Committee on Agribusiness

March 7, 2007
9:00am-3:00pm
28 HOB
Revised

Marco Rubio
Speaker

Denise Grimsley
Chair

The Florida House of Representatives

Environment & Natural Resources Council

Committee on Agribusiness

Marco Rubio
Speaker

Denise Grimsley
Chair

Wednesday, March 7, 2007
9:00 – 3:00 p.m.
28 House Office Building

I. Call to Order

II. Roll Call

III. Consideration of HB 93 by Representative Robaina – Wrecker Services

IV. Consideration of HB 245 by Representative Troutman – Exemptions from the Tax on Sales, Use, and Other Transactions

V. Consideration of HB 595 by Representative Frishe – Telephone Solicitation

VI. Consideration of HB 651 by Representative Boyd – Department of Agriculture and Consumer Services

VII. Greetings from the Florida FFA Association – Sarah Burleson, President

VIII. Closing remarks by Chair

IX. Rise

(Committee will break for lunch from 12-1:00 p.m. and reconvene at 1:00 p.m. if needed)

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HB 93

HOUSE OF REPRESENTATIVES STAFF ANALYSIS - Revised

BILL #: HB 93 Wrecker Services
SPONSOR(S): Robaina and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 612

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Agribusiness		Reese	Reese
2) Environment & Natural Resources Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

An estimated 1,400 wrecker operators will be subject to the regulation proposed by this bill, and more than 7,000 trucks are registered as wreckers with the state Department of Highway Safety and Motor Vehicles (DHSMV).

This bill creates state regulation of wrecker operators. The bill: requires annual registration of wrecker companies with the state Department of Agriculture and Consumer Services (DACS); requires certification and continuing education of tow-truck operators; creates a seven-member Wrecker Operator Advisory Council to approve curricula and course providers; directs DACS, in consultation with the council, to issue rules implementing the new requirements; provides for prohibited acts and penalties; establishes an annual registration fee of $495 for a wrecker company; specifies that unregistered wrecker companies may not be on the wrecker allocation lists used by law enforcement officers; and exempts from the regulatory provisions businesses which derive at least 80 percent of gross sales from repairs to motor vehicles and licensed automobile dealers.

The bill also specifies that tow trucks shall be required to have only one tag, to be placed on the front of the vehicles, and clarifies that vessels parked without permission on real property also may be towed and held for lien. This bill does not alter the authority of local governments to set maximum rates for towing. This bill requires that wrecker operators accept at least two of these forms of payment: cash (or cash equivalent), personal checks, or credit cards.

This bill creates a number of misdemeanor and felony offenses, primarily offenses that would be committed by wrecker operators. See "Infractions and Criminal Offenses Created By This Bill" starting on page 7.

This bill authorizes nine additional FTEs to DACS and appropriates $693,000 from the General Inspection Trust Fund for the purposes of implementing this act. The Criminal Justice Estimating Conference has not yet scheduled the bill to review its impact on the prison system.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: HB 93 authorizes the creation of the Wrecker Operator Advisory Council within DACS to assist the agency with the technical aspects of regulating the towing industry. The Council also is charged with approving curricula for certification and continuing education programs, and determining if out-of-state wrecker certification courses are substantially equivalent to Florida courses. Also, DACS is given 9 FTEs and additional rulemaking authority to implement the bill's provisions.

Ensure lower taxes: HB 93 creates a $495 annual registration fee for most wrecker companies in the state of Florida.

Safeguard individual liberty: To continue operating a wrecker business, the bill requires that most wrecker companies register and that most wrecker operators undergo training and continuing education to be certified and thus continue in employment. Additionally, owners and executive managers of most wrecker companies must be fingerprinted and undergo criminal background checks.

Promote personal responsibility: This bill creates criminal offenses for wrongful conduct.

B. EFFECT OF PROPOSED CHANGES:

Present Situation
Currently, the primary business regulations on the wrecker industry are proper registration of vehicles, as described in chapter 320, F.S., and liability insurance coverage in s. 324.021 and s. 627.7415, F.S. In addition, many local governments require wrecker companies to obtain business tax receipts for operation of a business, pursuant to chapter 205, F.S.

Over the years, concerns have increased over so-called "gypsy wreckers" operating without liability insurance, whose vehicles are improperly registered and ill-equipped to tow vehicles, and who prey on stranded motorists, tourists, and motorists who illegally park their vehicles.

Effect of Proposed Changes
HB 93 creates chapter 508, F.S. – Wrecker Services, which is section 1 of the bill. It creates a comprehensive structure for the registration of wrecker companies and the certification and continuing education for the persons who drive the tow trucks (wrecker operators), and establishes penalties. These regulatory responsibilities are assigned to DACS, assisted by a new seven-member Wrecker Operator Advisory Council.

The bill provides, with some exceptions, that all wrecker companies must be registered in Florida. Annual registration is a prerequisite for obtaining a local business tax receipt and for participating in the wrecker allocation call programs.

Exempt from these requirements are persons regularly engaged in the business of transporting mobile homes; motor vehicle repair shops deriving 80 percent of their business from repairs; franchised motor vehicle dealers; recovery or repossession agents; and any person performing wrecker services on behalf of a religious organization that holds a current exemption from federal taxation, or that is not required to apply for recognition of its exemption under the Internal Revenue Code.

Role of the Wrecker Operator Advisory Council
The bill creates a Wrecker Operator Advisory Council (Council) within DACS. The Council consists of 7 members who must be Florida residents: 6 appointed by the Commissioner of Agriculture and the

seventh being the Executive Director of the Professional Wrecker Operators of Florida as an ex-officio but voting member. Three of the Commissioner's appointees must have been ultimate equitable owners of a wrecker company for at least 5 years; one must be a wrecker operator with at least five years of experience; and two are lay persons. Of the initial appointees, two wrecker company owners and one lay person would serve 2-year terms and the rest 4-year terms; all subsequent appointees would serve 4-year terms. Members may be reappointed for additional terms, but may not exceed 8 years of consecutive service. By the year 2013, the industry appointees also must meet the registration or certification requirements. The Council selects its chair and vice chair, and all members serve without compensation except for travel reimbursement and per diem pursuant to s. 112.061, F.S.

The bill provides the Council with significant authority. The Council will:

- Approve the certification courses for wrecker operators, prescribe the curricula, and approve each organization proposing to offer the courses.
- Approve the instruction, training, and examination for specialized wrecker services before they can be endorsed for a wrecker certification.
- Approve certification training in other states for the purposes of substitution, and determine whether such training is substantially equivalent to Florida's approved wrecker-operator courses.
- Review the rules promulgated by DACS to implement chapter 508, F.S., and advise the agency on wrecker industry standards, practices and other matters requiring technical expertise.

DACS's role

DACS has the responsibility to manage and enforce the wrecker company registration and wrecker operator certification programs. The agency has both general and specific rulemaking authority to implement the provisions of chapter 508, F.S. DACS will maintain records, issue the certification cards and registration approvals or denials, select the certification training organizations, notify DHSMV based on the Council's approval, and inspect the records of wrecker companies. It is required to keep and store all records of the Council and to provide administrative support and staff.

Registration Process and Requirements

The bill provides for an annual registration fee of $495 per company. All registrants, equitable owners, partners, or those with executive management control must be fingerprinted and must bear the cost of fingerprinting. General employees are not required to be fingerprinted. Applicants must pay the Florida Department of Law Enforcement a state fingerprint processing fee, and an additional fee for federal processing will be charged. DACS will issue a certificate with a number to the registrant. The certificate must be displayed in a conspicuous place in the company's place of business, and any company advertisement must bear the registration number. For the purposes of the bill, the term "advertisement" means a printed or graphic statement made in a newspaper or other publication or contained in any notice, handbill, or sign, including signage on a vehicle, flyer, catalog, or letter.

In addition, registered wrecker companies are required to certify to DACS that they carry the additional commercial motor vehicle liability insurance as currently required under s. 627.7415, F.S.

Annual renewals are subject to a $25 late fee. Unless local licensing requirements are met and maintained, and the company can present proof of the additional commercial vehicle liability insurance, a wrecker company may not renew its registration.

DACS may deny or refuse registration renewal if:

- the wrecker company does not meet or adhere to registration requirements;
- the owners or executive managers have been convicted of a felony within the last 10 years;
- the owners or executive managers have been convicted in the last 10 years of any crime involving repossession, repair, motor vehicle theft, car jacking, chop shops, parts and

accessories records, airbags, overcharging for repairs or parts, or towing or storage requirements;
- the company fails to pay fines or penalties imposed under the new law;
- the company has an action pending in any jurisdiction for violation of the new law; or
- the company has a judgment against it for violation of the new law.

A wrecker company is required to maintain records of its wrecker services for at least 12 months at the principal place of business. It also must maintain records on each of its wrecker operators sufficient to demonstrate that the operator has successfully completed an approved wrecker operator continuing education course and is certified to perform wrecker services. These records must be maintained at the principal place of business for as long as the operator is employed by the wrecker company and for at least six months after. Organizations approved to conduct wrecker operator certification courses or continuing education courses are also required to maintain records for at least five years on persons who complete the courses. DACS is authorized to enter the place of business for the purpose of examining the records.

Training and Certification Process

In addition to wrecker company registration, the bill requires certification of wrecker operators. DACS must establish a certification program including certification courses, schools and exams, and provide for specialized certification for specialized wrecker services. DACS also must require the courses to issue appropriate certificates and cards acknowledging completion of certification requirements. DACS is authorized to adopt rules providing for issuance of certification to operators from different states who have met substantially similar certification requirements. Certification programs created by DACS, and those of other jurisdictions taken in lieu of Florida certification programs, must be approved by the Wrecker Operator Advisory Council.

Prohibited acts and penalties

Wrecker companies, wrecker operators, or other employees or agents of the company are prohibited from:

- Charging rates in excess of those set by local ordinance;
- Violating the laws governing the FHP wrecker allocation system;
- Violating the laws governing the local wrecker allocation system;
- Violating the laws governing liens for towing or storing vehicles and vessels;
- Violating the laws governing towing, removing, or storing vehicles and vessels;
- Refusing to allow a law enforcement officer to inspect a towing and storage facility;
- Allowing a non-certified person to perform wrecker services or specialized services for more than 6 months after first being employed by, or becoming an equitable owner of, the company;
- Allowing an operator to provide specialized services without the proper endorsement; or
- Performing an act prohibited by the new law, or failing to perform an act required by the new law.

HB 93 also creates a number of administrative and criminal penalties related to chapter 508, F.S., requirements. The criminal penalties are more fully described below. Among the administrative penalties, DACS may:

- Issue a notice of noncompliance;
- Impose an administrative fine of no more than $5,000;
- Issue cease and desist orders;
- Revoke, suspend or refuse registration;
- Impose a DACS' specified probationary period;
- Seek a civil remedy of up to $5,000 per violation; or
- Seek restitution on behalf of an aggrieved party.

DACS must notify DHSMV when a registration issued under the provisions of the bill has been suspended or revoked by order of DACS. That notification must be sent within 10 days after issuance of the order.

Under the bill, operation of an unregistered wrecker company and performance of wrecker services without being employed by a registered wrecker company are third-degree felonies.

All fees, penalties, and other monies collected pursuant to this new law are deposited into DACS' General Inspection Trust Fund and may only be used to implement the new law.

Wrecker Allocation System

Present Situation
The Florida Highway Patrol (FHP) is authorized in s. 321.051, F.S., to operate a wrecker operator system using qualified, reputable wrecker operators for the removal and storage of wrecked or disabled vehicles from crash scenes, and for the removal and storage of abandoned vehicles. All wrecker operators are eligible for use in the system provided their equipment meets recognized safety qualifications and mechanical standards set by the FHP for the size of vehicle the equipment is designed to handle.

FHP can set maximum rates for towing and storage of vehicles removed at its request, if the rates have not already been set by a county or municipality. A wrecker operator may pursue an appeal by writ of certiorari from the circuit court if its participation in the system is denied, suspended, or revoked.

Wrecker operators are prohibited from monitoring police radios for communications between patrol field units and the dispatcher to determine the location of a wrecked or disabled vehicle for the purpose of driving by the scene to initiate contact with the owner of the wrecked or disabled vehicle. This illegal monitoring is punishable by a civil fine of up to $500. If the operator initiates contact before arrival of the dispatched operator, solicits towing, and tows the vehicle, or if the disabled vehicle owner or operator initiates contact, but the wrecker operator fails to disclose that he or she was not dispatched and fails to disclose all rates in writing for towing and storage, the drive-by wrecker operator commits a second-degree misdemeanor. A wrecker operator who falsely identifies him or herself as part of the system commits a first-degree misdemeanor. The law does not prohibit any person from calling a wrecker operator directly for services, even if that operator is not authorized to participate in the system.

Local governments are also authorized to operate a similar wrecker operator dispatch system, pursuant to s. 323.002, F.S.

In addition, current law provides regulations governing the operation of storage facilities containing towed vehicles held at the request of investigating law enforcement agencies, and provides for liens against towed and stored vehicles when the owners fail to pay towing and storage costs.

Effect of Proposed Changes
The existing ss. 321.051 and 323.002, F.S., are rewritten in HB 93, but the primary changes are made to reflect the wrecker registration and certification requirements imposed in the new chapter 508, F.S.

The bill defines and differentiates between wrecker companies and wrecker operators to clarify the distinction between those who own towing companies and those who drive tow trucks. It also renames the "wrecker operator system" as the "wrecker allocation system."

The key change is that only registered wrecker companies and certified operators are able to participate in the wrecker allocation system. The law still allows the owner or operator of a disabled vehicle to hire an unauthorized wrecker; however, the law enforcement officer on the scene may, in the interest of public safety, dispatch an authorized wrecker operator if the officer believes it will arrive before the wrecker company requested by the motorist.

Liens assessed on towed and stored vehicles

Present Situation

Section 713.78, F.S., currently provides that when a wrecker or tow service properly tows a vehicle they have a lien against the vehicle for payment of reasonable towing and storage fees. The owner of the vehicle may not be charged storage fees if the vehicle has been stored for less than 6 hours. When a wrecker service tows and stores a motor vehicle the service must send notice to the registered owner and all lien holders by certified mail within 7 business days after the date of storage of the vehicle. The section further provides that a person regularly engaged in towing or storing vehicles is not liable for damages connected with the towing and storage of a vehicle if such towing and storage were done with reasonable care.

The law also limits the liability of a wrecker operator when towing or storing a vehicle. The section provides that a wrecker operator is not liable for the theft of a vehicle or personal property contained in a towed or stored vehicle, providing the wrecker uses reasonable care. The wrecker operator is not liable for damages when complying with the lawful directions of a law enforcement officer to remove a vehicle which is a hazard or obstructing the normal movement of traffic. The section provides a wrecker has used reasonable care if:

- the wrecker operator surrounds the storage facility with a chain-link or solid fence at least 6 feet in height;
- the storage facility is illuminated enough to reveal persons and vehicles at a distance of 150 feet; and
- the wrecker operator employs a night watchman, security dog, or security cameras.

In addition, current law requires any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway to conduct an inventory and prepare a written record of all personal property found in the vehicle before the vehicle is removed by a wrecker operator. The wrecker operator may not be held liable for the loss of personal property not identified on the inventory record prepared by the law enforcement agency.

Section 713.78 (13), F.S., provides that upon receipt by DHSMV of written notice from a wrecker operator claiming a lien for recovery, towing, or storage of an abandoned vehicle, vessel, or mobile home upon instructions from any law enforcement agency, for which a certificate of destruction has been issued, DHSMV must place the name of the registered owner of that vehicle, vessel, or mobile home on the list of those persons who may not be issued a license plate or revalidation sticker for any motor vehicle. If the vehicle, vessel, or mobile home is owned jointly by more than one person, the name of each registered owner must be placed on the list.

The section further provides the amount of the wrecker operator's lien for which the DHSMV will prevent issuance of a license plate or revalidation sticker may not exceed the amount of the charges for recovery, towing, and storage of the vehicle, vessel, or mobile home for 7 days. These charges may not exceed the maximum rates imposed by the ordinances of the respective county or municipality.

The registered owner of a vehicle, vessel, or mobile home may dispute a wrecker operator's lien by notifying DHSMV of the dispute in writing, if at least one of the following applies:

- The registered owner presents a notarized bill of sale proving the vehicle, vessel, or mobile home was sold in a private or casual sale before the vehicle, vessel, or mobile home was recovered, towed, or stored.
- The registered owner presents proof that the Florida certificate of title of the vehicle, vessel, or mobile home was sold to a licensed dealer as defined in s. 319.001, F.S., before the vehicle, vessel, or mobile home was recovered, towed, or stored.

Effect of Proposed Changes
HB 93 amends s. 713.78, F.S., to provide that a registered owner may dispute a wrecker operator's lien if DHSMV's records were marked sold prior to the issuance of a certificate of destruction.

The section is further amended to provide that the lien dispute resolution process in current law does not apply to a leased vehicle registered in the name of the lessor. Additionally, the revisions provide that reasonable attorney fees may be awarded to the prevailing party in complaints concerning the wrongful taking of property. Further, the bill provides that employees or authorized agents of a wrecker company are not liable for civil damages when removing a vehicle or vehicle cargo that is an imminent public safety hazard from a public road if requested by a law enforcement officer, deputy sheriff, or firefighter.

Other issues in HB 93

- Wrecker companies must accept at least two of the following three forms of payment: cash, cashier's check, money order, traveler's check; a valid personal check showing the name and address of the vehicle or vessel owner or operator; or a valid credit card.

- The bill requires that a wrecker license plate must be placed on the front of a wrecker.

- A wrecker may not be registered and licensed as such with DHSMV unless the owner of the vehicle is a wrecker company registered with DACS pursuant to the new chapter 508, F.S. This provision does not apply to wreckers that are registered under the International Registration Plan.

- Local governments may impose regulations on wrecker operators and wrecker companies that are more restrictive than this new law, and may still levy business taxes. DACS may enter into a cooperative agreement with any county or municipality that provides for the referral, investigation, and prosecution of consumer complaints alleging violations of the provisions of this bill. DACS may also delegate enforcement to any county or municipality entering into a cooperative agreement.

- The bill provides immunity from liability for wrecker companies, wrecker operators, employees and agents of wrecker companies, law enforcement officers and other emergency response personnel from property damages or claims of damage for removal of vehicles or vehicle cargo from blocking the roadway when there is an imminent public safety hazard.

The bill harmonizes the various definitions of "wrecker" and "wrecker operator" throughout Florida Statutes.

Infractions and Criminal Offenses Created By This Bill
This bill creates the following offenses:

Infraction[1]
Listening to a police radio with the intent to dispatch a wrecker outside of a wrecker allocation system (a rotation list). See new ss. 321.051(3)(a) and 323.002(2)(b), F.S.

Second Degree Misdemeanor[2]
If not dispatched pursuant to the rotation list, driving by a wrecked or disabled vehicle and initiating contact with the owner with the intent to solicit towing business. See new ss. 321.051(3)(b) and 323.002(2)(d), F.S.

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[1] An infraction is punishable by a fine of no more than $500. See s. 775.083, F.S.
[2] A second degree misdemeanor is punishable by confinement in the county jail for up to 60 days and/or a fine of up to $500. See ss. 775.082 and 775.083, F.S.

If not dispatched pursuant to the rotation list, failing to disclose to the owner of the vehicle that the operator was not dispatched according to the list, or failing to disclose the price in writing prior to providing the towing service. See new ss. 321.051(3)(c) and 323.002(2)(d), F.S.

First Degree Misdemeanor[3]
If not dispatched pursuant to the rotation list, falsely claiming to have been dispatched pursuant to the list. See new ss. 321.051(3)(d) and 323.002(2)(e), F.S.

Third Degree Felony (unranked in Criminal Punishment Code)[4]
Operating a wrecker company without having registered with DACS. See new s. 508.15(1), F.S.

Performing wrecker services without being an employee or owner of a registered wrecker company. See new s. 508.115(2), F.S.

Towing a vehicle or vessel to a storage facility more than 10 miles from point of towing (15 miles in a county of less than 500,000, and increased to 20 and 30 miles respectively if no wrecker company is located within the smaller radius). See new s. 715.07(6)(b), F.S.

Failure of a wrecker company to be continuously open between 8:00 a.m. and 6:00 p.m. on a regular business day. See new s. 715.07(6)(b), F.S.

Failure of a wrecker company to release a towed vehicle or vessel from storage within 1 hour of the owner's request. See new s. 715.07(6)(b), F.S.

Failure to release a vehicle or vessel about to be towed when the owner shows up, offers to pay half the standard towing fee, and agrees to immediately move the vehicle or vessel. See new s. 715.07(6)(b), F.S.

A wrecker company or operator offering a property owner a rebate or other consideration for the privilege of towing from the property; or a property owner soliciting a rebate or other consideration from a wrecker operator or operator for the privilege of towing from the property. See new s. 715.07(6)(b), F.S.

Refusal of a wrecker operator to allow the owner of towed vehicle or vessel to inspect the vehicle or vessel prior to accepting its return. A wrecker operator conditioning return of a vehicle or vessel on the owner of a vehicle or vessel signing a liability waiver. Failure of a wrecker operator to give the owner of a vehicle or vessel a signed receipt showing the name of the company. See new s. 715.07(6)(b), F.S.

Florida's Sunrise Act
Section 11.62, F.S., provides guiding principles for the establishment of new regulatory programs for professions and occupations. Subsection (3) provides that in determining whether to regulate a profession or occupation, the Legislature shall consider certain factors, including: whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare; whether the practice of the profession or occupation requires specialized skill or training; whether the regulation will have an unreasonable effect on job creation or job retention in the state; and whether the overall cost effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

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[3] A first degree misdemeanor is punishable by confinement in the county jail for up to 1 year and/or a fine of up to $1000. See ss. 775.082 and 775.083, F.S.
[4] A third degree felony is punishable by confinement in state prison for up to 5 years and/or a fine of up to $5,000. An unranked third degree felony is a Level 1 offense in the Criminal Punishment Code. The Criminal Punishment Code sets minimum sentences for felony offenses based on a point system. Unless the offender has a prior criminal record, committing one Level 1 offense of the type created by this bill will yield a minimum of "any nonstate prison sanction", meaning that there is no minimum term of incarceration. See ss. 775.082 and 775.083, F.S.

Subsection (4) of s. 11.62, F.S., provides that the proponents of legislation that provides for the regulation of a profession or occupation not already subject to state regulation shall provide, *upon request*, certain information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred. Similarly, subsection (5) provides that the agency shall provide the Legislature with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation, including the resources necessary to implement and enforce the proposed regulation.

C. SECTION DIRECTORY:

Section 1: Creates ch. 508, F.S., related to Wrecker Services. Creates ss. 508.101, 508.102, 508.103, 508.105, 508.106, 508.1061, 508.107, 508.108, 508.109, 508.111, 508.112, 508.113, 508.114, 508.116, 508.117, 508.118, 508.119, and 508.120, F.S.; provides for definitions; creates a wrecker operator advisory council assigned to the state Department of Agriculture and Consumer Services (DACS); provides DACS with rule-making authority; specifies registration requirements, renewal of registrations, denial of registrations, forms of payment wrecker companies must accept, operator certifications, certification cards, process, and continuing education; provides for DACS's inspection of employment records; specifies prohibited acts, administrative penalties, criminal penalties, fees, disposition of payments, recovery agent exemptions, preservation of ordinances, and records maintenance requirements of wrecker companies.

Section 2: Creates s. 508.104, F.S., requiring registration for wrecker companies.

Section 3: Creates s. 508.110, F.S., requiring wrecker operator certification.

Section 4: Creates s. 508.115, F.S., establishing criminal penalties.

Section 5: Effective January 1, 2008, amends s. 120.80, F.S., to reflect changes in definitions created elsewhere in the bill.

Section 6: Creates s. 205.1977, F.S., prohibiting counties and municipalities from issuing local business tax receipts to unregistered wrecker companies.

Section 7: Amends s. 316.530, F.S., to delete the term "tow truck."

Section 8: Amends s. 320.01, F.S., to amend the definition of "wrecker."

Section 9: Effective January 1, 2008, amends s. 320.03, F.S., to replace "wrecker operator" with "wrecker company."

Section 10: Amends s. 320.0706, F.S., requiring license plates to be displayed on the front end of wreckers.

Section 11: Amends s. 320.0821, F.S., providing that a wrecker, regardless of its weight, shall display only one license plate and that it must be displayed on the front of the wrecker.

Section 12: Effective January 1, 2008, amends s. 320.0821, F.S., prohibiting DHSMV from renewing a license plate for a wrecker unless the company owning the wrecker is registered with the state, pursuant to chapter 508, F.S.

Section 13: Amends s. 320.13, F.S., to delete the term "tow truck" and add a cross-reference.

Section 14: Reenacts s. 316.550, F.S., to incorporate the amendments made to s. 320.01, F.S.

Section 15: Reenacts s. 320.08, F.S., to incorporate amendments made to s. 320.01, F.S.

Section 16: Effective January 1, 2008, amends s. 321.051, F.S., to rename the wrecker operator system as the wrecker allocation system and add definitions. Requires that only wrecker companies registered under chapter 508, F.S., may be part of the allocation system; specifies under what circumstances law enforcement officers may dispatch wrecker companies out of rotation or override the selection of a wrecker company by the owner/operator of the disabled vehicle needing a tow.

Section 17: Effective January 1, 2008, amends s. 323.001, F.S., to reflect terminology and registration changes implemented elsewhere in the bill.

Section 18: Effective January 1, 2008, amends s. 323.002, F.S., to rename the county and municipal wrecker operator system as "the county and municipal wrecker allocation system" and to reflect terminology and registration changes implemented elsewhere in the bill; specifies that only wrecker companies registered pursuant to chapter 508, F.S., may be included in the allocation system.

Section 19: Effective January 1, 2008, amends s. 713.78, F.S., to reflect the changes in terminology and definitions created pursuant to the new chapter 508, F.S.; requires an award of damages, costs, and reasonable attorney's fees for the prevailing party in a lien case; authorizes law enforcement officers, firefighters, emergency medical services providers, and authorized or unauthorized wrecker companies to remove vehicles and cargo from a public road without liability, and without the consent of the owner or operator, if the vehicle or cargo poses an imminent public safety hazard; provides for dispute of a wrecker operator's lien if DHSMV records indicate that the vehicle or vessel was sold before issuance of a certificate of destruction.

Section 20: Provides that amendments to s. 713.78, F.S., made by this act do not affect the validity of liens established under s. 713.78, F.S., before January 1, 2008.

Section 21: Effective January 1, 2008, amends s. 715.07, F.S., related to towing vehicles from real property. Clarifies that this section will address towing vehicles and vessels parked on real property without permission; updates to include new wrecker-related terminology and registration requirements; prohibits property owners from soliciting rebates from a wrecker company or operator from using his or her services; corrects cross-references.

Section 22: Effective January 1, 2008, repeals subsection (15) of s. 1.01, F.S., the definition of "wrecker operator."

Section 23: Provides for an appropriation of $693,000 from the General Inspection Trust Fund to DACS and 9 additional FTE positions for the agency to implement the provisions of this act.

Section 24: Provides that the act shall take effect July 1, 2007, except where otherwise specified.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

DACS

	FY 07-08	FY 08-09	FY 09-10
Recurring GITF	693,000	693,000	693,000

Registration fee revenues are to be deposited in the General Inspection Trust Fund.

Florida Department of Law Enforcement (FDLE)

	FY 07-08	FY 08-09	FY 09-10
Recurring			
New applicant background checks estimated at 280 (20% turnover – 280 x $23)		6,440	6,440
Nonrecurring			
Anticipated first year (1,400 background checks @ $23)	32,200		

Revenues are to be deposited in the Operating Trust Fund.

2. Expenditures:

DACS

	FY 07-08	FY 08-09	FY 09-10
Recurring GITF			
Positions (10)	478,677	488,251	498,016
Expenses	67,462	68,962	68,962
AGMIC		6,200	6,200
Non-operating costs (including Gen. Rev. Svc. Chg.)	100,451	100,451	100,451
Total Recurring	646,590	663,864	673,629
Nonrecurring GITF			
Op. Capital Outlay	13,000		
Expenses	32,974		
Total Non-Recurring Costs - GITF	45,974		
Grand Total of Costs (GITF)	692,564	663,864	673,629

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. It is unknown at this time how much revenue local governments derive from occupational license fees from wrecker companies. If some wrecker companies decide not to register with the state, or delay registration for a year or two, then they would not be able to obtain an occupational license from their city or county of operation.

2. Expenditures:

Indeterminate. Some local governments may enter into cooperative agreements with DACS to help enforce the wrecker regulations, but the cost of such responsibilities is unknown at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Wrecker companies will be required to pay an annual registration fee of $495 and comply with the new certification requirements. It is unknown at this time how much the certification and continuing education requirements will cost industry members. According to one industry representative, voluntary wrecker education courses currently cost from $75 to $130. The wrecker industry also will incur the costs of fingerprinting and background checks to meet the new registration requirements. According to FDLE, each request is $47, $23 of which goes into the FDLE Operating Trust Fund. The remaining $24 from each request is forwarded to the Federal Bureau of Investigation.

The general public also is likely to be financially impacted because some wrecker companies may increase towing fees and other charges to cover the new costs of regulation. In any event, the financial cost to consumers is indeterminate at this time, as are the benefits of increased safety and the improved sense of trust and security consumers may experience from having access to better educated and better regulated wrecker operators.

HB 93 also may promote an increase in the number of companies offering wrecker education courses with competitive tuition prices, since certification and continuing education will be a requirement for all tow truck operators working for registered wrecker companies.

D. FISCAL COMMENTS:

HB 93 authorizes nine new positions in DACS, and appropriates $693,000 from the General Inspection Trust Fund. It should be noted that DACS states ten positions are necessary to implement the wrecker regulation program at this same cost. Their analysis, however, illustrates that the $495 registration fee will cover all FY 2007-08 expenditures by DACS, and these revenues should exceed projected expenditures in future years. If fewer than the estimated 1,400 Florida wrecker companies decide to register with DACS, expenditures would exceed revenues and this program would be operating on a deficit.

Additionally, HB 93 creates a number of misdemeanor and felony offenses. Felony offenses could require prison time so it is recommended that the Criminal Justice Estimating Conference review the bill for any potential prison bed impacts. However, if the Legislature fails to rank a felony offense on the offense severity ranking chart (which is the case here), the offense typically defaults to a level 1 which is normally presumed to carry a minimal impact on the prisons.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision is not applicable to HB 93 because the bill does not require counties or municipalities to expend local funds or to raise local funds, nor does it reduce their state revenue-sharing.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

In proposed s. 108.103, F.S., DACS is granted rulemaking authority to administer the chapter, including prescribing specific standards to further define each of the described specialized wrecker services; governing the issuance of certification cards to wrecker operators who meet specified requirements; and setting and adopting a fee schedule.

Included in the rewrite of s. 321.051, F.S., the DHSMV is directed to adopt rules prescribing procedures for setting rates for towing and storage of vehicles removed at the request of the FHP.

