this section is ~~shall be~~ prohibited from
 542 any recourse under this section with respect to the motor
 543 vehicle repair shop.

544 (5) For purposes of this section, the terms "towing-storage
 545 operator" and "vessel" have the same meanings as in s.
 546 713.78(1).

547 Section 4. Section 83.09, Florida Statutes, is amended to
 548 read:

549 83.09 Exemptions from liens for rent.—

550 (1) ~~The No property of any tenant or lessee shall be exempt~~
 551 ~~from distress and sale for rent, except~~ beds, bedclothes, and

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552 wearing apparel of a tenant or lessee are exempt from distress
553 and sale for rent.

554 (2) A lien on a vehicle or vessel, as those terms are
555 defined in s. 713.78(1), of a tenant or lessee must be placed
556 and foreclosed pursuant to s. 713.78 and may not be placed or
557 foreclosed under this chapter.

558 Section 5. Section 83.805, Florida Statutes, is amended to
559 read:

560 83.805 Lien.—

561 (1) The owner of a self-service storage facility or self-
562 contained storage unit and the owner's heirs, executors,
563 administrators, successors, and assigns have a lien upon all
564 personal property, whether or not owned by the tenant, located
565 at a self-service storage facility or in a self-contained
566 storage unit for rent, labor charges, or other charges, present
567 or future, in relation to the personal property and for expenses
568 necessary for its preservation or expenses reasonably incurred
569 in its sale or other disposition pursuant to ss. 83.801-83.809.
570 The lien provided for in this section attaches as of the date
571 that the personal property is brought to the self-service
572 storage facility or as of the date the tenant takes possession
573 of the self-contained storage unit, and the priority of this
574 lien shall be the same as provided in s. 83.08; however, in the
575 event of default, the owner must give notice to persons who hold
576 perfected security interests under the Uniform Commercial Code
577 in which the tenant is named as the debtor.

578 (2) A lien on a vehicle or vessel, as those terms are
579 defined in s. 713.78(1), of a tenant must be placed and
580 foreclosed pursuant to s. 713.78 and may not be placed or

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581 foreclosed under this chapter.

582 Section 6. Subsection (10) is added to section 677.210,
583 Florida Statutes, to read:

584 677.210 Enforcement of warehouse's lien.—

585 (10) A lien on a vehicle or vessel, as those terms are
586 defined in s. 713.78(1), must be placed and foreclosed pursuant
587 to s. 713.78 and may not be placed or foreclosed under this
588 chapter.

589 Section 7. Paragraph (a) of subsection (2) of section
590 715.07, Florida Statutes, is amended to read:

591 715.07 Vehicles or vessels parked on private property;
592 towing.—

593 (2) The owner or lessee of real property, or any person
594 authorized by the owner or lessee, which person may be the
595 designated representative of the condominium association if the
596 real property is a condominium, may cause any vehicle or vessel
597 parked on such property without her or his permission to be
598 removed by a person regularly engaged in the business of towing
599 vehicles or vessels, without liability for the costs of removal,
600 transportation, or storage or damages caused by such removal,
601 transportation, or storage, under any of the following
602 circumstances:

603 (a) The towing or removal of any vehicle or vessel from
604 private property without the consent of the registered owner or
605 other legally authorized person in control of that vehicle or
606 vessel is subject to substantial compliance with the following
607 conditions and restrictions:

608 1.a. Any towed or removed vehicle or vessel must be stored
609 at a site within a 10-mile radius of the point of removal in any

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610 county of 500,000 population or more, and within a 15-mile
611 radius of the point of removal in any county of fewer than
612 500,000 population. That site must be open for the purpose of
613 redemption of vehicles on any day that the person or firm towing
614 such vehicle or vessel is open for towing purposes, from 8:00
615 a.m. to 6:00 p.m., and, when closed, shall have prominently
616 posted a sign indicating a telephone number where the operator
617 of the site can be reached at all times. Upon receipt of a
618 telephoned request to open the site to redeem a vehicle or
619 vessel, the operator shall return to the site within 1 hour or
620 she or he will be in violation of this section.

621 b. If no towing business providing such service is located
622 within the area of towing limitations set forth in sub-
623 subparagraph a., the following limitations apply: any towed or
624 removed vehicle or vessel must be stored at a site within a 20-
625 mile radius of the point of removal in any county of 500,000
626 population or more, and within a 30-mile radius of the point of
627 removal in any county of fewer than 500,000 population.

628 2. The person or firm towing or removing the vehicle or
629 vessel shall, within 30 minutes after completion of such towing
630 or removal, notify the municipal police department or, in an
631 unincorporated area, the sheriff, of such towing or removal, the
632 storage site, the time the vehicle or vessel was towed or
633 removed, and the make, model, color, and license plate number of
634 the vehicle or description and registration number of the vessel
635 and shall obtain the name of the person at that department to
636 whom such information was reported and note that name on the
637 trip record.

638 3. A person in the process of towing or removing a vehicle

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639 or vessel from the premises or parking lot in which the vehicle
640 or vessel is not lawfully parked must stop when a person seeks
641 the return of the vehicle or vessel. The vehicle or vessel must
642 be returned upon the payment of a reasonable service fee of not
643 more than one-half of the posted rate for the towing or removal
644 service as provided in subparagraph 6. The vehicle or vessel may
645 be towed or removed if, after a reasonable opportunity, the
646 owner or legally authorized person in control of the vehicle or
647 vessel is unable to pay the service fee. If the vehicle or
648 vessel is redeemed, a detailed signed receipt must be given to
649 the person redeeming the vehicle or vessel.

