

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1990

SPONSOR: Transportation Committee and Senator Sebesta

SUBJECT: Wrecker Services

DATE: February 20, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u> </u>	<u> </u>	<u>GO</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>AGG</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

The CS authorizes a law enforcement officer to dispatch an authorized wrecker operator to the scene of a wrecked or disabled vehicle (even though the owner of the wrecked or disabled vehicle has requested another wrecker) when the law enforcement officer determines there is a public safety hazard, and when the law enforcement officer believes the authorized wrecker operator would arrive at the scene before the wrecker requested by the owner of the wrecked or disabled vehicle.

Section 321.051(5), F.S., is created to provide a law enforcement officer may dispatch an authorized wrecker operator out of rotation to the scene of a wrecked or disabled vehicle if the authorized wrecker next on rotation is not equipped to provide the required wrecker service. However, the owner or operator of the disabled vehicle may contact any wrecker who is properly equipped to provide the required wrecker services, unless the law enforcement officer determines the disabled vehicle is a public safety hazard and the authorized wrecker would arrive at the scene before the wrecker requested by the owner of the disabled vehicle.

Section 713.78, F.S., is amended to provide employees or authorized agents of the Department of Transportation, or any authorized or unauthorized wrecker operator may remove a vehicle its cargo from a public road without consent of the owner or operator of the vehicle or the owner of its cargo upon request of a law enforcement officer or firefighter. The section is further amended to provide the employees or authorized agents of the Department of Transportation, the wrecker operator or the wrecker operator's firm including its officers and employees, the law enforcement officers, the fire fighters, and emergency medical services providers are not liable for any damages for such removal if the vehicle or its cargo is removed because it presents an imminent public safety hazard.

This CS substantially amends sections 321.051 and 713.78 of the Florida Statutes.

II. Present Situation:

Section 321.051, F.S., authorizes the Florida Highway Patrol (FHP) to establish, within areas designated by the patrol, a system utilizing qualified, reputable wrecker operators for removal and storage of wrecked or disabled vehicles or for removal and storage of abandoned vehicles. The FHP establishes eligibility standards based on safety and mechanical qualifications for wrecker operators. The FHP may also limit the number of operators participating in the system and may establish maximum rates for contracted towing and storage services.

The section defines an “authorized wrecker operator” as any wrecker operator who has been designated by FHP as part of the wrecker operator system, and an “unauthorized wrecker operator” as any wrecker operator who has not been designated by FHP as part of the wrecker operator system. The section further provides any owner of a motor vehicle may contract with any wrecker operator for wrecker services, regardless of whether the operator is an authorized member of the rotation system.

Section 713.78, F.S., 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 they must send notice to the registered owner and all lienholders by certified mail within 7 business days after the date of storage of the vehicles. 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 section also limits the liability of a wrecker 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 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 that a wrecker has used reasonable care if: the wrecker 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; or the wrecker employs a night watchman, security dog, or security cameras.

The section further provides that any law enforcement agency requesting that a motor vehicle be removed from an accident scene, street, or highway must 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 which was not identified on the inventory record prepared by the law enforcement agency.

III. Effect of Proposed Changes:

Section 321.051, F.S., is amended to authorize a law enforcement officer to dispatch an authorized wrecker operator to the scene of a wrecked or disabled vehicle (even though the

owner of the wrecked or disabled vehicle has requested another wrecker) when the law enforcement officer determines there is a public safety hazard, and when the law enforcement officer believes the authorized wrecker operator would arrive at the scene before the wrecker requested by the owner of the wrecked or disabled vehicle.

Section 321.051(5), F.S., is created to provide a law enforcement officer may dispatch an authorized wrecker operator out of rotation to the scene of a wrecked or disabled vehicle if the authorized wrecker next on rotation is not equipped to provide the required wrecker service. However, the owner or operator of the disabled vehicle may contact any wrecker who is properly equipped to provide the required wrecker services, unless the law enforcement officer determines the disabled vehicle is a public safety hazard and the authorized wrecker would arrive at the scene before the wrecker requested by the owner of the disabled vehicle.

Section 713.78, F.S., is amended to provide employees or authorized agents of the Department of Transportation or any authorized or unauthorized wrecker operator may remove a vehicle or its cargo from a public road without consent of the owner or operator of the vehicle or the owner of its cargo upon request of a law enforcement officer or firefighter. The section is further amended to provide the employees or authorized agents of the Department of Transportation, the wrecker operator or the wrecker operator's firm including its officers and employees, the law enforcement officers, the fire fighters, and emergency medical services providers are not liable for any damages for such removal if the vehicle or its cargo is removed because it presents an imminent public safety hazard.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The CS provides the employees or authorized agents of the Department of Transportation, the wrecker operator or the wrecker operator's firm, including its officers an employees, the law enforcement officers, the fire fighters, and emergency medical services providers are not liable for any damages for removal of a vehicle or vehicle cargo if the vehicle or vehicle cargo is removed at the request of a law enforcement officer or firefighter because it presents an imminent public safety hazard.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