C. DRAFTING ISSUES OR OTHER COMMENTS:

2005 Legislation:

A nearly identical bill (CS/SB 276) passed the 2005 Legislature. The legislation; however, was vetoed by Governor Bush. The veto message stated, in part:

" . . .The bill places excessive regulatory and cost burdens on the entire wrecker industry, a burden that will be particularly difficult for smaller wrecker companies to bear. . . .The Department of Agriculture and Consumer Services will be required to provide regulation and enforcement of over 1,500 wrecker companies across the state. Although the bill authorizes 10 FTE positions and appropriates $683,000. . . .it is not certain that those resources will sufficiently equip the department to carry out its new responsibilities.

. . . .the Sunrise Act(,) establishes criteria that must be met before initiating regulation of an industry group in Florida. Among them is the requirement to show that, left unregulated, current industry activities will endanger or substantially harm the public safety or welfare. While proponents of the bill have shown through newspaper articles and videos that problems do exist as the result of abuses by unscrupulous "gypsy" towers, there is insufficient evidence to meet the threshold of *substantial harm* as required by the Sunrise Act."[5]

FDLE Analysis:

In its analysis of the bill, FDLE recommends adding the following language regarding criminal history record checks: *The Department of Agriculture and Consumer Services shall collect from each applicant the fingerprint processing fee of $23 for state processing and an additional fee for national processing. The department shall screen background results to determine if applicant meets the requirements for issuance of a registration certificate.*

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

[5] Veto letter for CS/SB 276, June 3, 2005, Governor Jeb Bush.

Amendment No.

Bill No. HB 93

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Agribusiness
2 Representative Robaina offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 321-829 and insert:
6 508.102 Wrecker Operator Advisory Council.--
7 (1) The Wrecker Operator Advisory Council is created
8 within the department. The council shall advise and assist the
9 department in administering this chapter.
10 (2)(a) The council shall be composed of seven members
11 appointed by the Commissioner of Agriculture.
12 (b) Three members of the council must each be an ultimate
13 equitable owner of a wrecker company who has been an ultimate
14 equitable owner of that company for at least 5 years before his
15 or her appointment; one member must be a wrecker operator who is
16 not an ultimate equitable owner of a wrecker company and who has
17 been a wrecker operator for at least 5 years before his or her
18 appointment; and two members must be laypersons. Each member
19 must be a resident of this state. This paragraph expires July 1,
20 2013.
21 (c) Effective July 1, 2013, four members, two of whom
22 operate three trucks or less, of the council must each be an

23 ultimate equitable owner of a wrecker company registered under
24 this chapter who has been an ultimate equitable owner of that
25 company registered for at least 5 years before his or her
26 appointment; one member must be a wrecker operator certified
27 under this chapter who is not an ultimate equitable owner of a
28 wrecker company and who has been a certified wrecker operator
29 for at least 5 years before his or her appointment; and two
30 members must be laypersons. Each member must be a resident of
31 this state.
32 (3) The term of each member of the council is 4 years,
33 except, to establish staggered terms, two members who are owners
34 of wrecker companies and one layperson shall be appointed
35 initially for a 2-year term. Members may be reappointed for
36 additional terms not to exceed 8 years of consecutive service. A
37 vacancy shall be filled for the remainder of the unexpired term
38 in the same manner as the original appointment.
39 (4)(a) From among its members, the council shall annually
40 elect a chair, who shall preside over the meetings of the
41 council, and a vice chair.
42 (b) In conducting its meetings, the council shall use
43 accepted rules of procedure. The department shall keep a
44 complete record of each meeting showing the names of members
45 present and the actions taken. These records and other documents
46 regarding matters within the jurisdiction of the council must be
47 kept on file with the department.
48 (5) The members of the council shall serve without
49 compensation but are entitled to reimbursement of travel and per
50 diem expenses under s. 112.061.
51 (6) The department shall provide administrative and staff
52 support services relating to the functions of the council.

53 (7) The council shall review the rules adopted by the
54 department to administer this chapter and shall advise the
55 department on matters relating to industry standards and
56 practices and other issues that require technical expertise and
57 consultation or that promote better consumer protection in the
58 wrecker industry.
59 508.103 Rulemaking authority.--The department may adopt
60 rules under ss. 120.536(1) and 120.54 to administer this
61 chapter.
62 508.105 Registration requirements; renewal of
63 registrations.--
64 (1) Each wrecker company engaged or attempting to engage
65 for hire in the business of towing, carrying, or transporting
66 vehicles or vessels by wrecker upon the streets and highways of
67 this state must annually register with the department on forms
68 prescribed by the department. The application for registration
69 must include at least the following information:
70 (a) The name and federal employer identification number of
71 the wrecker company.
72 (b) The mailing address, physical address, and telephone
73 number of the wrecker company's primary place of business.
74 (c) The fictitious name under which the wrecker company
75 transacts business in this state.
76 (d) The full name, residence address, business address,
77 and telephone number of the applicant. If the applicant is other
78 than a natural person, the application must also contain the
79 full name, residence address, business address, telephone
80 number, and federal employer identification number, if
81 applicable, of each ultimate equitable owner of the business
82 entity and each officer, director, partner, manager, member, or
83 managing member of the entity.

84 (e) If the applicant is other than a natural person, the
85 full name of the business entity's registered agent and the
86 address of the registered office for service of process.
87 (f) The physical address and telephone number of each
88 business location and each storage facility where the wrecker
89 company stores towed vehicles or vessels.
90 (2) Each initial and renewal application for registration
91 must be accompanied by the registration fee prescribed in s.
92 508.116.
93 (3) Each initial application for registration must be
94 accompanied by a complete set of the applicant's fingerprints
95 taken by a law enforcement agency. If the applicant is other
96 than a natural person, a complete set of fingerprints must be
97 filed for each ultimate equitable owner of the business entity
98 and each officer, director, partner, manager, member, or
99 managing member of the entity. The department shall submit the
100 fingerprints to the Department of Law Enforcement for state
101 processing, and the Department of Law Enforcement shall forward
102 the fingerprints to the Federal Bureau of Investigation for
103 national processing. The applicant must also pay the Department
104 of Law Enforcement a fingerprint processing fee of $23 for state
105 processing, and the amount of the fee charged by the Federal
106 Bureau of Investigation for federal processing, for each
107 applicant's name submitted. Registration renewal applications
108 need not be accompanied by a set of fingerprints for an
109 individual who previously submitted a set of fingerprints to the
110 department as part of a prior year's registration application.
111 (4) The department shall review each application in
112 accordance with s. 120.60 and shall issue a registration
113 certificate, in the form and size prescribed by the department,
114 to each wrecker company whose application is approved. The

115 certificate must show at least the name and address of the
116 wrecker company and the registration number. The registration
117 certificate must be prominently displayed in the wrecker
118 company's primary place of business.
119 (5) Each advertisement of a wrecker company must include
120 the phrase "Fla. Wrecker Co. Reg. No. ." For the purpose of
121 this subsection, the term "advertisement" means a printed or
122 graphic statement made in a newspaper or other publication or
123 contained in any notice, handbill, or sign, including signage on
124 a vehicle, flyer, catalog, or letter.
125 (6) A registration is invalid for a wrecker company
126 transacting business at a place other than the location
127 specified in the registration application unless the department
128 is first notified in writing before the change of location. A
129 registration issued under this chapter is not transferable or
130 assignable, and a wrecker company may not conduct business under
131 a name other than the name registered. A wrecker company
132 desiring to change its registered name, location, or registered
133 agent for service of process at a time other than upon renewal
134 of registration must notify the department of the change.
135 (7)(a) Each registration must be renewed annually on or
136 before the expiration date of the current registration. A late
137 fee of $25 must be paid, in addition to the registration fee or
138 any other penalty, for a registration renewal application that
139 is received by the department after the expiration date of the
140 current registration. The department may not issue a
141 registration until all fees are paid.
142 (b) A wrecker company whose primary place of business is
143 located within a county or municipality that requires, by local
144 ordinance, a local business tax receipt under chapter 205 may
145 not renew a registration under this chapter unless the wrecker

146 company obtains the business tax receipt from the county or
147 municipality.
148 (8) Each wrecker company must provide the department with
149 a certificate of insurance for the insurance coverage required
150 under s. 627.7415 before the department may issue the
151 certificate for an initial or renewal registration. The
152 department must be named as a certificateholder on the insurance
153 certificate and must be notified at least 30 days before any
154 change in insurance coverage.
155 (9) The department shall notify the Department of Highway
156 Safety and Motor Vehicles when a registration issued under this
157 chapter has been suspended or revoked by order of the
158 department. Notification must be sent within 10 days after the
159 department issues the suspension or revocation order.
160 508.106 Denial of registration.--The department may deny,
161 revoke, or refuse to renew the registration of a wrecker company
162 based upon a determination that the applicant or, if the
163 applicant is other than a natural person, the wrecker company or
164 any of its ultimate equitable owners, officers, directors,
165 partners, managers, members, or managing members has:
166 (1) Not met the requirements for registration under this
167 chapter;
168 (2) Been convicted or found guilty of, regardless of
169 adjudication, or pled guilty or nolo contendere to, a felony
170 within the last 10 years;
171 (3) Been convicted or found guilty of, regardless of
172 adjudication, or pled guilty or nolo contendere to, a crime
173 within the last 10 years involving repossession of a motor
174 vehicle under chapter 493, repair of a motor vehicle under ss.
175 559.901-559.9221, theft of a motor vehicle under s. 812.014,
176 carjacking under s. 812.133, operation of a chop shop under s.

177 812.16, failure to maintain records of motor vehicle parts and
178 accessories under s. 860.14, violations relating to airbags
179 under s. 860.145 or use of fake airbags under s. 860.146,
180 overcharging for repairs and parts under s. 860.15, or a
181 violation of towing or storage requirements for a motor vehicle
182 under this chapter, s. 321.051, chapter 323, s. 713.78, or s.
183 715.07;
184 (4) Not satisfied a civil fine or penalty arising out of
185 an administrative or enforcement action brought by the
186 department, another governmental agency, or a private person
187 based upon conduct involving a violation of this chapter;
188 (5) Pending against him or her a criminal, administrative,
189 or enforcement proceeding in any jurisdiction based upon conduct
190 involving a violation of this chapter; or
191 (6) Had a judgment entered against him or her in an action
192 brought by the department under this chapter.
193 508.1061 Acceptable forms of payment.--A wrecker company
194 shall accept a minimum of two of the three following forms of
195 payment:
196 (1) Cash, cashier's check, money order, or traveler's
197 check.
198 (2) Valid personal check, showing upon its face the name
199 and address of the vehicle or vessel owner or authorized
200 representative.
201 (3) Valid credit card, including, but not limited to, Visa
202 or MasterCard.
203 508.107 Wrecker operator certification program.--
204 (1) The department, in consultation with the council,
205 shall establish a wrecker operator certification program by
206 December 31, 2007. Under this program, the council shall approve
207 certification courses for wrecker operators conducted by

208 approved organizations. The council shall prescribe the minimum
209 curricula for these courses, including instruction for operators
210 of light duty, medium duty, and rollback trucks, which must be
211 at least a 16 hour course for light duty, medium duty, and
212 rollback wreckers. Included in the course must be instruction
213 in: towing and winching a passenger vehicle and uprighting an
214 overturned passenger vehicle, including the proper use of
215 chains, wire rope, and straps; towing and winching a medium-
216 sized commercial vehicle and uprighting an overturned medium-
217 sized commercial vehicle; and proper loading, securing,
218 transporting, and unloading of a vehicle on a flatbed-rollback
219 wrecker. Such instruction must be equally apportioned between
220 theoretical instruction and practical training. This class shall
221 be 16 hours and should be taken within the first six months of
222 employment. The council must approve each organization and its
223 certification course before the course is accepted for
224 certification of wrecker operators under this chapter.
225 (2) Each approved wrecker operator certification course
226 must include a certification examination demonstrating a wrecker
227 operator's knowledge, skills, and abilities in performing
228 wrecker services and proficiency in the subject matter of the
229 certification course. The council must approve each
230 certification examination before the examination is accepted for
231 certification of wrecker operators under this chapter.
232 (3) Each organization conducting an approved wrecker
233 operator certification course must issue on forms prescribed by
234 the department a certificate to each wrecker operator who
235 completes the approved certification course and passes the
236 approved certification examination.
237 508.108 Specialized wrecker services.--

238 (1) In addition to the minimum curricula for certification
239 of wrecker operators, approved certification courses may offer
240 optional instruction, training, and examination of wrecker
241 operators for each of the following specialized wrecker
242 services:
243 (a) Heavy and ultra-heavy duty.--Towing and winching a
244 standard large-sized commercial vehicle and uprighting an
245 overturned standard large-sized commercial vehicle; towing and
246 winching a specialty large-sized commercial vehicle or another
247 complex vehicle and uprighting an overturned specialty large-
248 sized commercial vehicle or another complex vehicle. This class
249 shall be 16 hours and should be taken within the first year of
250 employment.
251 (b) Hazardous materials.--Awareness of hazardous materials.
252 Instruction and training for this wrecker service must comprise
253 at least 8 hours in order to be approved.
254 (c) Air cushions.--Proper use of air cushions in the
255 recovery of a heavy-duty vehicle.
256 (2) The department shall adopt rules prescribing specific
257 standards to further define each of the specialized wrecker
258 services described in subsection (1). The council must approve
259 the instruction, training, and examination for a specialized
260 wrecker service before the specialized wrecker service is
261 accepted for endorsement of a wrecker operator's certification
262 under this chapter.
263 (3) Each organization conducting an approved wrecker
264 operator certification course must issue on forms prescribed by
265 the department a certificate to each wrecker operator who
266 completes the approved instruction and training for a
267 specialized wrecker service and passes the approved endorsement
268 examination for that specialized wrecker service.

269 508.109 Certification cards.--
270 (1) Each organization conducting an approved wrecker
271 operator certification course must issue a certification card to
272 each wrecker operator who completes the approved certification
273 course and passes the approved certification examination. The
274 department must approve the form of the certification cards
275 issued by each organization. Each certification card must
276 include the wrecker operator's name, a color photograph or
277 digital image of the wrecker operator, and the expiration date
278 of the certification card.
279 (2) Each certification card must also include the wrecker
280 operator's applicable endorsements for those specialized wrecker
281 services for which the wrecker operator completed the approved
282 instruction and training and passed the approved endorsement
283 examination.
284 (3)(a) The department may adopt rules governing the
285 issuance of a certification card to a wrecker operator who:
286 1. Completes a certification course and passes a
287 certification examination in another state, which course and
288 examination are substantially equivalent to the approved
289 certification courses and approved certification examinations in
290 this state.
291 2. Completed a certification course and passed a
292 certification examination in this state between January 1, 2003,
293 and December 31, 2007, which course and examination are
294 substantially equivalent to the approved certification courses
295 and the approved certification examinations. This subparagraph
296 expires July 1, 2008.
297 3. Completed instruction and training for a specialized
298 wrecker service and passed an endorsement examination for that
299 specialized wrecker service between January 1, 2003, and

300 December 31, 2007, which instruction, training, and examination
301 are substantially equivalent to the approved instruction and
302 training and the approved endorsement examinations. This
303 subparagraph expires July 1, 2008.
304 (b) For the purposes of this subsection, the council shall
305 approve each certification examination in another state, and
306 shall approve the instruction, training, and examination for
307 each specialized wrecker service in another state, that the
308 council determines are substantially equivalent to the approved
309 certification courses and approved certification examinations in
310 this state or to the approved instruction, training, and
311 endorsement examinations for a specialized wrecker service in
312 this state.
313 (4) Each certification card expires 5 years after the date
314 of issuance.
315 (5) Certification cards shall be issued by the
316 organizations conducting approved wrecker operator certification
317 courses. The department is not responsible for issuing
318 certification cards or for the costs associated with the
319 issuance of certification cards.
320 508.111 Renewal of certification; continuing education
321 requirements.--
322 (1) The department, in consultation with the council,
323 shall establish a continuing education program for the
324 recertification of wrecker operators by December 31, 2008. In
325 order to renew a wrecker operator's certification card, an
326 operator must complete 4 hours of continuing education every 5
327 years. The council must prescribe the minimum curricula and
328 proper examination for each continuing education course, each of
329 which must be at least 4 hours in length. The council shall
330 approve each organization, and the continuing education course

331 it proposes to offer, before the course is approved for
332 recertifying wrecker operators. Coursework may be completed in a
333 classroom setting or, if available, online.
334 (2) Each organization conducting an approved wrecker
335 operator continuing education course must issue, on forms
336 prescribed by the department, a certificate to each wrecker
337 operator who completes the approved course and passes an
338 approved recertification examination.
339 508.112 Prohibited acts.--It is a violation of this
340 chapter for a person to:
341 (1) Charge rates that exceed the maximum rates imposed by
342 the ordinances of the respective county or municipality under
343 ss. 125.0103(1)(c) and 166.043(1)(c).
344 (2) Violate s. 321.051, relating to the Florida Highway
345 Patrol wrecker allocation system.
346 (3) Violate s. 323.002, relating to county and municipal
347 wrecker allocation systems.
348 (4) Violate s. 713.78, relating to liens for recovering,
349 towing, or storing vehicles and vessels.
350 (5) Violate s. 715.07, relating to towing or removing
351 vehicles and vessels parked on real property without permission.
352 (6) Refuse to allow a law enforcement officer to inspect a
353 towing and storage facility as required in s. 812.055.
354 (7) Allow a person who is not certified as a wrecker
355 operator under this chapter to perform wrecker services or
356 specialized wrecker services for the wrecker company for more
357 than 6 months after first being employed by, or becoming an
358 ultimate equitable owner of, the wrecker company.
359 (8) Allow a wrecker operator certified under this chapter
360 to perform a specialized wrecker service for the wrecker company

361 if the wrecker operator's certification does not include an
362 endorsement for that specialized wrecker service.
363 (9) Perform an act otherwise prohibited by this chapter or
364 fail to perform an act otherwise required by this chapter.
365 508.113 Administrative penalties; inspection of records.--
366 (1) The department may take one or more of the following
367 actions if the department finds that a person has violated this
368 chapter or the rules or orders issued under this chapter:
369 (a) Issue a notice of noncompliance under s. 120.695.
370 (b) Impose an administrative fine not to exceed $5,000 for
371 each act or omission.
372 (c) Direct the person to cease and desist specified
373 activities.
374 (d) Refuse to register the wrecker company or suspend or
375 revoke the wrecker company's registration.
376 (e) Place the wrecker company on probation for a period of
377 time, subject to the conditions specified by the department.
378 (2) Chapter 120 shall govern an administrative proceeding
379 resulting from an order imposing a penalty specified in
380 subsection (1).
381 508.114 Civil penalties.--The department may bring a civil
382 action in a court of competent jurisdiction to recover any
383 penalties or damages allowed in this chapter and for injunctive
384 relief to enforce compliance with this chapter. The department
385 may seek a civil penalty of up to $5,000 for each violation of
386 this chapter and may seek restitution for and on behalf of any
387 owner of a vehicle or vessel who is aggrieved or injured by a
388 violation of this chapter.
389 508.116 Fees.--The department shall adopt by rule a fee
390 schedule not to exceed the following amounts:
391 (1) Wrecker company registration fee: $495.

392 (2) Wrecker company registration renewal fee: $495.
393 The department shall collect and maintain data relating to the
394 registration fees and shall review the fee amounts after the
395 first 2 years of the registration program's existence.
396 508.117 General Inspection Trust Fund; payments.--All
397 fees, penalties, or other funds collected by the department
398 under this chapter must be deposited in the General Inspection
399 Trust Fund and may only be used for the purpose of administering
400 this chapter.
401 508.118 County and municipal ordinances.--A county or
402 municipality may enact ordinances governing the business of
403 transporting vehicles or vessels by wrecker that are more
404 restrictive than this chapter. This section does not limit the
405 authority of a political subdivision to impose regulatory fees
406 or charges or to levy local business taxes under chapter 205.
407 The department may enter into a cooperative agreement with any
408 county or municipality that provides for the referral,
409 investigation, and prosecution of consumer complaints alleging
410 violations of this chapter. The department is authorized to
411 delegate enforcement of this chapter to any county or
412 municipality entering into a cooperative agreement.
413 508.119 Records.--
414 (1) Each wrecker company shall maintain records of its
415 wrecker services for at least 12 months. These records shall be
416 maintained at the wrecker company's principal place of business.
417 (2) Each wrecker company shall maintain records on each of
418 its wrecker operators sufficient to demonstrate that the
419 operator has successfully completed an approved wrecker operator
420 certification course or an approved wrecker operator continuing
421 education course and is certified to perform wrecker services.
422 These records shall be maintained at the wrecker company's

423 principal place of business for as long as the operator is
424 employed by the wrecker company and for at least 6 months
425 thereafter.
426 (3) Each organization approved to conduct a wrecker
427 operator certification course or approved to offer a wrecker
428 operator continuing education course shall maintain records on
429 each person who successfully completes one of the courses. The
430 records shall be maintained at the organization's principal
431 place of business for at least 5 years. The department may, at
432 any time during normal business hours, enter the organization's
433 principal place of business to examine the records.
434 Section 2. Effective January 1, 2008, section 508.104,
435 Florida Statutes, is created to read:
436 508.104 Wrecker companies; registration required.--
437 (1) A person may not own, operate, solicit business for,
438 advertise services for, or otherwise engage for hire in the
439 business of a wrecker company in this state unless that person
440 is registered with the department under this chapter.
441 (2) A person applying for or renewing a local business tax
442 receipt to engage for hire in the business of a wrecker company
443 must exhibit a current registration certificate from the
444 department before the local business tax receipt may be issued
445 or reissued under chapter 205.
446 (3) This section does not apply to any franchised motor
447 vehicle dealer licensed pursuant to s. 320.27 when wrecker
448 services are incidental to the operation of the franchise.
449 Section 3. Effective January 1, 2008, section 508.110,
450 Florida Statutes, is created to read:
451 508.110 Wrecker operators; certification required;
452 inspection of employment records.--

453 (1) A person may not perform wrecker services in this
454 state unless he or she is an employee or ultimate equitable
455 owner of a wrecker company that is registered with the
456 department under this chapter and those wrecker services are
457 performed on behalf of the wrecker company.
458 (2)(a) A person may not perform wrecker services or
459 specialized wrecker services for a wrecker company for more than
460 6 months after first being employed by, or becoming an ultimate
461 equitable owner of, the wrecker company without being certified
462 as a wrecker operator under this chapter.
463 (b) A wrecker operator certified under this chapter may
464 not perform a specialized wrecker service for a wrecker company
465 unless the wrecker operator's certification includes an
466 endorsement for that specialized wrecker service.
467 (4) The department may, at any time during business hours,
468 enter any business location of a wrecker company and examine the
469 company's books or records. If the department reasonably
470 believes a violation of this chapter has occurred or is
471 occurring, the department may subpoena any necessary books or
472 records.
473
474
475 ========== D I R E C T O R Y A M E N D M E N T ==========
476 Remove line(s) 263 and insert:
477 508.116, 508.117, 508.118, and 508.119, is created to
478
479 ========== T I T L E A M E N D M E N T ==========
480 Remove line(s) 83-107 and insert:
481 other funds; creating s. 508.118, F.S.; authorizing counties and
482 municipalities to enact ordinances governing wrecker operators;
483 providing for the department to enter into a cooperative

484 agreement with a county or municipality for the referral,
485 investigation, and prosecution of consumer complaints or
486 enforcement of specified wrecker services provisions; creating
487 s. 508.119, F.S.; requiring that a wrecker company maintain
488 records of its services and operators; requiring organizations
489 that conduct operator certification or continuing education
490 courses to maintain records on each person who successfully
491 completes one of the courses; authorizing inspection of records
492 by the department; creating s. 508.104, F.S.; prohibiting
493 persons from owning, operating, or being issued a local business
494 tax receipt on behalf of a wrecker company without first
495 registering with the department; requiring registration prior to
496 issuance or renewal of local business tax receipt; excluding
497 certain motor vehicle dealers; creating s. 508.110, F.S.;
498 prohibiting the performance of wrecker services after a certain
499 date unless the operator is in the employ of a company that is
500 registered; requiring wrecker operators to be certified;

1 A bill to be entitled
2 An act relating to wrecker services; creating chapter 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 for meeting
10 procedures and recordkeeping; providing for reimbursement
11 for travel and per diem expenses; directing the department
12 to provide support services for the council; directing the
13 council to review rules adopted by the department and to
14 advise the department on matters relating to standards and
15 practices in the wrecker industry; creating s. 508.103,
16 F.S.; authorizing the department to adopt rules; creating
17 s. 508.105, F.S.; requiring wrecker companies to register
18 annually with the department; providing for the
19 registration application; providing for processing of
20 fingerprints by the Department of Law Enforcement;
21 requiring fees for processing; providing for issuance of
22 registration certificate; requiring display of the
23 certificate; providing requirements for advertisements;
24 requiring notification of changes in registration
25 information; requiring certain fees to be paid; requiring
26 certain companies to obtain a local business tax receipt
27 prior to registration renewal; requiring insurance
28 coverage; requiring the department to notify the

29 Department of Highway Safety and Motor Vehicles when a
30 registration has been suspended or revoked; creating s.
31 508.106, F.S.; authorizing the Department of Agriculture
32 and Consumer Services to deny, revoke, or refuse to renew
33 the registration of a wrecker company under certain
34 circumstances; creating s. 508.1061, F.S.; requiring a
35 wrecker company to accept certain forms of payment;
36 creating s. 508.107, F.S.; requiring the department to
37 establish a certification program for wrecker operators;
38 providing for the council to approve certification courses
39 and the organizations conducting the courses; providing
40 for the council to prescribe course curricula; providing
41 requirements for courses; requiring each course to include
42 an examination approved by the council; providing criteria
43 for the examination; requiring the organization conducting
44 the course to issue the certificate to the wrecker
45 operator; creating s. 508.108, F.S.; requiring each
46 certification course to offer optional specialized wrecker
47 services instruction, training, and examinations;
48 describing specialized wrecker services; directing the
49 department to adopt rules prescribing specific standards
50 to further define each specialized wrecker service;
51 requiring council approval of the instruction, training,
52 and examination; requiring the organization conducting the
53 course to issue the certificate to the wrecker operator;
54 creating s. 508.109, F.S.; providing for form and content
55 of certification cards; authorizing the department to
56 adopt rules for issuance of certification cards to an

57 operator who completes a certification course and passes a
58 certification examination in another state or completed a
59 certification course and passed a certification
60 examination in this state during a certain time period;
61 authorizing the department to adopt rules for issuance of
62 endorsements for specialized services to a wrecker
63 operator who completed instruction and training for a
64 specialized wrecker service and passed an endorsement
65 examination for that specialized wrecker service during a
66 certain time period; providing for approval by the council
67 of out-of-state certification instructions, training, and
68 examinations; providing for expiration of certification;
69 requiring certification cards to be issued by the
70 organizations conducting the courses; creating s. 508.111,
71 F.S.; providing requirements for recertification;
72 providing for a continuing education program to be
73 established by the department; providing for curricula and
74 examinations to be prescribed by the council; requiring
75 course approval by the council; providing for a
76 certificate to be issued by the training organization to
77 the wrecker operator; creating s. 508.112, F.S.;
78 prohibiting certain acts; creating ss. 508.113 and
79 508.114, F.S.; providing administrative and civil
80 penalties; creating s. 508.116, F.S.; providing for
81 registration and renewal fees; creating s. 508.117, F.S.;
82 providing for deposit and use of fees, penalties, and
83 other funds; creating s. 508.118, F.S.; providing that the
84 chapter does not apply to recovery agents; creating s.

