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**HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMUNITY AFFAIRS
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 607
RELATING TO: Towing of Motor Vehicles
SPONSOR(S): Community Affairs Committee and Rep. Messersmith
EFFECTIVE DATE: October 1, 1990
COMPANION BILL(S): None
OTHER COMMITTEES OF REFERENCE: (1) None
(2)

I. SUMMARY:

A. PRESENT SITUATION:

Currently, there are four chapters in the Florida Statutes which relate to towing and abandoned vehicles (chapters 316, 705, 713 and 715). These chapters cover: towing, equipment requirements, liens for towing and storage fees, wreckers, removal of parked vehicles/abandoned vehicles, recovery of removed vehicles, storage sites/distance limits, and tow-away zones/notice requirements.

B. EFFECT OF PROPOSED CHANGES:

This proposed Committee Substitute will substantially change the statutes relating, to towing and the operation of towing businesses, salvage yards, junk yards, scrap metal processing plants, and repair shops.

It will provide for more stringent requirements for towing businesses to comply with and, at the same time, offer the public a more accountable representation regarding the procedures relating to the towing and storage of vehicles.

FOR A DETAILED ACCOUNT, PLEASE REFER TO THE SECTION BY SECTION ANALYSIS BELOW.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. **Amends section 120.57, Florida Statutes:
(ADMINISTRATIVE PROCEDURES ACT)**

- States that hearings held by the Division of Highway Patrol of the Department of Highway Safety and Motor Vehicles (DHSMV) for the purpose of denying, suspending, or removing a wrecker operator from the rotation system shall be

held by a hearing officer appointed by the director of the Division of the Highway Patrol.

Section 2. **Amends section 125.0103, Florida Statutes:
(COUNTY GOVERNMENT)**

- States that the provisions of this section shall not prevent the removal and storage of vehicles from an accident scene or the removal and storage of vehicles in the event an owner is incapacitated, unavailable, leaves the procurement of a wrecker service to the officer at the scene, or otherwise does not consent to the removal of the vehicle.

Section 3. **Amends section 166.043, Florida Statutes:
(MUNICIPALITIES)**

- Same amendment language as contained in section 125.0103, Florida Statutes. (Section 2. of the bill)

Section 4. **Amends section 319.30, Florida Statutes:
(TITLE CERTIFICATES; Dismantling, destruction, change of identity of
motor vehicle or mobile home; salvage.)**

- Provides for sixteen (16) various definitions regarding towing and related operations/businesses.
- Provides that certain information shall accompany a motor vehicle when it is sold, transported, or delivered to a salvage dealer.
- Deletes language relating to a motor vehicle or mobile home when it is determined to be "salvage."
- Deletes language relating to the definition of "junk."
- Changes language from the "owner of any junkyard, scrap metal processing plant/solid waste management facility or salvage yard..." to any person. Also states that a person purchasing a derelict or salvage vehicle from a foreign state must have an affidavit from the seller (instead of a notarized bill of sale) describing the vehicle.
- Provides that it is unlawful for any person to possess, sell, or exchange a manufacturer identification number plate which has been removed from a mobile home or motor vehicle. Provides for an exemption for removal if it occurs in the process of repairing.
- Provides for certain procedures to be followed in the event of a purchase by a salvage dealer of materials or major component parts.

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- Provides for certain procedures to be followed in the event of a purchase by a secondary metals recycler.
- Provides for stringent requirements of documentation, a valid certificate of title, and a valid certificate of destruction regarding the sell or transfer of parts or materials of motor vehicles, mobile homes or derelicts.
- States that secondary metals recyclers and salvage dealers are to return to DHSMV, on a monthly basis, all certificates of title required by this act.
- States that all secondary metals recyclers and salvage dealers are to keep all certificates of destruction, seller's affidavits, and any other information required by this act for a period of 3 years from the date of purchase of the items reflected in such records. The records are to be maintained in chronological order.

Section 5. **Amends section 319.33, Florida Statutes:
(TITLE CERTIFICATES; Offenses involving vehicle
identification numbers, applications, certificates, papers; penalty.)**

- States that it is illegal to alter, deface, destroy or remove number or other identification on major component parts of vehicles or motor homes.