650 4. A person may not pay or accept money or other valuable
651 consideration for the privilege of towing or removing vehicles
652 or vessels from a particular location.

653 5. Except for property appurtenant to and obviously a part
654 of a single-family residence, and except for instances when
655 notice is personally given to the owner or other legally
656 authorized person in control of the vehicle or vessel that the
657 area in which that vehicle or vessel is parked is reserved or
658 otherwise unavailable for unauthorized vehicles or vessels and
659 that the vehicle or vessel is subject to being removed at the
660 owner's or operator's expense, any property owner or lessee, or
661 person authorized by the property owner or lessee, before towing
662 or removing any vehicle or vessel from private property without
663 the consent of the owner or other legally authorized person in
664 control of that vehicle or vessel, must post a notice meeting
665 the following requirements:

666 a. The notice must be prominently placed at each driveway
667 access or curb cut allowing vehicular access to the property

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668 within 10 feet from the road, as defined in s. 334.03(22). If
669 there are no curbs or access barriers, the signs must be posted
670 not fewer than one sign for each 25 feet of lot frontage.

671 b. The notice must clearly indicate, in not fewer than 2-
672 inch high, light-reflective letters on a contrasting background,
673 that unauthorized vehicles will be towed away at the owner's
674 expense. The words "tow-away zone" must be included on the sign
675 in not fewer than 4-inch high letters.

676 c. The notice must also provide the name and current
677 telephone number of the person or firm towing or removing the
678 vehicles or vessels.

679 d. The sign structure containing the required notices must
680 be permanently installed with the words "tow-away zone" not
681 fewer than 3 feet and not more than 6 feet above ground level
682 and must be continuously maintained on the property for not
683 fewer than 24 hours before the towing or removal of any vehicles
684 or vessels.

685 e. The local government may require permitting and
686 inspection of these signs before any towing or removal of
687 vehicles or vessels being authorized.

688 f. A business with 20 or fewer parking spaces satisfies the
689 notice requirements of this subparagraph by prominently
690 displaying a sign stating "Reserved Parking for Customers Only
691 Unauthorized Vehicles or Vessels Will be Towed Away At the
692 Owner's Expense" in not fewer than 4-inch high, light-reflective
693 letters on a contrasting background.

694 g. A property owner towing or removing vessels from real
695 property must post notice, consistent with the requirements in
696 sub-subparagraphs a.-f., which apply to vehicles, that

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697 unauthorized vehicles or vessels will be towed away at the
698 owner's expense.

699
700 A business owner or lessee may authorize the removal of a
701 vehicle or vessel by a towing company when the vehicle or vessel
702 is parked in such a manner that restricts the normal operation
703 of business; and if a vehicle or vessel parked on a public
704 right-of-way obstructs access to a private driveway the owner,
705 lessee, or agent may have the vehicle or vessel removed by a
706 towing company upon signing an order that the vehicle or vessel
707 be removed without a posted tow-away zone sign.

708 6. Any person or firm that tows or removes vehicles or
709 vessels and proposes to require an owner, operator, or person in
710 control or custody of a vehicle or vessel to pay the costs of
711 towing and storage before redemption of the vehicle or vessel
712 must file and keep on record with the local law enforcement
713 agency a complete copy of the current rates to be charged for
714 such services and post at the storage site an identical rate
715 schedule and any written contracts with property owners,
716 lessees, or persons in control of property which authorize such
717 person or firm to remove vehicles or vessels as provided in this
718 section.

719 7. Any person or firm towing or removing any vehicles or
720 vessels from private property without the consent of the owner
721 or other legally authorized person in control or custody of the
722 vehicles or vessels shall, on any trucks, wreckers as defined in
723 s. 713.78(1) ~~s. 713.78(1)(c)~~, or other vehicles used in the
724 towing or removal, have the name, address, and telephone number
725 of the company performing such service clearly printed in

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726 contrasting colors on the driver and passenger sides of the
727 vehicle. The name shall be in at least 3-inch permanently
728 affixed letters, and the address and telephone number shall be
729 in at least 1-inch permanently affixed letters.

730 8. Vehicle entry for the purpose of removing the vehicle or
731 vessel shall be allowed with reasonable care on the part of the
732 person or firm towing the vehicle or vessel. Such person or firm
733 shall be liable for any damage occasioned to the vehicle or
734 vessel if such entry is not in accordance with the standard of
735 reasonable care.

736 9. When a vehicle or vessel has been towed or removed
737 pursuant to this section, it must be released to its owner or
738 person in control or custody within 1 hour after requested. Any
739 vehicle or vessel owner or person in control or custody has the
740 right to inspect the vehicle or vessel before accepting its
741 return, and no release or waiver of any kind which would release
742 the person or firm towing the vehicle or vessel from liability
743 for damages noted by the owner or person in control or custody
744 at the time of the redemption may be required from any vehicle
745 or vessel owner or person in control or custody as a condition
746 of release of the vehicle or vessel to its owner or person in
747 control or custody. A detailed receipt showing the legal name of
748 the company or person towing or removing the vehicle or vessel
749 must be given to the person paying towing or storage charges at
750 the time of payment, whether requested or not.

751 Section 8. This act shall take effect July 1, 2023.