85 508.119, F.S.; authorizing counties and municipalities to
86 enact ordinances governing wrecker operators; providing
87 for the department to enter into a cooperative agreement
88 with a county or municipality for the referral,
89 investigation, and prosecution of consumer complaints or
90 enforcement of specified wrecker services provisions;
91 creating s. 508.120, F.S.; requiring that a wrecker
92 company maintain records of its services and operators;
93 requiring organizations that conduct operator
94 certification or continuing education courses to maintain
95 records on each person who successfully completes one of
96 the courses; authorizing inspection of records by the
97 department; creating s. 508.104, F.S.; prohibiting persons
98 from owning, operating, or being issued a local business
99 tax receipt on behalf of a wrecker company without first
100 registering with the department; requiring registration
101 prior to issuance or renewal of local business tax
102 receipt; excluding certain motor vehicle repair shops and
103 dealers; creating s. 508.110, F.S.; prohibiting the
104 performance of wrecker services after a certain date
105 unless the operator is in the employ of a company that is
106 registered; requiring wrecker operators to be certified;
107 providing exceptions for certain shops and organizations;
108 authorizing the department to inspect company records;
109 creating s. 508.115, F.S.; providing criminal penalties;
110 amending s. 120.80, F.S.; providing for appointment of a
111 hearing officer by the director of the Division of the
112 Florida Highway Patrol when a hearing is held to deny,

113 suspend, or remove a wrecker company from participating in
114 the wrecker allocation system; creating s. 205.1977, F.S.;
115 prohibiting a county or municipality from issuing or
116 renewing a business tax receipt for a wrecker company that
117 is not registered with the Department of Agriculture and
118 Consumer Services; amending s. 316.530, F.S., relating to
119 towing requirements; conforming terminology; amending s.
120 320.01, F.S.; redefining the term "wrecker" for purposes
121 of the Florida Statutes; amending s. 320.03, F.S.,
122 relating to withholding the motor vehicle registration
123 plate or revalidation sticker; providing for application
124 of provisions to wrecker companies rather than wrecker
125 operators; amending s. 320.0706, F.S.; requiring a wrecker
126 to display the registration license plate only on its
127 front; amending s. 320.0821, F.S.; revising requirements
128 for the issuance of wrecker license plates; requiring the
129 license plate to be displayed on the front of the wrecker;
130 amending s. 320.13, F.S., relating to dealer license
131 plates; conforming terminology; reenacting ss.
132 316.550(4)(a) and (9) and 320.08(5)(d) and (e), F.S.,
133 relating to special wrecker permits and license taxes, to
134 incorporate the amendment to s. 320.01, F.S., in
135 references thereto; amending s. 321.051, F.S.; revising
136 provisions for the Florida Highway Patrol wrecker operator
137 system; changing the designation to "wrecker allocation
138 system"; providing definitions; revising provisions that
139 authorize the Division of the Florida Highway Patrol
140 within the Department of Highway Safety and Motor Vehicles

141 to establish the system; revising requirements for the
142 system; limiting the system to using certain registered
143 wrecker companies; revising wrecker eligibility
144 requirements; revising provisions for procedures for
145 appeal of final orders by the department denying,
146 suspending, or revoking eligibility to participate;
147 prohibiting an unauthorized wrecker company and wrecker
148 operators dispatched by an unauthorized company from
149 engaging in certain activities; requiring those operators
150 to disclose certain information to the owner or operator
151 of a wrecked or disabled vehicle prior to towing;
152 providing penalties; providing for a law enforcement
153 officer to dispatch an authorized wrecker company other
154 than a company requested by the vehicle owner or operator
155 or to dispatch a company out of rotation; amending s.
156 323.001, F.S.; revising procedures for placement of a hold
157 on a vehicle at a storage facility; providing for
158 placement of a hold by a law enforcement agency; providing
159 definitions; revising provisions for payment of towing and
160 storage charges; revising rate limitation provisions;
161 amending s. 323.002, F.S.; revising provisions for county
162 and municipal wrecker operator systems; changing the
163 designation to "wrecker allocation systems"; providing
164 definitions; limiting the systems to using certain
165 registered wrecker companies; prohibiting an unauthorized
166 wrecker company and wrecker operators dispatched by an
167 unauthorized company from engaging in certain activities;
168 requiring those operators to disclose certain information

169 to the owner or operator of a wrecked or disabled vehicle
170 prior to towing; providing penalties; providing for a law
171 enforcement officer to dispatch an authorized wrecker
172 company other than a company requested by the vehicle
173 owner or operator or to dispatch a company out of
174 rotation; amending s. 713.78, F.S.; providing for claim of
175 lien by a wrecker company for recovering, removing, or
176 storing a vehicle or vessel; conforming provisions to
177 changes made by the act; providing definitions; requiring
178 notification to the vehicle or vessel owners, insurers,
179 and lienholders; providing for a law enforcement agency to
180 obtain information from the Department of Highway Safety
181 and Motor Vehicles and provide the information to the
182 wrecker company; providing notice procedures; providing
183 for content of the notice; providing for notice to the
184 agency of jurisdiction if the vehicle or vessel owner or
185 lienholder cannot be identified; revising procedures for
186 complaint by the vehicle or vessel owner; providing for
187 release of the vehicle or vessel; requiring damages,
188 attorney's fees, and costs to be awarded by the court;
189 requiring immediate payment of recovery, towing, and
190 storage fees to be ordered by the court; providing for
191 notice and sale of the vehicle or vessel by the wrecker
192 company; providing for distribution of proceeds; providing
193 for discharge of liens and issuance of certificate of
194 title; providing immunity from liability for a wrecker
195 company, its operators, and other employees or agents
196 under certain conditions; providing for a presumption of

197 the use of reasonable care; requiring wrecker company
198 information to be printed on the wrecker; specifying that
199 failure to make good faith, best efforts to comply with
200 notice requirements precludes imposition of storage
201 charges; requiring a wrecker company to provide access to
202 the vehicle or vessel; requiring release of the vehicle,
203 vessel, or personal property to the owner or agent of the
204 owner; requiring the wrecker company to obtain a
205 certificate of destruction in lieu of a certificate of
206 title when the vehicle or vessel is to be dismantled,
207 destroyed, or changed in such a manner that it is not the
208 motor vehicle or vessel described in the certificate of
209 title; providing for issuance of the certificate of
210 destruction by the county tax collector; providing
211 requirements for application for the certificate of
212 destruction; providing for reassignment of the certificate
213 of destruction; authorizing the Department of Highway
214 Safety and Motor Vehicles to adopt rules; providing
215 penalties for specified violations; authorizing the
216 Department of Highway Safety and Motor Vehicles to inspect
217 wrecker company records; directing the Department of
218 Highway Safety and Motor Vehicles, upon notice of lien
219 from a wrecker company, to place the name of the owner of
220 the vehicle or vessel on the list of those persons who may
221 not be issued a license plate or revalidation sticker for
222 a motor vehicle; providing for forms for the notice of
223 lien; providing for dispute by the owner; providing for
224 the owner's name to be removed from the list of those

225 persons who may not be issued a license plate or
226 revalidation sticker for a motor vehicle; providing for
227 lien expiration; requiring a certificate of discharge to
228 be issued by the wrecker company; providing for certain
229 fees and charges; providing for application and
230 exceptions; clarifying that the amendments made by the act
231 do not affect the validity of prior liens; amending s.
232 715.07, F.S., revising provisions for the towing and
233 storage of vehicles and vessels parked on real property
234 without permission; providing definitions; providing
235 requirements for storage facility operation; providing
236 requirements for a wrecker company, its operators, and
237 other employees or agents; prohibiting a wrecker company,
238 a wrecker operator, or another employee or agent of a
239 wrecker company from paying or accepting payment for the
240 privilege of removing vehicles or vessels from a
241 particular location; revising requirements for tow-away
242 signs to be posted by property owners; requiring a wrecker
243 company to maintain rate schedules with the local law
244 enforcement agency and to post rates and contracts at its
245 storage facility; revising requirements for certain
246 signage on a wrecker; providing immunity from liability
247 for a wrecker company, its operators, and other employees
248 or agents if entry into the vehicle or vessel is performed
249 with reasonable care; revising provisions for release of
250 the vehicle or vessel; providing that failure to comply
251 with notice requirements precludes a wrecker company from
252 imposing certain towing or storage charges; providing

253 penalties; repealing s. 1.01(15), F.S., relating to the
254 definition of the term "wrecker operator"; providing an
255 appropriation and authorizing additional positions;
256 providing effective dates.
257
258 Be It Enacted by the Legislature of the State of Florida:
259
260 Section 1. Chapter 508, Florida Statutes, consisting of
261 sections 508.101, 508.102, 508.103, 508.105, 508.106, 508.1061,
262 508.107, 508.108, 508.109, 508.111, 508.112, 508.113, 508.114,
263 508.116, 508.117, 508.118, 508.119, and 508.120, is created to
264 read:
265 CHAPTER 508
266 WRECKER SERVICES
267 508.101 Definitions.--As used in this chapter, the term:
268 (1) "Business entity" means any form of corporation,
269 limited liability company, partnership, association,
270 cooperative, joint venture, business trust, sole proprietorship,
271 or self-employed person conducting business in this state.
272 (2) "Council" means the Wrecker Operator Advisory Council.
273 (3) "Department" means the Department of Agriculture and
274 Consumer Services.
275 (4) "Specialized wrecker service" means a wrecker service
276 described in s. 508.108. A wrecker operator is required to
277 obtain the applicable certification endorsement before
278 performing a specialized wrecker service.
279 (5) "Ultimate equitable owner" means a natural person who,
280 directly or indirectly, owns or controls 10 percent or more of

281 an ownership interest in a wrecker company, regardless of
282 whether the natural person owns or controls the ownership
283 interest through one or more natural persons or one or more
284 proxies, powers of attorney, nominees, business entities, or any
285 combination thereof.
286 (6) "Vehicle" means any vehicle of a type that may be
287 registered under chapter 320 for operation on the roads of this
288 state, regardless of whether the vehicle is actually registered.
289 The term does not include a mobile home or manufactured home as
290 defined in s. 320.01.
291 (7) "Vessel" means any type of watercraft, barge, or
292 airboat, however described, used or capable of being used as a
293 means of transportation on water, other than a seaplane or a
294 documented vessel as defined in s. 327.02.
295 (8) "Wrecker" has the same meaning ascribed in s. 320.01.
296 (9) "Wrecker company" means a business entity engaged for
297 hire in the business of towing, carrying, or transporting
298 vehicles or vessels by wrecker upon the streets and highways of
299 this state. The term does not include a person regularly engaged
300 in the business of transporting mobile homes.
301 (10) "Wrecker operator" means a person who performs
302 wrecker services.
303 (11) "Wrecker services" means towing, carrying, or
304 otherwise transporting vehicles or vessels by wrecker upon the
305 streets and highways of this state for hire. The term includes,
306 but is not limited to, each of the following:
307 (a) Driving a wrecker.
308 (b) Loading, securing, and unloading a vehicle or vessel

309 on a wrecker using a boom, winch, car carrier, or other similar
310 equipment.
311 (c) Towing or removal of a wrecked, disabled, or abandoned
312 vehicle under the Florida Highway Patrol wrecker allocation
313 system pursuant to s. 321.051 or under a county or municipal
314 wrecker allocation system pursuant to s. 323.002.
315 (d) Towing, recovery, or removal of a vehicle or vessel
316 under s. 713.78.
317 (e) Towing, transportation, or removal of a vehicle or
318 vessel parked on real property without permission under s.
319 715.07.
320 (f) Recovery of a vehicle or vessel.
321 508.102 Wrecker Operator Advisory Council.--
322 (1) The Wrecker Operator Advisory Council is created
323 within the department. The council shall advise and assist the
324 department in administering this chapter.
325 (2)(a) The council shall be composed of six members
326 appointed by the Commissioner of Agriculture. In addition, the
327 executive director of the Professional Wrecker Operators of
328 Florida, Inc., shall serve ex officio as a voting member of the
329 council.
330 (b) Three members of the council must each be an ultimate
331 equitable owner of a wrecker company who has been an ultimate
332 equitable owner of that company for at least 5 years before his
333 or her appointment; one member must be a wrecker operator who is
334 not an ultimate equitable owner of a wrecker company and who has
335 been a wrecker operator for at least 5 years before his or her
336 appointment; and two members must be laypersons. Each member

337 must be a resident of this state. This paragraph expires July 1,
338 2013.
339 (c) Effective July 1, 2013, three members of the council
340 must each be an ultimate equitable owner of a wrecker company
341 registered under this chapter who has been an ultimate equitable
342 owner of that company registered for at least 5 years before his
343 or her appointment; one member must be a wrecker operator
344 certified under this chapter who is not an ultimate equitable
345 owner of a wrecker company and who has been a certified wrecker
346 operator for at least 5 years before his or her appointment; and
347 two members must be laypersons. Each member must be a resident
348 of this state.
349 (3) The term of each member of the council is 4 years,
350 except, to establish staggered terms, two members who are owners
351 of wrecker companies and one layperson shall be appointed
352 initially for a 2-year term. Members may be reappointed for
353 additional terms not to exceed 8 years of consecutive service. A
354 vacancy shall be filled for the remainder of the unexpired term
355 in the same manner as the original appointment.
356 (4)(a) From among its members, the council shall annually
357 elect a chair, who shall preside over the meetings of the
358 council, and a vice chair.
359 (b) In conducting its meetings, the council shall use
360 accepted rules of procedure. The department shall keep a
361 complete record of each meeting showing the names of members
362 present and the actions taken. These records and other documents
363 regarding matters within the jurisdiction of the council must be
364 kept on file with the department.

365 (5) The members of the council shall serve without
366 compensation but are entitled to reimbursement of travel and per
367 diem expenses under s. 112.061.
368 (6) The department shall provide administrative and staff
369 support services relating to the functions of the council.
370 (7) The council shall review the rules adopted by the
371 department to administer this chapter and shall advise the
372 department on matters relating to industry standards and
373 practices and other issues that require technical expertise and
374 consultation or that promote better consumer protection in the
375 wrecker industry.
376 508.103 Rulemaking authority.--The department may adopt
377 rules under ss. 120.536(1) and 120.54 to administer this
378 chapter.
379 508.105 Registration requirements; renewal of
380 registrations.--
381 (1) Each wrecker company engaged or attempting to engage
382 for hire in the business of towing, carrying, or transporting
383 vehicles or vessels by wrecker upon the streets and highways of
384 this state must annually register with the department on forms
385 prescribed by the department. The application for registration
386 must include at least the following information:
387 (a) The name and federal employer identification number of
388 the wrecker company.
389 (b) The mailing address, physical address, and telephone
390 number of the wrecker company's primary place of business.
391 (c) The fictitious name under which the wrecker company
392 transacts business in this state.

393 (d) The full name, residence address, business address,
394 and telephone number of the applicant. If the applicant is other
395 than a natural person, the application must also contain the
396 full name, residence address, business address, telephone
397 number, and federal employer identification number, if
398 applicable, of each ultimate equitable owner of the business
399 entity and each officer, director, partner, manager, member, or
400 managing member of the entity.
401 (e) If the applicant is other than a natural person, the
402 full name of the business entity's registered agent and the
403 address of the registered office for service of process.
404 (f) The physical address and telephone number of each
405 business location and each storage facility where the wrecker
406 company stores towed vehicles or vessels.
407 (2) Each initial and renewal application for registration
408 must be accompanied by the registration fee prescribed in s.
409 508.116.
410 (3) Each initial application for registration must be
411 accompanied by a complete set of the applicant's fingerprints
412 taken by a law enforcement agency. If the applicant is other
413 than a natural person, a complete set of fingerprints must be
414 filed for each ultimate equitable owner of the business entity
415 and each officer, director, partner, manager, member, or
416 managing member of the entity. The department shall submit the
417 fingerprints to the Department of Law Enforcement for state
418 processing, and the Department of Law Enforcement shall forward
419 the fingerprints to the Federal Bureau of Investigation for
420 national processing. The applicant must also pay the Department

421 of Law Enforcement a fingerprint processing fee of $23 for state
422 processing, and the amount of the fee charged by the Federal
423 Bureau of Investigation for federal processing, for each
424 applicant's name submitted. Registration renewal applications
425 need not be accompanied by a set of fingerprints for an
426 individual who previously submitted a set of fingerprints to the
427 department as part of a prior year's registration application.
428 (4) The department shall review each application in
429 accordance with s. 120.60 and shall issue a registration
430 certificate, in the form and size prescribed by the department,
431 to each wrecker company whose application is approved. The
432 certificate must show at least the name and address of the
433 wrecker company and the registration number. The registration
434 certificate must be prominently displayed in the wrecker
435 company's primary place of business.
436 (5) Each advertisement of a wrecker company must include
437 the phrase "Fla. Wrecker Co. Reg. No. ." For the purpose of
438 this subsection, the term "advertisement" means a printed or
439 graphic statement made in a newspaper or other publication or
440 contained in any notice, handbill, or sign, including signage on
441 a vehicle, flyer, catalog, or letter.
442 (6) A registration is invalid for a wrecker company
443 transacting business at a place other than the location
444 specified in the registration application unless the department
445 is first notified in writing before the change of location. A
446 registration issued under this chapter is not transferable or
447 assignable, and a wrecker company may not conduct business under
448 a name other than the name registered. A wrecker company

449 desiring to change its registered name, location, or registered
450 agent for service of process at a time other than upon renewal
451 of registration must notify the department of the change.
452 (7)(a) Each registration must be renewed annually on or
453 before the expiration date of the current registration. A late
454 fee of $25 must be paid, in addition to the registration fee or
455 any other penalty, for a registration renewal application that
456 is received by the department after the expiration date of the
457 current registration. The department may not issue a
458 registration until all fees are paid.
459 (b) A wrecker company whose primary place of business is
460 located within a county or municipality that requires, by local
461 ordinance, a local business tax receipt under chapter 205 may
462 not renew a registration under this chapter unless the wrecker
463 company obtains the business tax receipt from the county or
464 municipality.
465 (8) Each wrecker company must provide the department with
466 a certificate of insurance for the insurance coverage required
467 under s. 627.7415 before the department may issue the
468 certificate for an initial or renewal registration. The
469 department must be named as a certificateholder on the insurance
470 certificate and must be notified at least 30 days before any
471 change in insurance coverage.
472 (9) The department shall notify the Department of Highway
473 Safety and Motor Vehicles when a registration issued under this
474 chapter has been suspended or revoked by order of the
475 department. Notification must be sent within 10 days after the
476 department issues the suspension or revocation order.

477 508.106 Denial of registration.--The department may deny,
478 revoke, or refuse to renew the registration of a wrecker company
479 based upon a determination that the applicant or, if the
480 applicant is other than a natural person, the wrecker company or
481 any of its ultimate equitable owners, officers, directors,
482 partners, managers, members, or managing members has:
483 (1) Not met the requirements for registration under this
484 chapter;
485 (2) Been convicted or found guilty of, regardless of
486 adjudication, or pled guilty or nolo contendere to, a felony
487 within the last 10 years;
488 (3) Been convicted or found guilty of, regardless of
489 adjudication, or pled guilty or nolo contendere to, a crime
490 within the last 10 years involving repossession of a motor
491 vehicle under chapter 493, repair of a motor vehicle under ss.
492 559.901-559.9221, theft of a motor vehicle under s. 812.014,
493 carjacking under s. 812.133, operation of a chop shop under s.
494 812.16, failure to maintain records of motor vehicle parts and
495 accessories under s. 860.14, violations relating to airbags
496 under s. 860.145 or use of fake airbags under s. 860.146,
497 overcharging for repairs and parts under s. 860.15, or a
498 violation of towing or storage requirements for a motor vehicle
499 under this chapter, s. 321.051, chapter 323, s. 713.78, or s.
500 715.07;
501 (4) Not satisfied a civil fine or penalty arising out of
502 an administrative or enforcement action brought by the
503 department, another governmental agency, or a private person
504 based upon conduct involving a violation of this chapter;

505 (5) Pending against him or her a criminal, administrative,
506 or enforcement proceeding in any jurisdiction based upon conduct
507 involving a violation of this chapter; or
508 (6) Had a judgment entered against him or her in an action
509 brought by the department under this chapter.
510 508.1061 Acceptable forms of payment.--A wrecker company
511 shall accept a minimum of two of the three following forms of
512 payment:
513 (1) Cash, cashier's check, money order, or traveler's
514 check.
515 (2) Valid personal check, showing upon its face the name
516 and address of the vehicle or vessel owner or authorized
517 representative.
518 (3) Valid credit card, including, but not limited to, Visa
519 or MasterCard.
520 508.107 Wrecker operator certification program.--
521 (1) The department, in consultation with the council,
522 shall establish a wrecker operator certification program by
523 December 31, 2007. Under this program, the council shall approve
524 certification courses for wrecker operators conducted by
525 approved organizations. The council shall prescribe the minimum
526 curricula for these courses, which must comprise at least 16
527 hours, equally apportioned between theoretical instruction and
528 practical training. The council must approve each organization
529 and its certification course before the course is accepted for
530 certification of wrecker operators under this chapter.
531 (2) Each approved wrecker operator certification course
532 must include a certification examination demonstrating a wrecker

533 operator's knowledge, skills, and abilities in performing
534 wrecker services and proficiency in the subject matter of the
535 certification course. The council must approve each
536 certification examination before the examination is accepted for
537 certification of wrecker operators under this chapter.
538 (3) Each organization conducting an approved wrecker
539 operator certification course must issue on forms prescribed by
540 the department a certificate to each wrecker operator who
541 completes the approved certification course and passes the
542 approved certification examination.
543 508.108 Specialized wrecker services.--
544 (1) In addition to the minimum curricula for certification
545 of wrecker operators, each approved certification course must
546 offer optional instruction, training, and examination of wrecker
547 operators for each of the following specialized wrecker
548 services:
549 (a) Light duty.--Towing and winching a passenger vehicle
550 and uprighting an overturned passenger vehicle, including the
551 proper use of chains, wire rope, and straps.
552 (b) Medium duty.--Towing and winching a medium-sized
553 commercial vehicle and uprighting an overturned medium-sized
554 commercial vehicle.
555 (c) Heavy duty.--Towing and winching a standard large-
556 sized commercial vehicle and uprighting an overturned standard
557 large-sized commercial vehicle.
558 (d) Ultra-heavy duty.--Towing and winching a specialty
559 large-sized commercial vehicle or another complex vehicle and
560 uprighting an overturned specialty large-sized commercial

561 vehicle or another complex vehicle.
562 (e) Rollback wrecker.--Proper loading, securing,
563 transporting, and unloading of a vehicle on a flatbed-rollback
564 wrecker.
565 (f) Hazardous materials.--Awareness of hazardous
566 materials. Instruction and training for this wrecker service
567 must comprise at least 8 hours in order to be approved.
568 (g) Air cushions.--Proper use of air cushions in the
569 recovery of a heavy-duty vehicle.
570 (2) The department shall adopt rules prescribing specific
571 standards to further define each of the specialized wrecker
572 services described in subsection (1). The council must approve
573 the instruction, training, and examination for a specialized
574 wrecker service before the specialized wrecker service is
575 accepted for endorsement of a wrecker operator's certification
576 under this chapter.
577 (3) Each organization conducting an approved wrecker
578 operator certification course must issue on forms prescribed by
579 the department a certificate to each wrecker operator who
580 completes the approved instruction and training for a
581 specialized wrecker service and passes the approved endorsement
582 examination for that specialized wrecker service.
583 508.109 Certification cards.--
584 (1) Each organization conducting an approved wrecker
585 operator certification course must issue a certification card to
586 each wrecker operator who completes the approved certification
587 course and passes the approved certification examination. The
588 department must approve the form of the certification cards

589 issued by each organization. Each certification card must
590 include the wrecker operator's name, a color photograph or
591 digital image of the wrecker operator, and the expiration date
592 of the certification card.
593 (2) Each certification card must also include the wrecker
594 operator's applicable endorsements for those specialized wrecker
595 services for which the wrecker operator completed the approved
596 instruction and training and passed the approved endorsement
597 examination.
598 (3)(a) The department may adopt rules governing the
599 issuance of a certification card to a wrecker operator who:
600 1. Completes a certification course and passes a
601 certification examination in another state, which course and
602 examination are substantially equivalent to the approved
603 certification courses and approved certification examinations in
604 this state.
605 2. Completed a certification course and passed a
606 certification examination in this state between January 1, 2003,
607 and December 31, 2007, which course and examination are
608 substantially equivalent to the approved certification courses
609 and the approved certification examinations. This subparagraph
610 expires July 1, 2008.
611 3. Completed instruction and training for a specialized
612 wrecker service and passed an endorsement examination for that
613 specialized wrecker service between January 1, 2003, and
614 December 31, 2007, which instruction, training, and examination
615 are substantially equivalent to the approved instruction and
616 training and the approved endorsement examinations. This

617 subparagraph expires July 1, 2008.
618 (b) For the purposes of this subsection, the council shall
619 approve each certification examination in another state, and
620 shall approve the instruction, training, and examination for
621 each specialized wrecker service in another state, that the
622 council determines are substantially equivalent to the approved
623 certification courses and approved certification examinations in
624 this state or to the approved instruction, training, and
625 endorsement examinations for a specialized wrecker service in
626 this state.
627 (4) Each certification card expires 5 years after the date
628 of issuance.
629 (5) Certification cards shall be issued by the
630 organizations conducting approved wrecker operator certification
631 courses. The department is not responsible for issuing
632 certification cards or for the costs associated with the
633 issuance of certification cards.
634 508.111 Renewal of certification; continuing education
635 requirements.--
636 (1) The department, in consultation with the council,
637 shall establish a continuing education program for the
638 recertification of wrecker operators by December 31, 2008. In
639 order to renew a wrecker operator's certification card, an
640 operator must complete a continuing education course. The
641 council must prescribe the minimum curricula and proper
642 examination for each continuing education course, each of which
643 must be at least 8 hours in length. The council shall approve
644 each organization, and the continuing education course it

645 proposes to offer, before the course is approved for
646 recertifying wrecker operators.
647 (2) Each organization conducting an approved wrecker
648 operator continuing education course must issue, on forms
649 prescribed by the department, a certificate to each wrecker
650 operator who completes the approved course and passes an
651 approved recertification examination.
652 508.112 Prohibited acts.--It is a violation of this
653 chapter for a person to:
654 (1) Charge rates that exceed the maximum rates imposed by
655 the ordinances of the respective county or municipality under
656 ss. 125.0103(1)(c) and 166.043(1)(c).
657 (2) Violate s. 321.051, relating to the Florida Highway
658 Patrol wrecker allocation system.
659 (3) Violate s. 323.002, relating to county and municipal
660 wrecker allocation systems.
661 (4) Violate s. 713.78, relating to liens for recovering,
662 towing, or storing vehicles and vessels.
663 (5) Violate s. 715.07, relating to towing or removing
664 vehicles and vessels parked on real property without permission.
665 (6) Refuse to allow a law enforcement officer to inspect a
666 towing and storage facility as required in s. 812.055.
667 (7) Allow a person who is not certified as a wrecker
668 operator under this chapter to perform wrecker services or
669 specialized wrecker services for the wrecker company for more
670 than 6 months after first being employed by, or becoming an
671 ultimate equitable owner of, the wrecker company.
672 (8) Allow a wrecker operator certified under this chapter

673 to perform a specialized wrecker service for the wrecker company
674 if the wrecker operator's certification does not include an
675 endorsement for that specialized wrecker service.
676 (9) Perform an act otherwise prohibited by this chapter or
677 fail to perform an act otherwise required by this chapter.
678 508.113 Administrative penalties; inspection of records.--
679 (1) The department may take one or more of the following
680 actions if the department finds that a person has violated this
681 chapter or the rules or orders issued under this chapter:
682 (a) Issue a notice of noncompliance under s. 120.695.
683 (b) Impose an administrative fine not to exceed $5,000 for
684 each act or omission.
685 (c) Direct the person to cease and desist specified
686 activities.
687 (d) Refuse to register the wrecker company or suspend or
688 revoke the wrecker company's registration.
689 (e) Place the wrecker company on probation for a period of
690 time, subject to the conditions specified by the department.
691 (2) Chapter 120 shall govern an administrative proceeding
692 resulting from an order imposing a penalty specified in
693 subsection (1).
694 508.114 Civil penalties.--The department may bring a civil
695 action in a court of competent jurisdiction to recover any
696 penalties or damages allowed in this chapter and for injunctive
697 relief to enforce compliance with this chapter. The department
698 may seek a civil penalty of up to $5,000 for each violation of
699 this chapter and may seek restitution for and on behalf of any
700 owner of a vehicle or vessel who is aggrieved or injured by a

701 violation of this chapter.
702 508.116 Fees.--The department shall adopt by rule a fee
703 schedule not to exceed the following amounts:
704 (1) Wrecker company registration fee: $495.
705 (2) Wrecker company registration renewal fee: $495.
706 508.117 General Inspection Trust Fund; payments.--All
707 fees, penalties, or other funds collected by the department
708 under this chapter must be deposited in the General Inspection
709 Trust Fund and may only be used for the purpose of administering
710 this chapter.
711 508.118 Recovery agents; exemption.--This chapter does not
712 apply to a person licensed under chapter 493 performing
713 repossession services.
714 508.119 County and municipal ordinances.--A county or
715 municipality may enact ordinances governing the business of
716 transporting vehicles or vessels by wrecker that are more
717 restrictive than this chapter. This section does not limit the
718 authority of a political subdivision to impose regulatory fees
719 or charges or to levy local business taxes under chapter 205.
720 The department may enter into a cooperative agreement with any
721 county or municipality that provides for the referral,
722 investigation, and prosecution of consumer complaints alleging
723 violations of this chapter. The department is authorized to
724 delegate enforcement of this chapter to any county or
725 municipality entering into a cooperative agreement.
726 508.120 Records.--
727 (1) Each wrecker company shall maintain records of its
728 wrecker services for at least 12 months. These records shall be

729 maintained at the wrecker company's principal place of business.
730 (2) Each wrecker company shall maintain records on each of
731 its wrecker operators sufficient to demonstrate that the
732 operator has successfully completed an approved wrecker operator
733 certification course or an approved wrecker operator continuing
734 education course and is certified to perform wrecker services.
735 These records shall be maintained at the wrecker company's
736 principal place of business for as long as the operator is
737 employed by the wrecker company and for at least 6 months
738 thereafter.
739 (3) Each organization approved to conduct a wrecker
740 operator certification course or approved to offer a wrecker
741 operator continuing education course shall maintain records on
742 each person who successfully completes one of the courses. The
743 records shall be maintained at the organization's principal
744 place of business for at least 5 years. The department may, at
745 any time during normal business hours, enter the organization's
746 principal place of business to examine the records.
747 Section 2. Effective January 1, 2008, section 508.104,
748 Florida Statutes, is created to read:
749 508.104 Wrecker companies; registration required.--
750 (1) A person may not own, operate, solicit business for,
751 advertise services for, or otherwise engage for hire in the
752 business of a wrecker company in this state unless that person
753 is registered with the department under this chapter.
754 (2) A person applying for or renewing a local business tax
755 receipt to engage for hire in the business of a wrecker company
756 must exhibit a current registration certificate from the

757 department before the local business tax receipt may be issued
758 or reissued under chapter 205.
759 (3) This section does not apply to a motor vehicle repair
760 shop registered with the department under s. 559.904 that
761 derives at least 80 percent of its gross sales from motor
762 vehicle repairs or to any franchised motor vehicle dealer
763 licensed pursuant to s. 320.27 when wrecker services are
764 incidental to the operation of the franchise.
765 Section 3. Effective January 1, 2008, section 508.110,
766 Florida Statutes, is created to read:
767 508.110 Wrecker operators; certification required;
768 inspection of employment records.--
769 (1) A person may not perform wrecker services in this
770 state unless he or she is an employee or ultimate equitable
771 owner of a wrecker company that is registered with the
772 department under this chapter and those wrecker services are
773 performed on behalf of the wrecker company.
774 (2)(a) A person may not perform wrecker services or
775 specialized wrecker services for a wrecker company for more than
776 6 months after first being employed by, or becoming an ultimate
777 equitable owner of, the wrecker company without being certified
778 as a wrecker operator under this chapter.
779 (b) A wrecker operator certified under this chapter may
780 not perform a specialized wrecker service for a wrecker company
781 unless the wrecker operator's certification includes an
782 endorsement for that specialized wrecker service.
783 (3)(a) Notwithstanding subsections (1) and (2), a person
784 may perform wrecker services or specialized wrecker services in

785 this state if he or she is an employee or ultimate equitable
786 owner of a motor vehicle repair shop registered with the
787 department under s. 559.904 and those wrecker services or
788 specialized wrecker services are performed on behalf of the
789 motor vehicle repair shop.
790 (b) Notwithstanding subsections (1) and (2), a person may
791 perform wrecker services or specialized wrecker services in this
792 state if those wrecker services or specialized wrecker services
793 are performed on behalf of a religious organization that holds a
794 current exemption from federal taxation or that is not required
795 to apply for recognition of its exemption under s. 501 of the
796 Internal Revenue Code.
797 (4) The department may, at any time during business hours,
798 enter any business location of a wrecker company and examine the
799 company's books or records. If the department reasonably
800 believes a violation of this chapter has occurred or is
801 occurring, the department may subpoena any necessary books or
802 records.
803 Section 4. Effective July 1, 2008, section 508.115,
804 Florida Statutes, is created to read:
805 508.115 Criminal penalties.--
806 (1) A person who violates s. 508.104(1) by operating a
807 wrecker company in this state without being registered with the
808 department under this chapter commits a felony of the third
809 degree, punishable as provided in s. 775.082, s. 775.083, or s.
810 775.084.
811 (2) A person who violates s. 508.110(1) by performing
812 wrecker services in this state without being an employee or