Section 6. **Amends section 321.051, Florida Statutes:
(HIGHWAY PATROL)**

- Includes the word "storage" for a wrecker system for removal of wrecked, disabled or abandoned vehicles.
- States that the Division of Highway patrol is authorized to limit the number of wrecker operators involved in the wrecker system as established by the division. The division is also authorized to establish maximum rates for towing and storage (done at the division's request) when such rates have not been set by a county or city. Provides for a procedure for a suspended wrecker operator to participate in the system again.

Section 7. **Amends section 713.78, Florida Statutes:
(LIENS, GENERALLY; Liens for recovering, towing, or
storing vehicles.)**

- Provides for return receipt and reduces the notice from 14 days to 7 days after the date of storage, to all persons of record. The notice shall advise that charges have accrued and the amount thereof, and the vehicle if not claimed may be sold in 35 days (instead of 45 days) free of prior liens.

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- Provides for additional methods of contact after attempts to locate the owner or lienholder have failed. Provides for a “good faith” effort and includes what a “good faith” attempt shall be.
- Changes the word “of” to “after” the time the tower storage operator has knowledge of the vehicle and provides this be done in 10 days instead of 5.
- Provides for the court to award damages and costs in favor of the prevailing party instead of costs alone. Changes lessor to lessee. (Note: Blacks Law Dictionary, Revised Fourth Edition, defines “lessor” as one who grants a lease and “lessee” as he to whom a lease is made.)
- Provides for charges for recovery and allows the contents not claimed by the owner to be sold with the vehicle. Reduces the time from 45 to 35 days before the vehicle can be sold. Provides for the second notice to be sent to the owner and lienholder if date of sale was not given in first notice. Requires certified mail to be sent with a return receipt requested. Removes the provision for allowing the posting of notice of sale in three places. Discharges all liens unless provided by court order.
- Provides for the name of a towing company, address, and telephone number to be shown on the driver and passenger sides in contrasting colors with the name at least in 3-inch, permanently affixed letters, and the address and telephone number in at least 1-inch, permanently affixed letters.
- States that if a good faith effort is not made on the notice requirements, it shall preclude any storage charges against the vehicle.
- Provides for owners or their agents to inspect the towed vehicle and to release to the owner or agent all personal property.
- Provides for the issuance of a certificate of destruction with certain conditions.
- Authorizes the DHSMV to collect \$3 for each certificate of destruction and the County Tax Collector to collect \$4.25 for processing.
- Provides for the DHSMV to adopt rules for proper administration of the act.
- Provides for a penalty if subsections (1) through (10) of this act are not complied with.
- Provides for a penalty if a false or fictitious name is used, a fictitious address is given, or any false statement in any application or affidavit is made.

Section 8. **Amends section 715.05, Florida Statutes:**

(PROPERTY; GENERAL PROVISIONS; Reporting of unclaimed motor vehicles.)

- Removes abandoned vehicles from current statute language. It allows the towing service to obtain information from law enforcement and to follow the provisions of this section. The law enforcement agency would contact DHSMV or appropriate agency of the state of registration, if known, when requested. It would require certified mail, return receipt requested. The time frame would be changed from 5 to 1 days, excluding Saturday and Sunday, on notification by the towing service, garage, repair shop, etc.

Section 9.

**Amends section 715.07, Florida Statutes:
(PROPERTY; GENERAL PROVISIONS; Vehicles parked on private property; towing.)**

- Changes lessor to lessee.
- Changes the hours a towing company must keep the storage site open from 8:00 am to 6:00 pm instead of 11:00 am to 11:00 pm. Provides for the requirement that a vehicle must be stored at a site within 10 (instead of 5) miles of the point of removal in a county of 500,000 population or more and within 15 miles in a county of less than 500,000 population.
- Provides that tow away signs state that it is a “tow away zone” and that the sign be 3 feet and not more than 6 feet above ground level.
- Provides for the removal of a vehicle by a towing company upon authorization of a business owner or lessee or agent when parked in such a manner that restricts the normal operation of a business.
- Provides that if a vehicle parked on a public right of way obstructs access to a private driveway the owner, lessee or agent, may have the vehicle removed by a towing company upon signing an order that the vehicle be removed without a posted tow away zone sign.
- Provides that any towing company performing towing services have its name clearly printed in contrasting colors on the driver and passenger sides of the towing vehicle. The name of the company shall be in at least 3-inch, permanently affixed letters, and the address and telephone number shall be in at least 1- inch, permanently affixed letters.
- Increases the time frame from one-half hour to one hour before a tower has to release a vehicle after an owners request.

