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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/29/2013	.	
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Appropriations Subcommittee on Transportation, Tourism, and Economic Development (Margolis) recommended the following:

Senate Amendment (with title amendment)

Between lines 3961 and 3962
insert:

Section 49. Present subsections (2) and (3) of section 323.002, Florida Statutes, are amended and a new subsection (3) is added to that section, to read:

323.002 County and municipal wrecker operator systems; penalties for operation outside of system.—

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

(a) It is unlawful for an unauthorized wrecker operator or



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13 its employees or agents to monitor police radio for
14 communications between patrol field units and the dispatcher in
15 order to determine the location of a wrecked or disabled vehicle
16 for the purpose of driving by the scene of such vehicle in a
17 manner described in paragraph (b) or paragraph (c). Any person
18 who violates this paragraph commits ~~is guilty of~~ a noncriminal
19 violation, punishable as provided in s. 775.083, and a wrecker,
20 tow truck, or other motor vehicle used during the violation may
21 be immediately removed and impounded pursuant to subsection (3).

22 (b) It is unlawful for an unauthorized wrecker operator to
23 drive by the scene of a wrecked or disabled vehicle before the
24 arrival of an authorized wrecker operator, initiate contact with
25 the owner or operator of such vehicle by soliciting or offering
26 towing services, and tow such vehicle. Any person who violates
27 this paragraph commits ~~is guilty of~~ a misdemeanor of the second
28 degree, punishable as provided in s. 775.082 or s. 775.083, and
29 a wrecker, tow truck, or other motor vehicle used during the
30 violation may be immediately removed and impounded pursuant to
31 subsection (3).

32 (c) If ~~when~~ an unauthorized wrecker operator drives by the
33 scene of a wrecked or disabled vehicle and the owner or operator
34 initiates contact by signaling the wrecker operator to stop and
35 provide towing services, the unauthorized wrecker operator must
36 disclose in writing to the owner or operator of the disabled
37 vehicle his or her full name, driver license number, that he or
38 she is not the authorized wrecker operator who has been
39 designated as part of the wrecker operator system, that the
40 motor vehicle is not being towed for the owner's or operator's
41 insurance company or lienholder, and the maximum ~~must disclose,~~



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42 ~~in writing, a fee schedule that includes what charges for towing~~
43 ~~and storage which will apply before the vehicle is connected to~~
44 ~~or disconnected from the towing apparatus. If a law enforcement~~
45 ~~officer is present at the scene of a motor vehicle accident, the~~
46 ~~unauthorized wrecker operator must provide such disclosures to~~
47 ~~the owner or operator of the disabled vehicle in the presence of~~
48 ~~the law enforcement officer The fee charged per mile to and from~~
49 ~~the storage facility, the fee charged per 24 hours of storage,~~
50 ~~and, prominently displayed, the consumer hotline for the~~
51 ~~Department of Agriculture and Consumer Services. Any person who~~
52 ~~violates this paragraph commits is guilty of a misdemeanor of~~
53 ~~the second degree, punishable as provided in s. 775.082 or s.~~
54 ~~775.083, and a wrecker, tow truck, or other motor vehicle used~~
55 ~~during the violation may be immediately removed and impounded~~
56 ~~pursuant to subsection (3).~~

57 (d) At the scene of a wrecked or disabled vehicle, it is
58 unlawful for a wrecker operator to falsely identify himself or
59 herself as being part of the wrecker operator system. Any person
60 who violates this paragraph commits is guilty of a misdemeanor
61 of the first degree, punishable as provided in s. 775.082 or s.
62 775.083, and a wrecker, tow truck, or other motor vehicle used
63 during the violation may be immediately removed and impounded
64 pursuant to subsection (3).

65 (3) (a) A law enforcement officer from a local governmental
66 agency or a state law enforcement agency may cause a wrecker,
67 tow truck, or other motor vehicle that is used in violation of
68 subsection (2) to be immediately removed and impounded from the
69 scene of a wreck or disabled vehicle at the unauthorized wrecker
70 operator's expense. The unauthorized wrecker operator shall be



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71 assessed a cost-recovery fine as provided in paragraph (b) by
72 the authority that ordered the immediate removal and impoundment
73 of the wrecker, tow truck, or other motor vehicle. A wrecker,
74 tow truck, or other motor vehicle that is removed and impounded
75 pursuant to this section may not be released from an impound or
76 towing and storage facility until a release form has been
77 completed by the authority that ordered the immediate removal
78 and impoundment of the wrecker, tow truck, or other motor
79 vehicle under this section. The release form must verify that
80 the cost-recovery fine as provided in paragraph (b) has been
81 paid to such authority. The vehicle must remain impounded until
82 the cost-recovery fine has been paid or until the vehicle is
83 sold at public sale pursuant to s. 713.78.

84 (b) Notwithstanding any other provision of law to the
85 contrary, an unauthorized wrecker operator, upon retrieval of a
86 wrecker, tow truck, or other motor vehicle removed or impounded
87 pursuant to this section, in addition to any other penalties
88 that may be imposed for noncriminal violations, shall pay a
89 cost-recovery fine of \$500 for a first-time violation of
90 subsection (2), or a fine of \$1,000 for each subsequent
91 violation, to the authority that ordered the immediate removal
92 and impoundment of the wrecker, tow truck, or other motor
93 vehicle under this section. Cost-recovery funds collected
94 pursuant to this subsection shall be retained by the authority
95 that ordered the removal and impoundment of the wrecker, tow
96 truck, or other motor vehicle and may be used only for
97 enforcement, investigation, prosecution, and training related to
98 towing violations and crimes involving motor vehicles.

99 (c) Notwithstanding any other provision of law to the



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100 contrary and in addition to the cost-recovery fine required by
101 this subsection, a person who violates any provision of
102 subsection (2) shall pay the fees associated with the removal
103 and storage of an unauthorized wrecker, tow truck, or other
104 motor vehicle.

105 (4)~~(3)~~ This section does not prohibit, or in any way
106 prevent, the owner or operator of a vehicle involved in an
107 accident or otherwise disabled from contacting any wrecker
108 operator for the provision of towing services, whether the
109 wrecker operator is an authorized wrecker operator or not.
110

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

112 And the title is amended as follows:

113 Between lines 279 and 280

114 insert:

115 323.002, F.S.; providing that an unauthorized wrecker,
116 tow truck, or other motor vehicle used during certain
117 offenses may be immediately removed and impounded;
118 requiring that an unauthorized wrecker operator
119 disclose in writing to the owner or operator of a
120 disabled motor vehicle certain information; requiring
121 that the unauthorized wrecker operator provide such
122 disclosure to the owner or operator of the disabled
123 vehicle in the presence of a law enforcement officer
124 if one is present at the scene of a motor vehicle
125 accident; authorizing a law enforcement officer from a
126 local governmental agency or state law enforcement
127 agency to remove and impound an unauthorized wrecker,
128 tow truck, or other motor vehicle from the scene of a



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129 disabled vehicle or wreck; authorizing the authority
130 that caused the removal and impoundment to assess a
131 cost-recovery fine; requiring a release form;
132 requiring that the wrecker, tow truck, or other motor
133 vehicle remain impounded until the fine has been paid;
134 providing for public sale of an impounded vehicle;
135 providing fines for violations; requiring that the
136 unauthorized wrecker operator pay the fees associated
137 with the removal and storage of the wrecker, tow
138 truck, or other motor vehicle; amending s.