813 ultimate equitable owner of a wrecker company that is registered
814 with the department under this chapter commits a felony of the
815 third degree, punishable as provided in s. 775.082, s. 775.083,
816 or s. 775.084.
817 Section 5. Effective January 1, 2008, paragraph (b) of
818 subsection (8) of section 120.80, Florida Statutes, is amended
819 to read:
820 120.80 Exceptions and special requirements; agencies.--
821 (8) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--
822 (b) Wrecker companies ~~operators~~.--Notwithstanding s.
823 120.57(1)(a), hearings held by the Division of the Florida
824 Highway Patrol of the Department of Highway Safety and Motor
825 Vehicles to deny, suspend, or remove a wrecker company ~~operator~~
826 from participating in the wrecker allocation ~~rotation~~ system
827 established under ~~by~~ s. 321.051 need not be conducted by an
828 administrative law judge assigned by the division. These
829 hearings shall be held by a hearing officer appointed by the
830 director of the Division of the Florida Highway Patrol.
831 Section 6. Effective January 1, 2008, section 205.1977,
832 Florida Statutes, is created to read:
833 205.1977 Wrecker companies; consumer protection.--A county
834 or municipality may not issue or renew a business tax receipt
835 for the operation of a wrecker company under chapter 508 unless
836 the wrecker company exhibits a current registration from the
837 Department of Agriculture and Consumer Services.
838 Section 7. Subsection (3) of section 316.530, Florida
839 Statutes, is amended to read:
840 316.530 Towing requirements.--

841 (3) Whenever a motor vehicle becomes disabled upon the
842 highways of this state and a wrecker ~~or tow truck~~ is required to
843 remove it to a repair shop or other appropriate location, if the
844 combined weights of those two vehicles and the loads thereon
845 exceed the maximum allowable weights as established by s.
846 316.535, no penalty shall be assessed either vehicle or driver.
847 However, this exception shall not apply to the load limits for
848 bridges and culverts established by the department as provided
849 in s. 316.555.
850 Section 8. Subsection (40) of section 320.01, Florida
851 Statutes, is amended to read:
852 320.01 Definitions, general.--As used in the Florida
853 Statutes, except as otherwise provided, the term:
854 (40) "Wrecker" means a tow truck or other ~~any~~ motor
855 vehicle that is used to tow, carry, or otherwise transport ~~motor~~
856 vehicles or vessels upon the streets and highways of this state
857 and that is equipped for that purpose with a boom, winch, car
858 carrier, or other similar equipment.
859 Section 9. Effective January 1, 2008, subsection (8) of
860 section 320.03, Florida Statutes, is amended to read:
861 320.03 Registration; duties of tax collectors;
862 International Registration Plan.--
863 (8) If the applicant's name appears on the list referred
864 to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a
865 license plate or revalidation sticker may not be issued until
866 that person's name no longer appears on the list or until the
867 person presents a receipt from the clerk showing that the fines
868 outstanding have been paid. This subsection does not apply to

869 the owner of a leased vehicle if the vehicle is registered in
870 the name of the lessee of the vehicle. The tax collector and the
871 clerk of the court are each entitled to receive monthly, as
872 costs for implementing and administering this subsection, 10
873 percent of the civil penalties and fines recovered from such
874 persons. As used in this subsection, the term "civil penalties
875 and fines" does not include a wrecker company's ~~operator's~~ lien
876 as described in s. 713.78(13). If the tax collector has private
877 tag agents, such tag agents are entitled to receive a pro rata
878 share of the amount paid to the tax collector, based upon the
879 percentage of license plates and revalidation stickers issued by
880 the tag agent compared to the total issued within the county.
881 The authority of any private agent to issue license plates shall
882 be revoked, after notice and a hearing as provided in chapter
883 120, if he or she issues any license plate or revalidation
884 sticker contrary to the provisions of this subsection. This
885 section applies only to the annual renewal in the owner's birth
886 month of a motor vehicle registration and does not apply to the
887 transfer of a registration of a motor vehicle sold by a motor
888 vehicle dealer licensed under this chapter, except for the
889 transfer of registrations which is inclusive of the annual
890 renewals. This section does not affect the issuance of the title
891 to a motor vehicle, notwithstanding s. 319.23(7)(b).
892 Section 10. Section 320.0706, Florida Statutes, is amended
893 to read:
894 320.0706 Display of license plates on trucks.--The owner
895 of any commercial truck of gross vehicle weight of 26,001 pounds
896 or more shall display the registration license plate on both the

897 front and rear of the truck in conformance with all the
898 requirements of s. 316.605 that do not conflict with this
899 section. The owner of a dump truck may place the rear license
900 plate on the gate no higher than 60 inches to allow for better
901 visibility. However, the owner of a truck tractor or a wrecker
902 must ~~shall be required to~~ display the registration license plate
903 only on the front of such vehicle.
904 Section 11. Subsection (1) of section 320.0821, Florida
905 Statutes, is amended, and subsection (5) is added to that
906 section, to read:
907 320.0821 Wrecker license plates.--
908 (1) The department shall issue one ~~a~~ wrecker license
909 plate, regardless of gross vehicle weight, to the owner of any
910 motor vehicle that is used to tow, carry, or otherwise transport
911 ~~motor~~ vehicles or vessels upon the streets and highways of this
912 state and that is equipped for that purpose with a boom, winch,
913 carrier, or other similar equipment, except a motor vehicle
914 registered under the International Registration Plan, upon
915 application and payment of the appropriate license tax and fees
916 in accordance with s. 320.08(5)(d) or (e).
917 (5) A wrecker license plate must be displayed on the front
918 of such vehicle.
919 Section 12. Effective January 1, 2008, subsection (1) of
920 section 320.0821, Florida Statutes, as amended by this act, is
921 amended to read:
922 320.0821 Wrecker license plates.--
923 (1) The department shall issue one wrecker license plate,
924 regardless of gross vehicle weight, to the owner of a wrecker

925 ~~any motor vehicle that is used to tow, carry, or otherwise~~
926 ~~transport vehicles or vessels upon the streets and highways of~~
927 ~~this state and that is equipped for that purpose with a boom,~~
928 ~~winch, carrier, or other similar equipment, except a motor~~
929 ~~vehicle registered under the International Registration Plan,~~
930 upon application and payment of the appropriate license tax and
931 fees in accordance with s. 320.08(5)(d) or (e).
932 Section 13. Paragraph (a) of subsection (1) of section
933 320.13, Florida Statutes, is amended to read:
934 320.13 Dealer and manufacturer license plates and
935 alternative method of registration.--
936 (1)(a) Any licensed motor vehicle dealer and any licensed
937 mobile home dealer may, upon payment of the license tax imposed
938 by s. 320.08(12), secure one or more dealer license plates,
939 which are valid for use on motor vehicles or mobile homes owned
940 by the dealer to whom such plates are issued while the motor
941 vehicles are in inventory and for sale, or while being operated
942 in connection with such dealer's business, but are not valid for
943 use for hire. Dealer license plates may not be used on any ~~tow~~
944 ~~truck or~~ wrecker <u>as defined in s. 320.01</u> unless the ~~tow truck or~~
945 wrecker is being demonstrated for sale, and the dealer license
946 plates may not be used on a vehicle used to transport another
947 motor vehicle for the motor vehicle dealer.
948 Section 14. For the purpose of incorporating the amendment
949 made by this act to section 320.01, Florida Statutes, in
950 references thereto, paragraph (a) of subsection (4) and
951 subsection (9) of section 316.550, Florida Statutes, are
952 reenacted to read:

953 316.550 Operations not in conformity with law; special
954 permits.--
955 (4)(a) The Department of Transportation may issue a
956 wrecker special blanket permit to authorize a wrecker as defined
957 in s. 320.01(40) to tow a disabled vehicle as defined in s.
958 320.01(38) where the combination of the wrecker and the disabled
959 vehicle being towed exceeds the maximum weight limits as
960 established by s. 316.535.
961 (9) Whenever any motor vehicle, or the combination of a
962 wrecker as defined in s. 320.01(40) and a towed motor vehicle,
963 exceeds any weight or dimensional criteria or special
964 operational or safety stipulation contained in a special permit
965 issued under the provisions of this section, the penalty
966 assessed to the owner or operator shall be as follows:
967 (a) For violation of weight criteria contained in a
968 special permit, the penalty per pound or portion thereof
969 exceeding the permitted weight shall be as provided in s.
970 316.545.
971 (b) For each violation of dimensional criteria in a
972 special permit, the penalty shall be as provided in s. 316.516
973 and penalties for multiple violations of dimensional criteria
974 shall be cumulative except that the total penalty for the
975 vehicle shall not exceed $1,000.
976 (c) For each violation of an operational or safety
977 stipulation in a special permit, the penalty shall be an amount
978 not to exceed $1,000 per violation and penalties for multiple
979 violations of operational or safety stipulations shall be
980 cumulative except that the total penalty for the vehicle shall

981 not exceed $1,000.
982 (d) For violation of any special condition that has been
983 prescribed in the rules of the Department of Transportation and
984 declared on the permit, the vehicle shall be determined to be
985 out of conformance with the permit and the permit shall be
986 declared null and void for the vehicle, and weight and
987 dimensional limits for the vehicle shall be as established in s.
988 316.515 or s. 316.535, whichever is applicable, and:
989 1. For weight violations, a penalty as provided in s.
990 316.545 shall be assessed for those weights which exceed the
991 limits thus established for the vehicle; and
992 2. For dimensional, operational, or safety violations, a
993 penalty as established in paragraph (c) or s. 316.516, whichever
994 is applicable, shall be assessed for each nonconforming
995 dimensional, operational, or safety violation and the penalties
996 for multiple violations shall be cumulative for the vehicle.
997 Section 15. For the purpose of incorporating the amendment
998 made by this act to section 320.01, Florida Statutes, in
999 references thereto, paragraphs (d) and (e) of subsection (5) of
1000 section 320.08, Florida Statutes, are reenacted to read:
1001 320.08 License taxes.--Except as otherwise provided
1002 herein, there are hereby levied and imposed annual license taxes
1003 for the operation of motor vehicles, mopeds, motorized bicycles
1004 as defined in s. 316.003(2), and mobile homes, as defined in s.
1005 320.01, which shall be paid to and collected by the department
1006 or its agent upon the registration or renewal of registration of
1007 the following:

1008 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
1009 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.--
1010 (d) A wrecker, as defined in s. 320.01(40), which is used
1011 to tow a vessel as defined in s. 327.02(39), a disabled,
1012 abandoned, stolen-recovered, or impounded motor vehicle as
1013 defined in s. 320.01(38), or a replacement motor vehicle as
1014 defined in s. 320.01(39): $30 flat.
1015 (e) A wrecker, as defined in s. 320.01(40), which is used
1016 to tow any motor vehicle, regardless of whether or not such
1017 motor vehicle is a disabled motor vehicle as defined in s.
1018 320.01(38), a replacement motor vehicle as defined in s.
1019 320.01(39), a vessel as defined in s. 327.02(39), or any other
1020 cargo, as follows:
1021 1. Gross vehicle weight of 10,000 pounds or more, but less
1022 than 15,000 pounds: $87 flat.
1023 2. Gross vehicle weight of 15,000 pounds or more, but less
1024 than 20,000 pounds: $131 flat.
1025 3. Gross vehicle weight of 20,000 pounds or more, but less
1026 than 26,000 pounds: $186 flat.
1027 4. Gross vehicle weight of 26,000 pounds or more, but less
1028 than 35,000 pounds: $240 flat.
1029 5. Gross vehicle weight of 35,000 pounds or more, but less
1030 than 44,000 pounds: $300 flat.
1031 6. Gross vehicle weight of 44,000 pounds or more, but less
1032 than 55,000 pounds: $572 flat.
1033 7. Gross vehicle weight of 55,000 pounds or more, but less
1034 than 62,000 pounds: $678 flat.

1035 8. Gross vehicle weight of 62,000 pounds or more, but less
1036 than 72,000 pounds: $800 flat.
1037 9. Gross vehicle weight of 72,000 pounds or more: $979
1038 flat.
1039 Section 16. Effective January 1, 2008, section 321.051,
1040 Florida Statutes, is amended to read:
1041 (Substantial rewording of section. See
1042 s. 321.051, F.S., for present text.)
1043 321.051 Florida Highway Patrol wrecker allocation system;
1044 penalties for operation outside of system.--
1045 (1) As used in this section, the term:
1046 (a) "Authorized wrecker company" means a wrecker company
1047 designated by the division as part of its wrecker allocation
1048 system.
1049 (b) "Division" means the Division of the Florida Highway
1050 Patrol within the Department of Highway Safety and Motor
1051 Vehicles.
1052 (c) "Unauthorized wrecker company" means a wrecker company
1053 not designated by the division as part of its wrecker allocation
1054 system.
1055 (d) "Wrecker company" has the same meaning ascribed in s.
1056 508.101.
1057 (e) "Wrecker operator" has the same meaning ascribed in s.
1058 508.101.
1059 (f) "Wrecker services" has the same meaning ascribed in s.
1060 508.101.
1061 (2)(a) The division may establish within areas designated
1062 by the division a wrecker allocation system, using qualified,

1063 reputable wrecker companies, for the removal from crash scenes
1064 and the storage of wrecked or disabled vehicles when the owner
1065 or operator is incapacitated or unavailable or leaves the
1066 procurement of wrecker services to the officer at the scene and
1067 for the removal and storage of abandoned vehicles.
1068 (b) The wrecker allocation system may use only wrecker
1069 companies registered under chapter 508. Each reputable wrecker
1070 company registered under chapter 508 is eligible for use in the
1071 system if its equipment and wrecker operators meet the
1072 recognized safety qualifications and mechanical standards set by
1073 the division's rules for the size of vehicle they are designed
1074 to handle. The division may limit the number of wrecker
1075 companies participating in the wrecker allocation system.
1076 (c) The division may establish maximum rates for the
1077 towing and storage of vehicles removed at the division's request
1078 if those rates are not established by a county or municipality
1079 under s. 125.0103 or s. 166.043. These rates are not rules for
1080 the purpose of chapter 120; however, the Department of Highway
1081 Safety and Motor Vehicles shall adopt rules prescribing the
1082 procedures for setting these rates.
1083 (d) Notwithstanding chapter 120, a final order of the
1084 Department of Highway Safety and Motor Vehicles denying,
1085 suspending, or revoking a wrecker company's participation in the
1086 wrecker allocation system may be appealed only in the manner and
1087 within the time provided by the Florida Rules of Appellate
1088 Procedure by a writ of certiorari issued by the circuit court in
1089 the county in which the wrecker company's primary place of
1090 business is located, as evidenced by the wrecker company's

1091 registration under chapter 508.
1092 (3)(a) An unauthorized wrecker company, its wrecker
1093 operators, or its other employees or agents may not monitor a
1094 police radio for communications between patrol field units and
1095 the dispatcher in order to determine the location of a wrecked
1096 or disabled vehicle for the purpose of dispatching its wrecker
1097 operator to drive by the scene of the vehicle in a manner
1098 described in paragraph (b) or paragraph (c). Any person who
1099 violates this paragraph commits a noncriminal violation,
1100 punishable as provided in s. 775.083.
1101 (b) Except as provided in paragraph (c), a wrecker
1102 operator dispatched by an unauthorized wrecker company who
1103 drives by the scene of a wrecked or disabled vehicle before the
1104 arrival of the wrecker operator dispatched by the authorized
1105 wrecker company may not initiate contact with the owner or
1106 operator of the vehicle by soliciting or offering wrecker
1107 services or tow the vehicle. Any person who violates this
1108 paragraph commits a misdemeanor of the second degree, punishable
1109 as provided in s. 775.082 or s. 775.083.
1110 (c) When a wrecker operator dispatched by an unauthorized
1111 wrecker company drives by the scene of a wrecked or disabled
1112 vehicle and the owner or operator initiates contact by signaling
1113 the wrecker operator to stop and provide wrecker services, the
1114 wrecker operator must disclose to the owner or operator of the
1115 vehicle that he or she was not dispatched by the authorized
1116 wrecker company designated as part of the wrecker allocation
1117 system and must disclose, in writing, what charges for towing
1118 and storage will apply before the vehicle is connected to the

1119 towing apparatus. Any person who violates this paragraph commits
1120 a misdemeanor of the second degree, punishable as provided in s.
1121 775.082 or s. 775.083.
1122 (d) A wrecker operator may not falsely identify himself or
1123 herself as being part of, or as being employed by a wrecker
1124 company that is part of, the wrecker allocation system at the
1125 scene of a wrecked or disabled vehicle. Any person who violates
1126 this paragraph commits a misdemeanor of the first degree,
1127 punishable as provided in s. 775.082 or s. 775.083.
1128 (4) This section does not prohibit or in any way prevent
1129 the owner or operator of a vehicle involved in a crash or
1130 otherwise disabled from contacting any wrecker company for the
1131 provision of wrecker services, regardless of whether the wrecker
1132 company is an authorized wrecker company. However, if a law
1133 enforcement officer determines that the disabled vehicle or
1134 vehicle cargo is a public safety hazard, the officer may, in the
1135 interest of public safety, dispatch an authorized wrecker
1136 company if the officer believes that the authorized wrecker
1137 company would arrive at the scene before the wrecker company
1138 requested by the owner or operator of the disabled vehicle or
1139 vehicle cargo.
1140 (5) A law enforcement officer may dispatch an authorized
1141 wrecker company out of rotation to the scene of a wrecked or
1142 disabled vehicle if the authorized wrecker company next on
1143 rotation is not equipped to provide the required wrecker
1144 services and the out-of-rotation authorized wrecker company is
1145 available with the required equipment. However, this subsection
1146 does not prohibit or prevent the owner or operator of a vehicle

1147 involved in a crash or otherwise disabled from contacting any
1148 wrecker company that is properly equipped to provide the
1149 required wrecker services, regardless of whether the wrecker
1150 company is an authorized wrecker company, unless the law
1151 enforcement officer determines that the wrecked or disabled
1152 vehicle or vehicle cargo is a public safety hazard and the
1153 officer believes that the authorized wrecker company would
1154 arrive at the scene before the wrecker company requested by the
1155 owner or operator.
1156 Section 17. Effective January 1, 2008, section 323.001,
1157 Florida Statutes, is amended to read:
1158 (Substantial rewording of section. See
1159 s. 323.001, F.S., for present text.)
1160 323.001 Wrecker company storage facilities; vehicle
1161 holds.--
1162 (1) As used in this section, the term:
1163 (a) "Business day" means a day other than a Saturday,
1164 Sunday, or federal or state legal holiday.
1165 (b) "Wrecker company" has the same meaning ascribed in s.
1166 508.101.
1167 (2) A law enforcement agency may place a hold on a motor
1168 vehicle stored within a wrecker company's storage facility for 5
1169 business days, thereby preventing a motor vehicle from being
1170 released to its owner.
1171 (3) To extend a hold beyond 5 business days, the law
1172 enforcement agency must notify the wrecker company in writing
1173 before the expiration of the 5 business days. If notification is
1174 not made within the 5 business days, the wrecker company must

1175 release the vehicle to the designated person under s. 713.78.
1176 (a) If the hold is extended beyond the 5 business days,
1177 the law enforcement agency may have the vehicle removed to a
1178 designated impound lot and the vehicle may not be released by
1179 the law enforcement agency to the owner or lienholder of the
1180 vehicle until proof of payment of the towing and storage charges
1181 incurred by the wrecker company is presented to the law
1182 enforcement agency.
1183 (b) If the law enforcement agency chooses to have the
1184 vehicle remain at the wrecker company's storage facility for
1185 more than 5 business days under the written notification, the
1186 law enforcement agency is responsible for paying the storage
1187 charges incurred by the wrecker company for the requested
1188 extended period. The owner or lienholder is responsible for
1189 paying the accrued towing and storage charges for the first 5
1190 business days, or any period less than the first 5 business
1191 days, if the law enforcement agency moves the vehicle from the
1192 wrecker company's storage facility to a designated impound lot
1193 or provides written notification to extend the hold on the
1194 vehicle before the expiration of the 5 business days.
1195 (c) The towing and storage rates for the owner or
1196 lienholder of the held vehicle may not exceed the rates for the
1197 law enforcement agency.
1198 (4) If there is a judicial finding of no probable cause
1199 for having continued the immobilization or impoundment, the law
1200 enforcement agency ordering the hold must pay the accrued
1201 charges for any towing and storage.
1202 (5) The requirements for a written hold apply when:

1203 (a) The law enforcement officer has probable cause to
1204 believe that the vehicle should be seized and forfeited under
1205 the Florida Contraband Forfeiture Act, ss. 932.701-932.707;
1206 (b) The law enforcement officer has probable cause to
1207 believe that the vehicle should be seized and forfeited under
1208 chapter 370 or chapter 372;
1209 (c) The law enforcement officer has probable cause to
1210 believe that the vehicle was used as a means to commit a crime;
1211 (d) The law enforcement officer has probable cause to
1212 believe that the vehicle is itself evidence that a crime has
1213 been committed or that the vehicle contains evidence, which
1214 cannot readily be removed, that a crime has been committed;
1215 (e) The law enforcement officer has probable cause to
1216 believe that the vehicle was involved in a traffic accident
1217 resulting in death or personal injury and should be sealed for
1218 investigation and collection of evidence by a vehicular homicide
1219 investigator;
1220 (f) The vehicle is impounded or immobilized under s.
1221 316.193 or s. 322.34; or
1222 (g) The law enforcement officer is complying with a court
1223 order.
1224 (6) The hold must be in writing and must specify:
1225 (a) The name and agency of the law enforcement officer
1226 placing the hold on the vehicle.
1227 (b) The date and time the hold is placed on the vehicle.
1228 (c) A general description of the vehicle, including its
1229 color, make, model, body style, and year; vehicle identification
1230 number; registration license plate number, state, and year; and

1231 validation sticker number, state, and year.
1232 (d) The specific reason for placing the hold.
1233 (e) The condition of the vehicle.
1234 (f) The location where the vehicle is being held.
1235 (g) The name, address, and telephone number of the wrecker
1236 company and the storage facility.
1237 (7) A wrecker company's storage facility must comply with
1238 a hold placed by a law enforcement officer, including
1239 instructions for inside or outside storage. A wrecker company's
1240 storage facility may not release a motor vehicle subject to a
1241 hold to any person except as directed by the law enforcement
1242 agency placing the hold.
1243 (8) When a vehicle owner is found guilty of, regardless of
1244 adjudication, or pleads nolo contendere to, the offense that
1245 resulted in a hold being placed on his or her vehicle, the owner
1246 must pay the accrued towing and storage charges assessed against
1247 the vehicle.
1248 Section 18. Effective January 1, 2008, section 323.002,
1249 Florida Statutes, is amended to read:
1250 (Substantial rewording of section. See
1251 s. 323.002, F.S., for present text.)
1252 323.002 County and municipal wrecker allocation systems;
1253 penalties for operation outside of system.--
1254 (1) As used in this section, the term:
1255 (a) "Authorized wrecker company" means a wrecker company
1256 designated as part of the wrecker allocation system established
1257 by the governmental unit having jurisdiction over the scene of a
1258 wrecked, disabled, or abandoned vehicle.

1259 (b) "Unauthorized wrecker company" means a wrecker company
1260 not designated as part of the wrecker allocation system
1261 established by the governmental unit having jurisdiction over
1262 the scene of a wrecked, disabled, or abandoned vehicle.
1263 (c) "Wrecker allocation system" means a system for the
1264 towing or removal of wrecked, disabled, or abandoned vehicles,
1265 similar to the Florida Highway Patrol wrecker allocation system
1266 described in s. 321.051(2), under which a county or municipality
1267 contracts with one or more wrecker companies registered under
1268 chapter 508 for the towing or removal of wrecked, disabled, or
1269 abandoned vehicles from accident scenes, streets, or highways.
1270 Each wrecker allocation system must use a method for
1271 apportioning the towing assignments among the eligible wrecker
1272 companies through the creation of geographic zones or a rotation
1273 schedule or a combination of geographic zones and a rotation
1274 schedule.
1275 (d) "Wrecker company" has the same meaning ascribed in s.
1276 508.101.
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
1286 operators, or its other employees or agents may not monitor a

1287 police radio for communications between patrol field units and
1288 the dispatcher in order to determine the location of a wrecked
1289 or disabled vehicle for the purpose of dispatching its wrecker
1290 operator to drive by the scene of the vehicle in a manner
1291 described in paragraph (c) or paragraph (d). Any person who
1292 violates this paragraph commits a noncriminal violation,
1293 punishable as provided in s. 775.083.
1294 (c) Except as provided in paragraph (d), a wrecker
1295 operator dispatched by an unauthorized wrecker company who
1296 drives by the scene of a wrecked or disabled vehicle before the
1297 arrival of the wrecker operator dispatched by the authorized
1298 wrecker company may not initiate contact with the owner or
1299 operator of the vehicle by soliciting or offering wrecker
1300 services or tow the vehicle. Any person who violates this
1301 paragraph commits a misdemeanor of the second degree, punishable
1302 as provided in s. 775.082 or s. 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
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
1311 and storage will apply before the vehicle is connected to the
1312 towing apparatus. Any person who violates this paragraph commits
1313 a 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
1330 arrive at the scene before the wrecker company requested by the
1331 owner or 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
1335 rotation is not equipped to provide the required wrecker
1336 services and the out-of-rotation authorized wrecker company is
1337 available with the required equipment. However, this subsection
1338 does not prohibit or prevent the owner or operator of a vehicle
1339 involved in a crash or otherwise disabled from contacting any
1340 wrecker company that is properly equipped to provide the
1341 required wrecker services, regardless of whether the wrecker
1342 company is an authorized wrecker company, unless the law

1343 enforcement officer determines that the wrecked or disabled
1344 vehicle or vehicle cargo is a public safety hazard and the
1345 officer believes that the authorized wrecker company would
1346 arrive at the scene before the wrecker company requested by the
1347 owner or operator.
1348 Section 19. Effective January 1, 2008, section 713.78,
1349 Florida Statutes, is amended to read:
1350 713.78 Liens for recovering, towing, or storing vehicles
1351 and vessels.--
1352 (1) As used in ~~For the purposes of~~ this section, the term:
1353 (a) "Business day" means a day other than a Saturday,
1354 Sunday, or federal or state legal holiday.
1355 (b) "Property owner" has the same meaning ascribed in s.
1356 715.07.
1357 (c)~~(a)~~ "Vehicle" has the same meaning ascribed in s.
1358 508.101 ~~means any mobile item, whether motorized or not, which~~
1359 ~~is mounted on wheels~~.
1360 (d)~~(b)~~ "Vessel" has the same meaning ascribed in s.
1361 508.101 ~~means every description of watercraft, barge, and~~
1362 ~~airboat used or capable of being used as a means of~~
1363 ~~transportation on water, other than a seaplane or a "documented~~
1364 ~~vessel" as defined in s. 327.02(9)~~.
1365 (e)~~(c)~~ "Wrecker" has the same meaning ascribed in s.
1366 320.01 ~~means any truck or other vehicle which is used to tow,~~
1367 ~~carry, or otherwise transport motor vehicles or vessels upon the~~
1368 ~~streets and highways of this state and which is equipped for~~
1369 ~~that purpose with a boom, winch, car carrier, or other similar~~
1370 ~~equipment~~.