Section 10.

**Amends section 812.055, Florida Statutes:
(THEFT, ROBBERY AND RELATED CRIMES; Physical inspection of junkyards, scrap metal processing plants, salvage yards, licensed motor vehicle or vessel dealers, repair shops, parking lots, public garages.)**

- Adds towing and storage facilities to this section.

- Provides that towing and storage facilities are to be inspected the same as other places described in this section.
- Provides for the inspection of records as provided in sections 319.30, and 713.78, Florida Statutes.

Section 11. Provides for an effective date of October 1, 1990.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES (DHSMV) STATEMENT: “This bill, as written, will have no economic impact on the public or private sector. It will have no additional impact as far as fees are concerned.”

2. Recurring or Annualized Continuation Effects:

See above.

3. Long Run Effects Other Than Normal Growth:

See above.

4. Appropriations Consequences:

See above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

DHSMV STATEMENT: “This bill, as written, will have no economic impact on the public or private sector. It will have no additional impact as far as fees are concerned.”

2. Recurring or Annualized Continuation Effects:

See above.

3. Long Run Effects Other Than Normal Growth:

See above.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

DHSMV STATEMENT: “This bill, as written, will have no economic impact on the public or private sector. It will have no additional impact as far as fees are concerned.”

2. Direct Private Sector Benefits:

This should provide the public with more clearly defined rules and regulations regarding the towing and storage of vehicles.

3. Effects on Competition, Private Enterprise, and Employment Markets:

This should bring most towing rates and methods of operation into a more unified category throughout the state.

D. **FISCAL COMMENTS:**

None.

III. LONG RANGE CONSEQUENCES:

This proposed bill is consistent with (20) 9. GOVERNMENTAL EFFICIENCY, part of the State Comprehensive Plan:

(20) GOVERNMENTAL EFFICIENCY

9. Encourage greater efficiency and economy at all levels of governments through adoption and implementation of effective records-management, information-management, and evaluation procedures.

IV. COMMENTS:

This bill is consistent the Mission Statements and the Speaker' Policy Statement as follows:

GOVERNMENTAL EFFICIENCY & EFFECTIVENESS, Group II, Regulatory Reform Committee --Review and change regulatory laws dealing with professions, occupations and businesses so that they protect the public health, safety, and welfare without having costs greater than the benefits conferred.

During the 1989 General Legislative Session, Committee Substitute for House Bill 909 by House Community Affairs Committee and Rep. Grindle was introduced and referred to the House Community Affairs Committee and the House Appropriations Committee on April 4, 1989. On April 11, 1989, the bill was temporarily passed by the House Community Affairs Oversight Subcommittee and on April 26, 1989, the bill was reported favorably (with 13 amendments) by the subcommittee.

The bill was temporarily passed by the House Community Affairs Committee on May 2, 1989, and on May 25, 1989, the bill was reported favorable as a committee substitute by the committee.

The bill, as a committee substitute, had many of the same provisions which are contained in HB 607.

The bill was withdrawn from the House Appropriations Committee on May 31, 1989, and placed on the Calendar where it died.

Also during the 1989 General Legislative Session, House Bill 1308 and Committee Substitute for Senate Bill 997 were filed which created a Towing Task Force Committee.

Committee Substitute for Senate Bill 997 became chapter 89-105, Laws of Florida, on June 22, 1989.

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The Task Force Committee (within the Department of Highway Safety and Motor Vehicles) on towing consists of 12 appointed members who will study the towing industry and problems associated with abandoned vehicles. The task force is required to file an interim report (by January 31, 1990) and a final report (no later than March 1, 1990) of its findings and recommendations to the Governor, Speaker of the House of Representatives and the President of the Senate. Once the final report is filed, the task force will cease to exist.

V. AMENDMENTS:

None.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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