1371 (f) "Wrecker company" has the same meaning ascribed in s.
1372 508.101.
1373 (g) "Wrecker operator" has the same meaning ascribed in s.
1374 508.101.
1375 (2) Whenever a wrecker company registered under chapter
1376 508 ~~person regularly engaged in the business of transporting~~
1377 ~~vehicles or vessels by wrecker, tow truck, or car carrier~~
1378 recovers, removes, or stores a vehicle or vessel upon
1379 instructions from:
1380 (a) The owner of the vehicle or vessel ~~thereof~~;
1381 (b) The property owner ~~or lessor, or a person authorized~~
1382 ~~by the owner or lessor,~~ of real property on which the ~~such~~
1383 vehicle or vessel is ~~wrongfully~~ parked without permission, and
1384 the removal is done in compliance with s. 715.07; or
1385 (c) Any law enforcement agency,
1386
1387 the wrecker company has ~~she or he shall have~~ a lien on the
1388 vehicle or vessel for a reasonable towing fee and for a
1389 reasonable storage fee, ~~,~~ except that no storage fee shall be
1390 charged if the vehicle or vessel is stored ~~for~~ less than 6
1391 hours.
1392 (3) This section does not authorize any person to claim a
1393 lien on a vehicle for fees or charges connected with the
1394 immobilization of the ~~such~~ vehicle using a vehicle boot or other
1395 similar device under ~~pursuant to~~ s. 715.07.
1396 (4)(a) Any wrecker company that ~~person regularly engaged~~
1397 ~~in the business of recovering, towing, or storing vehicles or~~
1398 ~~vessels who~~ comes into possession of a vehicle or vessel under

1399 ~~pursuant to~~ subsection (2)~~,~~ and ~~who~~ claims a lien for recovery,
1400 towing, or storage services~~,~~ shall give notice to the registered
1401 owner, the insurance company insuring the vehicle
1402 notwithstanding ~~the provisions of~~ s. 627.736, and ~~to~~ all persons
1403 claiming a lien on the vehicle or vessel ~~thereon,~~ as disclosed
1404 by the records in the Department of Highway Safety and Motor
1405 Vehicles or of a corresponding agency in any other state.
1406 (b) Whenever a ~~any~~ law enforcement agency authorizes the
1407 removal of a vehicle or vessel or whenever a wrecker company ~~any~~
1408 ~~towing service, garage, repair shop, or automotive service,~~
1409 ~~storage, or parking place~~ notifies the law enforcement agency of
1410 possession of a vehicle or vessel under ~~pursuant to~~ s.
1411 715.07(2)(a)2., the applicable law enforcement agency shall
1412 contact the Department of Highway Safety and Motor Vehicles, or
1413 the appropriate agency of the state of registration, if known,
1414 within 24 hours through the medium of electronic communications,
1415 giving the full description of the vehicle or vessel. Upon
1416 receipt of the full description of the vehicle or vessel, the
1417 department shall search its files to determine the owner's name,
1418 the insurance company insuring the vehicle or vessel, and
1419 whether any person has filed a lien upon the vehicle or vessel
1420 as provided in s. 319.27(2) and (3) and notify the applicable
1421 law enforcement agency within 72 hours. The wrecker company
1422 ~~person in charge of the towing service, garage, repair shop, or~~
1423 ~~automotive service, storage, or parking place~~ shall obtain that
1424 ~~such~~ information from the applicable law enforcement agency
1425 within 5 days after the date of storage and shall give notice
1426 under ~~pursuant to~~ paragraph (a). The department may release the

1427 insurance company information to the requestor notwithstanding
1428 ~~the provisions of~~ s. 627.736.
1429 (c) Notice by certified mail~~, return receipt requested,~~
1430 shall be sent within 7 business days after the date of storage
1431 of the vehicle or vessel to the registered owner, the insurance
1432 company insuring the vehicle notwithstanding ~~the provisions of~~
1433 s. 627.736, and all persons of record claiming a lien against
1434 the vehicle or vessel. The notice ~~It~~ shall state the fact of
1435 possession of the vehicle or vessel and~~,~~ that a lien as provided
1436 in subsection (2) is claimed, that charges have accrued and the
1437 amount of the charges ~~thereof~~, that the lien is subject to
1438 enforcement under ~~pursuant to~~ law, ~~and~~ that the owner or
1439 lienholder, if any, has the right to a hearing as set forth in
1440 subsection (5), and that any vehicle or vessel that ~~which~~
1441 remains unclaimed~~,~~ or for which the charges for recovery,
1442 towing, or storage services remain unpaid~~,~~ may be sold free of
1443 all prior liens after 35 days if the vehicle or vessel is more
1444 than 3 years of age or after 50 days if the vehicle or vessel is
1445 3 years of age or less.
1446 (d) If the wrecker company is unable ~~attempts~~ to identify
1447 ~~locate~~ the name and address of the owner or lienholder ~~prove~~
1448 ~~unsuccessful~~, the wrecker company ~~towing-storage operator~~ shall,
1449 after 7 business ~~working~~ days following~~, excluding Saturday and~~
1450 ~~Sunday, of~~ the initial tow or storage, notify the public agency
1451 of jurisdiction in writing by certified mail or acknowledged
1452 hand delivery that the wrecker ~~towing-storage~~ company has been
1453 unable to identify ~~locate~~ the name and address of the owner or
1454 lienholder, ~~and~~ a physical search of the vehicle or vessel has

1455 disclosed no ownership information, and a good faith effort has
1456 been made. For purposes of this paragraph and subsection (9),
1457 the term "good faith effort" means that the following checks
1458 have been performed by the wrecker company to establish prior
1459 state of registration and for title:
1460 1. Check of vehicle or vessel for any type of tag, tag
1461 record, temporary tag, or regular tag.
1462 2. Check of law enforcement report for tag number or other
1463 information identifying the vehicle or vessel~~,~~ if the vehicle or
1464 vessel was towed at the request of a law enforcement officer.
1465 3. Check of trip sheet or tow ticket of the wrecker ~~tow~~
1466 ~~truck~~ operator to see if a tag was on vehicle or vessel at
1467 beginning of tow, if private tow.
1468 4. If there is no address of the owner on the impound
1469 report, check of law enforcement report to see if an out-of-
1470 state address is indicated from driver license information.
1471 5. Check of vehicle or vessel for inspection sticker or
1472 other stickers and decals that may indicate a state of possible
1473 registration.
1474 6. Check of the interior of the vehicle or vessel for any
1475 papers that may be in the glove box, trunk, or other areas for a
1476 state of registration.
1477 7. Check of vehicle for vehicle identification number.
1478 8. Check of vessel for vessel registration number.
1479 9. Check of vessel hull for a hull identification number,
1480 which should be carved, burned, stamped, embossed, or otherwise
1481 permanently affixed to the outboard side of the transom or, if

1482 there is no transom, to the outmost seaboard side at the end of
1483 the hull that bears the rudder or other steering mechanism.
1484 (5)(a) The owner of a vehicle or vessel removed under
1485 ~~pursuant to the provisions of~~ subsection (2), or any person
1486 claiming a lien, other than the wrecker company ~~towing-storage~~
1487 ~~operator~~, within 10 days after the time she or he has knowledge
1488 of the location of the vehicle or vessel, may file a complaint
1489 in the county court of the county in which the vehicle or vessel
1490 is stored or in which the owner resides to determine if her or
1491 his property was wrongfully taken or withheld from her or him.
1492 (b) Upon filing of a complaint, an owner or lienholder may
1493 have her or his vehicle or vessel released upon posting with the
1494 court a cash or surety bond or other adequate security equal to
1495 the amount of the charges for towing or storage and lot rental
1496 amount to ensure the payment of the ~~such~~ charges in the event
1497 she or he does not prevail. Upon the posting of the bond and the
1498 payment of the applicable fee set forth in s. 28.24, the clerk
1499 of the court shall issue a certificate notifying the lienor of
1500 the posting of the bond and directing the lienor to release the
1501 vehicle or vessel. At the time of the ~~such~~ release, after
1502 reasonable inspection, she or he shall give a receipt to the
1503 wrecker ~~towing-storage~~ company reciting any claims she or he has
1504 for loss or damage to the vehicle or vessel or to the contents
1505 of the vehicle or vessel ~~thereof~~.
1506 (c) Upon determining the respective rights of the parties,
1507 the court shall ~~may~~ award damages, reasonable attorney's fees,
1508 and costs to ~~in favor of~~ the prevailing party. ~~In any event,~~ The
1509 final order shall require ~~provide for~~ immediate payment in full

1510 of the recovery, towing, and storage fees by the vehicle or
1511 vessel owner or lienholder,~~,~~ by ~~or~~ the law enforcement agency
1512 ordering the tow,~~,~~ or by the property owner~~, lessee, or agent~~
1513 ~~thereof~~ of the real property from which the vehicle or vessel
1514 was towed or removed under s. 715.07.
1515 (6) Any vehicle or vessel that ~~which~~ is stored under
1516 ~~pursuant to~~ subsection (2) and ~~which~~ remains unclaimed, or for
1517 which reasonable charges for recovery, towing, or storing remain
1518 unpaid, and any contents not released under ~~pursuant to~~
1519 subsection (10)~~,~~ may be sold by the wrecker company ~~owner or~~
1520 ~~operator of the storage space~~ for the ~~such~~ towing or storage
1521 charge ~~after~~ 35 days after ~~from the time~~ the vehicle or vessel
1522 is stored in the wrecker company's storage facility ~~therein~~ if
1523 the vehicle or vessel is more than 3 years of age or ~~after~~ 50
1524 days after ~~following the time~~ the vehicle or vessel is stored in
1525 the wrecker company's storage facility ~~therein~~ if the vehicle or
1526 vessel is 3 years of age or less. The sale shall be at public
1527 auction for cash. If the date of the sale is ~~was~~ not included in
1528 the notice required in subsection (4), notice of the sale shall
1529 be given to the person in whose name the vehicle or vessel is
1530 registered and to all persons claiming a lien on the vehicle or
1531 vessel as shown on the records of the Department of Highway
1532 Safety and Motor Vehicles or of the corresponding agency in any
1533 other state. Notice shall be sent by certified mail~~, return~~
1534 ~~receipt requested,~~ to the owner of the vehicle or vessel and the
1535 person having the recorded lien on the vehicle or vessel at the
1536 address shown on the records of the registering agency and shall
1537 be mailed at least ~~not less than~~ 15 days before the date of the

1538 sale. After diligent search and inquiry, if the name and address
1539 of the registered owner or the owner of the recorded lien cannot
1540 be ascertained, the requirements of notice by mail may be
1541 dispensed with. In addition to the notice by mail, public notice
1542 of the time and place of sale shall be made by publishing a
1543 notice of the sale ~~thereof~~ one time, at least 10 days prior to
1544 the date of the sale, in a newspaper of general circulation in
1545 the county in which the sale is to be held. The proceeds of the
1546 sale, after payment of reasonable towing and storage charges~~,~~
1547 and costs of the sale, in that order of priority, shall be
1548 deposited with the clerk of the circuit court for the county if
1549 the owner is absent, and the clerk shall hold the ~~such~~ proceeds
1550 subject to the claim of the person legally entitled to those
1551 proceeds ~~thereto~~. The clerk shall be entitled to receive 5
1552 percent of the ~~such~~ proceeds for the care and disbursement of
1553 the proceeds ~~thereof~~. The certificate of title issued under this
1554 section ~~law~~ shall be discharged of all liens unless otherwise
1555 provided by court order.
1556 (7)(a) A wrecker company, its wrecker operators, and other
1557 employees or agents of the wrecker company ~~operator~~ recovering,
1558 towing, or storing vehicles or vessels are ~~is~~ not liable for
1559 damages connected with those ~~such~~ services, theft of the ~~such~~
1560 vehicles or vessels, or theft of personal property contained in
1561 the ~~such~~ vehicles or vessels if those~~, provided that such~~
1562 services are ~~have been~~ performed with reasonable care and
1563 ~~provided, further, that~~, in the case of removal of a vehicle or
1564 vessel upon the request of a person purporting~~,~~ and reasonably
1565 appearing~~,~~ to be the property owner ~~or lessee, or a person~~

1566 ~~authorized by the owner or lessee,~~ of the real property from
1567 which the ~~such~~ vehicle or vessel is removed, the ~~such~~ removal is
1568 ~~has been~~ done in compliance with s. 715.07. Further, a wrecker
1569 company, its wrecker operators, and other employees or agents of
1570 the wrecker company are ~~operator is~~ not liable for damage to a
1571 vehicle, a vessel, or cargo that obstructs the normal movement
1572 of traffic or creates a hazard to traffic and is removed in
1573 compliance with the request of a law enforcement officer.
1574 (b) For the purposes of this subsection, a wrecker
1575 company, its wrecker operators, and other employees or agents of
1576 the wrecker company are ~~operator is~~ presumed to use reasonable
1577 care to prevent the theft of a vehicle or vessel or of any
1578 personal property contained in the ~~such~~ vehicle or vessel stored
1579 in the wrecker company's ~~operator's~~ storage facility if all of
1580 the following apply:
1581 1. The wrecker company ~~operator~~ surrounds the storage
1582 facility with a chain-link or solid-wall type fence at least 6
1583 feet in height;
1584 2. The wrecker company illuminates ~~operator has~~
1585 ~~illuminated~~ the storage facility with lighting of sufficient
1586 intensity to reveal persons and vehicles at a distance of at
1587 least 150 feet during nighttime; and
1588 3. The wrecker company ~~operator~~ uses one or more of the
1589 following security methods to discourage theft of vehicles or
1590 vessels or of any personal property contained in such vehicles
1591 or vessels stored in the wrecker company's ~~operator's~~ storage
1592 facility:

1593 a. A night dispatcher or watchman remains on duty at the
1594 storage facility from sunset to sunrise;
1595 b. A security dog remains at the storage facility from
1596 sunset to sunrise;
1597 c. Security cameras or other similar surveillance devices
1598 monitor the storage facility; or
1599 d. A security guard service examines the storage facility
1600 at least once each hour from sunset to sunrise.
1601 (c) Any law enforcement agency requesting that a motor
1602 vehicle be removed from an accident scene, street, or highway
1603 must conduct an inventory and prepare a written record of all
1604 personal property found in the vehicle before the vehicle is
1605 removed by a wrecker operator. However, if the owner or driver
1606 of the motor vehicle is present and accompanies the vehicle, an
1607 ~~no~~ inventory by law enforcement is not required. A wrecker
1608 company, its wrecker operators, and other employees or agents of
1609 the wrecker company are ~~operator is~~ not liable for the loss of
1610 personal property alleged to be contained in ~~such~~ a vehicle when
1611 the ~~such~~ personal property was not identified on the inventory
1612 record prepared by the law enforcement agency requesting the
1613 removal of the vehicle.
1614 (8) A wrecker company and its wrecker operators, excluding
1615 ~~person regularly engaged in the business of recovering, towing,~~
1616 ~~or storing vehicles or vessels, except~~ a person licensed under
1617 chapter 493 while engaged in "repossession" activities as
1618 defined in s. 493.6101, may not operate a wrecker~~, tow truck, or~~
1619 ~~car carrier~~ unless the name, address, and telephone number of
1620 the wrecker company performing the wrecker services ~~service~~ is

1621 clearly printed in contrasting colors on the driver and
1622 passenger sides of the wrecker ~~its vehicle~~. The name must be in
1623 at least 3-inch permanently affixed letters, and the address and
1624 telephone number must be in at least 1-inch permanently affixed
1625 letters.
1626 (9) Failure to make good faith, best efforts to comply
1627 with the notice requirements of this section precludes ~~shall~~
1628 ~~preclude~~ the imposition of any storage charges against the ~~such~~
1629 vehicle or vessel.
1630 (10) Each wrecker company that provides ~~Persons who~~
1631 ~~provide~~ services under ~~pursuant to~~ this section shall permit
1632 vehicle or vessel owners or their agents, which agency is
1633 evidenced by an original writing acknowledged by the owner
1634 before a notary public or other person empowered by law to
1635 administer oaths, to inspect the towed vehicle or vessel and
1636 shall release to the owner or agent the vehicle, vessel, or all
1637 personal property not affixed to the vehicle or vessel that
1638 ~~which~~ was in the vehicle or vessel at the time the vehicle or
1639 vessel came into the custody of the wrecker company ~~person~~
1640 providing those ~~such~~ services.
1641 (11)(a) A wrecker company that ~~Any person regularly~~
1642 ~~engaged in the business of recovering, towing, or storing~~
1643 ~~vehicles or vessels who~~ comes into possession of a vehicle or
1644 vessel pursuant to subsection (2) and complies ~~who has complied~~
1645 with ~~the provisions of~~ subsections (3) and (6), when the ~~such~~
1646 vehicle or vessel is to be sold for purposes of being
1647 dismantled, destroyed, or changed in such a manner that it is
1648 not the motor vehicle or vessel described in the certificate of

1649 title, must ~~shall~~ apply to the county tax collector for a
1650 certificate of destruction. A certificate of destruction, which
1651 authorizes the dismantling or destruction of the vehicle or
1652 vessel described on the certificate ~~therein~~, is ~~shall be~~
1653 reassignable no more than twice ~~a maximum of two times~~ before
1654 dismantling or destruction of the vehicle or vessel is ~~shall be~~
1655 required, and, in lieu of a certificate of title, the
1656 certificate of destruction shall accompany the vehicle or vessel
1657 for which it is issued~~,~~ when the ~~such~~ vehicle or vessel is sold
1658 for that purpose ~~such purposes, in lieu of a certificate of~~
1659 ~~title~~. The application for a certificate of destruction must
1660 include an affidavit from the applicant that it has complied
1661 with all applicable requirements of this section and, if the
1662 vehicle or vessel is not registered in this state, by a
1663 statement from a law enforcement officer that the vehicle or
1664 vessel is not reported stolen~~,~~ and must also ~~shall~~ be
1665 accompanied by any other ~~such~~ documentation ~~as may be~~ required
1666 by the department.
1667 (b) The Department of Highway Safety and Motor Vehicles
1668 shall charge a fee of $3 for each certificate of destruction. A
1669 service charge of $4.25 shall be collected and retained by the
1670 tax collector who processes the application.
1671 (c) The Department of Highway Safety and Motor Vehicles
1672 may adopt ~~such~~ rules to administer ~~as it deems necessary or~~
1673 ~~proper for the administration of~~ this subsection.
1674 (12)(a) Any person who violates ~~any provision of~~
1675 subsection (1), subsection (2), subsection (4), subsection (5),
1676 subsection (6), or subsection (7) commits ~~is guilty of~~ a

1677 misdemeanor of the first degree, punishable as provided in s.
1678 775.082 or s. 775.083.
1679 (b) Any person who violates subsection (8), subsection
1680 (9), subsection (10), or subsection (11) commits ~~the provisions~~
1681 ~~of subsections (8) through (11) is guilty of~~ a felony of the
1682 third degree, punishable as provided in s. 775.082, s. 775.083,
1683 or s. 775.084.
1684 (c) Any person who uses a false or fictitious name, gives
1685 a false or fictitious address, or makes any false statement in
1686 any application or affidavit required under ~~the provisions of~~
1687 this section commits ~~is guilty of~~ a felony of the third degree,
1688 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1689 (d) Employees of the Department of Highway Safety and
1690 Motor Vehicles and law enforcement officers may ~~are authorized~~
1691 ~~to~~ inspect the records of each wrecker company in this state ~~any~~
1692 ~~person regularly engaged in the business of recovering, towing,~~
1693 ~~or storing vehicles or vessels or transporting vehicles or~~
1694 ~~vessels by wrecker, tow truck, or car carrier,~~ to ensure
1695 compliance with the requirements of this section. Any person who
1696 fails to maintain records, or fails to produce records when
1697 required in a reasonable manner and at a reasonable time,
1698 commits a misdemeanor of the first degree, punishable as
1699 provided in s. 775.082 or s. 775.083.
1700 (13)(a) Upon receipt by the Department of Highway Safety
1701 and Motor Vehicles of written notice from a wrecker company that
1702 ~~operator who~~ claims a wrecker company's ~~operator's~~ lien under
1703 paragraph (2)(c) ~~or paragraph (2)(d)~~ for recovery, towing, or
1704 storage of an abandoned vehicle or vessel upon instructions from

1705 any law enforcement agency, for which a certificate of
1706 destruction has been issued under subsection (11), the
1707 department shall place the name of the registered owner of that
1708 vehicle or vessel on the list of those persons who may not be
1709 issued a license plate or revalidation sticker for any motor
1710 vehicle under s. 320.03(8). If the vehicle or vessel is owned
1711 jointly by more than one person, the name of each registered
1712 owner shall be placed on the list. The notice of wrecker
1713 company's ~~operator's~~ lien shall be submitted on forms provided
1714 by the department, which must include:
1715 1. The name, address, and telephone number of the wrecker
1716 company ~~operator~~.
1717 2. The name of the registered owner of the vehicle or
1718 vessel and the address to which the wrecker company ~~operator~~
1719 provided notice of the lien to the registered owner under
1720 subsection (4).
1721 3. A general description of the vehicle or vessel,
1722 including its color, make, model, body style, and year.
1723 4. The vehicle identification number (VIN); registration
1724 license plate number, state, and year; validation decal number,
1725 state, and year; vessel registration number; hull identification
1726 number; or other identification number, as applicable.
1727 5. The name of the person or the corresponding law
1728 enforcement agency that requested that the vehicle or vessel be
1729 recovered, towed, or stored.
1730 6. The amount of the wrecker company's ~~operator's~~ lien,
1731 not to exceed the amount allowed by paragraph (b).

1732 (b) For purposes of this subsection only, the amount of
1733 the wrecker company's ~~operator's~~ lien for which the department
1734 will prevent issuance of a license plate or revalidation sticker
1735 may not exceed the amount of the charges for recovery, towing,
1736 and storage of the vehicle or vessel for 7 days. These charges
1737 may not exceed the maximum rates imposed by the ordinances of
1738 the respective county or municipality under ss. 125.0103(1)(c)
1739 and 166.043(1)(c). This paragraph does not limit the amount of a
1740 wrecker company's ~~operator's~~ lien claimed under subsection (2)
1741 or prevent a wrecker company ~~operator~~ from seeking civil
1742 remedies for enforcement of the entire amount of the lien~~,~~ but
1743 limits only that portion of the lien for which the department
1744 will prevent issuance of a license plate or revalidation
1745 sticker.
1746 (c)1. The registered owner of a vehicle or vessel may
1747 dispute a wrecker company's ~~operator's~~ lien, by notifying the
1748 department of the dispute in writing on forms provided by the
1749 department, if at least one of the following applies:
1750 a. The registered owner presents a notarized bill of sale
1751 proving that the vehicle or vessel was sold in a private or
1752 casual sale before the vehicle or vessel was recovered, towed,
1753 or stored.
1754 b. The registered owner presents proof that the Florida
1755 certificate of title of the vehicle or vessel was sold to a
1756 licensed dealer as defined in s. 319.001 before the vehicle or
1757 vessel was recovered, towed, or stored.
1758 c. The records of the department were marked "sold" prior
1759 to the date of the tow.

1760

1761 If the registered owner's dispute of a wrecker company's
1762 ~~operator's~~ lien complies with one of these criteria, the
1763 department shall immediately remove the registered owner's name
1764 from the list of those persons who may not be issued a license
1765 plate or revalidation sticker for any motor vehicle under s.
1766 320.03(8), thereby allowing issuance of a license plate or
1767 revalidation sticker. If the vehicle or vessel is owned jointly
1768 by more than one person, each registered owner must dispute the
1769 wrecker company's ~~operator's~~ lien in order to be removed from
1770 the list. However, the department shall deny any dispute and
1771 maintain the registered owner's name on the list of those
1772 persons who may not be issued a license plate or revalidation
1773 sticker for any motor vehicle under s. 320.03(8) if the wrecker
1774 company ~~operator~~ has provided the department with a certified
1775 copy of the judgment of a court that ~~which~~ orders the registered
1776 owner to pay the wrecker company's ~~operator's~~ lien claimed under
1777 this section. In such a case, the amount of the wrecker
1778 company's ~~operator's~~ lien allowed by paragraph (b) may be
1779 increased to include no more than $500 of the reasonable costs
1780 and attorney's fees incurred in obtaining the judgment. The
1781 department's action under this subparagraph is ministerial in
1782 nature, shall not be considered final agency action, and is
1783 appealable only to the county court for the county in which the
1784 vehicle or vessel was ordered removed.
1785 2. A person against whom a wrecker company's ~~operator's~~
1786 lien has been imposed may alternatively obtain a discharge of
1787 the lien by filing a complaint~~,~~ challenging the validity ~~of the~~

1788 ~~lien~~ or ~~the~~ amount of the lien ~~thereof,~~ in the county court of
1789 the county in which the vehicle or vessel was ordered removed.
1790 Upon filing of the complaint, the person may have her or his
1791 name removed from the list of those persons who may not be
1792 issued a license plate or revalidation sticker for any motor
1793 vehicle under s. 320.03(8), thereby allowing issuance of a
1794 license plate or revalidation sticker, upon posting with the
1795 court a cash or surety bond or other adequate security equal to
1796 the amount of the wrecker company's ~~operator's~~ lien to ensure
1797 the payment of such lien in the event she or he does not
1798 prevail. Upon the posting of the bond and the payment of the
1799 applicable fee set forth in s. 28.24, the clerk of the court
1800 shall issue a certificate notifying the department of the
1801 posting of the bond and directing the department to release the
1802 wrecker company's ~~operator's~~ lien. Upon determining the
1803 respective rights of the parties, the court may award damages
1804 and costs in favor of the prevailing party.
1805 3. If a person against whom a wrecker company's ~~operator's~~
1806 lien has been imposed does not object to the lien~~,~~ but cannot
1807 discharge the lien by payment because the wrecker company
1808 ~~operator~~ has moved or gone out of business, the person may have
1809 her or his name removed from the list of those persons who may
1810 not be issued a license plate or revalidation sticker for any
1811 motor vehicle under s. 320.03(8), thereby allowing issuance of a
1812 license plate or revalidation sticker, upon posting with the
1813 clerk of court in the county in which the vehicle or vessel was
1814 ordered removed~~,~~ a cash or surety bond or other adequate
1815 security equal to the amount of the wrecker company's ~~operator's~~

1816 lien. Upon the posting of the bond and the payment of the
1817 application fee set forth in s. 28.24, the clerk of the court
1818 shall issue a certificate notifying the department of the
1819 posting of the bond and directing the department to release the
1820 wrecker company's ~~operator's~~ lien. The department shall mail to
1821 the wrecker company ~~operator~~, at the address upon the lien form,
1822 notice that the wrecker company ~~operator~~ must claim the security
1823 within 60 days~~,~~ or the security will be released back to the
1824 person who posted it. At the conclusion of the 60 days, the
1825 department shall direct the clerk as to which party is entitled
1826 to payment of the security, less applicable clerk's fees.
1827 4. A wrecker company's ~~operator's~~ lien expires 5 years
1828 after filing.
1829 (d) Upon discharge of the amount of the wrecker company's
1830 ~~operator's~~ lien allowed by paragraph (b), the wrecker company
1831 ~~operator~~ must issue a certificate of discharged wrecker
1832 company's ~~operator's~~ lien on forms provided by the department to
1833 each registered owner of the vehicle or vessel attesting that
1834 the amount of the wrecker company's ~~operator's~~ lien allowed by
1835 paragraph (b) has been discharged. Upon presentation of the
1836 certificate of discharged wrecker company's ~~operator's~~ lien by
1837 the registered owner, the department shall immediately remove
1838 the registered owner's name from the list of those persons who
1839 may not be issued a license plate or revalidation sticker for
1840 any motor vehicle under s. 320.03(8), thereby allowing issuance
1841 of a license plate or revalidation sticker. Issuance of a
1842 certificate of discharged wrecker company's ~~operator's~~ lien
1843 under this paragraph does not discharge the entire amount of the

1844 wrecker company's ~~operator's~~ lien claimed under subsection (2)~~,~~
1845 but only certifies to the department that the amount of the
1846 wrecker company's ~~operator's~~ lien allowed by paragraph (b), for
1847 which the department will prevent issuance of a license plate or
1848 revalidation sticker, has been discharged.
1849 (e) When a wrecker company ~~operator~~ files a notice of
1850 wrecker company's ~~operator's~~ lien under this subsection, the
1851 department shall charge the wrecker company ~~operator~~ a fee of
1852 $2, which shall be deposited into the General Revenue Fund
1853 established under s. 860.158. A service charge of $2.50 shall be
1854 collected and retained by the tax collector who processes a
1855 notice of wrecker company's ~~operator's~~ lien.
1856 (f) This subsection applies only to the annual renewal in
1857 the registered owner's birth month of a motor vehicle
1858 registration and does not apply to the transfer of a
1859 registration of a motor vehicle sold by a motor vehicle dealer
1860 licensed under chapter 320, except for the transfer of
1861 registrations which is inclusive of the annual renewals. This
1862 subsection does not apply to any vehicle registered in the name
1863 of the lessor. This subsection does not affect the issuance of
1864 the title to a motor vehicle, notwithstanding s. 319.23(7)(b).
1865 (g) The Department of Highway Safety and Motor Vehicles
1866 may adopt rules pursuant to ss. 120.536(1) and 120.54 to
1867 implement this subsection.
1868 Section 20. The amendments to section 713.78, Florida
1869 Statutes, made by this act do not affect the validity of liens
1870 established under section 713.78, Florida Statutes, before
1871 January 1, 2008.

1872 Section 21. Effective January 1, 2008, section 715.07,
1873 Florida Statutes, is amended to read:
1874 715.07 Vehicles or vessels parked on real ~~private~~ property
1875 without permission; towing.--
1876 (1) As used in this section, the term:
1877 (a) "Property owner" means an owner or lessee of real
1878 property, or a person authorized by the owner or lessee, which
1879 person may be the designated representative of the condominium
1880 association if the real property is a condominium.
1881 (b) ~~(a)~~ "Vehicle" has the same meaning ascribed in s.
1882 508.101 ~~means any mobile item which normally uses wheels,~~
1883 ~~whether motorized or not~~.
1884 (c) ~~(b)~~ "Vessel" has the same meaning ascribed in s.
1885 508.101 ~~means every description of watercraft, barge, and~~
1886 ~~airboat used or capable of being used as a means of~~
1887 ~~transportation on water, other than a seaplane or a "documented~~
1888 ~~vessel" as defined in s. 327.02(9)~~.
1889 (d) "Wrecker company" has the same meaning ascribed in s.
1890 508.101.
1891 (e) "Wrecker operator" has the same meaning ascribed in s.
1892 508.101.
1893 (2) A property owner ~~The owner or lessee of real property,~~
1894 ~~or any person authorized by the owner or lessee, which person~~
1895 ~~may be the designated representative of the condominium~~
1896 ~~association if the real property is a condominium,~~ may cause a
1897 ~~any~~ vehicle or vessel parked on her or his ~~such~~ property without
1898 her or his permission to be removed by a wrecker company
1899 registered under chapter 508 ~~person regularly engaged in the~~

1900 ~~business of towing vehicles or vessels,~~ without liability for
1901 the costs of removal, transportation, or storage or damages
1902 caused by the ~~such~~ removal, transportation, or storage~~,~~ under
1903 any of the following circumstances:
1904 (a) The towing or removal of any vehicle or vessel from
1905 real ~~private~~ property without the consent of the registered
1906 owner or other legally authorized person in control of that
1907 vehicle or vessel is subject to strict compliance with the
1908 following conditions and restrictions:
1909 1.a. Any towed or removed vehicle or vessel must be stored
1910 at a storage facility ~~site~~ within a 10-mile radius of the point
1911 of removal in any county with a population of 500,000 ~~population~~
1912 or more, and within a 15-mile radius of the point of removal in
1913 any county with a population of fewer ~~less~~ than 500,000
1914 ~~population~~. The wrecker company's storage facility ~~That site~~
1915 must be open for the purpose of redemption of vehicles and
1916 vessels on any day that the wrecker company ~~person or firm~~
1917 towing the ~~such~~ vehicle or vessel is open for towing purposes,
1918 from 8 ~~8:00~~ a.m. to 6 ~~6:00~~ p.m., and, when closed, must ~~shall~~
1919 have prominently posted a sign indicating a telephone number
1920 where the operator of the storage facility ~~site~~ can be reached
1921 at all times. Upon receipt of a telephoned request to open the
1922 storage facility ~~site~~ to redeem a vehicle or vessel, the
1923 operator shall return to the storage facility ~~site~~ within 1 hour
1924 or she or he is ~~will be~~ in violation of this section.
1925 b. If no wrecker company ~~towing business providing such~~
1926 ~~service~~ is located within the area of towing limitations ~~set~~
1927 ~~forth~~ in sub-subparagraph a., the following limitations apply:

1928 any towed or removed vehicle or vessel must be stored at a
1929 storage facility ~~site~~ within a 20-mile radius of the point of
1930 removal in any county with a population of 500,000 ~~population~~ or
1931 more~~,~~ and within a 30-mile radius of the point of removal in any
1932 county with a population of fewer ~~less~~ than 500,000 ~~population~~.
1933 2. The wrecker company ~~person or firm~~ towing or removing
1934 the vehicle or vessel shall, within 30 minutes after completion
1935 of the ~~such~~ towing or removal, notify the municipal police
1936 department or, in an unincorporated area, the sheriff~~,~~ of the
1937 ~~such~~ towing or removal, the location of the storage facility
1938 ~~site~~, the time the vehicle or vessel was towed or removed, and
1939 the make, model, color, and license plate number of the vehicle
1940 or the make, model, color, and registration number of the
1941 vessel. The wrecker company ~~or description and registration~~
1942 ~~number of the vessel and~~ shall also obtain the name of the
1943 person at the police ~~that~~ department or sheriff's office to whom
1944 such information is ~~was~~ reported and note that name on the trip
1945 record.
1946 3. A wrecker operator ~~person~~ in the process of towing or
1947 removing a vehicle or vessel from the premises or parking lot in
1948 which the vehicle or vessel is ~~not lawfully~~ parked without
1949 permission must stop when a person seeks the return of the
1950 vehicle or vessel. The vehicle or vessel must be returned upon
1951 the payment of a reasonable service fee of not more than one-
1952 half of the posted rate for the towing or removal service as
1953 provided in subparagraph 6. The vehicle or vessel may be towed
1954 or removed if, after a reasonable opportunity, the owner or
1955 legally authorized person in control of the vehicle or vessel is

1956 unable to pay the service fee or refuses to remove the vehicle
1957 or vessel that is parked without permission. If the vehicle or
1958 vessel is redeemed, a detailed signed receipt must be given to
1959 the person redeeming the vehicle or vessel.
1960 4. A wrecker company, a wrecker operator, or another
1961 employee or agent of a wrecker company ~~person~~ may not pay or
1962 accept money or other valuable consideration for the privilege
1963 of towing or removing vehicles or vessels from a particular
1964 location.
1965 5. Except for property appurtenant to and obviously a part
1966 of a single-family residence, and except for instances when
1967 notice is personally given to the owner or other legally
1968 authorized person in control of the vehicle or vessel that the
1969 area in which that vehicle or vessel is parked is reserved or
1970 otherwise unavailable for unauthorized vehicles or vessels and
1971 that the vehicle or vessel is subject to being removed at the
1972 owner's or operator's expense, any property owner ~~or lessee, or~~
1973 ~~person authorized by the property owner or lessee~~, before ~~prior~~
1974 ~~to~~ towing or removing any vehicle or vessel from real ~~private~~
1975 property without the consent of the owner or other legally
1976 authorized person in control of that vehicle or vessel, must
1977 post a notice meeting the following requirements:
1978 a. The notice must be prominently placed at each driveway
1979 access or curb cut allowing vehicular access to the property,
1980 within 5 feet from the public right-of-way line. If there are no
1981 curbs or access barriers, at least one sign ~~the signs~~ must be
1982 posted ~~not less than one sign~~ for each 25 feet of lot frontage.

1983 b. The notice must clearly indicate, in at least ~~not less~~
1984 ~~than~~ 2-inch high, light-reflective letters on a contrasting
1985 background, that unauthorized vehicles will be towed away at the
1986 owner's expense. The words "tow-away zone" must be included on
1987 the sign in at least ~~not less than~~ 4-inch high letters.
1988 c. The notice must also provide the name and current
1989 telephone number of the wrecker company ~~person or firm~~ towing or
1990 removing the vehicles or vessels.
1991 d. The sign structure containing the required notices must
1992 be permanently installed with the words "tow-away zone" not less
1993 than 3 feet and not more than 6 feet above ground level and must
1994 be continuously maintained on the property for not less than 24
1995 hours prior to the towing or removal of any vehicles or vessels.
1996 e. The local government may require permitting and
1997 inspection of these signs prior to any towing or removal of
1998 vehicles or vessels being authorized.
1999 f. A business with 20 or fewer parking spaces satisfies
2000 the notice requirements of this subparagraph by prominently
2001 displaying a sign stating, "Reserved Parking for Customers Only.
2002 Unauthorized Vehicles or Vessels Will be Towed Away At the
2003 Owner's Expense," in at least ~~not less than~~ 4-inch high, light-
2004 reflective letters on a contrasting background.
2005 ~~g. A property owner towing or removing vessels from real~~
2006 ~~property must post notice, consistent with the requirements in~~
2007 ~~sub-subparagraphs a.-f., which apply to vehicles, that~~
2008 ~~unauthorized vehicles or vessels will be towed away at the~~
2009 ~~owner's expense.~~
2010

2011 A business owner or lessee may authorize the removal of a
2012 vehicle or vessel by a wrecker ~~towing~~ company registered under
2013 chapter 508 when no tow-away sign is posted if the vehicle or
2014 vessel is parked in ~~such~~ a manner that restricts the normal
2015 operation of business.~~; and~~ If a vehicle or vessel parked on a
2016 public right-of-way obstructs access to a private driveway when
2017 no tow-away sign is posted, the owner or~~,~~ lessee of the
2018 driveway~~,~~ or the owner's or lessee's agent may have the vehicle
2019 or vessel removed by a wrecker ~~towing~~ company registered under
2020 chapter 508 upon signing an order that the vehicle or vessel be
2021 removed ~~without a posted tow-away zone sign~~.
2022 6. Each wrecker company ~~Any person or firm~~ that tows or
2023 removes vehicles or vessels and proposes to require an owner,
2024 operator, or person in control of a vehicle or vessel to pay the
2025 costs of towing and storage prior to redemption of the vehicle
2026 or vessel must file and keep on record with the local law
2027 enforcement agency a complete copy of the current rates to be
2028 charged for the ~~such~~ services and post at the wrecker company's
2029 storage facility ~~site~~ an identical rate schedule and any written
2030 contracts with property owners~~, lessees,~~ or persons in control
2031 of real property that ~~which~~ authorize the wrecker company ~~such~~
2032 ~~person or firm~~ to remove vehicles or vessels as provided in this
2033 section.
2034 7. Each wrecker company ~~Any person or firm~~ towing or
2035 removing any vehicles or vessels from real ~~private~~ property
2036 without the consent of the owner or other legally authorized
2037 person in control of the vehicles or vessels shall, on each
2038 wrecker ~~any trucks, wreckers~~ as defined in s. 320.01 ~~s.~~

2039 ~~713.78(1)(c), or other vehicles~~ used in the towing or removal,
2040 have the name, address, and telephone number of the wrecker
2041 company ~~performing such service~~ clearly printed in contrasting
2042 colors on the driver and passenger sides of the wrecker ~~vehicle~~.
2043 The name must ~~shall~~ be in at least 3-inch permanently affixed
2044 letters, and the address and telephone number must ~~shall~~ be in
2045 at least 1-inch permanently affixed letters.
2046 8. Vehicle or vessel entry for the purpose of towing or
2047 removing the vehicle or vessel is ~~shall be~~ allowed with
2048 reasonable care on the part of the wrecker company and the
2049 wrecker operators ~~person or firm~~ towing the vehicle or vessel. A
2050 wrecker company, its wrecker operators, and other employees or
2051 agents of the wrecker company are not ~~Such person or firm shall~~
2052 ~~be~~ liable for any damage occasioned to the vehicle or vessel if
2053 ~~such~~ entry into the vehicle or vessel is performed ~~not in~~
2054 ~~accordance~~ with ~~the standard of~~ reasonable care.
2055 9. When a vehicle or vessel is ~~has been~~ towed or removed
2056 under ~~pursuant to~~ this section, the wrecker company ~~it~~ must
2057 release the vehicle or vessel ~~be released~~ to its owner or an
2058 agent of the owner ~~custodian~~ within one hour after requested.
2059 Any vehicle or vessel owner or the owner's agent has ~~shall have~~
2060 the right to inspect the vehicle or vessel before accepting its
2061 return. A wrecker company may not require any vehicle or vessel
2062 owner, custodian, or agent to~~, and no~~ release the wrecker
2063 company ~~or waiver of any kind which would release the person or~~
2064 ~~firm~~ towing the vehicle or vessel from liability for damages
2065 noted by the owner or other legally authorized person at the
2066 time of the redemption ~~may be required from any vehicle or~~

2067 ~~vessel owner, custodian, or agent~~ as a condition of release of
2068 the vehicle or vessel to its owner. A wrecker company must give
2069 a person paying towing and storage charges under this section a
2070 detailed, signed receipt showing the legal name of the wrecker
2071 company ~~or person towing or removing the vehicle or vessel must~~
2072 ~~be given to the person paying towing or storage charges~~ at the
2073 time of payment, whether requested or not.
2074 (b) The ~~These~~ requirements of this subsection are minimum
2075 standards and do not preclude enactment of additional
2076 regulations by any municipality or county, including the
2077 regulation of ~~right to regulate~~ rates when vehicles or vessels
2078 are towed from real ~~private~~ property.
2079 (3) This section does not apply to vehicles or vessels
2080 that are reasonably identifiable from markings as law
2081 enforcement, firefighting, rescue squad, ambulance, or other
2082 emergency vehicles or vessels ~~that are marked as such~~ or to
2083 property owned by any governmental entity.
2084 (4) When a person improperly causes a vehicle or vessel to
2085 be removed, that ~~such~~ person is ~~shall be~~ liable to the owner or
2086 lessee of the vehicle or vessel for the cost of removal,
2087 transportation, and storage; any damages resulting from the
2088 removal, transportation, or storage of the vehicle or vessel;
2089 attorney's fees; and court costs.
2090 (5) Failure to make good faith efforts to comply with the
2091 notice requirements in subparagraph (2)(a)5. precludes the
2092 imposition of any towing or storage charges against the vehicle
2093 or vessel.

2094 (6) ~~(5)~~ (a) Any person who violates subparagraph (2)(a)2. or
2095 subparagraph (2)(a)6. commits a misdemeanor of the first degree,
2096 punishable as provided in s. 775.082 or s. 775.083.
2097 (b) Any person who violates subparagraph (2)(a)1.,
2098 subparagraph (2)(a)3., subparagraph (2)(a)4., subparagraph
2099 (2)(a)7., or subparagraph (2)(a)9. commits a felony of the third
2100 degree, punishable as provided in s. 775.082, s. 775.083, or s.
2101 775.084.
2102 Section 22. Effective January 1, 2008, subsection (15) of
2103 section 1.01, Florida Statutes, is repealed.
2104 Section 23. The sum of $693,000 is appropriated from the
2105 General Inspection Trust Fund to the Department of Agriculture
2106 and Consumer Services, and nine additional full-time-equivalent
2107 positions are authorized, for the purpose of implementing this
2108 act during the 2007-2008 fiscal year.
2109 Section 24. Except as otherwise expressly provided in this
2110 act, this act shall take effect July 1, 2007.

HB 245

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 245 Exemptions from the Tax on Sales, Use, and Other Transactions
SPONSOR(S): Troutman
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Agribusiness		Kaiser	Reese
2) Environment & Natural Resources Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill provides a sales tax exemption for purchases of low-volume irrigation, or microirrigation equipment, or components that are used exclusively in agricultural production. The bill also provides definitions for low-volume irrigation, microirrigation, and their related components.

The bill deletes sales tax exemptions for generators used on poultry farms and for liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised. These exemptions are addressed elsewhere in the statutes.

The Revenue Estimating Conference estimates that the provisions of this legislation will result in a negative fiscal impact of $3.4 million to state and local governments in FY 2007-2008 and $3.6 million to state and local governments in FY 2008-2009.

The effective date of this legislation is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This legislation provides a sales tax exemption for the purchase of low-volume irrigation, or microirrigation equipment, or components that are used exclusively in agricultural production.

B. EFFECT OF PROPOSED CHANGES:

The bill provides a sales tax exemption for the purchase of low-volume irrigation, or microirrigation equipment, or components that are used exclusively in agricultural production.

The bill also provides definitions for low-volume irrigation and microirrigation; these were not previously defined in statute. These irrigation systems are designed to deliver water at a rate of 45 gallons per hour or less per exit point. System components include pumps, pumping stations, control stations, filtration equipment pressure regulators, piping, tubing, emitters, valves, fittings, gauges, sensors, sprinklers, and safety devices.

The bill deletes the exemption in s. 212.08(5)(a), F.S., for generators used on poultry farms. This exemption still remains under the provisions of s. 212.08(3), F.S.

The bill also deletes the exemption in s. 212.08(5)(a), F.S., for liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised. This exemption still remains under the provisions of s. 212.08(5)(e), F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.02, F.S.; creating a definition for low-volume irrigation and microirrigation.

Section 2: Amends s. 212.08, F.S.; providing an exemption for low-volume irrigation or microirrigation; and, removing exemptions for generators used in poultry farms and liquefied petroleum gas or other fuels used to heat structures in which started pullets or boilers are raised.

Section 3: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	2007-08	2008-09
General Revenue	(2.7m)	(2.9m)
State Trust	(Insignificant)	(Insignificant)
Total	(2.7m)	(2.9m)

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	2007-08	2008-09
Revenue Sharing	(0.1m)	(0.1m)
Local Gov't. Half Cent	(0.3m)	(0.3m)
Local Option	(0.3m)	(0.3m)
Total Local Impact	(0.7m)	(0.7m)

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons purchasing low-volume irrigation, or microirrigation equipment, or their components for use in agricultural production will no longer be required to pay the applicable sales tax on these products.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option sales taxes; however, the amount of the reduction is insignificant and an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of the House.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

This is a good bill that will assist all Florida growers and promote increased use of low volume/precision irrigation.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.

Bill No. **HB 245**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Agribusiness
2 Representative Poppell offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between lines 71-72, insert:
6 (q) Building materials for construction of farm
7 structures.--
8 1. There shall be no tax on purchases of building
9 materials, including, but not limited to, wood, metal, aluminum,
10 tin, plastics, glass, polyethylene, shade cloth, woven ground
11 cloth, nails, nuts, bolts, fasteners, cable, wires, and other
12 similar appurtenances used for the construction of new farm
13 structures or the replacement, repair, or rebuilding of existing
14 structures located on a farm that is not a residential dwelling
15 and is located on land that is an integral part of a farm
16 operation or is classified as agricultural land pursuant to s.
17 193.461. Such structures include, but are not limited to,
18 greenhouses, shade houses, poly-houses, facilities required to
19 meet state or federal eradication or other successor programs,
20 pole barns, fences, irrigation pump houses, and storage
21 facilities. Such exemption shall not be allowed unless the

22 purchaser or lessee signs a certificate stating that the item to
23 be exempted is for the use designated in this paragraph. The
24 term "farm" is defined as provided in s. 823.14.
25 2. Agricultural producers may apply for a tax credit equal
26 to the documented amount of sales tax paid for the purchase of
27 material included in this paragraph if the material was
28 purchased within 12 months prior to the effective date of this
29 paragraph or provides the department appropriate receipts which
30 demonstrate the material was purchased for the direct purpose of
31 rebuilding, replacing, or repairing structures damaged from any
32 named storm which impacted this state during the 2004 or 2005
33 calendar years.
34
35
36 ========== D I R E C T O R Y A M E N D M E N T ==========
37 Remove line 35 and insert:
38 Section 2. Section
39
40 ========== T I T L E A M E N D M E N T ==========
41 Between lines 9-10, insert:
42 exempting purchases of certain building materials used in
43 constructing certain farm structures; providing requirements;
44 providing for credit of taxes paid by agricultural producers;
45 providing procedures and requirements;

1 A bill to be entitled
2 An act relating to exemptions from the tax on sales, use,
3 and other transactions; amending s. 212.02, F.S.; defining
4 the term "low-volume irrigation" or "microirrigation";
5 amending s. 212.08, F.S.; including in the exemption for
6 items in agricultural use certain agricultural machinery
7 or farm equipment used for low-volume irrigation or
8 microirrigation; deleting certain exemptions relating to
9 certain equipment and fuel used in breeding poultry;
10 providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Subsection (34) is added to section 212.02,
15 Florida Statutes, to read:
16 212.02 Definitions.--The following terms and phrases when
17 used in this chapter have the meanings ascribed to them in this
18 section, except where the context clearly indicates a different
19 meaning:
20 (34) "Low-volume irrigation" or "microirrigation" means
21 irrigation by means of frequent application of small quantities
22 of water directly on or below the soil surface, usually as
23 discrete drops, tiny streams, or miniature sprays through
24 emitters placed along the water delivery pipes. Low-volume
25 irrigation and microirrigation systems are designed to deliver
26 water at a rate of 45 gallons per hour or less per exit point.
27 The physical components required to apply water by low-volume
28 irrigation or microirrigation methods include all equipment and

29 system components necessary to transport water from the pump or
30 pumping station to the crop through the low-volume irrigation or
31 microirrigation system. System components include pumps, pumping
32 stations, control stations, filtration equipment pressure
33 regulators, piping, tubing, emitters, valves, fittings, gauges,
34 sensors, sprinklers, and safety devices.
35 Section 2. Paragraph (a) of subsection (5) of section
36 212.08, Florida Statutes, is amended to read:
37 212.08 Sales, rental, use, consumption, distribution, and
38 storage tax; specified exemptions.--The sale at retail, the
39 rental, the use, the consumption, the distribution, and the
40 storage to be used or consumed in this state of the following
41 are hereby specifically exempt from the tax imposed by this
42 chapter.
43 (5) EXEMPTIONS; ACCOUNT OF USE.--
44 (a) Items in agricultural use and certain nets.--There are
45 exempt from the tax imposed by this chapter nets designed and
46 used exclusively by commercial fisheries; disinfectants,
47 fertilizers, insecticides, pesticides, herbicides, fungicides,
48 and weed killers used for application on crops or groves,
49 including commercial nurseries and home vegetable gardens, used
50 in dairy barns or on poultry farms for the purpose of protecting
51 poultry or livestock, or used directly on poultry or livestock;
52 portable containers or movable receptacles in which portable
53 containers are placed, used for processing farm products; field
54 and garden seeds, including flower seeds; nursery stock,
55 seedlings, cuttings, or other propagative material purchased for
56 growing stock; seeds, seedlings, cuttings, and plants used to

57 produce food for human consumption; cloth, plastic, and other
58 similar materials used for shade, mulch, or protection from
59 frost or insects on a farm; and low-volume irrigation or
60 microirrigation equipment or components, as defined in s.
61 212.02(34), used in agricultural production ~~generators used on~~
62 ~~poultry farms; and liquefied petroleum gas or other fuel used to~~
63 ~~heat a structure in which started pullets or broilers are~~
64 ~~raised~~; however, such exemption shall not be allowed unless the
65 purchaser or lessee signs a certificate stating that the item to
66 be exempted is for the exclusive use designated herein. Also
67 exempt are cellophane wrappers, glue for tin and glass
68 (apiarists), mailing cases for honey, shipping cases, window
69 cartons, and baling wire and twine used for baling hay, when
70 used by a farmer to contain, produce, or process an agricultural
71 commodity.
72 Section 3. This act shall take effect July 1, 2007.

HB 595

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 595 Telephone Solicitation
SPONSOR(S): Frishe
TIED BILLS: **IDEN./SIM. BILLS:** SB 554

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Agribusiness		Kaiser	Reese
2) Environment & Natural Resources Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 595 prohibits persons acting on behalf of a candidate for public office, or other political entity, from making politically oriented telephone calls to telephone numbers on the Department of Agriculture and Consumer Services' "no sales solicitation calls" list. Both calls from live persons and those made using an automated dialing-announcing device (ADAD) are prohibited, if made to numbers currently on the "no sales solicitation calls" list. The bill provides a definition for "politically oriented telephone call."

The bill does not appear to have a fiscal impact on state or local governments. The effective date of this legislation is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty: The bill prohibits calls of a political nature to individuals on the Department of Agriculture and Consumer Services' "no sales solicitation calls" list.

B. EFFECT OF PROPOSED CHANGES:

Approximately 40 states have enacted telemarketing laws with do-not-call list requirements for consumers who do not wish to receive telemarketing sales calls at home. Some of the laws predate passage of the Telephone Consumer Protection Act of 1991 (TCPA), which restricts sales calls to telephone subscribers' homes. Florida was the first state to implement a state "do-not-call" registry, which preceded the Federal Communications Commission (FCC) and Federal Trade Commission's 2003 order establishing a national "do-not-call" registry.

Florida's "no sales solicitation calls" law currently has four exemptions: businesses with which a person has a current business relationship, newspapers, charities, and calls of a political nature.

Several states, including Florida, have a provision in their telemarketing law that separately addresses automatic dialing-announcing devices (ADADs). These devices are also known as "robo calls." The ADADs select and dial telephone numbers and working alone or with other equipment disseminate a prerecorded or synthesized voice message to the telephone number called.

Six states, Arkansas, Indiana, Minnesota, Montana, North Dakota, and Wyoming, have "robo call" laws broad enough to prohibit ADAD calls from political committees or campaigns. Existing Florida law does not prohibit "robo calls" from political committees or campaigns. The following table shows the "robo call" provision in each state's law applicable to calls from political parties or campaigns, citations to those provisions, and the penalties for violations.[1]

States	***Prohibition***	***Penalty***
Arkansas § 5-63-204	It is unlawful for anyone, in connection with a political campaign, to use an automated system that selects and dials telephone numbers and plays a recorded message when the called is completed. The prohibition does not apply to calls made in response to a call initiated by the recipient.	Class B misdemeanor and injunctions against future violations.
Indiana 24-5-14-5	No one may use or connect to a telephone line an ADAD unless (1) the person called has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message; or (2) the message is immediately preceded by a live operator who obtains the recipient's consent before the message is delivered.	Class C misdemeanor, penalties for a deceptive act, and injunctions against future violations.

[1] http://www.cga.ct.gov/2006/rpt/2006-R-0717.htm

Minnesota 325E. 27	No one can use or connect an ADAD to a telephone line unless the (1) person called has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message (defined to mean any call regardless of its content); or (2) message is immediately preceded by a live operator who obtains the consent of the person called before the message is delivered. The prohibition does not apply to messages (1) from a school district to a student, parent, or employee; (2) from callers to people with whom they have a current business or personal relationship; or (3) advising employees of work schedules.	A civil penalty of up to $ 25,000, injunctions against future violations, and damages
Montana 45-8-216	No one may use an automated telephone system, device, or facsimile machine to select and dial telephone numbers and play recorded messages that, among other things, promote a political campaign or any use related to a political campaign. The prohibition does not apply if a live operator obtains the permission of the party called before the message is played.	A fine of up to $ 2,500
North Dakota 51-28-02	No one can use or connect an ADAD to a telephone line unless the (1) person called has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message (defined to mean any call regardless of its content); or (2) message is immediately preceded by a live operator who obtains the consent of the person called before the message is delivered. The prohibition does not apply to a message (1) from a public safety agency notifying a person of an emergency; (2) from a school district to a student, parent, or employee; (2) from callers to people with whom they have a current business relationship; or (3) advising an employee of a work schedule.	The attorney general may impose civil penalties of up to $ 2,000 for each violation, issue a cease and desist order, and ask for and receive court costs.
Wyoming 6-6-104	No one may use an automated telephone system, device, or facsimile machine to select and dial telephone numbers and play recorded messages that, among other things, promotes a political campaign or any use related to a political campaign. The prohibition does not apply if the call is in response to an inquiry that the party called initiated.	A misdemeanor punishable by up to six months in prison, a $ 750 fine, or both.

The laws in Indiana[2], Minnesota[3], and North Dakota[4] have withstood constitutional challenges alleging free speech, commerce and preemption violations.

It does not appear any laws have been enacted in other states prohibiting political calls from live persons to persons on a "no-calls" list; nor does there appear to have been constitutional challenges to that particular issue, and, therefore, no court rulings.

The bill prohibits persons acting on behalf of a candidate for public office, or other political entity, from making politically oriented telephone calls to telephone numbers on the Department of Agriculture and Consumer Services' "no sales solicitation calls" list. Politically oriented telephone calls made by a live person and those made using an ADAD are prohibited.

The bill defines a "politically oriented telephone call" as an outbound telephone call, the purpose of which is to promote, advertise, campaign for or against, or solicit donations on behalf of any political candidate or political issue, or which uses in the call a political candidate's name.

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[2] *FreeEats.com, v. Indiana*, 2006 WL 3025810 (SD Ind.)
[3] *State by Humphrey v. Casino Marking Group,* 491 N.W.2d 882 (Minn. 1992)
[4] *State ex rel. Stenehjem v. FreeEats.com.* 712 N.W.2d 828 (2006 ND 84)

C. SECTION DIRECTORY:

Section 1: Amends s. 501.059, F.S.; providing a definition for "politically oriented telephone call"; prohibiting a politically oriented telephone call to telephone numbers appearing on the "no sales solicitation calls" list; and, prohibiting person acting on behalf of a candidate for federal office from making "politically oriented telephone calls" using an automated system.

Section 2: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. See fiscal comments.

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The impact on the private sector is unknown at this time. See fiscal comments.

D. FISCAL COMMENTS:

The Department of Agriculture and Consumer Services (department) must investigate any complaints concerning violations of these prohibited telephone solicitation calls, and solicitors found in violation could receive a civil penalty not to exceed $10,000 per violation. Any revenues collected pursuant to these penalties would be deposited into the department's General Inspection Trust Fund. The number of complaints, verified violations and possible resulting penalties, however, are indeterminate at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect municipal or county government.

2. Other:

This bill may raise constitutional concerns relating to free speech. However, there is case law[5] that has upheld laws relating to "robo calls" in other states.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

[5] *FreeEats.com v. Indiana,* 2006 WL 3025810 (SD Ind.); *State by Humphrey v. Casino Marketing Group*, 491 N.W.2d 882 (Minn. 1992); *State ex rel. Stenehjem v. FreeEats.com*, 712 N.W.2d 828 (2006 ND 84); *Van Bergen v. State of Minnesota*, 59 F. 3d 1541 (Cir. App. 8th, 1995); *Frisby v. Schultz* 487 U.S. 474, 108 S. Ct. 2495 (1988)

1 A bill to be entitled
2 An act relating to telephone solicitation; amending s.
3 501.059, F.S.; defining the term "politically oriented
4 telephone call"; prohibiting a telephone solicitor or
5 person acting on behalf of a candidate for a federal,
6 state, or local political office, committee of continuous
7 existence, or other political entity from making a
8 politically oriented telephone call to a person whose
9 number is in the "no sales solicitation calls" list
10 maintained by the Department of Agriculture and Consumer
11 Services or which involves the playing of a recorded
12 message; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Paragraph (j) is added to subsection (1) of
17 section 501.059, Florida Statutes, and subsections (4) and (7)
18 of that section are amended, to read:
19 501.059 Telephone solicitation.--
20 (1) As used in this section:
21 (j) "Politically oriented telephone call" means an
22 outbound telephone call, the purpose of which is to promote,
23 advertise, campaign for or against, or solicit donations on
24 behalf of any political candidate or political issue, or which
25 uses in the call a political candidate's name.
26 (4)(a) A ~~No~~ telephone solicitor may not ~~shall~~ make or
27 cause to be made any unsolicited telephonic sales call or a
28 politically oriented telephone call to any residential, mobile,

29 or telephonic paging device telephone number if the number for
30 that telephone appears in the then-current quarterly listing
31 published by the department.
32 (b) Any telephone solicitor or person who offers for sale
33 any consumer information that ~~which~~ includes residential,
34 mobile, or telephonic paging device telephone numbers, except
35 directory assistance and telephone directories sold by telephone
36 companies and organizations exempt under s. 501(c)(3) or (6) of
37 the Internal Revenue Code, shall screen and exclude those
38 numbers that ~~which~~ appear on the division's then-current "no
39 sales solicitation calls" list.
40 (c) This subsection does not apply to any person licensed
41 under ~~pursuant to~~ chapter 475 who calls an actual or prospective
42 seller or lessor of real property when the ~~such~~ call is made in
43 response to a yard sign or other form of advertisement placed by
44 the seller or lessor.
45 (7)(a) A ~~No~~ person may not ~~shall~~ make or knowingly allow a
46 telephonic sales call to be made if the ~~such~~ call involves an
47 automated system for the selection or dialing of telephone
48 numbers or the playing of a recorded message when a connection
49 is completed to a number called.
50 (b) A person acting on behalf of a candidate for a
51 federal, state, or local political office, committee of
52 continuous existence, or other political entity may not make or
53 knowingly allow a politically oriented telephone call to be made
54 to any number on the department's "no sales solicitation calls"
55 list if the call involves the playing of a recorded message when
56 a connection is completed to the number called or if the call is

57 a telephone call commonly referred to as a "robo call."
58 (c) ~~(b)~~ This subsection does not prohibit ~~Nothing herein~~
59 ~~prohibits~~ the use of an automated telephone dialing system with
60 live messages if the calls are made or messages given solely in
61 response to calls initiated by the persons to whom the automatic
62 calls or live messages are directed or if the telephone numbers
63 selected for automatic dialing have been screened to exclude any
64 telephone subscriber who is included on the department's then-
65 current "no sales solicitation calls" listing or any unlisted
66 telephone number, or if the calls made concern goods or services
67 that have been previously ordered or purchased.
68 (d) ~~(c)~~ A ~~It shall be unlawful for any~~ person who makes a
69 telephonic sales call or causes a telephonic sales call to be
70 made may not ~~to~~ fail to transmit or cause not to be transmitted
71 the telephone number and, when made available by the telephone
72 solicitor's carrier, the name of the telephone solicitor to any
73 caller identification service in use by a recipient of a
74 telephonic sales call. However, it is ~~shall~~ not ~~be~~ a violation
75 to substitute, for the name and telephone number used in or
76 billed for making the call, the name of the seller on behalf of
77 which a telephonic sales call is placed and the seller's
78 customer service telephone number, which is answered during
79 regular business hours. For purposes of this section, the term
80 "caller identification service" means a service that allows a
81 telephone subscriber to have the telephone number and, where
82 available, the name of the calling party transmitted
83 contemporaneously with the telephone call and displayed on a
84 device in or connected to the subscriber's telephone.

85 (e) ~~(d)~~ A I~~t shall be unlawful for any~~ person who makes a
86 telephonic sales call or causes a telephonic sales call to be
87 made may not ~~to~~ intentionally alter the voice of the caller in
88 an attempt to disguise or conceal the identity of the caller in
89 order to defraud, confuse, or financially or otherwise injure
90 the recipient of a telephonic sales call or in order to obtain
91 personal information from the recipient of a telephonic sales
92 call which may be used in a fraudulent or unlawful manner.
93 Section 2. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 651 Department of Agriculture and Consumer Services
SPONSOR(S): Boyd
TIED BILLS: **IDEN./SIM. BILLS:** SB 1372

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Agribusiness		Kaiser	Reese
2) Environment & Natural Resources Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

HB 651 addresses a variety of issues relating to the Department of Agriculture and Consumer Services (department). Specifically, the bill:

- Proposes a two-year registration cycle for pesticide brands. The proposed biennial registration fee is double the current annual fee. For new pesticide product brand registration applications, registrants will pay for either a one-year or two-year registration depending on when the new pesticide product brand application is submitted.
- Authorizes the department to impose late fees of $25 per pesticide brand for each month a payment is late, not to exceed a total of $250 per pesticide brand.
- Revises date references to the Code of Federal Regulations (C.F.R.).
- Revises definitions of certain milk products to coincide with the definitions reflected in the federal Grade "A" Pasteurized Milk Ordinance, which was amended in 2005.
- Transfers the permitting of milk manufacturing plants to the department's Division of Dairy.
- Abolishes the practice of issuing temporary permits to milk haulers because the federal Grade "A" Pasteurized Milk Ordinance of 2005 no longer recognizes those permits.
- Clarifies the venues in which manufactured milk products and cheese may be sold. The bill also modifies state law to mirror federal law regarding the sale of cheese made from raw milk.
- Deletes sections of law relating to the establishment, branding and other requirements for seed trees. These sections of law have never been implemented and are, therefore, unnecessary.
- Creates the Consumer Fireworks Task Force, charged with reviewing and evaluating issues relating to the proper use of fireworks, regulation of temporary sale facilities for consumer fireworks, and regulation of hours and location for use of consumer fireworks, studying funding options for fire official training and education, as well as funding options for clean-up of expended consumer fireworks products.

The bill appears to have a minimal fiscal impact on state and local governments. The effective date of this legislation is July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Pesticide Registration
Ensure lower taxes: The bill authorizes the Department of Agriculture and Consumer Services (department) to impose a late fee for registrants failing to register pesticide brands in a timely manner.
Promote personal responsibility: The bill changes the registration cycle for pesticide brands from a yearly to a biennial registration in an effort to reduce paperwork for both the department and the registrants.

B. EFFECT OF PROPOSED CHANGES:

Pesticide Registration
Current law[1] authorizes the Department of Agriculture and Consumer Services (department) to collect annual renewal fees for pesticide registration, which number approximately 1,500 applicants registering 13,000 pesticide brands annually. The Pesticide Registration section has reduced its staff by 25% in the past year, however the continuance of annual registration renewals has created a backlog in filing, as well as identifying non-compliant pesticide brands.

The bill proposes a two-year registration cycle. The proposed biennial registration fee is double the annual fee. For new pesticide product brand registration applications, registrants will pay for either a one-year or two-year registration depending on when the new pesticide product brand application is submitted. New registrations submitted in an odd year will pay the two-year fee; new registrations submitted in an even year will pay a one year fee. The department anticipates the implementation of this proposal will result in a reduction in workload, enabling staff to concentrate on backlogged files and identifying non-compliant pesticide brands.

Additionally, the bill authorizes the department to impose late fees of $25 per brand for each month a payment is late, not to exceed a total of $250 per brand. Currently, there is no incentive to submit renewals on time since the department doesn't have the authority to collect late fees. The department's Bureau of Pesticides estimates that approximately 25% of current registrants are late in submitting their annual renewal applications and fees, with some registrants submitting their renewals as late as six to eight months after the January renewal date. By imposing late fees, the department anticipates a more timely collection of revenue as well as increased staff efficiency.

Lastly, in regards to pesticide registration, the bill clarifies that registration requirements apply to each brand of pesticide, rather than every pesticide.

Bottled Water
The bill revises a date reference to the Code of Federal Regulations (C.F.R.). The federal regulations are updated periodically making it necessary for the state to update the statutory reference to the C.F.R. as well.

Milk Products
The bill revises definitions in statute to coincide with the definitions reflected in the federal Grade "A" Pasteurized Milk Ordinance, which was amended in 2005.

Currently, the permitting of milk manufacturing plants falls under the jurisdiction of the department's Division of Food Safety. The bill transfers that authority to the department's Division of Dairy. The bill also abolishes the practice of issuing temporary permits to milk haulers because the federal Grade "A" Pasteurized Milk Ordinance of 2005 no longer recognizes those permits.

[1] s. 487.045, F.S.

Current law is unclear regarding the venues within the state where manufactured milk products and cheese may be sold. The bill spells out that these items may be sold as retail in food service establishments licensed under chapter 381, F.S.[2], food establishments as defined in chapter 500, F.S.[3], or public food service establishments as defined in chapter 509, F.S.[4] Additionally, the bill modifies state law to mirror federal law regarding the retail sale of cheese made from raw milk.[5] This change allows cheese made from raw milk to be sold at retail to the final consumer or to specified food service establishments provided the cheese is aged more than 60 days at a temperature above 35° F.

Forestry

The bill deletes sections of law relating to the establishment, branding and other requirements for seed trees. These sections of law have never been implemented and are, therefore, unnecessary. Genetically improved seed now comes from seed orchards that produce trees with greater disease resistance and growth than those occurring naturally.

Consumer Fireworks Task Force

Current statutory authority[6] for the regulation of fireworks in the state is assigned to the Division of the State Fire Marshall of the Department of Financial Services, however much of the enforcement of this law is delegated to local fire and law enforcement departments. Items such as sparklers, snakes, small smoke devices, trick noisemakers and certain other novelties are allowed for sale to the general public. Firecrackers, torpedoes, skyrockets, roman candles, daygo bombs, and any fireworks containing explosive or flammable compounds may only be purchased by authorized persons[7] who have obtained a permit from the county in which the fireworks are to be displayed. According to a report issued by the Senate Committee on Banking and Insurance[8] in November 2004, approximately 65 cities and 10 counties have enacted ordinances providing for stricter enforcement of fireworks and sparklers sales. The report states, "...the decision in 2002 by the Third District Court of Appeal in *State v. Miketa*, 824 So.2d (Fla. 3rd DCA 2002) has rendered the fireworks law virtually unenforceable..."

According to the report, "the *Miketa* case involved the criminal prosecution of an individual for the illegal sale of fireworks to an undercover detective in violation of s. 791.04, F.S. The State argued that when a purchaser of fireworks executes an affidavit (declaring that the purchaser meets one of the statutorily provided exemptions for sales under s. 791.04, F.S.), the seller of the fireworks must request further documentation to establish the transaction is, in fact, exempt. "

The report goes on to say, "the decision of the *Miketa* case has rendered the proscriptions against selling illegal fireworks "meaningless" according to the Director of the State Fire Marshall's office.[9] This is because fireworks sellers routinely use these affidavits and require buyers to sign these forms "falsely", stating that they are purchasing fireworks under one of the exemptions when in fact they are not, according to the Director and other fire officials. Since the affidavit is not verified, virtually anyone can purchase illegal fireworks. These officials further state that they do not know of any successful prosecutions which have occurred under the fireworks law."

Legislative findings in this bill agree that:

- there is a need for better training and education regarding the safe use of consumer fireworks;
- the state regulation of fireworks provides an insufficient definition of consumer fireworks and related products used by consumers;

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[2] Detention facilities, child care facilities, schools, institutions, civic or fraternal organizations, bars and lounges and facilities used as temporary food events, mobile food units, and vending machines.

[3] Factory, food outlet, or any other facility manufacturing, processing, packing, holding, or preparing food or selling food at wholesale or retail.

[4] Restaurants

[5] C.F.R. part 58 (2006)

[6] Chapter 791, F.S.

[7] s. 791.02, F.S.

[8] *Enforcing the Ban on the Retail Sale of Fireworks*, Interim Project Report 2005-108, Senate Committee on Banking and Insurance

[9] Memorandum to committee staff from Randall Napoli, Director, October 25, 2004.

- there should be a mechanism to help local governments fund the clean-up following the use of consumer fireworks on public property;
- local government regulation of the agricultural uses authorized by s. 791.012, F.S., are inconsistent with legitimate agricultural purposes;
- there is a need for consumer education regarding the safety standards in the use of consumer fireworks;
- there is a need for standards regarding temporary retail facilities selling consumer fireworks; and,
- the state would benefit from additional funding for the training and education of fire officials.

The bill creates the Consumer Fireworks Task Force (task force) within the Department of Agriculture and Consumer Services (department). The task force is charged with reviewing issues relating to the proper use of consumer fireworks, regulation of temporary sale facilities for consumer fireworks, regulation of the hours and location of the use of consumer fireworks, as well as studying funding options for fire official training and education and clean-up of expended consumer fireworks products.

The task force shall be comprised of seven members: two members appointed by the President of the Senate; two members appointed by the Speaker of the House of Representatives; two members appointed by the Commissioner of Agriculture; and one member appointed by the Chief Financial Officer. The task force must choose a chair and vice-chair from its membership.

The bill provides for the members of the task force to serve without compensation; however, they will be entitled to per diem and travel expenses. The department shall provide staffing for the task force.

After reviewing and evaluating the issues set forth in the bill, and taking public testimony, the bill requires a report of the recommendations and findings of the task force be submitted to the Legislature by January 15, 2008. Upon submission of the report, the bill calls for the abolishment of the task force.

C. SECTION DIRECTORY:

Section 1: Amends s. 487.041, F.S.; revising registration requirements for brands of pesticides sold in the state; providing an expiration date for registration of brands of pesticides; providing for late fees for brands of pesticides not registered in timely fashion; providing for biennial registration of brands of pesticides; revising the registration fee; and, providing for fees to be deposited into the General Inspection Trust Fund.

Sections 2 & 3: Amends ss. 500.03, and 500.147, F.S.; updating reference to Code of Federal Regulations (C.F.R.), which was amended in 2006.

Section 4: Amends s. 502.012, F.S.; revising definitions.

Section 5: Amends s. 502.014, F.S.; revising the department's rule-making authority relating to lowfat cottage cheese; and, conforming terminology.

Section 6: Amends s. 502.053, F.S.; revising permitting requirements for certain milk plants; and, deleting a provision authorizing the department to issue a temporary permit to milk haulers.

Section 7: Amends s. 502.054, F.S.; conforming terminology.

Section 8: Amends s. 502.091, F.S.; clarifying provisions governing the sale of milk and milk products; specifying the types of food establishments at which such products may be sold; and, providing requirements for the sale of cheese made from raw milk.

Section 9: Repeals ss. 591.27-591.34, F.S.; relating to the designation, marking and cutting of seed trees.

Section 10: Creates the Consumer Fireworks Task Force within the department; providing legislative findings; providing for task force membership; providing for selection of chair and vice chair; providing for members to receive per diem and travel expenses but no compensation; directing the department to provide staffing for the task force; and, providing for a report to the Legislature by January 15, 2008, upon which the task force will be abolished.

Section 11: Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	(FY 07-08) Amount/FTE	(FY 08-09) Amount/FTE	(FY 09-10) Amount/FTE
Pesticide Registration			
Recurring[10]	-0-	-0-	-0-
Non-Recurring			
Indeterminate, see Fiscal Comments.			

2. Expenditures:

Pesticide Registration			
Recurring[11]	-0-	-0-	-0-
Non-Recurring[12]	5,000	-0-	-0-
Consumer Fireworks Task Force			
5 meetings/2 days each/7 members	14,000		
Facilitator/$400 day	4,000		
Facilitator expenses	1,000		
Department staff	4,000		
Printing	1,000		
Meeting rooms	3,000		
Total expenses	27,000	-0-	-0-

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

[10] Biennial fee schedule – Fees will be collected once every two years, rather than once per year. No net changes in total revenues for registration fees collected are anticipated. Revenues will be deferred over the two-year registration cycle and deposited into the General Inspection Trust Fund for use by the Department of Agriculture and Consumer Services in carrying out the provisions of Chapter 487, F.S.

[11] Biennial fee schedule and late fees – There are no additional expenditures incurred in the conversion to a biennial fee schedule or implementation of a late fee.

[12] Biennial fee schedule and late fees – The initial conversion to a biennial fee schedule and implementation of a late fee will result in a $5,000 one-time expenditure to modify the existing database for tracking pesticide registration activation and renewal and the e-commerce site for revenue collection.

2. Expenditures:

If recommended by the Consumer Fireworks Task Force, local governments may be asked to provide funds for clean-up following use of consumer fireworks on public property.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Pesticide Registration
Implementation of the late fee will only impact those companies that submit their renewal fee after the deadline of January 31 of the renewal year. The renewal notifications are mailed in November prior to the renewal year, allowing over 60 days for the companies to remit the renewal fees.

Consumer Fireworks Task Force
Pending recommendations of the task force, sellers of consumer fireworks may need to comply with any new standards set forth concerning tents and other temporary retail facilities.

D. FISCAL COMMENTS:

The Department of Agriculture and Consumer Services states that imposing late fees could result in a nonrecurring increase to the General Inspection Trust Fund totaling as much as $223,312 during the 2008 debut registration cycle, and potentially half of that amount in 2009. The level of revenues would be expected to decline significantly in subsequent registration cycles since late fees would be collected only once every two years and since registrants who have experienced late fees would likely become more proactive in registering on time. The primary benefits of late fees would be to help synchronize the registration renewal process and bring in revenues earlier in the year.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

N/A

Amendment No.

Bill No. **HB 651**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Agribusiness Committee
2 Representative Boyd offered the following:
3
4 **Strike-all Amendment (with title amendment)**
5 Remove everything after the enacting clause and insert:
6 Section 1. Present subsections (1), (2), (3), and (8) and
7 paragraphs (b) and (d) of subsection (4) of section 487.041,
8 Florida Statutes, are amended, and a new subsection (1) is added
9 to that section, to read:
10 487.041 Registration.--
11 (1)(a) Each brand of pesticide, as defined in s. 487.021,
12 that is distributed, sold, or offered for sale, except as
13 provided in this subsection, within this state or delivered for
14 transportation or transported in intrastate commerce or between
15 points within this state through any point outside this state
16 must be registered in the office of the department, and such
17 registration shall be renewed annually. Emergency exemptions
18 from registration may be authorized in accordance with the rules
19 of the department. The registrant shall file with the department
20 a statement including:

21 1. The name, business mailing address, and street address
22 of the registrant.
23 2. The name of the brand of pesticide.
24 3. An ingredient statement and a complete copy of the
25 labeling accompanying the brand of the pesticide, which must
26 conform to the registration, and a statement of all claims to be
27 made for it, including directions for use and a guaranteed
28 analysis showing the names and percentages by weight of each
29 active ingredient, the total percentage of inert ingredients,
30 and the names and percentages by weight of each "added
31 ingredient."
32 (b) For the purpose of defraying expenses of the
33 department in connection with carrying out the provisions of
34 this part, each person shall pay an annual registration fee of
35 $250 for each registered brand of pesticide. The annual
36 registration fee for each special local need label and
37 experimental use permit is $100. All registrations expire on
38 December 31 of each year. If the renewal of a brand of
39 pesticide, including the special local need label and
40 experimental use permit, is not filed by January 31 of the
41 renewal year, an additional fee of $25 per brand of pesticide
42 shall be assessed per month and added to the original fee. This
43 additional fee may not exceed $250 per brand of pesticide. The
44 additional fee must be paid by the registrant before the renewal
45 certificate for the registration of the brand of pesticide is
46 issued.
47 (c) This subsection does not apply to distributors or
48 retail dealers selling brands of pesticide if such brands of
49 pesticide are registered by another person.

50 (d) This subsection expires at midnight, December 31,
51 2008.
52 (2)(a) ~~(1)~~ Effective January 1, 2009, each brand of ~~Every~~
53 pesticide, as defined in s. 487.021, which is distributed, sold,
54 or offered for sale, except as provided in this section, within
55 this state or delivered for transportation or transported in
56 intrastate commerce or between points within this state through
57 any point outside this state must ~~shall~~ be registered in the
58 office of the department, and such registration shall be renewed
59 biennially ~~annually~~. Emergency exemptions from registration may
60 be authorized in accordance with the rules of the department.
61 The registrant shall file with the department a statement
62 including:
63 1. ~~(a)~~ The name, business mailing address, and street
64 address of the registrant.
65 2. ~~(b)~~ The name of the brand of pesticide.
66 3. ~~(c)~~ An ingredient statement and a complete copy of the
67 labeling accompanying the brand of the pesticide, which must
68 ~~shall~~ conform to the registration, and a statement of all claims
69 to be made for it, including directions for use and a guaranteed
70 analysis showing the names and percentages by weight of each
71 active ingredient, the total percentage of inert ingredients,
72 and the names and percentages by weight of each "added
73 ingredient."
74 (b) ~~(2)~~ Effective January 1, 2009, for the purpose of
75 defraying expenses of the department in connection with carrying
76 out the provisions of this part, each person shall pay a
77 biennial ~~an annual~~ registration fee ~~of $250~~ for each registered
78 brand of pesticide. The registration of each brand of pesticide
79 shall cover a designated 2-year period beginning on January 1 of

80 each odd-numbered year and expiring on December 31 of the
81 following year. ~~The annual registration fee for each special~~
82 ~~local need label and experimental use permit shall be $100. All~~
83 ~~registrations expire on December 31 of each year. Nothing in~~
84 ~~this section shall be construed as applying to distributors or~~
85 ~~retail dealers selling pesticides when such pesticides are~~
86 ~~registered by another person.~~
87 (c) Each registration issued by the department to a
88 registrant for a period beginning in an odd-numbered year shall
89 be assessed a fee of $500 per brand of pesticide and a fee of
90 $200 for each special local need label and experimental use
91 permit, and the registration shall expire on December 31 of the
92 following year. Each registration issued by the department to a
93 registrant for a period beginning in an even-numbered year shall
94 be assessed a fee of $250 per brand of pesticide and fee of $100
95 for each special local need label and experimental use permit,
96 and the registration shall expire on December 31 of that year.
97 (d) All revenues collected, less those costs determined
98 by the department to be nonrecurring or one-time costs, shall be
99 deferred over the 2-year registration period, deposited in the
100 General Inspection Trust Fund, and used by the department in
101 carrying out the provisions of this chapter.
102 (e) If the renewal of a brand of pesticide, including the
103 special local need label and experimental use permit, is not
104 filed by January 31 of the renewal year, an additional fee of
105 $25 per brand of pesticide shall be assessed per month and added
106 to the original fee. This additional fee may not exceed $250 per
107 brand of pesticide. The additional fee must be paid by the
108 registrant before the renewal certificate for the registration

109 of the brand of pesticide is issued. The additional fee shall be
110 deposited into the General Inspection Trust Fund.
111 (f) This subsection does not apply to distributors or
112 retail dealers selling brands of pesticide if such brands of
113 pesticide are registered by another person.
114 (3) The department shall adopt rules governing the
115 procedures for the registration of a brand of pesticide
116 ~~registration~~ and for the review of data submitted by an
117 applicant for registration of the brand of ~~a~~ pesticide. The
118 department shall determine whether the brand of ~~a~~ pesticide
119 should be registered, registered with conditions, or tested
120 under field conditions in this state. The department shall
121 determine whether each request ~~that all requests~~ for
122 registration of a brand of pesticide meets ~~registrations meet~~
123 the requirements of current state and federal law. The
124 department, whenever it deems it necessary in the administration
125 of this part, may require the manufacturer or registrant to
126 submit the complete formula, quantities shipped into or
127 manufactured in the state for distribution and sale, evidence of
128 the efficacy and the safety of any pesticide, and other relevant
129 data. The department may review and evaluate a registered
130 pesticide if new information is made available that ~~which~~
131 indicates that use of the pesticide has caused an unreasonable
132 adverse effect on public health or the environment. Such review
133 shall be conducted upon the request of the Secretary ~~of the~~
134 ~~Department~~ of Health in the event of an unreasonable adverse
135 effect on public health or the Secretary ~~of the Department~~ of
136 Environmental Protection in the event of an unreasonable adverse
137 effect on the environment. Such review may result in
138 modifications, revocation, cancellation, or suspension of the

139 registration of a brand of pesticide ~~registration~~. The
140 department, for reasons of adulteration, misbranding, or other
141 good cause, may refuse or revoke the registration of the brand
142 of any pesticide~~,~~ after notice to the applicant or registrant
143 giving the reason for the decision. The applicant may then
144 request a hearing, pursuant to chapter 120, on the intention of
145 the department to refuse or revoke registration, and, upon his
146 or her failure to do so, the refusal or revocation shall become
147 final without further procedure. The ~~In no event shall~~
148 registration of a brand of pesticide may not be construed as a
149 defense for the commission of any offense prohibited under this
150 part.

151 (4) The department, in addition to its other duties under
152 this section, has the power to:

153 (b) Formally request the United States Environmental
154 Protection Agency to require registrants of pesticides to
155 provide the department with environmental test data generated in
156 this state or generated by simulating environmental conditions
157 in this state.

158 (d) Require a registrant who discontinues the distribution
159 of a brand of pesticide in this state to continue the
160 registration of the brand of the pesticide for a minimum of 2
161 years or until no more remains on retailers' ~~retailer's~~ shelves
162 if ~~or 2 years after written notice to the department of date of~~
163 ~~discontinuance; provided~~ such continued registration or sale is
164 not specifically prohibited by the department or the United
165 States Environmental Protection Agency.

166 (8) ~~Nothing in~~ This section does not affect ~~affects~~ the
167 authority of the department to administer the pesticide
168 registration program under this part or the authority of the

169 Commissioner of Agriculture to approve the registration of a
170 brand of pesticide.
171 Section 2. Paragraphs (d) and (n) of subsection (1) of
172 section 500.03, Florida Statutes, are amended to read:
173 500.03 Definitions; construction; applicability.--
174 (1) For the purpose of this chapter, the term:
175 (d) "Bottled water" means a beverage, as described in 21
176 C.F.R. part 165 (2006) ~~(1996)~~, that is processed in compliance
177 with 21 C.F.R. part 129 (2006) ~~(1996)~~.
178 (n) "Food establishment" means any factory, food outlet,
179 or any other facility manufacturing, processing, packing,
180 holding, or preparing food, or selling food at wholesale or
181 retail. The term does not include any business or activity that
182 is regulated under chapter 509 or chapter 601. The term includes
183 tomato packinghouses but ~~also~~ does not include any other
184 establishments that pack fruits and vegetables in their raw or
185 natural states, including those fruits or vegetables that are
186 washed, colored, or otherwise treated in their unpeeled, natural
187 form before they are marketed.
188 Section 3. Paragraph (a) of subsection (3) of section
189 500.147, Florida Statutes, is amended to read:
190 500.147 Inspection of food establishments and vehicles;
191 food safety pilot program.--
192 (3) For bottled water plants:
193 (a) Bottled water must be from an approved source. Bottled
194 water must be processed in conformance with 21 C.F.R. part 129
195 (2006) ~~(1996),~~ and must conform to 21 C.F.R. part 165
196 (2006) ~~(1996)~~. A person operating a bottled water plant shall be
197 responsible for all water sampling and analyses required by this
198 chapter.

199 Section 4. Section 502.012, Florida Statutes, is amended
200 to read:
201 502.012 Definitions.--The following definitions shall
202 apply in the interpretation and enforcement of this law:
203 (1) "Bulk milk pickup tanker" means a vehicle, including
204 the truck and tank, and necessary attachments, used by a milk
205 hauler to transport bulk raw milk for pasteurization from a
206 dairy farm to a milk plant, receiving station, or transfer
207 station.
208 (2) "Dairy farm" means any place or premises where one or
209 more cows, ~~or~~ goats, sheep, water buffalo, or other hooved
210 mammals are kept~~,~~ and from which a part or all of the milk is
211 provided, sold, or offered for sale ~~to a milk plant, receiving~~
212 ~~station, or transfer station~~.
213 (3) "Department" means the Department of Agriculture and
214 Consumer Services.
215 (4) ~~(15)~~ "Grade 'A' pasteurized milk ordinance" means the
216 document entitled "Grade 'A' Pasteurized Milk Ordinance, United
217 States Department of Health and Human Services, Public Health
218 Service, ~~/~~Food and Drug Administration ~~Publication No. 229~~,"
219 including all associated appendices, as adopted by department
220 rule.
221 (5) ~~(4)~~ "Imitation milk and imitation milk products" means
222 those foods that have the physical characteristics, such as
223 taste, flavor, body, texture, or appearance, of milk or milk
224 products as defined in this chapter and the Grade "A"
225 pasteurized milk ordinance~~,~~ but do not come within the
226 definition ~~definitions~~ of "milk" or "milk products~~,~~" and are
227 nutritionally inferior to the product imitated.

228 (6) ~~(5)~~ "Milk" means the lacteal secretion, practically
229 free from colostrum, obtained by the complete milking of one or
230 more healthy cows, ~~or~~ goats, sheep, water buffalo, or other
231 hooved mammals.
232 (7) ~~(6)~~ "Milk distributor" means any person who offers for
233 sale or sells to another person any milk or milk product.
234 (8) ~~(7)~~ "Milk products" means products made with milk that
235 is processed in some manner, including being whipped, acidified,
236 cultured, concentrated, lactose-reduced, or sodium-reduced or
237 aseptically processed, or having the addition or subtraction of
238 milkfat, the addition of safe and suitable microbial organisms,
239 or the addition of safe and suitable optional ingredients for
240 protein, vitamin, or mineral fortification. "Milk products" do
241 not include products such as evaporated milk, condensed milk,
242 eggnog in a rigid metal container, dietary products, infant
243 formula, or ice cream and other desserts~~, dry milk products,~~
244 ~~canned eggnog in a rigid metal container, butter, or cheese,~~
245 ~~except when the products are combined with other substances to~~
246 ~~produce any pasteurized or aseptically processed milk product~~.
247 (9) ~~(8)~~ "Milkfat" or "butterfat" means the fat contained in
248 milk.
249 (10) ~~(9)~~ "Milk hauler" means any person who transports raw
250 milk or raw milk products to or from a milk plant, receiving
251 station, or transfer station.
252 (11) ~~(10)~~ "Milk plant" means any place, premises, or
253 establishment where milk or milk products are collected,
254 handled, processed, stored, pasteurized, aseptically processed,
255 bottled, or prepared for distribution.
256 (12) ~~(11)~~ "Milk plant operator" means any person
257 responsible for receiving, processing, pasteurizing, or

258 packaging milk and milk products, or performing any other
259 related operation.
260 (13) ~~(12)~~ "Milk producer" means any person who operates a
261 dairy farm and provides, sells, or offers for sale milk to a
262 milk plant, receiving station, or transfer station.
263 (14) ~~(13)~~ "Milk tank truck" means either a bulk milk pickup
264 tanker or a milk transport tank.
265 (15) ~~(14)~~ "Milk transport tank" means a vehicle, including
266 the truck and tank, used by a milk hauler to transport bulk
267 shipments of milk from a milk plant, receiving station, or
268 transfer station to another milk plant, receiving station, or
269 transfer station.
270 (16) "Raw milk" means unprocessed milk.
271 (17) "Receiving station" means any place, premises, or
272 establishment where raw milk is received, collected, handled,
273 stored, or cooled and is prepared for further transporting.
274 (18) "Substitute milk and substitute milk products" means
275 those foods that have the physical characteristics, such as
276 taste, flavor, body, texture, or appearance, of milk or milk
277 products as defined in this chapter and the Grade "A"
278 pasteurized milk ordinance~~,~~ but do not come within the
279 definition ~~definitions~~ of "milk" or "milk products~~,~~" and are
280 nutritionally equivalent to the product for which they are
281 substitutes.
282 (19) "Transfer station" means any place, premises, or
283 establishment where milk or milk products are transferred
284 directly from one milk tank truck to another.
285 (20) "Washing station" means any place, premises, or
286 establishment where milk tank trucks are cleaned and sanitized.

287 Section 5. Subsections (4) and (6) of section 502.014,
288 Florida Statutes, are amended to read:
289 502.014 Powers and duties.--
290 (4) The department shall define by rule "cottage cheese~~,~~"
291 and "dry-curd cottage cheese~~," and "lowfat cottage cheese~~."" The
292 department shall periodically update these definitions to
293 maintain conformity with the federal definitions.
294 (6) The department has authority to adopt rules pursuant
295 to ss. 120.536(1) and 120.54 to implement and enforce the
296 provisions of this chapter. In adopting these rules, the
297 department shall be guided by and may conform to the definitions
298 and standards of the administrative procedures and provisions of
299 the Grade "A" pasteurized milk ordinance. The rules shall
300 include, but are not limited to:
301 (a) Standards for milk and milk products.
302 (b) Provisions for the production, transportation,
303 processing, handling, sampling, examination, grading, labeling,
304 and sale of all milk and milk products and imitation and
305 substitute milk and milk products sold for public consumption in
306 this state.
307 (c) Provisions for the inspection of dairy herds, dairy
308 farms, and milk plants.
309 (d) Provisions for the issuance and revocation of permits
310 issued by the department pursuant to this chapter.
311 Section 6. Paragraph (a) of subsection (1), subsection
312 (2), and paragraph (a) of subsection (4) of section 502.053,
313 Florida Statutes, are amended to read:
314 502.053 Permits; requirements; exemptions; temporary
315 permits.--
316 (1) PERMITS.--

317 (a) Each Grade A milk plant, whether located in the state
318 or outside the state, and each manufacturing milk plant, milk
319 producer, milk hauler, milk hauling service, washing station
320 operator, milk plant operator, milk distributor, single-service-
321 container manufacturer, receiving station, and transfer station
322 in the state~~,~~ shall apply to the department for a permit to
323 operate. The application shall be on forms developed by the
324 department.
325 (2) REQUIREMENTS.--
326 (a) To obtain a permit, an applicant must satisfy all
327 requirements that are defined by the department in rule and must
328 agree to comply with the applicable provisions of this chapter
329 and rules adopted ~~promulgated~~ under this chapter.
330 (b) All permitholders must maintain records of
331 transactions concerning the procurement, production, and
332 processing of milk and milk products as required in the Grade
333 "A" pasteurized milk ordinance and grant department inspectors
334 access to such records during all reasonable hours.
335 (c) In addition to the testing required in the Grade "A"
336 pasteurized milk ordinance and its appendices, each milk plant
337 operator in the state shall be responsible for routine testing
338 and inspection of raw milk shipped from outside the state prior
339 to processing and shall notify the department when such testing
340 and inspection indicate ~~indicates~~ a violation of the standards
341 contained in the Grade "A" pasteurized milk ordinance.
342 (4) TEMPORARY PERMITS.--
343 (a) The department may issue a temporary permit for a
344 period not exceeding 90 days to milk producers ~~and milk haulers~~
345 who have submitted an application to the department and passed a

346 preliminary inspection as required in the Grade "A" pasteurized
347 milk ordinance.
348 Section 7. Section 502.054, Florida Statutes, is amended
349 to read:
350 502.054 Inspection and reinspection.--The department shall
351 establish a schedule for inspections which shall require routine
352 inspections in accordance with the minimum requirements
353 contained in the Grade "A" pasteurized milk ordinance and more
354 frequent inspections or reinspections for permitholders with
355 serious or repeated violations.
356 Section 8. Subsection (1) of section 502.091, Florida
357 Statutes, is amended to read:
358 502.091 Milk and milk products which may be sold.--
359 (1) Only Grade A pasteurized milk and milk products,
360 pasteurized manufactured milk products, and cheese made from
361 pasteurized milk shall be sold at retail to the final consumer
362 or to food service establishments as defined in chapter 381,
363 food establishments as defined in chapter 500, or public food
364 service establishments as defined in chapter 509 ~~restaurants,~~
365 ~~soda fountains, grocery stores, or similar establishments~~.
366 Cheese made from raw milk may also be sold at retail to the
367 final consumer or to food service establishments as defined in
368 chapter 381, food establishments as defined in chapter 500, or
369 public food service establishments as defined in chapter 509 if
370 the cheese is aged more than 60 days at a temperature above 35°
371 F.
372 (a) In an emergency, however, the department may authorize
373 the sale of reconstituted pasteurized milk products, or
374 pasteurized milk and milk products that have not been graded or
375 the grade of which ~~that~~ is unknown, in which case such milk and

376 milk products shall be appropriately labeled, as determined by
377 the department.
378 (b) If the department determines that milk is fit for
379 human consumption even though it is less than Grade A because
380 the producer failed to comply with the sanitation or bacterial
381 standards defined in this chapter, or if any specific shipment
382 of milk fails to comply with standards of the Grade "A"
383 pasteurized milk ordinance, the department may issue a permit
384 allowing the milk to be used in ungraded products, such as
385 frozen desserts, which are being processed by such milk plant.
386 During processing of such milk, it shall be pasteurized at a
387 temperature of at least 175° F. for at least 15 seconds or at
388 least 160° F. for at least 30 minutes.
389 Section 9. Sections 591.27, 591.28, 591.29, 591.30,
390 591.31, 591.32, 591.33, and 591.34, Florida Statutes, are
391 repealed.
392 Section 10. Consumer Fireworks Task Force.--
393 (1) The Legislature finds that:
394 (a) The state regulation of consumer fireworks in Florida
395 provides an insufficient definition of consumer fireworks and
396 related products used by consumers;
397 (b) There is a need for better training and education
398 concerning the safe use of consumer fireworks;
399 (c) There should be a mechanism to help local governments
400 fund the clean up following the use of consumer fireworks on
401 public property;
402 (d) Local government regulation of the agricultural uses
403 authorized by s. 791.012, Florida Statutes, are inconsistent
404 with legitimate agricultural purposes;

405 (e) There is a need for consumer education relating to
406 safety standards in the use of consumer fireworks;
407 (f) There is a need for standards concerning tents and
408 other temporary retail facilities selling consumer fireworks;
409 and
410 (g) The state would benefit from additional funding for
411 the training and education of fire officials.
412 (2)(a) There is hereby created the Consumer Fireworks Task
413 Force within the Department of Agriculture and Consumer Services
414 for the purpose of studying the issues concerning the use of and
415 proper use of consumer fireworks, regulation of temporary sale
416 facilities for consumer fireworks, and regulation of the hours
417 and location of the use of consumer fireworks; studying funding
418 options for fire official training and education; and studying
419 funding options for clean-up of expended consumer fireworks
420 products.
421 (b)1. The task force shall consist of seven members
422 appointed as follows: two members appointed by the President of
423 the Senate; two members appointed by the Speaker of the House of
424 Representatives; two members appointed by the Commissioner of
425 Agriculture; and one member appointed by the Chief Financial
426 Officer.
427 2. Members shall choose a chair and vice-chair from its
428 membership.
429 3. Members shall serve without compensation, except that
430 members are entitled to per diem and travel expenses, pursuant
431 to s. 112.061, Florida Statutes, incurred in the performance of
432 their duties.
433 (3) Staffing for the task force shall be provided by the
434 Department of Agriculture and Consumer Services.

435 (4) The task force shall review and evaluate the issues
436 identified in paragraph (2)(a) and take public input and
437 testimony concerning the issues. A report of the recommendations
438 and findings of the task force shall be submitted to the
439 President of the Senate and the Speaker of the House of
440 Representatives by January 15, 2008, and the task force shall be
441 abolished upon the transmittal of the report.
442 Section 11. Paragraph (e) is added to subsection (2) of
443 section 570.07, Florida Statutes, and subsection (6) of that
444 section is amended, to read:
445 570.07 Department of Agriculture and Consumer Services;
446 functions, powers, and duties.--The department shall have and
447 exercise the following functions, powers, and duties:
448 (2) To perform all regulatory and inspection services
449 relating to agriculture except agricultural education,
450 demonstration, research, and those regulatory functions assigned
451 by law to other state agencies. In doing this, the department
452 may:
453 (e) Except as expressly prohibited by law, use any of the
454 trained personnel in the various divisions of the department in
455 performing the regulatory and inspection services relating to
456 agriculture.
457 (6) To foster and encourage the standardizing, grading,
458 inspection, labeling, handling, storage, and marketing of
459 agricultural products; to enhance the food safety of tomatoes
460 and, after investigation and public hearings, to cooperate with
461 the United States Department of Agriculture, to establish and
462 promulgate standard grades and other standard classifications of
463 and for agricultural products; and to establish and adopt

464 requirements for enhancing food safety, in cooperation with
465 appropriate agencies.
466 Section 12. Present paragraph (e) of subsection (2) of
467 section 570.48, Florida Statutes, is redesignated as paragraph
468 (f), and a new paragraph (e) is added to that subsection, to
469 read:
470 570.48 Division of Fruit and Vegetables; powers and
471 duties; records.--The duties of the Division of Fruit and
472 Vegetables include, but are not limited to:
473 (2)
474 (e) Performing tomato food safety inspections on tomato
475 farms, in tomato greenhouses, and in tomato packinghouses and
476 repackers.
477 Section 13. Subsections (1) and (2) of section 570.481,
478 Florida Statutes, are amended to read:
479 570.481 Fruit and vegetable inspection fees; penalty.--
480 (1)(a) Each person receiving inspection services pursuant
481 to s. 570.48 shall pay to the department an inspection fee.
482 This fee shall cover the cost of providing the inspection
483 service and shall be set annually by the department by rule.
484 (b) All fees collected by the department to cover the cost
485 of providing the inspection service for farms or greenhouses
486 growing tomatoes or for tomato packinghouses shall be deposited
487 into the General Inspection Trust Fund and shall be used for
488 tomato-related inspections, education, and research.
489 (2) All fees collected by the department under this
490 section shall be deposited into the Citrus Inspection Trust
491 Fund, except that fees collected pursuant to paragraph (1)(b)
492 and s. 570.48(4) shall be deposited in the General Inspection
493 Trust Fund.

494 Section 14. The Department of Agriculture and Consumer
495 Services shall conduct or cause to be conducted those research
496 projects on citrus diseases, including, but not limited to,
497 citrus canker and citrus greening, which are recommended by the
498 Florida Citrus Production Research Advisory Council, within the
499 limits of appropriations made specifically for such purpose.
500 Section 15. This act shall take effect July 1, 2007.
501
502
503
504 ========== T I T L E A M E N D M E N T ==========
505 Remove line(s) 3-37 and insert:
506 Consumer Services; amending s. 487.041, F.S.; revising the
507 registration requirements for brands of pesticide distributed or
508 sold in the state; providing for expiration on a specified date
509 of requirements for annual registration; providing for future
510 biennial registration; revising the registration fee; requiring
511 that proceeds of the fee be deposited into the General
512 Inspection Trust Fund and used by the department to administer
513 ch. 487, F.S.; providing for a fee to be imposed for late
514 registration; amending ss. 500.03 and 500.147, F.S., relating to
515 the Florida Food Safety Act; updating references for purposes of
516 provisions governing the sale of bottled water and the operation
517 of bottled water plants; redefining the term "food
518 establishment" to include tomato packinghouses; amending s.
519 502.012, F.S.; revising and clarifying definitions; amending s.
520 502.014, F.S.; revising the department's rulemaking authority
521 concerning lowfat cottage cheese; conforming terminology;
522 amending s. 502.053, F.S.; revising the permitting requirements
523 for certain milk plants; deleting a provision authorizing the

524 department to issue a temporary permit to milk haulers; amending
525 s. 502.054, F.S.; conforming terminology; amending s. 502.091,
526 F.S.; clarifying provisions governing the sale of milk and milk
527 products; specifying the types of food establishments at which
528 such products may be sold; providing requirements for the sale
529 of cheese made from raw milk; repealing ss. 591.27-591.34, F.S.,
530 relating to the designation, marking, and cutting of seed trees;
531 creating the Consumer Fireworks Task Force within the department
532 for certain purposes; providing legislative findings; providing
533 for task force membership and selection of chair and vice-chair;
534 specifying serving without compensation; providing for per diem
535 and travel expenses; requiring the department to staff the task
536 force; requiring a report to the Legislature by a time certain;
537 providing for abolition of the task force; amending s. 570.07,
538 F.S.; authorizing personnel within the various divisions of the
539 department to perform regulatory and inspection services
540 relating to agriculture; requiring that the department adopt
541 requirements for enhancing food safety; amending s. 570.48,
542 F.S.; authorizing the Division of Fruit and Vegetables to
543 perform food safety inspections with respect to tomatoes;
544 amending s. 570.481, F.S.; requiring that fees collected by the
545 department to cover the costs of tomato-related inspections be
546 deposited into the General Inspection Trust Fund and used for
547 specified purposes; authorizing the Department of Agriculture
548 and Consumer Services to conduct research projects on citrus
549 diseases which are recommended by the Florida Citrus Production
550 Research Advisory Council, within appropriations for such
551 purpose;

1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 487.041, F.S.; revising the
4 registration requirements for brands of pesticide
5 distributed or sold in the state; providing for expiration
6 on a specified date of requirements for annual
7 registration; providing for future biennial registration;
8 revising the registration fee; requiring that proceeds of
9 the fee be deposited into the General Inspection Trust
10 Fund and used by the department to administer ch. 487,
11 F.S.; providing for a fee to be imposed for late
12 registration; amending ss. 500.03 and 500.147, F.S.,
13 relating to the Florida Food Safety Act; updating
14 references for purposes of provisions governing the sale
15 of bottled water and the operation of bottled water
16 plants; amending s. 502.012, F.S.; revising and clarifying
17 definitions; amending s. 502.014, F.S.; revising the
18 department's rulemaking authority concerning lowfat
19 cottage cheese; conforming terminology; amending s.
20 502.053, F.S.; revising the permitting requirements for
21 certain milk plants; deleting a provision authorizing the
22 department to issue a temporary permit to milk haulers;
23 amending s. 502.054, F.S.; conforming terminology;
24 amending s. 502.091, F.S.; clarifying provisions governing
25 the sale of milk and milk products; specifying the types
26 of food establishments at which such products may be sold;
27 providing requirements for the sale of cheese made from
28 raw milk; repealing ss. 591.27-591.34, F.S., relating to

29 the designation, marking, and cutting of seed trees;
30 creating the Consumer Fireworks Task Force within the
31 department for certain purposes; providing legislative
32 findings; providing for task force membership and
33 selection of chair and vice-chair; specifying serving
34 without compensation; providing for per diem and travel
35 expenses; requiring the department to staff the task
36 force; requiring a report to the Legislature by a time
37 certain; providing for abolition of the task force;
38 providing an effective date.
39
40 Be It Enacted by the Legislature of the State of Florida:
41
42 Section 1. Present subsections (1), (2), (3), and (8) and
43 paragraphs (b) and (d) of subsection (4) of section 487.041,
44 Florida Statutes, are amended, and a new subsection (1) is added
45 to that section, to read:
46 487.041 Registration.--
47 (1)(a) Each brand of pesticide, as defined in s. 487.021,
48 that is distributed, sold, or offered for sale, except as
49 provided in this subsection, within this state or delivered for
50 transportation or transported in intrastate commerce or between
51 points within this state through any point outside this state
52 must be registered in the office of the department, and such
53 registration shall be renewed annually. Emergency exemptions
54 from registration may be authorized in accordance with the rules
55 of the department. The registrant shall file with the department
56 a statement including:

57 1. The name, business mailing address, and street address
58 of the registrant.
59 2. The name of the brand of pesticide.
60 3. An ingredient statement and a complete copy of the
61 labeling accompanying the brand of the pesticide, which must
62 conform to the registration, and a statement of all claims to be
63 made for it, including directions for use and a guaranteed
64 analysis showing the names and percentages by weight of each
65 active ingredient, the total percentage of inert ingredients,
66 and the names and percentages by weight of each "added
67 ingredient."
68 (b) For the purpose of defraying expenses of the
69 department in connection with carrying out the provisions of
70 this part, each person shall pay an annual registration fee of
71 $250 for each registered brand of pesticide. The annual
72 registration fee for each special local need label and
73 experimental use permit is $100. All registrations expire on
74 December 31 of each year. If the renewal of a brand of
75 pesticide, including the special local need label and
76 experimental use permit, is not filed by January 31 of the
77 renewal year, an additional fee of $25 per brand of pesticide
78 shall be assessed per month and added to the original fee. This
79 additional fee may not exceed $250 per brand of pesticide. The
80 additional fee must be paid by the registrant before the renewal
81 certificate for the registration of the brand of pesticide is
82 issued.

83 (c) This subsection does not apply to distributors or
84 retail dealers selling brands of pesticide if such brands of
85 pesticide are registered by another person.
86 (d) This subsection expires at midnight, December 31,
87 2008.
88 (2)(a) ~~(1)~~ Effective January 1, 2009, each brand of ~~Every~~
89 pesticide, as defined in s. 487.021, that ~~which~~ is distributed,
90 sold, or offered for sale, except as provided in this section,
91 within this state or delivered for transportation or transported
92 in intrastate commerce or between points within this state
93 through any point outside this state must ~~shall~~ be registered in
94 the office of the department, and such registration shall be
95 renewed biennially ~~annually~~. Emergency exemptions from
96 registration may be authorized in accordance with the rules of
97 the department. The registrant shall file with the department a
98 statement including:
99 1. ~~(a)~~ The name, business mailing address, and street
100 address of the registrant.
101 2. ~~(b)~~ The name of the brand of pesticide.
102 3. ~~(c)~~ An ingredient statement and a complete copy of the
103 labeling accompanying the brand of the pesticide, which must
104 ~~shall~~ conform to the registration, and a statement of all claims
105 to be made for it, including directions for use and a guaranteed
106 analysis showing the names and percentages by weight of each
107 active ingredient, the total percentage of inert ingredients,
108 and the names and percentages by weight of each "added
109 ingredient."

110 (b) ~~(2)~~ Effective January 1, 2009, for the purpose of
111 defraying expenses of the department in connection with carrying
112 out the provisions of this part, each person shall pay a
113 biennial ~~an annual~~ registration fee ~~of $250~~ for each registered
114 brand of pesticide. The registration of each brand of pesticide
115 shall cover a designated 2-year period beginning on January 1 of
116 each odd-numbered year and expiring on December 31 of the
117 following year. ~~The annual registration fee for each special~~
118 ~~local need label and experimental use permit shall be $100. All~~
119 ~~registrations expire on December 31 of each year. Nothing in~~
120 ~~this section shall be construed as applying to distributors or~~
121 ~~retail dealers selling pesticides when such pesticides are~~
122 ~~registered by another person.~~
123 (c) Each registration issued by the department to a
124 registrant for a period beginning in an odd-numbered year shall
125 be assessed a fee of $500 per brand of pesticide and a fee of
126 $200 for each special local need label and experimental use
127 permit, and the registration shall expire on December 31 of the
128 following year. Each registration issued by the department to a
129 registrant for a period beginning in an even-numbered year shall
130 be assessed a fee of $250 per brand of pesticide and fee of $100
131 for each special local need label and experimental use permit,
132 and the registration shall expire on December 31 of that year.
133 (d) All revenues collected, less those costs determined by
134 the department to be nonrecurring or one-time costs, shall be
135 deferred over the 2-year registration period, deposited in the
136 General Inspection Trust Fund, and used by the department in
137 carrying out the provisions of this chapter.

138 (e) If the renewal of a brand of pesticide, including the
139 special local need label and experimental use permit, is not
140 filed by January 31 of the renewal year, an additional fee of
141 $25 per brand of pesticide shall be assessed per month and added
142 to the original fee. This additional fee may not exceed $250 per
143 brand of pesticide. The additional fee must be paid by the
144 registrant before the renewal certificate for the registration
145 of the brand of pesticide is issued.
146 (f) This subsection does not apply to distributors or
147 retail dealers selling brands of pesticide if such brands of
148 pesticide are registered by another person.
149 (3) The department shall adopt rules governing the
150 procedures for the registration of a brand of pesticide
151 ~~registration~~ and for the review of data submitted by an
152 applicant for registration of the brand of ~~a~~ pesticide. The
153 department shall determine whether the brand of ~~a~~ pesticide
154 should be registered, registered with conditions, or tested
155 under field conditions in this state. The department shall
156 determine whether each request ~~that all requests~~ for
157 registration of a brand of pesticide meets ~~registrations meet~~
158 the requirements of current state and federal law. The
159 department, whenever it deems it necessary in the administration
160 of this part, may require the manufacturer or registrant to
161 submit the complete formula, quantities shipped into or
162 manufactured in the state for distribution and sale, evidence of
163 the efficacy and the safety of any pesticide, and other relevant
164 data. The department may review and evaluate a registered
165 pesticide if new information is made available that ~~which~~

166 indicates that use of the pesticide has caused an unreasonable
167 adverse effect on public health or the environment. Such review
168 shall be conducted upon the request of the Secretary ~~of the~~
169 ~~Department~~ of Health in the event of an unreasonable adverse
170 effect on public health or the Secretary ~~of the Department~~ of
171 Environmental Protection in the event of an unreasonable adverse
172 effect on the environment. Such review may result in
173 modifications, revocation, cancellation, or suspension of the
174 registration of a brand of pesticide ~~registration~~. The
175 department, for reasons of adulteration, misbranding, or other
176 good cause, may refuse or revoke the registration of the brand
177 of any pesticide~~,~~ after notice to the applicant or registrant
178 giving the reason for the decision. The applicant may then
179 request a hearing, pursuant to chapter 120, on the intention of
180 the department to refuse or revoke registration, and, upon his
181 or her failure to do so, the refusal or revocation shall become
182 final without further procedure. The ~~In no event shall~~
183 registration of a brand of pesticide may not be construed as a
184 defense for the commission of any offense prohibited under this
185 part.
186 (4) The department, in addition to its other duties under
187 this section, has the power to:
188 (b) Formally request the United States Environmental
189 Protection Agency to require registrants of brands of pesticide
190 ~~pesticides~~ to provide the department with environmental test
191 data generated in this state or generated by simulating
192 environmental conditions in this state.

193 (d) Require a registrant who discontinues the distribution
194 of a brand of pesticide in this state to continue the
195 registration of the brand of the pesticide for a minimum of 2
196 years or until no more remains on retailers' ~~retailer's~~ shelves
197 if ~~or 2 years after written notice to the department of date of~~
198 ~~discontinuance; provided~~ such continued registration or sale is
199 not specifically prohibited by the department or the United
200 States Environmental Protection Agency.
201 (8) ~~Nothing in~~ This section does not affect ~~affects~~ the
202 authority of the department to administer the pesticide
203 registration program under this part or the authority of the
204 Commissioner of Agriculture to approve the registration of a
205 brand of pesticide.
206 Section 2. Paragraph (d) of subsection (1) of section
207 500.03, Florida Statutes, is amended to read:
208 500.03 Definitions; construction; applicability.--
209 (1) For the purpose of this chapter, the term:
210 (d) "Bottled water" means a beverage, as described in 21
211 C.F.R. part 165 (2006) ~~(1996)~~, that is processed in compliance
212 with 21 C.F.R. part 129 (2006) ~~(1996)~~.
213 Section 3. Paragraph (a) of subsection (3) of section
214 500.147, Florida Statutes, is amended to read:
215 500.147 Inspection of food establishments and vehicles;
216 food safety pilot program.--
217 (3) For bottled water plants:
218 (a) Bottled water must be from an approved source. Bottled
219 water must be processed in conformance with 21 C.F.R. part 129
220 (2006) ~~(1996),~~ and must conform to 21 C.F.R. part 165

221 (2006) ~~(1996)~~. A person operating a bottled water plant shall be
222 responsible for all water sampling and analyses required by this
223 chapter.
224 Section 4. Section 502.012, Florida Statutes, is amended
225 to read:
226 502.012 Definitions.--The following definitions shall
227 apply in the interpretation and enforcement of this law:
228 (1) "Bulk milk pickup tanker" means a vehicle, including
229 the truck and tank, and necessary attachments, used by a milk
230 hauler to transport bulk raw milk for pasteurization from a
231 dairy farm to a milk plant, receiving station, or transfer
232 station.
233 (2) "Dairy farm" means any place or premises where one or
234 more cows, ~~or~~ goats, sheep, water buffalo, or other hoofed
235 mammals are kept~~,~~ and from which a part or all of the milk is
236 provided, sold, or offered for sale ~~to a milk plant, receiving~~
237 ~~station, or transfer station~~.
238 (3) "Department" means the Department of Agriculture and
239 Consumer Services.
240 (4) ~~(15)~~ "Grade 'A' pasteurized milk ordinance" means the
241 document entitled "Grade 'A' Pasteurized Milk Ordinance, United
242 States Department of Health and Human Services, Public Health
243 Service, ~~/~~Food and Drug Administration ~~Publication No. 229~~,"
244 including all associated appendices, as adopted by department
245 rule.
246 (5) ~~(4)~~ "Imitation milk and imitation milk products" means
247 those foods that have the physical characteristics, such as
248 taste, flavor, body, texture, or appearance, of milk or milk

249 products as defined in this chapter and the Grade "A"
250 pasteurized milk ordinance~~,~~ but do not come within the
251 definition ~~definitions~~ of "milk" or "milk products~~,~~" and are
252 nutritionally inferior to the product imitated.
253 (6) ~~(5)~~ "Milk" means the lacteal secretion, practically
254 free from colostrum, obtained by the complete milking of one or
255 more healthy cows, ~~or~~ goats, sheep, water buffalo, or other
256 hoofed mammals.
257 (7) ~~(6)~~ "Milk distributor" means any person who offers for
258 sale or sells to another person any milk or milk product.
259 (8) ~~(7)~~ "Milk products" means products made with milk that
260 is processed in some manner, including being whipped, acidified,
261 cultured, concentrated, lactose-reduced, or sodium-reduced or
262 aseptically processed, or having the addition or subtraction of
263 milkfat, the addition of safe and suitable microbial organisms,
264 or the addition of safe and suitable optional ingredients for
265 protein, vitamin, or mineral fortification. "Milk products" do
266 not include products such as evaporated milk, condensed milk,
267 eggnog in a rigid metal container, dietary products, infant
268 formula, or ice cream and other desserts~~, dry milk products,~~
269 ~~canned eggnog in a rigid metal container, butter, or cheese,~~
270 ~~except when the products are combined with other substances to~~
271 ~~produce any pasteurized or aseptically processed milk product~~.
272 (9) ~~(8)~~ "Milkfat" or "butterfat" means the fat contained in
273 milk.
274 (10) ~~(9)~~ "Milk hauler" means any person who transports raw
275 milk or raw milk products to or from a milk plant, receiving
276 station, or transfer station.

277 (11) ~~(10)~~ "Milk plant" means any place, premises, or
278 establishment where milk or milk products are collected,
279 handled, processed, stored, pasteurized, aseptically processed,
280 bottled, or prepared for distribution.
281 (12) ~~(11)~~ "Milk plant operator" means any person
282 responsible for receiving, processing, pasteurizing, or
283 packaging milk and milk products, or performing any other
284 related operation.
285 (13) ~~(12)~~ "Milk producer" means any person who operates a
286 dairy farm and provides, sells, or offers for sale milk to a
287 milk plant, receiving station, or transfer station.
288 (14) ~~(13)~~ "Milk tank truck" means either a bulk milk pickup
289 tanker or a milk transport tank.
290 (15) ~~(14)~~ "Milk transport tank" means a vehicle, including
291 the truck and tank, used by a milk hauler to transport bulk
292 shipments of milk from a milk plant, receiving station, or
293 transfer station to another milk plant, receiving station, or
294 transfer station.
295 (16) "Raw milk" means unprocessed milk.
296 (17) "Receiving station" means any place, premises, or
297 establishment where raw milk is received, collected, handled,
298 stored, or cooled and is prepared for further transporting.
299 (18) "Substitute milk and substitute milk products" means
300 those foods that have the physical characteristics, such as
301 taste, flavor, body, texture, or appearance, of milk or milk
302 products as defined in this chapter and the Grade "A"
303 pasteurized milk ordinance~~,~~ but do not come within the
304 definition ~~definitions~~ of "milk" or "milk products~~,~~" and are

305 nutritionally equivalent to the product for which they are
306 substitutes.
307 (19) "Transfer station" means any place, premises, or
308 establishment where milk or milk products are transferred
309 directly from one milk tank truck to another.
310 (20) "Washing station" means any place, premises, or
311 establishment where milk tank trucks are cleaned and sanitized.
312 Section 5. Subsections (4) and (6) of section 502.014,
313 Florida Statutes, are amended to read:
314 502.014 Powers and duties.--
315 (4) The department shall define by rule "cottage cheese~~,~~"
316 and "dry-curd cottage cheese~~," and "lowfat cottage cheese~~." The
317 department shall periodically update these definitions to
318 maintain conformity with the federal definitions.
319 (6) The department has authority to adopt rules pursuant
320 to ss. 120.536(1) and 120.54 to implement and enforce the
321 provisions of this chapter. In adopting these rules, the
322 department shall be guided by and may conform to the definitions
323 and standards of the administrative procedures and provisions of
324 the Grade "A" pasteurized milk ordinance. The rules shall
325 include, but are not limited to:
326 (a) Standards for milk and milk products.
327 (b) Provisions for the production, transportation,
328 processing, handling, sampling, examination, grading, labeling,
329 and sale of all milk and milk products and imitation and
330 substitute milk and milk products sold for public consumption in
331 this state.

332 (c) Provisions for the inspection of dairy herds, dairy
333 farms, and milk plants.
334 (d) Provisions for the issuance and revocation of permits
335 issued by the department pursuant to this chapter.
336 Section 6. Paragraph (a) of subsection (1), subsection
337 (2), and paragraph (a) of subsection (4) of section 502.053,
338 Florida Statutes, are amended to read:
339 502.053 Permits; requirements; exemptions; temporary
340 permits.--
341 (1) PERMITS.--
342 (a) Each Grade A milk plant, whether located in the state
343 or outside the state, and each manufacturing milk plant, milk
344 producer, milk hauler, milk hauling service, washing station
345 operator, milk plant operator, milk distributor, single-service-
346 container manufacturer, receiving station, and transfer station
347 in the state~~,~~ shall apply to the department for a permit to
348 operate. The application shall be on forms developed by the
349 department.
350 (2) REQUIREMENTS.--
351 (a) To obtain a permit, an applicant must satisfy all
352 requirements that are defined by the department in rule and must
353 agree to comply with the applicable provisions of this chapter
354 and rules adopted ~~promulgated~~ under this chapter.
355 (b) All permitholders must maintain records of
356 transactions concerning the procurement, production, and
357 processing of milk and milk products as required in the Grade
358 "A" pasteurized milk ordinance and grant department inspectors
359 access to such records during all reasonable hours.

360 (c) In addition to the testing required in the Grade "A"
361 pasteurized milk ordinance and its appendices, each milk plant
362 operator in the state shall be responsible for routine testing
363 and inspection of raw milk shipped from outside the state prior
364 to processing and shall notify the department when such testing
365 and inspection indicate ~~indicates~~ a violation of the standards
366 contained in the Grade "A" pasteurized milk ordinance.
367 (4) TEMPORARY PERMITS.--
368 (a) The department may issue a temporary permit for a
369 period not exceeding 90 days to milk producers ~~and milk haulers~~
370 who have submitted an application to the department and passed a
371 preliminary inspection as required in the Grade "A" pasteurized
372 milk ordinance.
373 Section 7. Section 502.054, Florida Statutes, is amended
374 to read:
375 502.054 Inspection and reinspection.--The department shall
376 establish a schedule for inspections which shall require routine
377 inspections in accordance with the minimum requirements
378 contained in the Grade "A" pasteurized milk ordinance and more
379 frequent inspections or reinspections for permitholders with
380 serious or repeated violations.
381 Section 8. Subsection (1) of section 502.091, Florida
382 Statutes, is amended to read:
383 502.091 Milk and milk products which may be sold.--
384 (1) Only Grade A pasteurized milk and milk products,
385 pasteurized manufactured milk products, and cheese made from
386 pasteurized milk shall be sold at retail to the final consumer
387 or to food service establishments as defined in chapter 381,

388 food establishments as defined in chapter 500, or public food
389 service establishments as defined in chapter 509 ~~restaurants,~~
390 ~~soda fountains, grocery stores, or similar establishments~~.
391 Cheese made from raw milk may also be sold at retail to the
392 final consumer or to food service establishments as defined in
393 chapter 381, food establishments as defined in chapter 500, or
394 public food service establishments as defined in chapter 509 if
395 the cheese is aged more than 60 days at a temperature above 35°
396 F.
397 (a) In an emergency, however, the department may authorize
398 the sale of reconstituted pasteurized milk products, or
399 pasteurized milk and milk products that have not been graded or
400 the grade of which ~~that~~ is unknown, in which case such milk and
401 milk products shall be appropriately labeled, as determined by
402 the department.
403 (b) If the department determines that milk is fit for
404 human consumption even though it is less than Grade A because
405 the producer failed to comply with the sanitation or bacterial
406 standards defined in this chapter, or if any specific shipment
407 of milk fails to comply with standards of the Grade "A"
408 pasteurized milk ordinance, the department may issue a permit
409 allowing the milk to be used in ungraded products, such as
410 frozen desserts, which are being processed by such milk plant.
411 During processing of such milk, it shall be pasteurized at a
412 temperature of at least 175° F. for at least 15 seconds or at
413 least 160° F. for at least 30 minutes.

414 Section 9. Sections 591.27, 591.28, 591.29, 591.30,
415 591.31, 591.32, 591.33, and 591.34, Florida Statutes, are
416 repealed.
417 Section 10. Consumer Fireworks Task Force.--
418 (1) The Legislature finds that:
419 (a) The state regulation of consumer fireworks in Florida
420 provides an insufficient definition of consumer fireworks and
421 related products used by consumers;
422 (b) There is a need for better training and education
423 concerning the safe use of consumer fireworks;
424 (c) There should be a mechanism to help local governments
425 fund the clean up following the use of consumer fireworks on
426 public property;
427 (d) Local government regulation of the agricultural uses
428 authorized by s. 791.012 are inconsistent with legitimate
429 agricultural purposes;
430 (e) There is a need for consumer education relating to
431 safety standards in the use of consumer fireworks;
432 (f) There is a need for standards concerning tents and
433 other temporary retail facilities selling consumer fireworks;
434 and
435 (g) The state would benefit from additional funding for
436 the training and education of fire officials.
437 (2)(a) There is hereby created the Consumer Fireworks Task
438 Force within the Department of Agriculture and Consumer Services
439 for the purpose of studying the issues concerning the use of and
440 proper use of consumer fireworks, regulation of temporary sale
441 facilities for consumer fireworks, and regulation of the hours

442 and location of the use of consumer fireworks; studying funding
443 options for fire official training and education; and studying
444 funding options for clean-up of expended consumer fireworks
445 products.
446 (b)1. The task force shall consist of seven members
447 appointed as follows: two members appointed by the President of
448 the Senate; two members appointed by the Speaker of the House of
449 Representatives; two members appointed by the Commissioner of
450 Agriculture; and one member appointed by the Chief Financial
451 Officer.
452 2. Members shall choose a chair and vice-chair from its
453 membership.
454 3. Members shall serve without compensation, except that
455 members are entitled to per diem and travel expenses, pursuant
456 to s. 112.061, incurred in the performance of their duties.
457 (3) Staffing for the task force shall be provided by the
458 Department of Agriculture and Consumer Services.
459 (4) The task force shall review and evaluate the issues
460 identified in paragraph (2)(a) and take public input and
461 testimony concerning the issues. A report of the recommendations
462 and findings of the task force shall submitted to the President
463 of the Senate and the Speaker of the House of Representatives by
464 January 15, 2008, and the task force shall be abolished upon the
465 transmittal of the report.
466 Section 11. This act shall take effect July 1, 2007.

Committee on Agribusiness

March 7, 2007
9:00 am
28 HOB

Revised
Addendum A-3/6/07 1:45pm

Marco Rubio
Speaker

Denise Grimsley
Chair

Amendment No.

Bill No. HB 93

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)

ADOPTED AS AMENDED __ (Y/N)

ADOPTED W/O OBJECTION __ (Y/N)

FAILED TO ADOPT __ (Y/N)

WITHDRAWN __ (Y/N)

OTHER ____

Only change is correction to line numbers!

1 Council/Committee hearing bill: Agribusiness
2 Representative Robaina offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Remove line(s) 321-802 and insert:
6 508.102 Wrecker Operator Advisory Council.--
7 (1) The Wrecker Operator Advisory Council is created
8 within the department. The council shall advise and assist the
9 department in administering this chapter.
10 (2)(a) The council shall be composed of seven members
11 appointed by the Commissioner of Agriculture.
12 (b) Three members of the council must each be an ultimate
13 equitable owner of a wrecker company who has been an ultimate
14 equitable owner of that company for at least 5 years before his
15 or her appointment; one member must be a wrecker operator who is
16 not an ultimate equitable owner of a wrecker company and who has
17 been a wrecker operator for at least 5 years before his or her
18 appointment; and two members must be laypersons. Each member
19 must be a resident of this state. This paragraph expires July 1,
20 2013.